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signed by Mr Jordi AYET PUIGARNAU, Director

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

**Second Report on progress by Turkey in fulfilling the requirements of its visa
liberalisation roadmap**

{SWD(2016) 97 final}

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1. INTRODUCTION

The European Union (the EU) launched the **Visa Liberalisation Dialogue** ("VLD") with Turkey on 16 December 2013, in parallel with the signature of the EU-Turkey Readmission Agreement.¹ The VLD is based on the *Roadmap towards a visa free regime with Turkey* (the Roadmap), a document setting out the requirements that Turkey needs to meet in order to enable the Commission to propose to the European Parliament and the Council an amendment to the Regulation (EC) No 539/2001 which would allow Turkish citizens to travel for short stays (i.e. of 90 days within any 180-day period) in the Schengen area without a visa. The 72 requirements listed in the Roadmap are organised in five thematic groups ("blocks"): document security; migration management; public order and security; fundamental rights and readmission of irregular migrants.

On 20 October 2014, the Commission adopted its *First report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap* (the First Report).² The First Report assessed the fulfilment of each requirement and issued recommendations for making further progress in all of them.

After the publication of the First Report, high-level meetings of the VLD were held between the Commission and Turkish authorities on 26 February 2015, 14 December 2015 and 19 January 2016. The Commission organised seven technical missions to Turkey between April and July 2015, involving experts from Member States, the Commission, Frontex, EASO, Europol and the EU Delegation to Turkey, to study Turkey's legislation and administrative practices and evaluate possible progress made in implementing the requirements of the Roadmap. In addition, two meetings of the Joint Readmission Committee took place on 15 July 2015 and 19 January 2016, to assess the implementation of the EU-Turkey Readmission Agreement.

Discussions with Turkish authorities on how to foster Turkey's progress in implementing the Roadmap were also held on the occasion of the negotiation of the EU-Turkey Joint Action Plan, which was agreed *ad referendum* on 15 October 2015³, and of the EU-Turkey Summit of 29 November 2015. At the Summit, the Turkish side expressed its commitment to accelerate the fulfilment of the Roadmap, including by anticipating the application of all the provisions of the EU-Turkey Readmission agreement, with the objective to possibly obtain visa liberalisation by October 2016⁴. The commitment was welcomed by the European Union.

This second report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap (the Second Report) is based on information collected by the Commission during the above-mentioned experts' missions and meetings and on communications received from Turkish authorities, Member States, EU agencies and other sources. It provides an analysis of the state of play of the implementation of the requirements of the Roadmap by Turkey as of February 2016, and lists specific recommendations on the measures that Turkey should take to make further progress towards the complete fulfilment of these requirements.

¹ http://europa.eu/rapid/press-release_IP-13-1259_en.htm

² COM(2014) 646 final Report from the Commission to the Commission to the European Parliament and the Council on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap http://europa.eu/rapid/press-release_IP-14-1173_en.htm

³ The text of the Joint Action Plan can be read at http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm

⁴ For the full text of the statement adopted at the Meeting of EU heads of state or government with Turkey see <http://www.consilium.europa.eu/en/press/press-releases/2015/11/29-eu-turkey-meeting-statement/>

The Second Report is accompanied by a Commission Staff Working Document (CSWD)⁵, which describes in detail a considerable number of relevant measures which Turkey has taken and is implementing towards fulfilling the requirements of the Roadmap since October 2014. In addition, as required by VLD methodology, the CSWD analyses the expected migratory impact of any future visa liberalisation⁶.

The Second Report follows the structure of the Roadmap and therefore addresses, one by one, the five blocks indicating for each of them the requirements which are not yet entirely fulfilled, and recommending measures that would allow the Turkish authorities to reach this objective.

2. BLOCK 1: DOCUMENT SECURITY

The First Report noted that Turkey had already achieved a good level of progress in fulfilling the benchmarks in the document security block.

Some additional positive developments, which are detailed further in the CSWD, occurred recently, notably the withdrawal of the few remaining non-biometric passports from circulation, the introduction of a more secure procedure to invalidate expired passports in order to avoid their possible re-use for forgeries, and the adoption of legal and technical measures allowing to start issuing soon new more reliable identity cards including biometric data and having a validity of 10 years.

Despite this progress, Turkey still needs to take further important measures in order to complete the fulfilment of the requirements set out under this block:

- the security features of Turkish passports should be aligned with EU standards as outlined in Council Regulation 2252/2004, i.e. Turkey should start issuing passports with a contactless chip which includes not only the facial image of the holder, but also the holder's fingerprints;⁷
- Turkish law enforcement agencies should start to timely share information on forged and fraudulent documents found on passengers travelling to the EU with their counterparts in the Member States ;
- the capacity of Turkish police and of the ground staff of airline companies operating in the main Turkish international airports to detect forged or fraudulent travel documents, visas and residence permits used by passengers travelling to the EU should be enhanced, in particular by increasing training and by improving cooperation with immigration liaison officers from Member States located in Turkey.

3. BLOCK 2: MIGRATION MANAGEMENT

⁵ Commission Staff Working Document accompanying the Second Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, SWD(2016)97

⁶ The assessment of the impact on security of the visa liberalisation with Turkey will be presented on the occasion of the publication of the next report.

⁷ As indicated in the Roadmap, once granted, the right to visa free travel will apply only to Turkish with biometric passport in line with the standards of Council Regulation 2252/2004.

The First Report recognised that Turkey had already achieved a good level of progress in fulfilling the benchmarks of the second block of the Roadmap.

Since October 2014, Turkish authorities have taken additional, and substantial steps to further strengthen the operational capacities of the Directorate General of Migration Management (DGMM). Turkey also adopted several legal acts in the area of international protection including the regulation of 22 October 2014 granting temporary protection status to all refugees from Syria and the regulation of 15 January 2016 giving these refugees possibility to apply for a work permit.

Turkish authorities stepped up their cooperation on border management with their Greek and Bulgarian counterparts across their common land border. Several important measures were also taken to strengthen the visa and border management system. On 8 January Turkey has introduced a visa obligation for Syrians entering Turkey by air or by sea from third countries and, on 5 February, it abolished the possibility of obtaining a visa by Iraqi citizens on the border. Turkey proposed the negotiation of bilateral readmission agreements to 14 countries and started working on introducing transit visas for nationals of 18 countries considered as potential source of irregular migration.

Finally, to address smuggling, Turkey stepped up efforts of its law enforcement agencies, including their joint operations on land, and established special units to combat smuggling and trafficking in human beings within the Turkish National Police and Gendarmerie.

Detailed information on all the measures taken is provided in the CSWD.

Nevertheless, several requirements of block 2 remain only partly fulfilled.

One of them is linked to the fact that, Turkey continues to apply a discriminatory visa regime to the Member States⁸.

The most important of the requirements which remain to be fulfilled is related to Turkey's need to "*Carry out adequate border checks and border surveillance [...] in such a manner that it will cause a significant and sustained reduction of the number of persons managing to illegally cross the Turkish borders either for entering or for exiting Turkey*". In 2015 the number of migrants and refugees that reached the EU at the land and sea borders by departing irregularly from the Turkish territory amounted to 888 457 migrants. This is around 17 times the number which had been registered in the course of 2014. The problem unfortunately continues and in January 2016, 68 650 were registered⁹.

The increased irregular crossings are also linked to a wider refugee crisis triggered by the ongoing conflict in Syria and in some other countries. The Turkish authorities, who should prevent them, are confronted with an immense challenge, with more than 2.5 million refugees from Syria and more than 200 000 migrants and refugees from other countries residing on Turkish territory. The fact that Turkish Coast Guards apprehended and rescued around 91 612 migrants and refugees in 2015, seven times more than in 2014, who were trying to irregularly reach the EU, must be acknowledged. Nevertheless, the measures taken by the Turkish authorities are still insufficient in view of the sheer magnitude of irregular arrivals.

In order to address this challenge more successfully, it is necessary and urgent that the Turkish authorities continue putting in place measures tackling the different aspects of the problem in a comprehensive manner. In this regard, the Commission recommends that Turkey considers the measures described below:

⁸ For information on the visa requirements applied to Member States see the CSWD.

⁹ The figures mentioned in this page are elaborations made by the Commission services on the basis of information provided by Frontex and the Turkish authorities. All data are indicative and subject to change.

- First, the surveillance and interception capacities of the Turkish Coast Guard in the Aegean Sea area should be strengthened. To that end, the implementation of the various projects funded by Turkey and by the EU which are aimed at both developing a coastal radar surveillance system, and increasing the number, quality, presence along the coast and operational capacity of the available patrolling vessels, should be sped up. The use of the Navy's radar system, for the purpose of preventing irregular departures, could be considered until the coastal radar system is established.
- In order to reduce the burden placed on the Coast Guard, the capacity of the Police and the Gendarmerie to detect and prevent irregular departures of migrants while still ashore or far from the land border should be enhanced by patrolling and surveillance activities, including through increasing the use of air-surveillance systems.
- All the authorities that are responsible for the protection of borders and for combatting irregular migration¹⁰ should be instructed to enhance their mutual cooperation, including by coordinating their actions systematically, sharing intelligence, information and assets, and to increase the number of joint operations. The Centre for National Coordination and Common Risk Analysis (NACORAC), which the EU is assisting to establish, should also be put in place as a matter of urgency.
- The work of all these authorities, as part of preventing irregular departures of migrants and randomly intercepting facilitators, should also be explicitly focussed on identifying and arresting senior and middle-ranking members of migrant smuggling organisations and to seizing their assets. .
- In order to reduce the number of persons entering Turkey irregularly, surveillance along the South-Eastern and Eastern land borders of the country should be enhanced. To that end, Turkish land forces should continue their modernisation, through the increasing deployment of well-trained contractual agents instead of conscripts, as well as via the use of modern surveillance equipment and the adoption of flexible patrolling.
- Whenever possible, Turkish authorities should develop cooperation in border surveillance activities and in sharing information about migrant smuggling organisations with the authorities of the countries of origin and transit of irregular migrants.

In parallel, work should continue in view of implementing other requirements and recommendations issued under this block, the fulfilment of which will also contribute to better preventing irregular migration.

In the area of **border cooperation with the neighbouring Member States**, the Commission recommends that Turkish authorities consider the following measures:

- the agreement on the establishment of a tripartite centre of Capitan Andreevo, signed in May 2015, should enter into force without further delay;
- a secured communication channel to be used for the timely sharing of information on migrant smuggling activities should be put in place between the Turkish and the Hellenic Coast Guards;

¹⁰ Turkish authorities have informed the Commission that, in light of the current geopolitical situation, they have dropped their initial plan, foreseen under the National Action Plan for the Implementation of Turkey's Integrated Border Management of 2006, to set up a single, non-military, specialised organisation and transfer to it all the responsibilities and resources for border management.

- Turkey should develop its operational cooperation with Frontex, in order to benefit from its expertise in debriefing intercepted migrants and obtaining access to information related to the *modus operandi* of smuggling networks collected in this manner.

The Turkish **visa system** should also be revised, in order to better prevent third-country nationals to enter Turkey with the intention of transiting to the EU by crossing its external borders irregularly.

To that end, building on the measures already taken on 8 January and 5 February 2016 regarding respectively, Syrians nationals located outside of Syria and Iraqi citizens, Turkish authorities should now give priority to strengthening the visa regime applied to nationals of other countries which, in 2015, accounted for the largest numbers of irregular entries into the EU via Turkey, namely Afghans, Pakistanis, Iranians, Moroccans, Palestinians, Somalians, Bangladeshis, Lebanese, Algerians etc.¹¹ In addition, a careful assessment should be made of the potential for irregular migration from any other countries to whose citizens Turkey grants a visa waiver or provides the possibility to obtain e-visas. The reference points should be the EU's visa-free and visa-required lists¹².

Depending on the visa regime currently applied to different countries, and on the migratory and smuggling patterns observed for their nationals, the following measures should be taken by Turkey:

- imposing a visa requirement on the nationals of certain countries posing a high migratory risk that are currently benefiting from the visa-free regime;
- in case Turkish authorities decide to maintain a visa waiver for nationals of third countries that are a potential source of irregular migration: conditioning this facilitation on the rapid signature and effective implementation of readmission agreements with those countries;
- removing the possibility to enter Turkey with an e-visa for nationals of certain countries with high migratory risk for whom this is currently possible, and requiring that instead they apply for a visa at a Turkish diplomatic mission; where a proper verification of the migratory and security risks could be carried out;
- in case Turkish authorities decide to maintain the possibility that nationals of third countries who are potential source of irregular migration enter Turkey with e-visas: submitting those e-visa holders to more thorough checks at the moment of crossing the border, in order to verify that they effectively fulfil the criteria required to obtain an e-visa;
- improving the knowledge and capacity of Turkish consular staff in charge of issuing visas, with a view to ascertaining that visa applicants have legitimate reasons to come to Turkey and that they intend to return to their home countries; while also enhancing the internal control standards on the integrity of the overall visa-issuing system, especially in embassies located in high-risk countries;

¹¹ For statistics on the nationalities of the persons who irregularly entered the EU territory via Turkey, see the CSWD.

¹² On the visa regime applied by Turkey to the countries that are the main sources of irregular migration and comparison with the EU visa system applicable to these countries, see the CSWD

- airport transit visas should start being requested from the nationals of the countries that are identified as the main sources of irregular migration.

Turkey should make further progress in fulfilling the requirements of this block related to **international protection**, building on the considerable efforts already made¹³. In particular:

- Turkish authorities should continue working to facilitate the effective access of beneficiaries of international protection to social services (notably schooling for their children), to legal employment opportunities, decent housing, vocational and linguistic training and any initiative contributing to their social inclusion and economic self-reliance within the Turkish society.
- Furthermore, Turkish authorities should ensure that international protection applicants have their claims considered within the shortest possible timeframe, with the result of either obtaining one of the protection statuses foreseen by the Turkish legal order or, in an unsuccessful case, of receiving an order to leave Turkey. In this context, it is of great importance that the DGMM take specific measures to:
 - reduce the remaining backlog of applications which have been pending for a long period of time¹⁴;
 - ensure that migrants, who entered Turkey irregularly and introduced international protection applications which were subsequently found ineligible, are returned to their country of origin in a timely manner;
 - prevent asylum applicants whose applications are pending, as well as unsuccessful asylum applicants, pending their departure from Turkey, from absconding and making secondary movements towards the EU.

In order to achieve these objectives, it will be useful to streamline procedures, notably by adopting the by-law defining the specific rules to be followed to implement the Law on Foreigners and International Protection.

4. BLOCK 3: PUBLIC ORDER AND SECURITY

The First Report described both the strengths and deficiencies of the Turkish system when it comes to the fulfilment of the requirement of this Block.

Since October 2014, the Turkish authorities have taken additional steps such as the ratification, on 19 February 2016, of the Council of Europe (CoE) Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, the CoE Convention on Action against Human Trafficking, the CoE Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, and of the Additional Protocol to the CoE Convention on the transfer of sentenced persons.

However, it has to be noted that despite these developments, the implementation of the requirements of block 3 remains considerably less advanced than blocks 1 and 2. To fulfil its requirements, Turkey is encouraged to undertake the following measures:

- increase the number of positive replies given to requests for judicial cooperation in

¹³ On the progress made by Turkey in fulfilling the requirements on international protection of the Roadmap during the reporting period, see the CSWD.

¹⁴ For clarifications on this backlog, see the relevant paragraph in the CSWD.

criminal matters submitted by the Member States, as well as the speed of the replies and that of their implementation; the adoption of a single comprehensive law streamlining the procedures followed while implementing Turkey's international obligations related to judicial cooperation in criminal matters could also be considered;

- actively engage with relevant authorities of all Member States in the area of police cooperation and judicial cooperation in criminal matters;
- start implementing the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 1981, and ratify its Additional Protocol (CETS n° 181). Adopt legislation on the protection of personal data in line with the EU and the Council of Europe standards;
- conclude an operational cooperation agreement with Europol and a cooperation agreement with Eurojust as soon as an adequate legislative framework on personal data protection is in force; until then, Turkish authorities are encouraged to make all possible efforts to increase the exchange of information and cooperation with these two agencies.
- adopt a new Action Plan for the Fight against Organised Crime for the period 2016-18, enabling to strengthen actions in the fight against all forms of organised crime, notably the trafficking in drugs, human beings, firearms and counterfeit goods;
- provide information to the EU on national and transnational criminal organisations currently based in Turkey, indicating their *modus operandi*, and the approach taken by Turkish authorities to combat their criminal activities;
- start implementing the recently ratified Council of Europe Convention on Action against Trafficking in Beings (THB) and bring the Turkish national legislative framework in this area in line with the standards set by this Convention and the EU *acquis*;
- strengthen the capacity of the DGMM to identify victims of THB and shelter them;
- start implementing the recently ratified Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS n°198) and bring the Turkish national legislative framework in this area in line with the standards set by this Convention;
- continue strengthening the capacity of the Department for Financial Investigations (MASAK) to analyse suspicious transactions and detect cases of money laundering and financing of terrorism;
- fully align the Turkish legislative framework with the provisions of the Council of Europe Convention on Cybercrime;
- adopt legislation giving effective follow-up on all the Group of States against Corruption (GRECO) recommendations; and adopt a new national action plan against corruption, drawn up in consultation with civil society, and entrusting the monitoring of its implementation to a body empowered to act with the necessary degree of independence and transparency;
- establish training programmes and adopt ethical codes on anti-corruption targeting officials involved in border management and the prevention of irregular migration, increasing efforts to systematically prosecute bribery offences of any public officials;

- sign and ratify the three Additional Protocols of 1975, 2010 and 2012 to the Council of Europe Convention on Extradition (CETS n° 24 of 1957), the Additional Protocol of 2001 to the Council of Europe Convention on Mutual Assistance in Criminal Matters (CETS n° 30 of 1959); and start implementing the Additional Protocol of 1997 to the Council of Europe Convention on Transfer of Sentenced Persons (CETS n° 112 of 1983);
- sign and ratify the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, as well as the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance;
- reduce the delays in implementing the judicial proceedings under the 1980 Hague Convention on the Civil Aspects of International Child Abduction;

5. BLOCK 4: FUNDAMENTAL RIGHTS

The First Report stated that many of the requirements under this block had been already met; nevertheless it also identified a few areas of great importance where further progress was needed.

Since then, little has happened in these areas, and therefore the relevant recommendations issued by the First Report remain largely valid. In view of this, Turkey is invited to:

- revise Turkish legislation on terrorism with the aim of aligning it with the EU *acquis*, the Council of Europe standards and with the European Court of Human Rights (ECtHR) jurisprudence on terrorism;
- adopt legislation on anti-discrimination, taking inspiration from the EU *acquis* on equal treatment of people regardless of their racial or ethnic origin;
- adopt a national action plan aimed at improving the situation of Roma in Turkey, and ensuring the involvement of Roma civil society organisations in the monitoring of its implementation;
- ratify Protocols 4 and 7 to the European Convention on Human Rights (ECHR), or, alternatively, ensure or demonstrate that equivalent provisions are included into the Turkish legal framework;
- continue implementing the Action Plan on Preventing European Convention of Human Rights (ECHR) Violations and giving follow-up to the jurisprudence issued by the ECtHR in the '*Incal*' group of cases;
- continue providing training, support and instruction to law enforcement officials, judges and prosecutors in order to enable them to interpret current legislation, taking into account the ECtHR and the case-law of the ECtHR;
- adopt the law establishing an independent commission to supervise on law enforcement agencies' possible violations of persons' rights.

6. BLOCK 5: READMISSION OF IRREGULAR MIGRANTS

The First Report noted a very poor implementation of the requirements of this block. The CSWD reports about some positive developments that took place since then.

In particular, since the November Summit, Turkey has intensified its contact with Greek authorities in view of improving the implementation of the existing bilateral protocol. A number of technical meetings took place that resulted in Turkey accelerating the assessment of all pending 864 readmission applications submitted by Greece in 2016. In February 2016, Turkey also proposed to Bulgaria the conclusion of a bilateral protocol under the EU-Turkey readmission agreement.

There are however several important actions that Turkey should enact. In particular, Turkey needs to:

- start applying and effectively implement, with regard to all Member States, the provisions of the EU-Turkey Readmission Agreement related to third-country nationals, which Turkey has committed to do as of 1 June 2016;
- until then, considerably improve the fulfilment of existing bilateral readmission obligations; in particular, in the context of the agreement with Greece, Turkey should:
 - intensify its efforts to reply within the deadlines to readmission requests, notably by applying the accelerated procedure foreseen by the bilateral protocol;
 - increase the number of positive replies and otherwise systematically provide justifications for refusals;
 - open additional seaports for facilitating the delivery of the readmitted persons;
 - exchange liaison officers to facilitate identification and readmission of illegal migrants;
- improve the implementation of the already applicable provisions of the EU-Turkey readmission agreement related to return and readmission of its own nationals and stateless persons, which at present are not enforced in a systematic manner by all Turkish diplomatic missions.

7. CONCLUSIONS AND THE WAY FORWARD

Following a period in 2015 during which Turkey had made only limited progress towards implementing the Roadmap, the situation changed at the EU-Turkey Summit of 29 November 2015 and since then, Turkish authorities have been intensifying their efforts in this direction.

The Commission welcomes the new level of engagement and determination demonstrated by Turkish authorities, takes note of a number of important steps forward they have already made and encourages them to further accelerate the reform process, by addressing the outstanding issues identified in this Report as a matter of urgency, in order to fulfil all the requirements of the Roadmap by October 2016, as ambitiously sought by Turkey.

The Commission will continue to assist Turkey in the implementation of the Roadmap and will actively monitor the developments occurring in this context, with a view to presenting a new progress report in autumn 2016.