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**Enlargement Strategy and Main Challenges 2011-2012**

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## **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.

This report covers the period from October 2010 to September 2011. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a rule, legislation or measures which are being prepared 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. 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 into force in December 1964. Turkey and the EU formed a customs union in 1995.

### **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. Out of a total of 33 screening reports, one has still to be delivered to the Council by the Commission, whilst nine are being discussed in the Council.

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

<sup>2</sup> Enlargement Strategy and Main Challenges 2011-2012 - COM(2011) 666.

So far, negotiations have been opened on 13 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. A political dialogue meeting was held at political director level in July 2011. These meetings focused on the main challenges faced by Turkey in terms of the Copenhagen political criteria and reviewed the progress made towards fulfilling Accession Partnership priorities. Foreign policy issues relating to regions of common interest to the EU and Turkey, such as the Middle East, Western Balkans, Afghanistan/Pakistan and the Southern Caucasus, were also regularly discussed. Turkey has become more active in its wider neighbourhood and is a leading regional player. 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 boost bilateral trade between the EU and Turkey, which totalled € 103 billion in 2010. Turkey is the EU's seventh biggest trading partner while the EU is Turkey's biggest. Almost half of Turkey's total trade is with the EU and almost 80% of FDI in Turkey comes from the EU. However, Turkey is not implementing the Customs Union fully and maintains legislation that violates its commitments under the Customs Union. As a result, several trade issues remain unresolved. A number of Turkey's commitments on removing technical barriers to trade such as import licences, restrictions on imports 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 discriminatory tax treatment remain unfulfilled. Progress can be reported on Turkey's long-standing ban on imports of live bovine animals, beef meat and other animal products. The EU urged Turkey to remove all remaining restrictions on the free movement of goods, including on means of transport regarding Cyprus, and to implement the Customs Union fully.

The EU is providing guidance to the authorities on reform priorities under the *Accession Partnership* adopted in February 2008. Progress on these reform priorities is encouraged and monitored by the bodies set up under the Association Agreement. The Association Committee met in March 2011 and the Association Council in April 2011. Eight sectoral sub-committee meetings have been held since November 2010.

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. These meetings focused on the main challenges posed to Turkey by the Copenhagen economic criteria.

As regards *financial assistance*, some € 781.9 million have been earmarked for Turkey from the Instrument for Pre-accession Assistance (IPA) in 2011. The revised Multiannual Indicative Planning Document (MIPD) for 2011-2013, was adopted by the Commission in June 2011. The new MIPD follows a sector-based approach and aims to focus assistance on

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<sup>3</sup> The decision states 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.

political priorities better in order to achieve a greater impact. Support is focusing on institutions directly concerned by political reforms in the judiciary and law enforcement services, on adoption and implementation of the *acquis* in priority areas and on economic, social and rural development. In addition, Turkey is benefiting from a series of regional and horizontal programmes under IPA.

Under both the national programme and the Civil Society Facility, greater EU financial support has been provided to *civil society*, in particular to strengthen the capacity of civil society organisations and encourage a *civil society dialogue* between Turkey and the EU. Support has also been given for participation by Turkey in EU programmes and agencies.

Assistance under IPA is implemented by means of decentralised management, which means that it is managed by the Turkish authorities as a result of an accreditation process carried out by the Commission that was completed in 2009 for IPA components I-IV and in August 2011 for component V. In 2011 implementation got under way and absorption of funds started to increase. Nevertheless, delays continued to occur and Turkey needs to strengthen its capacity to deliver results, absorb funds, develop a project pipeline and implement all IPA components in a timely manner. The supervision by the National Authorising Officer needs vigorously to address weaknesses in the system, including monitoring and improving the quality and efficiency of the project and programme cycles.

Turkey actively participates in the following EU Programmes and Agencies: Seventh Research Framework Programme, Customs 2013, Fiscalis 2013, European Environment Agency, Competitiveness and Innovation Framework Programme (including Entrepreneurship and Innovation Programme and Information Communication Technologies Policy Support Programme), Progress, Culture 2007, Lifelong Learning and Youth in Action. IPA funds are used to meet part of the costs of participation in most of these programmes.

The Turkish ratification of the agreement for their participation in the European Monitoring Centre for Drugs and Drug Addiction remains outstanding.

## **2. POLITICAL CRITERIA AND ENHANCED POLITICAL DIALOGUE**

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**

General elections took place on 12 June 2011 with a high turnout. The electoral process was free and fair and was generally marked by pluralism and a vibrant civil society. Voting and counting on election day were mostly calm and professionally managed (*See section on Parliament*). Over the reporting period, concerns were raised regarding freedom of expression, including media freedom. The prevailing political climate, lacking an adequate dialogue and spirit of compromise between political parties, strained relations between key institutions; this atmosphere hampered the continuation of the reform process. The *Sledgehammer* trial, the first ever into an alleged coup plan in Turkey, began in December 2010. Following the seizure of evidence at the Gölcük navy headquarters a total of 163

military officers (of whom 106 serving), including several former top commanders, were arrested. They were charged of attempting to overthrow the government through force and violence. Requests for the release of defendants were refused. According to official data, the number of defendants has risen to 224, 183 of whom are under arrest. Restrictions on access to certain evidence referred to in the indictment raised concerns about the rights of the defence and to a fair trial. The failure to give detailed grounds for decisions on detention is another source of concern raised by the defence (*See also section on civilian oversight of security forces*).

The trial of the alleged criminal network *Ergenekon* continued. The judicial investigation expanded further and, according to official data, the number of defendants has risen to 238, 53 of whom are under arrest. The investigation into alleged media involvement continued with the detention of a number of journalists, among whom prominent supporters of the investigation into Ergenekon. In March 2011, copies of an unpublished book written by one of the arrested journalists were confiscated on the orders of a court for being a "document of a terror organisation". Confiscation of an unpublished book as evidence of crime raised concerns about press freedom in Turkey and the legitimacy of the case (*See section on freedom of expression*).

A linkage was made by the judiciary between the Ergenekon case and the murder of three Protestants in Malatya in April 2007. Several people, including the former commander of the gendarmerie in Malatya, were detained in March 2011. This was followed by a search of the homes and offices of several theology professors known for their work on missionary activities in Turkey.

The time lag between the arrests and presentation of indictments, the restricted access by the defence to evidence put forward by the prosecution and the secrecy of investigation orders fuelled concerns about effective judicial guarantees for all suspects. The same applies to the extensive application of arrest-related articles of the Code on Criminal Procedures, which at certain instances can have the same effect as punitive measures. The length of pre-trial detention is a cause for concern (*See section on the judicial system*).

The three specially authorised prosecutors in the Ergenekon case were reassigned to other duties by the High Council of Judges and Prosecutors (HSYK) in March 2011. The Deputy Director of Intelligence for Istanbul in charge of the Ergenekon enquiry was also moved to a new post. These measures were viewed as reflecting the judicial authorities' and the government's unease with the handling of the investigation.

Concerns about judicial procedures were also reported in connection with the KCK<sup>4</sup> case in which around 2,000 politicians, locally elected representatives and human rights activists in the south-east have been detained since April 2008. The investigation continues to widen. The main KCK trial of 152 defendants (104 of whom are under arrest) charged with membership of an illegal armed organisation started in October 2010. However, the trial came to a standstill after the court refused to hear the defence in Kurdish. Frequent use of arrests instead of judicial supervision, limited access to files, failure to give detailed grounds for detention decisions and revisions of such decisions highlight the need to bring the Turkish criminal justice system into line with international standards and to amend the anti-terror legislation.

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<sup>4</sup> Union of Communities in Kurdistan

The detention of elected representatives is a challenge to local government and hampers dialogue on the Kurdish issue.

*Overall*, the Ergenekon investigation and the investigations into other alleged coup plans remain an opportunity for Turkey to shed light on alleged criminal activities against democracy and to strengthen confidence in the proper functioning of its democratic institutions and the rule of law. However, concerns remain over the handling of investigations, judicial proceedings and the application of criminal procedures putting at risk the rights of the defence. The lack of any authoritative source of information on all these issues of wide public interest from either the prosecution offices or the courts raises similar concerns. All of this raised concerns in the public about the legitimacy of the cases.

### *Constitution*

After the constitutional reform package was approved by referendum in September 2010, the government launched work on implementing it. Priority was given to the reform of judicial structures, with laws on the High Council of Judges and Prosecutors<sup>5</sup> and on the Constitutional Court adopted in December 2010 and March 2011, respectively. These laws addressed a number of priorities of the Accession Partnership and criticisms of the previous system. The Venice Commission of the Council of Europe had been consulted in the process.

Since the September 2010 constitutional referendum and the June 2011 elections, consensus has emerged on the need for a *new Constitution* to replace completely the 1982 Constitution, which had been adopted following the 1980 military coup. The governing party has pledged a democratic and participatory process with the broadest possible consultation. The Parliament Speaker consulted constitutional lawyers on the process of drafting and adopting a new constitution; he also authorised the launch of a website to function as a forum for public contributions and has started the nomination of three members from each of the four parties present in Parliament for the ad hoc drafting committee. Further concrete steps need to guarantee an inclusive process with the involvement of all political parties and civil society.

However, the adoption of legislation implementing the September 2010 constitutional amendments was not accompanied by broad and effective public consultation involving stakeholders in the country, despite government commitments to this (*See section on the judicial system*).

*Overall*, there has been some progress in implementing the 2010 constitutional reform, notably in the field of the judiciary. A new Constitution would cement the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and address long-standing problems, including the Kurdish issue. Both the government and the opposition are committed to working on a new Constitution upholding freedoms. Due attention needs to be paid to ensuring the broadest possible consultation in this work, involving all political parties and civil society.

### *Parliament*

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<sup>5</sup> On 15 February, the main opposition party (CHP) applied to the Constitutional Court for annulment of this law.



The Turkish Grand National Assembly (TGNA) convened for the first time early July 2011 and elected former Deputy Prime Minister Mr Cemil Çicek as its 25th speaker. He was elected in a third round with 322 votes.

Earlier, on 12 June *Parliamentary elections* had taken place, leading to a major renewal of parliament with 349 first-time MPs (64% of the total). The incumbent AKP remained the leading party with popular support running at 49.1%, ahead of the CHP on 25.9% and the MHP with 13%. The BDP-backed independent candidates received 6.7% of the votes. The AKP secured 326 parliamentary seats, four short of the three-fifths majority needed to put constitutional amendments to a referendum without the support of other parties. The CHP won 135 seats, the MHP 53 and the BDP 36. The number of female parliamentarians increased from 48 to 78. The highest number of female members of parliament is amongst the AKP (45), followed by the CHP (19), BDP-led bloc (11), and the MHP (3).

The elections took place in a generally peaceful atmosphere. For the first time, political parties and candidates were able to purchase broadcasting time for political advertisements. In March 2011 the Supreme Election Board (YSK) ruled that, while political parties and candidates will principally use Turkish in their advertising, use of other languages, including Kurdish, is possible<sup>6</sup>. Various parties tried to target Kurdish voters by running election campaign advertisements on TRT 6, the first national Kurdish language TV station. Their requests to do so were rejected by YSK.

On the one hand, international observers (the OSCE Office for Democratic Institutions and Human Rights (ODIHR)) praised the electoral process as democratic, pluralistic and shaped by a vibrant civil society, on the other they also criticised worrying developments concerning fundamental freedoms, in particular freedom of expression.

However, the campaign was marred by some tension and violence. A terrorist attack killed a policeman escorting governing party officials following a rally in May 2011. Violent incidents causing damage to offices of political parties were also reported across Turkey.

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, despite calls by political parties and civil society organisations for it to be lowered. This issue featured prominently during the election campaign.

As regards the *functioning of parliament*, the TGNA enacted a large number of laws in its final legislative year before going into recess in early April 2011. Several of them covered areas related to the Copenhagen political criteria. These included the implementing legislation adopted following the 2010 constitutional amendments, legislation restructuring the high courts with the objective to decreasing the backlog of cases and the Law on the Turkish Court of Accounts (TCA).

The Law on the TCA was adopted in December 2010. It authorises the Court to audit public expenditure on behalf of parliament, thus strengthening parliamentary oversight. The TGNA's Strategic Development Plan for 2010-2014 addresses key organisational and management issues.

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<sup>6</sup> An April 2010 amendment to the Law on fundamental principles of elections and the electoral registry deleted the explicit prohibition of use of languages other than Turkish, thus allowing oral and written advertising in languages other than Turkish during the election campaign.

However, the polarisation of the government and opposition hampered work on political reforms, notably in parliament, and was not conducive to holding the executive to account on policy matters. The capacity of parliament to monitor performance and conduct external audits is still insufficient. Closer interactive dialogue and cooperation between parliament and the TCA is needed. There was no progress on improving parliament's rules of procedure. Since 2009 a draft has been pending.

No progress was made on aligning legislation on the procedures and grounds for closing political parties with European standards either. In December 2010, the European Court for Human Rights (ECtHR) found that Turkey had violated the right to freedom of assembly and association<sup>7</sup> in the 2003 ban of the People's Democracy Party (HADEP). This was the ninth judgment against Turkey for banning a political party.

There are concerns about the wide scope of parliamentary immunities, notably from arrest in cases concerning corruption, and also over the selective and restrictive interpretation of the law in cases concerning freedom of expression of members of parliament. The nomination by opposition parties of suspects being tried in the ongoing Ergenekon, Sledgehammer and KCK cases for election to parliament posed a new challenge to the interpretation of Article 14 of the Constitution, which restricts immunities when crimes against the 'integrity of the State' are concerned. This has been invoked against MPs of Kurdish origin in the past.

When the courts refused to release 8 MPs-elect from prison, and the YSK decided to strip one MP-elect of his status, the CHP and BDP MPs-elect refused to take their oath at the constituting session of Parliament. In July, though, the CHP MPs took their oath and in the beginning of October the BDP MPs-elect did so as well. General concerns about long pre-trial detentions and the restrictive interpretation of anti-terror-legislation are thus also highlighted by the number of MPs-elect in prison. The proposal by the main opposition party for a code of ethics for parliamentarians was not followed up. Two former MPs from the closed-down DTP had their ban from political office overturned, but were not reinstated in parliament.

*Overall*, elections were held in line with international standards. The electorate returned a parliament with 349 first-time MPs (64% of the total). Women and minorities, including non-Muslims and the disabled, were underrepresented. Laws concerning financing of political parties and election campaigns, closure of political parties and parliamentary immunities have yet to be aligned with European standards. Further efforts are needed to strengthen parliament's capacity to perform its functions of law-making and oversight over the executive.

### *President*

The President continues to maintain his conciliatory role in the face of the polarisation prevailing in the country.

He addressed a number of key issues affecting Turkey, with constructive statements and interventions. In December 2010, he paid a visit to Diyarbakir, becoming the first President to visit the BDP-run municipality in ten years. Amid demands for democratic autonomy and bilingualism, he reiterated his commitment to addressing the Kurdish issue. In January 2011, the President instructed the State Supervisory Council (SSC) to conduct a thorough inquiry

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<sup>7</sup> HADEP was closed by the Constitutional Court and 46 party activists were banned from politics on accusations that the party was aiding and abetting the PKK. The ECtHR pointed to lack of sufficient evidence in support of these claims.

into the Hrant Dink murder case, acknowledging embarrassment at Turkey's failure to conclude the judicial process in line with a ruling by the ECtHR back in December 2010. On several occasions, he criticised long detention periods in the ongoing alleged coup trials as constituting *de facto* punishment.

The President continued to play an active role in foreign policy.

There is still ambiguity around the term of office of the President, which may run until 2012 or 2014, depending on how the YSK interprets the October 2007 constitutional amendment, which introduced direct presidential elections for a period of five years.

### *Government*

Three months before the June elections the Prime Minister announced a substantial restructuring of the Turkish administration, targeting primarily the ministerial level.

After the elections, the 61st cabinet of the Turkish Republic was approved by the President on 6 June 2011.

The government decided to establish a Ministry of EU Affairs and appointed an EU Minister for the first time. The new structure assigns responsibility for the accession negotiations to the EU Minister as Chief Negotiator and Head of the Negotiation Delegation.

As regards the *functioning of government and local government*, the government started implementing its action plan to apply the 2010 constitutional amendments. It submitted draft legislation to parliament on the Turkish Court of Accounts (TCA), the Supreme Board of Radio and Television, military service, the High Council of Judges and Prosecutors and on the restructuring of the Court of Cassation, Council of State and Constitutional Court.

The government reaffirmed its commitment to EU accession on several occasions and, in particular, through the establishment of an EU Ministry after the June elections. The EU Minister and Chief Negotiator continued his efforts to further streamline inter-ministerial work for the accession negotiations and to involve civil society in the process. The Reform Monitoring Group continued to meet. Progress was achieved at provincial level on coordination and dissemination of EU-related information and work, following the designation, in 2010, of a deputy governor in each province responsible for EU affairs.

However, the follow-up to the 2008 National Programme for the Adoption of the *Acquis* (NPAA) and of the 2010-2011 Action Plan outlining legislation to be enacted needs to be improved.

No progress has been made on devolution of powers to local government, in particular with transferring financial resources to local administrations. Municipalities are thus heavily dependent on centrally allocated revenue. No steps have been taken to implement the 2007<sup>8</sup> Recommendations of the Council of Europe Congress of Local and Regional Authorities to

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<sup>8</sup> In addition, the Congress of Local and Regional Authorities adopted a report making recommendations on local and regional democracy in Turkey on 24 March 2011. These recommendations include re-examining Turkey's obligations under the Charter of Local Self-Government, with a view to removing the reservations entered in respect of many of its terms, and taking steps to sign and ratify the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages

use languages other than Turkish in public services or to reform the Municipality Law to allow mayors and municipal councils to take 'political' decisions without fear of judicial proceedings being launched against them. The continuing detention of several elected mayors and local representatives in the south-east in connection with the KCK case poses a challenge for local government (*See situation in the east and south-east*).

*Overall*, the government gave priority to implementing the 2010 amendments to the Constitution. Progress was made prior to the elections, notably in the field of the judiciary. Work on a new Constitution would further advance the reform agenda, including on devolving adequate powers to local government. However, the declared commitment to EU accession was not sufficiently reflected in the implementation of the national programmes.

#### *Public administration*

The 2010 amendments to the Constitution introduced access to information as a constitutional right. In line with the new constitutional provisions which pave the way for an Ombudsman institution, a draft law was submitted to parliament in January 2011. The government consulted, and developed a good working relationship with, the European Ombudsman.

The revised Law on the Turkish Court of Accounts (TCA) marks progress on implementing the Public Financial Management and Control Law, by granting the TCA an external audit mandate over most public expenditure. In order to raise awareness on accountability and enhance transparency, these reports are to be public and easily available, with minimum exceptions on grounds of 'national security'.

Progress has been reported in the preparations for strategic plans by public institutions, with almost all institutions adopting such plans that have subsequently been reviewed by the State Planning Organisation.

In February 2011, amendments to the Civil Service Law introduced benefits for temporary and contractual public servants who are disabled, pregnant or parents of newborn babies.

Work on providing basic public services on-line (e-government) continued, with a view to increasing transparency and accountability. Regulatory impact assessments (RIAs) and application of RIA guidelines enhanced the quality of regulations on several projects.

However, the comprehensive civil service reform required to modernise human resources management has yet to materialise. Such a reform would ensure transparency and merit-based advancement and appointments, in particular to high-level positions. Red tape has not been reduced.

A government request for parliamentary authorisation to rule by decree-law on a number of specific issues for a period of six months was granted amid strong criticism by the opposition in April 2011. The declared aim was to facilitate restructuring of the central administration, by establishing, merging or closing ministries. One of the main changes is the introduction of an additional level between the Minister and the undersecretary of "deputy minister" in 20 of the ministries. These posts can be given to officials from outside the parliament, including representatives of the private sector. The parliamentary authorisation also empowered the government to amend the Civil Service Law in order to regulate the principles and procedures for the appointment, promotion, transfer or compulsory retirement of officials, workers and contract personnel employed in public institutions.

The Law establishing the Ombudsman has yet to be adopted. A draft has already been submitted to parliament. It provides for a Head Ombudsman to be elected by parliament. There could be up to four rounds of voting; in the fourth, the Head Ombudsman is elected by simple majority. As the Ombudsman does not issue binding decisions, he or she must be held in high regard by the people and be perceived as non-partisan, fair, impartial and reasonable. In this regard, EU Member States' practice requires consensus and, thus, involves high parliamentary majorities for election of the Ombudsman. The draft also provides that transactions by the army of a military nature do not fall under the powers of the Ombudsman. The practice in most EU Member States is that an Ombudsman oversees the military in one way or another. Other provisions of the draft would empower the Ombudsman to respond to individual complaints and recommend improvements in the way the public administration works. There are no provisions allowing the Ombudsman to conduct inquiries on his or her own initiative. Finally, the draft grants Turkish citizens up to 90 days to submit complaints to the Ombudsman. This is short compared with practice at EU level.

Further efforts are needed to build capacity to implement the revised Law on the TCA and to carry out the full range of government auditing so that the TCA can fulfil its role of ensuring accountability in the public administration. Efforts are also required to implement the Public Financial Management and Control Law, particularly on strengthening internal audit capacity and the strategy development units and implementing strategy documents.

A decree adopted in August 2011 authorises relevant ministers to monitor and inspect all kinds of activities and transactions of independent regulatory authorities established in recent years in line with obligations stemming from the *acquis* or international standards. This raises concerns as to the independence of the regulatory authorities when carrying out their duties in a number of policy areas such as competition, energy and information society.

No progress can be reported on the decentralisation process. Devolution of powers, in particular transfer of financial revenues to local administrations has not materialised.

*Overall*, there has been some progress in legislative reforms with regard to the public administration and civil service. Attention needs to be paid to establishment of the Ombudsman institution. Greater political support for public administrative reform and decentralisation is necessary.

#### *Civilian oversight of security forces*

In October 2010, the National Security Council approved a revised National Security Policy. This document is not public. It was reportedly prepared mainly by the civilian authorities.

The investigation into the "Sledgehammer" alleged coup case was extended with the arrest of further officers, mostly from the Air Force. Hearings of the case continued before the 10th Istanbul Serious Crimes Court in Silivri. (*see section 2.1 Democracy and the Rule of Law*) The trial of seven suspects, including a former Kayseri Gendarmerie Brigade Commander and a former Mayor of Cizre, who are charged with twenty murders in the Southeast, is continuing. On the initiative of NGOs and in response to requests from the families of missing persons, excavations of mass graves have started. Calls for a "truth commission" have been rejected. Further to the 2010 constitutional amendments, decisions by the Supreme Military Council concerning dismissals of military personnel have been opened to civilian judicial review. Military officers dismissed from the army now have the right to appeal against their dismissals and retire with benefits or to obtain employment at a state institution. A

commission has been set up within the Ministry of Defence to examine applications and decide within a year. Following a decision by the Military Court of Cassation the Şemdinli case<sup>9</sup> is now tried by the Van Serious Crimes Court, a civil court. During the first hearing in July the court accepted a lawyers' request to investigate four high-ranking officers, including a former Chief of Staff.

As regards civilian oversight of military expenditure, good progress was made, in the form of adoption of the Law on the Court of Accounts in December 2010. This provides for external *ex-post* audits of armed forces' expenditure. It also paves the way for audits of extra-budgetary resources earmarked for the defence sector, including the Defence Industry Support Fund.

The Under-Secretariat for Public Order and Security, established in 2010 to develop and coordinate counter-terrorism policies, and affiliated to the prime Ministry since July 2011, came into operation and served as Secretariat for the Counter-Terrorism Coordination Board. The Board convened for the second time in February 2011.

The number of incidents where the armed forces exerted formal and informal influence over political issues beyond their remit continued to decrease.

On the eve of the Supreme Military Council of August 2011, the Chief of Staff, along with the Force Commanders, requested their retirement. Appointment of the force commanders in the Supreme Military Council meeting without any delay affirmed the government's control over the appointment of top-level commanders. However, promotions continue to be determined by the General Staff with limited civilian control. Further reforms on the composition and powers of the Supreme Military Council, particularly on the legal basis of promotions, still need to materialise.

For the first time, President Gül briefed the Speaker of Parliament and the leader of the main opposition party about the content of the National Security Council after the meeting in August.

However, on some occasions, the armed forces made comments about ongoing court cases and investigations. Civilian oversight needs to be further reinforced, particularly in relation to the law enforcement duties of the gendarmerie and to the military justice system. The gendarmerie does not report to the Ministry of the Interior and disciplinary offences are taken to the General Staff, bypassing both the Ministries of the Interior and Defence. The Law on the provincial administrations, which provided the legal basis for the annulled EMASYA Protocol allowing military operations to be carried out without the consent of local civilian authorities, has yet to be amended. There is a lack of transparency and accountability in institutions in the security sector, particularly those with intelligence duties.

The existing legislation, including the Law on the establishment and proceedings of military courts defining the functions and jurisdiction of these courts has yet to be amended in order to turn the new constitutional provisions into legal reality. These new constitutional provisions include matters related to the jurisdiction of military courts, the trial of the Chief of Staff and the commanders of the armed forces by the Constitutional Court for offences related to their duties and the trial by civilian courts of offences against the security of the State. Finally, the

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<sup>9</sup> The defendants are accused of the November 2005 bombing that killed one person and injured others in the town of Şemdinli in South-East Turkey.

lack of judicial review of all decisions regarding career management by the Supreme Military Council and all other military authorities, remains a concern.

The exclusion of the Foundation for Strengthening the Armed Forces, which controls significant financial expenditure, from the audit mandate of the TCA is a major shortcoming of the revised Law on the TCA. Publication of the external audit reports on defence, security and intelligence institutions will be governed by a regulation yet to be adopted by the Council of Ministers.

No change was made to the Internal Service Law of the Turkish armed forces, which defines the duties of the military and contains an article leaving the military significant scope for intervention in politics. The Law on the National Security Council was not amended and continues to provide a broad definition of security which, depending on interpretation, could cover almost any policy field. The Chief of Staff continues to report to the Prime Minister rather than the Minister of Defence.

The selective accreditation by the military of certain media has continued. The secondary school curriculum continues to include a national security course given by military officers.

*Overall*, good progress has been made on consolidating the principle of civilian oversight of security forces. The Supreme Military Council of August 2011 was a step towards greater civilian oversight of the armed forces. Civilian oversight of military expenditure was tightened and a revised National Security Plan adopted. In addition, Supreme Military Council decisions were opened to civilian judicial review. However, further reforms - on the composition of the Supreme Military Council, military justice system and the Personnel Law of the Turkish Armed Forces - are still needed. In several instances, legislation intended to increase civilian oversight of the military (the Court of Accounts Law and the draft Ombudsman Law) was amended in parliament, weakening such oversight. On some occasions, the General Staff made comments on ongoing court cases.

*Judicial system (see also Chapter 23 – Judiciary and fundamental rights)*

There has been progress in the reform of the judiciary, notably with implementing the 2010 constitutional amendments.

As regards the *independence* of the judiciary, a Law on the High Council of Judges and Prosecutors was adopted in December 2010. The government consulted the Venice Commission of the Council of Europe. This law, together with the constitutional amendments approved by referendum in September 2010, established a new composition of the High Council<sup>10</sup> that is more pluralistic and representative of the judiciary as a whole. Sixteen of its judicial full members (out of twenty-two) and all twelve substitutes are now elected directly by judicial bodies.

Ministerial influence has been reduced: the Minister of Justice remains President of the High Council and the Undersecretary remains an *ex officio* member, but as a result of the enlargement of the Council, the Ministry now accounts for less than 10% of the total membership. The Minister of Justice does not sit in any of the three chambers where work is

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<sup>10</sup> The number of full members of the High Council increased 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 courts, the Justice Academy, law faculties and lawyers.

conducted, nor does he participate in plenary meetings on disciplinary matters. The Minister and the Undersecretary no longer have the possibility to obstruct the decision-making process of the High Council by their mere absence. Previously, they had an 'empty chair' blocking power that they actually used.

The Inspection Board, previously under the Ministry of Justice, has now been transferred to the High Council. Anonymised versions of decisions can be published on the High Council's official website. This promotes legal certainty and confidence in the proper administration of justice. As regards effective remedies, appeals to judicial bodies against decisions concerning dismissal from the profession are now permitted. The newly elected High Council held meetings in provinces with judges and prosecutors to collect information and discuss reform proposals.

Ten full and six substitute members of the High Council were elected by first-instance judges and prosecutors in October 2010. More than 98% of the first-instance judges and prosecutors voted. Participation as candidates was open to all judges and prosecutors, including those working at the Ministry of Justice. The vote was secret and campaigning prohibited. An appeal to the Supreme Election Board (YSK) alleging unfair elections and undue influence by the Ministry of Justice was rejected unanimously. The High Council started to function with its 22 full members in November as a public legal entity with administrative and financial autonomy from the Ministry of Justice.

However, in elections of members of the High Council, every judge and prosecutor has the right to cast as many votes as the number of full and substitute Council members to be elected. In this system imposed by the Constitutional Court, candidates who are voted by the majority could take all the seats, thus excluding those supported by voters from a minority. Nomination of the four non-judicial members of the High Council is left to the discretion of the President of the Republic, whereas the National Assembly is not involved. The current provisions do not ensure permanent representation of members of the Bar in the High Council.

The Minister can veto the launching of disciplinary investigations against judges and prosecutors by the High Council. The judicial review does not cover all first-instance decisions of the High Council, potentially affecting judicial independence or impartiality (e.g. decisions concerning promotions, transfers to another location and disciplinary sanctions). Rules on dismissal of judges and prosecutors from the profession lack clarity and precision. Assessment of the professional performance of judges and prosecutors is over-centralised. Assessment criteria applied by the inspectors need to guarantee judicial independence in practice<sup>11</sup>.

In the polarised atmosphere that followed the adoption of the constitutional amendments and relevant legislation by parliament, the presidents and members of the high courts voiced criticism of the judicial reforms. Independent associations of judges and prosecutors expressed concern about the reforms, notably with regard to the independence of the judiciary. Some Bar Associations also expressed concern.

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<sup>11</sup> In April 2011 the High Council introduced a new assessment system and criteria aimed at providing transparency of the process, guaranteeing judicial independence and avoiding improper interference with the judges' and prosecutors' private lives. There is yet no track record of implementation of these new provisions.



The Semdinli case is still pending (*See the chapter on the civilian oversight of the security forces*). In April, the current High Council reinstated the civilian prosecutor, previously in charge of the case, into the profession. The dismissal of this prosecutor in 2006 had raised questions about the independence of the judiciary<sup>12</sup>.

With regard to *impartiality*, a Law on the Constitutional Court was adopted in March 2011. The government consulted the Venice Commission of the Council of Europe. This law, together with the constitutional amendments approved by referendum on 12 September 2010, enlarged the normal membership of the Court. This has reduced the relative weight of high courts' representatives and made the Constitutional Court more representative of the legal community and society at large. Under the old system all members of the Constitutional Court were ultimately selected and appointed by the President of the Republic. Now three members (i.e. approximately 18% of the membership) are elected by the Turkish Grand National Assembly.

The powers of the Constitutional Court have been extended by introducing the individual application procedure. Anyone who claims that any of his or her fundamental rights and freedoms guaranteed by the Constitution has been violated by the public authorities can apply to the Constitutional Court, provided he or she has exhausted all ordinary legal remedies. Such individual applications reinforce the right of each individual to be heard by an independent and impartial tribunal enshrined in the Turkish Constitution.

However, there is currently a strict representation *ratio* for various bodies in the membership of the Court. As a consequence, the Constitutional Court is insufficiently representative of the Turkish legal community as a whole and still over-dominated by the high courts. The influence of the Grand National Assembly over the composition of the Constitutional Court is also inadequate, in terms of both the number of members it elects and the choice of eligible candidates. The current election process in the Assembly<sup>13</sup> does not fully guarantee the Court's political impartiality. At the same time, the President of the Republic plays an over-dominant role in the appointment process.

Judges and prosecutors or members of a body nominating candidates for members of the Constitutional Court can cast as many votes as the number of candidates for full and substitute members to be elected. In this system imposed by a decision of the Constitutional Court itself, candidates who are voted by the majority could take all the seats, thus excluding those supported by voters from a minority. The process of selecting the Bar candidates does not ensure that the list of candidates is adequately representative of the overall membership of the Turkish Bars, while at the same time not completely dominated by the large metropolitan Bars. Finally, the presence of two military members of the Constitutional Court is questionable, as constitutional jurisprudence in a democratic system is a civilian matter.

Practical arrangements at courthouses and during trials regarding judges, prosecutors and the defence do not guarantee that the principle of equality of arms is respected or is perceived to be. This continues to cloud the perception of the impartiality of judges.

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<sup>12</sup> The civilian prosecutor in this case published the indictment in early 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 then High Council took the dismissal decision in April 2006.

<sup>13</sup> There are three voting rounds in parliament. In the third, the candidates are elected by simple majority.

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

With regard to the *efficiency* of the judiciary, the Laws on the Court of Cassation and the Council of State were amended in order to tackle their large and increasing backlog of cases. More chambers have been established, working methods modified and a large number of judges and prosecutors appointed. The appointment procedure conducted by the High Council was transparent: the number of votes received by each judge and the procedure followed during the appointment process were published on the website of the High Council.

Legislation was adopted in March 2011 to reduce the workload of first-instance courts. The main aim is to prevent cases from entering the court system, among other things by decriminalising some offences which are now sanctioned by administrative fines and also by introducing legal fees for applicants to Regional Courts of Appeal and to the Court of Cassation and transferring powers to issue certificates of inheritance from courts to public notaries.

The 2011 budget for the judiciary increased to approximately TL 6,1 billion (1.81% of the state budget) from TL 4,7 billion in 2010 (0.55% of GDP).

However, neither an overall common strategic framework nor reliable indicators and benchmarks have been established by the Ministry of Justice and the High Council for Judges and Prosecutors to assess the performance of courts and of the judicial system as a whole. Such a framework, indicators and benchmarks would allow the authorities responsible to assess the human and material resources needed to address the backlog of old cases and the influx of new ones and would provide the basis for optimum allocation of resources and rationalisation of the court network.

The current fragmentation of the Turkish courts, which each have a separate registry and which are not connected with each other even when they are located in the same courthouse, prevents efficient use of the available resources. The regional courts of appeal have not been established yet. By law, they should have been in operation by June 2007. The number of vacancies for judges and prosecutors equals roughly a third of the current judicial staff.

The Ministry and the High Council have yet to develop benchmarks to monitor and assess the duration of court proceedings and improve the efficiency and effectiveness of the judicial system. The backlog of pending cases at the Turkish courts is increasing and Turkey has a large backlog of pending serious criminal cases. In particular, and as regards first instance courts, there were approximately 1.4 million pending criminal cases at the end of 2010, up from 1.2 million at the end of 2009. Similarly, the pending civil cases were 1.1 million at the end of 2010, up from 1 million at the end of 2009, while those at administrative courts reached 200,000 at the end of 2010, an increase of 40,000 as compared to those at the end of 2009.

Special attention needs to be paid to the duration of cases involving pre-trial detention, by giving them priority and ensuring that the duration of the trial is kept to the minimum compatible with the quality of the judicial process and respect of the rights of the defendant. Arrest-related articles of the Code on Criminal Procedures (CPC) have been used, often extensively, in a way that might have the same effect as punitive measures, whereas alternatives to arrest or detention are under-used. A 2005 amendment to the CPC limiting the

detention period entered into force at the end of 2010, resulting in the release of a number of prisoners.

Pre-trial detention is not limited to circumstances where it is strictly necessary in the public interest. In some terror-related cases, defendants and their lawyers have not been permitted access to incriminating evidence early in the proceedings<sup>14</sup>. Frequent use of arrest instead of judicial supervision, leaks of information, evidence or statements, limited access to files, failure to give detailed grounds for detention decisions and revision of such decisions raised concerns. Finally, no authoritative information has been made available from either the prosecution offices or the courts on all these issues of wide public interest. Despite preparatory work conducted by both the High Council and the Justice Academy, spokespersons at prosecution offices or at courts are not yet operational.

There is a need to improve the work of the police and the gendarmerie together with the working relationship between the police, gendarmerie and judiciary in order to address concerns raised during investigations in some high-profile cases. A Regulation on the judicial police, as provided for under Article 167 of the CPC, was adopted in 2005. It came into force on 1 June 2005 together with the CPC but has yet to be implemented. Hence, judicial police units attached to prosecution offices have yet to be established. As a result, prosecutors currently rely on judicial police units operating under the hierarchical control of the Ministry of the Interior.

Mediation is not effectively implemented and judges, prosecutors and lawyers are not trained for the task. The court experts' system does not provide for official lists of experts and fees. Nor does it set deadlines for submitting experts' opinions or make court experts subject to cross-examination. The process of transferring forensic medical examinations to State hospitals or health centres has been slow and has yet to be completed. The backlog of the Forensic Medicine Institute leads to delays in judicial proceedings. Cross-examination in criminal trials is not fully implemented.

A large number of measures in the *judicial reform strategy* adopted by the government in August 2009 have been implemented by the constitutional amendments and ensuing legislation. There is a need to review the existing strategy in a transparent and inclusive fashion, so that the revised strategy will be owned by the Turkish legal community and the wider public.

*Overall*, progress has been made in the area of the judiciary. The adoption of legislation on the High Council of Judges and Prosecutors and on the Constitutional Court marks progress in the independence and impartiality of the judiciary. Steps have also been taken to improve the efficiency of the judiciary and address the increasing backlog of the courts. However, further steps are needed on the independence, impartiality and efficiency of the judiciary, including the criminal justice system and the large backlog of pending serious criminal cases. The Minister can veto the launching of disciplinary investigations concerning judges and prosecutors by the High Council. Judicial proceedings need to be made transparent and courts and prosecution offices need to inform stakeholders and the public at large on issues of public

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<sup>14</sup> As a rule, defendants and their lawyers should have access to documents pointing to their innocence or guilt early in the proceedings. Limitations to this right must be justified by the need to protect a specific public interest and be allowed by a judge's decision.

interest. The upcoming review of the judicial reform strategy needs to be carried out with the participation of all stakeholders, the Turkish legal community and civil society.

*Anti-corruption policy (see also Chapter 23 – Judiciary and fundamental rights)*

In line with the 2010-2014 Strategy and Action Plan<sup>15</sup>, an Executive Committee for Increasing Transparency and Fighting Corruption<sup>16</sup> has coordinated working groups preparing proposals on 28 corruption-related issues. The Committee of Ministers on anti-corruption policy approved all the proposals. However, there was no increase in the strength or independence of institutions involved in the fight against corruption, which are not sufficiently staffed. Participation by civil society, particularly in the Executive Committee and in implementing the strategy, needs to be strengthened.

Turkey has implemented 19 of the 21 recommendations made in the 2005 first and second evaluation reports by the Group of States against Corruption (GRECO). There has been no progress in limiting the immunities of Members of Parliament or of senior public officials in corruption-related cases and establishing objective criteria setting the conditions under which their immunity could be lifted. Two major sets of GRECO recommendations on "Incrimination" and "Transparency of Party Funding" remain to be implemented after the third evaluation round adopted in March 2010.

Legislation on political parties imposes some restrictions on the amount and nature of donations parties may receive. However, there has been no progress concerning the transparency of financing political parties. Auditing of political parties remains weak and there is no legal framework for auditing election campaigns or the financing of individual candidates. There is no limit on general party and campaign-related spending. In particular, the legislation contains no specific provisions on campaign financing. Parties declare their campaign-related income and expenditure in their general financial statements as part of their annual report to the Constitutional Court. The Constitutional Court itself focuses primarily on compliance with reporting requirements and with parties' internal regulations. It does not verify the data and source documents submitted or review them for undisclosed income and expenditure.

5928 civil servants working for central and local government received training on ethics between October 2010 and July 2011. However, no progress has been made on extending codes of ethics to academics, military personnel or the judiciary.

The Law on the Turkish Court of Accounts (TCA) adopted in December 2010 should significantly strengthen the transparency and accountability of public administration. However, the exclusion of the Foundation for Strengthening the Armed Forces from the audit mandate of the TCA is a major shortcoming of the revised Law on the TCA (*See section on civilian oversight of security forces*). There is no administrative act to freeze suspicious assets.

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<sup>15</sup> The government adopted a 2010-2014 strategy for enhancing transparency and strengthening the fight against corruption in February 2010.

<sup>16</sup> The Executive Committee for Increasing Transparency and Fighting Corruption is made up of representatives of public institutions, trade unions and the Turkish Union of Chambers and Stock Exchanges (TOBB). Its task is to form further anti-corruption strategies and monitor implementation. The Prime Ministerial Inspection Board has been appointed with the task of providing technical support and secretariat services to the Executive Committee.

No steps have been taken to build up a track record of investigations, indictments or convictions related to corruption cases.

As regards the investigation into the charity Deniz Feneri concerning a fraud case in Germany which started in 2009, the former head of the Radio and Television Supreme Council (RTÜK) and four senior executives of the television network Kanal 7 were detained. No indictment has been submitted to the courts yet. Changes to the prosecutorial team investigating the case raised concerns.

*Overall*, limited progress has been made on implementing the strategy and the action plan to combat corruption. Effective implementation of the strategy is necessary to reduce corruption which remains prevalent in many areas. The lack of transparency relating to political party financing and the scope of immunities remain major shortcomings. Greater political support for strengthening the legislative framework to fight corruption and the measures taken to implement it is needed. Turkey needs to build up a track record of investigations, indictments and convictions.

## **2.2. Human rights and the protection of minorities** (see also chapter 23 - Judiciary & fundamental rights)

### *Observance of international human rights law*

As for ratification of **international human rights instruments**, parliament passed legislation to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in November 2010. Turkey ratified the Optional Protocol to the UN Convention against Torture (OPCAT) in September 2011. Ratification of three additional Protocols to the European Convention on Human Rights (ECHR)<sup>17</sup> is still pending.

During the reporting period, the **European Court of Human Rights** (ECtHR) delivered a total of 418 judgments finding that Turkey had violated rights guaranteed by the ECHR. The number of new applications to the ECtHR went up for the fifth consecutive year. Since October 2010, a total of 7,764 new applications have been made to the ECtHR. Most of them concern the right to a fair trial and protection of property rights. In September 2011, 18,432 applications regarding Turkey were pending before the ECtHR. Turkey has abided by the majority of ECtHR rulings, including payment of compensation totalling € 24.5 million in 2010. Some rulings have not been followed up by Turkey for several years<sup>18</sup>. The government's announcement that it would address these issues was not followed through.

In the *Cyprus v. Turkey* case, the issues of missing persons and restrictions on the property rights of Greek Cypriots displaced or living permanently in the northern part of Cyprus remain pending. In a number of other cases, including the *Xenides-Arestis v. Turkey*, the *Demades v. Turkey*, the *Varnava and Others v. Turkey* cases, Turkey has yet to fully execute the decision, including paying the just satisfaction awarded by the ECtHR to the applicants.

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<sup>17</sup> Protocols 4, 7 and 12.

<sup>18</sup> Non-implementation of the *Hulki Güneş*, *Göçmen* and *Söylemez* judgments has resulted in the defendants being deprived of liberty 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.

Following the Grand Chamber Decision of 5 March 2010 on the *Demopoulos v. Turkey* case, around 1500 applications from Greek Cypriot owners have been lodged with the Immovable Property Commission (IPC). So far, overall around 200 cases have been concluded, mainly by friendly settlements.

Regarding **promotion and enforcement of human rights**, the government has submitted draft legislation on the Ombudsman to parliament (*See section on public administration*).

Public officials, judges, public prosecutors and police officers received training on human rights. A Department of Human Rights has been established within the Ministry of Justice to follow up ongoing cases before the ECtHR and the execution of judgements.

The Human Rights Investigation Committee of parliament received nearly 1500 petitions since October 2010, most of which concerned judicial review and problems related to prisons. It adopted 7 reports since October 2010 and established a sub-committee to probe into the fate of people allegedly disappeared under detention, mainly in the Southeast of the country and in the aftermath of the 1980 military coup.

However, human rights institutions in line with the UN Paris principles, in particular as regards their independence and functional autonomy, have yet to be established. The draft Law establishing the Turkish National Human Rights Institution (NHRI) submitted to parliament in February 2010 does not comply fully with these principles. It is important that the provisions on the mandate, core functions, membership, staffing and funding of the NHRI cannot be amended by implementing legislation, but are set out in law. The NHRI's accountability to the Prime Minister and appointment of its members by the Council of Ministers are not in line with the Paris principles. The funding provisions in the draft law do not ensure that the budget comes from an autonomous source. Requirements for pluralism and gender balance are not explicitly included in the rules on recruitment of staff. The draft law does not specify that there is no restriction on the powers of the NHRI to examine issues arising from any part of the State or the private sector. Greater cooperation with, and involvement of, civil society has yet to be reflected in the draft.

Criminal proceedings were launched against many *human rights defenders*, with much use made of terrorism-related articles of Turkish legislation. The wide definition of terrorism under the Anti-Terror Law (*See the sections on the situation in the south-east and on freedom of expression*) was not revised and remains a cause for serious concern.

*Overall*, some progress was made on observance of international human rights law, notably through the ratification of the OPCAT. However, a number of reforms have been outstanding for several years. Legislation on human rights institutions needs to be brought fully into 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** and ratified the OPCAT in September 2011. The latter provides for establishment of a national mechanism to prevent torture within one year and regular reports on measures to implement the Protocol (*See the section on observance of international human rights law*).

The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its fifth periodic visit to Turkey<sup>19</sup>. The CPT noted a downward trend in both the incidence and severity of ill-treatment by law enforcement officials.

Training courses were given to health personnel, judges and prosecutors on effective investigation and documentation of torture and ill-treatment cases with a view to effective implementation of the Istanbul Protocol on the investigation of torture and ill-treatment in Turkey.

However, law enforcement bodies continued in some cases to apply disproportionate force. Civil society organisations reported disproportionate use of firearms by security forces, resulting in deaths. The CPT's report on its fifth periodic visit to Turkey states that a number of credible allegations of physical ill-treatment were received, which concerned mainly excessive use of force during arrest. With regard to the conditions of immigration detainees, major shortcomings were found in several of the detention centres visited, including severe overcrowding, dilapidated conditions, limited access to natural light, poor hygiene and lack of outdoor exercise.

Law enforcement bodies frequently launched counter-cases against persons who alleged torture or ill-treatment. Such proceedings may deter complaints. In many instances such cases launched by security forces are given priority by the courts.

Under a tripartite protocol which is still in force between the Ministries of Health, Justice and the Interior, law enforcement officers are sometimes present during medical examinations on prisoners.

Efforts to *fight impunity* for human rights violations have not been sufficient. As noted by the ECtHR, criminal proceedings have still not been finalised against members of the security forces who took part in an operation at Diyarbakir prison on 24 September 1996, which led to the death of ten prisoners and injury of six. Consistent lack of thorough independent investigations into alleged extrajudicial killings by security and law enforcement officers persists. The case against an Istanbul police officer regarding the killing of a Nigerian asylum seeker has not advanced. There is still no independent police complaints mechanism. Administrative investigations into allegations of torture or ill-treatment continue to be carried out by fellow police officers, putting at risk the impartiality of the investigation.

Law enforcement officers found guilty of torture, ill-treatment or fatal shootings received short or suspended sentences. Prosecutions of allegations of torture are often conducted under penal code provisions<sup>20</sup> allowing lighter sentences or the possibility of imposing a suspended sentence.

Cases of ill-treatment, unexplained deaths, torture and the lack of fair trials within the military during military service have been reported. In April, the ECtHR found Turkey in violation of the ECHR with regard to the right to a fair trial in one case before the supreme military

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<sup>19</sup> <http://www.cpt.coe.int/documents/tur/2011-13-inf-eng.htm>.

<sup>20</sup> Articles 256 (“excessive use of force”) or 86 (“intentional injury”) of the Turkish Penal Code are often used to issue lighter sentences instead of Articles 94 (“torture”) or 95 (“aggravated torture due to circumstances”) which stipulate heavier sentences.

administrative court.<sup>21</sup> Several trials are in progress concerning allegations of ill-treatment of conscientious objectors in military prisons.

*Overall*, there has been little progress in practice, although ratification of the OPCAT is a significant step. The positive trend on prevention of torture and ill-treatment continued. However, disproportionate use of force by law enforcement officials continued to be a concern, particularly outside official places of detention. Reports of torture or ill-treatment in prisons increased, especially in south-eastern provinces. There has been no progress on tackling impunity. There is a significant backlog of judicial proceedings.

Implementation of the **prison** reform programme continued.

The case management model developed by the Ministry of Justice to improve rehabilitation services is in operation in 4 juvenile prisons.

An amendment to the Code on Criminal Procedures (CPC) entered into force at the end of 2010, limiting the period which can be spent in custody before the final sentencing. This could reduce the prison population.

Architectural changes to some high-security prisons enabled more communal activities.

In terms of access to healthcare, a commission has been established by the Ministry of Justice to improve conditions in prison wards at certain hospitals in line with human and patient rights. By February 2011 the number of rehabilitation centres for convicts and detainees had increased to five.

The number of judgments including probation sentences increased<sup>22</sup>.

However, the prison population continued to increase<sup>23</sup>. This leads to overcrowding, puts pressure on staff and other resources and limits the possibility of using newly built prisons to improve conditions for the inmates. One major factor continuing to contribute to over-population in prisons is the length of time it can take to complete a trial and impose a sentence in criminal cases. Some 47% of the prison population has not received a final sentence (*See section on the judiciary*).

The prison system does not have adequate resources, notably with regard to the number of prison staff and their qualifications, despite the appointment of an additional 4,929 staff in 2010 and the existence of four training centres.

The number of juvenile correctional facilities is insufficient, notwithstanding the launch of juvenile prison-building work by the Ministry of Justice. Children are not fully separated from adults in all prisons. This is especially the case with girls<sup>24</sup> (*See section on children's rights*).

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<sup>21</sup> In April the ECtHR found Turkey in violation of Article 5.1 of the ECHR in the Pulatlı vs. Turkey case. The ECtHR held, unanimously, that there had been a violation of Article 5 § 1 of the ECHR and that these incidents are systemic problems deriving from disciplinary sanctions imposed by higher-ranking officers for breaches of military discipline, which are not subject to judicial review.

<sup>22</sup> The probation system dealt with 104,622 persons nationwide in 2010 and the number of judgments including probation sentences increased by 33% from 63,449 in April 2010 to 84,526 in April 2011.

<sup>23</sup> In April, there were 123,916 prisoners in penitentiaries; 69,648 of them had been convicted but there were 35,084 inmates whose cases were pending.

<sup>24</sup> The number of children in prison is 506.



The standards for monitoring national prisons are still not in line with those of the UN. Prison monitoring boards are not effective and there is not a board for each individual prison. They have neither the right nor the resources to carry out unannounced visits. In some provinces provincial human rights boards carry out random visits, but their reports have not led to changes in practice.

Delays in the work of the Forensic Medicine Institute can lead to damaging delays in trials of sick prisoners. There are serious problems with transferring prisoners to hospitals for treatment. Hospitals regularly used by prisons often have no secure rooms. Complaints were received about medical examinations conducted in the presence of security staff and of prisoners being handcuffed during medical consultations in civilian hospitals.

The authorities have yet to adopt a general statement of principles on restrictions that can be imposed on prisoners' rights, incorporating the principles of the ECHR. Newspapers, magazines and books continue to be forbidden in prisons. The practice adopted in prisons in relation to open and closed visits is a concern. There are still reports of restrictions on use of the Kurdish language in prisons, during visits and exchanges of letters. Practice varies between prison administrations. A complete overhaul of the complaints system in prisons to make it genuinely available to all prisoners should be carried out, in accordance with the OPCAT.

The judicial case focusing on the incidents at Bayrampaşa prison during the "Return to Life" Operation in 2000, when the police violently ended the hunger strike of prisoners who had protested against their transfer to F-type prisons and during which twelve prisoners died, is still pending. In the meantime the ECtHR admitted a case about this operation.

*Overall*, the increasing prison population is leading to serious overcrowding, which is hampering attempts to improve detention conditions. A complete overhaul of the complaints system in prisons is needed. Implementation of the OPCAT should help tackle some problems. Close attention should be paid to making sure that new arrangements for medical services meet the requirements of the prison environment. An urgent review of the system for dealing with juveniles is needed to minimise the number in prison and the time they spend there and make sure that detention conditions meet the needs of children.

There have been limited improvements in **access to justice**. The efforts of Bar associations improved citizens' awareness of their rights in terms of access to justice.

However, problems remained in rural areas and for disadvantaged groups. A large proportion of prison inmates, including women and juveniles, have had only limited access to legal aid. Prison inmates are not always aware that legal aid is available. In domestic violence cases, the documentation requested in order to benefit from legal aid has, in practice, delayed protection of victims.

Financial resources allocated for legal aid are not adequate. Lawyer's fees are very low and, in any case, not comparable with the fees paid by defendants in ordinary cases.

Public awareness of legal aid is limited. The Ministry of Justice, the High Council of Judges and Prosecutors and the courts do not publish information relating to judicial proceedings. The courts do not provide parties with forms or models to file petitions and have no information desks. Defendants continue misguidedly to believe that requesting a lawyer implies guilt.

*Overall*, limited progress has been made on access to justice. The legal aid provided is of inadequate scope and quality. There is no effective monitoring mechanism that would remedy long-standing problems.

As regards **freedom of expression**, the media and public continued debating openly and freely a wide range of topics perceived as sensitive, such as the Kurdish issue, minority rights, the Armenian issue and the role of the military. Opposition views are regularly expressed.

Following the review of the legal framework on freedom of expression by the Ministry of Justice, a draft law has been submitted to parliament with the aim of changing a limited number of articles of the Turkish Criminal Code, including Articles 285 and 288, which are often used to start procedures against journalists. Few cases have been initiated on the basis of Article 301 of the Turkish Criminal Code (TCC), after it was amended in May 2008.

However, the high number of violations of freedom of expression raises serious concerns. Freedom of the media was restricted in practice. The imprisonment of journalists, and the confiscation of an unpublished manuscript in connection with the Ergenekon investigation, fuelled these concerns. A large number of journalists remain in detention.

A large number of cases were launched against writers and journalists writing on the Kurdish issue. Pressure on newspapers which report on the Kurdish question or publish in Kurdish has continued. Several left-wing and Kurdish journalists were convicted of terrorism propaganda (*See section on the situation in the south-east*).

A large number of violations of freedom of expression by Turkey were submitted to the ECtHR. In order to comply with the rulings of the ECtHR, legal amendments need to be introduced.<sup>25</sup>

Turkey's criminal legislation remains highly problematic; it is open to disproportionate use to limit freedom of expression. The Press Law and the Law on the protection of Atatürk are also used to restrict freedom of expression. A number of articles of the TCC require revision, such as Article 125 which criminalises defamation, Articles 214, 215, 216 and 220 on protection of public order, Article 226 which outlaws publication or broadcasting of obscene material, Article 285 which protects the confidentiality of investigations, Article 288 which outlaws attempts to influence the judiciary, Article 314 on membership of an armed organisation and Article 318 which makes it an offence to discourage people from performing military service. Restrictions on freedom of expression stemming from a wide definition of terrorism under the Anti-Terror Law continue to be a cause for concern. In particular, Articles 6 and 7 of this law need to be revised.

Another important problem is the lack of proportionality in the interpretation and application of the existing legal provisions by courts and prosecutors, which leads to violations of freedom of expression. The role of prosecutors, including special "press prosecutors", in initiating criminal proceedings affecting freedom of expression without due restraint is particularly important and raises concerns. A large number of draft indictments on grounds of article 301 of the TCC are still submitted by prosecutors to the Minister of Justice for examination, for most of which permission to prosecute is denied.

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<sup>25</sup> One example is the *Ürper and others v. Turkey* case, where the ECtHR ruled that Turkey should revise Article 6(5) of the Anti-Terror Law.

As highlighted in a report of the Council of Europe published in July 2011, the interpretation of the concept of "incitement to violence" is not compliant with the case-law of the European Court of Human Rights. No defences of truth and public interest exist in the Turkish legal system. Other issues hampering the right to freedom of expression are the excessive length of criminal proceedings and remands in custody and problems concerning defendants' access to evidence against them pending trial. All of this has a chilling effect on freedom of expression in Turkey and has led to wide self-censorship in Turkish media, as do the recurring court cases launched against the press by high-level government and State officials and by the military.

A decision by the Turkish Constitutional Court of 2 May 2011 invalidated Article 26 of the Press Act. Once this decision will have entered into force in July 2012, prosecutors will no longer be bound to certain time restraints if they want to file a case following a publication in a periodical. Currently, the maximum period for filing a case is two months after publication for dailies and four months for weeklies.

The court case on the tax fine imposed in 2009 against the Dogan Media Group, a well-known critic the government, continued. In general, numerous and high fines were imposed on the media. The satiric Harakiri magazine was forced to cease publication after its second issue, following a fine of TL 150,000 imposed by the Prime Ministerial Board for the Protection of Children from Harmful Publications. The Board, which reads books at the request of prosecutors and follows periodicals in Turkey to evaluate them for possible obscenity, has been heavily criticised as regards its composition and the scope of its mandate.

In March 2011, a first-instance court agreed with the Court of Cassation and fined writer Orhan Pamuk in a civil procedure on the grounds that his 2005 remarks on the killing of Armenians and Kurds had insulted the plaintiffs as Turkish citizens.

Regarding hate speech, the Council of Europe recommendation encouraging Turkey and the media to adopt a code of ethics on respect for religious minorities has not been implemented. There is a need for new legislation which would allow effective prosecution of incitement to hatred, including by the media.

The new Law on the establishment and broadcasting principles of radio and TV stations brings only partial improvement as regards the interpretation of certain rules on broadcasting bans and sanctions imposed on broadcasters. The potential fines have been substantially increased. At the beginning of 2011, based on the previous law, the Supreme Board of Radio and Television (RTÜK) issued warnings to television stations and imposed fines on them for failing to respect the privacy of historical characters<sup>26</sup>, discussions on homosexuality<sup>27</sup> or homosexual scenes in films or series<sup>28</sup> (*See Chapter 10 – Information society and media*).

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<sup>26</sup> In January 2011, the RTÜK warned Show TV for portraying the country's Ottoman-era sultans as drinkers and womanisers in the popular TV series the "Magnificent Century".

<sup>27</sup> In January 2011, Habertürk was fined for "showing homosexuality as normal, thus violating the Turkish family structure".

<sup>28</sup> In January 2011, ATV was warned for showing two men in bed in a TV series, thus violating the Turkish family structure. In March, the RTÜK launched an administrative procedure against Digitürk, which aired "Sex and the City 2" on one of its coded channels, for showing a homosexual wedding scene.

There are still frequent website bans of disproportionate scope and duration. Since May 2009 the Telecommunications Communication Presidency (TİB) has published no statistics on banned sites. A case has been brought against the TİB for not supplying statistics on the banned sites, as this is not in line with the Law on the right to information. Court cases are also ongoing against the You Tube video-sharing website and other web portals. The Law on the Internet, which limits freedom of expression and restricts citizens' right to access to information, needs to be revised. In April 2011 TİB, basing itself on the Internet Law, sent a letter to hosting companies asking them to cancel websites which included certain potentially provocative words. This raised heavy criticism, to which TİB responded that the list of words was intended to assist hosting companies identify allegedly illicit web content.

Reacting to strong criticism, the Information and Communication Technologies Authority (ICTA) amended its February 2011 regulation on the principles and procedures for safe usage of the Internet. The revised version, which was adopted in August 2011, responds to a number of concerns, in particular by making the Internet filters explicitly optional. After a testing phase ending in November 2011 the system will be available to all users. Implementation in line with European standards will be essential.

*Overall*, open debate, including on issues perceived as sensitive, continued. However, in practice, freedom of expression is undermined by the high number of legal cases and investigations against journalists, writers, academics and human rights defenders and undue pressure on the media, which raises serious concerns. The present legislation does not sufficiently guarantee freedom of expression in line with the ECHR and ECtHR case law and permits restrictive interpretation by the judiciary. Frequent website bans are another cause for serious concern. Turkey's legal and judicial practices, legislation, criminal procedures and political responses are obstacles to the free exchange of information and ideas.

As regards **freedom of assembly**, there were positive developments. *Newroz* (New Year) ceremonies in the South East and 1 May demonstrations took place in a generally peaceful atmosphere. This was also the case for demonstrations, *inter alia* against restrictions on alcohol advertising and consumption, on judicial reform and on the detention of suspects in the alleged coup trials. Several activities, including *Armenian Genocide Commemoration Day*, organised by intellectuals and civil society representatives to commemorate the 1915 events also proceeded peacefully.

However, demonstrations in the south-east of the country and in other provinces related to the Kurdish issue, students' rights, the activities of the Higher Education Board (YÖK) and trade union rights were marred by violence, including incidents of excessive force used by the security forces. Allegations against members of the security forces for use of excessive force were rarely prosecuted or investigated properly (*See section on impunity*).

Turkey still needs to apply constitutional provisions guaranteeing the right to hold demonstrations. Many court cases are in progress on charges of opposing the Law on meetings and demonstrations. This law is currently being revised by the Ministry of the Interior. Problems persist with implementation of the Law on the duties and legal powers of the police, especially in the south-east. Civil society organisations and human rights defenders often face prosecution and legal proceedings on charges of terrorist propaganda during demonstrations and protest meetings.

Turkey's legislation on **freedom of association** is broadly in line with EU standards. However, no moves have been launched to meet the need for changes to the legal framework,

including the Constitution, with regard to the closure of political parties. There are many instances of restrictive interpretation of the existing legislation.

The inclusion of civil society organisations (CSOs) in policy processes, while still in a nascent stage, has advanced. CSOs continued to face closure cases plus disproportionate administrative checks and fines. Membership in associations continues to require a Turkish residency permit and foreign CSOs are subject to specific regulations.

Legislative and bureaucratic obstacles impeding the financial sustainability of CSOs persist, e.g. with respect to the collection of domestic and international aid, to obtaining public benefit status for associations and tax exemptions for foundations, etc. The lack of simplified rules creates difficulties for small or medium-sized associations.

The judicial investigation into the Istanbul branch of the Human Rights Association has been pending for two years. The Labour Court ordered the closure of Yargı Sen (the trade union of judges and public prosecutors), established in early 2011, based on the argument that its establishment is contrary to domestic legislation. However, this legal basis needs to be updated in line with the 2010 constitutional amendments and the international obligations of Turkey. The trade union appealed to the Court of Cassation.

More restrictive legislation applied to foreign associations, with the Ministry of the Interior (MoI) having to consult the Ministry of Foreign Affairs (MFA) to allow the opening of a representation. Some foreign civil society organisations were rejected by or received no reply from the MoI without being given specific reasons.

The case against the party leaders and executive members of the Socialist Democracy Party and the Social Freedom Platform is pending. Some of them are still detained for alleged links to the Revolutionary HQ, an illegal organisation.

In December 2010, the ECtHR found Turkey in violation of the rights to freedom of assembly and association in connection with the closure of the HADEP party by the Constitutional Court in March 2003<sup>29</sup>.

*Overall*, as regards freedom of assembly, there has been progress on the ground. However, demonstrations in the south-east of the country and in other provinces related to the Kurdish issue, students' rights, the activities of the higher education supervisory board (YÖK) and trade union rights were marred by disproportionate use of force. Legislation on freedom of association is broadly in line with EU standards. However, disproportionate controls and restrictive interpretation of the law remain; funding rules for CSOs remain restrictive. There were no developments as regards amendment of the legislation on the closure of political parties.

Concerning **freedom of thought, conscience and religion**, freedom of worship continues to be generally respected. Ecumenical Patriarch Bartholomew celebrated in August, for the second time after almost nine decades, the Divine Liturgy of the Dormition of Theotokos at

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<sup>29</sup> Under Article 69(9) of the Constitution, the Constitutional Court banned 46 HADEP members and leaders from becoming founder members, ordinary members, leaders or auditors of any other political party for a period of five years. The Constitutional Court also ordered the transfer of HADEP's property to the Treasury. The decision of the Constitutional Court became final following its publication in the Official Gazette on 19 July 2003.

the Soumela monastery in the Black Sea province of Trabzon. In September the second religious service since 1915 was held at the Armenian Holy Cross church on the Akhdamar island in lake Van. A Protestant church was officially opened in June in the city of Van in Eastern Turkey. The Turkish authorities, including a Deputy Prime Minister, held a number of meetings with the religious leaders of non-Muslim communities, including a visit to the Ecumenical Patriarchate, the first visit by a high-ranking official of the Patriarchate since the 1950s.

Following seven workshops held in the context of the 2009 Alevi opening, a final report was issued in March 2011. The Ministry of National Education has prepared new religious education textbooks containing information on the Alevi faith, too. These are to be used as of the 2011-2012 school year. A small number of municipal councils have recognised *de facto* Cem houses as places of worship. The government expropriated Madimak Hotel<sup>30</sup> in Sivas. Alevis have demanded that the hotel be turned into a museum.

The 2010 ECtHR judgment in the *Özbek and others v. Turkey* case about the establishment of the Kurtuluş Protestant Church Foundation in Ankara (violation of Article 11) was implemented.

Legislation amending the February 2008 Law on foundations was adopted in August 2011. The current legal framework broadly provides for the return of properties entered in the 1936 declarations of the non-Muslim community foundations widening, thus, the scope of the 2008 Law. (See section on property rights).

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 schools. A 2007 ECtHR judgment<sup>31</sup> regarding compulsory religious education has yet to be implemented. Exemptions from attending such classes are rare and difficult to obtain, particularly if the identity card of the applicant does not list a religion other than Islam or if the religion entry on the card is blank. No alternative classes are provided for students exempted from these classes, and there are reports that students not attending these classes have been given lower marks.

Non-Muslim communities – as organised structures of religious groups – still face problems due to their lack of legal personality. This has implications at least for their property rights, their access to justice and their ability to raise funds. The 2010 Council of Europe Venice Commission recommendations<sup>32</sup> in this regard have yet to be implemented.

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<sup>30</sup> On 2 July 1993 a mob besieged the Madimak Hotel in Sivas that was hosting a Pir Sultan Abdal culture festival. The hotel was set on fire, resulting in the death of 37 people – mostly Alevi writers, poets and artists participating in the festival. In a symbolic gesture, in 2009 the Ministry of Culture started discussions to establish a cultural centre in the Madimak Hotel in memory of the victims of the 1993 events.

<sup>31</sup> In October 2007 the ECtHR found that these classes did not just give a general overview of religions but provided specific instruction in the guiding principles of the Muslim faith, including its rites. The Court requested Turkey to bring its education system and domestic legislation into line with Article 2 of Protocol 1 to the ECHR.

<sup>32</sup> In March 2010, 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.

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 is still closed. The Armenian Patriarchate's proposal to open a university department for the Armenian language and clergy has been pending for four years now. Syrians 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. The Venice Commission's 2010 conclusion that any interference with this right would constitute a violation of the autonomy of the Orthodox Church under Article 9 of the ECHR has yet to be implemented. As regards participation in religious elections held in the patriarchate, Turkish and foreign nationals should be treated equally in terms of 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. There have been reports of harassment by local officials of persons who converted from Islam to another religion and sought to amend their ID cards. Some non-Muslims maintained that listing religious affiliation on their identity cards exposed them to discrimination. The 2010 *Sinan Isik v. Turkey* ECtHR judgment, which ruled that indication of religious affiliation on identity cards is in breach of the Convention, has yet to be implemented.

Alevi places of worship are not recognised and Alevis often experience difficulties in opening them. Two refusals by the administration to approve places of worship were taken to courts, which upheld the decisions. One case is now pending before the ECtHR, after exhausting all domestic remedies.

Non-Muslim religious communities report frequent discrimination, administrative uncertainty and numerous obstacles to establishing or continuing to use places of worship. Implementation of zoning legislation by local authorities differs from province to province. This results in often arbitrary refusals to issue construction permits for places of worship. Since the relevant legislation was amended in 2003<sup>33</sup>, there has been no construction or designation of a plot for a new Protestant church or a Jehovah's Witness Kingdom Hall. In Mersin a court ordered the closure of a Kingdom Hall that was considered to have violated the zoning law. The case has been taken to the ECtHR.

Jehovah's witnesses have been refused exemption from property taxes in Istanbul and Ankara. A number of court cases are pending on taxation issues. Alevis and non-Muslim religious communities have to pay electricity and water bills, whereas the State budget covers such expenses for mosques.

Missionaries are widely perceived as a threat to the integrity of the country and to the Muslim religion. A court in Silivri found two missionaries not guilty of inciting hatred or insulting Turkishness but guilty of registering personal data<sup>34</sup>. The court case concerning the killing of

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<sup>33</sup> The Law on public works was amended as part of the sixth reform package, followed by a circular in September 2003 replacing the word "mosque" with the phrase "places of worship".

<sup>34</sup> Originally filed in October 2006, this case under Article 301 of the Turkish Criminal Code accused two former Muslims who converted to Christianity, of insulting Turkishness and the Muslim religion while involved in evangelistic activities in Silivri, west of Istanbul.

three Protestants in Malatya in April 2007 continued. No clear conclusion has been reached regarding the killing of Father Santoro, a Catholic priest, in Trabzon in 2006. As regards the killing of Bishop Padovese in Iskenderun in 2010, the indictment was finalised in June 2011. The case is continuing.

The May 2010 Prime Ministerial circular instructing all relevant authorities to pay due attention to the problems of non-Muslim Turkish citizens has yet to produce tangible results. Non-Muslim religious communities reported that hate crimes continued. There have been reports of attacks against churches, synagogues and cemeteries. Anti-Semitism and hate speech in the media, including in TV series and films, have not been sanctioned.

ECtHR judgments regarding *conscientious objectors* refusing to serve in the military on religious or other grounds have yet to be implemented. No progress has been made on tackling the issue of repeated prosecution and conviction or towards introducing a civilian alternative to military service. Members of the Jehovah's Witness community in particular faced court cases for conscientious objection. On several occasions public statements on the right to object led to judicial investigations and proceedings on the grounds of discouraging the public from fulfilling military service.

*Overall*, there has been limited progress on freedom of thought, conscience and religion. The dialogue with the Alevis and with the non-Muslim religious communities continued. Members of minority religions continued to be subject to threats from 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.

*Economic and social rights (see also Chapter 19 – Social policy and employment)*

Limited progress can be noted on **women's rights and gender equality**. Efforts have been made to strike a better balance between professional and private life for civil servants, notably in the form of introducing parental benefits. The Parliamentary Committee on Equal Opportunities for Women and Men has issued a number of reports<sup>35</sup> on women's issues and improved its institutional capacity, including with the aid of training. Legislation was adopted in January 2011 (Law on obligations) to address the problem of bullying at work, followed by a Prime Ministerial circular in March 2011. The female participation rate in the labour market increased from 26% in 2009 to 27.6% in 2010. The gender gap in primary education at national level continued to narrow and was virtually closed. The 2011 elections increased women's participation in parliament approximately from 9% to 14% of its membership.

The dialogue with women's NGOs developed since the appointment of the new minister of family and social policies.

However, gender equality, combating violence against women, including honour killings, and early and forced marriages remain major challenges for Turkey. The constitutional amendment providing for positive discrimination in favour of women has yet to produce results.

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<sup>35</sup> The reports issued to date cover early marriages, violence against women, bullying at work, pressure on women due to the gender of the child and traditional forms of marriage. The TGNA Committee's report on early marriages establishes a direct correlation between poverty, lack of education and early marriages. It also addresses the role of tradition and religious misperceptions.



Women's representation in politics, managerial positions in the public administration, including education<sup>36</sup>, at governor level, in political parties or in trade unions remains generally limited, even though polls indicate wide public support for greater participation by women in politics. Research has concluded that women's low political participation cannot be attributed to voter choice or women's traditional family roles alone, but also to the insufficient support given to women in politics.

Women often work in poor conditions in unregistered and unpaid family work. Funds available to encourage women to become self-employed have been inadequate. Existing labour market measures, including training courses, need to be designed with a view to avoiding gender-based segregation of employment. Discrimination in recruitment has been reported, while, according to research, unemployment among white-collar women increased over the last year

The gender gap in secondary education has widened (*See section on children's rights*). The sustainability of girls' attendance at higher levels of education has been a challenge. Efforts to eliminate gender bias from school textbooks at all levels of education and training have yet to produce the desired results. Gender stereotyping has been perpetuated by the media.

There has been evidence that incidents of violence against women, including killings, are increasing<sup>37</sup>. This has been widely reported and debated. A number of women have reported that police officers tried to convince them to return home to their alleged abusers rather than help them receive protection orders, and that prosecutors and judges were slow to act on requests for protection orders or requested unnecessary evidence. Use of standard forms by the police needs to become normal practice in domestic violence cases. Further awareness-raising and training for members of the judiciary, health staff and, in particular, law enforcement officers is needed. Family courts have insufficient capacity and have been unable to assist victims in a number of cases. Court cases have usually been lengthy and preparation of forensic reports has caused delays in the judicial process. As regards domestic violence, the ECtHR judgment in the *Opuz v. Turkey* case<sup>38</sup> has yet to be implemented.

The Law on municipalities provides for establishing shelters for women in municipalities with a population of 50,000 or more. This provision is not being fully implemented and the number of shelters and other protective and preventive mechanisms falls well short of needs. This puts victims at risk. There is still no effective oversight of the work of shelters and of municipalities and no sanctions are laid down for municipalities which fail to provide shelters. There is no follow-up for women who are discharged from shelters or similar social services. Local services and support mechanisms for women who are victims of violence need to be strengthened.

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<sup>36</sup> According to the report by the DG on Women's Status on the education sector, where the female employment rate is relatively high, only around 9% of the 58,835 managerial positions in schools are occupied by women. In higher education institutions, only around 5% of rectors and 15% of deans are women.

<sup>37</sup> Official figures indicate that 83 women were killed in 2003, 164 in 2004, 317 in 2005, 663 in 2006, 1,011 in 2007, 806 in 2008 and 953 during the first seven months of 2009. Although this increase might also reflect improved collection of information, it nevertheless illustrates the challenge Turkey is facing.

<sup>38</sup> Application No 33401/02 concerning the Turkish authorities' failure to protect the applicant and her mother from domestic violence.

Implementation of the national action plan on gender equality and violence against women is suffering from the lack of sufficient human and financial resources. Implementation of Prime Ministerial circulars also needs to be improved. Action plans and circulars are not binding and are not applied evenly throughout the country. Gender issues need to be mainstreamed in law-making and in public administration.

Several statements by public figures and judicial decisions have portrayed women as partly responsible for harassment, rape or violence due to their behaviour or dress.

Independent women's NGOs have reported that public institutions discriminate in favour of NGOs promoting conservative values. Like other NGOs, women's NGOs face financial difficulties.

*Overall*, protecting women's rights, promoting gender equality and combating violence against women remain major challenges. The legal framework guaranteeing women's rights and gender equality is broadly in place. However, further substantial efforts are needed to turn the legal framework into political, social and economic reality. Legislation needs to be implemented consistently across the country. Honour killings, early and forced marriages and domestic violence against women remain serious problems. Further training and awareness-raising on women's rights and gender equality are needed, particularly for the police.

With respect to **children's rights**, the proportion of children in pre-school education increased in 2010-2011 compared to the previous school year. The number of teachers also increased. The primary school enrolment rates (grades 1-8) increased and the gender gap has virtually closed. In secondary education (grades 9-12), the enrolment rates increased for boys from 67.5% to 72.3% and for girls from 62.2 % to 66.1 %, widening thus slightly the gender gap. Turkey signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

However, school drop-outs were a concern, especially among seasonal migrant workers' families and Roma children. There is a need to support and use fully the early warning system for children at risk of dropping out. Regional disparities remained wide for both primary and secondary school enrolment. Turkey has adopted legislation on education of children with special needs; however, there is a need to provide the resources necessary to implement this legislation fully and establish a system to oversee this implementation.

The poverty rate among children is disproportionately high. For those under the age of six, the rate stood at around 24% of all cases of poverty and at around 49% of all cases of rural poverty.

There is no effective mechanism in place to tackle domestic violence against children. Further awareness-raising is needed on children's rights, including on fighting violence against children. There are initiatives regarding children placed in institutions to support de-institutionalisation towards a community based approach; however, community based care services still remain limited and needs to be enhanced in terms of coverage and content. Conditions in full-time child-care institutions need to improve, staff trained and alternative care models promoted.

No measurable progress has been made yet in the fight against child labour. Field work is in progress on seasonal agriculture and migrant child labour. Administrative capacity in this field has been weak and there has been no nationwide monitoring and inspection system.

There is a lack of up-to-date data on the number and situation of children at work, and there is no integrated system to eradicate child labour.

As regards juvenile justice, since the June 2010 amendments to the Anti-Terror Law, the Criminal Procedure Code and other legal provisions, Turkish legislation provides that children will not be penalised on charges of committing a terror crime or being a member of a terror organisation, in the case of resisting law enforcement officials or for committing a propaganda crime by participating in demonstrations supporting terror organisations. The law also provides that the 'aggravating circumstances' provided for by the Anti-Terror Law will not apply to children and that they will be tried only in children's courts or juvenile serious crime courts. Implementation of this law is not complete.

By May 2011 a total of 20 juvenile heavy criminal courts had been established by law, of which only 11 were in operation. The total number of juvenile courts established by law was 75, of which 60 were in operation. The Child Protection Law requires that courts should be established in all 81 provinces. In provinces where no such courts exist, children are tried in courts for adults.

In most provinces, there are not yet adequate facilities for children's pre-trial detention or to make sure that children are detained separately from adults and receive proper psychological support.

Trials in juvenile courts are often long. In some cases the juvenile courts decided to postpone their judgment, to convert a prison sentence to alternative sanctions or to suspend sentences for terror-related crimes. In practice, these options were not considered if the child was re-arrested.

Some 2,500 children aged between 12 and 18 were in prison. However, imprisonment for children should be used only as a measure of last resort and for the shortest appropriate period of time. Efforts are needed to reduce the number of juveniles detained, both on remand and under sentence. There was not a closed correctional centre for juveniles in every region of the country.

*Overall*, efforts need to be stepped up in all areas, including education, combating child labour, health, administrative capacity and coordination. In general, more preventive and rehabilitation measures need to be taken for juveniles. Moreover, there is a need to establish more juvenile courts, in line with the legislation in force, and to minimise detention for children which, if strictly necessary, should take place in appropriate conditions.

As regards **socially vulnerable persons and/or persons with disabilities**, a strategy paper on accessibility and the related national action plan were adopted. However, constitutional changes allowing positive discrimination in favour of the disabled were not turned into specific measures. A national mechanism for monitoring implementation of the UN Convention on the rights of disabled persons and its optional protocol has still not been established.

Efforts to increase employment of persons with disabilities brought some success in the public sector. However, further measures are needed in both the public and private sectors, including on creating new jobs and encouraging working from home.

Lack of data and research on persons with disabilities and the mentally ill remain a barrier against informed policy-making.

Persons with disabilities faced difficulties in access to education, health, social and public services. Physical barriers to access to public buildings continued to be a problem, despite legislation in force. Further awareness-raising efforts are needed to fight prejudice against people with disabilities and to increase their participation in social and economic life. Legislation on inclusive education needs to be fully implemented. Mental health is still an area of concern. Efforts are needed to safeguard the rights of mentally ill patients and to improve conditions in certain care institutions. An independent body to monitor and inspect mental health institutions has not been established.

The principle of **anti-discrimination** is enshrined in the Constitution and in several laws. However, comprehensive anti-discrimination legislation is lacking, the current legal framework is not adequately aligned with the EU *acquis* and, in practice, discrimination is taking place against various categories of persons. Legislation establishing an anti-discrimination and equality board has not been adopted.

The government removed all references to discrimination on grounds of "sexual identity" or "sexual orientation" from the draft Law establishing an anti-discrimination and equality board. Turkey did not support a European Union-sponsored amendment to the UN Resolution on extra-judicial executions and other unlawful killings calling on all States to decriminalise homosexuality, despite the fact that homosexuality is not a criminal offence in Turkey.

Lesbian, gay, bisexual and transgender persons (LGBT) continued to suffer discrimination, intimidation and violent crimes.

There have been several cases of discrimination in the workplace, where LGBT employees and civil servants have been fired on the grounds of their sexual orientation. A number of court cases and judicial proceedings are in progress. Charges under the provisions of the Turkish Criminal Code on 'public exhibitionism' and 'offences against public morality' were still used to discriminate against LGBT people. The Law on misdemeanours was often used to impose fines on transgender persons.

Courts continued to apply the principle of 'unjust provocation' in favour of perpetrators of crimes against transsexuals and transvestites. LGBT persons and human rights defenders continued to face court cases brought by the police in response to allegations of police brutality in Ankara in May 2010. Judicial proceedings are also continuing against transgender human rights defenders who accused the police of arbitrary arrests and violence in Ankara in June 2010. In neither case have complaints brought against the police by LGBT persons resulted in court cases.

Negative stereotyping by political figures and the conservative media against LGBT persons continued.

In November 2010, an international conference organised by the Foundations of Journalists and Writers focused on the concept of the "virtuous family" as an institution based on religion and tradition and put homosexuality and incest in the same category as 'diseases' that threaten society. High-level government officials attended the final declaration by the conference.

The Turkish armed forces maintained an internal regulation which defines homosexuality as a 'psychosexual' illness and declares homosexuals unfit for military service. Conscripts who declared their homosexuality were forced to provide photographic proof. Some have undergone humiliating medical examinations.

*Overall*, efforts to improve the situation of socially vulnerable persons and/or persons with disabilities continued. However, further measures are required to increase their participation in social and economic life. Many challenges remain in the areas of labour and trade union rights and the fight against discrimination.

As regards **labour and trade union rights**, the current legal framework is not in line with EU standards and ILO conventions. Major obstacles remain for private-sector workers and public servants on the rights to organise, bargain collectively and on the right to strike. Constitutional amendments lifting some restrictions on labour rights have not yet been turned into implementing legislation. Trade union legislation has not been amended, partly because of disagreement between social partners on some key issues, such as the right to organise at the workplace and the high thresholds for entering into collective bargaining

Social dialogue mechanisms were not effectively used during the reporting period. The Economic and Social Council, which gained constitutional status following the September 2010 referendum, has not yet convened. Social partners' involvement in designing policies and legislation in the employment and social fields needs to be improved.

Problems with implementation of labour rights persisted: several cases of dismissal of workers due to trade union membership and activity were reported. Such cases have not been dealt with efficiently by the courts. The right to organise is still not recognised for groups such as students, the retired, farmers and judicial employees, whose trade unions have been sued for closure. Trade union demonstrations were often negatively perceived by the authorities and subject to restrictions and excessive use of force.

As regards **property rights**, legislation amending the 2008 Law on foundations was adopted in August 2011. This is the fourth attempt of the Turkish authorities since 2002 to restore the property rights of non-Muslim communities. The new legislation provides that non-Muslim community foundations can register in the Land Registry, under their names, immovable property entered in their 1936 declarations for which either the owner entry was left blank, or which are registered in the name of the Treasury, the Directorate-General for Foundations, municipalities and special provincial administrations, or cemeteries and fountains registered in the name of public institutions. Interested parties will have to apply for the return of properties within a twelve-month period from the entry into force of the new legislation. Finally, the market value of foundation properties currently registered with third parties will be paid. This covers properties seized and sold to third parties, and which cannot be returned to the foundations. A regulation will define implementation modalities of the new legislation.

Implementation of the 2008 Law on foundations<sup>39</sup> continued throughout the reporting period. By mid-July 2010, the end of the additional period granted to foundations for providing

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<sup>39</sup> The February 2008 Law on foundations set an initial deadline of 27 August 2009 for non-Muslim foundations to submit applications 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. A total of 108 foundations submitted 1,410 applications for restitution of properties. The 27 August 2009 deadline was extended to give foundations time to submit all the documents required.

complete information, 61 of them had re-applied for registration of properties. Overall, the February 2008 Law enabled the registration of 181 properties in the name of non-Muslim community foundations.

In November 2010 the Ecumenical Patriarchate received the deeds of the Büyükada orphanage from the deeds office in Istanbul, following the ECtHR ruling in the *Ecumenical Patriarchate v. Turkey*<sup>40</sup> case.

In March 2011, Turkey implemented the ECtHR judgment of March 2009 on the property rights of the Kimisis Theodokou Greek Orthodox church on the island of Bozcaada (Tenedos), by transferring the property titles to the Bishop of Imvros and Tenedos.

However, implementation of the 2008 Law on foundations has suffered from delays and procedural problems. The property of merged foundations remains outside the scope of the August 2011 amendments to the Law.

The Syriac community continued to face difficulties with property and land registration. A number of court cases continued concerning both individuals and religious institutions. The Mor Gabriel Syriac Orthodox monastery court cases regarding land ownership continued throughout the reporting period. Litigation launched in parallel by State institutions and neighbouring villages raised concerns. Among other cases, following positive rulings by the local courts, the Turkish Forestry Department appealed to the Court of Cassation, which decided against the monastery and reversed the decision of the first-instance court. Judicial proceedings are continuing.

A large number of properties of the Catholic Church across the country have been confiscated by the State. The Catholic Church, like the other non-Muslim religious communities, has no legal personality. It does not have community foundations to register property and it can not establish new foundations. All the Church's properties are registered in the names of Catholic priests.

Implementation of the March 2010 recommendations of the Council of Europe Venice Commission on the protection of property rights is pending.

Problems encountered by Greek nationals when inheriting and registering property are still being reported, in particular following application by the Turkish authorities of the amended Land Registry Law, including their interpretation of the provisions on reciprocity. As regards reciprocity, 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 property or financial compensation for the applicants.

*Overall*, there has been progress on the ground, with the adoption of legislation amending the 2008 Law on foundations. The current legal framework broadly provides for the return of properties entered in the 1936 declarations of the non-Muslim community foundations widening, thus, the scope of the February 2008 legislation. The Turkish authorities and the Foundations Council need to ensure the swift implementation of the new legislation. The deeds of the Büyükada orphanage and of properties on the island of Bozcaada (Tenedos) were transferred to the Ecumenical Patriarchate and to the Bishop of Imvros and Tenedos,

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<sup>40</sup> As regards this 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.

respectively. The Law on foundations continued to be implemented, albeit with delays and procedural problems, enabling the return of 181 properties to community foundations. The property of merged foundations remains outside the scope of the August 2011 amendments to the Law on foundations. The ongoing cases against the Mor Gabriel Syriac Orthodox monastery continue to raise concerns. Turkey needs to ensure full respect of the property rights of all non-Muslim religious communities.

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

Efforts were made in favour of minority schools. In parallel to the practice in public schools, the Ministry of National Education has extended support to the minority schools in the form of new textbooks. In the 2010-2011 academic year, mathematics and introduction to science textbooks were translated into Armenian and distributed free of charge.

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

There are no mechanisms or specific bodies in Turkey to combat racism, xenophobia, anti-Semitism and intolerance. No specific legislation exists and, where legislation does address discrimination issues, it is often interpreted in a restrictive manner by the courts.

The situation of the Greek minority has not changed. It continues to encounter problems with access to education and property rights, including on the islands of Gökçeada (Imvros) and Bozcaada (Tenedos). The decision to reopen a school in Gökçeada (Imvros) is still pending.

The management of minority schools, including accountability to both minority Heads and non-minority Deputy Heads<sup>41</sup>, remained an issue, pending an implementing regulation. Minority schools faced procedural and bureaucratic difficulties with registration, budget problems and sustainability issues due to the number of students enrolled (restricted by law to those Turkish nationals from the same minority). In March the Human Rights Commissioner of the Council of Europe encouraged Turkish authorities to remove the legal obstacles and allow non-Muslim communities to provide education, in their schools, to children of these minorities irrespective of the legal status of these children, or the status of their parents or legal guardians. Armenian children will, as of the school year 2011-2012, be allowed to attend Armenian minority schools as guest students.

Anti-Semitism and hate speech in the media targeting missionaries or Christians in general remain an issue and have not been punished by the judiciary or media institutions. Some anti-missionary rhetoric remains in compulsory school textbooks.

The court case on the murder of Armenian journalist Hrant Dink in 2007 is continuing, separately from the Trabzon case, with only minor progress since the ECtHR judgment of 14 September 2010. In January, President Gül initiated an inquiry by the State Supervisory

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<sup>41</sup> The Deputy Head of these schools represents the Turkish Ministry of Education and has more powers than the Head.

Council into the murder. An Administrative Court in Istanbul fined<sup>42</sup> the Ministry of the Interior for not taking protective measures. The lawyers of the Dink family requested that, in response to the ECtHR ruling, an investigation about the potential implication of high-ranking officers in the murder be launched directly by the prosecution and focus on unearthing links between the accused and these officers. Two ministers spoke out against any such investigation. This was criticised as putting the judiciary under political pressure. There were no developments in this investigation. Following a change in the law regarding juveniles, the case of prime suspect Samast was transferred to the juvenile courts.

*Overall*, Turkey's approach to minorities remained restrictive. Full respect for and protection of language, culture and fundamental rights, in accordance with European standards, has yet to be achieved. Turkey needs to make further efforts to enhance tolerance and promote inclusiveness vis-à-vis minorities. There is a need for comprehensive revision of the existing legislation, the introduction of comprehensive legislation to combat discrimination and to establish protection mechanisms or specific bodies to combat racism, xenophobia, anti-Semitism and intolerance.

As regards **cultural rights**, the Law on the establishment and broadcasting principles of radio and TV stations entered into force in March 2011. It permits broadcasts in languages other than Turkish by all nationwide radio and television stations. Temporary suspension of broadcasting remains possible by Prime Ministerial or Ministerial decision, in cases of threats to national security and public order, but can now be appealed against in court (*See also Chapter 10 - Information society and media*).

Mardin Artuklu University continued post-graduate education in Kurdish. The Higher Education Board (YÖK) authorised the opening of a Kurdish Language and Literature Department in Muş Alparslan University in 2011. Since there was not enough teaching staff, the university offered a Kurdish language elective course at undergraduate level only. The course was completed at the end of July.

The legal amendments adopted in April 2010 and March 2011 allow election advertising in languages other than Turkish and open the door for public or private radio or television channels to broadcast in languages or dialects other than Turkish. However, there are still laws that restrict the use of languages other than Turkish, including the Constitution and the Political Party Law. Diverse Kurdish groups, NGOs and trade unions submitted a one million signature petition to parliament demanding the lifting of all restrictions on use of the mother tongue in daily life.

The courts took a number of positive decisions regarding the use of languages other than Turkish, including Kurdish. The Mayor of Sur and the municipal council in Diyarbakır were acquitted in January 2011 in a case brought against them for offering municipal services in multiple languages.

A law provides for interpretation free of charge for non-Turkish speakers during their defence or statement-taking, the investigation phase and court hearings for suspects, victims or witnesses. In March 2011, a court in İzmir permitted a Kurdish local politician to make his

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<sup>42</sup> The Administrative Court emphasised that "protective measures remained on paper and precautionary measures for [Dink's] protection had not been put into action".



defence statement in Kurdish and decided that a Kurdish interpreter would be present at the next session.

However, such practice is not consistently followed. The judiciary issued contradictory decisions in court cases against Kurdish politicians and human rights defenders. In May 2011, the Doğubayazıt Criminal Court sentenced the former Mayor of Doğubayazıt and members of the municipal council for violating the Law on the use of Turkish letters by naming a park in Kurdish back in 2007.

Restrictions are still reported on the use of Kurdish in prisons, during visits and exchanges of letters.

Referring to the principle of "national unity" the Constitutional Court upheld the 1934 law on surnames and rejected the request of a Syriac Turkish citizen to use a Syriac surname.

In April 2011, the unfinished statue of humanity by Mehmet Aksoy in Kars was demolished. The demolition was finalized in July.

As regards **Roma**, some steps were taken to address long-standing problems. A discriminatory clause in the Law on the movement and residence of aliens, which authorised the Ministry of the Interior to 'expel stateless and non-Turkish gypsies and aliens that are not bound to the Turkish culture' was amended in January 2011.

In March 2011, the Minister in charge of the Roma opening announced the construction of nearly 9,000 housing units by the TOKİ administration to address the problem of "housing in a healthy environment".

A Roma Research and Implementation Centre was established within Adnan Menderes University in Aydın province.

However, the Roma opening has not led to a comprehensive strategy to address the problems of the Roma population, who still face social exclusion, marginalisation and discrimination in access to education and health services due to their lack of identity cards, and also to housing, employment and participation in public life. School drop-out rates for Roma children remained higher than those of other children. Access for Roma children to pre-school education should be improved.

Turkey has rejected calls from the Roma community to participate in the 2005-2015 "Decade of Roma Inclusion".

The urban transformation scheme carried out in the Sulukule district of Istanbul and the accompanying resettlement of many Roma caused dislocation and disruption. Some could not adapt to their new housing but returned to Sulukule to live in much poorer conditions. In late June, Roma houses in Küçükbakkalköy were also demolished in the context of urban transformation.

*Overall*, Turkey has made progress on cultural rights, especially on use of languages other than Turkish by all nationwide radio and television stations and on use of multiple languages by municipalities. The opening of a Kurdish Language and Literature Department in Muş Alparslan University has been authorised. However, restrictions remain on use of languages other than Turkish in political life, in contacts with public services and in prisons. The legal framework on use of languages other than Turkish is open to restrictive interpretations and

implementation remains inconsistent. There has been some progress as regards the Roma, in particular on amending discriminatory legislation. However, a comprehensive policy to address the situation of the Roma is missing.

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

The government continued to implement the South-East Anatolia project (GAP), aimed at socio-economic development of the region, with a view to completing it by 2012. Investments in irrigation, road transport, health and education continued, along with special programmes on business development, human resources and empowerment of women. Big dam projects are being criticised for threatening sustainable development of the region by destroying the living conditions of the local population, including historical heritage, natural habitats, species and fertile agricultural land along rivers.

The Kurdish issue was widely discussed, notably during the run-up to the elections in June.

In February 2011, a sub-committee to investigate the circumstances of missing persons Tolga Baykal Ceylan and Cemal Kırbayır was established under the TGNA Human Rights Investigation Committee. The JİTEM (Intelligence Gendarmerie) and Colonel Temizöz cases regarding extrajudicial killings and persons missing since the 1990s are continuing before the Diyarbakır Serious Crimes Court.

Criminal complaints were filed against the systematic torture and killing of Kurds in Diyarbakır military prison between 1981 and 1984, on the initiative of the NGO Diyarbakır Prison Commission on Facts Research and Justice. The Diyarbakır Prosecutor with Special Authority launched a judicial investigation, although no formal prosecution has been brought yet.

However, terrorist attacks by the PKK, which is on the EU list of terrorist organisations, intensified after April 2011, despite its twice-extended unilateral ceasefire to 15 June.

A clash with the PKK in Diyarbakır's Silvan sub-province changed the entire political climate in Turkey adversely. 13 soldiers were killed and seven others were wounded in a reported PKK ambush in mid July 2011, while the military had been carrying out operations to rescue two soldiers and a health worker kidnapped by the PKK a week earlier. Both the military and the Ministry of Interior (MoI) opened investigations on the Silvan clashes. Since the General Staff investigation results were similar to that of the MoI, the government saw no need to unveil the findings of MoI inspection results.

Tensions escalated further when the PKK killed eight Turkish soldiers and a village guard in mid-August in an ambush in province of Hakkari. On the same day the Turkish Air Force started cross border operations against many PKK targets on Qandil Mountain, Hakourk, Avashin - Basyan, Zap and Metina Regions.

Concrete measures announced as part of the democratic opening fell short of expectations and were not followed through. Dialogue was hampered by the arrest or detention of BDP-affiliated Kurdish politicians, locally elected mayors and members of municipal councils and some human rights defenders in connection with the KCK<sup>43</sup> trial. The trial of 152 defendants for alleged membership of KCK (104 of whom are in prison) started before the 6th Serious

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<sup>43</sup> KCK stands for Koma Komalen Kurdistan, which means Kurdistan Communities Union.

Crimes Court in Diyarbakır on 18 October 2010 and continued throughout the year. Lawyers involved and human rights organisations' observers reported many procedural wrongdoings in the investigation, arrest, detention and trial procedures, and also during the initial collection of evidence. Demands for the release of the defendants and for the defence to be made in Kurdish were refused by the court.

Many other court cases ended in convictions against Kurdish political figures and BDP officials; others are continuing. The Diyarbakır prosecutor launched an investigation into the proposal made by the Democratic Society Congress (DTK) in December 2010 for a democratic autonomous Kurdistan. The BDP's general congress in September was also subject to a new judicial investigation.

A campaign of civil disobedience was launched by the DTK and BDP.

Landmines remained a security concern for military personnel and civilians in the south-east, with continued reports of death and injury. The government reported continuing use of anti-personnel mines by the PKK. Turkey reported that a total of 979,417 mines remained on its territory at the end of 2009, 2,361 fewer than in 2008. 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 as soon as possible, but not later than 1 March 2014. However, the process has not been launched. An agreement was signed with NATO's Maintenance and Supply Agency (NAMSA) in November 2010 for destruction of approximately 22,000 Area Denial Artillery Munitions (ADAM). Destruction has started.

Clearance of anti-personnel landmines from an area of 212 million square metres along the Turkish-Syrian border has not yet started. The tender should be awarded in 2011, with a view to completing the work in 2014.

5,114 anti-personnel landmines have been cleared by the Gendarmerie General Command in areas under its responsibility. In October 2010, destruction of all stored anti-personnel landmines (approximately 3 million) was completed.

No steps have been taken to address the problem of village guards, who are paid and armed by the State. According to official figures, throughout Turkey, the total number of village guards exceeds 45,000.

*Overall*, the 2009 democratic opening, aimed at addressing the Kurdish issue in particular, was not followed through. Terrorist attacks intensified and have been/are consistently condemned by the EU. The detention of elected politicians and human rights defenders raises concerns. The truth about extra-judicial killings and torture in the south-east in the 1980s and 1990s has yet to be established following the due process of law. Landmines and the village guard system are still causes for concern.

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

Some deficiencies remained in the process of compensating for losses due to terrorism and the fight against terrorism. Since the law entered into force in March 2008, up to December 2010 a total of 358,506 applications had been made to the Damage Assessment Commissions. Of these, 259,462 were assessed, with compensation paid in 146,441 cases and 113,021 applications rejected.

By April 2011, the Commissions had allocated compensation totalling € 900,302,745 to applicants who signed negotiated/amicable settlement declarations. However, delays in payments have been reported. The implementation period by the government of the Law on the compensation of losses resulting from terrorism and the fight against terrorism has been extended by another year.

Numerous cases have been brought in the administrative courts by rejected applicants. Several applied to the ECtHR. There is a need to assess the overall effectiveness of the compensation process in terms of implementation and legislation.

The situation of internally displaced persons (IDPs) in urban areas remains a cause for concern. IDPs often cannot return to their previous place of residence for a wide range of reasons, including security, the continuing village guard system, the presence of landmines, lack of basic infrastructure or capital and limited job opportunities. IDPs often live in sub-standard conditions, including camps.

Concerning **refugees and asylum-seekers**, circulars issued in 2010 produced some positive results in terms of improving practices on the part of law enforcement officials and central and local administrations.

However, the lack of a comprehensive legal framework for refugees and asylum-seekers prevented further improvement. A draft revised Foreigners and International Protection Law has been prepared. Meanwhile, continuing gaps in legislation, particularly in immigration-related detention and deportation practices, remain a concern. Unaccompanied minors found themselves at risk of detention together with adults and with no access to State child protection services.

*Overall*, the process of compensating IDPs has continued. There is a need to assess its overall effectiveness. An overall national strategy to address IDPs' needs better has not been developed yet. Despite some improvements, the lack of a comprehensive legal framework for refugees and asylum-seekers is an impediment to providing adequate treatment. Further improvements are needed in the general conditions at detention centres for foreigners.

### **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 aimed at finding a fair, comprehensive and viable solution to the Cyprus problem. This was acknowledged in the March 2011 Assessment Report by the UN Secretary-General on the status of the negotiations in Cyprus.

As emphasised by the negotiating framework and Council declarations, Turkey is expected actively to support the negotiations aimed at finding a fair, comprehensive and viable settlement of the Cyprus issue within the UN framework, in accordance with the relevant UN Security Council resolutions and in line with the principles on which the Union is founded. Turkey's commitment and concrete contribution to such a comprehensive settlement is crucial.

Despite repeated calls by the Council and the Commission, Turkey still has not complied with its obligations outlined in the declaration by the European Community and its Member States

of 21 September 2005 and in Council conclusions, including the December 2006 and December 2010 conclusions.

It has not met its obligation to ensure 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.

There was no progress on *normalising bilateral relations* with the Republic of Cyprus. Turkey has not lifted its veto of Cyprus's membership of several international organisations, including the OECD and the Wassenaar Arrangement on export controls for conventional arms and dual-use goods. The Republic of Cyprus reported violations of its territorial waters and airspace by Turkey. Senior representatives of the Turkish government have stated that relations with the EU Presidency will be frozen for six months as of 1 July 2012 in the absence of a comprehensive settlement of the Cyprus issue when Cyprus takes over the Council presidency.

#### *Peaceful settlement of border disputes*

Turkey and Greece continued their efforts to improve bilateral relations. From 7 to 9 January 2011 the Greek Prime Minister visited Erzurum, accompanied by the Foreign Minister at the invitation of the Turkish Prime Minister.

The 53rd round of exploratory talks took place in July in Greece. Exploratory talks have been taking place since 2002 and have intensified since October 2009. The importance of cooperation has been underlined in high levels meetings. Between 8 and 10 March, the Turkish Foreign Minister paid a visit to Greece. He met the Greek Prime Minister and Foreign Minister and members of the Muslim minority living in Thrace. The threat of *casus belli* in response to the possible extension of Greek territorial waters made in the 1995 resolution of the Turkish Grand National Assembly still stands. In line with the negotiating framework, the Council conclusions of December 2010 noted that 'Turkey needs to commit itself 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.' Greece made a substantial number of formal complaints about violations of its territorial waters and airspace by Turkey, including flights over Greek islands.

#### *Regional cooperation*

Turkey remains actively involved in regional initiatives including the South-East European Cooperation Process (SEECP) and the Regional Cooperation Council (RCC).

Bilateral relations with *other enlargement countries and neighbouring EU Member States* have been positive. Turkey has significantly intensified contacts in the *Western Balkans*, expressing a firm commitment to promoting peace and stability in the region. Turkey supports the European integration of all countries in the region. On 26 April 2011 the President of Turkey attended a tripartite meeting between Turkey, Serbia and Bosnia and Herzegovina in Belgrade.

Within the framework of the common security and defence policy, Turkey is continuing to contribute to the EU-led military mission in Bosnia and Herzegovina (EUFOR/ALTHEA). It

is also contributing to EUPM (the EU-led police mission in Bosnia and Herzegovina) and to the EULEX mission in Kosovo<sup>44</sup>. Turkey supports Kosovo's integration into the international community, European institutions and regional initiatives. Turkey provided humanitarian assistance to Albania and Montenegro following the floods in these two countries in December 2010. Turkey maintains strong ties with the former Yugoslav Republic of Macedonia. High-level bilateral meetings were held with Croatia, Serbia, Montenegro and Bosnia, Herzegovina and Kosovo.

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*

Turkey's economic policy is tailored to maintaining an open, largely market-driven economy with relatively prudent public finance management and a well regulated financial sector. The Pre-Accession Economic Programme (PEP) submitted to the Commission in April 2011 adequately reflects needs and commitments to further reform. However, it drew to too large an extent on the Medium-Term Plan (MTP) already published in mid-2010. Turkey's economic governance still has to focus on the imbalances emerging from the stronger than anticipated recovery and on further structural reforms, some of which, particularly in taxation and employment, are expected from the new government, which took office after the June 2011 elections. The fragmentation of responsibilities between government bodies continues to complicate coordination of budgeting and medium-term economic policy-making. The authorities are stepping up their efforts to enhance cooperation through the establishment of a financial stability committee. *Overall*, the consensus as regards the fundamental goals of economic policy remains firm.

##### *Macroeconomic stability*

After a steep recovery in 2010 when the Turkish economy grew by 9% year-on-year, the rapid economic expansion continued with 10.2% year-on-year GDP growth in the first half of 2011. Economic activity bounced back strongly, which reflected some base effects, but also strong domestic demand growth driven by low real interest rates, strong capital inflows and a rapid acceleration in the growth in bank credit. The private sector remained the main driver of the recovery. In the first half of 2011, private consumption rose by 10.8% year on year, with private-sector investment, which accounts for about 15% of GDP, expanding by a remarkable 31.3% year on year. In spite of the June Parliamentary elections, government consumption

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<sup>44</sup> Under UNSCR 1244/1999.

remained restrained and posted a first-half increase of 7.3% year-on-year. The sharp increase in domestic demand was accompanied by a further deterioration in the trade and current account balances. Exports of goods and services rose by 4.2% year on year, while imports of goods and services grew at an accelerated rate of 23%. All major sectors of the economy contributed to growth in 2010/11. The largest increases in gross value added came from construction and manufacturing. Turkey's GDP measure (at purchasing power parity) per inhabitant stood at 48% of the EU average in 2010. *Overall*, the economy expanded rapidly in 2010 and in the first half of 2011, mainly driven by strong domestic demand.

The current-account deficit, which tripled to a record of 6.6% of GDP in 2010, continued to widen in the first half of 2011. The increase was entirely due to the deterioration of the merchandise trade deficit, which more than doubled compared with a year earlier. Strong domestic demand and high global commodity prices continued to boost the import bill, notwithstanding the Central Bank's efforts to curb credit growth and the recent relative weakness of the Turkish lira. Exports to some countries in political crisis started to fall and, according to customs-based data, exports to North Africa declined by about 10% year on year in the first half of 2011. At the same time, sales to almost all other regions recorded strong growth. The balance-of-payments data also included high positive capital inflows from crisis-ridden countries in the Middle East, which are reportedly as high as €10 billion in the first six months of 2011. According to Central Bank data, official gross foreign-exchange reserves have stayed on an upward trend in 2011, and amounted to €68 billion by mid 2011. This was also a result of continued inflows on the portfolio side (especially bond issuance), but more importantly of the access by the corporate and banking sectors to ample financing. *Overall*, imports have been rising due to strong domestic demand, thus considerably increasing trade and current account deficits. External imbalances have become significant.

In 2010, the unemployment rate amounted to 11.9%, down significantly from 14% in 2009. This trend continued in the first months of 2011, and in May 2011 the jobless rate stood at 9.4%, which represented a 1.6 pps improvement over the same month one year earlier. The non-agriculture unemployment rate showed a broadly similar trend. The youth unemployment rate dropped faster, most likely as a result of the priority the government gave to this segment in the employment package. Nevertheless, youth unemployment remains high at 21.7%. Employment data for 2010 show a marked improvement, as the number of employed persons increased by over 6% compared with 2009. Overall labour participation amounts to 49%, with a significant gender imbalance. While the labour participation is around 70% for men, it is below 30% for women. Despite the fact that there is such a low proportion of the female population actively looking for work, the female unemployment rate is only slightly higher than the male unemployment rate. In addition, about one third of women who are considered as employed are unpaid family workers in the agricultural sector, which reduces the percentage of women of working age who are employed and receiving an income to only less than 15% of the total. The labour markets need to absorb the unemployed and about one million new entrants every year. Overly strict employment protection laws discourage employers from hiring new people. The prevalence of undeclared work remains a major challenge. *Overall*, robust economic development allowed strong employment growth and a sizeable drop in unemployment.

Consumer price inflation was down from 6.5% in 2009 to 6.4% in 2010, remaining slightly below the official target of 6.5%, while annual core inflation rates surged to 6.4% in 2010 from 3.0% in 2009. Producer prices rose from 5.9% in 2009 to 8.9% in 2010. In the first five months of 2011, consumer price inflation proved highly volatile, hitting a 30-year low of 4% in March before picking up to reach 6.7% in August, largely on the back of strong base effects

and volatile food prices. The combination of strong domestic demand, high world prices for fuel and food and a weaker currency can be expected to push inflation up further. Recently, the Central Bank revised its year-end inflation forecast upwards to 6.9%, significantly above the 5.5% inflation target, but still within the two percentage points inflation tolerance band. It cited higher-than-expected global oil prices and changes in customs duties (an increase in customs duties on many textile products took effect in July). Assuming 'limited additional monetary tightening' in the second half of the year, the Central Bank expected the annual inflation rate to rise in the second quarter, fall in the third quarter and rise again in the fourth quarter. *Overall*, inflation has been in a volatile and upward trend, in large part due to pressures arising from energy and food inputs and buoyant economic activity.

Given the strong inflationary pressures and the rapidly deteriorating current account balance, gauging monetary policy is becoming more complicated by the day. The Central Bank of Turkey (CBT) has altered its monetary policy stance by combining relatively low interest rates, a wide interest rate corridor and high commercial bank reserve requirement rates (RRR). Since October, when the CBT first raised the RRRs by an average of 50 bps, it has also increased the RRRs on short term Turkish Lira deposits by an average 11 pps and foreign exchange deposits by an average 12 pps. The aim was to increase the cost of funding for banks and to curb credit growth in order to slow down the economy. Moreover, the CBT reduced the policy rate to 6.25% from 7.0% and widened the gap between overnight borrowing and lending rates by increasing the borrowing rate to 9.0% and decreasing the lending rate to 1.0% to discourage short-term inflows. So far, the CBT has been only partially successful, as the exchange rate has weakened somewhat, but RRR increases have failed to slow credit growth which - along with higher commodity prices - continues to feed Turkey's growing current account deficit. Given the momentum in the economy and the still rapid growth of credit, this degree of tightening has not shifted the drivers of growth away from domestic demand. More support from the fiscal side, and some specific and targeted macroprudential measures are being put in place, including by the banking regulator, in order to help engineer a soft landing of the economy and ease the burden placed on monetary policy. In August 2011, the CBT reduced the policy rate further from 6.25% to 5.75%, and decreased the gap between overnight borrowing and lending rates, arguing that, in view of the slowdown observed since the second quarter of 2011, there is a need to protect domestic economic growth. Overall, monetary policy has been only partially successful, as it was unable to sufficiently curb the growth of credit, which - along with high commodity prices - continues to feed Turkey's growing current account deficit.

The budget performed much better than expected in 2010 and the first half of 2011, especially due to the robust recovery in domestic demand, which provided significant support to indirect tax revenues. Overall real tax revenues rose by 35% year-on-year in 2010, and real expenditure grew by 15%. Consequently, the primary surplus almost tripled and the overall central government budget deficit fell by about half from 5.7% of GDP in 2009 to 3.6% of GDP in 2010, which was much better than the level of 4.7% of GDP which was originally budgeted. In the first half of 2011, strong demand continued to support the budget performance, as revenues increased by double digit rates. Lower interest payments, as well as delays in payments and the use of funds entered under the 2010 budget, may also have helped to hold down expenditure despite a significant real rise in personnel costs and some other current spending items. According to the medium-term fiscal plan, the government expects a budget deficit of 2.8% of GDP in 2011. Extra revenues collected from a tax amnesty programme, if saved, would take the 2011 deficit even lower. Targets have not been adjusted for economic growth figures and revenues which were higher than anticipated. Therefore,



fiscal policy may have more scope to support the monetary policy efforts aimed at curbing the current account deficit. The public debt stock fell significantly in 2010, thereby in large part offsetting the increases observed since 2008, and it amounted to 41.6% of GDP by the end of 2010. The government announced a tax amnesty in June 2011 and expects an additional revenue of €6.8 billion (about 1% of GDP) this year, which would be primarily used for debt reduction. *Overall*, consolidation of public finances is on track.

Renewed efforts have been made to provide more efficient and transparent high quality public services and budgeting, including the adoption of a new law on the Turkish Court of Accounts (TCA) and the new law on State Aid. However, there is scope for further improvement, as the government could be more transparent and provide the public with more detailed information on the central government's budget and financial activities during the budget year. Four years after the adoption of the Public Financial Management Law, some components are still missing, in particular measures to enhance the accountability, efficiency and transparency of the budgeting process. This makes it difficult for citizens to hold the government accountable for its management of public money. The unification of all tax administration functions under the Revenue Administration which had been previously announced has not yet been fully implemented. The aim of this unification was to strengthen the audit capacity and facilitate greater use of standard risk-based audit techniques, thereby enhancing transparency and reducing informality. The adoption of a strong fiscal rule may not only enhance fiscal transparency, but also provide a strong fiscal anchor and enhance credibility. *Overall*, modest efforts were made to increase fiscal transparency.

Turkey's fiscal and monetary policy mix proved successful during the crisis. Although the Turkish economy was hit hard by the financial crisis, the earlier regulatory and supervisory reforms have paid off and there was a rapid resumption of strong growth. However, Turkey did not fully benefit from the recovery owing to insufficient adjustments. Making more progress with fiscal transparency, adjusting the fiscal and monetary policy mix, doing more to target inflation and preserving financial stability will be important ways to minimise the risks of a boom-bust scenario. *Overall*, macroeconomic stability remains vulnerable and could benefit more from a better coordinated tightening of the policy mix.

#### *Interplay of market forces*

Regulatory and surveillance agencies are in place in all major sectors. Automatic pricing mechanisms are operational in the natural gas and electricity sectors, where end-user prices are supposedly linked to a cost-based methodology. The share of administrated prices in the Consumer Price Index (CPI) basket currently amounts to only 4.5% of the total weight of the CPI basket. However, before the Parliamentary elections in June 2011, the government did not allow global price changes to impact on electricity consumption and natural gas prices during a period of one year, thereby effectively suspending automatic pricing mechanisms. Despite the regulatory framework, government authorities still tend to set prices in the transport sector, in particular for civil aviation. Liberalisation of backbone services, in particular in the energy sector, prepared the ground for several successful privatisations in this sector, enabling Turkey to continue its privatisation efforts in the challenging aftermath of the financial crisis.

The volume of completed privatisation transactions rose from €1.6 billion in 2009 (0.4% of GDP) to €2.3 billion (0.7% of GDP) in 2010. Major deals completed in 2010 included the privatisation of two ports, a salt mine, and six electricity distribution companies. Ongoing privatisations include major electricity generation assets, highways, bridges and ports. Sales

of remaining shares in Turkish Airlines, Turk Telekom, Petkim, and the partly state-owned banks Halkbank and Vakifbank, have been scheduled, whereas there is no plan yet for Ziraatbank and the national lottery. *Overall*, the free interplay and functioning of market forces has been confirmed. Spurred on by recovery, privatisation has gained momentum.

#### *Market entry and exit*

In 2010, the business registration process was further streamlined. As a result, it now takes on average only 6 days to open a business. However, starting a business in Turkey is costly and corresponds to 17.2% of per capita income. Some fees are not transparent, such as those for the official registration of a company's articles and accounts. Trade registry fees are significant. Closing a business is still expensive and time consuming in Turkey. Insolvency procedures take about 3.3 years and recovery rates - at 20% on average - are very low. Progress in removing exit barriers remains weak. Foreign investors 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. *Overall*, market exit remains expensive and lengthy, and bankruptcy proceedings are still relatively onerous.

#### *Legal system*

A reasonably well functioning legal system, including in the area of property rights, has been in place for several years. Registering a property in Turkey requires six separate procedures and takes six days. Enforcement of commercial contracts is still a rather lengthy process, which involves 35 procedures and takes an average of 420 days. Commercial court judges do not have a very high level of specialisation, which results in lengthy court proceedings. The expert witness system still operates as a parallel judicial system, but does not improve the overall quality. Out-of-court dispute settlement mechanisms are very seldom used. The judicial system and administrative capacity can be further improved. *Overall*, the legal system continues to provide effective support to the business environment.

#### *Financial sector development*

Largely as a result of the major improvements made to the regulatory and supervisory framework in the aftermath of the 2001 financial crisis, the banking sector has demonstrated its resilience to the global financial crisis. Risk ratios in the financial sector remained robust. Banks continued to dominate the sector, as their share of total financial sector assets increased from 79.6% in 2009 to 80.4% in 2010. The share of the insurance sector decreased from 3.2% to 2.7% (including private pensions, whose share remained at 1.5%). With 3.6% of the total, the share of securities market intermediaries (investment companies, mutual funds, investments trusts, real estate investment trusts, venture capital funds) remained limited. Stock market capitalisation increased from 36.2% of GDP in 2009 to 41.1% of GDP in 2010.

Banking sector assets relative to GDP increased from 87.6% in 2009 to 91.2% in 2010 (excluding the Central Bank). The share of state-owned banks in total banking sector assets decreased from 30.1% in 2009 to 29.6% in 2010, while the share of domestic private banks was 49.4% and the share of foreign banks 13.5%. The planned privatisation of state-owned banks made no progress. In tandem with the recovery, financial intermediation activities accelerated due to the rapid credit expansion. Banking sector loans increased from 41.2% of

GDP in 2009 to 47.6% of GDP in 2010. Corporate loans (20.7% of GDP), SME loans (11.3% of GDP) and consumer loans (15.6% of GDP) all increased their relative weight in economic activity. The increase in deposits, on the other hand, was more modest, up from 54% of GDP in 2009 to 55.8% in 2010. The value of outstanding debt instruments traded in the bond market decreased slightly, from 38.2% in April 2009 to 34.9% in 2010. Although there were more private debt issues in 2010 and 2011, these instruments accounted for only 1.3% of the total equity market as of 31 March 2011.

The efficiency of financial intermediation improved, as measured by the sector's average spread, which shrank from 5.3% in 2009 to 3.2% in late 2010. Non-performing loans as a share of total banking sector loans decreased from 5.3% in 2009 to 3.7% in 2010, returning to their pre-crisis level. Despite a slight decrease, capital adequacy in the banking sector remained well above the statutory minimum of 12%: namely at 20.5% in 2009 and 18.9% in 2010. Banking concentration can be described as moderate (just over 60% of total banking assets are with the five largest banks). Although in the first quarter of 2011 the banking sector's profits were seriously eroded by the steep rises in RRR and fell by 17% in the first quarter of 2011, the sector remained cost-effective and profitable. *Overall*, the financial sector has shown considerable strength 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 rapid recovery from recession, which confirms the economy's improved resilience to shocks. However, it is also fuelling a rapid expansion of the current account deficit, presaging the return of persistent imbalances in the Turkish economy. As the recovery gets under way, an opportunity for structural reforms is being opened up in recognition of Turkey's sound fundamentals. At the same time, further growth in Turkey is being held back by the lack of activity and productivity growth that is not sufficiently broad-based. *Overall*, the strong recovery has not affected the functioning of market mechanisms.

#### *Human and physical capital*

The educational reform programme, which is a key component of the National Development Plan (2007-2013), is being implemented. It sets two key priorities for education, modernisation and reform: namely increase the responsiveness of education to demand and enhance the education system. In 2010, the challenges remained significant. Although there has been some progress and the top students in Turkey are performing well, the vast majority of Turkish students display the lowest proficiency levels in basic skills and problem-solving. Participation in higher education remains low by international standards. Around 45% of 20- to 24-year olds go to university, which is 8 percentage points more than five years ago. Reforms and increased spending on education are obviously generating a positive impact on educational attainment and schooling rates, but significant problems remain with regard to the quality of education.

A high level of job creation is needed to provide work opportunities for young people entering the labour market. Overall, the Turkish labour force remains to a large extent low skilled due to persistent problems in the education and vocational training systems and a segmented

labour market. While employment measures for the young and for women have increased, their scope and impact is still too low.

The gross fixed capital formation ratio rose from 16.9% of GDP in 2009 to 18.7% in 2010. The increase in public investments was relatively small (from 3.7% to 3.9% of GDP), whereas private investments increased from 13.2% to 14.9% of GDP. FDI inflows to Turkey (gross) increased from €5,861 million to €6,738 million. Acquisitions of real estate by foreigners were up to 28% of total FDI inflows in 2010 (from 21% in 2009). Although the official aim of the government is to increase expenditures on research and development to the target figure of 2% of GDP by 2010, the actual outcomes remain much lower, given that R&D expenditure amounted to just 0.85% of GDP in 2009 (latest available data). Growth in gross electricity consumption has averaged around 6% in each of the past five years, and no extra power generating capacity has been built. Improvements in infrastructure have been modest. *Overall*, modest progress was made on upgrading the country's human and physical capital.

#### *Sectoral and enterprise structure*

Following a significant increase in 2009, agriculture's share of employment stabilised at 25% in 2010. Jobs were created in the industrial sector (including construction) and the share of agriculture in the total labour force rose to 26.3%, i.e. back to pre-crisis levels. Employment in the services sector was down from over 50% in 2009 to over 48.6% in 2010. Labour markets have been adjusting rapidly to the need for recovery, and overall employment grew by over 6% in 2010. At the same time, the relative output of agriculture remained stable at 8.4% of GDP in 2010. The contribution of industry (including construction) to GDP grew proportionally faster than that of other sectors, accounting for roughly 26% of GDP. The contribution of services decreased slightly to about 64% of GDP.

Progress in the liberalisation of the electricity and natural gas sectors has been uneven. The privatisation programme for electricity distribution assets was completed in 2010 and the process for the generation of assets has been launched. The long awaited law amending the previous law on renewables was adopted in mid-January 2011 with a view to promoting investments in renewables. There are no developments to report in the gas sector. The deadlines set by the Natural Gas Market Law to restructure the incumbent gas monopoly holder, BOTAS, have not been met. The level of competition in the telecommunications market remained limited. The percentage of alternative operators in the broadband and fixed telephony market remains low.

*Overall*, the industrial sector is still the driving force behind Turkey's rapid recovery.

#### *State influence on competitiveness*

There has seen some long awaited progress in the field of State aid. The law on State aid monitoring has been adopted and the State Aid Authority has become operational. It is expected that it will establish a comprehensive State aid inventory and an action plan for aligning all State aid schemes with the *acquis*. Competitiveness rules should also be relaxed by the Parliament's adoption of the Commercial Code, which is expected to enter into force in July 2012. Public procurement policies continued to be undermined by exceptions to the regulatory framework. *Overall*, the new law on State aid monitoring and the operation of the State Aid Authority may increase transparency and lead to a reduction of State aid.

#### *Economic integration with the EU*

The openness of the economy as measured by the value of exports and imports of goods and services as a percentage of GDP remained unchanged at 47.7% in both 2009 and 2010. The EU's share of Turkey's total trade decreased from 42.6% in 2009 to 41.7% in 2010. The EU share of Turkey's exports increased slightly from 46% to 46.2%, although its import share decreased from 42.6% to 41.7%. The EU continued to be the main source of FDI inflows to Turkey, with a 79% share in 2009 and a 76% share in 2010. Foreign capital investment inflows originating from the EU countries – excluding real estate and others - increased from €4,356 million to €4,723 million. The share of Northern African countries in Turkey's exports was down from 9.9% to 8.2%. Near and Middle Eastern countries increased their total share in Turkey's exports from 18.8% to 20.5% in 2010. *Overall*, trade and economic integration with the EU remained high.

Based on the information available on real wage developments, unit labour costs appear to have increased at a broadly similar pace to labour productivity. At the same time, pressures leading to an appreciation of the nominal exchange rate were observed in 2010. In the year to May 2011, the exchange rate for the lira appreciated by 3% in nominal terms against a basket of 50% US dollar and 50% euro. In real terms, corrected for both producer and consumer price developments, the lira strengthened by 5%. *Overall*, standard indicators suggest that there has been a slight worsening in Turkey's export competitiveness.

#### 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 according to 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

Despite an advanced level of alignment in this area, limited progress can be reported as regards alignment with the **general principles** applicable to free movement of goods. The Ministry of Economy started implementing a risk-based import control system on a pilot basis. The system is a web-based tool allowing electronic applications to be filed by importers and generating electronic certificates of conformity on completion of the risk assessment. Physical checks are carried out only for product categories that are considered to be 'at risk'. Nevertheless, the system, in its current application, is limited to a few product categories such as personal protective equipment. Third country products in free circulation in the EU, which fall under other New Approach directives, are still subject to conformity assessment procedures on documentation and, if necessary, in the form of physical checks at the customs, which delay their access to the Turkish market.

Technical barriers to trade continue to exist and prevent the free circulation of goods in certain areas such as pharmaceuticals. The requirement concerning good manufacturing practice certificates for the registration of pharmaceutical products for human use remains unchanged despite several attempts to resolve the issue through cooperation. This causes long delays in the registration process and results in a *de facto* discrimination against EU imports which works to the advantage of domestic producers. The requirements to register imports of textiles and clothing remain in effect. The mutual recognition principle has still not been

introduced into the Turkish legal order, which creates limitations on the free circulation of goods in the non-harmonised area. Turkey's introduction of new mandatory standards in this area without prior notification to the EU creates trade problems, which can result in economic losses. Licences are still required for old goods such as construction equipment and motor vehicles and for goods classified as renovated or faulty, and also for second-hand motor vehicles and alcoholic beverages. Exports of copper scrap are still subject to restrictions which constitute a *de facto* ban that is contrary to Customs Union provisions. Some other goods are subject to prior registration.

As regards **horizontal measures**, further progress can be reported in the area of *standardisation*. The adoption of European standards by the Turkish Standards Institute (TSE) continued during the reporting period. TSE has so far adopted a total of 16,506 standards of the European Committee for Standardisation (CEN) and the European Committee for Electro-technical Standardisation (CENELEC). Turkey has so far harmonised a total of 377 standards of the European Telecommunication Standards Institute (ETSI). The overall rate of harmonisation with European standards is around 98%. TSE is running 73 operational mirror committees. Stakeholder participation is a crucial aspect of voluntary standardisation. TSE is encouraged to ensure more active participation by SMEs and consumers organisations in its standardisation work. TSE underwent an assessment by CEN and CENELEC in 2010 for its full membership of this organisation. The assessment is still ongoing with further exchange of documentation between the TSE and CEN. The revised law reflecting the new structure of TSE has not yet been adopted.

In terms of *conformity assessment*, further progress was achieved in the area of Notified Bodies. There are now 18 Turkish Notified Bodies compared with 14 in 2010 operating in the areas of toys, personal protective equipment, lifts, hot water boilers, appliances burning gaseous fuels, construction products, simple pressure vessels, pressure equipment, medical devices, recreational crafts, machinery and equipment and protective systems intended for use in potentially explosive atmospheres. There is one Approval Body for the area of construction products.

Some progress can be noted regarding *accreditation*. TURKAK is a member of the European Accreditation Cooperation (EA) and a signatory of seven multilateral agreements of the EA. The number of TURKAK accreditations is up by 23% since last year and has reached 572. TURKAK is the Monitoring Authority for the area of Good Laboratory Practice (GLP). However, TURKAK has not yet established a GLP monitoring programme. The revised law designed to further harmonise the structure of TURKAK with the European accreditation system has not yet been adopted. Pending these legislative changes, TURKAK continues to have problems as regards financial and administrative autonomy, which is an essential feature for an accreditation body. The current legal framework on accreditation is not yet in line with the EU's new legislative framework.

Some progress can be reported in the area of legal *metrology*. In the reporting period, the Ministry of Science, Industry and Technology issued new and amending legislation on measures and measuring instruments, their import and export and tachographs. These changes helped in clarifying the legal environment and in the further liberalisation of trade in measuring instruments exported from the EU. Implementation of the measuring instruments directive has not yet started.

There was some progress on *market surveillance*. The Ministry of Economy published its 2010 market surveillance report. The report reveals that market surveillance activities

continued to grow although there is a need for more focus on some product categories. There are shortcomings concerning the consistency of data collected by market surveillance authorities, insufficient allocation of resources to market surveillance activities and full-time commitment of inspectors to these activities. The Ministry of Customs and Trade was appointed responsible for market surveillance in the non-harmonised area. The Prime Ministry adopted a circular on the Market Surveillance Coordination Board, which requires the active participation of the relevant bodies in Board meetings for the implementation of the National Market Surveillance Strategy. As part of the 2010-2012 strategy, the Board has recently adopted the National Market Surveillance Programme for 2011. The programme lists horizontal priorities such as the creation of separate administrative units for market surveillance within Ministries, the inspection of chemical risks related to consumer products, the establishment of common enforcement procedures, the maintenance of a product safety website, participation in the Product Safety Enforcement Forum of Europe (PROSAFE) and training activities. The database linking accidents and injuries to products as foreseen in the 2011 market surveillance strategy is not yet operational although the technical work is about to be completed. These are welcome coordinated steps, although coordination within and between surveillance agencies is still incomplete, including with regard to the use of information technologies. In addition, the Ministry of Economy increased the administrative fines related to market surveillance. The Ministry of Environment and Urban Planning issued a communiqué creating central surveillance inspectors, whose remit is to train local inspectors and determine the Ministry's market surveillance strategy. During the reporting period, the Ministry of Science, Industry and Technology issued a communiqué on market surveillance of consumer goods which may contain dangerous chemicals.

In spite of this progress, horizontal deficiencies persist, such as the insufficient allocation of financial and human resources and the need for more full-time specialised inspectors. The use of risk assessment and sampling methods is not yet widespread. The effectiveness of market surveillance actions is not systematically evaluated and the visibility of market surveillance remains low. Stakeholders are not systematically informed of market surveillance activities and measures, and their general involvement in surveillance remains weak. However, the establishment of the Market Surveillance and Product Safety Evaluation Board at ministerial level raised the overall profile of market surveillance in the country. Full alignment with the 2001 version of the general products safety directive has yet to be implemented. The same applies to Regulation 765/2008, which sets out the requirements for accreditation and market surveillance relating to the marketing of products.

Alignment of horizontal measures is advanced. However, effective implementation of market surveillance and adoption of final legislative changes on standardisation and accreditation are still not in place. If this situation persists, it may particularly harm the work of TURKAK and place its multilateral agreements at risk. The new legislative framework on marketing of products has yet to be adopted with respect to market surveillance, conformity assessment procedures, CE marking and accreditation.

There was limited progress on the **'Old Approach' product legislation**. In the reporting period the Ministry of Science, Industry and Technology adopted various pieces of mostly amending legislation on the manufacturing, modification and assembly of motor vehicles, emissions from non-road mobile machinery and from light passenger and commercial vehicles, heavy duty vehicles, agricultural and forestry tractors, on technical services for motor vehicles and the type-approval of hydrogen-powered motor vehicles. Most of these amendments are related to the postponement of implementation deadlines. The Ministry of Health issued a communiqué on detergents and surfactants used in detergents. The same

Ministry issued amending legislation on the packaging and labelling of pharmaceuticals for human use, the licensing of such products, a regulation on clinical trials and another regulation on traditional herbal medicinal products. With regard to regulatory data exclusivity, there is no evidence that Turkey has recently approved unlawful generic applications. Certain provisions of its legislation do not provide legal certainty as regards data exclusivity for any combination pharmaceutical product registered in the Customs Union after 1 January 2005. There are concerns over the cumbersome and delayed release of GMP certificates, which has already severely affected and continues to affect the marketing authorization of pharmaceutical products in Turkey, and may have an indirect impact on regulatory data exclusivity. The Tobacco and Alcohol Board continues to require the same documentation as was required before the import licence requirement was abolished. Alignment with the old approach *acquis* is advanced, but further efforts are needed for completion.

Some further progress can be reported in the area of '**New and Global Approach**' **product legislation** as the alignment is already advanced. The Ministry of Environment and Urban Planning issued various pieces of legislation on the performance of construction products in reaction to fire, conformity assessment systems, publication of technical specifications and the designation criteria for notified bodies. The Ministry of Health updated its designation criteria for notified bodies in the area of medical devices and published two regulations on active implantable medical devices and medical devices aiming to further align with the current *acquis* and another regulation on clinical trials also applying to medical devices. The Ministry of Science, Industry and Technology published regulations on eco-design requirements for energy using products and appliances burning gaseous fuels. The regulation on eco-design requirements has not yet been implemented.

There is no progress to report regarding **procedural measures**. Regulation 765/2008 has not yet been transposed into the Turkish legal order, although its provisions regarding the control of products entering the EU market are implemented by the Ministry of Economy in selected areas. There was no progress regarding cultural goods and firearms.

There was no progress in the **non-harmonised area**. The mutual recognition principle has still not been introduced by Turkey in its trade relations with the EU. This creates various ad hoc technical barriers to trade, particularly when Turkey introduces new mandatory technical specifications on products that are in the non-harmonised area. The provisions regarding the Turkish G mark applicable to all construction products in the non-harmonised area have been revised. Products manufactured or lawfully put into free circulation in the EU are admitted on the Turkish market after affixing the G mark based upon declaration of performance values. Previously, third country products in free circulation in the EU were subject to checks on conformity assessment in Turkey. Although this is a positive step, the revised provision falls short of mutual recognition, as the Turkish mark must be affixed on products coming from the EU.

Turkey has not fully incorporated into its domestic legal order all EU acts for the removal of technical barriers to trade listed in Annex II to Decision 2/97 of the EU-Turkey Association Council. Turkey has agreed to a mechanism for the updating of the Annex to this decision which reflects the *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 Cyprus, Turkey will not be in a position to implement fully the *acquis* relating to this chapter.

### *Conclusion*

Some limited progress can be reported in this chapter. Although alignment is advanced and the quality infrastructure is reaching a certain degree of maturity, technical barriers to trade continue to prevent the free movement of goods in violation of Turkey's obligations under the Customs Union. The new legislative framework on marketing of products has yet to be transposed into the Turkish legal order. Even if the situation improved in the last year, there are deficiencies in market surveillance systems and in their effective implementation. The mutual recognition principle has not been introduced into Turkey's trade legislation, which creates practical trade problems. There is no evidence of approval of unlawful generic applications. However, certain provisions related to data exclusivity do not provide legal certainty. The area of pharmaceutical products also suffers from serious delays related to the non-recognition of GMP certificates and the absence of any other cooperative solution which would restore a fair, stable and predictable trade environment. The full implementation of Decision 1/95 is required, which means the abolition of the remaining import and export licences and of the restrictions on imports of used products.

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

No progress was made with regard to **access to the labour market**.

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

Turkey's social security institution received expertise and training and thus continued to increase its capacity to prepare for the **coordination of social security systems**.

There are no developments to report as regards the **European health insurance card**.

### *Conclusion*

There is hardly any progress to report on freedom of movement for workers. Preparations for applying the *acquis* in this area remain at an early stage.

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

There has been no progress on the right of establishment and freedom to provide services. Work on the detailed alignment strategy is ongoing.

Disproportionate requirements are still in place with respect to the **right of establishment**.

There has been no progress in the area of **freedom to provide cross-border services**. The granting of work and residence permits to service providers established in an EU Member State remains subject to registration, licence or authorisation requirements that are incompatible with the *acquis*. There is no mechanism to prevent such requirements from continuing to be introduced in the domestic legal order, which happened in late 2010 with the adoption of a regulation that made the use of service stations for tachographs in use in vehicles for road transport conditional on the provider producing a Turkish identity card.

Alignment with the Services Directive still has to be achieved, and a Point of Single Contact for the provision of services has to be set up.

There is no progress to report on **postal services**. The draft postal law has still to be adopted, even though its adoption has already been considered a few times during the last three years. A broad legal monopoly remains in place, with no clear indications of further gradual market opening. As for administrative capacity, an independent regulatory authority still has to be established.

No progress can be reported on **mutual recognition of professional qualifications**. Recognition of professional qualifications still has to be differentiated from recognition of academic qualifications. Some regulated professions are still subject to reciprocal recognition. Nationality and language requirements continue to exist.

'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 fully implement the *acquis* relating to this chapter.

### *Conclusion*

Overall alignment under this chapter remains at an early stage. No progress can be reported in the areas of right of establishment, freedom to provide cross border services, postal services and the mutual recognition of professional qualifications.

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

Some progress can be reported on **capital movements and payments** during the reporting period. The authorities revised the implementing regulation on the acquisition of real estate by companies established in Turkey with foreign capital, easing some application requirements. The Capital Markets Board adopted a communiqué regulating the listing and the sale of foreign capital market instruments in Turkey, introducing equal treatment with local issuers.

The authorities initiated a study to assess the potential impact of abolishing restrictions on the acquisition of real estate by foreigners. Turkey's legislative framework in this area is not in compliance 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 in the implementation of gradual liberalisation, which is a key element for the accession negotiations in this chapter.

There has been limited progress on removing the remaining restrictions on foreign direct investments originating from the EU, which is a priority in this area. A law increasing the limit on foreign ownership in radio and TV companies from 25% to 50% has entered into force. In addition to radio and TV broadcasting, restrictions on foreign ownership remained in other sectors, such as transport, education, and the privatisation of electricity distribution and generation assets.

Significant efforts are still needed in order to align the current legal framework on capital movements and payments with the *acquis*. There has been no progress in **payment systems**

and the level of overall alignment with the *acquis* remains incomplete. Incidents of prevention of transactions between banks established in the Republic of Cyprus and banks established in Turkey have been reported.

Limited progress has been made on alignment with the *acquis* in the **fight against money laundering**. A law is in preparation to address the recommendations of the Financial Action Task Force (FATF) concerning the criminalisation of financing of terrorism.

The FATF considers that Turkey has strategic deficiencies in the area of anti-money laundering and counter financing of terrorism and that Turkey has not made sufficient progress to address them. Therefore, in its last plenary on 22-24 June 2011 the FATF decided to move Turkey into its so-called black list. Turkey has been invited to adequately criminalise terrorist financing and implement an adequate legal framework for identifying and freezing terrorist assets. As a consequence, FATF members may now advise their own institutions to be especially vigilant when dealing with Turkish institutions, e.g. through 'enhanced customer due diligence'. The FATF will review the situation in Turkey on 24-28 October 2011.

The Turkish Financial Crimes Investigation Board (MASAK) – which serves as the Turkish Financial Intelligence Unit (FIU) – has signed Memoranda of Understanding on the exchange of information with its counterparts in six countries (Jordan, Luxembourg, Senegal, United Kingdom, Canada and Belarus).

A slight increase was recorded in the number of suspicious transaction reports mostly originating from the banking sector. The number of suspicious transaction reports relating to the financing of terrorism increased to 186 in 2010, against 49 in 2009. Results with regard to convictions, confiscations, seizures and freezing of assets remain limited.

MASAK continued to provide training to examiners, judges, prosecutors and obliged parties. A training department was established in November 2010 to provide in-service training and training for law enforcement officials, examiners and obliged parties. MASAK's capacity needs to be further improved. Cooperation between MASAK, law enforcement bodies and the judiciary still has to be strengthened. Turkey has not 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 the Convention in 2007.

### *Conclusion*

There has been some progress on capital movements and payments, where authorities increased the limit on foreign ownership in media companies and relaxed the issuance of foreign capital market instruments in Turkey. Alignment with the *acquis* capital movements and payments, as well as payment systems remains incomplete. There has been no progress in the gradual liberalisation of acquisition of real estate by foreigners, where various obstacles remain. Restrictions on capital movements remain in place in a number of sectors, including on direct investments originating from the EU. Enforcement capacity to deal with money laundering and financing of terrorism needs to be significantly improved. The legal framework against financing of terrorism remains incomplete and further efforts are needed as regards alignment with the *acquis* in this area.

#### 4.5. Chapter 5: Public procurement

There is very limited progress to report on **general principles**. The domestic price advantage clause continued to be frequently utilised in 21% of the overall contract value above the threshold. Its use is likely to increase following the Prime Ministry Circular of 6 September 2011, which stipulates that the implementation of the Law on Public Procurement should favour the participation of domestic bidders. The value of contracts covered by exclusions and via direct purchase increased by 17% and 22% respectively. 22% of the overall contract value was not subject to the tender procedures stipulated in the Public Procurement Law. The amendment to the Public Procurement Law in February 2011 partially revised the application of the domestic advantage clause. Accordingly, procuring entities may grant a 15% domestic price advantage to domestic or international bidders in supply tenders if they offer domestically produced goods. Although this revision reduces the discrimination against foreign tenderers, the existence of such a preferential provision remains an obstacle to fair competition. The same amendment exempted the purchases of the state-owned Turkish Coal and Mine Management Company from the Public Procurement Law. Turkey will need to repeal derogations contradicting the *acquis*, as they reduce competition and efficiency in public tenders. The legislation needs to be revised in order to reduce the frequency with which recourse is made to alternative procurement procedures. Preparations are moderately advanced in this area.

There has been some progress on the **award of public contracts**. Following the adoption of the implementing legislation, the electronic public procurement platform (EKAP) became operational. The call centre continues to provide advisory services to the procuring entities. The Public Procurement Authority actively performs a training function.

The necessary administrative capacity is in place both in the Public Procurement Authority and in the State Planning Organisation. The public private partnership policy and support unit was established in the State Planning Organisation in November 2010. The Ministry of Finance is responsible for the coordination of policy formulation and implementation, confirmed by a legal provision, which is a key element of the accession negotiations under this chapter. The issues of understaffing and operational capacity in the relevant unit of the Ministry of Finance need to be addressed. In most sectors, market functionality and competition with regard to other stakeholders (contracting entities and economic operators) are satisfactory. Preparedness is highly advanced in this area.

The Turkish Public Procurement legislation continues to differ from the *acquis* in a number of respects. Classical and utilities sectors continue to be subject to the same public procurement procedures. There is a lack of transparency as regards the award of concessions and public private partnerships in the absence of a coherent legal framework. This is a central issue under this chapter. The 2011 thresholds and financial limits for procurement are well above EU levels.

The alignment strategy on public procurement, which was drafted in 2010, needs to be adopted and implemented. The draft strategy sets out milestones for eventual full alignment with the *acquis*.

No progress can be reported on alignment with the **Remedies** Directives. The number of complaints lodged by dissatisfied tenderers has increased by 45% from 2,954 in 2009 to 4,281 in 2010. The Public Procurement Board reaches a decision regarding the appeals in not more than 20 calendar days and announces it on the website. Turkey needs to align the legislation

on review procedures with the *acquis*, and strengthen administrative capacities and enforcement mechanisms. Preparations are moderately advanced in this area.

### *Conclusion*

Limited progress can be reported in this chapter. The institutional set-up is in place, but administrative capacity needs to be improved. The draft alignment strategy with a time-bound action plan is ready and needs to be adopted. Turkey still needs to repeal derogations contradicting the *acquis* and to further align its legislation, particularly on utilities, concessions and public-private partnerships.

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

Significant progress can be reported on **company law**. The long pending Turkish Commercial Code (TCC), a key element for the accession negotiations in this chapter, was promulgated on 14 February 2011 and is due to enter into force on 1 July 2012. Its full compliance with the *acquis* is yet to be confirmed.

A pilot application for online registry of companies has started at the Mersin Chamber of Commerce. The new TCC obliges each corporation to have an internet site where corporate announcements, financial statements and reports are published. New transparency requirements also oblige small and medium-sized enterprises (SMEs) to establish web-sites and to register their trade names, trade marks and domain names.

Under the new TCC, the establishment of a joint-stock and a limited company by a single person will be possible for the first time in the Turkish legal system. Corporate management principles of the incorporations open to public shall be identified by the Capital Markets Board (CMB). Equities corresponding to a particular amount of the capital of the incorporations may be offered to the public at the establishment stage. Demerging of companies is regulated for the first time. Books and end-of-year financial statements of companies and incorporations must comply with Turkish Accounting Standards. SMEs shall select at least one certified public accountant or an independent accountant. Until the Board of Auditing Standards of Turkey is established, national auditing standards shall be identified in accordance with the international auditing standards. Auditors may only be independent auditing bodies. They shall be temporarily audited by the Ministry of Industry and Trade. The CMB's permission will be required for fund raising to establish incorporation or another company, and with the aim of increasing company capital. The CMB shall verify that the total funding raised is used for the declared purpose.

The capacity of the judiciary, in particular the commercial judiciary, to implement the TCC remains unknown. Professional business organisations in the provinces have been organising training sessions on the new code. However, no other training and capacity building activities have been organised to familiarise the judiciary and other stakeholders with the new rules.

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). Training materials were published for SMEs. Modules for the training of trainers on International Financial Reporting Standards (IFRS) for SMEs have been prepared and the first workshop has been held. There was an increase in the number of staff in TASB. Specialised training was organised for new staff members.

There is no progress to report on **auditing**.

### *Conclusion*

Overall, significant progress was made in this chapter following the adoption of the new Turkish Commercial Code, which is expected to promote openness, transparency and adherence to international accounting and auditing standards. However, neither the legal and institutional framework for auditing nor the necessary enhanced capacity of the commercial judiciary is yet in place.

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

Limited progress can be reported in the area of intellectual property law. Political will to effectively enforce industrial property rights needs to be strengthened. There has been some progress in the dialogue with the authorities in the context of the IPR Working Group between the EU and Turkey, which held its first meeting in May 2011. The successful engagement of Turkey in an IPR dialogue with the Commission is a key element for the accession negotiations on this chapter.

Concerning **copyright and neighbouring rights**, adoption of the draft Law on Intellectual and Artistic Works is still pending. The Directorate-General for Copyrights (DGCC) in the Ministry of Culture and Tourism (MoCT) has pursued technical studies to improve the quality, transparency and legal predictability of the use of banderols, recording and registration services with regard to literature, music and cinema works. Tracking of piracy has improved as a result of training organised jointly by the MoCT, the Ministry of Interior (police), anti-piracy commissions and the judiciary. Anti-piracy commissions are working efficiently, and specialised IPR police units have conducted successful operations in the fight against piracy. However, the rules and procedures for the fight against piracy still need to be simplified.

Some progress can be reported with regard to implementation of **industrial property rights**. The administrative capacity of the Turkish Patent Institute (TPI) has further improved as a result of tailor-made and jointly organised training programmes. Jointly organised events also helped improve the dialogue among IPR stakeholders. Consistency of the TPI final decisions with IPR courts has improved and appeals decreased. Latest statistics indicate that rejections of the TPI decisions by IPR courts were down by 30% compared to 2009. The speed of trademark registrations increased. However, decisions are still not properly justified and their quality in terms of consistency could still be improved. Moreover, issues linked to bad faith and similar trade marks and industrial designs remain unresolved. A positive development in this area is the ongoing elaboration of new Examination Guidelines for the registration of patents, designs and trademarks. These will be the result of cooperation between the TPI and German experts as part of an EU-funded twinning project. There are still not enough senior and junior experts in the TPI. Existing structured dialogue mechanisms, such as consultation meetings between the TPI and IPR-holders, are still too weak to address systemic problems. The conduct of trademark and patent agents is not supervised. This profession lacks a code of conduct for regulating ethical principles.

No progress can be reported on the adoption of industrial property legislation and related **enforcement** issues. Turkey has no criminal enforcement measures for industrial property rights, except for trademarks, and enforcement bodies still lack the authority to act ex-officio with regard to all industrial property rights. Draft laws on patents, industrial designs,

geographical indications and trademarks of better quality and more aligned with the *acquis* were prepared by the TPI in consultation with stakeholders. However, they have been pending for a long time at different levels of the law-making process. There is a need to adopt a law on IPR enforcement procedures in line with the EU Enforcement Directive.

In 2009 late adoption of provisions on criminal sanctions for trademark infringements to replace the annulled trademark decree law created a legal gap and significantly weakened IPR protection in Turkey. During the reporting period, confiscated counterfeit goods continued to be returned to the defendants and often to the market, regardless of risks to health and consumer safety, because they were no longer the subject of a criminal offence. Despite complaints from both the private and the public sector, and a joint EU-USA-Japan political *démarche* on this matter, the Turkish authorities did not make any particular effort to remedy the situation. Judicial enforcement remains problematic and lengthy. Expert witness procedure functions like a parallel judiciary, especially in patent cases. Only a few courts decide patent cases, without expert witness reports. Yet, most of the expert witnesses are not sufficiently knowledgeable of the intellectual property rights criteria. Their independence and impartiality is not always ensured, particularly in cases of pharmaceutical patents. Judges need training on patentability criteria, research and examination reports. Judicial procedures including injunctions, search and seizure warrants are still lengthy and the decisions of different courts in similar cases are inconsistent. The number of specialised IPR judges has decreased in recent years.

Concerning customs enforcement, the centralised customs database and IT management system is not used by the customs points to effectively prevent counterfeit goods from entering the market. The customs officers and controllers have a very poor knowledge of goods in terms of IPR. *Ex-officio* seizures are not effectively triggered. No accurate data are provided about checks and seizures against counterfeit goods. The customs administration needs enhanced IPR training and capacity building. Municipalities and gendarmerie officers should also be involved in enforcement operations and counterfeiting, and their knowledge and capacity should be further reinforced.

### *Conclusion*

Limited progress can be reported in this chapter. Adoption of updated draft laws regulating intellectual and industrial property rights, including deterrent criminal sanctions is still pending. Adoption of a law on IPR enforcement procedures, in line with the EU Enforcement Directive, is needed. Civil, criminal and administrative procedures, including *ex-officio* measures to combat piracy and counterfeiting, need to be strengthened. Judicial and customs enforcement remains weak; enhancement of the capacity of the judiciary and of the customs administration with a view to more effective action is crucial. Closer coordination and cooperation among IPR stakeholders and public bodies is essential, as well as general awareness campaigns on the risks of IPR infringements. The opportunity of an effective IPR dialogue with the EU through the recently launched IPR Working Group could contribute to an improvement in IPR protection in Turkey.

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

Based on an advanced level of alignment in the **anti-trust** field, Turkey made some further progress in this area. The Competition Authority adopted implementing legislation on mergers (including guidelines on merger remedies), thereby bringing about closer alignment with EU merger rules. The scope of the Turkish Competition Act still does not include

banking mergers and acquisitions resulting in combined market shares below 20%. Turkey has not yet transposed the *acquis* on horizontal cooperation agreements and *de minimis* rules. Turkey is still expected to incorporate rules on public undertakings and undertakings enjoying exclusive and special rights into its domestic legal system.

The Competition Authority's overall administrative capacity remains high. It continued to display a satisfactory level of administrative and operational independence, and a commitment to high-level training for its staff. The Authority further strengthened its track record in enforcing antitrust rules with a number of landmark cases, particularly in the banking and automotive sectors.

Substantial progress can be reported in the area of **State aid**. Following the adoption of the State aid law an informal inventory of aid schemes has been established. The Board of the State Aid Monitoring Authority has been appointed and competent staff have been transferred from the Treasury. Training curricula are now being implemented. The Authority is now fully set up and has started drafting the relevant implementing legislation. There remain a number of schemes in need of alignment with Customs Union rules, in particular the stimulus measure adopted in July 2009, notably by providing for caps on the total amounts of aid received, as well as the regime regarding free zones. The assessment of State practices in support of the steel sector between 2001 and 2006 revealed incompatibilities with the 1996 ECSC – Turkey Free Trade Agreement.

### *Conclusion*

In the field of antitrust and merger control, Turkey's alignment record is good. The Competition Authority enforces antitrust rules effectively, with a satisfactory level of independence. Substantial progress has been made in the area of State aid. In particular the State Aid Monitoring Authority is now set up. However, further efforts are still required in the area of alignment of existing State aid schemes.

## **4.9. Chapter 9: Financial Services**

There has been good progress in the area of **banks and financial conglomerates**. The Banking Regulatory and Supervisory Authority (BRSA) requested the banking sector to use BASEL II standards for reporting and review purposes during a transition period between 1 July 2011 and 30 June 2012. These new Basel II rules are not used at this stage to sanction non-compliance. On 2 October 2010, the BRSA published an implementing regulation on the issuance of debt instruments by the banking sector, setting individual issuance limits per bank on the basis of their capital adequacy ratios as well as their deposit base. The BRSA introduced new macro-prudential restrictions on housing loans and credit cards on 17 and 18 December 2010 to strengthen financial stability. On 1 March 2011, the BRSA also ended the implementation of relaxed loan provisioning and restructuring rules, which were introduced temporarily during the global economic crisis. The BRSA increased provisioning and capital adequacy requirements for general purpose consumer credits, excluding housing and car loans, to reduce rapid credit growth. Overall, in the area of banks and financial conglomerates Turkey is well advanced.

Some progress can be reported on **insurance and occupational pensions**. With a view to adopting Solvency II in due course, the Undersecretariat of Treasury initiated the fifth Quantitative Impact Study (QIS5) on 10 December 2010, in which all market agents were obliged to participate. While the calculation of the basic solvency margin follows the EU's



Solvency I principles, Turkish regulation even contains a second risk-based methodology to define the required capital level and obliges market participants to meet the higher requirement. The Treasury published an implementing regulation detailing the rules and procedures applicable for the supervision and audit of insurance sector and private pension companies. The regulation defines the responsibilities and rights of public authorities, as well as the sector, while introducing ethic rules for relevant Treasury staff. There has been no progress in the establishment of an independent regulatory and supervisory authority for the insurance sector. Further progress is needed, particularly in the minimum amounts of cover in third party liability insurance for motor vehicles. The level of alignment with the *acquis* in the insurance sector remains incomplete. Turkey already enjoys a high level of alignment with the *acquis* on financial market infrastructure.

Some progress can be reported in the areas of **securities markets and investment services**. On 23 October 2010, the Capital Markets Board of Turkey (CMB), which is the competent supervisory authority for the securities market, adopted a new communiqué updating the requirements for the listing and sales of capital markets instruments issued abroad in Turkey. As a consequence, the CMB abolished the requirement to issue depository receipts in the case of a sale of foreign common stocks through public offerings in Turkey. Moreover, CMB allowed the sale of foreign common stocks not listed in their country of origin. However, foreign issuers are obliged to appoint a legal representative in Turkey before issuing capital market instruments. If foreign institutions designate a custodian in Turkey and issue depository receipts, then the custodian can represent the foreign shareholders. Like domestic issuers, foreigners are also obliged to prepare their financial statements either in compliance with Turkish accounting standards or international accounting standards. In parallel, foreign issuers are also subject to external audit provisions applicable to domestic issuers. Further efforts are needed, in particular as regards investor compensation schemes, market abuse and undertakings for collective investment in transferable securities (UCITS). CMB allowed portfolio management companies to buy and sell units of investment funds directly to retail customers, including funds which are founded or managed by other companies. No progress can be reported regarding prospectus requirements.

'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. BASEL II standards for reporting are provisionally applied by the banks, while the domestic requirements for the listing and sales of capital markets instruments were improved. The alignment with the *acquis* on banks and financial conglomerates, as well as in the area of financial market infrastructure, is already at a high level. However, overall alignment with the *acquis* is not yet complete, particularly in the insurance sector, as well as in the area of securities, markets and investment services, where more progress is needed.

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

Some progress can be reported in the field of **electronic communications and information technologies**. The Information and Communication Technologies Authority (ICTA) continued to align with the electronic communications *acquis*, which is a key element in the accession process. In particular, implementing regulations regarding customer rights and quality of services were introduced. The transparency and accountability of the regulator's activities improved. Several inconsistencies remain in the main Electronic Communications Law. Some provisions on authorisation, spectrum management, access and interconnection, retail tariff regulation, and market analysis procedures diverge from the EU framework. Primary legislation needs to be simplified. Further clarifications on some aspects of spectrum management, including digital broadcasting and digital dividend policy, or broadcasting frequencies at the border are needed. The scope and implementation of universal service obligations are not in line with the *acquis*. The authorisation of mobile virtual network operator services (MVNO) and issuance of the implementing regulation on authorisation of broadband wireless access services operators are pending.

Significant progress has been made on introducing competitive safeguards, in particular number portability and regulatory cost accounting, but enforcement of rights of new entrants in fixed voice and broadband markets is proving to be difficult in practice, resulting in limited competition. Competition has been more active in the mobile market, but communication charges imposed on mobile operators remain high. Limited progress can be reported on number portability on fixed line services. The administrative independence, duties and powers of the National Regulatory Authority (NRA) are well established by law, but some aspects of independence, such as effective structural separation of the regulatory functions from activities associated with ownership or control, appointment and dismissal rules of the board, independence from State bodies, still need to be ensured. Transparency in the decision making process also needs to be further improved.

As regards **information society services**, limited progress towards legislative alignment can be reported. Implementing regulations regarding the names of internet domains and rules of coded or encrypted communication were adopted. Turkey has not yet transposed the *acquis* on the protection of conditional access services, nor signed up to the European Convention on the legal protection of services based on conditional access. There are discrepancies between the law on electronic signature and the EU Directive. Moreover, Turkey has yet to adopt legislation transposing the E-commerce Directive, although a twinning project exists for this directive. The law on internet content and the conditions under which internet providers can operate are not in line with international standards protecting freedom of expression and may affect citizens' rights relating to Internet access.

As regards **audiovisual policy**, the Turkish broadcasting legislation, the 'Supreme Board of Radio and Television (RTÜK) Law', entered into force in March 2011. The law largely aligns legislation with the Audiovisual Media Services Directive (AVMSD), which is a key element for the accession negotiations in this chapter. However, the law fails to comply with the principle of freedom of reception and retransmission of television broadcasts which is provided for in the AVMSD.

The law increases the proportion of shares that foreigners can own in Turkish broadcasting companies to 50%. It opens the way for broadcasting in different languages and dialects other than Turkish country-wide. Licences will be granted for a ten-year period and the TV frequency allocation tenders are due to be launched in two years' time. The law does not

resolve all concerns under the old legislation related to the interpretation of certain articles as regards bans on broadcasting and sanctions imposed on broadcasters. The RTÜK, at the beginning of 2011 and based on the old law, issued warnings and fines to broadcasters for failing to respect the privacy of historical characters, discussions on homosexuality or homosexual scenes in films/series. *(See the section on Freedom of Expression under part 2 – Political criteria).*

As regards broadcasts in languages and dialects other than Turkish, private broadcasters continued their broadcasts without restrictions on content, time limits and sub-titling or consecutive translation requirement. Eighteen radio/TV enterprises broadcast in languages other than Turkish. There were no broadcasts at national level. The broadcasts are mainly in Kırmanji, and some also use Zaza and Arabic. Public broadcaster TRT continued its 24-hour Kurdish broadcasts as well as its 24-hour Arabic broadcasts, targeting mainly the Middle East. Euronews broadcasts in Turkish continued.

As regards the operating methods of RTÜK, its decisions are published on the website to ensure transparency. The forum for consultation with the broadcasters continued, as did preparations for the transition to digital broadcasting. The switchover for all analogue broadcasts is scheduled for 31 December 2012, whereas the switch-off date has been postponed to 31 December 2014 due to complaints from broadcasters.

### *Conclusion*

Turkey has made some progress in the area of electronic communications, in particular by implementing regulations, but further efforts are required for the alignment and enforcement of laws and regulations. Application of regulations often remains problematic, resulting in limited competition in the fixed voice and broadband markets in particular. Transparency and independence of the regulatory authority need strengthening. Limited progress can be reported on legislative alignment regarding information society services. While there has been good progress in the area of audiovisual policy, alignment with the AVMSD, in particular regarding jurisdiction and freedom of reception and retransmission, needs to continue.

## **4.11. Chapter 11: Agriculture and rural development**

Some progress can be reported on legislative alignment with the Common Agricultural Policy (CAP). Turkey carried out a restructuring of the Ministry of Agriculture and Rural Affairs (MARA). A decree concerning the organisation and duties of the Ministry of Food, Agriculture and Livestock (MoFAL) entered into force in June 2011 and it represents an important step in developing the administrative structures necessary to implement the CAP.

Limited progress has been observed on **horizontal issues**. Efforts have been made to develop the capacity relating to the Farm Accountancy Data Network (FADN), which has been expanded to twelve provinces, and data collection started in 600 farms in those provinces in March 2011. Regarding agricultural statistics, which are a key element for the accession negotiations in this chapter, the lack of an adopted strategy remains a shortcoming. As regards direct support to producers, Turkey has made no progress in the development of a strategy on the adjustment of its agricultural support policy to the CAP, which is another key element for the accession negotiations in this chapter.

As regards the agricultural budget in 2011 a slight increase was observed, in particular in area-based payments and livestock headage payments, whilst deficiency payments decreased

somewhat. Legislation on the principles and rules relating to Good Agricultural Practice has been adopted. Limited progress has been made regarding the preparations for the integrated administration and control system (IACS) despite the fact that the strategy to develop the system of Land Identification and the National Farmer Registration System was adopted in 2010.

The *de facto* import ban on live cattle, beef meat and derivate products continues to be only partially and temporarily lifted. Further efforts still need to be made by Turkey in order to fully implement its bilateral obligations under the trade agreement for agricultural products. (See also Chapter 12 – Food safety, veterinary and phytosanitary policy). The complete removal of the ban remains a key component in the accession negotiations on this chapter.

Concerning the Common Market Organisation, there is no progress to report.

Significant progress can be reported as regards **rural development**. Turkey has continued to strengthen its Instrument for Pre-Accession Assistance for Rural Development (IPARD)-related structures and in August 2011 achieved conferral of management of EU funds for three measures across 17 provinces. This has paved the way for Turkey to operate EU-financed investments in agricultural holdings as well as in processing and rural development projects. This also marks a key element for the accession negotiations in this chapter. Compliance with the EU accreditation criteria is being verified for three remaining provinces included in the first phase of the IPARD implementation. In parallel, the Managing Authority has developed its capacity to operate agri-environmental measures and those relating to bottom-up local rural strategies and to the setting up of producer groups, included in the second stage of IPARD implementation.

Some progress can be reported on **quality policy**. Turkey has registered Scotch Whisky as its first EU Geographical Indication. Further efforts are still needed to harmonise this area with the *acquis*. As regards **organic farming**, Turkey adopted legislation on the principles and implementation of organic agriculture. Compliance of this legislation with the *acquis* has yet to be confirmed.

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 fully implement the *acquis* relating to this chapter.

### *Conclusion*

Overall, some progress has been made under this chapter; however, further steps are pending in a number of key areas. Significant progress has been made in the implementation of the IPARD programme through the initial Commission Decision to confer the management of EU funds, as well as preparations achieved for the second phase of the IPARD Programme. Capacities relating to agricultural statistics and FADN are being developed. However, agricultural support policy differs substantially from the CAP and there is still no strategy for its alignment. The failure to fully remove barriers to beef imports also constitutes a major shortcoming.

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

Some progress towards transposition and implementation of the *acquis* has been observed. Turkey restructured the Ministry of Agriculture and Rural Affairs (MARA): a decree concerning the organisation and duties of the Ministry of Food, Agriculture and Livestock (MoFAL) entered into force in June 2011. The framework law on veterinary services, plant health, food and feed has entered into force. However, some problems have arisen due to the time gap between the entry into force of the law and its implementing legislation.

Some progress was observed on the transposition and implementation of the *acquis* in the field of **veterinary policy**. The official control system has been strengthened; however, further alignment is still required in order to bring the overall system fully into line with the EU *acquis*. Progress has been observed on the legislative alignment in the area of control systems for imports. A regulation concerning the tasks and working principles of veterinary border inspection posts has entered into force. However, implementation is still incomplete. Three land and two seaport border inspection posts (BIPs), as well as the BIP at Sabiha Gokcen Airport in Istanbul, are still not fully functional. Veterinary and phytosanitary checks need to be intensified at the BIPs, mainly by introducing additional specialised staff.

Turkey has continued its efforts to bring the system for identification and registration of bovines and their movements into line with the *acquis*. However, further improvements are required for it to fully comply with the EU system. Implementation of the identification and registration of ovine and caprine animals has continued. Identification and registration systems for animals are a key element for the accession negotiations in this chapter. Turkey maintained its fight against animal diseases, particularly against foot and mouth disease (FMD), which is a key element for the accession negotiations in this chapter. A regulation on the notification of animal diseases and a regulation on the control of FMD have entered into force. FMD contingency plans are still to be adopted. The administrative capacity of MARA has increased as a result of training events and simulation exercises. The implementation of an intensive FMD vaccination programme, accompanied by strict measures governing animal movement between Thrace and Anatolia, has continued and Thrace has kept its status of an FMD-free zone with vaccination. However, the number of FMD outbreaks in Anatolia has remained a cause for concern. Turkey made no progress as regards transmissible spongiform encephalopathy (TSE), which is a key component in the accession negotiations on this chapter. Timely notification of animal diseases, which is another key element for the accession negotiations in this chapter, has continued. Turkey has made no progress as regards control of non-commercial movements of pet animals.

Procedures have been further improved with regard to the implementation and follow up of the national residue monitoring plan and the control of veterinary medicinal products. Laboratory performance has increased significantly; however, the scope of testing has remained limited.

The *de facto* import ban on live cattle, beef meat and derivate products continues to be only partially and temporarily lifted. Further efforts are needed by Turkey to fully implement its bilateral obligations under the trade agreement for agricultural products (*see also Chapter 11 – Agriculture and rural development*). Turkey has made no progress on zootechnical issues or animal welfare, the latter being a key aspect of the accession negotiations in this chapter. Turkey's current system for financing veterinary inspections and controls is not in line with the *acquis*.

As regards **placing on the market of food and feed and animal by-products**, some progress has been observed. Administrative capacity has been strengthened by means of intensive training programmes. Annual inspection and monitoring programmes have been implemented. Initial steps for developing a national upgrading plan for agri-food establishments, which constitutes a key element for the accession negotiations in this chapter, have started. Responsibilities have been assigned to different departments and institutions, which has led in particular to more effective official controls, including those for animal products. Implementation of a fully compliant system for all official controls is a key element for the accession negotiations in this chapter. Hygiene guidelines have been prepared and they have been implemented more widely in the sectors. However, legislation transposing the hygiene package, and including specific rules for animal products, has yet to be adopted. Legislation on feed hygiene has not yet entered into force. No progress was observed with regard to rules for animal by-products or the funding of checks.

Regarding **food safety rules**, there have been further advances in legislative alignment and implementation on labelling, additives and purity criteria, extraction solvents, quick frozen foodstuffs, food for particular nutritional uses, ionising radiation and mineral waters. Transposition in the area of flavourings, food supplements, food enzymes, contaminants and novel foods has not yet been completed. No progress has been observed in the area of food contact materials.

No progress can be reported regarding **specific rules for feed**.

Some progress has been made on **phytosanitary policy** with the main focus on plant protection products (PPPs). Legislation concerning the wholesale, retail sale and storage of PPPs, the application methods and principles of PPPs, the licensing of PPPs, classification, packaging and labelling of PPPs, control of PPPs as well as methods and principles of PPP production places have entered into force. Alignment has further improved in respect of non-authorized active substances. A regulation concerning the plant passport system and registration of the operators has entered into force and the implementation of the plant passport system in pilot species has started. Progress in the area of seed and propagating materials remained very limited. The software system for variety registration and seed certification has become operational. Limited progress has been made on harmful organisms. A regulation on plant quarantine fumigation has entered into force.

Legislation has been published in the area of **genetically modified organisms**; however, it is not aligned with the EU *acquis*.

### *Conclusion*

Progress has been achieved towards transposition and implementation of the *acquis* in this chapter. The restructuring of the Ministry of Agriculture and Rural Affairs is a positive step towards strengthening the official control system. However, further alignment is needed in order to bring the overall control system fully into line with the EU *acquis*. Considerable effort is needed in the area of animal health and in bringing agri-food establishments into compliance with the EU hygiene and structural requirements.

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

There has been no substantial progress in alignment with the fisheries *acquis*. Turkey restructured the Ministry of Agriculture and Rural Affairs (MARA): a decree concerning the

organisation and duties of the Ministry of Food, Agriculture and Livestock (MoFAL) entered into force in June 2011. The establishment of a Directorate-General for Aquaculture and Fisheries is an important step towards setting up administrative structures. However, the revised Law on Fisheries, which would complete the necessary legal framework for the implementation of the Common Fisheries Policy, has not yet been adopted.

There has been some progress in the field of **resource and fleet management**. The Fisheries Information System (FIS) has been improved to include monitoring of the eel quota, and the issuing of fishing licences in the framework of the Council Regulation on illegal, unreported and unregulated (IUU) fishing. Recording of fishing vessels by the FIS has been linked to the system of the Undersecretariat for Maritime Affairs. The module for the biological parameters information system has been developed, but data entry has not started yet. Further enhancement is required in order to achieve full functionality of the FIS.

The total number of fisheries port offices is now 40, following the addition of four newly constructed and equipped port offices. In the area of resource management, the capacity of the MoFAL has improved through the upgrading of technical skills in stock assessment and the economic tools for fisheries management. Action Plans have been developed for four surrounding seas, eco-system fisheries management, integrated data collection, fleet capacity management and a strategic plan for fisheries research. Preparation of national action plans based on those plans and their effective implementation are crucial for sound, integrated and sustainable fisheries management.

Concerning **inspection and control**, limited progress can be reported. As regards control policy in the framework of the Bluefin tuna fisheries in the International Commission for the Conservation of Atlantic Tunas (ICCAT), Turkey has implemented the regional observer scheme, and the Coast Guard and Naval Forces have carried out inspections under the ICCAT joint scheme of international inspection. However, additional efforts are needed to improve monitoring and compliance in the fisheries sector in order to ensure its sustainability.

No progress can be reported on **structural action, market policy and State aid**.

Limited progress can be observed as regards **international agreements**. Turkey signed the FAO agreement on Port State Measures to prevent, deter and eliminate IUU Fishing. Some progress has been made in the implementation of ICCAT Recommendations. However, further efforts are needed in order to comply with some ICCAT requirements, in particular as regards data collection and reporting procedures. As the United Nations Convention on the Law of the Sea (UNCLOS) provisions are implemented in a number of Community policies, including the Common Fisheries Policy, ratification of UNCLOS by Turkey would improve cooperation with the EU in the area of fisheries and maritime policy.

'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 can be reported under this chapter. Some progress has been made on setting up administrative structures as well as on resource and fleet management. However, further efforts are still needed in the fields of inspection and control, implementation of international agreements, legislative alignment, market policy, structural action and State aid.

#### 4.14. Chapter 14: Transport policy

Some progress can be reported in the area of **road transport**. The regulation on transport of dangerous goods has entered into force, but the transition periods for full implementation are likely to be long. As regards the implementation of the regulation on digital tachographs for the international fleet, a website is available for the promotion and management of the whole process, including online card applications. The regulation does not cover the domestic fleet. Accessibility of transport for people with reduced mobility requires the establishment of an institutionalised approach among central and local authorities. Concerning road safety, as of August 2011, around 48,000 commercial vehicles manufactured before 1986 have been removed from the road transport market. Sustained efforts are needed in this area.

The institutional and technical capacity for implementing the rules on dangerous goods and digital tachographs is not at the required level. Poor cooperation between the relevant authorities is leading to setbacks in regulating work and rest periods, driver training according to EU standards, and roadside technical checks of commercial vehicles. Overall, preparedness in the road transport sector is advanced, but technical capacity and human resources require further improvements.

There has been little progress in **rail transport**. Primary responsibility for EU alignment – which requires substantial reforms in all aspects of railways - is left to the incumbent operator, Turkish State Railways (TCDD). The alignment process could be improved through the direct leadership of the Ministry of Transport. Constructive involvement of major stakeholders in the railways sector could contribute to the process.

TCDD is carrying out a major infrastructure investment programme in high speed railway lines. Further to Ankara-Eskişehir, the Ankara-Konya high speed train service is now operational. New lines are expected to improve service quality and help the rejuvenation of Turkish railways. However, increased operating costs place an additional financial burden on the public budget, which requires cost based accounting and the introduction of a public service obligation system. The intensification of rail traffic calls for improvements in the safety of the rail operations. The establishment of a safety authority, accident investigation body as well as safety management systems for railway operators are requirements under EU legislation. Overall, preparation in rail transport is at an early stage.

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

Some 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 reiterated its willingness to be integrated in the aviation architecture that will emerge from the single European sky initiative. In that context, a Turkish pre-accession strategy for the aviation sector has been finalised, covering a set of priority actions on human resources, environment, market regulation and aviation safety. The Directorate-General for Civil Aviation (DGCA) has issued instructions on the language proficiency of personnel, on the rules to control air vehicle path length and on rules to determine methods related to the creation and approval of minimum equipment list. The



DGCA has published a flight operations inspector's handbook. DGCA has also issued a regulation for a computerised reservation system, which has been widely used in the market.

While the national regulation on allocation of slots is largely based on the relevant *acquis* and IATA Worldwide Scheduling Guidelines, efforts are needed in order to improve implementation, particularly as regards the independence of the slot coordinator.

Despite an active training policy, the human resources capacity of DGCA is becoming a matter for serious concern given the robust growth of the aviation sector. The institutional and technical capacity of DGCA did not follow the pace of sector growth and there is high staff turnover.

More efforts are needed in the implementation of air traffic management *acquis*, if Turkey intends to be a part of Single European Sky. Currently, there are no developments concerning the exchange of flight data and requirements for the application of a flight message transfer protocol used for the purpose of notification, coordination and transfer of flights between air traffic control units. Moreover, 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. An operational solution needs to be found urgently. Discussions are ongoing within ICAO. No agreement has so far been reached between the parties on this issue.

Concerning the capacity to implement the EU *acquis*, including control measures in line with EU standards, and the continuation of legislative and administrative alignment with the transport *acquis* in the area of air safety, Turkey is expected to accept the European Aviation Safety Agency as the competent body to carry out standardisation inspections in the field of air traffic management/air navigation services. Overall, the level of preparedness in civil aviation is increasing, but implementation of the pre-accession strategy will enable further progress.

Some progress can be reported in the field of **maritime transport**. Turkey has volunteered for International Maritime Organisation (IMO)'s member audit scheme (VIMSAS). This is a significant improvement, as VIMSAS requires the IMO member states to sign up to all relevant maritime conventions. Turkey also adopted a VIMSAS strategy which is reinforced by a board set up by Minister's decision establishing a mechanism for monitoring and adoption of all maritime conventions. Turkey took steps to become 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, using VIMSAS as leverage.

Although vessel traffic monitoring information systems (VTMIS) for İzmit are already operational, the ports of Mersin, İzmir and İskenderun are not expected to be operational until 2012. The detention rate of Turkish vessels was 4.3% in 2010 compared to 1.78% for the EU average in 2010. Turkey is on the white list of the Paris Memorandum of Understanding.

Ship sourced emissions, maritime emergency response, reception of waste from ships and handling of dangerous goods are areas that call for closer scrutiny. Overall preparedness in maritime transport is advanced, but Turkey needs to actively continue to follow up on recent legislative packages adopted by the EU.

There are no particular developments to report in the area of **combined transport**.

Some progress can be reported on **satellite navigation**. Turkey is increasingly involved in the EU programmes on Global Navigation Satellite Systems (GNSS). The Ranging and Integrity Monitoring Stations installed in Ankara in the framework of the European Geostationary Navigation Overlay System is now operational and Turkish organizations can participate in the Euromed GNSS II project.

'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 Cyprus, Turkey will not be in a position to implement fully the *acquis* relating to this chapter.

### *Conclusion*

Except for the railway sector, some progress can be reported in the alignment of the transport sector. Alignment in maritime and land transport remain at an advanced level and air transport is following at a slower pace. In the maritime sector, member audit scheme within the International Maritime Organisation (VIMSAS) is expected to create positive results in order to become a party to international conventions. Some progress can be reported on satellite navigation. The lack of communications between air traffic control centres in Turkey and the Republic of Cyprus continues to seriously compromise air safety. Human resources and technical capacity to implement the *acquis* remain limited in many institutions and require reinforcement. The implementation capacity is limited, particularly for dangerous goods in land and maritime transport.

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

Limited progress has been made with regard to **security of supply**. The parallel trial interconnection of the Turkish power grid with the European Network of Transmission System Operators for Electricity (ENTSO-E)'s Continental European Synchronous Area was initiated and entered its second phase, in which non-commercial energy exchanges will be carried out between the Turkish and the Greek and Bulgarian transmission system operators in both directions. The Project Support Agreements (PSA), for the Nabucco project, which aim at ensuring the necessary regulatory framework and investment guarantees in transit countries, were signed in June 2011. In September 2010 Iraq-Turkey Crude Oil Pipeline Agreement was extended for 15 years with additional five years. However, fair and non-discriminatory rules for gas transit have not yet been implemented. At the same time, Turkey should be encouraged to deepen its gas market, increasing liquidity and contract flexibility. Such a process would lead to the emergence of an 'energy hub', the existence of which would achieve greater energy security. Implementing measures for gas transit in Turkey for Azerbaijan gas would constitute an important step in the opening of the Southern Gas Corridor. No development can be reported concerning the Law on the Establishment of the National Oil Stock Agency and its organisation.

Concerning the **internal energy market**, good progress can be reported on electricity. Some regulations in the electricity sector were amended in order to streamline switching procedures and minimise technical and commercial losses. The Energy Market Regulatory Authority (EMRA) adopted two implementing regulations on the use of small-scale renewable sources in electricity generation and electricity import and export, which are designed to promote cross-border trade and investments by small-scale consumers. Regulation on tariffs was

amended to extend the coverage of technical and commercial losses to all consumers. The amendment of regulations, in particular on capacity hiring, improved the transparency of the electricity network. The threshold for eligible consumers was further reduced to 30,000 kWh for 2011, which corresponds to a theoretical market opening of 75%. The process for privatising power generation facilities was initiated. The day-ahead market implementation has been set to be fully in operation in December 2011. However, the privatisation of electricity distribution assets is yet to be completed. The incentive-based pricing mechanism is not properly implemented. The electricity market law remains to be amended.

There is some progress to report in the gas sector. EMRA adopted a regulation on the usage of underground gas storages. The eligibility threshold was further reduced to 700,000 metres<sup>3</sup> for 2011. Tendering processes for gas distribution continued. However, a recent tender to transfer six billion cubic metres (bcm) of natural gas purchase from the Blue Stream Agreement from the incumbent gas utility BOTAS to private companies failed to attract any offers. With a share of 86%, BOTAS still maintains a near-monopoly position on imports. Deadlines set by the Natural Gas Market Law to restructure BOTAS have not been met, while conditions for new market entrants are becoming less clear. No progress has been made on revising the natural gas market law and developing a new gas strategy, which are measures that have been planned for several years.

Good progress can be reported in the area of **renewable energy**. The law amending earlier renewable energy legislation was adopted; incentives have been introduced in the form of a guaranteed price for electricity generation from renewables, differentiated by type of renewable. Additional incentives are provided if the equipment used in generation facilities is domestically produced; compliance of these incentives with trade rules is yet to be confirmed. Implementing regulations on the usage of the solar energy and the promotion of domestic equipments have been adopted. A regulation on the process for dealing with multiple applications for the same region and the transformer station of wind power generation facilities has been adopted with a view to finalising pending applications. By the end of 2010, Turkey was producing 26,4% of its electricity from renewable energy sources. However, further efforts are needed to set up a regulatory environment that would foster the increased use of renewable energy sources in all sectors, i.e. electricity, heating and cooling and transport.

Some progress can be reported in the **energy efficiency** field. Regulations on the energy performance of buildings and on ecodesign requirements for energy-related products entered into force. Authorisation for energy efficiency services, including public awareness efforts, has continued. The industrial sector was supported through efficiency-enhancing projects and voluntary agreements. International financial institutions showed increasing interest in financing energy efficiency projects in Turkey. No progress can be reported on the draft energy efficiency strategy with specific targets. Further progress is needed in order to bring the legislation into line with the *acquis* requirements, in particular on promoting high-efficiency cogeneration.

Limited progress can be reported on **nuclear energy, nuclear safety and radiation protection**. No developments can be reported on the adoption of a framework nuclear law which is supposed to ensure a high level of nuclear safety in line with EU standards. Compliance of the existing regulations with the EU *acquis* still needs to be verified. Turkey does not participate in the IPA horizontal programme on nuclear safety and radiation protection, which would make an assessment on the level of transposition of the EU *acquis* possible. Turkey has not acceded to the Joint Convention on the safety of spent fuel

management and on the safety of radioactive waste management. The law regarding the nuclear agreement between Turkey and Russia on cooperation in relation to the construction and operation of a nuclear power plant at the Akkuyu site entered into force. Turkey and Japan signed a memorandum of understanding to construct Turkey's second nuclear power plant in Sinop, on the Black Sea Coast, although ensuing negotiations have temporarily stalled following the nuclear crisis in Japan.

### *Conclusion*

Progress in the field of energy has been uneven. While there has been good progress on the internal market for electricity and on renewable energy, further efforts are required in order for the legislation to be fully compliant with the *acquis*. The transparent and cost-based pricing mechanism for electricity remains to be properly implemented. A competitive environment and legislative developments in the natural gas sector are still lacking. The independence and capacity of the regulatory authority need to be strengthened further. Measures are needed in particular to ensure the highest possible standards for nuclear safety, security, safeguards and non-proliferation. Developments on security of supply, and energy efficiency also require further efforts.

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

Limited progress can be reported in the area of **indirect taxation**. Turkey's value-added tax legislation is partially in line with the *acquis*. Further alignment is needed, particularly regarding structure, exemptions, special schemes and the application of reduced rates.

Some progress can be reported with regard to *excise* duties. In line with the Action Plan adopted on 18 May 2009, Turkey decreased the Tobacco Fund on imported non-processed tobacco by 25% as of 1 January 2010. This is a positive step towards full abolition of discriminatory practices in the taxation of tobacco. The Tobacco Fund sets a special duty on imported tobacco and cigarettes, which is not applicable to domestic products. However, discrepancies between 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 a minimum excise duty, whereas specific excise duties are lacking.

There is no progress to report with regard to the taxation of alcoholic beverages. Specific duties levied on alcoholic beverages are differentiated on the basis of the type of product, rather than the alcoholic content. The defined levels are higher for categories of products which are primarily imported than for categories of products which are primarily produced domestically. The action plan adopted on 18 May 2009 had set clear mutually accepted milestones with a view to the total elimination of discriminatory taxation. In October 2010, the excise duty rate on all spirits was increased by 30% across the board. In contradiction with the Action Plan, this increased the differentials in absolute figures between taxation of imported compared to domestic spirits. Turkey will be required to comply with the commitments in the Action Plan. Gradual elimination of discriminatory practices in taxation in line with the Action Plan is the key to making further progress in the accession negotiations under this chapter.

Structural discrepancies continue to exist between the Turkish excise duty legislation and the *acquis*. Further efforts are necessary in order to achieve alignment in this regard. Turkey will need to introduce a suspension of duty regime for domestic movements and fiscal warehouses prior to membership.

No progress can be reported in the area of **direct taxation**.

Some progress can be reported in the field of **administrative cooperation and mutual assistance**. The cabinet decree published on 10 July 2011 merged the tax audit-related institutions in the Ministry of Finance under the 'Tax Audit Board'. This merger is a positive step for ensuring consistency in tax audit planning and practices. The impact of this restructuring in reducing tax evasion and fraud remains to be seen.

With regard to **operational capacity and computerisation**, limited progress can be reported. The public receivables law enacted on 25 February 2011 introduced a restructuring scheme for tax arrears and related fines. While such schemes might increase tax collection in the short term and can be useful in resolving disputes, the successive introduction of such schemes may have adverse effects on voluntary compliance in the medium term by weakening a sustainable tax collection mechanism.

### *Conclusion*

There has been limited progress on legislative alignment under this chapter, particularly in eliminating discriminatory practices in the taxation of tobacco, despite remaining discrepancies with the *acquis*. The increases in excise duty on alcoholic beverages contradict the Action Plan for bridging the differentials between imported and domestic products. In line with the commitments made by Turkey in the context of the opening of the taxation chapter of the accession negotiations, Turkey is urged to take immediate action for the gradual elimination of related discriminatory practices accordingly. Abolition of discriminatory practices in taxation is key to making further progress in the accession negotiations on this chapter. No progress can be reported on direct taxation. Overall preparedness in this chapter is moderately advanced.

## **4.17. Chapter 17: Economic and Monetary policy**

Based on a good level of preparedness, some progress can be reported on **monetary policy**. The Council of Ministers reduced withholding tax rates on private sector debt instruments. The Central Bank achieved its inflation target in 2010, as consumer price inflation remained below 6.5%. With a view to discouraging short-term portfolio inflows, while slowing down credit growth, the Central Bank cut policy interest rates and increased reserve requirements for banks. To increase foreign currency liquidity in the market, the Central Bank stopped its foreign exchange purchase auctions and started sales auctions. The Central Bank's statements began to focus not only on price stability, but also on financial stability. The level of legislative alignment remains advanced, albeit incomplete in this area. The Central Bank decides on the inflation target jointly with the government. The statute of the Central Bank does not fully ensure its independence. Provisions in the implementing regulation on the investor protection fund and the discriminatory treatment of public and private sector debt instruments with respect to withholding tax rates are not in line with the prohibition of privileged access by the public sector to financial institutions. The Central Bank law prohibits the financing of government deficits through Central Bank credits.

There has been some progress on economic policy. The authorities continued to work on improving economic relations with countries in the region through trade facilitation, visa exemption and investment and cooperation agreements. Privatisation activities continued and the tenders for electricity distribution assets were completed. The 2011 budget envisages a gradual reduction in the deficit, particularly through increased revenues. Turkey submitted the

2011 Pre-Accession Economic Programme (PEP) in February 2011. It presents a largely consistent medium-term macroeconomic and fiscal framework and demonstrates a considerable degree of familiarity with the technical tools and analytical requirements of this exercise. At the same time, a significant updating of the PEP to take account of recent developments and further analysis in some key areas would have enhanced its role in guiding economic policy. The overall level of preparedness is advanced in the field of economic policy.

### *Conclusion*

There has been some progress on economic and monetary policy. The Council of Ministers reduced withholding taxes on private debt instruments. The Central Bank adopted a new policy mix to ensure financial stability, by reducing policy rates while increasing reserve requirements for the banking sector. Improved relations with the countries in the region were formed. Turkey's alignment with the *acquis* on economic and monetary policy is not complete, particularly with respect to the full independence of the Central Bank and the prohibition of privileged access of the public sector to financial institutions. The overall level of preparedness is advanced.

## **4.18. Chapter 18: Statistics**

Some progress can be reported on **statistical infrastructure**. The Turkish national statistical institute (TurkStat) revised the implementing regulation on data security and confidentiality, to incorporate the passive confidentiality principle for foreign trade statistics. TurkStat published the third revision of the Official Statistics Programme, updating the roles and responsibilities of statistical data providers in the light of changing methodologies, classifications and data dissemination practices. Preparations in this area are well advanced.

There has been some progress on **classifications and registers**. TurkStat and the Ministry of Agriculture and Rural Affairs (MARA) continued to work on establishing a statistical farm register, completing a pilot study for that purpose. Turkey has still 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**. TurkStat further improved short-term business statistics, by starting to publish new short term indicators according to NACE Rev. 2 classification (Statistical classification of economic activities). Foreign controlled enterprise statistics were published for the first time for the years 2006 and 2007. TurkStat started to publish statistics on meat, milk and poultry on a monthly basis. A new survey was launched for non-formal education activities and the results for 2009 were published. The authorities published 2010 population data according to the address based population registration system. Preparations for the Population Census in October-November 2011 are on track.

Turkey still needs to submit key national accounts indicators together with a documentation of the methodology used, which is a key element for the accession negotiations in this chapter. Having made a step forward by producing the draft document, TurkStat needs to submit the more detailed GNI Inventory. Preparations in this area are advanced.

### *Conclusion*

Good progress has been made in the area of statistics, particularly in sector statistics. Further progress is needed, particularly in national accounts and in agriculture statistics. There is an advanced overall level of alignment with the *acquis*.

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

There has been no progress regarding the transposition of the *acquis* on **labour law**. The prevalence of undeclared work, particularly in small enterprises and in agriculture, is impeding the effective application of the labour law. Legislation related to temporary work agencies, which had been vetoed by the President, has still not been adopted. Turkey has announced that it is to create 1450 new posts in the Ministry of Labour and Social Security, including labour experts, health and safety experts and labour inspectors. However, inspection capacity for enforcing the labour law still remains insufficient, with 384 labour inspectors currently dealing with social issues under the labour law. Efforts and administrative capacity also need to be increased in order to tackle child labour.

There has been limited progress in the area of **health and safety at work**. In November 2010, Turkey adopted legislation on occupational health and safety services, including the establishment of workplace health and safety units and the responsibilities and qualifications of occupational physicians. The new 'Law on Obligations' addresses the problem of mobbing at workplaces. The Law is accompanied by a circular from the Office of the Prime Minister, under which an inter-institutional council would be established to combat mobbing. The relevant public institutions, including the Labour Inspectorate, together with their regional units, continued to receive expertise and training to implement the transposed *acquis* and to improve the protection of health and safety at work. The private sector also benefited from these actions. Legislative and judicial steps have been taken to address the condition of workers with the fatal disease of silicosis. However, the Framework Directive on health and safety at work has not yet been transposed into national law. Enforcement of legislation remains a challenge, particularly in SMEs where numerous fatal occupational accidents occurred, attracting media attention and public criticism of the overall system. Administrative capacity of the Labour Inspectorate improved as a result of recruiting additional staff. According to official statistics, there were 64,316 occupational accidents in 2009, which is 12% down on the 2008 figures. However, the numbers would be much higher if the informal sector were included. Furthermore, there is a need to step up reporting, data collection, diagnosis of occupational diseases and sharing of good practice between all stakeholders.

There has been limited progress in the area of **social dialogue**. The ban on the contractual personnel of state economic enterprises from establishing trade unions or engaging in trade union activities has been lifted. However, the ban on these personnel engaging in any kind of strike action remains in place. A Prime Ministry circular allows the participation of civil servants' trade unions on the boards dealing with the social rights of public employees and disciplinary issues. Constitutional amendments regarding labour rights have not been put into effect as the necessary changes in the relevant trade union legislation have not been made. Social partners have failed to agree on key issues such as the right to organise at workplace level and thresholds for collective bargaining. The Economic and Social Council did not meet during the reporting period. The capacity of the social partners needs to be improved. The low coverage of collective bargaining has not improved.

There has been some progress on **employment policy**. Labour market and employment figures have improved, although many of them are still well below the EU average. Youth

unemployment remains very high. Inactivity rates, particularly for women, remain a cause for concern (*see also Economic criteria*).

Upon recruitment of unemployed persons, the employers' share of these workers' social security premiums will be subsidised by the state until the end of 2015. The application of the short term work fund was extended. Further resources have been allocated from the unemployment fund for active labour market measures. However, effective planning, implementation, monitoring and evaluation of these measures remain a challenge. Part time workers, certain occupational groups and those who work less than ten days a month have been granted the right to benefit from unemployment insurance. However, overall, the number of recipients of unemployment insurance decreased compared to last year. Turkey's public employment service (ISKUR) is expanding its operations and has recruited additional staff, although they are still below the numbers needed, particularly at local level. Demand by employers for ISKUR services, as well as placement rates, are on the increase. However, further efforts are needed in order to implement measures targeting women and young people. The public debate with regard to labour market flexicurity has intensified.

The problem of undeclared work persists. The results of the Action Plan for Combating Informal Economy (2008-2010) were not announced. 2,750 new social security auditor posts have been created. However, inter-institutional cooperation and data sharing, especially between the tax and social security authorities, need to be stepped up. Social partners need to play a more active role in the fight against undeclared work. Turkey's National Employment Strategy has not been adopted. The Turkish labour market remains deeply segmented with regard to working conditions and labour relations. There is no progress as regards the finalisation of the Joint Assessment on Employment Policy Priorities (JAP).

Progress can be reported as regards **European Social Fund (ESF)**. The Ministry of Labour and Social Security, which is the operating structure responsible for the management of the Human Resources Development Operational Programme, recruited additional 24 members of staff. Capacity building efforts for both existing and new staff continue. However, using the available resources to establish an operation pipeline for future funding remains a challenge, which increases the risk of non-absorption of funds. The monitoring and evaluation of programmes need to be strengthened. The achievement of programme indicators, in particular, needs to be closely followed up.

There has been limited progress in the field of **social inclusion**. A new Ministry of Family and Social Policies has been established, merging a number of institutions responsible for social protection, social assistance, women, children, the disabled and family issues, in an effort to overcome the institutional fragmentation in this field. The free social assistance helpline has increased accessibility and speed of services provided. The 2011-2013 Strategy and Action Plan on Care Services, which provides for the improvement of home based care services for children and people with disabilities, have been adopted. The number of social services units run by the Social Services and Child Protection Agency (SHCEK) is on the increase. However, conditions in certain institutional care centres remain a source for concern. Progress has been made in the 'family doctor system': Turkey started to cover health expenses of children of low-income families and of those not covered as dependents by the social security system. The lifting of budget-related limitations on staff in order to employ persons



with disabilities in public institutions had some positive impact<sup>45</sup>, although further efforts are needed to increase employability in both public and private sector. The action plan aimed at establishing links between social services and public employment services has had a limited impact so far. The percentage of the population at risk of poverty is very high, especially in rural areas and among children. The high poverty rate among those in employment continues to be a cause for concern. No progress has been made towards finalising the Joint Social Protection and Social Inclusion Memorandum (JIM). Preparations in this area are at an early stage.

There has been some progress in the field of **social protection**. The number of people actively insured rose by more than 1.6 million between January 2010 and January 2011, widening the coverage of the social security system to 84%. Health insurance coverage has also been extended. However, the pension system continues to report large deficits, and further efforts to increase registered employment rates are needed in order to ensure financial sustainability. The situation of seasonal migrant agriculture workers continues to be a source for concern in several provinces, despite certain local efforts that are having a relatively positive impact.

There has been no progress in the field of **anti-discrimination**. A comprehensive anti-discrimination law has not been adopted yet.

Some progress can be reported in the field of **equal opportunities**. The 'package law' adopted in 2011 incorporates several amendments concerning parental rights, particularly for civil servants. However, as a result of these amendments, while the parental rights of civil servants have improved, the gap between workers and civil servants has widened. There are shortcomings as regards the transposition of the gender equality directives. Turkey has not yet established a proper equality board as foreseen by the directive on equal opportunities and equal treatment of men and women in matters of employment and occupation. Women's employment and labour force participation rates increased slightly, standing at 26.6% and 29.8% respectively. However, they are far below EU averages. The Parliamentary Committee on Equal Opportunities for Men and Women issued several reports drawing attention to women's issues, including bullying at work, violence against women and early marriages. More efforts are needed in order to implement the Prime Ministry circular on increasing women's employment. The representation of women in politics, as well as the number of senior positions held by women in public administration, the government, political parties and trade unions, remain low. Occupational segregation between men and women needs to be addressed. Further efforts are needed in order to increase female activity rates, in particular to combat the stereotypes that hinder women's employment and to improve access to affordable childcare facilities.

### *Conclusion*

There has been limited progress in the field of social policy and employment. Administrative capacity for effective transposition and implementation of the *acquis* showed some signs of improvement. However, alignment with the *acquis* is still not very far advanced. Constitutional amendments regarding trade union rights have not resulted in further changes of the legislation aimed at granting full trade union rights in line with EU standards and ILO

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<sup>45</sup> Between January 2010 and May 2011, the number of public servants with disabilities rose from 14,325 to 19,915. However, the target was to reach 48,549, amounting to 3% of the total number of public servants.

conventions. Further efforts are needed in order to reduce large-scale undeclared work and to increase female employment rates. The scope of the labour law remains limited. Enforcement of health and safety at work legislation needs to be stepped up. The risk of poverty remains very high, especially for the rural population and for children. Legislation establishing an equality body has not yet been adopted.

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

Further progress was made with regard to **enterprise and industrial policy principles**. Turkey adopted a revised Industrial Strategy Document and an Action Plan covering the period 2011-2014, which is a key aspect of the accession negotiations in this chapter.

The Coordination Council for the Improvement of Investment Environment (YOIKK) issued an assessment on the 2010 Action Plan and adopted an action plan for 2011. The assessment demonstrated that only 45% of actions scheduled for 2010 could be completed. Reportedly, one of the worst performing sectors for the improvement of business environment is the sector of intellectual and industrial property rights. Other important developments for the improvement of business environment were the adoption of the new Turkish Commercial Code. Turkey adopted a new SME Strategy and Action Plan for 2011-2013. Turkey started the operational process of assessment for the Small Business Act together with the Western Balkans. In June 2011 a Prime Ministry circular to all public authorities was issued, asking them to take into account the Small Business Act (SBA) principles into their daily work where relevant. This has created a more binding environment for the implementation of SBA in Turkey.

Some progress was made with respect to **enterprise and industrial policy instruments**. The law on technology development zones was amended and has been brought into line with the general framework of R&D support in Turkey. The law offers various means of support, from allocation of state land to tax incentives and exemptions by the end of 2023. The Ministry of Science, Industry and Technology extended R&D Centre certificates to 87 companies in Turkey. Financial reporting standards for SMEs were adopted. A support scheme for participation in international tourism fairs and for general tourism promotion and marketing was launched. The general restructuring scheme for public receivables also includes the receivables of the Small and Medium-sized Industry Development Organisation (KOSGEB). There was considerable interest in KOSGEB loans amounting to a total of € 933 million and reaching over 50,000 SMEs. A new support programme entitled Markets for Developing Enterprises SME Support Scheme has been established for SMEs to join the stock exchange market. Turkey continued to participate in the EU Entrepreneurship and Innovation Programme, in particular as an active member of the Enterprise Europe Network.

Some progress can be noted in completing alignment with Directive 2000/35 on combating late payment in commercial transactions. According to the recently adopted Turkish Commercial Code, interest on late payments becomes applicable after 30 days and payment cannot exceed 60 days if the term is fixed in the contract and if the creditor is an SME. If the level of interest on late payments is not already determined in the contract or if it is determined at an abnormally low level, the rate would be set at least 8 points higher than the rate determined for default interest on commercial transactions.

Further progress has been made in **sector policies**. The Ministry of Science, Industry and Technology adopted a strategy on the automotive sector, which focuses on the development of the R&D infrastructure and design, manufacturing and branding capacity of the companies,

the expansion in domestic and foreign markets, and the improvement of legal and administrative arrangements and of physical infrastructure. The same ministry also adopted a strategy on the machinery sector.

### *Conclusion*

Turkey has made further progress in this chapter in relation to the adoption of an Industrial Strategy and Action Plan covering the period 2011-2014, wider availability of enterprise and industrial policy instruments, adoption of sectoral strategies and alignment on combating late payment in commercial transactions. Overall, there is a sufficient level of alignment with the *acquis* in the field of enterprise and industrial policy.

## **4.21. Chapter 21: Trans European Networks**

There has been good progress in the area of **transport networks**. The Ministry of Transport submitted to the European Commission a document that elaborates the future Trans-European Transport Network (TEN-T) in Turkey. Technical consultations between Turkey and the European Commission were finalised on the basis of this document. It also identifies the priority projects of European interest on the future TEN-T Network in Turkey, which is a key element for the accession negotiations in this chapter. Effective planning of investments on the future TEN-T and development of an integrated network calls for a transport master plan and effective use of information systems.

Some progress can be reported in the area of **energy networks**. The signature of the Project Support Agreements (PSA) for the Nabucco project took place on 8 June 2011. 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 have continued in order to bring the Interconnector Turkey-Greece-Italy (ITGI) natural gas pipeline project into full operation.

As regards electricity networks, links are in place with Bulgaria, Syria, Iraq, Iran, Azerbaijan and Georgia. The parallel trial interconnection of the Turkish power grid with the European Network of Transmission System Operators for Electricity (ENTSO-E)'s Continental European Synchronous Area has already entered its second phase of non-commercial energy exchanges. Turkey is giving priority to a number of projects that contribute to the completion of priority links 4 (Greece-Balkan countries ENTSO-E system) and 9 (Mediterranean electricity ring).

### *Conclusion*

Turkey has made progress under this chapter. In particular, Turkey has facilitated technical discussions under the Trans-European Network for Transport and reached an advanced stage in the negotiations. However, further efforts are needed in order to achieve a network perspective supported by complementary priority projects and reliable transport data. Some progress can be reported on energy networks.

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

No progress was made with regard to the **legislative framework**. A draft Law on Instrument for Pre-Accession Assistance (IPA), which aims to further strengthen the institutional capacity of the IPA institutions by amending the legislation on the establishment and organisation of the Operating Structures (OSs) for the IPA programmes, has not yet been

adopted. Further horizontal legislation will have to be developed and aligned with the *acquis* in order to fully prepare Turkey to manage the Structural Funds.

Some progress was made on the **institutional framework**. The establishment of the High Council of Regional Development and the Regional Development Committee (RDC) by the State Planning Organisation – which now has become the Ministry of Development - will ensure the coordination of regional development policies among central institutions and the local authorities. The Regional Development Committee is expected to harmonize the planning, implementation and monitoring of sectoral, thematic and regional policies at national level, to better link regional plans to strategies at the national level and to steer the National Strategy for Regional Development (NSRD), once it is finalised. Secretaries-General have been appointed to all 26 Development Agencies (DAs) and substantial staff numbers are employed in them. The regional plans were prepared in 24 of the 26 NUTS II regions under the coordination of DAs. Further progress has also been made towards the accreditation of all Operating Structures in line Ministries to manage IPA components III and IV.

Some progress was made as regards **administrative capacity**. Progress on the preparations for taking over procurement functions and contracting from the Central Finance and Contact Unit (CFCU) has been slower than anticipated for Transport, Regional Competitiveness and Human Resources Development Operating Structures under IPA components III and IV. Furthermore, the recent restructuring of line Ministries may further delay the accreditation process for the Operating Structures in the area of Transport and Regional Competitiveness. Progress has been comparatively faster for the Operating Structure for Environment and, on 20 January 2011, the European Commission adopted the amending decision conferring management powers relating to this programme. This decision confers the tendering, contracting and financial management functions relating to the Environment programme on the IPA Implementation and Coordination Centre of the Ministry of Environment and Forestry.

The Ministry for EU Affairs – formerly the Secretariat General for EU Affairs (EUSG) - which functions as a coordination body for IPA, has substantially increased its staff and capacity for the monitoring of financial assistance under IPA provided to Turkey. Training and the provision of technical assistance to strengthen all institutions involved in the implementation of IPA has continued. The National Authorising Officer's (NAO) support department has been reorganised, and new staff have been hired. However, the key implementation risk for all IPA programmes lies in the need for more efficient cooperation between the implementation structures, in particular the Central Finance and Contracts Unit (CFCU) and the ministries designated as Operating Structures for IPA components III and IV, for further strengthening the institutional capacity of the institutions involved and for an acceleration of programme and project implementation, including faster tendering and contracting.

With regard to **programming** and programme implementation, good progress was made in the identification, preparation and appraisal of projects under IPA III. Some progress in this respect has been made under component IV. However, progress with the preparation of tender documents, publication of tenders and contracting is still not sufficient. Delays in tendering create a serious risk that for 2011 it will not be possible to absorb all of the funds allocated to the programmes. All four Operational Programmes for IPA components III and IV were amended in 2010.

Some progress was made in the area of **monitoring and evaluation**, although monitoring of programmes under IPA components III and IV is still in the early stages due to the fact that implementation is currently limited. The Integrated Management Information System (IMIS) is operational. Further development of IMIS, especially for tendering and financial monitoring, is ongoing. The Sectoral Monitoring Committees of IPA II, III and IV have continued to meet as scheduled. Working groups have been set up under the Ministry of EU Affairs that helped to further improve the monitoring systems.

In the area of **financial management and control**, some progress was made. Turkey has prepared a comprehensive action plan to address all remaining weaknesses in the management and control systems. The action plans now need to be fully implemented in order to eliminate the weaknesses.

### *Conclusion*

Some progress was made in the field of regional policy. However, the delays with tendering and in the timetable for the readiness of the Operating Structures for Transport, Regional Competitiveness and Human Resources Management to take over financial management and control responsibilities from the CFCU under IPA components III and IV create serious risks that some of the funds may be decommitted in 2011. Although the institutional framework for implementation of IPA components III and IV has been finalised and the administrative capacity is improved, there is still a need for further strengthening of the administrative capacity, and improvement in coordination between the IPA institutions in order to accelerate implementation.

#### **4.23. Chapter 23: Judiciary and fundamental rights** (*see also Political criteria*)

There has been progress in the reform of the **judiciary**, notably with efforts to implement the 2010 constitutional amendments.

As regards *independence*, a Law on the High Council of Judges and Prosecutors was adopted in December 2010. This law, together with the constitutional amendments approved by referendum on 12 September 2010, established a new composition of the High Council<sup>46</sup> that is more pluralistic and representative of the judiciary as a whole. Ministerial influence has been reduced. The Inspection Board, previously under the Ministry of Justice, has now been transferred to the High Council. Concerning effective remedies, appeals to judicial bodies against decisions concerning dismissal from the profession are now permitted.

However, as regards elections of members of the High Council, the system imposed by the Constitutional Court leaves no room for election of minority candidates, because candidates who are elected by the majority of the voters could take all the seats. Nomination of the four non-judicial members of the High Council is left to the discretion of the President of the Republic, whereas the Grand National Assembly is not involved. The current provisions do not ensure permanent representation of members of the Bar in the High Council. The Minister can veto the launching of disciplinary investigations against judges and prosecutors by the High Council.

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<sup>46</sup> The legislation increases the number of full members of the High Council 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 courts, the Justice Academy, law faculties and lawyers.

With regard to *impartiality*, a Law on the Constitutional Court was adopted in March 2011. This law, together with the constitutional amendments approved by referendum on 12 September 2010, enlarged the normal membership of the Court. This has reduced the relative weight of high courts' representatives and made the Constitutional Court more representative of the legal community and society at large.

The powers of the Constitutional Court have been considerably extended by introducing the individual application procedure. Anyone who claims that any of his or her fundamental rights and freedoms guaranteed by the Constitution has been violated by the public authorities can apply to the Constitutional Court, provided he or she has exhausted all ordinary legal remedies.

However, the Constitutional Court is insufficiently representative of the Turkish legal community as a whole and still over-dominated by the high courts. The influence of the Grand National Assembly over the composition of the Constitutional Court is also inadequate, in terms of both the number of members it elects and the choice of eligible candidates. As regards elections of members of the High Council, the system imposed by the Constitutional Court itself leaves no room for election of minority candidates, because candidates who are elected by the majority of the voters could take all the seats.

Prosecutors do not have their offices in parts of courthouses separate from that occupied by the judges. They are not required to enter or leave the courtroom by a different door than the one used by judges. Finally, they do not sit in courtrooms on the same level as lawyers. This continues to cloud the perception of the impartiality of judges.

With regard to *efficiency*, the Laws on the Court of Cassation and the Council of State were amended in order to tackle the increasing backlog of cases. More chambers have been established, working methods modified and a large number of judges and prosecutors appointed. Legislation was adopted in March 2011 to reduce the workload of first-instance courts.

However, neither an overall common strategic framework nor reliable indicators and benchmarks have been established by the Ministry of Justice and the High Council for Judges and Prosecutors to assess the performance of courts and of the judicial system as a whole. The Ministry and the High Council have yet to develop benchmarks to monitor and assess the duration of court proceedings and improve the efficiency and effectiveness of the judicial system, in order to address the backlog of pending cases and, in particular, the large backlog of pending serious criminal cases.

The current fragmentation of the Turkish courts, which each have a separate registry and are not connected with each other even when they are located in the same courthouse, prevents efficient use of available resources. The regional courts of appeal have not been established yet. By law, they should have been in operation by June 2007. The number of vacancies for judges and prosecutors equals roughly a third of the current judicial staff.

Pre-trial detention is not limited to circumstances where it is strictly necessary in the public interest and is not sufficiently justified. In some terror-related cases, defendants and their lawyers have not been permitted access to incriminating evidence early in the proceedings. Frequent use of arrest instead of judicial supervision, leaks of information, evidence or statements, limited access to files, failure to give detailed grounds for detention decisions and

revision of such decisions raised concerns. No authoritative information has been received from either the prosecution offices or the courts on all these issues of wide public interest.

There is a need to improve the work of the police and the gendarmerie together with the working relationship between the police, gendarmerie and judiciary in order to address concerns raised during investigations in some high-profile cases. A Regulation on the judicial police, adopted jointly by the Ministries of the Interior and Justice in 2005, has yet to be implemented. As a result, prosecutors rely on judicial police units operating under the hierarchical control of the Ministry of the Interior.

A large number of measures in the *judicial reform strategy* adopted by the government in August 2009 have been implemented by the constitutional amendments and ensuing legislation. There is a need to review the existing strategy in a transparent and inclusive fashion, so that the revised strategy will be owned by the Turkish legal community and the wider public.

Limited progress can be reported on **anti-corruption**.

In line with the 2010-2014 Strategy and Action Plan<sup>47</sup>, an Executive Committee for Increasing Transparency and Fighting Corruption<sup>48</sup> has coordinated working groups preparing proposals on corruption-related issues. The Committee of Ministers on anti-corruption policy approved all the proposals. Turkey has implemented 19 of the 21 recommendations made in the 2005 evaluation reports by the Group of States against Corruption (GRECO). The Law on the Turkish Court of Accounts (TCA) adopted in December 2010 should significantly strengthen the transparency and accountability of public administration.

However, there was no increase in the strength or independence of institutions involved in the fight against corruption, which are not sufficiently staffed. Immunities of Members of Parliament or of senior public officials in corruption-related cases have yet to be limited and objective criteria established setting the conditions under which their immunity could be lifted. Two major sets of GRECO recommendations on "Incrimination" and "Transparency of Party Funding" remain to be implemented. There has been no progress concerning the transparency of financing political parties. Auditing of political parties remains weak and there is no legal framework for auditing election campaigns or the financing of individual candidates. No steps have been taken to build up a track record of investigations, indictments or convictions related to corruption cases.

As regards **fundamental rights**, there has been progress in some areas, whereas in others a number of concerns were raised, in particular as regards freedom of expression.

*Human rights institutions* in line with the UN Paris principles have yet to be established. The draft Law establishing the Turkish National Human Rights Institution (NHRI) submitted to parliament in February 2010 has not yet been revised in line with these principles. This is

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<sup>47</sup> The government adopted a 2010-2014 strategy for enhancing transparency and strengthening the fight against corruption in February 2010.

<sup>48</sup> The Executive Committee for Increasing Transparency and Fighting Corruption is made up of representatives of public institutions, trade unions and the Turkish Union of Chambers and Stock Exchanges (TOBB). Its task is to form further anti-corruption strategies and monitor implementation. The Prime Ministerial Inspection Board has been appointed with the task of providing technical support and secretariat services to the Executive Committee.

relevant in particular to the independence and functional autonomy of this new institution. It is important to involve civil society organisations in this process. As regards *prohibition of torture and inhumane or degrading treatment or punishment*, the ratification of the OPCAT is a significant step. The positive trend on prevention of torture and ill-treatment continued. However, disproportionate use of force by law enforcement officials continued to be a concern, particularly outside official places of detention.

The growth of the *prison* population is leading to serious overcrowding, which is hampering attempts to improve detention conditions. A complete overhaul of the complaints system in prisons is needed. An urgent review of the system for dealing with juveniles is needed to minimise the number in prison and the time they spend there and make sure that detention conditions guarantee the rights of the child.

With respect to *access to justice*, the legal aid provided is of inadequate scope and quality. Budgetary provisions are inadequate. There is no effective monitoring mechanism that would remedy long-standing problems.

Regarding *freedom of expression*, open debate, including on issues perceived as sensitive, continued. However, in practice, freedom of expression is undermined by the high number of legal cases and investigations against journalists, writers, academics and human rights defenders and undue pressure on the media, which raises serious concerns. The present legislation does not sufficiently guarantee freedom of expression in line with the ECHR and the case law of ECtHR, and permits restrictive interpretation by the judiciary. Frequent website bans are another cause for serious concern. Turkey's legal and judicial practices, legislation, criminal procedures and political responses are obstacles to the free exchange of information and ideas.

As regards *freedom of assembly and freedom of association*, including the right to form political parties and establish trade unions, there has been progress on the ground. Turkey's legislation on freedom of association is broadly in line with EU standards. However, demonstrations in the south-east of the country and in other provinces related to the Kurdish issue, students' rights, the activities of the higher education supervisory board (YÖK) and trade union rights were marred by disproportionate use of force. Disproportionate controls and restrictive interpretation of legislation on associations remain. There were no developments as regards amendment of the legislation on the closure of political parties. Restrictive provisions in the current legal framework on trade unions, which are not in line with EU standards and ILO Conventions, remain.

There has been limited progress on *freedom of thought, conscience and religion*. Freedom of worship continues to be generally respected. The dialogue with the Alevi and with the non-Muslim religious communities continued. However, members of minority religions continued to be subject to threats from 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.

With regard to *women's rights and gender equality*, protecting women's rights, promoting gender equality and combating violence against women remain major challenges. The legal framework guaranteeing women's rights and gender equality is broadly in place. However, further substantial efforts are needed to turn the legal framework into political, social and economic reality. Legislation needs to be implemented consistently across the country. Honour killings, early and forced marriages and domestic violence against women remain



serious problems. Further training and awareness-raising on women's rights and gender equality are needed, particularly for the police.

As regards *children's rights*, efforts need to be stepped up in all areas, including education, combating child labour, health, administrative capacity and coordination. In general, more preventive and rehabilitation measures need to be taken for juveniles. Moreover, there is a need to establish more juvenile courts in line with the legislation in force and to minimise detention of children which, in cases where it is strictly necessary, should take place in appropriate conditions.

With regard to the right to education, the proportion of children in pre-school education increased in 2010-2011 compared to the previous school year. The number of teachers also increased. The primary school enrolment rates (grades 1-8) increased and the gender gap has virtually closed. In secondary education (grades 9-12), the enrolment rates increased for boys from 67.5% to 72.3% and for girls from 62.2 % to 66.1 %, widening thus slightly the gender gap. Turkey signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. However, school drop-outs were a concern, especially among seasonal migrant workers' families and Roma children. Regional disparities remained wide for both primary and secondary school enrolment.

As regards treatment of *socially vulnerable persons and/or persons with disabilities* and the principle of *non-discrimination*, a strategy paper on accessibility and the related national action plan were adopted. However, constitutional changes allowing positive discrimination in favour of the disabled were not turned into specific measures. A national mechanism for monitoring implementation of the UN Convention on the rights of disabled persons and its optional protocol has still not been established. Lack of data and research on persons with disabilities and the mentally ill remain a barrier against informed policy-making. Provisions of the Turkish Criminal Code on 'public exhibitionism' and 'offences against public morality' are sometimes used to discriminate against LGBT people.

On the *right to property*, legislation amending the 2008 Law on foundations was adopted in August 2011. This is the fourth attempt of the Turkish authorities since 2002 to restore the property rights of non-Muslim communities. The new legislation provides that non-Muslim community foundations can register in the Land Registry, under their names, immovable property entered in their 1936 declarations for which either the owner entry was left blank, or which are registered in the name of the Treasury, the Directorate-General for Foundations, municipalities and special provincial administrations, or cemeteries and fountains registered in the name of public institutions. Interested parties will have to apply for the return of properties within a twelve-month period from the entry into force of the new legislation. Finally, the market value of foundation properties currently registered with third parties will be paid. This covers properties seized and sold to third parties, and which cannot be returned to the foundations. The Mor Gabriel monastery foundation is covered by the new legislation even though it was registered in 1960. A regulation will define implementation modalities of the new legislation.

As regards *respect for and protection of minorities and cultural rights*, Turkey has made progress on cultural rights, especially on use of languages other than Turkish by all nationwide radio and television stations and on use of multiple languages by municipalities. The opening of a Kurdish Language and Literature Department in a university has been authorised. However, restrictions remain on the use of languages other than Turkish in political life, in contacts with public services and in prisons. The legal framework on use of

languages other than Turkish is open to restrictive interpretations and implementation remains inconsistent. There has been some progress as regards the Roma, in particular on amending discriminatory legislation. However, a comprehensive policy to address the situation of the Roma is missing. Turkey's approach to minorities remained restrictive. Full respect for and protection of language, culture and fundamental rights, in accordance with European standards, has yet to be fully achieved. Turkey needs to make further efforts to enhance tolerance and promote inclusiveness vis-à-vis minorities. There is a need for comprehensive revision of the existing legislation and to establish protection mechanisms or specific bodies to combat racism, xenophobia, anti-Semitism and intolerance.

With regard to respect for private and family life and, in particular, the right to *protection of personal data*, the 2010 constitutional amendments introduced the protection of personal data as a constitutional right. Turkey needs to align its legislation with the data protection *acquis*, in particular Directive 95/46/EC, and, in that context, to set up a fully independent data protection supervisory authority. Turkey also needs to ratify both the CoE Convention for the protection of individuals with regard to automatic processing of personal data (CETS No 108) and the additional protocol to it on supervisory authorities and trans-border data flow (CETS No 181).

### *Conclusion*

Overall, progress has been made in the area of the *judiciary*. The adoption of legislation on the High Council of Judges and Prosecutors and on the Constitutional Court is a step in the right direction in terms of the independence and impartiality of the judiciary. Steps have also been taken to increase the efficiency of the judiciary. However, significant further efforts are needed in all areas, including the criminal justice system. Limited progress has been made with implementing the strategy and action plan on *anti-corruption*. Effective implementation of the strategy is necessary to reduce corruption which remains prevalent in many areas. The lack of transparency relating to political party financing and the scope of immunities remain major shortcomings. Turkey needs to build up a track record of investigations, indictments and convictions. As regards *fundamental rights*, some progress has been made. However, further significant efforts are needed in most areas, in particular freedom of expression and freedom of religion. Turkey has made progress on cultural rights, especially on use of languages other than Turkish. However, Turkey's approach to minority rights remains restrictive. Turkey needs to make further efforts to enhance tolerance and promote inclusiveness vis-à-vis minorities.

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

Limited progress can be reported in the area of **migration**. Turkey remains a very important country of transit and destination for irregular migration. The number of irregular migrants apprehended by the Turkish law enforcement forces amounted to 32,667 in 2010; the number reached 12,727 between 1 January and 1 June 2011. The 2010 figures represent a slight decrease of around 5% compared to 2009. On the other hand, the number of third country nationals detected by EU Member States' law enforcement forces when entering or attempting to enter illegally the EU at or between border crossing points of the EU external border coming directly from or transiting through the Turkish territory was as high as 54,493. This represented a substantial increase of around 44% compared to 2009. In the first half of 2011 this number amounted to 17,225. The number of irregular migrants deported by Turkish authorities in 2010 was 23,583 and 8,616 between 1 January and 1 June 2011. Some 750 organisers of irregular migration were apprehended in 2010, 701 of whom were Turkish.

Between 1 January and 1 June 2011, 308 organisers of irregular migration were apprehended, 289 of whom are of Turkish nationality. Efforts to increase the capacity to host irregular migrants in decent conditions pending the removal procedures continued, and in 2010 it reached 2,945.

The Turkish authorities have been working in view of preparing legislation regulating the status of regular and irregular migrants, asylum seekers and refugees in Turkey. This legislation would be important to pave the way towards aligning with EU and international standards, to ensure protection of migrants' and refugees' rights, and to establish a legal regulatory framework able to cover any relations between the Turkish administration and the aliens in Turkey. Several rounds of consultations with Turkish civil society and involvement of stakeholders such as International Organisation for Migration (IOM) and UNHCR, as well as the European Commission, during the preparation of that legislation are evidence of the effort being made by the Turkish authorities to ensure a more open and transparent process. However, the text has not yet been presented to the Parliament. Circulars issued during the course of 2010 have improved the practices of law enforcement forces. In particular, the circular issued by the Turkish National Police (TNP) in September 2010 gave the instruction to systematically inform in writing irregular migrants held in removal centres of the reason for being held in the centre, the duration of stay, their right to have access to a lawyer, and the right of appeal against the decision to be held in a removal centre or deportation order, amongst others. Following the issuance of the circular, posters and brochures setting out these rights have been disseminated to all removal centres.

The 'Coordination Board for Combating Illegal Migration' of the Ministry of Interior decided in particular to give priority to the health issues of irregular migrants and to elaborate, with the assistance of IOM, an interagency cooperation model to ensure public health and the health of irregular migrants. Social assistance and solidarity associations are also earmarked to receive funds specifically allocated for the costs of asylum seekers, refugees and irregular migrants in this area.

However, there are no systematic psycho-social services in removal centres. Access to legal aid is still limited, as there is no institutional capacity at the level of Bar Associations or civil society to provide for such support throughout the country. There is no comprehensive set of rules/guidelines for the management and operation of removal centres. The TNP has been tasked with drafting a 'directive' to regulate issues concerning the management of removal centres, including the physical conditions in centres, staff to be appointed, the security of and in the centres, provision of food and health, treatment of vulnerable groups, as well as involvement of civil society in the centres. This 'directive' has not yet been adopted.

Basic and advanced training of TNP personnel working in the area of asylum and migration continued throughout 2010, both as a result of national efforts and also with the support of EU financed projects. Staff trained and experienced in the area of asylum and migration should be considered as a 'professional category' and continue to work in the area.

There is no institutional capacity in the administration to facilitate assisted voluntary return. A limited number of returns are financed from a general budget of the TNP. A total of 789 persons have been voluntarily returned between September 2009 and March 2011 through a project implemented with IOM, financed by the United Kingdom. Raising awareness among administrators, governors, district governors, municipalities, lawyers and the public at large about the rights of irregular migrants and procedures involved in migration management remains an issue that needs to be addressed through concrete measures.

Negotiations have been finalised on an EU-Turkey readmission agreement. The agreement remains however to be initialled and signed. The swift conclusion of this agreement and its effective implementation after it has entered into force are of crucial importance. Meanwhile, the adequate implementation of already existing bilateral readmission agreements remains also a priority. As regards implementation of the existing bilateral readmission protocol between Greece and Turkey, some positive developments were registered in 2010. The two countries agreed to designate daily contact points among law enforcement staff for the smooth implementation of the protocol. In the first 6 months of 2011, Greece asked Turkey to readmit 2,508 persons; but Turkey accepted to readmit 450 of those and eventually Greece handed over 412 of them to Turkey.

During the reporting period, Turkey concluded negotiations on readmission agreements with Russia and Nigeria. These agreements have not yet entered into force, like the one concluded with Pakistan in 2010. Readmission negotiations are ongoing with Serbia and Belarus. Talks are ongoing to start negotiations with Azerbaijan, Bangladesh, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Georgia, Lebanon, Libya, Moldova, Sri Lanka and Uzbekistan.

In the area of **asylum**, some progress can be reported. The number of Turkish satellite cities, where migrants recognised as being in need of international protection are required to reside, was increased from 31 to a total of 51. On 15 July 2011, an instruction was issued by the Ministry of Interior to delegate the authority to conclude asylum applications to the governorates of Ankara, Kırklareli, Izmir, Gaziantep, Van, Erzurum and Kayseri. The governorate of Istanbul was also given the authority to decide asylum applications made at the Atatürk Airport Border, pilot implementation starting on 1 October 2011.

However, the Ministry of Interior needs to enhance the overall capacity of the satellite-city system and to ensure a more balanced distribution of the asylum population across the country. The physical hosting conditions of the refugees who have been granted a residence permit vary a lot within the country. The ministerial Circular of March 2010, which defines the conditions on the basis of which refugees may be exempted from paying residence (Ikamet) fees, is implemented unevenly. Turkey has not yet lifted the geographic reservation under which it implements the Geneva Convention of 1951 on Refugees, which implies that no asylum seeker of non-European refugee can obtain in Turkey more than a temporary protection. Furthermore, Turkey continues not to have a national legislation on asylum due to the fact that the law on foreigners and international protection has not yet been adopted.

Turkey remains a very important country of transit and destination of migrants in need of international protection. The number of asylum applications has risen from 6,743 persons applying in 2009 to a total of 8,190 persons applying in 2010, in particular those originating from Iraq (3,008 persons), Iran (2,604), Afghanistan (1,456) and Somalia (341). A total of 5,008 persons were resettled mainly to USA, Canada and Australia in 2010. This made the total number of recognized refugees residing in the country raising in 2010 up to 17,518 people, divided into six main groups: Iraqis, 6,374 (37%); Iranians, 4,753, (27%); Afghanis, 3,401 (19%); Somalis, 1,297 (7%); Sudanese, 209 (1%); Palestinians, 139 (less than 1%). On the other hand, in 2010 5,008 refugees were resettled from Turkey, mostly towards USA, Canada, and Australia. Between January and June 2011, 5,416 persons applied for asylum. Majority of these were from Iraq (2,469), Iran (1,062) and Afghanistan (585). In 2011, Turkey has hosted more than 18,000 Syrian nationals who fled Syria in search of protection, of which approximately 7,500 currently remain. UNHCR has had only intermittent direct access to

persons hosted in the camps, but the office continues regular consultation and sharing of expertise with the authorities on required standards of international protection.

There has been limited progress on **visa policy**. Turkish passports with biometric security features were put into circulation on 1 June 2010. In addition, new Turkish visa stickers with higher security features were published by the Turkish Central Bank.

However, these new stickers still need to be put into use by the foreign missions of Turkey, as well as at the border crossing points (BCPs) to replace the stamp visas. Furthermore, the issuing of sticker- and stamp-type visas at borders, which is currently applied to the nationals of 48 countries, needs to be abolished. Airport transit visas have yet to be introduced.

Training on document security needs to be intensified in particular for the consular staff. Among the police in charge of border checks at different BCPs, 50 members of staff were trained on document security. A training module on this topic was developed in cooperation with the IOM.

A pilot implementation of the protocol between the Ministries of Labour and Social Security, Interior and Foreign Affairs concerning the online processing of requests for 'work visa' was launched in April 2011. It enables the parallel issuing of work visas and work permits, as well as tracking of the information by the police working at the BCPs through the Turkish Visa Information System.

Turkey did not further align with the EU lists of countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (Council Regulation (EC) No 539/2001). On the contrary, it continued its recent policy of concluding visa exemption agreements with other countries, some of which are on the EU's negative list.

Turkey agreed on mutual visa exemptions covering all types of passports with Serbia in October 2010, Georgia in February 2011 and Russia in March 2011. Mutual visa exemptions excluding ordinary passport holders were agreed with Portugal in October 2010, Sudan in October 2010 and Yemen in January 2011.

Turkey does not apply a uniform policy towards all EU citizens as regards the visa obligation. Currently, citizens of 11 EU Member States are required to hold a visa to enter Turkey, which can be obtained at the Turkish borders. Citizens of the other 16 Member States (which also include Slovenia since August 2010) are exempted from the visa obligation for a short stay of up to 90 days.

Preparations remain at an early stage. Further efforts are needed for alignment with the *acquis* in this area.

Very limited progress can be reported on **external borders and Schengen**. An Integrated Border Management Coordination Board has been established, and the Road Map on Integrated Border Management and the Protocol for Inter-Agency Cooperation have been drafted. Training activities on IBM have been conducted.

Modernisation of the land BCPs continued with the Build-Operate-Transfer model. However, border agencies at both local and central level need to be consulted not only during the design phase but also during the utilisation of the modernised BCPs, in order to ensure that the model is compatible with its operational functionality. Border checking procedures and regulations

need to be further developed to control irregular migration in the transit zone areas at the airports.

The task force for IBM met only twice, on 20 January and 20 April 2011. The high level coordination board met four times in the reporting period (9 November 2010, 31 May 2011, 29 July 2011 and 10 August 2011) focusing on the draft law on the establishment of the new border security authority and regulating interagency cooperation for border management. An agreement was reached among all 21 members of the board to adopt a document regulating the principles and procedures for integrated border management inter-agency cooperation. The impact of this initiative remains to be seen. The proposed legislative amendment on expanding the tasks of the deputy governors acting as administrative heads of the border agencies, the aim of which is to facilitate the coordination between all of them at local level, is still pending in the Parliament. Both the development of inter-agency cooperation and coordination and the establishment of a Border Security Agency are key for efficient border management.

To secure the border, further improvements are needed in certain areas, including through the establishment of more adequate infrastructure and a more extensive use of surveillance equipment, in particular electronic means, mobile and fixed, video surveillance (CCTV systems) infrared cameras and other sensor systems. Further efforts are needed on basic and specialised training to ensure a high level of professionalism. Risk analysis needs to be implemented at national, regional and local level.

Negotiations on a working arrangement with Frontex have progressed but still need to be concluded with a view to enhancing operational cooperation at Turkey's borders with the EU, in order to prevent irregular migration and to combat cross-border crime.

Preparations are at an early stage. Further efforts are needed in order to align border management with the *acquis*.

Limited progress can be reported on **judicial cooperation in civil and criminal matters**. In the area of judicial cooperation in civil matters, a new law on civil procedure was adopted on 12 January 2011. It has extended legal aid to cover temporary protection requests as well as associations and foundations with public benefit status. The submission of a certificate of poverty is no longer required; any document that can be evidence of insufficient means will be accepted instead. However, legal aid is granted to foreign nationals under the principle of reciprocity. On child protection, the law approving the 2003 Convention on Contact concerning children was adopted on 9 November 2010, and the ratification procedure is due to be finalised. The draft law on compensation of crime victims has now been submitted to the relevant institutions for an opinion. It envisages compensation for children who are refugees or seeking asylum, as well as child victims of human trafficking. During the reporting period 706 requests falling within the ambit of judicial cooperation in civil matters were received by Turkey and 1,735 requests came from Turkey.

As regards judicial cooperation in criminal matters, the Optional Protocol to the UN Convention against Torture (OPCAT) was ratified by Turkey on 23 February 2011. Turkey attended the regular meetings of the European Judicial Network (EJN). Five judges are acting as contact points for Eurojust and EJN to facilitate the implementation of extraditions and requests for mutual legal assistance. Effective personal data protection is crucial for efficient international judicial cooperation, in particular with Eurojust. To that end, the adoption of the draft law on personal data protection is key. At this stage, the level of cooperation with

Eurojust is mixed. Contacts took place recently between Turkey and Eurojust to discuss possible ways of cooperation. Contact points other than those in the Ministry of Justice would further facilitate judicial cooperation in criminal matters.

During the reporting period 59 extraditions were requested by Turkey and 3 extraditions were requested by EU Member States. There were 23 extraditions to Turkey. Regarding mutual legal assistance on criminal matters, a total of 624 requests were received by Turkey and 4,740 requests from Turkey. On the transfer of convicts, three transfers took place to Turkey and three to EU Member States.

With regard to strengthening the institutional capacity in international judicial cooperation, four judges and prosecutors have attended masters of law studies in EU Member States, 29 judges and prosecutors received intensive language trainings and 19 judges and prosecutors followed training courses in EU law.

Preparations are at an early stage. Further efforts are needed in order to align these areas with the provisions of the *acquis*.

In the area of **police cooperation and the fight against organised crime**, some progress has been achieved. Turkey is a party to the main international conventions. Turkey signed a number of bilateral agreements on police cooperation including in the areas of combating terrorism (Afghanistan, Pakistan and Syria - December 2010, Serbia - March 2011). The delay in adopting a personal data protection law is limiting police cooperation at international level and an operational cooperation agreement with Europol cannot be concluded (a strategic cooperation agreement has been in force since 2004). Cooperation with Europol has varied. Posting of a liaison officer would improve the cooperation. The TNP and CEPOL (European Police College) signed a cooperation agreement in December 2010 which facilitates participation in training activities and exchange of information through access to CEPOL's e-net. A branch office under the Department of Foreign Affairs of the TNP was established in October 2010 to coordinate human rights issues at international level and to develop policies accordingly. Inter-agency cooperation remains to be further strengthened.

As regards the *fight against organised crime*, the Monitoring and Assessment Board meetings started to be held twice a year under the coordination of the Ministry of Interior in order to implement the National Strategy (2010-2015) and Action Plan (2010-2012) against Organised Crime. Turkey signed the Council of Europe Convention on Cybercrime in November 2010. Ratification is pending. In October 2010, the Anti-Smuggling and Organised Crime Department of the TNP was again reorganised with the aim of increasing specialisation in the areas of the fight against financial crimes, proceeds of crime and smuggling. The cooperation protocol signed between the Ministry of Interior and the Undersecretariat of Customs in March 2011 outlines the working principles for anti-smuggling, including controlled delivery actions, joint training activities and the use of technical equipment for special investigation methods. The Turkish police has good analytical capacity on forensics. However, there is a need to establish a national fingerprint and DNA database. Data collection in the area of law enforcement remains to be improved.

Results with regard to confiscation, seizures and freezing of assets remain limited. Enforcement capacity to tackle money laundering needs to be improved (*see also Chapter 4 – Free movement of capital*).

There was limited progress in the area of trafficking in human beings. The first draft of the framework law prepared by the Ministry of Foreign Affairs on Combating trafficking in human beings and the protection of victims of trafficking in human beings was sent to the Ministry of Interior, which organised consultations with civil society representatives and academics to ensure the openness and transparency of the legislative process.

The process of ratifying the Council of Europe's Convention on Action against Human Trafficking is pending due to the fact that Turkey is not yet a party to the 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. The ratification of the former is conditional upon the ratification of the latter.

The victims' shelters in Ankara and Istanbul, which received financial support in 2010 from the General Directorate of Social Solidarity and Assistance (GDSSA), which comes under the Prime Minister's Office, have their 2011 subsistence costs mostly covered through resources allocated from the Ministry of Foreign Affairs' own budget. The Ministry of Foreign Affairs is covering the cost of running the 157 Helpline for victims of human trafficking in 2011. During the reporting period, the number of reported victims of trafficking amounted to 59 all but one of whom are female.

Preparations are advanced. Further efforts are needed as regards alignment with the *acquis* in this area.

With regard to progress in the **fight against terrorism**, a Regulation was adopted on the organisation, duties, powers and working principles of the Under-secretariat for Public Order and Security which was affiliated to the Deputy Prime Minister in July 2011. The Financial Crimes Investigation Unit (MASAK) received 186 suspicious transaction reports regarding financing of terrorism in 2010, compared to 49 in 2009. During the reporting period, MASAK signed memoranda of understanding with Jordan, Luxembourg, Senegal, United Kingdom, Canada, Belarus and Monaco to exchange information on combating the financing of terrorism and money laundering. Turkey still faces terrorist attacks from the PKK.

The following acts have not been ratified by Turkey: 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. It is a matter of crucial importance to adopt the law concerning the fight against financing of terrorism in order to meet the requirements of the Financial Action Task Force (FATF) recommendations on establishing a system on the freezing of assets and a definition of the financing of terrorism.

Preparations are advanced. Further efforts are needed in order to align legislation with the *acquis*.

Some progress has been made on **the cooperation in the field of drugs**. A 2<sup>nd</sup> Action Plan (2010-2012) was adopted in November 2010 to continue implementing the National Strategy against Drugs and Drug Addiction (2006-2012). Action plans have also been adopted in 78 provinces to implement the Strategy at local level. An evaluation report was prepared for the first National Action Plan which shows that 84% of the planned activities have been accomplished. An EU-Turkey dialogue on drugs took place on 22 June 2011.



Successful operations resulting in seizures of 70,185 kg of cannabis, 277 kg of cocaine and 12,031 kg of heroin were conducted by Turkish law enforcement bodies. A total of nine controlled delivery operations were carried out, with 667.5 kg of heroin and 30 kg of cannabis being seized. An amendment to the Law on Control of Narcotic drugs was adopted in order to bring five new psychoactive substances within the scope of the Law.

A new centre for the treatment of drug addicts was opened in Bursa in November 2010. Currently, there are 22 treatment centres. An amendment to the Law on Radio and Television Enterprises and Broadcast Services was adopted, which seeks to prohibit broadcasts encouraging people to use addictive substances.

Turkey reports in accordance with the guidelines of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and submits an annual report. The agreement concerning the participation of Turkey in EMCDDA has still not been ratified. Turkey is participating as an observer in the Reitox meetings of heads of focal points. The draft legislation for improving the status of the National Reitox Focal Point needs to be adopted and its human resources need to be further strengthened. The total staff of the National Reitox Focal Point decreased from 17 to 15. A more balanced approach towards drugs supply and demand reduction needs to be followed, including through the establishment of better treatment and rehabilitation facilities.

Overall, preparations in the drugs field are advanced.

Limited progress was achieved in the area of **customs co-operation**. Customs enforcement capacity has been strengthened in terms of equipment by the installation of two scanners for vehicles and containers, one at the Kapıkule land border crossing point (BCP) with Bulgaria and the other in the Sarp land BCP with Georgia, and also by supplying further baggage screening equipment to various land BCPs. However, the use of equipment needs to be complemented by an adequate number of staff who are competent and trained in conducting risk analysis methods and capable of pro-active intelligence gathering. Training of the staff needs to be structured by reviewing the core curricula to be applied in a Customs Academy. A vehicle tracking system and mobile inspection units are in use and operational since August 2010. The number of mobile teams should be further increased.

Preparations are advanced. Further efforts are needed on enforcement capacity.

For measures against **counterfeiting of the euro**, see *Chapter 32 – Financial control*.

### *Conclusion*

Progress is uneven in the area of justice, freedom and security. The finalisation of the negotiations on an EU-Turkey readmission agreement represents substantial progress. The adoption of the law on foreigners and international protection remains a priority in order to ensure a sound legal basis for an efficient asylum and migration management system, as well as safeguarding the rights of migrants and refugees. Limited progress can be reported in the area of judicial cooperation in civil and criminal matters. Some progress can be reported in the area of drugs and organised crime. Limited progress can be reported in the area of police cooperation and terrorism. Limited progress was achieved on visa policy and customs cooperation. Very limited progress can be reported in the area of border management where the adoption of a law on the establishment of new Border Security Agency and inter-agency cooperation are key issues to be addressed. Turkey remains an important country of transit

and destination of irregular migrants. Efforts are needed to prevent irregular migration and to readmit irregular migrants.

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

Good progress can be reported in the area of science and research policy. At its meeting in December 2010, the Turkish Supreme Council for Science and Technology (SCST) adopted a National Science Technology and Innovation Strategy for the period 2011-2016. The strategy is an umbrella document addressing the entire research and innovation chain (frontier-research; applied and support for result oriented actions). Together with the adoption of the Strategy, an Action Plan on human capital building for the period 2011-2016 was adopted, aimed at further increasing the number of R&D personnel and their mobility, to improve cross-sector distribution of R&D personnel, research environments, skills and experience of researchers and employment capacities and to enhance the research culture. The strategy focuses on the following priority areas for the coming five years: (1) developing human resources for science, technology and innovation; (2) stimulating transformation of research into products and services; (3) disseminating a multi-actor, multi-disciplinary R&D cooperation culture; (4) strengthening the role of SMEs in R&D and (5) boosting the contribution of R&D infrastructure to knowledge production.

The Scientific and Technological Research Council of Turkey (TÜBİTAK) increased its R&D budget from €310 million in 2009 to €340 million in 2010. In total, the share of R&D reached 0.85% of GDP in 2009 compared to 0.73% in 2008, even though it is still below the national target of 2% by 2013. It should be noted that the increase came mainly from increased investment in research and innovation by the private sector. The number of private-sector R&D centres approved by the Turkish Ministry of Trade and Industry increased to 87 as compared to 62 in 2009. The number of R&D personnel employed in these centres reached 13.000 FTE and the total investments amounted to €2.2 billion, which meant that the private sector share of expenditure on research exceeded 50%.

To stimulate innovation, TÜBİTAK launched a call to support innovation platforms at province level aimed at developing science, technology and innovation capacities at the provincial level by involving local stakeholders, including public bodies, local universities, industry and civil society organisations, who will be asked to develop innovation strategies and action plans at provincial level.

The level of participation in the Seventh EU research Framework programme (FP7) continued to rise. Since the beginning of FP7, Turkey has submitted in total more than 3000 projects, of which more than 500 have been selected for funding, which amounts to an average success rate of about 16% compared to the FP7 average of 20%. There is therefore still room for improvement. Turkey was successful in particular with regard to the level of participation by SME's (1 out of 20 successful participants are SMEs) and in the Specific Programme on People under the Marie Curie Incoming Grants. An update of the Action Plan to support Turkey's participation for the remaining period of FP7 (i.e. until 2013) is under preparation. Turkey has also increased the administrative capacity of the National Coordination Office by recruiting eight new staff, which is an increase of 30%. Turkey's national contact point network functions very well.

With respect to nuclear research, Turkey decided not to become associated with the current (2007-2011) nor the next (2012-2014) Seventh Euratom Framework programme, but to consider a more active form of participation on a contract basis.

The active cooperation with the Joint Research Centre (JRC) continued as a result of 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. A total of 20 Turkish researchers were supported by TÜBİTAK to work at the JRC institutes. In 2011, 11 additional Turkish researchers were awarded grants by TÜBİTAK to conduct research in JRC institutes. In addition, JRC-IRMM is carrying out an EU-funded project on chemical and ionising radiation in cooperation with the Turkish National Metrology Institute and the Atomic Energy Authority, with several activities running in Turkey and in the JRC centre in Geel, Belgium.

Concerning further integration into the European Research Area (ERA), the above mentioned actions that have been taken at national level (Strategy including Innovation, Action Plan on Human Capital building, increase in investment in research in particular by the private sector) are all in line with the EU objectives and targets, and contribute towards the European Research Area and building the Innovation Union (IU).

Turkey is taking part in ten Joint Programming Initiatives, which seek 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 strengthening its research efforts accordingly. Turkey actively participates in all advisory bodies on the European Research Area, including the ERAC (European Research Area Committee) as an observer. Since October 2010, Turkey has been actively participating in the preparations for launching the pilot Innovation Partnership on Active and Healthy Ageing.

## 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 and preparations for the Innovation Union. The preparations to contribute to building the Innovation Union have also started. Overall, Turkey's participation and success rate in the EU Seventh Framework Programme are growing, but further efforts are needed in order to meet the excellence requirement and competitive participation in the EU research programmes.

## 4.26. Chapter 26: Education and culture

Turkey continued to align with the EU *acquis* and standards in the area of **education, training and youth**. The Ministry of National Education (MoNE) was restructured in September 2011; among other changes, a DG for Lifelong Learning and one for EU and Foreign Affairs were formed.

Turkey improved its performance in all the areas in which EU benchmarks have been set, but in general it is still well below the EU average, in particular as regards the percentage of early school leavers and the participation of adults in lifelong learning. Following the extension of compulsory pre-school education to the 57 provinces in the school year 2010-11, the enrolment rate for pre-school education was up from 39% to 43%. Pre-school education will be compulsory in all provinces in the school year 2012-2013.

The gender gap in primary schools continues to narrow compared to the previous year. The net primary school enrolment rate for girls increased from 97.84% to 98,22%, while the rate for boys rose from 98.47% to 98.59%. For secondary education, the net enrolment rate for

boys showed a large increase - from 67.55% to 72.35% - while that of girls increased from 62.21% to 66.14%.

In the area of higher education, the total number of universities in Turkey continued to grow with the establishment of eight private universities, bringing the total number to 162. However, these universities vary considerably in terms of the number of teaching staff and infrastructure. Turkey is at an advanced stage in implementing the Bologna process recommendations.

The development of a comprehensive national qualifications framework based on learning outcomes linked to the EU's framework has continued. An independent and fully functional Quality Assurance and Accreditation Agency to facilitate recognition of qualifications and mobility needs to be established in conformity with European standards and guidelines. In order to introduce a functional national qualifications system, modular VET curricula were developed and began to be implemented in the VET schools. Coherent processes for the assessment of the modules need to be ensured, as does their use for monitoring progress in education. The modules will be the basis for nationally recognised certificates for initial VET at the appropriate level, in place of school leaving certificates. The modules will also facilitate the recognition of prior learning.

Progress regarding the establishment of the National Vocational Qualification System (NVQS) continued with the establishment of twenty-six centres for the development of occupational standards, qualifications and assessment requirements. However, a national qualifications framework based on the European one remains to be established.

Interest and participation in the Lifelong Learning and Youth in Action programmes has continued to increase substantially. In 2010, the total number of individual programme beneficiaries was in excess of 37,000, and 1,428 grant agreements, amounting to €63.4 million, were signed with beneficiaries. In addition to its budgeted financial contribution and in order to support more applications, Turkey supplemented the EU allocation with €9.3 million from its own budget. The Parliament enacted a law which has further strengthened the administrative capacity of the Turkish National Agency responsible for managing these funds.

In the area of **culture**, Turkey continued to participate in the EU's Culture programme, although Turkish cultural operators participate in the activities mostly as project co-organisers and not as lead applicants and coordinators. Since Turkey's accession to the Culture Programme in 2007 only relatively few applications have been submitted for funding, considering the large cultural sector in Turkey. Efforts to ensure nation-wide coverage of these activities are to be pursued. According to the Istanbul 2010 Agency, activities under the Istanbul 2010 European Capital of Culture programme have included a total of some 10,000 events and around 10 million people. However, most of the national funds were used for the renovation of urban and cultural heritage, thus implying little civil society dialogue.

Turkey also participated in the celebration of the Europe Day events on 9 May 2011.

Turkey has still not ratified the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

*Conclusion*

There has been some progress in the area of education and training. Turkey showed a strong participation in EU programmes and popular interest in them continued to increase. There has been some progress in the area of culture, but no progress on legislative alignment with the EU *acquis*.

#### 4.27. Chapter 27: Environment

In the field of **environment**, there is limited progress to report on *horizontal legislation*. The scope of the by-law on environmental impact assessment (EIA) has been revised by the Council of State, but the changes made have yet to be enforced. The EIA Directive is now largely transposed. However, an addendum to the EIA by-law adopted in April raises concern as to some exceptions it authorises. Procedures for public and transboundary consultations have not been fully aligned and implemented. Regarding the transboundary aspects of the EIA for the EU backed Nabucco pipeline project, Turkey agreed with Bulgaria to organise an ad hoc exchange of information, with the aim of complying de facto with the requirements of the EU *acquis*. However, general draft bilateral agreements on EIA for cooperation in a transboundary context have not yet been sent to the relevant Member States. The planned Turkish-Russian nuclear power plant project which is due to be built on the eastern Mediterranean coast of Turkey continues to cause public concern, both nationally and internationally. There are similar concerns around the large number of planned hydro-power projects for which neither an EIA nor a strategic environmental assessment (SEA) has yet been carried out. Transposition of the SEA Directive is still at an early stage. Some preparations have begun for the transposition of the Environmental Liability and INSPIRE directives.

Limited progress has been achieved on *air quality*. A by-law on reducing the emission levels of light trucks and passenger vehicles in line with Euro 6 was adopted. Preparations are underway for the transposition and implementation of the National Emissions Ceilings Directive. There is still insufficient administrative capacity to implement and enforce the legislation on ambient air quality.

Good progress can be reported in the field of *waste management*. The revision of the waste legislation, largely in line with the provisions of the new EU Waste Framework Directive, has begun with the adoption of legislation on solid waste, waste water tariffs, waste incineration, packaging waste and the inspection of end-of-life vehicles. Legislation was also adopted in the areas of mining and the standardisation of the import of batteries and accumulators, ensuring further alignment with the *acquis*. Efforts have been made to bring some landfills up to EU standards and for the separate collection of various categories of waste, as well as for the recovery of energy from waste oils and sterilisation of hazardous medical waste. However, Turkey still needs to prepare and implement national, regional and local waste management plans in line with the EU Waste Framework Directive.

There has been very limited progress in the area of *water quality*. The institutional framework for water management is fragmented and not organised at river basin level. Preparations are ongoing to convert a number of existing River Basin Protection Action plans into river basin management plans. Transboundary consultations on water issues are still at a very early stage. The newly-adopted amendment to the Law on Groundwater is supposed to strengthen the application of the 'polluter pays' principle in relation to the measurement of groundwater consumption. A monitoring program in freshwaters and groundwaters for the implementation of the Nitrates Directive has been established. An integrated marine pollution monitoring system has also been put in place, for all surrounding seas.

No progress can be reported on *nature protection*. Framework legislation on nature protection has not yet been adopted. The list of potential Natura 2000 sites has not yet been compiled. The national biodiversity strategy and action plan, as well as the implementing legislation in this field remain to be adopted. There is growing concern about the possible adverse effects on potentially protected species of flora and fauna as a result of the building of new large water and energy infrastructure in the country. The amended by-law on the protection of wetlands has weakened the protection status of wetlands, and falls short of the requirements of the Convention on Wetlands of International Importance. There is no clear allocation of responsibility for nature protection among the various competent institutions. The CITES Convention on the international trade in wild animals and plants is not sufficiently enforced.

Limited progress can be reported regarding *industrial pollution control and risk management*, with the adoption of the By-law implementing the majority of the requirements of the Waste Incineration Directive and the publication of guidelines on emergency plans, public information and notifications, in the form of secondary legislation implementing the By-law on the control of major industrial accidents. A Regulatory Impact Assessment (RIA) for Seveso II is still to be completed. The introduction of an integrated permit system is at an early stage.

Little progress can be reported in the field of *chemicals*, including REACH. Legislation on biocidal products was adopted. The capacity for effective implementation is still insufficient.

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

Regarding **climate change**, limited progress was made on general policy development. Turkey adopted in May 2010 a national climate strategy until 2020 and in May 2011 the Climate Change Coordination Board adopted the first national climate change action plan to implement it. It still needs to be approved by the Higher Planning Council. Turkey completed a study on identifying policies on national emission limitation and emission reduction in line with global trends, which may enable it to scale up the ambition level from limiting the growth of greenhouse gas emissions to 11% from the projected 2020 emissions.

There is a significant need for awareness-raising at all levels. At the international level, Turkey continued to advocate its special circumstances which were endorsed at the COP16 in Cancún in December 2010. Unlike most other Annex I Parties, Turkey did not put forward a pledge in line with the Cancún Agreements. Turkey associated itself with some formal EU positions. Turkey has not yet submitted its fifth national communication under the United Nations Framework Convention on Climate Change. However, the GHG inventories are submitted regularly on annual basis as required. Turkey participated actively in the climate work under the Regional Environmental Network for Accession (RENA).

Some action towards future convergence with the EU Monitoring Mechanism was initiated. Turkey took steps to enhance co-operation on emissions trading, including to raise awareness of the EU Emissions Trading System amongst the different stakeholders in the country. However, Turkey's status as Annex I Party without a target continues to present a challenge to progress in this field. No steps were taken to promote convergence with the EU Effort-Sharing Decision. No progress can be reported in the field of fuel quality or in the implementation of emission standards from cars and vans, apart from introduction of the monitoring scheme of new car registrations. Neither were steps taken with respect to the geological storage of carbon dioxide. Turkey continues to implement the Montreal Protocol

on ozone-depleting substances and fluorinated gases, but needs to take further steps to align with the EU legislation on fluorinated gases. Turkey has not yet associated itself with the Declaration adopted at the 22<sup>nd</sup> Meeting of the Parties to the Montreal Protocol on the global transition away from HCFCs and CFCs.

Limited progress has been made in the area of **administrative capacity**. The former Ministry of Environment and Forestry has been split into two new ministries namely the Ministry of Forestry and Water Affairs and Ministry of Environment and Urbanisation (MoEU). Furthermore the Authority for the Special Protected Areas and regional Natural Heritage Boards were closed and merged into a directorate general under the newly established MoEU. Structures for environmental management have been more centralised with the recent legislative reorganisation at ministerial level. No progress has been made towards establishing a national environment agency. Environmental protection requirements are still not taken into account in the framing of policies and in the implementation of infrastructure projects. The Climate department within the Ministry requires further strengthening. Significant efforts are needed to promote cooperation and coordination between the different Ministries and authorities involved on climate change.

### *Conclusion*

Overall, some 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 quality and industrial pollution control and risk management. Turkey made very limited progress on water quality, chemicals and on administrative capacity, which requires further strengthening, including better coordination between the relevant authorities at all levels. There is no progress to report on nature protection. Investments in the field of the environment need to be increased. Regarding climate change, Turkey made limited progress on awareness-raising on EU climate requirements. However, a more ambitious climate policy still needs to be established, both domestically and internationally. No further progress was made on administrative capacity in the field of climate change.

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

Limited progress can be reported in the area of **consumer protection**. The consumer movement continues to be weak. Existing mechanisms for government-civil society dialogue are not being used effectively and participation by consumer NGOs in policy- and law-making activities remains low.

There has been limited progress on *product safety-related issues*. A circular from the Prime Minister's Office published in March 2011 established a Market Surveillance and Product Safety Assessment Board. It brings together the relevant market surveillance authorities to improve cooperation. More systematically comparable surveillance data have been collected and the market surveillance activities of the relevant authorities increased compared to the previous year. However, financial and human resources allocated to market surveillance activities are still insufficient. The number of measures applied remains low which undermines the credibility of the system. Work to revise the general product safety legislation remains incomplete. This is a key element for the accession negotiations in this chapter.

Some progress was made in the field of *non-safety related issues*. The legislation on labels, tariffs and price lists, on the application methods and principles regarding distance contracts,

and on the implementation procedures and principles regarding door-to-door sales, were amended in March 2011 following the adoption of three revised by-laws. However, the adoption of the revised consumer protection framework law has been pending for some considerable time, which is a key factor affecting the accession negotiations in this chapter. The number of qualified staff members dealing with consumer protection within the Ministry of Industry and Trade was increased and public awareness campaigns were broadcast on the radio. Weaknesses in the arbitration committees and consumer courts remain to be addressed.

There has been some progress in the area of **public health**.

Regarding *horizontal aspects*, the family medicine system that was introduced in 2004 achieved full national coverage by the end of 2010. In 2011, the public health expenditure amounts to 5.6% of the national budget, which is slightly above its 2010 level.

In the field of *tobacco*, Turkey largely fulfils the *acquis* requirements. Initial signs of a decline in tobacco consumption rates since the smoking ban of 2009 were confirmed by a nation-wide study. The Constitutional Court denied by a majority the request to cancel the smoking ban in public areas. The number of smoking cessation centres was increased to 234 and a toll free telephone quit line was launched. A new regulation on the sale and supply of tobacco products, alcohol and alcoholic beverages was published in January 2011 which introduces new restrictions on the advertisement, marketing, sale and use of tobacco products and alcohol. Further law amendments in June 2011 prohibited selling of tobacco products through the internet.

Some progress can be reported in the field of *communicable diseases*. A revised control and surveillance by-law was published in April 2011, with the aim of completing the harmonisation of legislation on notifiable diseases and case definitions. Enforcement capacity is being strengthened, but continued efforts are needed in order to ensure a coherent monitoring and surveillance system. Due to the absence of real HIV/AIDS policies, public awareness about the disease is low and the incidence is increasing. The National Institute of Public Health has still not been established. Preparations in this area are advanced.

Some progress can be reported in the field of *blood, tissues and cells*. The national blood and blood products guidelines were updated on the basis of the EU guidelines for the preparation, use and quality assurance of blood components. A new regulation on human tissues and cells and the quality and safety of the related tissue and cell centres was adopted in October 2010. It sets the standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells. In addition, a regulation was adopted in March 2011 laying down the standards applicable to the establishments where transplantation of composite tissues could be take place. The alignment of legislation is advanced on the whole, but Turkey does not yet have sufficient capacity to ensure efficient monitoring, inspection, surveillance and reporting in this area. Preparations are on track.

Some progress can be reported in the field of *mental health*. A new by-law on community mental health centres was adopted in February 2011, but the adoption of the national action plan is still pending. Further action should be taken towards promoting the inclusion of people with mental health problems, as well as their empowerment and human rights. Preparations in this area are ongoing.

There was limited progress in the field of *cancer*. The Ministry of Health has launched a public awareness campaign on cancer in women. It focuses on reproductive health cancers,



such as breast, cervical, ovarian and endometrial cancers, which are the most serious and prevalent among women in the country. Screening of target groups continues, but monitoring and reporting are problematic. The national cancer institute has yet to be established. Preparations in this area are on track.

Concerning *socio-economic determinants of health*, a circular from the Prime Minister's Office drew attention to the growing problems of obesity in Turkey. It called for close cooperation by public, private and academic bodies, as well as civil society organisations, to implement the 2010-2014 obesity prevention and control programme aimed at achieving a 5% reduction in the prevalence of obesity by 2014. An action plan has been adopted which promotes a healthy lifestyle and encourages municipalities to create opportunities in the local environment that motivate people to engage in physical activities.

### *Conclusion*

There is some progress to report on consumer and health protection. In the area of consumer protection, revised framework laws for consumer protection and general product safety are still to be adopted. Further financial and human resources need to be allocated for market surveillance activities, and cooperation with consumer NGOs needs strengthening. In the area of public health, Turkey has not yet completed the legislative alignment process nor built up the administrative capacity to improve the enforcement of legislation in order to enhance the health and safety status of the population.

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

Even though the overall level of alignment with the EU remains high as a result of the EU-Turkey Customs Union, there has been limited progress with regard to **customs legislation**.

Under the law on the restructuring of public receivables promulgated on 25 February 2011, Turkey introduced a new provision into its customs law, which provides for a permanent out-of-court dispute settlement mechanism for customs arrears. No progress can be reported on further alignment with regard to customs rules on intellectual property rights although new legislation is in the pipeline. The rules on free zones which are under the competence of the Ministry of Economy, and the exemptions granted by the Customs Law on free zones, are not fully in line with the *acquis*, although a certain level of alignment can be already observed. The Turkish legislation on duty relief, particularly the laws allowing duty free shops at entry points, infringes obligations under the Customs Union. No full alignment regarding the rules administering surveillance and tariff quotas, and particularly the quotas allocated to processed agricultural products, can be reported. In the context of the conformity assessment of products originating in third country, economic operators are systematically required to declare the origin before the customs clearance, even if the goods have already been released for free circulation in the EU before entering Turkey. This requirement is not in line with the Customs Union.

As regards **administrative and operational capacity**, there is some progress to report. As a result of further modernisation efforts, the Ministry of Customs and Trade has strengthened its security-related enforcement capacity. The risk-based analysis of the Ministry needs to be substantially improved in order to reduce the current very high frequency of physical inspections carried out by the customs, while also improving their quality. The feedback reporting mechanisms between the central risk analysis unit of the Ministry and the regional customs offices should be reinforced. The coordination between the customs enforcement and

other law enforcement agencies for border management needs to be improved. The enforcement of IPR by the customs, particularly in its export controls, has remained weak. Turkey continued to be one of the main suppliers of counterfeit products seized at EU customs.

IT systems capable of interfacing with the EU systems on transit (NCTS) and tariffs (TARIC, Quota and Surveillance) are not yet in place. There is limited progress to report regarding the introduction of a paperless customs environment. The Ministry of Customs and Trade has still not adopted an IT strategy which fully supports the achievement of its business objectives.

The 'Customs Union' chapter 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 aircraft registered in Cyprus or where the last port of call was Cyprus, Turkey will not be in a position to implement fully the *acquis* relating to this chapter.

### *Conclusion*

The EU-Turkey Customs Union has enabled Turkey to reach a high level of alignment in this area. However, the rules on duty relief and free zones should be further aligned with the *acquis*. Turkey also needs to align its legislation on surveillance and tariff quotas regulated by the Ministry of Trade. Requesting importers of products in free circulation in the EU to submit information on origin in any format prior to customs clearance is not in line with the Customs Union. Risk-based controls and simplified procedures with a view to facilitating legitimate trade by reducing the number of physical controls need to be improved. There is still no effective enforcement of intellectual property rights at customs, and no proper combating of counterfeit goods.

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

There has been limited progress in the field of the **common commercial policy**, although Turkey already maintains a high level of alignment with the EU common commercial policy.

Limited progress was recorded in the alignment of the Turkish general system of preferences (GSP). Further alignment with the EU's GSP is needed, in particular with regard to its geographic and product coverage, as well as rules of origin.

During the reporting period, Turkey decided to launch safeguard proceedings on woven fabrics and apparels without implementing the World Trade Organization (WTO) Safeguard Agreement provisions. The EU and other bilateral preferential trade partners of Turkey are excluded from the scope of the provisional safeguard measures. Another safeguard proceeding was initiated on PET (Polyethylene terephthalate). Turkey is also considering extending three safeguard measures on frames for spectacles, bags and cotton yarn, which have been in force for three years.

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

Although Turkey's level of coordination with the EU within the WTO, in particular as regards the Doha Development Agenda, has been satisfactory, there is still room for improvement in

this area, particularly in the field of agriculture and trade facilitation. Coordination within the OECD has been satisfactory.

There has been no progress in neither medium and long term export credits to companies, nor 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 in 2010 was about € 730 million, reaching approximately 0.15 ODA/GNI. The level of alignment in this field remained satisfactory.

'External relations' is one of eight chapters covered by the conclusions on Turkey adopted by the Council (GAERC) 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 where the last port of call was Cyprus, Turkey will not be in a position to fully implement the *acquis* relating to this chapter.

### *Conclusion*

Turkey has achieved a high level of alignment in the area of common commercial policy, mainly owing to the Customs Union. Some discrepancies still remain in areas such as the general system of preferences or control of dual use goods.

## **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 the Middle East peace process, Western Balkans, Afghanistan/Pakistan, the Southern Caucasus and developments in North Africa and in the Middle East. Taking into account that Turkey has become more active in its wider neighbourhood, and in view of intensifying dialogue with Turkey on issues of mutual interest informal policy talks were launched in May 2011. (*Concerning relations with other enlargement countries and Member States, see Political criteria 2.3 – Regional issues and international obligations*).

As regards the **common foreign and security policy (CFSP)**, in the reporting period Turkey aligned itself, when invited, with 32 out of the 67 relevant EU declarations and Council decisions (48% alignment).

Bilateral relations with *Iraq* continued to improve, Turkey has maintained close official contacts with the Iraqi authorities, and the Prime Minister visited Iraq, including the Kurdish Regional Government. Turkey engaged with *Iran* on the nuclear dossier. Turkey did not align itself with restrictive measures imposed by the EU on Iran, in addition to the fourth round of UNSC sanctions. On 21-22 January 2011, talks between the P5+1 chaired by the EU and Iran took place in Istanbul.

As regards the *Middle East*, Turkey's relations with *Israel* have further deteriorated since the Gaza Flotilla incident in 2010. After the publication of the independent UN report, Turkey downgraded relations with Israel and suspended military agreements with Israel. Turkey welcomed the agreement on Palestinian reconciliation brokered in May 2011.

Turkey closely followed events in *Syria*. Turkey issued a call to refrain from disproportionate and excessive use of force, and for continued reform efforts. Since the beginning of the unrest, Turkey provided humanitarian assistance to more than 18,000 fleeing Syrians, hosted in seven camps along the Syrian border. Turkey did not align itself with EU restrictive measures with regard to Syria

Turkey was actively involved in promoting a solution to the political crisis in *Lebanon* which unfolded in January 2011. An agreement on setting up a free trade zone encompassing Lebanon, Turkey, Jordan and Syria was signed in November 2010. As regards developments in *North Africa*, Turkey was vocal on the need for a change of regime in *Egypt*. Turkey expressed support for the people's aspirations in *Tunisia*.

Turkey eventually agreed to support NATO's command of operations for the enforcement of UNSC Resolutions 1970 and 1973 on *Libya*. Turkey did not align itself with EU restrictive measures with regard to Libya. Turkey is a member of the contact group. Turkey provided substantial humanitarian assistance to Libya. The Foreign Minister described Gaddafi's ousting as a historical moment for Libya. As regards relations with the *Southern Caucasus and Central Asia*, Turkey hosted the 11th Summit of the Economic Cooperation Organisation (ECO) on 23 December 2010. Turkey holds the chairmanship of the Conference on Interaction and Confidence Building Measures in Asia (CICA) until June 2012. The protocols signed with *Armenia* in 2009 to normalise relations are still not ratified.

Turkey continued its efforts to enhance cooperation with and between *Afghanistan* and *Pakistan*. Turkey hosted the Fourth Regional Economic Cooperation Conference on Afghanistan (RECCA) on 3 November 2010 in Istanbul. Turkey furthermore provided substantial humanitarian assistance and funded several projects in the fields of health, education and training in Afghanistan.

Turkey-Russia relations developed positively, with a number of high level visits.

As regards relations with the *United States of America*, Turkey and the US consulted regularly on regional developments. US-Turkish cooperation on security and counterterrorism remained firm, including in tripartite format with Iraq.

No particular development can be reported as regards *restrictive measures* apart from the issues described above.

Concerning the *non-proliferation of weapons of mass destruction*, Turkey is party to all the existing international arrangements. Turkey hosted the second preparatory conference for a Global Counter Terrorism Forum in Istanbul in April 2011. Turkey has not aligned itself with the EU position on membership of 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 did not sign the statute of the International Criminal Court. In April 2011, the EU reiterated its invitation to Turkey to do so as soon as possible. Turkey announced in May 2011 its 'early' candidacy for a non-permanent seat in the UN Security Council. Turkey supported the UNGA resolution on the participation of the EU in the work of the UN. Turkey has held the Secretariat General of the Organisation of the Islamic Conference since 2005 and has observer status in the African

Union. Turkey held the rotating chairmanship of the Committee of Ministers of the Council of Europe between 10 November 2010 and 11 May 2011.

There have been no particular developments with regard to *security measures (classified information)*.

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 made efforts to normalise relations with its neighbouring countries, such as Iraq, including the Kurdish regional government. No progress was made in the normalisation of ties with Armenia. Relations with Israel have further deteriorated since the Gaza Flotilla incident in 2010. Turkey strengthened relations with Russia. Turkey engaged more than previously in the provision of humanitarian aid, in particular to Libya, Pakistan and Afghanistan. The issue of EU-NATO cooperation that would involve all EU Member States beyond the 'Berlin plus arrangements' remains to be resolved. Turkey's alignment with the EU's common foreign and security policy has continued. However, overall Turkish alignment with CFSP declarations decreased during the reporting period, when compared to earlier such periods, and Turkey did not align with the EU restrictive measures on Iran, Libya or Syria. Turkey has not aligned itself with the EU position on membership of the Wassenaar Arrangement.

## **4.32. Chapter 32: Financial control**

Some progress on **public internal financial control (PIFC)** can be reported. The Internal Audit Coordination Board issued the 2011-2013 Public Internal Audit Strategy determining the steps for reinforcing the internal audit function in Turkey. The Board also organised a number of events for dissemination of good practices in internal audit. The Central Harmonisation Unit for Financial Management and Control (CHU-FMC) conducted a gap analysis and drafted an action plan for improvement of financial management and control practices. It is yet to be adopted.

The 2002 Public Internal Financial Control (PIFC) Policy Paper fails to address the current challenges. The Policy Paper and the related Action Plan therefore need to be updated, which is a key element for the accession negotiations in this chapter. These documents will need 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). An operational manual on internal control has been prepared. The Ministry of Finance needs to strengthen its steering role in the reform process. Alignment with the *acquis* in this domain is advanced.

There was significant progress in the area of **external audit**. The revised law of the Turkish Court of Accounts was enacted in December 2010, which is a key element for the accession negotiations in this chapter. This law provides the institution with the legal and structural bases for its extended mandate, now also including public corporations, etc., and further

aligned the external audit practices with relevant international standards. The implementation of this law will be subject to further scrutiny. In order to carry out its budgetary oversight function effectively, the Parliament will need to establish the necessary institutional structure and secure the expertise to analyse the technical reports to be submitted by the Turkish Court of Accounts.

Some progress can be reported on the **protection of the EU's financial interests**. The operational cooperation between the European Anti-Fraud Office (OLAF) and the Prime Ministry Inspection Board (PMIB) and other relevant institutions continued in assessments and investigations of suspected fraud cases. The PMIB continued to reinforce its function as the permanent body responsible for the cooperation with OLAF and coordination of relevant national authorities in combating fraud. As Turkey's Anti-Fraud Coordination Service (AFCOS), it needs to ensure operational independence in reporting and carrying out its coordination tasks, as well as ensuring the effective functioning of the Turkish anti-fraud network in addressing the prevention, detection and follow-up of cases.

No development can be reported in the implementation of the Convention on the Protection of the European Communities' Financial Interests (PIF Convention) and its Protocols. Turkey will need to ensure better monitoring of the actual implementation of the Convention. Preparations are moderately advanced in this area.

Some progress can be reported on the **protection of the Euro against counterfeiting**. The Counterfeit Tracking System continues to operate among the Treasury, the Central Bank, the Public Prosecutor's Office, the Turkish National Police and the Gendarmerie General Command. The Turkish National Police was officially appointed to serve as the 'National Contact Office' (NCO) to ensure cooperation with the EU institutions as a part of the Counterfeit Tracking System. The centralisation of technical and police information at the NCO needs to be improved. The Turkish legislation does not entail any sanctions against credit institutions which fail to withdraw counterfeits and medals and tokens similar to euro coins from circulation. Turkey is a proactive participant in the Pericles programme through trainings and it has hosted three Pericles events during the last three years. With respect to Euro coins, a cooperation agreement was signed between OLAF and the Under-secretariat of the Treasury. Exchange of technical information in this area works effectively. Turkish institutions have prepared a Road Map for strengthening the cooperation between the Republic of Turkey and Europol, to enact the 'Operational Cooperation Agreement' with Europol. Preparations in the field of protection of the Euro are moderately advanced.

### *Conclusion*

Some progress can be reported in the area of financial control, which already has a fairly advanced level of alignment. Legislation implementing the PFCM Law is fully in force. The PFCM Policy Paper and the action plan need to be revised. The adoption of the Turkish Court of Accounts Law was a significant step in further aligning external audit with relevant international standards. The Turkish AFCOS needs to continue reinforcing its coordination function, its operational independence and its operational network. The level of Turkey's overall state of preparedness in this chapter is moderately advanced.

### **4.33. Chapter 33: Financial and budgetary provisions**

There are no specific developments to report regarding the preparations for the application of the own resources system, covering **traditional own resources**, the **VAT resource** and the

**GNI resource.** Alignment with the *acquis* under the policy areas (agriculture, customs, taxation, statistics and financial control) related to the application of this system continued. The Turkish customs legislation largely complies with the *acquis*. However, complementary efforts are necessary for full alignment and implementation.

No progress can be reported on the **administrative capacity and infrastructure** required for the application of the own resources system. Turkey will need to establish coordination structures and implementing rules for the accurate establishment, collection, accounting, monitoring, payment and control of own resources, and reporting to the EU.

### *Conclusion*

Progress in the policy areas underlying and affecting this chapter can be reported as limited. No progress can be reported as regards the administrative preparations for setting up the own resources system itself. Preparedness in the area of financial and budgetary provisions is at an early stage

## Statistical Annex

### STATISTICAL DATA (as of 30.09.2011) Turkey

<b>Basic data</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Population (thousand)		66 889	67 896	68 838	69 770	70 692	71 610	72 520	69 689b	70 586	71 517	72 561
Total area of the country (km <sup>2</sup> )	1)	783 562	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	2010
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	952 559	1 105 101
GDP (million euro)		289 446	219 816	243 570	269 322	314 304	387 655	419 013	472 879	501 339	440 942	550 506
GDP (euro per capita)	2)	4 505	3 375	3 690	4 027	4 641	5 654	6 038	6 735	7 052	6 120	7 541
GDP (in Purchasing Power Standards (PPS) per capita)	2)	8 000	7 400	7 400	7 400	8 600	9 500b	10 500	11 300	11 700	10 700	11 800
GDP per capita in PPS (EU-27 = 100)	2)	42	37	36	36	40	42b	44	45	47	45	48
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	-4.8	8.9
Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	:	:	:	:	:	:	:	:	:	:
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)		53.4f	49.2f	49.2f	49.8f	54.1f	58.2f	61.7f	63.7f	65.4f	62.0f	62.3f
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	9.4
Industry		24.6	23.8	23.2	23.5	23.0	23.0	22.9	22.3	22.0	21.1	21.5
Construction		5.4	4.7	4.6	4.5	5.0	5.0	5.4	5.4	5.2	4.2	4.6
Services		59.2	62.1	60.8	60.8	61.3	61.3	62.4	63.7	64.3	65.6	64.5
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	86.2	85.4
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	16.9	18.7
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	-1.9	1.4
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	23.3	21.1
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	24.4	26.6

<b>Industry</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Industrial production volume index (2005=100)	3)	79.5	72.6	79.5	86.4	94.9	100.0	107.3	114.8	114.2	102.9	116.4

<b>Inflation rate</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Annual average inflation rate (HICP, % change on previous year)		:	:	:	:	10.1	8.1	9.3	8.8	10.5	6.5	6.4

<b>Balance of payments</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Balance of payments: current account total (million euro)		-10 741	4 198	-662	-6 643	-11 601	-17 932	-25 684	-28 044	-28 528	-10 031	-36 606
Balance of payments current account: trade balance (million euro)		-23 882	-3 755	-6 758	-11 925	-18 278	-26 590	-32 698	-34 186	-36 049	-17 816	-42 480
Balance of payments current account: net services (million euro)		12 316	10 201	8 339	9 292	10 288	12 182	10 796	9 692	11 770	12 008	10 764



Balance of payments current account: net income (million euro)		-4 333	-5 583	-4 816	-4 912	-4 509	-4 693	-5 301	-5 186	-5 685	-5 871	-5 898
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	1 009
of which government transfers (million euro)		221	224	526	257	252	485	495	590	495	853	425
Net foreign direct investment (FDI) (million euro)		121	3 188	993	1 080	1 612	7 208	15 340	14 550	11 528	4 917	5 502
Foreign direct investment (FDI) abroad (million euro)		-942	-555	-151	-424	-627	-855	-736	-1 537	-1 733	-1 113	-1 340
of which FDI of the reporting economy in EU-27 countries (million euro)		-892	-486	-50	-129	-200	-347	-492	-973	-574	-566	-698
Foreign direct investment (FDI) in the reporting economy (million euro)		1 063	3 743	1 144	1 505	2 239	8 063	16 076	16 087	13 261	6 030	6 842
of which FDI of EU-27 countries in the reporting economy (million euro)		1 226	3 178	831	530	1 098	3 632	11 574	9 932	8 215	3 804	4 088

<b>Public finance</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
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 (%)		:	77.9	74.0	67.7	59.6	52.7	46.5	39.9	40.0	46.1	41.6

<b>Financial indicators</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Gross foreign debt of the whole economy, relative to GDP (%)		44.7	57.7	56.2	47.3	41.2	35.3	39.5	38.5	37.8	43.5	39.3
Gross foreign debt of the whole economy, relative to total exports (%)		427.0	362.5	359.3	304.9	254.9	231.2	242.8	232.6	212.3	262.8	254.0
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	4) 5)	12 205	8 965	9 291	13 188	15 762	38 978b	38 616	44 644	39 927	49 691	65 976
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	4) 6)	51 591	37 253	36 325	47 398	59 415	150 152b	160 193	201 366	203 840	228 237	286 595
Money supply: M3 (M2 plus marketable instruments, million euro)	4) 7)	54 207	38 973	38 041	50 488	63 411	164 302b	171 832	215 308	214 473	240 246	299 805
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	231 862
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	6.6
Lending interest rate (one year), per annum (%)	8)	51.2	78.8	53.7	42.8	29.1	23.8	19.0	20.1	19.7	19.7	14.8
Deposit interest rate (one year), per annum (%)	9)	38.2	62.2	53.9	40.3	23.6	19.9	21.5	22.3	22.9	17.2	15.0
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	1.989
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	64 874

<b>External trade</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Value of imports: all goods, all partners (million euro)		59 444.4	46 255.8	54 478.3	60 136.0	78 457.9	93 362.5	111 054.5	123 906.0	136 394.9	100 712.8	138 623.1
Value of exports: all goods, all partners (million euro)		30 181.9	35 062.2	38 137.1	41 515.9	50 721.1	58 778.1	67 732.8	77 678.6	89 023.8	72 847.8	84 827.9
Trade balance: all goods, all partners (million euro)		-29 262.5	-11 193.5	-16 341.3	-18 620.1	-27 736.8	-34 584.4	-43 321.6	-46 227.5	-47 371.1	-27 865.1	-53 795.2
Terms of trade (export price index / import price index)	10)	100.0	96.4	95.2	99.8	101.7	101.0	97.0	100.3	97.2	102.0	98.2
Share of exports to EU-27 countries in value of total exports (%)		56.3	56.0	56.6	58.3	58.1	56.5	56.3	56.6	48.2	46.0	46.2
Share of imports from EU-27 countries in value of total imports (%)		52.4	47.9	49.8	50.6	49.4	45.2	42.6	40.4	37.0	42.6	41.7

<b>Demography</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		14.1	13.7	13.5	13.2	12.9	12.6	12.4p	11.4b	11.4	10.8	11.2
Infant mortality rate: deaths of children under one year of age per 1000 live births		28.9	27.8	26.7	25.6	24.6	23.6	22.6	16.8	16.1	15.3	13.2
Life expectancy at birth: male (years)		:	:	:	:	:	:	:	:	:	:	:
Life expectancy at birth: female (years)		:	:	:	:	:	:	:	:	:	:	:

<b>Labour market</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Economic activity rate (15-64): share of population aged 15-64 that is economically active (%)		:	:	:	:	:	:	49.0	49.1	49.8	50.8	51.9
* Employment rate (15-64): share of population aged 15-64 in employment (%)		:	:	:	:	:	:	44.6	44.6	44.9	44.3	46.3
Employment rate male (15-64) (%)		:	:	:	:	:	:	66.9	66.8	66.6	64.5	66.7
Employment rate female (15-64) (%)		:	:	:	:	:	:	22.7	22.8	23.5	24.2	26.2
Employment rate of older workers (55-64): share of population aged 55-64 in employment (%)		:	:	:	:	:	:	27.7	27.2	27.5	28.2	29.6
<b>Employment by main sectors (%)</b>												
Agriculture	11)	:	:	:	:	:	:	23.8	23.2	23.4	22.6b	23.5
Industry	11)	:	:	:	:	:	:	21.0	20.9	21.0	19.3b	20.0
Construction	11)	:	:	:	:	:	:	5.9	6.0	5.9	6.2b	6.4
Services	11)	:	:	:	:	:	:	49.3	49.9	49.7	51.9b	50.2
Unemployment rate: share of labour force that is unemployed (%)		:	:	:	:	:	9.2	8.7	8.8b	9.7	12.5	10.7
Share of male labour force that is unemployed (%)		:	:	:	:	:	9.1	8.6	8.7b	9.6	12.5	10.4
Share of female labour force that is unemployed (%)		:	:	:	:	:	9.3	9.1	9.1b	10	12.6	11.4
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		:	:	:	:	:	17.4	16.4	17.2b	18.4	22.7	19.7
Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)		:	:	:	:	:	:	2.7	2.3	2.3	2.8	2.8
<b>Social cohesion</b>												
Average nominal monthly wages and salaries (national currency)	Note 12)	:	:	419.0	543.0	602.0	667.0	756.0	859.0	956.0	1 084.0	:
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI/HICP) (2000=100)		:	:	:	:	:	:	:	:	:	:	:
* Early school leavers - Share of population aged 18-24 with at most lower secondary education and not in further education or training (%)	13)	58.1	58.1	55.1	52.9	52.2b	50.0	49.1	47.2	45.7	44.5	43.3
<b>Standard of living</b>												
Number of passenger cars per 1000 population		66.1	66.8	66.8	67.4	76.4	80.6	84.7	92.9	96.3	99.2	104.0
Number of subscriptions to cellular mobile telephone services per 1000 population		225.2	269.5	338.8	399.7	491.0	609.0	726.2	889.3	932.5	877.8	:
<b>Infrastructure</b>												
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )	Note	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>												
Spending on human resources (public expenditure on education in % of GDP)	Note	2.6	2.3	2.8	3.0	3.0	3.1	3.0	3.3	3.0	3.9	3.7
* 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	0.9	:
Percentage of households who have Internet access at home (%)	14)	:	:	:	:	7.0	8.0	:	19.7b	25.4	30.0	41.6
<b>Environment</b>												
* Greenhouse gas emissions, CO2 equivalent (tons, 1990=100)	Note	158.8	148.7	153.0	161.9	167.0	176.4	187.0	203.2	196.0	197.6	:

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	274.0	:
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	19.7	:
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	2010
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	30 328	:
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	2 349	:
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	17 402	:
Primary production of natural gas (thousand TOE)		582	284	344	510	644	816	839	827	931	627	:
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	75 295	:
Gross inland energy consumption (thousand TOE)		80 500	75 402	78 331	83 826	87 818	91 074	99 642	107 625	106 338	106 138	:
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	2010
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	39 122	38 911	39 032
Livestock: cattle (thousand heads, end of period)	15)	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	32 749
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	17 942
Crop production: vegetables (thousand tonnes, harvested production)		22 357	21 930	23 698	24 018	23 215	24 320	24 017	25 676	27 218	26 780	25 997

: = not available

p = provisional

e = estimated value

b = break in series

f = forecast

\* = Europe 2020 indicator

The balance of payments sign conventions are used for FDI. 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.

Footnotes:

- 1) Including lakes.
- 2) Mid-year population figures used.
- 3) Industrial production index according to NACE Rev. 2; index data prior to 2005 are backcasted using exchange ratio regarding average of 1997 and 2005 years
- 4) Before December 2005, M1 included currency in circulation and demand deposits (TRY). From December 2005 onwards, M1 included currency circulation and demand deposits (TRY,FX).
- 5) 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) Before December 2005, M2 included M1 and time deposits (TRY). From December 2005 onwards, M2 included M1 and time deposits (TRY,FX).
- 7) 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.

- 8) Averages of monthly data, lending to enterprises more than one year.
- 9) Averages of monthly data, up to one year or longer.
- 10) Indices were based on 1994 from 1995 to 2002, after 2002, based on 2003. The base year of the both indices has been rearranged as 2000=100.
- 11) Data for 2006-2008 based on NACE Rev.1.1, data for 2009-2010 based on NACE Rev.2
- 12) 2002-2005, data based on Household Budget Survey, 2006-2009, data based on Income and Living Conditions Survey.
- 13) Annual LFS results; the variable "participation in non formal education or training (COURATT)" was added into the calculation from 2004.
- 14) From 2007 onwards, calculated according to mid-year population estimates.
- 15) Excluding buffaloes.