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

**Enlargement Strategy and Main Challenges 2012-2013**

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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 take on 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 2011 to September 2012. 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 Turkey the status of candidate country. 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

The Positive Agenda endorsed by the Council in December 2011 was launched. It aims to support and to complement the **accession negotiations** through enhanced cooperation in a number of areas of joint interest: political reforms, alignment with the *acquis*, dialogue on foreign policy, visas, mobility and migration, trade, energy, counter terrorism and participation in Community programs. Eight working groups aimed at encouraging alignment with the *acquis* were set up and six of them had their first meeting. The Commission will assess whether Turkey has met the benchmarks and inform Turkey and the Member States accordingly.

The Council invited the Commission to take steps towards visa liberalisation as a gradual and long-term perspective, in parallel with the signing of the readmission agreement between Turkey and the EU which was initialled in June. It is now crucial that Turkey signs the

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

<sup>2</sup> Enlargement Strategy and Main Challenges 2012-2013, COM(2012) 600.

readmission agreement to allow for a proper roadmap to be finalised, effectively starting the process.

With a view to Turkey's further development as a potential energy hub and given the common challenges it shares with the EU, Turkey and the Commission also decided to enhance their cooperation on a number of important energy issues.

To prepare for accession negotiations, Turkey's readiness to start negotiations on individual chapters was assessed on the basis of screening reports. Out of a total of 33 screening reports, nine are pending in the Council while one has yet to be delivered.

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. Political dialogue meetings were held at ministerial level in March and June 2012 and at political directors' level in February 2012. 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 North Africa, the Middle East, Western Balkans, Afghanistan/Pakistan and the Southern Caucasus, were also regularly discussed. Turkey has become increasingly active in its wider neighbourhood and is a leading regional player. The Council acknowledged the influential regional role of Turkey in supporting reform, including with regard to recent developments in North Africa. Turkey has also been vocal on Syria, condemning strongly and repeatedly the regime's violence against civilians and providing vital humanitarian assistance to nearly 100,000 Syrians who fled the country. A number of high-level visits to the European institutions took place during the reporting period.

Turkey decided to freeze its relations with the Presidency of the Council of the EU during the second half of 2012 and not to attend meetings chaired by the Cyprus EU Presidency. The European Council expressed serious concerns with regard to Turkish statements and threats and called for full respect for the role of the Presidency of the Council, which is a fundamental institutional feature of the EU provided for in the Treaty.

Progress on the reform priorities is encouraged and monitored by the bodies set up under the **Association Agreement**. The Association Committee met in April 2012 and the Association Council in June 2012. Eight sectoral sub-committee meetings have been held since November 2011.

The multilateral economic dialogue between the Commission, EU Member States and Candidate Countries in the context of pre-accession fiscal surveillance continued, including a meeting at ministerial level in May in Brussels.

The EU-Turkey **Customs Union** continues to boost bilateral trade between the EU and Turkey, which totalled € 120 billion in 2011. Turkey is the EU's sixth biggest trading partner while the EU is Turkey's biggest. A bit less than half of Turkey's total trade is with the EU and almost 75% of foreign direct investment flows in Turkey, with a strong high-technology

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

component, 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 remain unfulfilled, in areas 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. The Commission is launching an external evaluation to assess the strengths of the Customs Union as implemented so far, its weaknesses (or limitations) and the opportunities arising from its possible modernisation. 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.

As regards **financial assistance**, € 856 million have been earmarked for Turkey from the Instrument for Pre-accession Assistance (IPA) for 2012. In line with the Multiannual Indicative Planning Document (MIPD) for 2011-2013 importance has been given to further advance a sector-based approach which aims to better focus assistance on political priorities. Support is focused 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.

IPA assistance is subject to decentralised management, which means that it is managed by the Turkish authorities following an accreditation process carried out by the Commission. In 2012 progress was made with regard to strengthening the institutional framework for IPA Components as the accreditation process has been finalised for the Operating Structures in the areas of Regional Competitiveness and Human Resources Development programmes. Nevertheless, delays in the implementation of IPA assistance continued to occur and Turkey needs to further strengthen its administrative capacity to address weaknesses in adopting the sector approach in programming, to speed up the implementation process, to improve the quality of programmes and projects and to avoid loss of funds.

Support to **civil society** continues with the implementation of previously programmed EU financial assistance for civil society capacity building and civil society dialogue between Turkey and the EU, both under the national programme and the Civil Society Facility. In parallel an impact assessment of EU-Turkey Civil Society Dialogue was launched to draw conclusions for future assistance in this area.

Turkey actively participates in the following **EU Programmes** and Agencies: the Seventh Research Framework Programme, Customs 2013, Fiscalis 2013, the European Environment Agency, the Competitiveness and Innovation Framework Programme (including the Entrepreneurship and Innovation Programme and the 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. Turkey has not yet completed ratification for the agreement on its participation in the European Monitoring Centre for Drugs and Drug Addiction.

## **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

Work on a new constitution started and a democratic and participatory process was put in place. The rest of political life was characterised by limited dialogue and frequent tensions.

Trials of the alleged deep-state criminal network *Ergenekon* and the ‘Sledgehammer’ trial concerning an alleged coup plan continued. In the ‘Sledgehammer’ trial a first instance court on 21 September sentenced a total of 324 suspects (out of 365), including three former army commanders, to 13-20 years on charges of attempting to remove or prevent the functioning of the government through force and violence. The Court handed down mass verdicts. The judicial process is on-going. In the *Ergenekon* case, according to official data, the number of defendants has risen to 279, of whom 65 are under arrest. The landmark trial of the 1980 coup perpetrators, made possible by amendments to the constitution in 2010, began in April 2012. Investigations into military intervention in politics, including the 28 February ‘Postmodern Coup’ of 1997 followed. The armed forces’ former chief of staff was arrested in January 2012 on charges of attempting to overthrow the government and of membership of a terrorist organisation.

Concerns persisted over the rights of the defence, lengthy pre-trial detention and excessively long and catch-all indictments, leading to significantly enhanced public scrutiny of the legitimacy of these trials. Offering a chance to strengthen confidence in the proper functioning of Turkey’s democratic institutions and the rule of law, these cases have been overshadowed by real concerns about their wide scope and the shortcomings in judicial proceedings. Moreover, they tend to contribute to the polarisation of Turkish politics.

Judicial proceedings need to be speeded up to ensure the rights of the defence and to promote transparency in these cases. Investigations tend to expand rapidly; the judiciary accepts mainly evidence collected by the police only, or supplied by secret witnesses.

In July 2012, 404 active-duty military personnel were involved in on-going court cases as suspects, 207 of whom were in detention, among whom a former Chief of General Staff.

The Kurdish issue remains a key challenge for Turkey’s democracy. A meeting was held between the Prime Minister and the leader of the main opposition party CHP on the initiative of the latter, looking for opportunities to make progress on the Kurdish issue. There was no follow-up. The 2009 democratic opening, aimed at addressing amongst others the Kurdish issue, was not followed through.

Turkey suffered a significant increase in terrorist attacks by the PKK, which is on the EU list of terrorist organisations. The attacks were strongly condemned by the EU.

The investigation into the Union of Communities of Kurdistan (KCK), the alleged urban wing of the PKK, significantly expanded. Increasing numbers of BDP-affiliated Kurdish politicians, locally elected mayors and members of municipal councils were detained, adversely affecting regional and local democracy.

The killing of 34 civilians in Uludere (Şırnak) in a military air strike in December 2011, and the absence of a transparent public inquiry into the events, also damaged confidence. There has been no discussion of political responsibility.

Due attention needs to be paid to upholding the rule of law in the anti-KCK investigation and to ensuring that an effective and transparent public inquiry into the Uludere air strike takes place. Revision of the constitution provides an opportunity to address a number of long-standing problems in Turkey, in particular the Kurdish issue.

## *Constitution*

Work on a new constitution started with the setting up of a Constitution Conciliation Committee, following inter-party agreement on equal representation and a decision to avoid setting preconditions for the substance of a new text. The committee is composed of three members from each of the four political groups in parliament. Its working principles reflect a commitment to inclusiveness and consultation and provide for unanimity in decision-making and termination of the committee's mandate if any one party withdraws.

The Conciliation Committee held public consultations with a broad range of stakeholders between November 2011 and April 2012 to receive the views of political parties not represented in parliament, of state bodies, professional associations, trade unions and non-governmental organisations. For the first time ever, representatives of non-Muslim minorities were officially received by parliament. Members of the committee also took part in public events around Turkey organised by civil society platforms. A website was set up to gather written opinions, returning over 25,000 contributions. An abundance of local and national civic initiatives also ensured lively debate among citizens and in the media.

However, it is unclear what the follow-up of the committee's work will be. The current Constitution (Article 175) only provides for *amendment* of the existing text. There are some limits on transparency, with submissions to the committee by civil society and others removed from or not published on the internet.

Regarding the substance of the constitution, the key challenges to consensus include views on the separation of powers, state-society-religion relations and the Kurdish issue (citizenship, use of the mother-tongue, and decentralisation). The BDP was the only political party to take a firm position when it presented a detailed note on the fundamental rights and freedoms chapter in July. The possibility of introducing a presidential or semi-presidential system of government was debated.

Further progress in implementing the 2010 constitutional amendments has been limited. The law on civil servants' trade unions was amended to include provisions on their right to collective bargaining, while laws on collective bargaining, strikes and lockouts for private sector employees and the establishment and duties of the Ministry of Justice, Protection of Personal Data and military justice are still pending.

*Overall*, positive steps have been taken in terms of work on a new constitution. A democratic and participatory process has been put in place, albeit with some limitations on transparency. The new constitution should 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, in particular the Kurdish issue. Maintaining a spirit of compromise and ensuring the broadest possible consultation remain key for the legitimacy of a new constitution. Further progress in implementing the 2010 constitutional amendments has been limited.

## *Parliament*

The new parliament convened on 1 October 2011 with all parties represented, following a protracted oath-taking crisis over the courts' refusal to release eight MPs-elect from pre-trial detention. Work on political reforms and the parliament's ability to perform its key functions of law-making and oversight of the executive continues to be hampered by the persistent lack of dialogue and spirit of compromise among political parties.

The CHP proposed a legislative amendment to the Code on Criminal Procedures to set the MPs-elect free; it was not supported by the majority. An initiative of the Speaker of the parliament to seek consensus among the four political groups on a possible legal solution to



the issue did not produce results. Courts rejected the petition of the MP's elect for release on probation pending trial, submitted further to the adoption of the third judicial reform package in July.

The overall scope of parliamentary immunity remains wide, except in cases concerning MPs freedom of expression, which are subject to a restrictive interpretation of the Constitution (in particular Article 14). This continues to be an issue of concern. A total of 740 requests by prosecutors for the lifting of parliamentary immunity are pending, concerning a total of 101 members of parliament, the majority concerning the BDP-bloc. A BDP-affiliated MP-elect, whose conviction to two years imprisonment for a speech pronounced 6 years ago was upheld by the Court of Cassation, risks permanently losing his seat once the Parliament speaker sets in motion the applicable procedures following such a ruling.

Insufficient preparation and consultation prior to the adoption of key legislation triggered strong criticism. This included the new education law, a law on caesarean section deliveries, a law granting immunity from judicial scrutiny to intelligence officers and public officials assigned specific tasks by the Prime Minister and the abolition of the Serious Crimes Courts.

Regarding the *legislative framework*, a law to facilitate out-of-country voting— targeting around 2.5 million Turkish voters residing mainly in the EU — was adopted. No further important changes were made to the electoral system. The 10% national threshold for obtaining seats in parliament remains the highest among Council of Europe member states. There has been no progress in aligning the law on the closure of political parties or laws on the financing of political parties and election campaigns with European standards.

Concerning the *functioning of parliament*, the representation of all mainstream political views following the June 2011 elections and its lead role in work on a new constitution increased the profile of the parliament. An ad hoc committee was set up by consensus among the four main political groups to investigate all coups in the history of the Republic; further parliamentary committees were created to probe the 28 February 'Postmodern Coup' and the alleged state violence in Tunceli (Dersim) in 1937-38, and to inquire into the Uludere incident in December 2011.

The Human Rights Inquiry Committee heard numerous experts including prominent Kurds while examining human rights violations linked to terrorism and the fight against terrorism (through the Sub-Committee on Investigating Violations of Right to Life within the Scope of Acts of Terrorism and Violence).

Several important pieces of legislation were adopted, in particular laws on the protection of family and prevention of violence against women, probation, collective bargaining for civil servants, the Ombudsman Institution and the national human rights institution. Nevertheless, in none of these cases did improvements fully bring the necessary alignment with the *acquis* or with European standards. The EU Harmonisation Committee remains an auxiliary committee with a limited mandate and ability to scrutinise legislation.

The parliament's role in addressing key policy challenges continues to be limited. Further efforts are needed to achieve systematic consultation with civil society and other stakeholders throughout the process. There was no progress in improving the parliament's capacity to monitor performance and audit public expenditure, including defence expenditure, despite the improvement in the overall legal framework with the entry into force of the new Law on the Turkish Court of Accounts (TCA) in 2011.

The law on the administrative organisation of parliament was amended in December 2011, partly to transfer responsibility for the parliament's security from the military to the police. A proposal to set up a parliamentary legislative academy to strengthen expertise was approved.

However, more comprehensive reform of the rules and procedures was abandoned, including key elements such as the introduction of planning for the legislative agenda and strengthening the oversight role of the committee system. Few of the capacity concerns identified by the 2010 Parliament/SIGMA peer review have so far been addressed.<sup>4</sup>

*Overall*, the parliament's involvement in addressing key policy challenges improved on a few selective topics. However, proper functioning of the parliament, including the parliamentary committees, based on dialogue among all parties, has yet to be ensured. Despite improvements, capacity constraints remain, in particular with regard to public financial management of military expenditure. Due attention needs to be paid to reform of the legislative framework, particularly the laws on elections and political parties and parliament's rules and procedures, to strengthen parliament's ability to perform its key tasks including oversight of the executive. Consultation of civil society remains the exception rather than the rule.

### *President*

The President stressed the need for a new constitution and expressed concern over the arrest of journalists, maintaining a conciliatory role across Turkey's political spectrum in carrying out his functions.

The January 2012 Law on Presidential Elections and the June Constitutional Court ruling on the same issue ended a long-time controversy over the mandate of President Gül. Accordingly, the incumbent president's term in office is seven years and he is eligible for re-election. The term of office of the new President — to be directly elected in 2014 — will be five years, renewable for one additional term.

### *Government*

In its Annual Plan for 2012 and its Medium-Term Programme for 2012-2013 the government committed itself to further democratisation and political reforms through work on a new constitution intended 'to meet the aspirations and demands of a modern democracy and represent the interests of all citizens of Turkey'. Judicial reform and the normalisation of civilian-military relations remain priorities of the government.

The government continued to reiterate its commitment to EU accession and frequently criticised the political stalemate in the accession negotiations. The ministerial Reform Monitoring Group met twice.

In a significant symbolic gesture in November 2011, the Prime Minister expressed readiness to account for crimes carried out by the state in the predominantly Kurdish Alevi region of Tunceli (Dersim) in 1937-38.

However, there has been no discussion of political responsibility regarding the Uludere incident and rhetoric on a new government strategy for the Kurdish issue has not translated into progress towards a political solution. (*See Situation in the east and south-east*)

Key legislation was adopted with insufficient preparation and consultation, triggering strong criticism.

Members of the government reacted virulently to criticism voiced by the media or civil society, and brought court cases on a number of occasions, for instance when criticised for supposed nationalist tendencies.

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<sup>4</sup> [http://www.tbmm.gov.tr/yayinlar/sigma\\_report\\_final\\_eng.pdf](http://www.tbmm.gov.tr/yayinlar/sigma_report_final_eng.pdf)

There was little progress on devolving powers to *local government*. Administrative decentralisation has not been addressed; in fact, decree-laws issued in 2011 provide for the re-centralisation of some powers, mainly in the fields of land use planning and urban renewal. City councils, designed to encourage citizens' participation in local government, functioned effectively in only a limited number of cities.

There was no progress on removing administrative tutelage and allowing the use of languages other than Turkish in the provision of public services as recommended by the Council of Europe's Congress of Local and Regional Authorities, and the courts ruled inconsistently on the use of more than one language by municipal authorities. Despite several non-prosecution and acquittal decisions, judicial proceedings against mayors and municipal councils for the use of languages other than Turkish in the provision of services were reported. The Ministry of the Interior provisionally suspended 55 local government representatives, including the elected mayors of Van, Şırnak, Silopi, İdil, Uludere and Cizre, alongside several members of municipal and provincial assemblies detained in anti-KCK operations. In one case – Siirt – a mayor's dismissal was suspended following the entry into force of the third judicial reform package (*See Situation in the east and south-east*)

*Overall*, the government committed itself to further democratisation and political reforms through work on a new constitution. However, key legislation was presented and adopted with insufficient preparation and consultation. In incidents such as the Uludere killings of civilians, calls on the authorities for effective and swift investigation and a transparent public inquiry have not been met. Local government in the south-east suffered from the detention of numerous local politicians. Further efforts are needed on administrative decentralisation.

#### *Public administration*

After consultation with the European and other Ombudsmen the Law on the Ombudsman Institution was adopted on 14 June. The law provides that the Institution is answerable to parliament and that no one shall issue instructions to it. The Ombudsman Institution has a Head Ombudsman and a maximum of five Ombudsmen, a secretary general and staff, and a separate budget. Local offices throughout the country can be established. The Head Ombudsman is elected by parliament in up to four rounds of voting; in the fourth, he or she is elected by simple majority. Implementation of this provision and, in particular, the choice of the first Head Ombudsman is crucial for the credibility of the Institution. The Ombudsman Institution examines complaints and makes suggestions concerning the functioning of the administration with respect to the rule of law and human rights. However, it does not have the right to conduct inquiries on its own initiative. Its mandate covers administrative acts of the Turkish Armed Forces and excludes their military acts. Implementation of this provision is crucial: This relates in particular to who decides on what falls under the Institution's remit, and on which basis. The law as it stands does not set out any decision-making process of the Ombudsman Institution, but leaves the matter to a regulation to be adopted by its Board. It is essential for the authority and independence of the institution that this decision-making process leaves the final say with the Head Ombudsman.

A comprehensive civil service reform aiming to improve public human resources management and ensuring merit-based advancement is still needed. A decree law of 2011 allows temporary and contract staff to be granted civil service status at a similar rank. It carries the risk of circumventing recruitment procedures, politicising the civil service and weakening the merit system. The increased ministerial powers introduced in August 2011 over the independent regulatory authorities remained, and in at least one instance — in relation to the Energy Directive — run counter to EU legislation.

Administrative simplification and work on providing basic public services online (e-government) continued. A large number of regulations on administrative simplification were adopted in April 2012. However, no progress was made with developing regulatory impact assessments with a view to increasing the quality of legislation. In particular, no regulatory impact assessment was conducted prior to the adoption of certain key legislation, including the education reform of March 2012. There was an increasing tendency to draft and adopt legislation without appropriate consultation of civil society and other stakeholders.

Almost all implementing legislation relating to the revised Turkish Court of Accounts (TCA) Law was adopted. This strengthened external audit. However, further efforts are needed to implement the TCA Law. In particular, parliament needs to ensure follow-up of TCA audit reports. The July 2012 amendments to the law on the TCA seriously curtailed the powers of the TCA and jeopardize the independence and effectiveness of the TCA audit and control. Implementation of the Law on Public Financial Management and Control continued, with the introduction of strategic planning and performance budgeting. All line ministries and major public agencies prepared performance programmes and accountability reports. However, such planning activities need to be better coordinated with the budget. Additional efforts are required to strengthen the capacity of strategy development units and to implement strategy documents. The internal audit system is not effective and continued to suffer from confusion between the objectives, roles and responsibilities of internal audit and inspectorate functions. Additional internal audit staff needs to be recruited.

*Overall*, progress has been made in legislative reforms with regard to public administration. The establishment of an Ombudsman's office is an important step in safeguarding the rights of citizens and ensuring that public administration is accountable. External audit and public financial management and control have been strengthened, but recent amendments to the TCA law raise serious concerns regarding the independence and effectiveness of the TCA audit and control. Administrative simplification continued. However, comprehensive civil service reform will require greater political support.

#### *Civilian oversight of security forces*

There was further consolidation of civilian oversight of the security forces, and the General Staff generally abstained from exerting direct or indirect pressure on political issues. In January 2012, the national security course given by military officers was removed from the secondary school curriculum. Nonetheless, in January the Chief of General Staff criticised the use of the Kurdish language in public education.

Implementation of the law providing legal remedies to earlier dismissals from the Armed Forces continued.

Ending a lengthy trial process marred by disputes over jurisdiction, the Third High Criminal Court in Van sentenced two non-commissioned officers and a PKK informant to 40 years in prison in the 'Şemdinli case' relating to the bombing in 2005 of a bookstore allegedly owned by a former PKK member.

The Counter-Terrorism Coordination Board established under the Undersecretariat of Public Order and Security was convened twice. An Intelligence Assessment Centre was set up in March 2012 to strengthen intelligence sharing and cooperation between civilian and military security institutions.

Progress was made regarding external audits of security institutions under the Turkish Court of Accounts Law, which provides for ex post auditing of military expenditure. A regulation adopted in August made publication of the TCA external audit reports related to security, defence and intelligence institutions subject to parliamentary approval. The regulation also

introduces limitations for the publication of these reports on grounds of confidentiality. The Parliamentary Petition Commission requested a special commission of experts to inspect and audit the Turkish Armed Forces Assistance Centre. The General Staff periodically published figures on staffing in the armed forces.

In the ‘Sledgehammer’ trial, 323 retired and active duty military personnel, including three former army commanders, were found guilty by a first instance court of attempting to remove or prevent the functioning of the government through force and violence. Judicial investigations into the 1980 coup and the 28 February ‘Postmodern Coup’ of 1997 were initiated. Eight political parties, including the AKP, CHP and MHP, as well as the Council of Ministers, many non-governmental organisations and nearly 340 individuals requested to become co-plaintiffs in the 1980 coup case.

However, the transparency and accountability of the security sector remained limited. The defence budget was disclosed to the public in a highly aggregated manner with significant off-budget military expenditure not detailed.

In August 2012, the Supreme Military Council decided that 40 officers currently under arrest as part of on-going investigations should retire.

The 2012 amendments to the Law on the National Intelligence Organisation introduced a requirement that the Prime Minister authorise investigations involving members of the intelligence services and public officials to whom the Prime Minister has assigned ‘special tasks’. This provides arbitrary immunity for certain public officials, is open to inconsistent interpretation and excludes legal review.

The Law on Provincial Administrations, used as the legal basis for military operations, was not amended to give civilian authorities broader oversight of military operations. Civilian oversight of the Gendarmerie’s law enforcement activities, in particular, was insufficient. An Independent Law Enforcement Complaints Agency has yet to be set up to investigate complaints of human rights abuses, ill-treatment and wrongdoing by and in Turkish law-enforcement agencies.

The duality between the civilian and military court systems continued. Military judges and prosecutors’ independence was limited by the continued authority of military commanders over them. The legal provisions on the composition and powers of the Supreme Military Council need to be reformed, particularly the legal basis for promotions, to ensure appropriate civilian control. The Chief of the General Staff continued to report to the Prime Minister rather than the Minister of Defence. No change was made to the Internal Service Law for the Turkish armed forces, which defines the duties of the military and contains an article leaving the military significant potential scope for intervention in politics.

*Overall*, there was further consolidation of civilian oversight of the security forces. The introduction of parliamentary oversight of the defence budget was positive, although this, too, is limited in practice. The General Staff generally refrained from exerting direct or indirect pressure on political issues. Several symbolic steps have been taken towards further democratisation of civil-military relations. Further reforms, particularly of the military justice system and civilian oversight of the Gendarmerie, are needed.

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

There was some progress in the area of the judiciary.

As regards the *independence* of the judiciary, the High Council of Judges and Prosecutors established its Strategic Plan 2012-2016. It also continued to fully carry out its functions, publishing 34 circulars related to the work of judges and prosecutors, and organised in-service

training and meetings with stakeholders, encouraging their participation in discussions and workshops on the judiciary as a whole.

However, criticisms of the legislation on the High Council, including of the role given to the Minister of Justice and to the Under-secretary of the Ministry, have not been addressed. There was also concern that decisions to suspend prosecutors in the Deniz Feneri case reflected pressure from the executive.

Yargi Sen, a trade union of judges and prosecutors was closed in a case launched by the Governorate of Ankara, on the grounds that the union contravened domestic legislation. European standards provide that judges should be free to form and join professional organisations whose objectives are to safeguard their independence, protect their interests and promote the rule of law.

With regard to *impartiality*, the individual application procedure introduced by the 2010 constitutional amendments and the Law on the Constitutional Court of 2011 entered into force in September 2012. Anyone who claims that his or her fundamental rights have been violated can apply to the Constitutional Court if other domestic remedies have been exhausted.

The Ministry of Justice is drafting, in cooperation with the Council of Europe, a Human Rights Action Plan, based on the case law of the European Court of Human Rights and expected to address issues raised in judgements of the Court where Turkey was found to violate provisions of the European Convention on Human Rights. The Ministry and the High Council have also conducted, and plan to continue to deliver, human rights training for judges and prosecutors.

However, criticisms of existing legislation on the Constitutional Court have not been addressed. There are still legal provisions and practical arrangements for courthouses and during trials regarding judges, prosecutors and the defence which do not guarantee 'equality of arms'. In December, members of the Court of Cassation decided to bring a lawsuit against the leader of the main opposition party for his critical remarks about the newly elected members of the court being under the control of the executive. In April, the president of the Constitutional Court stated that the establishment of a new 'pro-tutelary' judiciary should not be allowed.

Judges and prosecutors have failed to apply international human rights agreements when they conflict with domestic law, even though the Constitution clearly states that such agreements have precedence. This failure was criticised by the Presidents of the High Courts. In response, the High Council established new criteria for assessing judges and prosecutors which will reward respect for the provisions of the European Convention on Human Rights and the European Court of Human Rights judgments.

The Regulation on the Judicial Police adopted in 2005 under Article 167 of the Criminal Procedure Code has not yet been implemented in accordance with European standards and there are no judicial police units attached to prosecution offices. Prosecutors rely on police units working for the Ministry of the Interior and have to develop their capacity to guide police investigations effectively and keep strict control of police activity.

Access to Court of Cassation decisions is limited, which hinders understanding and awareness of case law. Spokespersons have been appointed at fifteen prosecution offices and courts; however, the system is in its infancy and has yet to reach the point of providing adequate information to the public.

With regard to the *efficiency* of the judiciary, amendments to the Laws on the Court of Cassation and the Council of State aiming at tackling their backlog of cases started to generate positive results, although the backlog is still considerable. The number of cases before the

Court of Cassation was roughly 0.88 million in July 2012, down from 1.12 million in July 2011. As regards the Council of State, the number of pending cases in June 2011 and June 2012 was approximately the same; however, the number of finalised cases increased considerably during the same period. As regards first-instance courts, there were approximately 1.34 million criminal cases pending at the end of 2011, down from 1.40 million at the end of 2010. Similarly, there were 1.11 million civil cases pending at the end of 2011, roughly the same as at the end of 2010, while administrative courts had roughly 170,000 cases pending at the end of 2011, a decrease of 30,000 as compared to those at the end of 2010.

A third judicial reform package was adopted in July 2012. It includes amendments to a number of laws and aims amongst others at accelerating judicial procedures. A Law on Mediation, which should ease the burden on the judiciary, entered into force in June 2012.

The 2012 budget for the judiciary amounted to approximately € 2.69 billion, roughly 0.44% of Turkey's GDP. The total number of judges and prosecutors at the end of 2011 was 9,456<sup>5</sup>. Women constitute approximately 24% of the judiciary and are underrepresented in prosecutorial and managerial positions. The number of judges and prosecutors increased to 8.30 per 100,000 people, up from 7.66 in 1997. Judges seconded to the Ministry of Justice have been appointed to the Council of Europe, the European Court of Human Rights and Turkey's permanent representations in Strasbourg and Brussels to represent the Turkish authorities to these institutions.

However, the Ministry and the High Council have yet to develop benchmarks to monitor and assess the performance of the courts, the length of court proceedings and the efficiency and effectiveness of the judicial system.

The third judicial reform package relates also to the Turkish criminal justice system. The specially authorised courts established under (former) Articles 250 – 252 of the Criminal Procedure Code were abolished; instead, regional serious crimes courts were set up under Article 10 of the Anti-Terror Law that will hear the same criminal cases. These courts have specialised judges whose only task is to decide on preventive measures during the investigation phase.

Under the new legislation it will no longer be possible for courts to ban publications; put time limits on defendants and prosecutors in the context of judicial processes; expel the accused or the defence from any future or all hearings on the grounds of behaviour deemed to disturb court order and discipline; limit to one the number of defence lawyers while the suspect's statement is being taken or during custody; issue notifications through mass media depending on the urgency of the case. The upper three-year limit for judicial control was lifted: under former practice, only those accused for crimes carrying a maximum prison sentence of less than three years could be put under judicial control rather than prison before or during trial. New forms of judicial control were introduced.

Article 101 of the Criminal Procedure Code now clearly provides that (a) a strong suspicion that the offence has been committed; (b) the existence of grounds for arrest<sup>6</sup>; and (c) the proportionality of the arrest with a warrant must all be explicitly documented and explained to the accused. This clarifies the general obligation of judges to reason their opinion. It is not clear, however, whether these provisions apply also to the high-profile cases such as *Ergenekon*, *Sledgehammer*, *Cage*, *Oda TV* etc., the bulk of which fall under Article 100 of the Criminal Procedure Code. Finally, investigations, criminal proceedings and execution of

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<sup>5</sup> 10,318 together with those in the administrative judiciary.

<sup>6</sup> I.e. to avoid that the person concerned absconds, commits a serious offence, interferes with the course of justice, or poses a serious threat to public order.

sentences for offences committed before 31 December 2011 are postponed. This provision applies to offences carrying a maximum prison sentence of five years and relates to opinions expressed publicly provided the crime is not repeated in three years. Overall, these are all steps in the right direction of guaranteeing procedural rights.

The crimes falling under the scope of the abolished legislation (former Article 250 of the Criminal Procedure Code), were broadly investigated and tried without prior permission, irrespective of the status of the accused as government official, ensuring thus equality before the law. Under the revised Article 10 of the Anti-terror Law, however, prior approval of the authorities for government officials is now needed including for crimes committed in the framework of an organisation to gain illegal economic advantage; launder money; or produce or traffic drugs.

A number of provisions have remained the same in the third judicial reform package. This includes the permitted length of pre-trial detention, which remains ten years, an excessively long period in particular if pre-trial detention covers only the period up to the first instance decision. There is conflicting interpretation of the Turkish Court of Cassation on this issue, i.e. whether the pre-trial detention covers the period up to the first instance decision or the final one, which needs to be addressed.

Finally, and more importantly, the third package fails to sufficiently revise problematic areas related to the administration of justice and protection of fundamental rights; it does not address issues related to definitions of criminal offences under either the Criminal Code or the Anti-terror Law that are at the source of a number of problems of the Turkish criminal justice system.

In practice, concerns have been expressed as regards the criminal justice system. Some of these concerns focused on the defence's limited access to the prosecution file, which did not allow allegations against the accused to be challenged effectively. Other concerns related to decisions to arrest or continue to detain suspects on grounds which were almost always considered to be inadequate because they only repeated the wording of the Criminal Procedure Code. Pre-trial detention was also longer than was strictly necessary in the public interest. Alternatives to pre-trial detention were not considered. Turkey lacks an effective and genuinely adversarial domestic remedy that could offer applicants the opportunity to challenge the lawfulness of their pre-trial detention with reasonable prospects of success. On many occasions there has been criticism of the quality of the indictments and of the indictment process. Leaks of information, evidence and statements continued to raise concerns. In some cases there were reports that cross-examination in criminal trials was not carried out properly. Judges and prosecutors have been given no training in cross-examination. The practical impact of the third judicial reform package, including on pre-trial detention, needs to be further assessed.

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

Revision of the Justice Ministry's 2009 Judicial Reform Strategy, whose objectives were achieved to a large extent, continues, with the participation of all stakeholders, the Turkish legal community and civil society.

*Overall*, some progress has been made in the area of the judiciary. Legislation has been amended to improve the efficiency of the judiciary and address the increasing backlog of the courts. The third judicial reform package, adopted in July, while failing to sufficiently address problematic areas in the administration of the Turkish criminal justice system, constitutes a step in the right direction. The 2009 Judicial Reform Strategy is being revised. However,



further efforts are needed with regard to the independence, impartiality and efficiency of the judiciary, including the criminal justice system and the large backlog of serious criminal cases. The participation rate of women in the judiciary needs to be improved.

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

In line with the National Anti-Corruption Strategy, the Executive Committee for Increasing Transparency and Fighting Corruption continued to work on proposals to revise anti-corruption rules. This contributed to changes in the area of incrimination and the financing of presidential candidates. However, further legislative changes are needed to complete the technical work of the Executive Committee. The role of civil society also needs to be strengthened.

The third judicial reform package, adopted in June 2012, includes amendments to provisions on corruption in the Criminal Code, redefining and extending the scope of bribery as an offence, in line with certain recommendations of the Group of States against Corruption (GRECO) on ‘Incrimination’. However, other recommendations of the Third Round Evaluation Report on ‘Incrimination’ and ‘Transparency of Party Funding’ have been implemented only partially or not at all. There has been no progress in limiting the immunity of Members of Parliament (MPs) and senior public officials in corruption-related cases, nor in establishing objective criteria for lifting their immunity.

There has been some progress on political financing. The 2011 amendment to the law on the Constitutional Court, which authorised the Court of Accounts to audit technical aspects of political parties’ finances and to send its audit reports to the Constitutional Court for final decision, reinforced auditing capacity with regard to political party financing. The two biggest parties represented in Parliament published their finances, declaring their income and expenditure in detail.

The Law on Presidential Elections adopted in January 2012 introduced strict rules on transparency of financing for presidential candidates during elections. It also covers prohibited funding sources, donation ceilings, and candidates’ obligations to disclose their assets and to submit specified financial information during the campaign period to the Supreme Election Board for examination within specified timeframes.

However, remaining legal loopholes relating to political financing continued to be a concern. The auditing of political parties remained weak and there was no legal framework for auditing election campaigns or the financing of individual candidates. There was no legislation on campaign financing other than for political parties. Political party candidates, independent candidates for election and elected representatives were not subject to the regulations on financial transparency that apply to political parties. There were not enough checks on assets declared by political figures and public officials.

3707 civil servants working for central and local government received training on ethics between October 2011 and May 2012. However, no progress was made on extending codes of ethics to academics, military personnel or the judiciary.

A track record of investigation, indictment and conviction in corruption cases has not yet been established.

In April 2012, the Ankara Serious Crimes Court accepted an indictment against 20 suspects in a fraud case concerning the Deniz Feneri charity on charges of forgery, abuse of authority and the participation of a public servant in forgery. There was no charge of major organised criminal activity. The prosecutors removed from the investigation in August 2011 were put on trial, accused of forgery of official documents and misuse of authority. This raised concerns about judicial independence.

A corruption investigation involving 130 officials of the İzmir Metropolitan Municipality was started. In January 2012, the İzmir Specially Authorised Chief Public Prosecutor demanded a sentence of 397 years in prison for İzmir's mayor on 33 charges, including rigging state tenders, abuse of office, bribery, forgery, and embezzlement. The indictment also accused the mayor of forming and leading a criminal organisation, covering up crimes and protecting criminals. Several other corruption cases against municipalities are ongoing.

*Overall*, limited progress was made on fighting corruption, with some developments on incrimination and transparency in the financing of political parties. Effective implementation of the National Anti-Corruption Strategy requires greater political engagement and broader civil society participation. Political financing needs to be more transparent. The broad scope of parliamentary immunity remains a shortcoming in this area. A track record of investigation, indictment and conviction in corruption cases has not yet been established. There are concerns about impartiality in the processing of anti-corruption cases.

## **2.2. Human rights and the protection of minorities** (See also Chapter 23 – Judiciary and fundamental rights)

### *Observance of international human rights law*

With regard to **international human rights instruments** Turkey ratified the Council of Europe's Convention on preventing and combating violence against women and domestic violence on 14 March 2012. Three additional Protocols to the European Convention on Human Rights have not yet been ratified<sup>7</sup>.

During the reporting period, the **European Court of Human Rights** (ECtHR) delivered judgments on 160 applications finding that Turkey had violated rights guaranteed by the ECHR. The number of new applications to the ECtHR went up for the sixth consecutive year, with 8.010 new applications having been made since September 2011. Most concern the right to a fair trial and protection of property rights. In September 2012, 16.641 applications regarding Turkey were pending. Turkey has abided by the majority of rulings, but has not executed all the judgments. Based on the *Kaplan v. Turkey* ruling, a draft law setting up a commission on long trials has been submitted to the parliament. The draft law aims to provide a domestic remedy for cases in which the right to be tried within a reasonable time is breached. In some cases, rulings have been awaiting follow-up by Turkey for several years. The EU has called on Turkey to enhance its efforts to implement all the judgements of the ECtHR.

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 *Xenides-Arestis v. Turkey*, *Demades v. Turkey*, and *Varnava and others v. Turkey*, Turkey has yet to fully execute the decision, including paying the 'just satisfaction' awarded by the ECtHR to the applicants. Following the Grand Chamber Decision of 5 March 2010 in the *Demopoulos v. Turkey* case, 3275 applications from Greek Cypriot owners have been lodged with the Immovable Property Commission (IPC), 1776 of them during the reporting period. So far, around 270 cases have been concluded, mainly with friendly settlements and the IPC paid GBP 81,292,225 in compensation (€ 101,706,400).

Regarding **promotion and enforcement of human rights**, the training of public officials, judges, public prosecutors and police officers continued. The Department of Human Rights in the Ministry of Justice launched a website that provides translations of relevant judgments of the ECtHR.

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

In line with its amended mandate the parliament's Human Rights Inquiry Committee can now take the lead on certain draft laws, proposals and bylaws submitted to the parliament, such as the law on the National Human Rights Institution. Following this amendment to its mandate, 23 legislative proposals were referred to the Committee.

The Committee received nearly 4000 petitions in the reporting period, most of which concerned allegations of unfair trial or ill-treatment. It adopted ten reports.

Legislation on an Ombudsman Institution has been adopted (*See Public administration*). Independent monitoring bodies have not yet been set up in line with the Optional Protocol to the Convention Against Torture. Legislation establishing an anti-discrimination and equality board has not been adopted.

Parliament adopted a law setting up the Turkish National Human Rights Institution in June. The law does not fully comply with the UN Paris principles, in particular as regards the independence of the proposed body. Moreover, the text was not discussed with stakeholders, nor does it sufficiently reflect the concerns and proposals of national and international experts.

The number of high-profile cases, individual criminal proceedings and investigations launched against *human rights defenders* went up, mostly under terrorism-related legislation. Serious concerns remain as regards the broad definition of terrorism under the Anti-Terror Law. (*See Situation in the east and south-east and Freedom of expression*)

*Overall*, some progress was made on the observance of international human rights law, notably through the efforts of the Ministry of Justice and the parliamentary Human Rights Inquiry Committee. However, important reforms are needed to strengthen human rights structures and the number of criminal proceedings brought against human rights defenders is a matter of concern.

#### *Civil and political rights*

The government pursued its efforts to ensure compliance with legal safeguards for the **prevention of torture and ill-treatment**. The downward trend in the incidence and severity of ill-treatment by law enforcement officials continued. Forensic doctors' reports or reports by universities or independent institutions are now recognised as proof by some courts, in addition to the reports of the Forensic Medicine Council under the Ministry of Justice.

However, excessive use of force during arrest and outside official detention places, as well as in official places of detention and prisons, continues to be a matter of concern. There have been several reports of disproportionate use of force by law enforcement bodies, including fatal shootings.

Turkey has ratified the Optional Protocol to the Convention Against Torture, but has not established a National Preventive Mechanism (NPM) in line with the requirements of the Optional Protocol.

Treatment of migrant detainees in detention centres needs to be further improved.

Regarding the *fight against impunity*, the Council of State confirmed a court order to the Ministry of the Interior to pay reparations to 16 youths detained in Manisa Province on 26 December 1995 and tortured in the Manisa Security Directorate.

In general, efforts to fight impunity for human rights violations have been insufficient. Prompt, thorough, independent and effective investigation of allegations of torture committed by security and law enforcement officers is often lacking. Moreover, there is no exception from the statute of limitations for torture cases.

Several trials are ongoing concerning allegations of ill-treatment of conscientious objectors in military prisons. The parliamentary Human Rights Inquiry Committee criticised practices in military prisons and stated that the punishment of soldiers should be decided by an independent judicial authority and not by a senior military officer. An ECtHR judgement on this issue remains to be executed.

Law enforcement bodies regularly launched counter-cases against people who alleged torture or ill-treatment. In many instances such cases were given priority by the courts. The absence of prompt, thorough, independent and effective investigations by courts leads to extended trials. Law enforcement officers found guilty of torture, ill-treatment or fatal shootings continued to receive short or suspended sentences.

Politicians from all parties criticized the appointment of a police chief, who had faced charges of torture and rape in the past, to a key position in the anti-terror department in Istanbul. The public debate on this was extensive.

The lack of a judicial police force leads to administrative investigations into allegations of torture or ill-treatment being carried out by fellow police officers, putting at risk the impartiality of the investigation.

There is no comprehensive approach to missing persons, the exhumation of mass graves or thorough and independent investigations into alleged cases of extrajudicial killings by security and law enforcement officers. Mass graves discovered in the south-east have not been adequately investigated.

*Overall*, there has been a downward trend in torture and ill-treatment in places of detention; however, allegations of excessive use of force continue to be a matter of concern, and there has been little progress on tackling impunity. There is a significant backlog of judicial proceedings, with priority given in several well-documented cases to counter-allegations lodged by the security forces.

Reform of the **prison system** continued. The case management model developed by the Ministry of Justice to improve rehabilitation services is in operation in five rehabilitation centres for convicts and detainees. The Ministry of Justice started an investigation into allegations of ill-treatment in the Adana Pozanti juveniles' prison. Implementation of the tripartite protocol between the Ministries of Health, Justice and the Interior began in November 2011, to prevent law enforcement officers being present at medical examinations of prisoners. Its implementation needs to be monitored closely to ensure that it is in line with European standards.

The number of judgments including probation sentences increased, and an amendment of the Law on Conditional Release resulted in a significant number of prisoners being released.

Prison overcrowding remained a serious concern, with 41% of the prison population awaiting final sentencing. The prison system does not have adequate resources. Ill-treatment allegations continue to cause concern, including the tape-recording of prisoners, excessive use of solitary confinement, and excessive strip searches of inmates and visitors.

The number and quality of juvenile correctional facilities remains insufficient. Following the allegations of ill-treatment in Adana Pozanti juveniles' prison, minors were transferred to a facility in Ankara far from their families. Children, especially girls, are not held separately from adults in all prisons.

The standards for monitoring national prisons are not in line with those of the UN. Prison monitoring boards are not effective and various prisons have no dedicated boards. The boards

have neither the right nor the resources to monitor prisons effectively. Some provincial boards carried out random visits, but their reports have not led to changes in practice.

A general statement of principles on prisoners' rights, incorporating the principles of the European Convention of Human Rights, is lacking. Excessive restrictions continued regarding the availability of newspapers, magazines and books in prisons. The practice adopted in relation to open and closed visits is of concern. Reports of restrictions on the use of the Kurdish language during visits and exchanges of letters persist. 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 Optional Protocol to the Convention Against Torture.

Many sick and terminally ill convicts lack proper medical treatment. Complaints that conditions in F-type high-security prisons cause physiological and psychological damage have been reported.

*Overall*, prison overcrowding remains problematic, with a serious impact on sanitation and other physical conditions. A reform of the complaints system in prisons is needed.

There has been limited improvement in **access to justice**. A Ministry of Justice webpage provides information on legal matters and brochures provide information on the procedures to follow. Bar associations and other civil society organisations also contributed to citizens' awareness of their rights in terms of access to justice.

However, there is no overall strategy for legal aid. The financial resources allocated are not sufficient and the low fees for legal aid lawyers are not comparable with fees paid by defendants in ordinary cases. This can lead to a decrease in the quality of the services provided. Due to the low fees and the lack of effective monitoring, lawyers appointed by the bar associations do not always provide an effective defence for the accused. The current system gives rise to concerns and needs to be revised.

Public awareness of legal aid is limited in rural areas and among disadvantaged groups. Legal aid is not accessible for a large proportion of prison inmates, women and juveniles. Lack of effective protection still prevents victims of domestic violence from obtaining justice. Misguidedly, defendants continue to believe that requesting a lawyer implies guilt.

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

As regards **freedom of expression**, a number of journalists were released pending trial after excessively long periods spent in pre-trial detention. The third judicial reform package prohibits the seizure of written work before publication. It also eases restrictions on media reporting of criminal investigations. There continues to be room for debating some topics perceived as sensitive, such as the Armenian issue or the role of the military, and opposition views are regularly expressed.

However, these reforms fall short of a significant improvement regarding freedom of expression. The increasing incidence of violations of freedom of expression raise serious concerns, and freedom of the media continued to be further restricted in practice. The increasing tendency to imprison journalists, media workers and distributors fuelled these

concerns.<sup>8</sup> The European Court of Human Rights received a large number of applications concerning violations of freedom of expression by Turkey.

A large number of cases were brought against writers, academics and journalists writing and working on the Kurdish issue, but also scholars and researchers. Several left-wing and Kurdish journalists were arrested on charges of engaging in propaganda for terrorism, others remained in prison. (*See Situation in the east and south-east*) More than 2.800 students are in detention, mostly for terrorism related charges. The legal framework on organised crime and terrorism is still imprecise and contains definitions which are open to abuse, leading to numerous indictments and convictions. Moreover, its interpretation by prosecutors and courts is uneven and is not in line with the European Convention on Human Rights or the case-law of the European Court of Human Rights. Turkey needs to amend its penal code and anti-terror legislation to make a clear distinction between the incitement to violence and the expression of nonviolent ideas.

The application of Articles 6 and 7 of the Anti-Terror Law in combination with Articles 220 and 314 of the Turkish Criminal Code leads to abuses; in short, writing an article or making a speech can still lead to a court case and a long prison sentence for membership or leadership of a terrorist organisation.

High-level government and state officials and the military repeatedly turn publicly against the press and launch court cases. On a number of occasions journalists have been fired after signing articles openly critical of the government.

All of this, combined with a high concentration of the media in industrial conglomerates with interests going far beyond the free circulation of information and ideas, has a chilling effect and limits freedom of expression in practice, while making self-censorship a common phenomenon in the Turkish media.

Though very few cases have been initiated on the basis of Article 301 of the Turkish Criminal Code, implementation of two ECtHR judgments on Article 301 are pending.

Website bans of disproportionate scope and duration continued. Since May 2009 the Telecommunications Communication Presidency (TİB) has published no statistics on banned sites. Court cases are 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. An Information Technologies and Communication Board (ICTA) decision introducing optional internet filters entered into force. It is essential that it is implemented in line with European standards with regard to the right to receive and impart information and ideas without interference by public authorities.

The Supreme Board of Radio and Television (RTÜK) issued warnings to television stations and imposed fines on them, in particular for representing superstitious beliefs, denigrating morals and national values and the protection of the family, representing obscenity and praising terrorism.

*Overall*, the increase in violations of freedom of expression raises serious concerns, and freedom of the media was further restricted in practice. The legal framework, especially as regards organised crime and terrorism, and its interpretation by the courts, leads to abuses. Together with pressure on the press by state officials and the firing of critical journalists, this situation has led to widespread self-censorship. Frequent website bans are a cause for serious concern and there is a need to revise the law on the internet.

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<sup>8</sup> According to the OSCE there were 95 journalists in prison in April 2012, compared to 57 in April 2011. 20 of the journalists on the 2012 list have been released since, 10 of them as a consequence of the entry into force of the 3<sup>rd</sup> judicial reform package.

As regards **freedom of assembly**, 1 May demonstrations took place in a peaceful atmosphere throughout the country. Several activities including the ‘Armenian Genocide Commemoration Day’ organised by several civil society groups and intellectuals to commemorate the 1915 events also proceeded peacefully.

However, in general there was a shortfall in the implementation of the constitutional right to hold demonstrations and meetings. Excessive administrative restrictions on freedom of assembly persist, such as substantial prior notification requirements for demonstrations, and sometimes the confinement of demonstrations to designated sites and dates that are unsuitable. The *Newroz* (New Year) ceremonies in the South East were restricted to only one day. On several occasions there were scenes of violence, disruption of demonstrations and disproportionate use of force by security forces against demonstrators — especially in rallies related to the Kurdish issue, students’ rights, the environment, activities of the Higher Education Board (YÖK) and trade union rights. Two students were sentenced to eight years in prison for displaying a banner protesting against tuition fees during a rally attended by the Prime Minister.

In some provinces, press statements by non-governmental organisations and human rights defenders were subject to fines for violating Law No 2911 on demonstrations. Others were fined repeatedly for disobeying orders under the Law on Misdemeanours.

Allegations that members of the security forces have used excessive force have not always been prosecuted or investigated thoroughly. (*See section on impunity*) Many court cases were launched against human rights defenders and civil society representatives who exercised their right to peaceful assembly. Human rights defenders also faced prosecution and legal proceedings on charges of terrorist propaganda during demonstrations and protest meetings and following their attendance at press conferences.

**Freedom of association** legislation is broadly in line with EU standards. However, the need to change the legal framework with regard to political parties and trade unions was not met. There were examples of restrictive interpretation of legislation vis-à-vis associations and harassment of their leaders<sup>9</sup>. Freedom of association for trade unions is compromised in practice by police raids, as happened in June with the arrests of more than 70 trade union activists, including the President of KESK, a civil service confederation.

Civil society organisations (CSOs) continued to face fines, closure proceedings, and administrative obstacles to their operation. A decree adopted in November 2011 giving additional authority to the Ministry of Health and creating a Board of Health Professions was criticised by the Turkish Medical Association and the World Medical Association for reducing professional autonomy. Two foreign civil society organisations were refused the right to establish in Turkey.

The trade union for civilian staff working for the military, SIME-SEN, is facing a court action to close it down, as civil servants employed in the Ministry of Defence and Turkish Armed Forces are not allowed to create or join trade unions.

Legislative and bureaucratic obstacles impeding the financial sustainability of CSOs persisted. The collection of domestic and international funds was difficult and bureaucratic procedures

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<sup>9</sup> The Diyarbakir Sarmaşık Association, the Orhan Dogan Support Houses for Education, the Dersim Alevi Faith and Culture Academy Association, and the cases of the executive members of the Socialist Democracy Party and the Social Freedom Platform, the Istanbul branch of the Human Rights Association, the Research and Development Association for Kurdish Language (Kurdi Der) İzmir Branch, the Board of Health Professions and the Turkish Medical Association are alleged examples of the government interfering disproportionately with freedom of association.

cumbersome. There are numerous complaints of discrimination when applying for public benefit status for associations and in getting permission to raise funds.

*Overall*, regarding freedom of assembly and association, the picture was mixed. Where demonstrations were not authorised there were cases of violence and disproportionate use of force by the security forces, especially but not only in relation to the Kurdish issue. The constitutional right to freedom of assembly and association appears to be interpreted at times in an overly restrictive manner. There is a need to revise the law on demonstrations and meetings, to investigate allegations against members of the security forces for use of excessive force and to prosecute where appropriate. Fundraising rules remains restrictive and discretionary. There were no developments regarding legislation on 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 third time after almost nine decades, the Divine Liturgy of the Dormition of Theotokos at the Sumela Monastery in the Black Sea province of Trabzon. In September the third religious service since 1915 was held at the Armenian Holy Cross Church on the Akhdamar island in lake Van. A number of crypto-Armenians have started to use their original names and religion. Police protection has been provided to a number of church leaders and several churches receive police protection during services. According to the Turkish authorities the Ecumenical Patriarch is free to use the title 'Ecumenical'. However, the Patriarchate has received no indication from the authorities to this effect and still uses the title 'Fener Rum Patrikhanesi' in its letterhead in Turkish.

As regards conscientious objection, some progress was made on addressing repeated prosecution and conviction, and towards introducing a civilian alternative to military service under certain circumstances. Military courts started to issue rulings in line with judgments of the European Court of Human Rights.

A court of first instance in Ankara rejected a request to ban an association which helped build *cem* houses, Alevi places of worship. However, this decision was reversed in June by the Court of Cassation. The case has been brought to justice by the Ministry of the Interior. New religious education textbooks containing information on the Alevi faith have been prepared by the Ministry of National Education for the academic year 2012-2013.

Implementation of the August 2011 decree law and the October Regulation amending the February 2008 Law on Foundations continued. (*See section on property rights*).

However, the 2007 *Zengin v. Turkey* ECtHR judgment on religious culture and ethics classes, which remain compulsory in primary and secondary schools, has yet to be implemented. Children who did not attend were subject, in several instances, to discrimination. No alternatives were provided for students exempted from these classes.

Non-Muslim communities — as organised structures of religious groups — continued to face problems due to their lack of legal personality, with adverse effects on property rights, access to justice, the ability to obtain work, residence permits for foreign clergy and fundraising. The relevant 2010 Council of Europe Venice Commission recommendations have yet to be implemented.

Restrictions on the training of clergy remain. Neither the Turkish legislation nor the public education system provide for private higher religious education for individual communities. Despite announcements by the authorities, the Halki (Heybeliada) Greek Orthodox seminary remained closed. The Armenian Patriarchate's proposal to open a university department for the Armenian language and clergy remained pending for a fifth year. The Syriac Orthodox community can provide only informal training outside any officially established schools.



As regards participation in religious elections, in contradiction with European standards Turkish and foreign nationals are not treated equally in terms of their ability to exercise their right to freedom of religion by participating in the life of organised religious communities.

Personal documents such as identity cards include information on religion, leading to some discriminatory practices or harassment by local officials of persons who converted from Islam to another religion and thereafter sought to amend their ID cards. The 2010 ECtHR ruling that indication of religious affiliation on identity cards is in breach of the Convention has yet to be implemented.

Concrete follow-up of the opening made in 2009 to the Alevi is lacking. *Cem* houses were not officially recognised and Alevi experienced difficulties in establishing new places of worship. Alevi were concerned by the marking of many houses of Alevi citizens in a number of provinces and by incidents against them. Complaints were submitted to the prosecutors' offices by Alevi associations; judicial and administrative investigations are continuing. A demand to open a *cem* house in the parliament was rejected on the grounds that Alevi MPs could go to the mosque. Several commemoration ceremonies by Alevi were prevented by police, some through the use of force as was a demonstration against the closure of the Madimak court case. Some Alevi encountered job discrimination in the civil service.

Non-Muslim religious communities reported frequent discrimination, administrative uncertainty and numerous obstacles to establishing or continuing to use their places of worship. Implementation of zoning legislation by local authorities was inconsistent, resulting in arbitrary refusals to issue construction and renovation permits for places of worship. In November, the DG for Foundations declared the Hagia Sophia Museum in Iznik a mosque.

Especially in south-eastern provinces, renewal of foreign clergy permits was denied, without adequate explanation and in an inconsistent manner. Clear criteria for refusals to renew residence and/or work permits need to be established.

Alevi and non-Muslim religious communities have to pay electricity and water bills, whereas the State budget covers such expenses for mosques.

Non-Muslim religious communities reported several instances of hate crimes. Anti-Semitism and hate speech in the media, including in TV series and films, has not been punished. There is a culture of intolerance of minorities. The court case concerning the killing of three Protestants in Malatya in April 2007 continued; allegations of links to the *Ergenekon* organisation are being reviewed by the court following arrests in 2011. No clear conclusion has been reached yet 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 case is continuing.

Missionaries are widely perceived as a threat to the integrity of the country and to the Muslim religion. A classified report by the MIT (National Intelligence Organisation) on missionary activities in east and south-east Anatolia focusing on citizens of Kurdish origin, using discriminatory language against Christian churches and missionaries, was revealed in the media in November. A Diyanet five-year strategy plan also aims to follow and evaluate missionary activities inside and outside the country.

Implementation of the May 2010 prime ministerial circular instructing all relevant authorities to pay due attention to the problems of non-Muslim Turkish citizens was not always consistent.

ECtHR judgments on Turkey regarding *conscientious objectors* refusing to serve in the military on religious or other grounds have yet to be implemented. Turkey is the only country of the Council of Europe that does not recognise the right to conscientious objection for conscripts.

*Overall*, there was limited progress on freedom of thought, conscience and religion. There has been some progress on conscientious objection in terms of application of the case law of the European Court of Human Rights. Dialogue with the non-Muslim religious communities continued. However, people professing faith in minority religions or indeed no faith continued to be discriminated against, and were subject to threats from extremists. A legal framework in line with the ECHR has yet to be established to ensure 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)*

Steps have been taken to improve legislation regarding respect for **women's rights and gender equality**. The Law on the Protection of Family and Prevention of Violence against Women adopted in March aims to protect family members and those in relationships outside marriage from violence. The procedures for urgent cases are generally positive, as was the inclusive consultation exercise undertaken by the authorities with civil society. A National Action Plan to combat Violence against Women (2012-2015) was adopted by the Ministry for Family and Social Policies. The plan focuses on five areas: legislation, awareness raising and change of attitudes, empowerment of women and preventive services, health care and cooperation among stakeholders.

The Ministry of Family and Social Policies and the Gendarmerie signed a protocol providing for Gendarmerie staff to be trained in the prevention of violence against women and gender equality issues with a view to supporting victims of violence. The Capital Markets Board issued a statement stipulating that at least one board member of publicly traded companies should be female. The Ministry of Family and Social Policies signed a protocol with the Ministry of Labour and Social Security aimed at increasing female employment and labour participation rates, including those of women subject to violence.

The Parliamentary Committee on Equal Opportunities between Men and Women has issued 20 opinions on draft legislation since being set up.

However, there is still room for the Committee to be more involved in mainstreaming gender equality via the legislative process, in monitoring the implementation of laws and circulars issued on gender equality and in engaging with women's organisations. Gender equality, combating violence against women, including honour killings, and early and forced marriages remain major challenges for Turkey.

Certain last-minute amendments to the Law on the Protection of Family and Prevention of Violence against Women raised concern. Also, substantial efforts are needed to turn this new law, and earlier legislation, into political, social and economic reality. A law on caesarean sections was adopted with insufficient preparation and consultation with civil society, and in particular without hearing the views of women's organisations. In the debate that preceded this law and a similar debate on abortion, government statements neglected the overall need for increased respect for women's rights in practical terms.

Women's participation in the labour market remains low overall, although it has increased slightly. Women are mostly employed as unpaid family workers with no social protection apart from that afforded by other family members. Provision of childcare facilities for working women remained an issue; work on a regulation on parental leave did not proceed. Efforts to increase labour market flexibility do not take into account the need to avoid gender-based labour market segmentation.

The number of women in politics and at senior level in the administration remained very small. Women were underrepresented in the management of trade unions. Several female trade union activists were detained and arrested prior to international women's day.

The government did not respond to demands by the women's movement to revise the Law on Political Parties and the Law on Elections so as to make the inclusion of women legally binding on political parties.

Women's negative portrayal in the media and a male-dominated discourse continued to be a concern.

Detailed statistics on incidents of violence against women, including murder, are not available. Certain court judgments in cases of violence against women raised concern: the rulings attempted to justify violence inflicted on women and sometimes on juveniles with reference to the victim's family background and attitude.

In some cases, police officers tried to convince domestic violence victims to return to their alleged abusers rather than help them pursue their complaints. There were a number of cases in which the victim of violence sought help in vain from the authorities and ended up being killed. Awareness-raising and training for members of the judiciary and law enforcement officers on new legislation is needed. The capacity of family courts has not increased. As regards domestic violence, the ECtHR judgment in the *Opuz v. Turkey* case was not implemented. The issue of early and forced marriages remains a serious concern.

The government needs to proactively promote changes in stereotypes and in the perception of gender roles in all spheres. The sustainability of actions, policies and circulars on women's rights and gender equality supported through national and international resources is critical.

*Overall*, steps have been taken to improve legislation regarding respect for women's rights and gender equality. The Law on the Protection of Family and Prevention of Violence against Women is an improvement on previous legislation, protecting family members and those in relationships outside marriage from violence. The procedures for urgent cases are particularly positive, as was the inclusive consultation exercise undertaken by the authorities with civil society, even if NGOs are critical of certain last-minute amendments to the text. However, substantial efforts are needed to turn this new law, and earlier legislation, into political, social and economic reality. Legislation needs to be implemented consistently across the country. There is a need for greater involvement of and participation by women in employment, policy-making and politics. The issue of early and forced marriages remains a concern.

With respect to **children's rights**, the ratio of children enrolled in pre-school education reached 44% for the 4-5 years age group, up 1% on the previous reporting period. Efforts to develop a national model for pre-school education services, with relevant quality standards, continued. The number of pre-school teachers increased by around 15%.

Primary and secondary school enrolment rates increased for the 2011-2012 educational year. The net school enrolment rate for the 6-13 years age group was 99.3%. Secondary school enrolment rates reached 67.4%, with the difference between enrolment rates for girls and boys falling to 2.5%. Mobile education services for girls were provided in several provinces, although coverage was limited. Optional courses are offered to secondary education students on living languages and dialects spoken in Turkey as of the academic year 2012-2013. The tendency towards de-institutionalisation of care services for children continued, with the introduction of a support scheme for family-based care.

The Ministry of Labour and Social Security has taken steps to combat child labour, especially in seasonal migrant agricultural work and hazelnut collection. An evaluation of the impact of such measures and an updated survey of the situation of child labour is needed.

However, regional disparities in school enrolment rates persisted, with low enrolment levels in certain provinces in the east of the country. Drop-out and absenteeism rates continued to be high among the children of seasonal agricultural migrant families and Roma families. An

effective monitoring and inspection mechanism, covering all types of pre-school education and care services, has yet to be established.

Efforts to fight violence against children do not include an effective mechanism for monitoring and prevention. Awareness-raising efforts on the de-institutionalisation of care services for children were limited. The conditions and administrative capacity of child care institutions need to be improved.

There are little quantitative and qualitative data on child labour. Child labour in seasonal agricultural migrant families persisted despite efforts to improve the situation. There is a need to strengthen administrative capacity in this field and put in place an effective monitoring and inspection system covering the whole of the country.

Despite the June 2010 amendments to the Anti-Terror Law and other criminal legal provisions, juveniles were arrested in many instances on charges of membership of a terrorist organisation, facing heavy penalties. This happened in particular when juveniles resisted law enforcement officials or participated in demonstrations. Ill-treatment during questioning and admission to prisons was reported.

At the end of the reporting period, the total number of serious crimes courts for juveniles was 19, of which nine were operational. The total number of juvenile courts was 86, of which 67 were operational, despite the requirement of the Child Protection Law that courts should be established in all 81 provinces. In provinces where such courts do not exist, children were tried in serious crimes courts for adults.

As of end-July, 1,830 children aged between 12 and 18 were in prison. Of these, 190 were convicted whereas the rest were detained pending, or during trial. There were serious allegations of ill-treatment and sexual assault in Pozanti juvenile prison in Adana, which led to the move of all detainees to Ankara Sincan prison.

*Overall*, efforts are needed in all areas, including education, combating child labour, health, administrative capacity and coordination. In general, more preventive and rehabilitative measures need to be taken for juveniles. Children are not held in appropriate conditions and additional juvenile courts need to be created in line with current legislation.

Regarding the **socially vulnerable and/or persons with disabilities**, implementation of the Strategy Paper on Accessibility and the National Action Plan remained limited. A national monitoring mechanism in line with the UN Convention on the Rights of Disabled Persons and the corresponding optional protocol is still not in place. The principle of positive discrimination for the disabled is not properly reflected in concrete policy measures.

Home-based care services for the disabled and the elderly were expanded. A protocol was signed to promote entrepreneurship for people with disabilities. Efforts to increase employment in the public sector continued. However, the employability of people with disabilities in both the public and private sectors needs to be further promoted together with alternative employment methods and incentives for employers, and their access to finance needs to be increased.

Official and reliable data and research on persons with disabilities and mentally ill persons is lacking, which impedes informed policy-making. Difficulties in access to education, health, social and public services continued. Physical barriers to access to public buildings and all relevant facilities still exist. There is no comprehensive investment strategy to overcome this problem. Deadlines for mandatory compliance for public institutions to provide accessible services have been extended and postponed. Inclusive education practices need to increase in coverage and quality, in line with legislation. Private special education and rehabilitation centres have an important role in the current system, but there are deficiencies in the

inspection, monitoring and evaluation system, raising doubts as to the centres' effectiveness. In almost all centres, many children are enrolled (in order to receive government support), but do not actually attend the course. Inspections lack depth and do not cover the content of the services provided. Public awareness needs to be increased to fight prejudice against people with disabilities.

There is still no independent body to monitor and inspect mental health institutions.

*Overall*, services were expanded for the disabled and the elderly, but important efforts are still needed to protect socially vulnerable persons and persons with disabilities.

Comprehensive **anti-discrimination** legislation, including on the establishment of an anti-discrimination and equality board, is still lacking. A draft law is before the parliament. The relevant parliamentary committee amended the draft to remove references to discrimination on grounds of sexual identity or sexual orientation. The current legal framework is not in line with the EU *acquis*. There is discrimination against individuals along ethnic, religious, sexual identity and other lines.

Homosexuality is not a criminal offence in Turkey. However lesbian, gay, bisexual and transgender (LGBT) persons continued to suffer discrimination, intimidation and were the victims of violent crime. LGBT employees and civil servants have been fired on the grounds of sexual orientation. Other reported spheres of discrimination against LGBT individuals include access to housing and to health services (especially in the case of transgender persons). A number of court cases and judicial proceedings are in progress.

Violations of the right to life, torture, ill-treatment and cases of sexual assault that occurred against LGBTs in Turkey during 2011 have been reported. Shortcomings in the investigation and prosecution of crimes against people with a different sexual orientation or gender identity led to impunity for the perpetrators.

Articles of the Turkish Criminal Code on 'public exhibitionism' and 'offences against public morality' and also articles of the Law on Misdemeanours were widely used to discriminate against and to impose fines on LGBT people. The repeated application of the principle of 'unjust provocation' in favour of perpetrators of crimes against transsexuals and transvestites is a major concern. Court cases have been brought against LGBT human rights defenders who accused the police of arbitrary arrests and violence.

High-profile public figures repeatedly used negative stereotyping against LGBT persons. The internal rules of the Turkish armed forces continue to define homosexuality as a 'psychosexual' illness and to declare homosexuals unfit for military service.

Substantial government efforts are still needed to effectively protect vulnerable groups, including women, children, and lesbian, gay, bisexual and transgender individuals from societal abuse, discrimination and violence.

As regards **labour and trade unions rights**, legislation on trade unions and collective bargaining by civil servants was amended, leading to the first collective bargaining exercise in this sector. However, the new legislation is not fully in line with the EU *acquis* and International Labour Organisation conventions, especially with regard to the right to strike for public servants, the process of collective bargaining and dispute settlement, as well as restrictions on large categories of public servants to form and join trade unions. The draft law on collective labour relations, amending the legal framework for trade unions in the private sector, has not been adopted. In May the Law on Strikes was amended to prohibit strikes in the aviation sector. This takes Turkey's labour legislation further from EU and ILO standards.

The limited labour rights granted by existing legislation have not always been available to employees, with several cases of dismissal apparently linked to union membership. There was continued state interference in unions' internal affairs. Industrial action and demonstrations by trade unions were regularly restricted and on occasion broken up by the security services using force. Many unions and union activists faced police raids, criminal charges and imprisonment on allegations of 'terrorist activity'.

*Overall*, there was limited progress in the areas of labour and trade union rights. The legislation on civil servants' trade unions rights has been amended but is still not in line with EU and ILO standards. Collective actions by trade unions suffer numerous restrictions.

As regards **property rights**, the implementing regulation for the decree law revising the provisional Article 11 of the Foundations Law was published in October 2011<sup>10</sup>. The regulation sets out the conditions for applications for properties to be registered and the conditions for payment of compensation. The deadline for applications to register property in the name of the community foundation together with all rights and obligations was 27 August 2012. According to official information, 108 community foundations applied by the deadline for the return of 1,568 properties. By 18 September 2012, the Foundations Council approved the return of 58 properties, the payment of compensation for eight (8) properties, decided that 53 applications were not eligible and continues the processing of the remaining 1,449 applications.

The Izmir Jewish community, the Greek primary girls' school in Istanbul and the Armenian Tibrevank Lycée in Istanbul were granted foundation status by administrative decisions.

However, the Syriac community continued to face difficulties with property and land registration, especially in the south-east. A number of court cases continued, concerning both individuals and religious institutions. The Mor Gabriel Syriac Orthodox monastery court cases regarding land ownership continued. The Court of Cassation, in a much criticised decision, reversed a local court's decision in favour of the monastery. A forestry case against the monastery, which had been finalised at the Court of Cassation, is now before the ECtHR pending a decision on admissibility. These cases have been brought to justice against the monastery by State bodies.

A large number of properties of the Latin Catholic Church remain confiscated by the State. The Catholic Church, like the other non-Muslim religious communities, has no legal personality.

There was no progress in implementing the March 2010 recommendations of the Council of Europe Venice Commission on the protection of property rights. Council of Europe Resolution 1625 (2008) on Gökçeada (Imvros) and Bozcaada (Tenedos) still needs to be implemented.

Problems encountered by Greek nationals in inheriting and registering property are still being reported, in particular following the application by the Turkish authorities of the amended Land Registry Law, including the authorities' interpretation of provisions on reciprocity. As regards reciprocity, the European Court of Human Rights held that there had been a violation of Article 1 of Protocol 1 (peaceful enjoyment of possessions) to the European Convention on Human Rights and ordered either the return of property or financial compensation by the applicants.

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<sup>10</sup> The 2008 Foundations Law (No 5737) was amended by decree law on 27 August 2011. The implementing regulation for the August decree was published in the Official Gazette on 1 October 2011.

*Overall*, there has been progress with the adoption of legislation amending the 2008 Law on Foundations. Implementation continues. However, the legislation still does not cover fused foundations (i.e. those whose management has been taken over by the Directorate General for Foundations) or properties confiscated from Alevi foundations. The ongoing cases against the Mor Gabriel Syriac Orthodox monastery raise concerns. Turkey needs to ensure full respect for the property rights of all non-Muslim religious communities and others.

*Respect for and protection of minorities, cultural rights*

Dialogue between the government and representatives of **minorities** continued.

For the first time, representatives of minorities, beyond those minorities recognised by Turkey, were invited to parliament – to express their views on a new Constitution.

The Ministry of National Education approved a new regulation allowing children from Armenian, Greek and Jewish minorities who are not Turkish citizens to be educated in minority schools. However, children who are not Turkish citizens do not receive official graduation papers.

A legislative change enabling newspapers run by non-Muslim minorities to publish official notices was published in the Official Gazette on 28 February. Minority newspapers will have to apply in writing to be able to publish official announcements.

However, Turkey's overall approach to minorities remained restrictive. Turkey maintained its reservations to the UN International Covenant on civil and political rights regarding the rights of minorities and to the UN Covenant on economic, social and cultural rights regarding the right to education, which remained a cause for concern. Turkey has not signed the Framework Convention for the Protection of National Minorities or the Charter for Regional and Minority Languages.

No mechanisms or specific body has been established to combat racism, xenophobia, anti-Semitism and intolerance. There is no legal framework or legislation that addresses discrimination issues; references in the constitution to the principle of non-discrimination are often interpreted in a restrictive manner by the courts.

There is no effective prosecution of incitement to hatred, including by the media: Turkey has not made progress to introduce legislation regarding hate speech and hate crimes as recommended by the Council of Europe.

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 pending.

The five-year court case on the murder of Armenian journalist Hrant Dink<sup>11</sup> ended on 17 January 2012. One person was convicted for incitement to murder, but all defendants were acquitted of charges of links to a terrorist organisation; the family of Hrant Dink demanded a new investigation into the conduct of various members of the police force and Gendarmerie who seemed to be implicated in the crime according to an inquiry conducted by the Presidential State Inspection Board (DDK). Full execution of the ECtHR judgment of 14 September 2010 on the Dink case is crucial for Turkey in order to fight impunity and to hold all involved accountable before the law.

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<sup>11</sup> Hrant Dink, editor-in-chief of the Armenian Agos newspaper at the time, was killed in front of his office on 19 January 2007.

The commemoration of the twentieth anniversary of the Khojaly massacre (in Azerbaijan) on 26 February in Istanbul's Taksim square was marred by racist and anti-Armenian slogans and degenerated into an attempted march on the Armenian Agos newspaper.

Rhetoric against missionaries or minorities remains in a number of compulsory schoolbooks.

Several important buildings in the Armenian cemetery in Malatya were demolished by the Malatya municipality on 2 February.

*Overall*, dialogue between the government and minorities continued. Representatives of minorities presented their views on a new constitution to the Parliamentary Conciliation Committee. However, Turkey's approach to minorities remained restrictive. Full respect for and protection of language, culture and fundamental rights in accordance with European standards have yet to be achieved. A comprehensive approach and further efforts are needed to enhance tolerance, security and promote inclusiveness vis-à-vis minorities. There is a need for revision of existing legislation, the introduction of comprehensive legislation to combat discrimination and the introduction of protection mechanisms or specific bodies to combat racism, xenophobia, anti-Semitism and intolerance. Relevant Covenants and Conventions should be applied.

As regards **cultural rights**, debates on mother-tongue education continued. Diverse Kurdish groups, other linguistic groups and civil society organisations submitted requests to the Parliamentary Conciliation Committee working on a new constitution, including requests to lift all restrictions on use of the mother tongue.

In December the Council of Higher Education (YOK) approved an application by Tunceli University for the foundation of a Department of Eastern Languages and Literatures, including Zaza and Kurmanjî Kurdish. Recruitment of further academic staff is needed to make the department fully operational.

In June, the Ministry of National Education issued a new curriculum for primary schools, including the obligation for a school to add a course on living languages such as Kurdish or Circassian and dialects if at least 10 pupils apply for it.

Mardin Artuklu University continued post-graduate education in Zaza and Kurmanjî Kurdish. The Kurdish Language and Literature Department in Muş Alparslan University continued its undergraduate elective Kurdish language course. No postgraduate course was offered due to a lack of teaching staff.

The first Syriac monthly newspaper in Turkey started publication in March.

The parliament's Human Rights Inquiry Committee reported fewer restrictions on the use of Kurdish in prisons during visits and exchanges of letters. However, some legislation still restricts the use of languages other than Turkish, including the Constitution and the Law on Political Parties. In a number of court cases against politicians and human rights defenders the use of other languages than Turkish was not allowed.

The Council of Europe Congress of Local and Regional Authorities' Recommendation 229 (2007) to permit municipal councils to use languages other than Turkish in the provision of public services when appropriate and to reform the Municipality Law accordingly has not been implemented.

Court cases regarding the demolition of the statue of humanity devoted to Turkish-Armenian reconciliation in Kars have ended at the administrative courts. The case was declared admissible by the ECtHR in February.



*Overall*, Turkey has made some progress on cultural rights, and fewer restrictions on the use of Kurdish in prisons during visits and exchanges of letters were reported. However, some legislation still restricts the use of languages other than Turkish, including the Constitution and the Law on Political Parties. Also, the judiciary took a number of restrictive decisions on the use of languages other than Turkish, including the use of Kurdish in court cases concerning Kurdish politicians and human rights defenders.

Some progress was made regarding **Roma**. Ad hoc contacts between Roma NGOs and relevant ministries have taken place. There have been efforts by the Labour Ministry and İŞKUR to promote the employment of Roma in temporary jobs of public benefit. Vocational training has also been provided.

An administrative court annulled the preliminary project to transform the historical Roma Sulukule district in Istanbul. Legal procedures are continuing before the Council of State.

However, there was criticism of the temporary nature of the courses and employment offered and the lack of information about the programme. Medium- and long-term planning to increase the employability of Roma citizens is needed. The Roma population had little access to regular, recorded jobs and continued to be subject to prejudice and discrimination.

Roma children were reported to have high drop-out and absenteeism rates even in primary school.

Teachers working in schools attended mainly by Roma children appear to be frequently transferred and assigned to other duties, which may have an impact on the quality of education.

Roma continued to have difficulties with access to health services and problems of poor housing conditions, in some cases because they did not have identity cards.

Urban renewal needs to be managed in a transparent manner and wherever possible without displacing communities; it should go hand in hand with employment efforts.

*Overall*, there has been some progress but a systematic approach is needed to tackle the problems of Roma. A comprehensive strategy needs to be established and the issue needs to be reflected and mainstreamed in main policy areas. There is lack of quantitative data on the situation of Roma, which prevents informed policy-making.

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

An incentives package was announced in April 2012, focusing partly on increasing investment in the least developed regions and reducing regional disparities. The South-East Anatolia Project (GAP), aimed at improving the socio-economic development of the region, has been extended for another five years. Dam projects continued, but were criticised for threatening sustainable development by destroying the living conditions of the local population, including historical heritage, natural habitats, species and agricultural land.

In January the case of the 2005 bombing of a bookstore in the south-eastern district of Şemdinli came to an end after a lengthy trial marred by disputes over jurisdiction. The Court handed down nearly 40-year sentences to each of the three defendants.

The clearance of landmines continues.

The Kurdish issue and options for a solution were widely discussed; however, the 2009 democratic opening aimed at addressing amongst others the Kurdish issue was not followed through.

Terrorist attacks by the PKK, which is on the EU list of terrorist organisations, multiplied and intensified and claimed many victims. The attacks were strongly condemned by the EU.

There has been a worrying increase in kidnappings of security personnel and civilians, including elected politicians.

The high number of arrests and detentions in the context of operations against the Union of Communities of Kurdistan (KCK), the alleged urban wing of the PKK, led to serious tension.

The government announced that the state had abandoned confidential talks with the PKK, but expressed the intention to continue dialogue with political parties not associated with the PKK.

Anti-KCK operations widened, not only targeting Kurdish politicians, locally elected mayors and members of municipal councils, but also media representatives, human rights defenders, trade unionists, prominent academics and lawyers,. According to official statistics, 31 mayors and 226 local representatives are currently detained in connection with the anti-KCK case. The situation seriously affects local government and administration. Democratic Society Congress (DTK) Co-Chair and Van MP Aysel Tuğluk was sentenced to 14.5 years in prison on charges of ‘spreading propaganda for a terrorist organisation’ and ‘committing crime on behalf of an illegal organisation despite not being a member of it’ following speeches she made. The trial of defendants for alleged membership of the KCK continued before the Sixth Serious Crimes Court in Diyarbakır. There were several similar anti-KCK cases in other provinces.

The JITEM (the Gendarmerie’s intelligence organisation) and Colonel Temizöz cases regarding extrajudicial killings and persons missing since the 1990s continued before the Diyarbakır Serious Crimes Court. Numerous files on missing persons and extrajudicial killings dating from the 1990s are approaching the statute of limitations.

34 civilians were killed in Uludere by the Turkish armed forces on 28 December. The authorities prevented a number of NGOs from visiting the site of the airstrike. In February, a sub-committee of the parliamentary Human Rights Inquiry Committee was set up to inquire into the killing of Uludere villagers. Judicial and administrative investigations are ongoing. However, there are concerns about their transparency and effectiveness. Allegations of intelligence failure and operational negligence have not been cleared up. At the end of February, the Şırnak Prosecutor sent the file on Uludere to the Diyarbakır Prosecutor with Special Authority noting that the incident did not fall within their competence. There has been no direct apology, from either the military or civilian authorities.

*Newroz* (New Year) ceremonies were restricted to only one day. In many provinces, there were violent incidents and clashes with security forces. (*See Freedom of assembly*)

No steps were taken to dismantle the village guard system, a paramilitary force of more than 45,000 paid and armed by the state, and there is no comprehensive plan to do so.

*Overall*, there was no progress towards a solution as regards the Kurdish issue. Terrorist attacks intensified, as did military operations. The detention of elected politicians and human rights defenders gives rise to serious concerns. In incidents such as the Uludere killings of civilians, calls on the authorities for effective and swift investigation and a transparent public inquiry have not been met. 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. The statute of limitations deadline will soon bring an end to judicial investigations on past crimes, without result. Landmines and the village guard system are still causes for concern.

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

The period of implementation of the law on compensation of losses resulting from terrorism and the fight against terrorism has been extended by one year in April. Up to September, 361,391 applications were submitted to the Damage Assessment Commissions. Of these, 305,758 were assessed, with compensation paid in 166,158 cases and 139,600 applications rejected. By September, the Damage Assessment Commissions had awarded compensation totalling almost € 1,230,000,000 to claimants who signed negotiated/amicable settlements. However, delays in payments have continued. Various claims were rejected by the administrative courts. Several cases are pending before the ECtHR. There is a need to thoroughly assess the effectiveness of legislation and the process of granting compensation.

The number of internally displaced persons (IDPs) has increased as a result of two earthquakes in Van in October and November 2011. The Tuzla IDP camp in Mersin, which has been in place for 15 years, needs upgrading in terms of service provision and accommodation. IDPs often live in sub-standard conditions, in camps and elsewhere. Many still find it difficult to return to their previous place of residence mainly for reasons of security, the continuing village guard system, the presence of landmines, a lack of basic infrastructure and capital, and limited job opportunities. The authorities have not yet shared information on the urban reconstruction and redevelopment plan for Van.

Concerning **refugees and asylum-seekers**, law enforcement officials and central and local administrations have improved their practices. There were improvements in treatment and detention conditions in the removal centres. Turkey maintained an open border policy with Syria. Turkey is providing humanitarian assistance to nearly 100,000 Syrians who fled the country, hosted in camps located in four southern provinces. General living conditions in the camps have been praised by international observers. (*See also Chapter 24 – Justice, freedom and security*) However, pending the adoption and implementation of the Law on Foreigners and International Protection, gaps in legislation and in immigration-related detention and deportation practices remained a concern. Unaccompanied minors found themselves at risk of detention together with adults and without access to State child protection services. There were reported cases of access to UNHCR services and asylum procedures being blocked. Individuals going through asylum procedures experienced difficulties with access to adequate accommodation, work, health services, education and integration support. Asylum-seekers who did not qualify for contribution-free general health insurance under the new Social Security Law were charged monthly contribution fees which were unaffordable for those without employment.

*Overall*, the process of compensating IDPs has continued but the effectiveness of the system has to be assessed. Some improvements were made to detention conditions in the removal centres. Turkey has successfully provided humanitarian assistance to the Syrian refugees. However, there is still no national strategy to address IDPs' needs better and no comprehensive legal framework for refugees and asylum-seekers. Further improvements in detention and deportation practices are needed.

### **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 a fair, comprehensive and viable solution to the Cyprus problem. This support was reiterated on several occasions by the authorities in the context of the Greentree Conferences in October 2011 and January 2012, and during the EU-Turkey Association Council in June. The UN

Secretary-General indicated in his latest report on the UN operation in Cyprus of June 2012 that until the sides reach an agreement on how to proceed with the substantive settlement negotiations, the focus will be on continuing the work of the bi-communal technical committees.

As emphasised in the negotiating framework and in Council declarations, Turkey is expected to actively support the negotiations aimed at 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 EU is founded. Turkey's commitment and contribution in concrete terms to such a comprehensive settlement is crucial. Regrettably, on several occasions, statements at senior political level spoke of alternatives to a comprehensive settlement under UN auspices.

Turkey continued to issue statements objecting to drilling operations carried out by the Republic of Cyprus and threatening retaliation against oil companies that would participate in Cypriot exploration, following Cyprus's announcement that it would launch a second round of off-shore exploratory licences. The EU stressed the sovereign rights of EU Member States which include, inter alia, entering into bilateral agreements, and to explore and exploit their natural resources in accordance with the EU *acquis* and international law, including the UN Convention on the Law of the Sea. Turkey and representatives of the Turkish Cypriot Community signed a 'Continental shelf delimitation agreement' and Turkish company TPAO supported on-shore exploratory drilling activities in an area near Famagusta.

Despite repeated calls by the Council and the Commission, Turkey has still not complied with its obligations as outlined in the declaration by the European Community and its Member States of 21 September 2005 and in Council conclusions, including those of December 2006 and December 2011. 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 with Cyprus, including restrictions on direct transport links. There was no progress on normalising bilateral relations with the Republic of Cyprus. Moreover, Turkey stated that it would not attend any meeting chaired by the Cyprus EU Council Presidency. A government circular instructed all Turkish civil servants to abstain from meetings and contacts with the Cypriot Presidency of the Council of the EU. The European Council expressed serious concerns with regard to Turkish statements and threats and called for full respect for the role of the Presidency of the Council, which is a fundamental institutional feature of the EU provided for in the Treaty.

Turkey has not lifted its veto of Cyprus's membership of several international organisations.

#### *Peaceful settlement of border disputes*

After the last round of exploratory talks in July 2011, discussions are on-going between Greece and Turkey to set a date for the next round.

In April, Greece strongly objected to Turkey's launch of a tender for offshore oil and gas exploration including part of the continental shelf off the Greek island of Castellorizo.

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 has underlined 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 expresses serious concerns and 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 and Cyprus made

formal complaints about violations of their territorial waters and airspace by Turkey, including flights over Greek islands.

### *Regional cooperation*

Turkey remains involved in regional initiatives, including the South-East European Cooperation Process (SEECP) and the Regional Cooperation Council (RCC). Turkey supports the European integration of all countries in the region.

The enhanced political dialogue on foreign policy stemming from the positive agenda provides an ideal platform to exchange views and to fine-tune positions.

High-level bilateral meetings were held with all countries in the region, reflecting Turkey's firm commitment to promoting peace and stability. Turkey increased its presence in the region also in terms of financial and technical assistance, by delivering projects through its development agency TIKA.

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 the EU-led police mission in Bosnia and Herzegovina (EUPM) and to the EULEX mission in Kosovo\*.

Relations with *Bulgaria* remained positive. The Bulgarian Prime Minister visited Turkey in March.

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

## **3. ECONOMIC CRITERIA**

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

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

#### *Economic policy essentials*

The Pre-Accession Economic Programme (PEP) submitted to the Commission in January 2012 reflects commitments to a rebalancing process away from debt fuelling consumption towards exports. Although such adjustment process is positive for economic stability, Turkey has large external imbalances, and remains vulnerable to further global financial shocks, in particular capital flow reversals. As more ministries and governing structures have been created, the fragmentation of responsibilities between government bodies appears to be increasingly complicating coordination for budgeting and medium-term economic policy making. Decisions are sometimes taken on an ad hoc basis and impact assessments are either lacking or based on partial information. However, there have been no major instances of internal conflicts and tensions in economic policies in recent times. *Overall*, the consensus on economic policy essentials has been preserved.

#### *Macroeconomic stability*

In 2011, the Turkish economy grew by 8.5%, only slightly down from 9.2% in 2010. Growth was largely driven by the private sector, with consumer spending up 7.7% on the year and private sector investment up 22.8%. The strength of domestic demand led to import volumes

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\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

increasing 10.6% on the year, while the level of export volumes was 6.5% higher than in 2010, partly as a result of the depreciation of the Turkish lira (by 20% vis-à-vis the euro in 2011). Since mid-2011, however, the pace of growth has been slowing down gradually in line with the slowdown in domestic demand, accompanied by an improvement in the trade and current account balances. A major growth deceleration was observed in the first half of 2012, to 3.1% year-on-year. Private domestic consumption (residents households), which accounts for over 70% of GDP, was down by 0.2% year-on-year in the first six months of 2012, while fixed investment decreased by 3.2%, compared with a 18.3% increase in 2011. The only domestic demand component that posted above-average growth was government consumption, which increased by 4.9%. A further deceleration is already being witnessed to some extent in leading indicator data. Surveys of manufacturing business confidence and capacity utilisation have recently fallen back to their weakest levels in two years. However, industrial production and credit growth accelerated in mid-2012 after a couple of weak quarters. In 2011, the per capita GDP of Turkey (PPP adjusted) amounted to 52% of the EU average. *Overall*, economic growth is slowing down, from high levels, due to weaker domestic demand.

The current account deficit rose from 6.6% of GDP in 2010 to 10% in 2011. The increase was entirely due to the deterioration of the merchandise trade deficit. In 2012, Turkey continued to run a large current account deficit, which leaves the Turkish currency vulnerable to a sudden loss of investor confidence. However, the deficit has been narrowing, to about 8.5% of GDP by mid-2012, mainly as a result of an improvement in the merchandise trade deficit owing to weaker domestic demand, lower oil prices and strong export growth. Given the slowing of the economy and falling energy and food prices, the current account deficit is expected to fall further in the months ahead, although an expected deterioration in external economic conditions may make the increase in export earnings difficult to sustain. Capital inflows (including net foreign direct investment, foreign purchases of government bonds in the international and local markets and foreign lending to Turkish banks and companies) largely offset the current account deficit during 2011 and the first half year of 2012, although they were significantly lower than a year earlier. In 2011, a large positive balance was recorded for the net errors and omissions item of the balance of payments, which is thought to reflect informal repatriation of funds held abroad. At the same time, foreign direct investment remains low proportionally to the size of the current account deficit, at only 13% of total capital inflows over the first six months of 2012. Turkey's large dependence on shorter-term capital makes it highly susceptible to the current global uncertainties. The Central Bank's official reserves decreased from € 61 billion in 2010 to € 56 billion in 2011, but these losses have already been mitigated by mid-2012. At the same time, gross external debt decreased from 39.9% of GDP to 39.7% of GDP. In early May 2012, the parliament passed a bill easing restrictions on property purchases by foreigners, which is likely to increase capital inflows for this purpose. *Overall*, the external imbalances have remained significant.

Unemployment was 9.8% in 2011, down from 11.9% in 2010. In the half year of 2012, unemployment fell further to 8.9%. The employment rate stood at 45.3% in the first semester of 2012, up from the 44.9% observed in December 2011 and 43% in 2010, while non-farm unemployment fell to 10.1% in May 2012 from 11.6% the year before. While the labour participation rate is 71.4% for men, it is as low as 30% for women, in spite of an increase of more than 4 percentage points from a year earlier. Despite the low proportion of the female population actively looking for work, the female unemployment rate is 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. This reduces the percentage of women of working age who are employed and receive an income to less than 15% of the total. Lack of affordable child care is among key barriers for women's entry into the labour market.

The labour market needs to absorb the unemployed and about one million new entrants every year. Overly strict employment protection laws discourage employers from hiring. The prevalence of undeclared work remains a major challenge. *Overall*, robust economic development allowed strong employment growth and a drop in unemployment.

Inflation was 10.5% in 2011, almost doubling from 6.4% in 2010 and the official target of 5.5%. Annual core inflation amounted to 9.8% in 2011. By August 2012, however, consumer prices have dropped, in spite of highly volatile energy and food prices, to 8.9% year-on-year. Core inflation amounted to 7.8% in August. Partly in view of the recent increase in food prices, the Central Bank's year-end inflation target of 5%, with a 2 percentage points tolerance band, appears to be within reach, helped by favourable base effects. By end-September 2012, market expectations amounted to 6.8%. *Overall*, inflation has been high, but came down in mid-2012 in spite of rapidly rising food prices.

Concerns about the level of inflation and the vulnerability of the lira to heightened global risk aversion, owing to Turkey's still large current account deficit, have continued to pose obstacles to a significant easing of monetary policy. Since late 2011, the Central Bank has operated rather complex policies, based on an interest rate corridor and various targeted macro-prudential measures, which have allowed it to adjust banks' funding costs on a day-to-day basis. The Central Bank has been compelled to sustain a tightening bias over the past half year, in spite of some softening in recent months. Since July 2012, the average bank funding rate fell from about 10% to below 7%, still more than two percentage points higher than the one week repo rate of 5.75%. Given the inflation volatility and the current weakness of the lira (alongside most emerging market currencies) on the back of renewed financial stresses in the eurozone, tight monetary policy needs to persist in order to safeguard Turkish financial stability. The tightening appears to be increasingly successful in shifting the drivers of growth away from domestic demand. However, more support from the fiscal side, besides the specific and targeted macro-prudential measures that are put in place, including by the banking regulator, may help engineer a rebalancing and soft landing of the economy and ease the burden placed on monetary policy. *Overall*, monetary policy has been increasingly successful, as it was able to curb the growth of credit and contribute to easing the current account deficit at the same time.

The budget performed better than expected in 2011, especially due to the robust recovery in domestic demand, which provided significant support to indirect tax revenues. The primary surplus rose from 0.5% of GDP in 2010 to 1.3% of GDP in 2011, and the overall central government budget deficit fell from 3.6% of GDP in 2010 to 1.2% of GDP in 2011, compared with a budget target of 1% of GDP. The social security deficit decreased from 2.4% of GDP in 2010 to 1.3% of GDP in 2011. The recent public receivables restructuring programme had a positive impact on the social security system balances, generating extra revenues of € 3.3 billion, or 0.6% of GDP. In the first half of 2012, weaker demand adversely affected the budget performance, and real tax revenues were roughly at the same level as in 2011, as indirect taxes — which make up two thirds of the total — were curtailed by the slowdown in consumer and import demand. According to the medium-term fiscal plan, the government expects a budget deficit of 1% of GDP in 2012. This target has not been adjusted for economic growth and revenues that were higher than anticipated in 2011. Therefore, fiscal policy may have more scope to support the monetary policy efforts aimed at curbing domestic demand and thus the current account deficit. The public debt stock fell further in 2011, and it amounted to 39.4% of GDP by the end of 2011. *Overall*, fiscal performance was satisfactory.

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. Consolidated general government accounts according to

international accounting standards are still not regularly published. This makes it difficult for citizens to hold the government accountable for its management of public money. Full implementation of the new Law on State Aid has been postponed. The unification of all tax administration functions under the Revenue Administration has been announced. The aim of this unification was to strengthen the audit capacity and facilitate greater use of standard risk-based audit techniques, thereby enhancing transparency. *Overall*, no efforts were made to increase fiscal transparency.

Turkey's fiscal and monetary policy mix proved relatively successful in the aftermath of the crisis. The earlier fiscal consolidation and structural reforms have contributed to robust growth. However, making more progress with fiscal transparency, adjusting the fiscal policy stance, doing more to target inflation and preserving financial stability will be important ways to engineer a soft landing of the economy and ensure sustainable growth. In particular, a sudden reduction or reversal of capital flows could put pressure on the lira, resulting in higher inflation. The adoption of a strong fiscal rule may not only enhance fiscal transparency, but also provide a strong fiscal anchor and enhance credibility. *Overall*, the soft landing of the Turkish economy remains vulnerable to bouts of financial uncertainty and the global risk sentiment and more could be done to better coordinate and optimise the policy mix.

#### *Interplay of market forces*

The share of administered prices in the Consumer Price Index (CPI) basket remained at only 4.5%. At the same time, food and alcohol prices – more than 25% of the consumer basket are highly sensible to policy and administrative decisions. 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 officially linked to a cost-based methodology. However, the government increasingly interferes and independently sets prices, thereby suspending automatic mechanisms including in the transport sector.

There has been limited progress in the restructuring and transparency of state-owned enterprises. The pace of privatisation slowed down significantly, chiefly due to investors' difficulties in gaining access to long-term external financing. As a result, tenders for two electricity distribution companies remained inconclusive. Deadlines and procedures for various tenders, including the natural gas tender, were extended. Total privatisation receipts decreased from € 2.2 billion in 2010 (0.4% of GDP) to € 971 million (0.2% of GDP) in 2011. Major deals completed in 2011 were the port of Iskenderun (€ 266 million) and the Trakya electricity distribution company (€ 411 million). Planned privatisations for 2012 include major electricity generation assets, highways and bridges, and several ports. Remaining shares in Turkish Airlines, Turk Telekom, Petkim, and state-owned banks Halkbank and Vakıfbank may also be the subject of new privatisation deals. There is no plan for the privatisation of Ziraatbank and the national lottery yet. *Overall*, the government has been increasingly interfering in the price-setting mechanism and difficulties in gaining access to external financing have slowed down privatisation.

#### *Market entry and exit*

In 2011, the implementation of the business registration process was fine-tuned. However, starting a business in Turkey remains costly and corresponds to 11.2% of per capita income. Some fees are still not transparent, such as those for the official registration of a company's articles and accounts. Trade registry fees are significant. Progress in removing exit barriers remains weak. Closing a business is still expensive and time-consuming. Insolvency procedures take about 3.3 years and recovery rates — at 22% on average — remain very low. Registering a property in Turkey costs 3.3% of its value, requires six separate procedures and takes six days. Obtaining a construction permit is expensive and time-consuming: on average,



it takes 24 procedures and 189 days. Costs correspond to almost 200% of the average per capita income. *Overall*, market entry is satisfactory, while market exit remains costly and long, and insolvency proceedings are still heavy and inefficient.

#### *Legal system*

A reasonably well functioning legal system, including in the area of property rights, has been in place for several years. Enforcement of commercial contracts is still a rather lengthy process, involving 36 procedures and taking an average of 420 days. Commercial court judges lack 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 seldom used. The judicial system and administrative capacity can be further improved. *Overall*, the legal system continues to function relatively well, but no progress has been observed.

#### *Financial sector development*

In 2011, the financial sector continued to perform well, and total financial sector assets increased by almost a third. Risk ratios in the financial sector remained robust. Banks continued to dominate the sector, as their share of total financial sector assets remained about 80%. Banking assets values are about 100% of GDP. The share of state-owned banks in total banking sector assets decreased from 30% in 2010 to 26% in 2011, while domestic private banks had a 32% share. Foreign banks' share reached 21.9% (41.6%, if ownership through the stock exchange is also included). There was no progress in the privatisation of state-owned banks planned a long time ago. The share of the insurance sector remained small and underdeveloped, with 3% of the total financial sector. Largely in tandem with the growth performance, credit expansion slowed down gradually, from about 40% year-on-year in mid-2010, to about 12% by mid-2012. Both the banking sector loan stock and its deposits' stock amounted to about 50% of GDP by mid-2012. The loans to deposits' ratio increased gradually from 83% in 2010 to 99% in the second quarter of 2012. The value of outstanding debt instruments traded in the bond market amounted to about 40% of GDP. Private debt issues increased significantly, from 1.3% of the total equity market in 2011 to 4.1% in mid-2012. The share of non-performing loans in total banking sector loans decreased from 3.7 in 2010 to 2.7% by the end of 2011. The capital adequacy ratio decreased further, from 19% in December 2010 to 16.5% in June 2012, still significantly above the statutory minimum of 12%. The authorities established a financial stability committee under the chairmanship of the deputy prime minister in charge of the economy. The committee aims to monitor systemic risks and their management and identifies policy measures to be undertaken. The committee met eight times since its establishment in June 2011. *Overall*, the financial sector has continued to show dynamism and strength thanks to earlier in-depth reforms.

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

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

Turkey's robust growth in a context of major global volatility confirms the economy's improved fundamentals and enhanced resilience to shocks. However, the rapid expansion of the current account deficit and strong inflationary pressures point to the return of significant imbalances in the Turkish economy. *Overall*, the functioning of market mechanisms has remained intact.

#### *Human and physical capital*

The educational reform programme, which is a key component of the National Development Plan 2007-2013, is coming to an end. It sets two key priorities for education modernisation

and reform: namely increasing the responsiveness of education to demand and enhancing the quality of the education system. By 2011, some progress has been made. Illiteracy rates for the population aged 15 or above decreased from 7% in 2010 to 5.7% in 2011 and from 11.4% to 9.4% for women. The ratio of university graduates in the population aged 15 or above increased from 9.2% in 2010 to 10.8% in 2011. The net schooling ratio in primary education (eight-year cycle) increased slightly, while the net schooling ratio in secondary education also increased significantly, from 65% to 69% during the same period. However, challenges have remained substantial. Participation in higher education remains low by international standards and, although there has been some progress and the top students in Turkey are performing well, the vast majority of Turkish students display low proficiency levels in basic skills and problem-solving. As from the school year 2012-2013, compulsory education has been extended from 8 to 12 years. This decision has been taken without proper impact-assessment. It may imply a significant fiscal cost and affect the overall education quality. Turkey increased funds for active labour market policy significantly. *Overall*, reforms and increased spending on education have so far generated a positive impact on educational attainment and schooling rates, but significant problems remain with regard to the quality of education.

Investment rose from 18.9% of GDP in 2010 to 21.9% in 2011, entirely thanks to private sector investments, which increased from 15% of GDP to 18.1% of GDP. Gross FDI inflows to Turkey increased from € 6.8 billion to € 9 billion. Although the official aim of the government is to increase expenditures on research and development to meet the target of 2% of GDP, the actual outcomes remain much lower, given that R&D expenditure amounted to just 0.84% of GDP in 2010 (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. Modest progress was made in the upgrading of infrastructure. *Overall*, improvements in the country's physical capital have been modest.

#### *Sectoral and enterprise structure*

The share in employment of agriculture and construction stabilised at 25.5% and 7% respectively in 2011. Fewer jobs were created in services and industry, whose share in total employment went down to 48% and 19.5% respectively in 2011. Growth has been particularly job-rich as overall employment grew by 6.7% in 2011, slightly up from 6.2% in 2010. At the same time, the relative output of the service sector fell by one percentage point to about 63%, while the share of agriculture and industry went up marginally to 8% and 26% of GDP respectively in 2011.

Progress in liberalising the utilities sectors has been uneven. The draft Electricity Market Law, which is to repeal the existing one, was discussed with stakeholders and sent for the approval of the Prime Ministry. However, no tangible progress can be reported on reducing BOTAS' (gas) monopolistic market share while attempts to replace the terminated contract with the Russian Federation by contracts with the private sector remained unsuccessful. Regarding the telecommunications market, steps to increase the level of competition in the market continued. The wholesale line rental (WLR) implementations which started in February 2012 further enhanced competition, in particular in the broadband and fixed telephony markets. *Overall*, the liberalisation of network industries gathered pace.

#### *State influence on competitiveness*

Only very limited progress was made in the area of State aid. The legislation implementing the State Aid Law was originally scheduled to be enacted by the end of September 2011. However, a decree-law issued in November 2011 stipulated that this legislation would only enter into force by the end of June 2013. The implementing legislation concerning the State Aid Authority is not in place yet. However, a significant incentives package, superseding the

2009 stimulus package, was presented by the Turkish authorities in early April 2012 and adopted in June 2012. The State Aid Authority is still expected to formally establish a comprehensive State aid inventory and an action plan for aligning all State aid schemes with the *acquis*. The legal framework for public procurement continued to comprise various exemptions and is still not in line with the EU *acquis*. Overall, there has been very limited progress in enhancing the transparency 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 increased significantly from 48% in 2010 to 56.5% in 2011. At the same time, the EU's share of Turkey's total trade decreased from 41.7% in 2010 to 40.8% in 2011. Between 2010 and 2011, the EU share of Turkey's exports remained stable at 46%, while its import share decreased from 42.6% to 41.7%. However, first half of 2012 data indicate that shares have been falling due to a weakening of EU demand. The EU continued to be the main source of FDI inflows to Turkey, albeit with a falling share: 76% in 2010, and 71% in 2011, as FDI from non-EU countries increased more than from the EU. In nominal terms, foreign capital investment inflows originating from the EU countries — excluding real estate — more than doubled in one year, increasing from € 3.5 billion to € 8 billion. 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 slightly faster pace than labour productivity in 2011 and the first half year of 2012. Labour costs went up in 2011 by 10.2% for the whole economy, by 9.1% in manufacturing, and by 14.1% in the construction sector. Conversely, the non-wage labour cost index, which shows social security contributions and severance payments per hour, increased by 9.1%. The Turkish lira depreciated vis-à-vis the euro by 20% and against the US dollar by 23.3% in 2011. The real effective exchange rate (against a basket of 50% US dollar and 50% euro) also decreased in 2011 by about 15% (the CPI-based REER index decreased from 125.7 in 2010 to 109.5 in 2011). High inflation and some appreciation in 2012 caused the REER index to climb to 115 in mid-2012. Overall, Turkey's international competitiveness has increased, primarily due to a depreciation of the currency in 2011.

#### **4. ABILITY TO TAKE ON THE OBLIGATIONS OF MEMBERSHIP**

This section examines Turkey's ability to take on 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**

Some progress can be reported regarding alignment with **general principles**. The pilot implementation of the risk-based import control system TAREKS was extended to new product categories. The importers of these products need to register on TAREKS. For products that hold an ATR certificate, and are thus in free circulation in the EU, a TAREKS reference number authorising imports is directly issued by the system with no further checks. Hence, the EU origin condition is finally abolished for these product categories. Third-country products in free circulation in the EU which fall under other New Approach directives in the electro-technical field, pressure equipment and gas appliances are still subject to conformity assessment checks on documentation and if necessary to physical checks at customs. This delays their access to the Turkish market. Textiles and clothing goods

originating in a third country and in free circulation in the EU are subject to additional duties when they enter the Turkish market. This measure, in place since 22 June 2011, is in breach of the basic principles of the Customs Union. Turkey decided on 1 June 2012 that the additional duties shall not be levied on goods originating in countries with which Turkey has signed an FTA and which are included in the system of diagonal cumulation provided that a proof of preferential status of the goods is submitted. For goods originating in other third countries, the measure continues to be in place.

Technical barriers to trade continue to exist and prevent free movement of goods in certain areas such as pharmaceuticals. Good manufacturing practice (GMP) certificates issued by EU Member States, which form part of the marketing authorisation for pharmaceutical products for human use, are still not accepted and the products require a GMP certificate issued by the Turkish authorities. This causes long delays in the registration process and results in de facto discrimination against EU imports to the advantage of domestic producers. The online registration requirements for imports of textile and clothing remain in effect although some flexibility has been introduced regarding the type of information to be given, in order not to require companies to disclose information of commercial value. Licences are still required for old or second-hand goods such as construction equipment and for goods considered as renovated or faulty. For alcoholic beverages, a pre-notification system replaced the previous control certificate system, bringing some improvement. Exports of aluminium, paper and copper scrap and imports of certain processed agricultural products are subject to restrictions that constitute a de facto breach of the Customs Union rules. Some other goods are subject to prior registration.

As a major step in alignment, Turkey adopted a long-awaited regulation on mutual recognition in the non-harmonised area. The regulation will enter into force on 1 January 2013. It is expected that this will remove a number of technical barriers to the free movement of goods.

Although Turkey has reached an advanced level of alignment in this chapter, Turkey still needs to fully incorporate into its internal legal order the remaining EU instruments relating to the removal of technical barriers to trade in the area of Customs Union enumerated in Annex II to Decision 2/97 of the EU-Turkey Association Council. Turkey has agreed to incorporate the updated list of Annex II into its internal legal order.

As regards **horizontal measures**, further progress can be reported in the area of *standardisation*. The Turkish Standards Institute (TSE) became a full member of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC) in January 2012. The Turkish standardisation system is now fully integrated into the European system. The founding law of the TSE was revised in November 2011, all references to mandatory standards were removed and all its publications were made subject to intellectual property rights law. The adoption of European standards by the TSE continued. The TSE has so far adopted a total of 17,422 CEN and CENELEC standards. Turkey has so far harmonised with a total of 391 standards of the European Telecommunication Standards Institute (ETSI). The overall rate of harmonisation with European standards stands at around 96%. The TSE is running 82 operational committees. However, the TSE needs to apply a more participatory approach in its standardisation work, especially as regards SMEs and consumer organisations.

In terms of *conformity assessment*, further progress was achieved in the area of notified bodies. There are now 23 Turkish notified bodies compared with 18 in 2011. There are two approval bodies in the area of construction products.

Some progress can be noted regarding *accreditation*. The Turkish Accreditation Agency, TURKAK, is a member of the European Cooperation for Accreditation (EA) and a signatory of seven multilateral agreements of the EA. The number of TURKAK accreditations increased by 13% since last year and reached 647. TURKAK is the Monitoring Authority in the area of Good Laboratory Practice (GLP). However, it has not yet established any GLP monitoring programme. TURKAK was affiliated to the Ministry of EU Affairs instead of the Ministry of Science, Industry and Technology in April 2012. This was a positive step towards increased transparency and a reduced risk of conflicts of interest. Following this a revised law aimed at further harmonising TURKAK's structure with the European accreditation system was adopted. Although the law does not address all issues regarding TURKAK's financial and administrative autonomy, it brings improvements to the system in the right direction.

Some progress can be reported in the area of legal *metrology*. New and amending legislation was issued on the servicing, inspection and verification of tachographs, as well as on the certification of persons to be authorised to repair and adjust measuring instruments. A national strategy on metrology was prepared and agreed.

There was some progress on *market surveillance*. A Prime Ministry circular was issued in September 2011 on Market Surveillance and the Product Safety Evaluation Board, drawing the attention of all relevant public authorities to the importance of actively participating in Board activities. The Market Surveillance and Product Safety Evaluation Board adopted the new National Market Surveillance Strategy 2012-2014 document. The Ministry of Customs and Trade published a communiqué on the safety risks of some consumer products falling under the non-harmonised area and set down minimum essential safety requirements. It is expected that market surveillance activities in these product groups will be enhanced. The database linking accidents and injuries to products has been started up on a pilot basis. Notifications of unsafe products to the Ministry of Economic Affairs by market surveillance authorities have continued. However, insufficient coordination within and between surveillance agencies, scarce allocation of financial and human resources, and infrequent use of risk assessment and sampling methods still need to be addressed. Market surveillance actions are not systematically evaluated. The visibility of market surveillance remains low. Stakeholder involvement in surveillance remains weak.

Turkey is partially aligned with the 2001 General Product Safety Directive, and with the Regulation on accreditation and market surveillance. Full alignment and effective implementation of market surveillance have yet to be achieved.

There was some progress on the **'Old Approach' product legislation**. Turkey adopted amending legislation on the type approval of the braking systems of two- or three-wheeled motor vehicles, and of motor vehicles and agricultural and forestry tractors with respect to emissions and on radio interference of motor vehicles. New regulations on the general safety of motor vehicles and their trailers, labelling of tyres, towing devices, wheel guards, statutory plates, windscreen wiper and washer systems and space for rear registration plates were also published. Turkey issued legislation on energy labelling in order to encourage energy efficiency. An amending regulation on the pricing of pharmaceuticals for human use changed the pricing system once again. An amending regulation concerning the packaging and labelling of pharmaceuticals was adopted. Turkey established a new Medical Devices and Pharmaceuticals Agency to deal with the regulation, licensing, pricing and monitoring of pharmaceuticals for human use, and the regulation and market surveillance of medical devices. Certain provisions of the Turkish legislation do not provide legal certainty with regard to data exclusivity for any combination pharmaceutical product registered in the Customs Union after 1 January 2005. The cumbersome and lengthy procedure for issuing GMP certificates continues to affect the marketing authorisation of pharmaceutical products

in Turkey and it can in some cases have an indirect impact on regulatory data exclusivity. Turkey adopted legislation on veterinary pharmaceuticals aimed at aligning with the *acquis*.

Some further progress can be reported in the already advanced area of '**New and Global Approach**' **product legislation**. Turkey adopted legislation on the publication of technical specifications and national and EU technical approvals, on conformity verification systems and on reaction-to-fire aspects of construction products. A categorisation guide was issued for personal protective equipment in order to facilitate the CE marking of these products. Lists of harmonised standards were updated and published on recreational crafts, radio and telecommunication terminal equipment and personal protective equipment. A communiqué regarding A-type inspection bodies was adopted in order to further operationalize the legislation on lifts. The eco-design requirements for several energy-using products were published.

Some progress can be reported regarding **procedural measures**. The Turkish legislation is now partially aligned with the *acquis* in this area. There was no progress regarding cultural goods and firearms.

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

#### *Conclusion*

Some progress can be reported in the area of free movement of goods. However, technical barriers to trade continue to prevent free movement of goods in violation of Turkey's obligations under the Customs Union. The delays in issuing GMP certificates and the problem of data protection for pharmaceutical products need to be solved. The remaining import and export licences and the restrictions on imports of used goods need to be abolished. Overall, the preparations in this area are advanced.

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

There have been no developments in the area of **access to the labour market**.

There has been some progress as regards future participation in the **EURES** (European Employment Services) network. The Turkish Employment Agency (ISKUR) has improved its IT infrastructure and capacity.

Some progress can be reported in the area of **coordination of social security systems**. The capacity of the Social Security Institution has been further strengthened.

There have been no developments with respect to the **European Health Insurance Card**.

#### *Conclusion*

There has been little progress in the area of freedom of movement for workers. Turkey increased its capacity with a view to future participation in EURES and coordination of social security systems. Preparations in this area have been launched.

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

No progress was recorded on the **right of establishment** and **freedom to provide cross-border services**. A detailed alignment strategy has not been produced yet. As regards the right of establishment, disproportionate requirements remain. In the field of freedom to

provide cross-border services, no progress was observed. Registration, licensing or authorisation requirements are still in place for service providers established in an EU Member State who apply for work and residence permits in Turkey and there is no mechanism to prevent further requirements from being introduced, something which happened during the reporting period. Alignment with the Services Directive has not yet been achieved, and no Point of Single Contact exists.

There is no progress to report on **postal services**. The draft postal law has still to be adopted. The legal monopoly remains in place. In view of the legislative reform gradual market opening is envisaged. Regarding administrative capacity, an independent regulatory authority, whose establishment would ensure clear separation between regulatory and (postal) operational functions, still needs to be established.

Limited progress can be reported on **mutual recognition of professional qualifications**. A decree-law and its implementing regulation removed legal obstacles to the employment of foreign doctors and nurses in Turkish private hospitals. Nevertheless, the nationality condition still remains in force for the public sector. The requirements include Turkish language proficiency, residence permits, and recognition of the equivalence of degrees and/or expertise. There is still no differentiation between the recognition of professional and academic qualifications. Furthermore, reciprocal recognition still applies to some regulated professions, and nationality and excessive language requirements subsist.

‘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*

Apart from the removal of legal obstacles to the employment of foreign doctors and nurses in Turkish private hospitals, very little progress can be reported in this chapter and, overall, alignment is at an early stage.

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

No progress can be reported on **capital movements and payments**. The study on the potential impact of gradual liberalisation for the legal framework on real estate acquisition by foreigners is ongoing. Turkey abolished the reciprocity principle for physical persons and extended the number of eligible countries to 183 taking into account national interests and bilateral relations. Although the eligibility list is not public, it seems that restrictions remain for Greek citizens in coastal regions and in Istanbul, for Bulgarian citizens in the Turkish Bulgarian border provinces as well as for Cypriot citizens. Turkey’s legislative framework in this area is not in line with Article 63 of the Treaty on the Functioning of the European Union. Turkey still needs to adopt an action plan for gradually liberalising the acquisition of real estate by foreigners in line with the *acquis* and to demonstrate progress in the implementation of gradual liberalisation.

Restrictions on foreign ownership persist in radio and TV broadcasting, transport, education, and the privatisation of electricity distribution and generation assets. Considerable efforts are needed to align the current legal framework on capital movements and payments with the *acquis*. No progress can be reported in **payment systems**.

Limited progress has been made on alignment with the *acquis* in the **fight against money laundering**. A draft law on the prevention of the financing of terrorism was submitted to the

parliament but has not been adopted yet. The Financial Action Task Force (FATF) therefore decided to keep Turkey on the list of jurisdictions with strategic Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) deficiencies. Particular deficiencies identified by the FATF are the lack of criminalisation of financing of terrorism and the inadequate legal framework for identifying and freezing terrorist assets. In its public statement in June 2012 the FATF noted that despite Turkey's high political commitment to work with the FATF to address its strategic CFT deficiencies, Turkey has not made sufficient progress in implementing its action plan and certain strategic CFT deficiencies remain. The FATF urged Turkey to address these deficiencies and announced that it would call upon its members to apply counter-measures proportionate to the risks associated with Turkey if it does not take significant action by October 2012.

In 2011 the Turkish Financial Crimes Investigation Board (MASAK), which serves as the Turkish Financial Intelligence Unit (FIU), has signed Memoranda of Understanding on exchange of information with counterparts in 6 countries (the United Kingdom, Canada, Belarus, Finland, Australia and Monaco). In 2012 MASAK signed Memoranda also with the United States, Belgium, Netherlands, Poland, Malaysia and Kosovo.

The number of suspicious transaction reports notified to MASAK in 2011 was 8,739, significantly less than in 2010 and 2009, while the number of reports notified to MASAK up to 9 April 2012 was 4,001. The reports originated mostly from the banking sector. The number of suspicious transaction reports with regard to financing of terrorism increased to 219 in 2011, against 186 in 2010. Results with regard to convictions, confiscations, seizures and freezing of assets remain limited.

MASAK continued providing training to examiners, judges, prosecutors and obliged parties. However, MASAK's own capacity needs to be further improved. Cooperation between MASAK, law enforcement bodies and the judiciary has still 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.

In July 2012 the Parliament abolished the system of Specially Authorised Courts. They will be replaced by Serious Crimes Courts under the Anti-Terror Law. These new courts will also deal with cases of laundering of criminal assets.

### *Conclusion*

Limited progress has been made in the area of free movement of capital. Restrictions on capital movements remain in place in a number of sectors, including on direct investments originating from the EU. Enforcement capacity against money laundering and financing of terrorism needs to be improved. The legal framework to combat financing of terrorism remains incomplete and further, urgent efforts are needed as regards alignment with the *acquis* and the relevant FATF recommendations. Overall, preparations in this area remain at an early stage.

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

There is no progress to be reported on **general principles**. No significant changes were made in the legislative framework. Exemptions and domestic preferences still need to be addressed. The National Strategy and Action Plan for Public Procurement, in draft status for two years, has not yet been adopted. Utilisation of the domestic price advantage clause (15%) continued to increase significantly in 2011. It was applied for 40% of the overall value of contracts above the threshold (23% in the first semester 2011) and for 16% (8%) of the number of contracts. However, while exemptions from the Public Procurement Law continued and



distorted consistency and effectiveness of the Law, the value contracts rewarded outside the Public Procurement Law dropped significantly from 19% to 8%. Aligning the scope of the Public Procurement Law with the *acquis* is needed to ensure consistency of the legislative framework.

Some progress can be reported with regard to the **award of public contracts**. The Public Procurement Authority further improved the electronic public procurement platform (EKAP), which currently covers public procurement processes such as notification, tendering, selection and evaluation. An E-procurement Research and Development Centre was established at a university in Ankara. The EKAP call centre has continued to provide advisory services to the procuring entities. The Public Procurement Authority actively provided training. The Authority also received professional assistance for training through the cooperation agreements with prominent Turkish universities. The scope of training in public procurement needs to be extended so that it can fully meet the needs of both contracting authorities and economic operators.

The Ministry of Finance is responsible for coordinating policy formulation and implementation. Shortcomings in its staffing and operational capacity relevant for the area of public procurement have been addressed. The Public Procurement Authority and the Ministry of Development also have the necessary capacity to carry out their mandate. Market functionality and competition with regard to other stakeholders such as contracting entities and economic operators in most sectors are satisfactory. The level of preparedness is high in this area.

The Turkish public procurement legislation is not in line with the *acquis* in a number of respects. Both the classical and utilities sectors are subject to the same law and procedures, thus making the legislation for the utilities sector more restrictive than envisaged by the EU Utilities Directive. Turkey needs to establish a more coherent legal framework for concessions and public-private partnerships to enhance transparency and efficiency. The 2012 thresholds and financial limits for public procurement continue to be higher than those in the EU. A draft alignment strategy for public procurement setting out milestones for full alignment with the *acquis* has yet to be adopted.

No progress can be reported on alignment with the **Remedies** Directives. In comparison to the previous year, the number of complaints lodged by dissatisfied tenderers increased by 9%, from 4,281 to 4,670, whilst the overall number of tenders grew by 23%. The ratio of complaints to the number of tenders was 3%, which suggests that the public procurement system in Turkey is stabilising. However, the decree-laws adopted in August and November 2011 raise concerns about the independence of the Public Procurement Board from political interference and about its functional autonomy. The implementation of these decree-laws needs to be closely scrutinised. Turkey needs to align further its legislation on review mechanisms with the *acquis*.

### *Conclusion*

Limited progress can be reported in the area of public procurement. The institutions are in place and administrative capacity has improved. However, the draft alignment strategy, comprising a time-bound action plan, needs to be adopted. Turkey needs to repeal derogations that are not in line with the *acquis* and align further its legislation, particularly on utilities, concessions and public-private partnerships. The organisation of the remedies system remains to be reviewed. The preparations in this area are moderately advanced.

#### 4.6. Chapter 6: Company law

Some progress can be reported on **company law**. After its adoption in February 2011, the new Turkish Commercial Code (TCC) entered into force in July 2012. However, an amendment to the new Code was adopted before its entry into force, addressing mainly the relations between the shareholders and the company, transparency and the accounting system. Certain amending provisions are not in line with the *acquis*. Some implementing legislation on the TCC has been adopted. Preparations for online company registration continued, including preparations to extend its pilot application to all chambers of commerce.

Further corporate governance principles have been issued by the Capital Markets Board (CMB) and the principles have been made applicable to a larger number of companies. Rules on the remuneration policy of brokerage houses have been amended in order to comply with principles on independent directors and directors' remuneration. Principles regarding merger proceedings have also been amended. However, the new corporate governance principles increase the state involvement in the corporate governance by giving more power to the CMB to control companies. The new TCC is assigning a number of new tasks to commercial courts with regard to enforcement of new company law rules, whilst the capacity of these courts still remains insufficient. Professional business organisations, including chambers of commerce, also need strengthening.

Some progress can be reported in the area of **corporate accounting**. The legal framework for financial reporting is in place. Turkey adopted 40 Turkish Accounting and Financial Reporting Standards (TAS/TFRSs), 22 interpretations of the Standards and TFRSs for SMEs. They are fully aligned with the corresponding International Financial Reporting Standards. TFRSs are applied by listed companies, banks, leasing, factoring and financing companies, insurance, reinsurance and pension companies. The new TCC also requires other large capital companies to apply TFRSs and these companies are to be audited by statutory auditors as of January 2013.

A newly established Public Oversight, Accounting and Auditing Standards Authority took over all tasks and assets of the dissolved Turkish Accounting Standards Board.

Turkey made significant progress in **auditing**. The Public Oversight, Accounting and Auditing Standards Authority was established in November 2011 and became operational in December 2011. The new authority is responsible for setting standards for auditing, drafting code of conduct, and approving, registering and monitoring statutory auditors and audit firms. It employs 50 staff, including inspectors working directly on public oversight of auditing. This capacity needs to be further strengthened.

#### *Conclusion*

Good progress was made in the area of company law following the establishment of the Turkish Accounting and Auditing Standards Authority. However, the capacity of the commercial judiciary and business organisations needs strengthening in order to deal with the changes made by the new legislation. Overall, Turkey is advanced in this area.

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

Some progress can be reported in the area of intellectual property law. Political will to effectively enforce industrial property rights remains weak. The second meeting of the IPR Working Group between the EU and Turkey was held in January 2012.

Concerning **copyright and neighbouring rights**, adoption of the draft Law on Intellectual and Artistic Works is still pending. The re-structured Directorate-General for Copyright in the Ministry of Culture and Tourism was put in charge of copyright issues. Eighteen new junior

copyright experts were recruited. Stakeholder dialogue was further improved with regard to copyright protection. The number of provincial inspection commissions was increased from 46 to 81 in 2011. These commissions received IPR training. Provincial inspection commissions are working efficiently and specialised IPR police units conducted 3,229 operations in 2011. The number of suspects reached 3,678 and a total of 16,120 pirated items were seized in these operations.

Some progress can be reported with regard to the implementation of **industrial property rights**. The draft law on industrial property rights was opened for public consultation in January 2012. Examination guidelines for trademarks, patents and industrial designs were made public. The guidelines are expected to improve the consistency and coherence of decisions while increasing the transparency and predictability of the services provided by the Turkish Patent Institute (TPI) in terms of administrative protection of IPRs.

The TPI has strengthened its institutional capacity and contributed to the strengthening of the administrative capacity of other enforcement bodies through tailor-made general and specific training courses, study visits, consultation meetings and awareness-raising activities. It also recruited 30 new junior trademark and patent examiners and a lawyer. Consistency between the TPI's final decisions and those of the IPR judiciary has further improved. The TPI signed in January 2012 a memorandum of understanding with the Ministry of Culture and Tourism to establish an IPR Law Academy. The Academy will be operational in 2013 and it will run the TPI's performance and training management system. The system aims to introduce standard and professional vocational training for junior examiners.

There is still no regulatory framework for the supervision of the conduct of trademark and patent agents.

No progress can be reported on **enforcement** issues. Turkey does not have criminal enforcement measures for industrial property rights other than trademarks. Adoption of a law on IPR enforcement procedures in line with the EU Enforcement Directive is needed. In 2,920 police operations, 3,238 individuals were suspected of industrial property rights infringements following complaints by the right holders. Overall in 2011, over 6 million counterfeit items were seized. The issues of return of counterfeit goods to the offenders, storage of the confiscated materials by right holders, and difficulties in obtaining preliminary injunctions remain unresolved.

The average time needed for decisions to be taken by civil and criminal IPR courts decreased remarkably. IPR statistics were more accurately produced in 2011. However, judicial enforcement needs further strengthening and the issue of expert witnesses needs to be addressed.

Concerning IPR enforcement at customs, the centralised customs database and IT management system are not effectively used at the customs points to prevent counterfeit goods from entering the market. Online applications for customs seizures by right holders are not possible yet and a risk analysis system is not being used for potential IPR infringements. Seizures upon complaints by right holders increased whereas *ex officio* customs controls remained low, particularly as regards large shipments. Turkey continues to be one of the main countries from which goods suspected of IPR infringements enter the EU. IPR enforcement capacity at customs needs to be strengthened, particularly with regard to export controls.

The Turkish national police carried out awareness-raising activities across the country on the usage of unlicensed software, and several seminars and workshops on intellectual property offences were held since December 2011. Such initiatives need to be encouraged and addressed to a wider public. Overall, there is a need for more effective general awareness-

raising campaigns on the risks of IPR infringements and the benefits of a better functioning IPR system throughout the country.

#### *Conclusion*

Some progress can be reported in the area of intellectual property law. Updated laws regulating intellectual and industrial property rights and a law on IPR enforcement procedures in line with the *acquis* need to be adopted. Increasing the capacity of the judiciary and of the customs administration with a view to more effective IPR enforcement is crucial. Combating counterfeit goods also needs to be improved. Closer coordination and cooperation among IPR stakeholders and public bodies is essential, as are general awareness campaigns on the risks of IPR infringements. Turkey only partly addresses the priorities in this area.

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

There has been limited progress in the area of **anti-trust and mergers**. The Competition Authority strengthened its enforcement record by adopting a number of decisions, e.g. in the banking sector. In March 2012 it published its first Competition Report, highlighting regulatory and other barriers to competition in 11 industry sectors. The Authority's overall administrative capacity remains high. It continued to uphold a satisfactory level of administrative and operational independence and a commitment to high-level training for its staff. However, a decree-law issued in late 2011 changed the rules for the appointment of its Chairman and Deputy Chairman, which adds to concerns about the Authority's ability to preserve its independence, triggered in 2011 by a decree authorising the competent minister to monitor and inspect the activities of the Competition Authority.

Banking mergers and acquisitions resulting in a combined sectoral market share of below 20% are still excluded from the Competition Act. Turkey still needs to align with the *acquis* on horizontal cooperation agreements and *de minimis* rules, as well as with rules on public undertakings and undertakings enjoying exclusive and special rights. Turkey is at an advanced level of alignment in the field of anti-trust and mergers.

No progress took place in the area of **State aid**. The State Aid Authority has continued to develop its capacity. The legislation implementing the State Aid Law has been prepared, and was originally scheduled to be enacted by the end of September 2011. However, a decree-law issued in November 2011 extended this deadline to the end of June 2013. Moreover, a significant incentives package, superseding the 2009 stimulus package, was published on 19 June 2012. This new package, together with the free zones regime, remains one of several schemes in need of alignment with Customs Union rules. The State Aid Authority still needs to establish a formal State aid inventory and an action plan for aligning all State aid schemes with the *acquis*.

#### *Conclusion*

Limited progress can be reported in this chapter. Turkey enforced anti-trust and merger rules effectively. However, recent legal developments raise concerns as to the Competition Authority's ability to continue carrying out its operations independently. No progress has been made in the area of State aid, while a number of existing State aid practices conflict with Customs Union rules. The State Aid Law remains ineffective in the absence of implementing legislation. Alignment is advanced in the area of mergers. In the field of State aid, the country is not yet sufficiently prepared.

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

There has been some progress in the areas of **banks and financial conglomerates**. Basel II standards have become compulsory for the banking sector as of 1 July 2012. According to the

latest Quantitative Impact Study conducted by the Banking Regulatory and Supervisory Authority (BRSA), full implementation of Basel II is expected to result in a 1.5 percentage points decline in the banking sector's capital adequacy ratio. Turkey aligned its rules on the secrecy of information shared by foreign supervisory authorities. This facilitated discussions with the EU authorities to agree on a new Memorandum of Understanding (MoU) to improve cooperation. The number of MoUs signed reached 33.

Limited progress can be reported on **insurances and occupational pensions**. With 48 insurance companies as members, the out-of-court dispute settlement system now serves 94% of the sector. No progress can be reported in the establishment of an independent regulatory authority for the sector. Minimum amounts of cover in third-party liability insurance for motor vehicles are still low vis-à-vis the EU.

Turkey enjoys a high level of alignment with the *acquis* on **financial market infrastructure**.

There has been limited progress in the areas of **securities markets and investment services**. Activities to improve financial literacy continued. More efforts are needed in the areas of undertakings for collective investment in transferable securities (UCITS), market abuse and the investor compensation scheme.

'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 have become obligatory for the banking sector. More efforts are needed, particularly in the areas of securities markets and investment services, and in the insurance sector. Overall, preparations in the area of financial services are well on track.

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

Some progress can be reported in the field of **electronic communications and information and communications technologies (ICT)**, while further efforts are needed to bring the legislation into line with the *acquis*, in particular regarding the provisions on market access and interconnection, regulation of retail tariffs, spectrum management and universal service obligations.

Good progress continued as regards adopting regulations to improve competition and transparency in the market and implementing competitive safeguards. The Information and Communication Technologies Authority (ICTA) has commenced its third round of market analysis. A communiqué was published in February 2012 to improve the service quality of internet service providers. Fixed number portability and wholesale line rental became operational in early 2012. Tariff rebalancing is advanced. There has been progress on enabling national roaming and access for mobile virtual network operators, and an implementing regulation on authorisation of broadband wireless access services operators has been adopted. As for regulation of the next generation access networks, in October 2011 ICTA excluded fibre from market analysis for the next five years or until the percentage of fibre-based subscriptions reaches 25% of all fixed broadband subscriptions. The incumbent's reference offer, as approved by ICTA, includes the terms and conditions of facility sharing, and it has committed to provide wholesale and bitstream services over its fibre network on a non-discriminatory basis. At the same time, the fees collected from operators to finance

ICTA's activities are disproportionately high compared to its expenses, and the surplus funds are directed to purposes other than covering the costs of regulation.

There are three competing mobile operators in the country, whereas the fixed telephony and fixed broadband sectors remain dominated by the incumbent. While the fixed broadband penetration rate per population increased only very slightly (reaching 10.7% at the end of 2011), the mobile broadband penetration increased significantly (reaching 6.7%). The communications taxes imposed on mobile services remain high compared to the taxes on fixed telephony. Operators also face difficulties in acquiring rights-of-way to deploy mobile/wireless networks.

No progress can be reported in **information society services**. Turkey has not signed the European Convention on the legal protection of services based on conditional access. The discrepancies between the law on electronic signature and the EU Directive remain to be aligned. The draft laws on data protection and e-commerce are still pending. The law on internet content and providers needs to be brought into line with international standards protecting freedom of expression. Starting from November 2011, ICTA imposed an obligation on internet service providers to offer customers, upon request, a free-of-charge internet filtering service (with child and family profiles).

Good progress can be reported in **audiovisual policy**. A number of implementing regulations were adopted following the entry into force of the 2011 Supreme Board of Radio and Television (RTÜK) Law aiming at alignment with the Audiovisual Media Services Directive. But the Broadcasting Law does not address the issue of jurisdiction, with RTÜK still having the authority to regulate foreign broadcasters and failing to align with the definition of European works. Frequency planning studies for radio frequencies and TV channels continued. The target date to finalise the frequency tender for digital television multiplex capacity is set for March 2013. The switch-off date for analogue broadcasting is March 2015. The switchover to digital broadcasting is scheduled for June 2015.

Regarding broadcasts in languages and dialects other than Turkish, private broadcasters continued their broadcasts without restrictions on content, time limits or subtitling/consecutive translation requirements. The number of broadcasters in languages other than Turkish increased to 25. The languages used are Kurdish and Arabic. Commercial considerations, technical difficulties and lack of human resources are the main obstacles to broadcasts at national level.

In order to ensure transparency of the Council's decisions, RTÜK makes them public. Sanctions were issued against broadcasters for violating the rules on the protection of minors and rules on commercial communication. Certain decisions of RTÜK continue to raise concerns as to the broad interpretation of certain legal provisions, especially as regards obscenity and the principle of the protection of family, national and moral values. (*See section on Freedom of expression*)

### *Conclusion*

Progress can be reported in the area of information society and media. However, alignment with the EU framework on electronic communications remains limited, in particular on authorisation and market access. Continued efforts are required for further alignment of legislation on information society services. The provisions of internet content that might potentially limit the freedom of expression and a too broad interpretation of certain legal provisions, especially as regards sanctions against broadcasters, raise concerns. Preparations in this area are moderately advanced.

#### 4.11. Chapter 11: Agriculture

Limited progress can be reported on **horizontal issues**. The Ministry of Food, Agriculture and Livestock has significantly increased the number of staff dealing with EU-related issues, to develop the relevant administrative capacity necessary to align with the Common Agricultural Policy (CAP), including in the area of agricultural statistics and the Farm Accountancy Data Network (FADN). However, legislative alignment with the CAP remains limited. Turkey continues working on its strategy for agricultural statistics, which has still to be adopted.

Regarding direct support to producers, Turkey has not yet prepared a strategy for adjusting its agricultural support policy to the CAP. The agricultural budget for 2012 represents a continuation of the recent trend. The overall budget has increased, including rises in area and headage payments coupled to production, whilst deficiency payments have fallen. Limited progress has been observed in preparation of the Integrated Administration and Control System (IACS) despite some efforts to develop the Land Parcel Identification System (LPIS).

There was some progress on the import ban on live cattle, beef meat and derivative products, leading to a significant increase in the volume of EU exports. However, a *de facto* ban remains for certain EU Member States. Further efforts need to be made by Turkey in order to fully implement its bilateral obligations under the trade agreement for agricultural products.

Regarding **common market organisation**, some progress can be reported in the fruit and vegetable sector, with the adoption of significant legislation regulating producer associations and trade in wholesale markets. However, no progress has been noted for the other sectors. Some progress has been observed regarding **rural development**. Turkey achieved conferral of management of EU funds under the Instrument for Pre-Accession Assistance in Rural Development (IPARD) for a further three provinces, taking the total to 20. The implementation rate is slow and Turkey set up a plan for improving the absorption of IPARD funds. The IPARD Agency has recruited an additional 988 personnel for the additional 22 provinces, which brings the total to more than 1,950 staff. The number of staff of the Managing Authority has increased but the position of the Authority in the Ministry's hierarchy needs to be strengthened to increase its access to decision-makers and to improve its effectiveness. There is no progress to report on **quality policy** and very limited progress on **organic farming**, where some implementing legislation was adopted.

'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*

Limited progress has been made on alignment in the area of agriculture and rural development. The capacities relating to agricultural statistics and FADN have increased. Implementation of the pre-accession rural development programme has improved but intensive efforts are required to ensure adequate absorption of the funds. The *de facto* import ban on live cattle, beef meat and derivative products has not been fully lifted and there remain no strategies in place for the reorientation of agricultural support, nor for agricultural statistics. Preparations in the area of agriculture and rural development are not very advanced.

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

Some progress has been observed on **general food safety** issues, in particular on alignment with and implementation of the *acquis*. A large number of regulations implementing the framework law on veterinary services, plant health, food and feed have been put into effect, some of which introduced transitional periods until their entry into force.

Concerning **veterinary policy**, progress has been made on alignment with and implementation of the *acquis*. A number of regulations have been adopted in the area of control systems for imports, which is an important step in the alignment in this area. However, further efforts are needed for full implementation in line with the *acquis*. No progress has been observed on achieving the full functionality of three land and two seaport border inspection posts (BIPs), as well as the BIP at Sabiha Gokcen Airport in Istanbul. Veterinary and phytosanitary controls need to be stepped up at the BIPs.

Turkey made further efforts on identification and registration of animals and control of their movements. It has put into force a regulation governing the methods and principles of work and inspection of live animal traders, a regulation governing the methods and principles of work and inspection of live animal traders, a regulation on internal movements of live animals and animal products, and a regulation on rules and procedures for the authorisation and inspection of livestock markets. Efforts continued in the area of identification and registration of bovines and their movements. However, full functioning of the system in line with the *acquis* still needs to be ensured. Implementation of the identification and registration of ovine and caprine animals has continued and the regulation concerning identification, registration and monitoring of ovine and caprine animals has come into force.

Turkey has kept up its fight against animal diseases. Several implementing regulations on combating diseases have come into force. The combat against foot-and-mouth disease (FMD) has continued. Turkey continued an intensive vaccination programme along with strict animal movement controls between Thrace and Anatolia. However, the status of an FMD-free zone with vaccination in the Thrace region was temporarily suspended. An increased number of FMD outbreaks in Anatolia due to insufficient control of internal animal movements is a matter of serious concern. Limited steps have been taken as regards transmissible spongiform encephalopathies (TSEs). A regulation concerning the protection and fight against TSEs has been adopted, but significant efforts are still needed for full alignment with and implementation of the *acquis* in this area. Turkey continued to notify animal diseases.

A regulation concerning the animal health requirements applicable to non-commercial movements of pet animals has entered into force. However, overall progress in this area has remained limited. Progress has been observed as regards the implementation and follow-up of the national residue monitoring plan and the control of veterinary medicinal products. The scope of testing has been extended. A regulation concerning the measures to be taken to monitor certain materials and their residues in live animals and animal products has come into force.

*(See Chapter 11 — Agriculture and Rural Development for the de facto import ban on live cattle, beef meat and derivative products)*

Turkey adopted a number of regulations in the area of zootechnics. Some progress has been made on alignment with the animal welfare *acquis*, relating to animal welfare during transport and on farm. However, further structural and administrative efforts are required for the full implementation of the *acquis* in this area.

Progress has been observed as regards **placing on the market of food, feed and animal by-products**. Turkey carried out intensive training and continued implementing annual inspection and monitoring programmes. Some progress has been made in developing a



national upgrading plan for agri-food establishments. The implementation of the new rules for the registration and approval of food establishments requires significant efforts. In legal terms, progress was also made on alignment with the hygiene package. However, implementation requires strengthened administrative capacity, to carry out more effective official controls, including those for animal products. The recent establishment of a risk assessment unit, scientific committees and commissions within the responsible ministry aims to support and strengthen a scientific risk-based advisory system.

Regarding rules for animal by-products, a regulation on animal by-products not intended for human consumption has been adopted. However, further efforts are required to adapt the sector and achieve full implementation. No progress is observed as regards funding of checks.

Progress has been made on **food safety rules**. Legislative alignment and implementation have advanced on a range of issues, such as labelling, additives and purity criteria or flavourings. Further studies are needed in the area of food contact materials. Alignment in the area of food supplements, food enzymes and novel food has not yet been completed. Regarding **specific rules for feed**, progress has been observed on alignment with the *acquis*. Regulations on the placing on the market and use of feed, and on methods of sampling and analysis for the official control of feed have been brought into force.

Some progress has been made on alignment with the *acquis* in **phytosanitary policy**. A new regulation on plant quarantine and implementing legislation on certain harmful organisms have been adopted. A new regulation on the registration and monitoring of plant protection products (PPPs) used in plant production bans 159 active substances whose use is not allowed in the EU. Implementation of a plant passport system and registration of the operators has started for all species. Progress in the area of seed and propagating materials remained very limited. However, a circular on the implementation of seed imports has created trade disruptions. Limited progress can be reported on **genetically modified organisms (GMOs)**. Laboratory capacity in this area has been improved.

### *Conclusion*

Some progress has been made in the field of food safety, veterinary and phytosanitary policy. However, further efforts are required to advance towards full alignment with the *acquis*. Significant efforts are needed on upgrading agri-food establishments to EU standards, control of animal movements, animal health, especially the fight against foot-and-mouth disease, and animal by-products. Overall, preparations in this area are at an early stage.

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

Some progress can be reported in terms of administrative capacity following the restructuring of the Ministry of Food, Agriculture and Livestock and the establishment of a separate Directorate-General for Aquaculture and Fisheries. The number of staff has increased and their internal training has continued. However, there has been no progress on alignment with the fisheries *acquis*.

Some progress can be reported as regards **resource and fleet management**. A communiqué on support to the fishing vessel owners who withdraw their vessels from fishing has been published. The functionality and scope of the Fisheries Information System (FIS) has been further enhanced to cover registration of recreational fishers, issuing of special fishing permits and inspection forms, input of biological data collected for anchovy, and collection of fisheries and aquaculture statistics. This data is shared with EU scientists in the framework of the Scientific Technical and Economic Committee for Fisheries Expert's Working Group for the Black Sea. Implementation of the action plan on anchovy has progressed. Preparation of national action plans for fisheries and aquaculture and their effective implementation are

crucial for sound, integrated and sustainable fisheries management. There has been an improvement in aquaculture production.

One fisheries port office has been built and equipped, increasing the total number to 41. A Fisheries Communiqué on commercial and recreational fishing, which lays down the provisions on fisheries prohibitions, restrictions and obligations, has been published. The communiqué, covering the period 2012-2016, aims to ensure sustainable exploitation of fishing resources.

There has been some progress in the area of **inspection and control**. As regards the fisheries control policy within the context of the International Commission for the Conservation of Atlantic Tunas (ICCAT), the cooperation between Turkey and the European Commission has been enhanced through the Fisheries Dialogue Group. There has been a slight increase in the number of inspections. However, further efforts are required to ensure sustainability of the fish stocks. The Fisheries Dialogue Group also discussed the adoption of common positions in the Framework of the General Fisheries Commission for the Mediterranean (GFCM).

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

Concerning **international agreements**, progress has remained limited. Some recommendations of ICCAT on bluefin tuna (BFT) and swordfish have been transposed into national legislation and their implementation is progressing. The number of authorised BFT vessels has been reduced from 17 to 11. However, additional actions, e.g. to improve monitoring and ensure sustainability, are needed for full compliance with ICCAT requirements. Turkey signed bilateral fisheries agreements with Morocco and Ukraine. Turkey has also become a member of the Central Asian and Caucasus Regional Fisheries and Aquaculture Commission. As the United Convention on the Law of the Sea (UNCLOS) provisions are implemented in a number of Community policies, including the Common Fishery 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 fully implement the *acquis* relating to this chapter.

#### *Conclusion*

Overall, some progress has been made in the field of fisheries, not least on administrative capacity, resource and fleet management, inspection and control, and international agreements. However, additional efforts are needed on legislative alignment, structural action, market policy and State aid. Overall, the alignment in this area is not very advanced.

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

The Ministry of Transport was restructured in November 2011 to become the Ministry of Transport, Maritime Affairs and Telecommunications (MoTMC). The restructuring strengthens the regulatory character of the Ministry.

There has been some progress in the area of **road transport**. A new Directorate-General for Road Transport Regulation has been established. Preparatory work towards alignment of driver licences with EU standards is almost finished in view of adopting a new law. Implementation of the digital tachograph system works efficiently and is in compliance with

the European Agreement concerning the work of Crews of Vehicles engaged in International Road Transport (AETR).

Regulations on work and rest periods, driver training and roadside technical checks on commercial vehicles have been adequately implemented, but institutional and technical capacities are key issues for ensuring smooth implementation. Concerning road safety, important efforts have been made to scrap commercial vehicles manufactured before 1986, almost doubling last year's amounts. However, Turkey needs to align with the *acquis* on admission criteria for road transport operators and access to the road haulage market.

There has been little progress in **rail transport**. A new Directorate-General for Railways Regulation (DGRR) has been established. Rail transport reform still requires the adoption of a more comprehensive railway law. In particular, regarding the railways reform agenda, important strategic decisions are pending at ministerial level. The Turkish State Railways (TCDD) did not start cost-based accounting and there is no public service obligation system in place. The financial situation might also be under pressure due to lack of monitoring of operational costs and the ambitious high-speed train investment programme. A safety management system for the TCDD and also national safety rules are under preparation. A safety authority and an accident investigation body have not been established yet. Legal alignment requires further efforts.

No progress can be ascertained concerning **inland waterways transport**, although Turkey has commercial operations on the lake Van and Ataturk dam, and therefore it needs to comply with the relevant *acquis*. Turkey is a candidate to join the Belgrade Convention regarding navigation on the Danube, which would also require Turkey's *acquis* compliance.

There is little progress in **combined transport**, although a new Directorate-General for Combined Transport and Dangerous Goods has been established.

In the area of **air transport** progress can be reported in aligning with the *acquis*. A dialogue has been established addressing Turkey's wish to fully integrate into the EU aviation system, with a special attention to safety including participation in the work of the European Aviation Safety Agency (EASA) and joining the Single European Sky. However, the signature of the horizontal aviation agreement between the EU and Turkey is still pending.

The Civil Aviation Authority (DGCA) approved regulations on passenger rights, reservation systems, continuing airworthiness, oversight at air traffic management, management system and risk assessment and mitigation by air navigation service providers, performance based navigation approach operations, and minimum health requirements of cabin crew. The DGCA has also increased its capacity to cope with the traffic growth.

It must be recalled that 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. Currently there are no developments concerning the exchange of flight data and requirements for the application of a flight message transfer protocol between air traffic control units. A technical solution needs to be sought to resolve the safety issues. Air traffic management is still suffering from a lack of regional cooperation. An operational solution needs to be found urgently.

Good progress can be reported in the field of **maritime transport**. The Undersecretariat for Maritime Affairs issued regulations on protection and insurance of hazardous and noxious substances (HNS). Turkey has become a party to numerous agreements, the most relevant regarding EU legislation being AFS 2001 (International Convention on the Control of Harmful Anti-fouling Systems on Ships), FAL 1965 (Convention on Facilitation of International Maritime Traffic), Hong Kong SRC 2009 (International Convention for the Safe

and Environmental Sound Recycling of Ships) and MARPOL Annex VI (International Convention for the prevention of pollution from ships). Establishment of vessel traffic management systems (VTMS) for the ports of Kocaeli, Mersin, İzmir and İskenderun is still ongoing. Emergency response preparedness and handling of dangerous goods are areas that call for increased attention.

No special *acquis* alignment is required for **satellite navigation**, as regulations will take direct effect upon accession. There is a good level of cooperation with Turkey in the EU global navigation satellite system programmes.

‘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 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*

There is some progress in alignment of the transport sector. Turkey needs to align to the recent EU legislative packages in maritime and rail transport. Further efforts are needed in the areas of human resources and technical capacity to apply the *acquis*, especially in the fields of dangerous goods and emergency response preparedness in maritime transport. The lack of communication between air traffic control centres in Turkey and the Republic of Cyprus is seriously compromising air safety. Overall, preparedness in the transport chapter is moderately advanced.

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

Some progress can be reported regarding **security of supply**. Turkey and Azerbaijan signed an intergovernmental agreement on the sale and transit of natural gas through Turkey to Europe in October 2011. A Memorandum of Understanding followed in December 2011, establishing a consortium to build and operate the ‘Trans-Anatolian Pipeline’ (TANAP), which aims to carry 16 billion cubic metres (bcm) of Azeri gas from the Shah Deniz II field between the easternmost and westernmost provinces of Turkey. In June 2012 both countries signed an agreement establishing the rights and obligations of both parties to implement TANAP. The Turkish Petroleum Pipeline Corporation (BOTAS) and China’s Tianchen Engineering (TCC) signed a contract in November 2011 with a view to building a 1 bcm underground natural gas storage facility in Central Anatolia. Turkey and the Russian Federation signed a set of energy agreements in December 2011, including approval of the construction of the South Stream Natural Gas Pipeline under the Black Sea through the Turkish economic exclusive zone and the extension of the Russian West line contract for one additional year.

Studies on and construction of electricity interconnections with neighbouring countries continued. No development can be reported on a fair and non-discriminatory rule for gas transit. Instead of establishing an Oil Stock Agency (as previously planned), a new department responsible for oil stocks was established within the framework of the General Directorate of Petroleum Affairs. Turkey has the potential to play a pivotal role in diversifying resources and routes for oil and gas transit from neighbouring countries to the EU.

Regarding the **internal energy market**, some progress can be reported on electricity. The Turkish Energy Market Regulatory Authority (EMRA) published implementing regulations to improve competition and market supervision. An implementing regulation on auditing and

inspection of the electricity generation and distribution companies was published in October 2011. The regulation on unlicensed generation of electricity in the electricity market, which is designed to promote investments by small-scale consumers, was amended and a new communiqué to enhance investments was published in March 2012. The threshold for eligible consumers was further reduced to 25,000 kWh for 2012, which corresponds to a theoretical market opening of 77%. Day-ahead market operations were initiated in December 2011. The privatisation of the electricity distribution assets slowed down due to bidders' payment difficulties, which also caused delays in privatising generation plants. One of the five distribution companies was privatised. However, the Privatisation Administration re-launched tenders for the three distribution companies and a major gas power generation plant in August 2012.

Limited progress can be reported in the elimination of cross-subsidies between consumers, in particular on the wholesale and retail electricity market. Although an automatic, cost-based pricing mechanism for end-users is in place, changes in actual costs are not always reflected in prices charged to end-users. The independence and the institutional capacity of the regulatory authority need strengthening. Further efforts are necessary throughout the sector to align with the *acquis* and to ensure effective implementation and enforcement of the legislation.

There has been some progress in the gas market. The Ministry of Energy and Natural Resources (MENR) initiated studies for amending the natural gas market law. EMRA published an implementing regulation on the selection criteria for underground gas storages. The eligibility threshold was further reduced to 300,000 m<sup>3</sup> for 2012. EMRA's natural gas consumption forecast for 2012 is 48.5 bcm, representing a 9% increase compared to 2011. The tendering process for gas distribution continued and the network was extended to 69 provinces out of 81. The privatisation tender for the Ankara region continued. EMRA published the tariff methodology for the tendered distribution regions in December 2011. No progress can be reported on reducing BOTAS' monopolistic market share, as the intended replacement of BOTAS' terminated contract with the Russian Federation by private sector companies were unsuccessful and the contracts were prolonged by a year. EMRA is evaluating the applications for import licences to import by the private sector of 6 bcm of natural gas, replacing the Russian Federation contract upon its termination, and 3 bcm of additional gas from Iraq.

Progress can be reported in the area of **renewable energy**. The new Directorate-General for Renewable Energy (YEGM) within the MENR is responsible for renewable energy, energy efficiency and managing energy information and technology. EMRA published an implementing regulation identifying measurement standards for wind and solar licence applications in February 2012. The regulation concerning the domestic manufacturing of components used at plants generating electricity from renewable energy resources was amended in July 2012. It specified the minimum domestic content requirements in equipment and its components needed to obtain the incentives established in the Renewables Law. The compliance with WTO or Customs Union trade rules of the incentive mechanism for domestically produced equipment is questionable. EMRA also published two communiqués to promote the use of renewable fuels produced from domestic agricultural products as an additive for marketed gasoline and diesel fuels. However, the share of renewable energy sources in electricity generation remained slightly lower than in the previous year.

Good progress can be reported in **energy efficiency**. An energy efficiency strategy was published in February 2012, identifying a set of policies and implementing actions to reduce Turkey's energy intensity by at least 20% by 2023. The implementing regulation on improving the efficiency of energy resource use was amended in October 2011, enhancing

incentives for the industry and regulating the authorisation of energy efficiency consulting companies. The implementing regulation for labelling and standard product information on the consumption of energy and other resources by energy-related products was published in December 2011. A set of new communiqués entered into force on eco-design implementations. Developments on authorisations for energy efficiency services and energy management programmes continued. A total of 8,000 energy performance certificates were issued in 2011.

Uneven progress can be reported on **nuclear safety and radiation protection**. The Turkish Atomic Energy Authority (TAEK) proposed a project to enhance the effectiveness and efficiency of nuclear regulatory infrastructure, with a view to improving alignment with the EU nuclear *acquis*. Turkey signed four memoranda of understanding with South Korea, Japan, China and Canada for nuclear cooperation. Turkey has not yet acceded to the ‘Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management’. No development can be reported on the adoption of a framework nuclear law, which would ensure a level of nuclear safety in full compliance with EU standards; existing applicable national legislation mainly covers protection against ionizing radiation and the licensing of nuclear installations. Moreover, Turkey has not yet joined the European Community Urgent Radiological Information Exchange (ECURIE) Agreement. Alignment with the *acquis* of the existing regulations based on International Atomic Energy Agency (IAEA) standards needs to be ascertained. Turkey needs to align as well with the recent directives on nuclear safety of nuclear installations and on the responsible and safe management of spent fuel and radioactive waste,

#### *Conclusion*

Some progress can be reported in the energy sector, especially as regards renewable energy and energy efficiency. Further efforts are needed in the areas of natural gas, nuclear safety and radiation protection, including responsible and safe management of spent fuel and radioactive waste. Competition remains limited in the gas sector. The functioning of the cost-based pricing mechanism in the electricity market needs to be improved whereas it remains to be established in the gas markets. The independence and institutional capacity of the regulatory authority need strengthening. Overall, in the area of energy, Turkey is at a moderately advanced stage of alignment.

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

No progress can be reported in the area of **indirect taxation**. Regarding *value-added tax*, Turkey re-introduced the super-reduced rate of 1% on a number of goods and services. Introduction of the third VAT rate is a regressive move in terms of alignment of the tax structure with the *acquis*. There is a need for further alignment with the *acquis*, particularly regarding structure, exemptions, special schemes, and the application of reduced rates.

There has been some progress in the area of *excise* duties. In December 2011, Turkey further reduced the Tobacco Fund levy on imported tobacco, in line with the 2009 Action Plan for eventual elimination of discriminatory practices in taxation. However, Turkey’s June 2012 amendments to the Excise Tax Law are not fully in line with the *acquis*, as there are still discrepancies in terms of the structure of the excise duty on tobacco and the calculation system to determine taxed amounts. Also, the government has the possibility to set different specific amounts in respect of certain characteristics of the tobacco or its packaging that could be discriminatory and therefore non-compliant.

Concerning the taxation of alcoholic beverages, no progress can be reported. The excise duties remain higher for imported products than for comparable domestic ones. In fact,

Turkey has taken measures that run counter to the excise duty provisions of the 2009 Action Plan.

Gradual elimination of discriminatory practices in taxation in line with the Action Plan is the key to further progress under this chapter.

Structural discrepancies continue to exist between Turkish excise duty legislation and the *acquis*. Further efforts are necessary for alignment in this respect. Turkey needs to introduce a duty-suspension regime for domestic movements and fiscal warehouses prior to membership.

There is no progress to be reported in the area of **direct taxation**.

There has been good progress in the field of **administrative cooperation and mutual assistance**. A regulation in October 2011 set out the operational structure of the Tax Inspectors Board. The merger of the tax audit functions within the Ministry of Finance is a positive step for ensuring consistency in tax audit planning and practices.

In the field of **operational capacity and computerisation**, good progress can be reported. The Revenue Administration continued to reinforce the taxpayer services so as to enhance voluntary compliance. In line with the Action Plan for Combating the Unregistered Economy in Turkey, electronic registration of taxpayers started in April 2012. The Revenue Administration carried out a self-assessment, which will guide the administration in introducing a quality management system in its operations and relations with taxpayers.

#### *Conclusion*

There has been limited progress on legislative alignment under this chapter, especially on eliminating discriminatory practices in the taxation of tobacco and on administrative cooperation and operational capacity. However, discrepancies with the *acquis* continue to exist. Further efforts are needed regarding excise duties on spirits to comply with the Action Plan in reducing the differentials between imported and domestic products. Gradual elimination of discriminatory practices is the key to further progress. No progress can be reported on direct taxation. Overall alignment in this chapter is moderately advanced.

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

Some progress can be reported on **monetary policy**. Turkey's level of alignment is advanced, although incomplete. The Central Bank missed the inflation target of 5.5% by a wide margin, as consumer price inflation climbed to 10.45% by the end of 2011. The Central Bank actively used a wide range of policy instruments such as the interest rate corridor, reserve requirements and foreign currency auctions and interventions. Portfolio outflows and excessive depreciation of the lira led the Central Bank to widen the interest rate corridor, reduce reserve requirements and sell foreign currency, calming the markets in due course.

The inflation target is jointly decided by the Central Bank and the government. The statute of the Central Bank does not fully ensure its independence. Provisions on the investor protection fund and discriminatory withholding tax rates applicable to public and private sector debt instruments are not in line with the principle of the prohibition of privileged access by the public sector to financial institutions.

There has been some progress on **economic policy**. The Medium Term Programme 2012–2014 focuses on fiscal discipline and reducing Turkey's large current account deficit. In January 2012 Turkey submitted its 2012 Pre-Accession Economic Programme, which is supported by a sufficiently comprehensive and broadly consistent macroeconomic framework. However, it is somewhat optimistic, in particular with respect to the balance-of-payments and inflation scenarios. The programme's structural and institutional reform agenda covers a broad range of issues, but is fragmented and insufficiently linked to the fiscal scenario, and

only partly aligned with the reform requirements in view of the country's EU accession perspective. The capacity for economic policy formulation and coordination is adequate. In the area of economic policy, Turkey's overall level of preparedness is advanced.

#### *Conclusion*

There has been some progress on economic and monetary policy. The Central Bank actively employed different instruments to ensure price and financial stability, albeit with mixed results. Alignment with the *acquis* remains incomplete, particularly regarding the full independence of the Central Bank and the prohibition of privileged access of the public sector to financial institutions. The capacity for economic policy formulation and coordination is adequate. Overall, Turkey's level of preparedness is advanced.

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

Good progress can be reported on **statistical infrastructure**. TurkStat published the Official Statistics Programme for the period 2012–2016 and has embarked on a process of streamlining statistical production in line with the ESS vision. Based on recommendations from the peer review of May 2011 TurkStat developed instructions for access to micro-data, which is an important step towards better usability of statistical information. The government overhauled the institutional structure of TurkStat, which included establishing 500 new posts at the operational level, with a view to strengthening institutional capacity. Preparations in this area are already well advanced.

There has been progress in **classifications and registers**. TurkStat finalised the adaptation work for all classifications and published data according to the new NACE rev2. A detailed description for setting up the farm register and the methodology and organisational set-up for the collection of agriculture statistics is missing. Preparations in this area are advanced.

Good progress has been made on **sectoral statistics**. Studies on the revision of national accounts on the new base year and implementation studies for ESA2010 continued. Joint studies with the Ministry of Finance on excessive deficit procedure notification tables and government finance tables, and with the Central Bank and the Treasury on government securities flows were completed. TurkStat signed a protocol with stakeholders to improve agricultural statistics on crops. TurkStat carried out a population and housing census in 2011 using for the first time a combination of register based and survey data thus applying modern ways of data collection reducing burden on respondents. Initial results from the census have been published in January 2012 very soon after the census. Turkey still needs to submit key national account indicators together with documentation on the methodology used. Preparations in this area are moderately advanced.

#### *Conclusion*

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

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

There has been no progress in alignment with the *acquis* in the field of **labour law**. In general, the high prevalence of undeclared work, particularly in small enterprises and in agriculture, continues to impede the effective application of the labour legislation in place.

The recruitment of staff to increase the administrative capacity of the Ministry of Labour and Social Security (MoLSS) has continued. The Ministry has also taken steps to combat child labour (*See also Political Criteria*).



In terms of legislative developments, there has been good progress in the field of **health and safety at work**. In June 2012 the Parliament approved legislation aiming to align with the EU Framework Directive on health and safety at work. However, the enforcement of the legislation remains a key challenge. Despite some capacity building efforts, the lack of engagement of social partners, the lack of awareness of employees and the negligence of employers result in poor health and safety conditions, particularly in the informal sector. The number and capacity of inspectors covering health and safety issues need to be stepped up. The official statistics, which do not take into account the informal sector, reveal that there were 62,903 occupational accidents in 2010, marginally less than in the previous year. Those in the construction sector score the highest in terms of fatal accidents and the total number of fatal accidents is well above the EU average. The data collection system for occupational accidents and diseases needs to become fully operational. Training and guidance activities targeting SMEs need to be intensified and expanded to all risky sectors nationwide.

There has been limited progress in the area of **social dialogue**. A new law on trade unions in the civil service was adopted in April 2012, leading to the first collective bargaining exercise in this sector. The final decision was taken through mandatory arbitration amid strong criticism of the public servants' trade union confederations. The law falls short of meeting EU and ILO standards.

The law on collective labour relations regulating the private sector is still pending parliamentary approval. High thresholds for entering into collective bargaining continue to significantly restrict the possibility of collective agreements and consequently impede the full exercise of the right to bargain collectively. Moreover, the lack of release of data on the number of workers in each sector by the authorities has prevented the conclusion of any new collective agreements for several months. Turkey excessively restricts the right to strike. In May 2012 the government adopted a law excluding also workers in the civil aviation sector from the right to strike. Following their protest against losing this fundamental right more than 300 airline workers were fired. Increasing the number of activities in which workers are deprived of this right takes Turkey a further step away from respecting full trade union rights in line with EU and ILO standards. Turkey also excessively restricts the right to establish or join trade unions as they cannot be set up along professional categories or in certain sectors, for example for civilian staff working for the Ministry of Defence.

As a result of the restrictive legislative provisions and difficulties in exercising trade union rights, the level of unionisation and the coverage of collective agreements remain very low, estimated at 8% of the registered waged workers. The Turkish Economic and Social Council has not convened since 2009.

There has been some progress on **employment policy**. The unemployment rate declined to 9% in 2011, and is in a downward trend following the vigorous recovery from the global crisis. Youth unemployment has fallen significantly over the past year, whereas the quality of employment still continues to be an issue. Overall employment and labour force participation have increased. However, regional disparities persist with regard to employment and participation rates, to the disadvantage of the southeast region. Women's low participation rate (28.8% in 2011), with marginal increases over the years, is still a concern.

ISKUR, Turkey's Public Employment Service, has continued to improve its staffing levels, particularly through recruiting job counsellors to provide individualised public employment services. In 2011, about 16% of the registered unemployed participated in activation measures. However, there are concerns that services are not reaching the most vulnerable groups. The limited coverage of and restrictive eligibility conditions for unemployment insurance remain to be addressed. (*See also Economic criteria*)

Turkey has adopted a second Action Plan to Fight the Informal Economy (2011–2013). The Social Security Institution increased its efforts to promote registered employment and to identify undeclared work through various means. The ratio of undeclared workers to the total of all employed as measured by the Turkish Statistical Institute decreased by 3.3%, but it is still close to 40%. Monitoring and evaluation of the impacts of strategic measures is weak.

There is a need to provide independent evaluations on labour market policies, as well as on mechanisms such as the unemployment insurance and the wage guarantee fund. Policy debate between the EU and Turkey on employment policies has continued but needs to be more clearly structured and further enhanced.

Some progress can be reported as regards preparations for the **European Social Fund (ESF)**. The MoLSS, the Operating Structure responsible for the management of the IPA Human Resources Development Operational Programme, has been accredited for tendering, contracting and financial management of relevant EU-funded operations. In 2011, no funds were lost through the automatic de-commitment rule. However, establishing an operations pipeline remains a challenge, increasing the risk of non-absorption of funds for the future. A more effective and sustainable monitoring and evaluation system needs to be established. Evaluation of completed operations in the fields of employment and education needs particular attention, taking into account the programme level indicators.

There has been little progress in the field of **social inclusion**. Efforts by the Ministry of Family and Social Policies to provide more efficient social services under a single roof have continued. However, a clear policy framework for social assistance and poverty alleviation has not yet emerged. The population continues to be exposed to a high risk of poverty, especially the rural population and children. In-work poverty also remains problematic. The linkages between social services and the public employment service need to be strengthened. The protocol of cooperation signed between relevant ministries is a positive step in this direction. Home-based care services for the disabled and the elderly are expanding. Increasing the employability of people with disabilities remains a challenge. Capacity to shape, implement, monitor and evaluate policies, including targeted policies to reach the most vulnerable, needs to improve. Policy debate between the EU and Turkey on social inclusion and social protection policies has continued but needs to be more clearly structured and further enhanced.

There has been some progress in the field of **social protection**. The number of people actively insured rose by more than 9% between May 2011 and May 2012. The coverage of the social security system rose from 84% to 86% in the same period. The mandatory General Health Insurance System fully entered into force as of January 2012. The new system extends the coverage of health insurance to the whole population, with contributions to be paid by the individual or the state, based on results of a means test. The ‘green card’ system, which was meant to cover citizens in poverty but prompted debates concerning fair distribution, is consequently abolished. However, the social security system has reported increasing deficits due, largely, to increased health expenditures. Efforts to register undeclared workers, to prevent under-declaration of salaries, and to boost the efficiency of the system, including through active ageing policies, need to be stepped up in order to tackle the deficit of the pension system. In general, Turkey achieved progress on the adequacy and sustainability of health insurance. Efforts should continue in this area and they need to be stepped up for the other pillars of social protection.

No progress can be reported with regard to **anti-discrimination**. The draft legislation does not address all grounds of discrimination covered by the *acquis*.

There has been little progress in the field of **equal opportunities** between women and men. The Turkish labour law is not applicable to situations prior to the labour contract, increasing the risk of discrimination during recruitment, coupled with the lack of a complaint mechanism. There is a remarkable difference between the figures for men and women with regard to employment as an unpaid family worker, which is mostly prevalent in the agriculture sector. The female employment target in the draft national employment strategy (35%) is less than ambitious. Measures on improving the work-life balance are not fully in place, and the existing ones mainly focus on women rather than a gender mainstreaming approach. Full enforcement of the principle of equal pay for equal value of work needs to be stepped up, also in those sectors not covered by the labour law. The gender gap in trade union activity and in economic and political decision-making persists. More efforts are needed to combat honour killings, domestic violence and forced marriages. A full gender mainstreaming approach in policy and law-making has yet to be developed across the public administration. The equality body required by the *acquis* has not been created. Preparations in this area are at an early stage.

### *Conclusion*

Some progress, albeit uneven, has been achieved in the field of social policy and employment. Administrative capacity improved, social security coverage was extended and new legislation on health and safety at work and trade union legislation for public servants was adopted. However, trade union rights for workers and public servants still fall short of meeting the EU and ILO standards. Further efforts are needed to put in place a clear policy framework on poverty reduction, reduce labour market segmentation, combat undeclared work and increase employment rates of women and people with disabilities. Overall, legal alignment is moderately advanced.

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

Turkey made some progress with regard to **enterprise and industrial policy principles**. An Industrial Strategy and Action Plan (2011-2014) was adopted in 2011, thus meeting the key requirement for alignment in this area. Turkey reported an 85% success rate in implementing the actions planned in the strategy for the first year. This rate is based on the completion of activities but no impact assessment has so far been carried out.

In August 2012, the Coordination Council for Improvement of the Investment Environment (YOIKK) issued an Action Plan for 2012-2013. Turkey continued implementing the SME Strategy and Action Plan approved for 2011-2013. A large number of regulations were adopted in April 2012 in order to cut red tape in business start-ups. An amending law on land registry, published in May 2012, abolished the country-based reciprocity principle for natural persons. The list of eligible countries whose citizens can purchase real estate in Turkey remains to be decided by the government. After revisions, the draft Turkish Commercial Code entered into force on 1 July 2012. Turkey completed the assessment process for the Small Business Act together with the Western Balkans and the EU, with successful results particularly on small entrepreneurship and responsive administration. In order to promote entrepreneurship culture in society, Turkey established an Entrepreneurship Council consisting of business NGOs and Ministries.

Some progress was made with respect to **enterprise and industrial policy instruments**. In order to facilitate SMEs' access to finance, the capital structure of the Guarantee Fund Corporation was improved and its branches expanded. The number of technology development zones increased to 43 in 2011, of which 32 are currently operational. These zones host a total of 1,730 companies with more than a thousand new R&D projects carried out in 2011. However, no new patent registration has been facilitated within these zones. The

Ministry of Science, Industry and Technology continued its Industrial thesis (SAN-TEZ) and Techno-initiative capital support programmes. The Scientific and Technological Research Council of Turkey (TÜBİTAK) is now affiliated to the Ministry of Science, Industry and Technology and is expected to further bridge the gap between scientific research and industrial development. Turkey provided support totalling €153 million to Turkish enterprises in 2011 and 2012 for R&D and innovation projects. The Supreme Council on Science and Technology issued 8 new decrees in December 2011 setting targets and priorities for the national innovation system, the development of innovation and R&D tools for entrepreneurs, the integration of entrepreneurial training into the whole education system starting from basic education, supporting the start-up of R&D-intensive companies and increasing national patent applications.

KOSGEB, the SME Development Organisation, continued supporting Turkish SMEs under five different programmes according to a project-based approach. KOSGEB disbursed a total of about €80 million in 2011 for these programmes, excluding interest-rate subsidy operations. Its budget has been considerably increased for 2012 so that it can have a greater outreach. In addition, Turkey continued providing loan programmes for SMEs via various banks with interest rate subsidy support from KOSGEB and via Halkbank. The total portfolio disbursed in 2011 under these loan programmes was about €8.8 billion. Turkey continued to participate in the EU Entrepreneurship and Innovation Programme and is an active member of the Enterprise Europe Network. Turkey won a prize at the Enterprise Europe Award with a project on promoting the entrepreneurial spirit. Turkey performs well by developing measures to promote opportunities for SMEs in the framework of the Competitiveness and Innovation programme.

Some progress has been made in **sector policies**. The Ministry of Science, Industry and Technology adopted sector strategies on chemicals, ceramics, iron and steel and non-ferrous metals. Turkey adopted an Export Strategy and Action Plan in June 2012.

#### *Conclusion*

Turkey has made progress in the area of enterprise and industrial policy principles and instruments and in the adoption of sectoral strategies. Turkey has a sufficient level of alignment in this area.

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

There has been some progress in the area of **transport networks**. The Trans-European Transport Network (TEN-T) in Turkey has been defined according to the new TEN-T rules and was included in the revised EC proposal on TEN-T guidelines. Furthermore, priority projects and data on infrastructure have been included in the TENtec information system TEN-T guidelines.

Some progress can be noted in the area of **energy networks**. In gas, negotiations between the Nabucco Company and the Azeri Shah Deniz II Consortium continued for the Nabucco West project, while technical work on the Poseidon gas pipeline linking the Turkey-Greece gas pipeline to Italy was also in progress. In June 2012 the Turkish and Azerbaijani partners signed a contract to set up a project company to build the Trans-Anatolian natural gas pipeline (TANAP). Subsequently an intergovernmental agreement was signed by the authorities from both countries, followed by a contract between TANAP Co and the Turkish government on the rights and obligations of the parties to implement the project. These agreements provide the project company with the legal basis to build the pipeline.

As regards electricity networks, links are in operation with Bulgaria, Greece, Syria, Iran, Azerbaijan and Georgia. Two new 400 kV transmission lines between Turkey and Georgia

and between Turkey and Iran are under construction. Additional new lines between Turkey and Georgia, Iran, Syria and Iraq are in the planning phase. Preparations for Turkey's synchronisation with the European Network of Transmission System Operators for Electricity (ENTSO-E)'s Continental European Synchronous Area are at an advanced stage, targeting completion in autumn 2012.

### *Conclusion*

Turkey has made some progress in the area of trans-European networks. Some progress can be reported on transport and electricity energy networks. However, continued efforts are needed for gas interconnections and the implementation of the Southern Gas Corridor. Overall, the alignment is advanced in this area.

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

Some progress was made with regard to the **legislative framework**. As part of the general reorganisation of the public administration, several by-laws were adopted on restructuring the Ministry of Transport (MoT), the Ministry of Environment and Forestry (MoEF), the Ministry of Industry and Trade (MoIT) and the Ministry of Labour and Social Security (MoLSS). These by-laws provide the legal basis for establishing the units for coordination and programming, budgeting, tendering, contracting, execution, financial management and supervision of EU co-funded project activities. Following this restructuring the Prime Minister's circular on IPA coordination was amended accordingly.

Some progress was made with regard to strengthening the **institutional framework**. The restructuring of the public administration also had an effect on several of the Operating Structures (OSs). In the case of MoEF and MoIT, as a result of restructuring, the responsibilities of the Operating Structure were taken over by the newly established ministries: the Ministry of Environment and Urbanisation (MoEU) and the Ministry of Science, Industry and Technology (MoSIT) respectively. Following the restructuring, the National Authorising Officer and the Audit Authority provided confirmation that the accreditation criteria for proper functioning of the management and control system were still fulfilled.

Some progress was made as regards **administrative capacity** in all IPA institutions responsible for the IPA Regional Development and Human Resources Development components (IPA Components III and IV respectively). During the restructuring of the public administration, a by-law concerning improvement of the remuneration system for the staff employed in IPA projects was adopted.

In January and February 2012, MoLSS and MoSIT respectively qualified through a Commission decision for taking over procurement and contracting functions from the Central Finance and Contact Unit (CFCU) for the Human Resources Development Operational Programme (HRDOP) and for the Regional Competitiveness Operational Programme (RCOP). Preparations at the Ministry of Transport, Maritime Affairs and Communication for taking over procurement and contracting functions were also speeded up for the Operating Structure in the area of Transport under IPA Component III.

Training and the provision of technical assistance to strengthen all institutions involved in the implementation of IPA has continued. Further increasing the institutional capacity of the Operating Structures is necessary to ensure better quality and better performance of supported interventions as well as speedier implementation.

With regard to **programming** and programme implementation, some progress was made in the identification, preparation and appraisal of projects under IPA Components III and IV. A pipeline of quality and mature projects has been presented in the transport and the

environment sector under IPA Component III. Some progress was made in the preparation of tender documents, publication of tenders and contracting; however, risks for the absorption of funds remain.

The preparations continued on the National Strategy for Regional Development (NSRD), which aims to create a general framework and guidance for the regional and local plans and strategies. The Regional Plans have been prepared for all 26 NUTS II regions under the coordination of all Development Agencies.

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 Monitoring Information System has been further developed and is now partly operational. The Sectoral Monitoring Committees of IPA Components II, III and IV have continued to meet as scheduled. A number of interim evaluations were carried out in 2011. However, evaluation capacity needs to be further strengthened within IPA bodies, among other things to ensure that evaluations ultimately serve both accountability and programme management purposes.

In the area of **financial management, control and audit**, some progress was made. The Central Finance and Contract Unit (CFCU) has delivered training in the area of rejection rate tracking and reporting, and shared its methodology with the ministries designated as Operating Structures for IPA Components III and IV. A by-law was adopted in 2011 which ensures that the Audit Authority also has a legal basis for auditing EU-funded projects in particular in line with the Framework Agreement and Financing Agreements and with the international audit standards. However, implementation of the action plan addressing the weaknesses in the management and control systems needs to be more effective.

### *Conclusion*

Some progress was made in the field of regional policy and coordination of structural instruments. Although the institutional framework for implementing IPA Regional Development and Human Resources Development components has been strengthened and the Operating Structures for the Regional Competitiveness, Environment and Human Resources Development Operational Programmes have obtained accreditation for the tendering, contracting and financial management functions, there is still a need for further strengthening of the administrative capacity of the IPA institutions in order to speed up the programme implementation process, improve its quality and avoid loss of funds. Preparations in this area are not very advanced.

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

Some progress has been made in the reform of the **judiciary**. The 2009 Judicial Reform Strategy, whose objectives were achieved to a large degree, is being revised. It is expected to focus on efforts to speed up judicial procedures, further reform of the military justice system, alternative dispute resolution, disadvantaged groups, and international relations in judiciary matters with the emphasis on the case law of the European Court of Human Rights and related training. The review of the strategy was carried out with the participation of all stakeholders, the Turkish legal community and civil society.

As regards the *independence* of the judiciary, the High Council of Judges and Prosecutors published 34 circulars related to the work of judges and prosecutors and organised in-service training and meetings with stakeholders, encouraging their participation in discussions and workshops on the judiciary as a whole.

However, criticisms of the legislation on the High Council of Judges and Prosecutors referred to in last year's progress report, e.g. the role given to the Minister of Justice, have not been

addressed. There was concern that decisions to suspend prosecutors in the Deniz Feneri case reflected pressure from the executive. The polarised political atmosphere was reflected in opposition accusations that the government was controlling the judiciary.

With regard to *impartiality*, the individual application procedure introduced by the 2010 constitutional amendments and the Law on the Constitutional Court of 2011 enter into force in September 2012. The Ministry of Justice is drafting a Human Rights Action Plan. A draft law providing for the establishment of a commission on long trials is on parliament's agenda.

Criticisms of the legislation on the Constitutional Court referred to in last year's progress report have not been addressed. Prosecutors do not have their offices in parts of courthouses separate from judges, they are not required to enter and leave the courtroom by a different entrance from judges and in court they do not sit at the same level as lawyers. This continues to cloud perceptions of the impartiality of judges.

With regard to the *efficiency* of the judiciary, amendments to the Laws on the Court of Cassation and the Council of State aiming at tackling their backlog of cases started to generate positive results. Legislation adopted on speeding up judicial services resulted in improvements at first-instance courts' level, as well. A third judicial reform package was adopted in July. It includes amendments to a number of laws and aims to speed up judicial procedures further.

However, the Ministry and the High Council have yet to develop benchmarks to monitor and assess the performance of the courts, the length of court proceedings and the efficiency and effectiveness of the judicial system. Further efforts are needed to comply with ECtHR case-law on access to a lawyer and to improve the system of legal aid.

The Regulation on the Judicial Police adopted in 2005 under Article 167 of the Criminal Procedure Code has not been implemented according to European standards so there are no judicial police units attached to prosecution offices. Prosecutors rely on police units working for the Ministry of the Interior and have yet to develop their capacity to guide police investigations effectively and keep strict control over police activity.

The third judicial reform package relates also to the Turkish criminal justice system. Overall, it includes steps in the right direction of guaranteeing procedural rights. However, it neither sufficiently revises problematic areas related to the administration of justice and protection of fundamental rights nor does it address issues related to definitions of criminal offences in the law.

In practice, concerns have been expressed as regards the criminal justice system and, in particular, the Serious Crimes Courts. These focused on the defence's limited access to the prosecution file, on decisions to arrest or continue to detain suspects, and on the length of pre-trial detention. Alternatives to pre-trial detention are not sufficiently applied. Turkey lacks an effective domestic remedy to ensure that applicants are heard and to offer them the opportunity to challenge the lawfulness of their pre-trial detention with reasonable prospects of success. There have been concerns over the quality of the indictments and of the indictment process. Leaks of information, evidence and statements continued to give rise to concerns. In some cases there have been concerns that cross-examination in criminal trials is not carried out properly. Judges and prosecutors have been given no training in cross-examination.

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

Limited progress was made on **anti-corruption policy**, with some developments on incrimination and improved transparency in the financing of political parties. The third judicial reform package includes amendments to provisions on corruption in the Criminal

Code, redefining and extending the scope of bribery as an offence, in line with recommendations by the Group of States against Corruption (GRECO). The Law on Presidential Elections of January introduced strict rules on the transparency of election financing for presidential candidates. A 2011 amendment reinforced capacity for auditing political financing.

However, legal loopholes related to the financing of politics continued to be a concern. The auditing of political parties remained weak and there was no legal framework for auditing election campaigns or the financing of individual candidates other than in the case of presidential elections. There were not enough checks on assets declared by political figures and public officials. No progress was made on limiting the immunity of Members of Parliament and senior public officials in corruption-related offences. GRECO recommendations are yet to be fully implemented. The implementation of the National Anti-Corruption Strategy requires greater political engagement and broader civil society participation. A track record of investigation, indictment and conviction related to corruption cases has not yet been established.

There has been very limited progress as regards **fundamental rights**.

The establishment of an Ombudsman institution is an important step in safeguarding the rights of citizens and ensuring accountability of the public administration. A law establishing the Turkish National Human Rights Institution was adopted by parliament. The law does not comply fully with the UN Paris principles on human rights institutions, in particular as regards the independence of the proposed body. It was not discussed with stakeholders, nor does it in any way reflect the concerns and proposals of national and international experts. Some progress was made on the observance of international human rights law, notably through the efforts of the Ministry of Justice and the parliament's Human Rights Inquiry Committee. A number of reforms to strengthen human rights structures are still awaited.

As regards *prevention of torture and ill-treatment*, despite the positive downward trend in reports of torture and ill-treatment in places of detention, law enforcement officers continued to resort to force and, particularly in unofficial places of detention, this is cause for concern. There was little progress on tackling *impunity*. Mass graves discovered in the south-east have not been adequately investigated. There is a significant backlog of judicial proceedings concerning allegations of excessive force or procedural errors, with priority seemingly given to counter-allegations lodged by the security forces.

The overcrowding of *prisons* remains problematic, with a serious impact on sanitation and other physical conditions. An overhaul of the complaints system in prisons is overdue. Medical treatment and the conditions in which juveniles are held require special efforts.

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

An increase in violations of *freedom of expression* has given rise to serious concerns, and freedom of the media continued to be further restricted in practice. The legal framework, especially as regards organised crime and terrorism, and its interpretation by the courts leads to abuses. Together with pressure on the press by state officials and the laying off of critical journalists this has led to widespread self-censorship. Frequent website bans are cause for serious concern and there is a need to revise the law on the internet.

Little progress was made on *freedom of assembly and freedom of association*. Where demonstrations took place without official consent there were cases of violence and disproportionate use of force by the security forces, especially where the demonstrations



related to the Kurdish issue. There is a need to revise the law on demonstrations and meetings. There is also a need to revise legislation on fundraising for civil society organisations to help strengthen civil society. Legislation on civil servants' trade unions and collective bargaining was amended. However, the new legislation is not fully in line with EU standards and International Labour Organisation conventions, especially with regard to collective bargaining, dispute settlement, and the right to strike, in relation to public servants. There is no sustainable mechanism for the participation of civil society in policy making. There were no developments regarding legislation on political parties.

Limited progress was made on *freedom of thought, conscience and religion*. There has been some progress on conscientious objection in terms of applying the case law of the European Court of Human Rights. Dialogue with the non-Muslim religious communities continued. However, members of minority religions and indeed those of no faith were subject to threats from extremists. A legal framework in line with the European Convention on Human Rights has yet to be established, so that all non-Muslim religious communities and the Alevi community can function without undue constraints.

Some progress was made on *women's rights and gender equality*. The Law on the Protection of Family and Prevention of Violence against Women is an improvement on previous legislation, protecting family members and those in relationships outside marriage from violence. The procedures for urgent cases are particularly positive, as was the inclusive consultation exercise undertaken by the authorities with civil society, even if non-governmental organisations are critical of certain last-minute amendments to the text. However, substantial efforts are needed to turn this new law, and earlier legislation, into political, social and economic reality. The law needs to be consistently applied across the country. There is a need for greater involvement of and participation by women in employment, policy-making and politics. Girls' school enrolment and drop-out rates need to be monitored. The issue of early and forced marriages remains a concern.

With respect to *children's rights*, efforts are needed in all areas, including education, combating child labour, health, administrative capacity and coordination. In general, more preventive and rehabilitative measures need to be taken for juveniles. Detained children are not held in appropriate conditions and additional juvenile courts need to be created in line with the legislation in force.

Little progress was made as regards the *socially vulnerable and/or persons with disabilities*. Implementation of the Strategy Paper on Accessibility and the National Action Plan was limited. Home-based care services for the disabled and the elderly were expanded. A protocol was signed to promote entrepreneurship for people with disabilities. Efforts to increase employment in the public sector continued. However, a national monitoring mechanism to implement the UN Convention on the Rights of Disabled Persons and the corresponding optional protocol is still not in place. The principle of positive discrimination for the disabled is not properly reflected in policy measures. In practice, the employability of persons with disabilities both in public and private sectors needs to be further promoted. Official and reliable data and research on persons with disabilities and mentally ill persons is lacking, which is a barrier to informed policy-making. Difficulties in access to education, health, social and public services by persons with disabilities continued. Physical barriers to access are widespread. There is still no independent body to monitor and inspect mental health institutions.

No progress has been made on *anti-discrimination policies*. Comprehensive anti-discrimination legislation has not been adopted. The current legal framework has not been harmonised with the EU *acquis*. LGBT persons continued to suffer discrimination and

intimidation and often lost their jobs or were the victims of violent crime. A number of court cases and judicial proceedings are in progress. The BDP's draft proposal to eliminate discrimination and regulate the headscarf issue was rejected in the TGNA.

There has been progress on *property rights*, with the adoption of legislation amending the 2008 Law on Foundations. Implementation continues. However, the current legislation still does not cover fused foundations or properties confiscated from Alevi foundations. Council of Europe Resolution 1625 (2008) on Gökçeada (Imvros) and Bozcaada (Tenedos) still needs to be implemented. The ongoing cases against the Mor Gabriel Syriac Orthodox monastery give rise to concerns. Turkey needs to ensure that the property rights of all non-Muslim religious communities and others are fully respected.

As regards *respect for and protection of minorities and cultural rights*, Turkey has made some progress on rights of persons belonging to minorities, especially regarding the restitution of some of the properties of non-Muslim minorities. Although for the first time representatives of minority groups, not limited to those minorities recognised by the Lausanne Treaty, were invited to parliament to express their views on a new constitution, 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. As regards cultural rights, restrictions remain on the use of languages other than Turkish in political life, in contacts with public services and in prisons. The legal framework for the use of languages other than Turkish is open to restrictive interpretation and any flexibility allowed is inconsistently applied. A comprehensive policy to address the situation of the Roma is needed. There is a need for revision of existing legislation and the establishment of protection mechanisms or specific bodies to combat racism, xenophobia, anti-Semitism and intolerance. There is a specific need for legislation to tackle hate speech and hate crimes.

With regard to respect for private and family life and, in particular, the right to *protection of personal data*, Turkey needs to align its legislation with the data protection *acquis* and 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). The absence of data protection legislation hampers operational cooperation between police and judicial authorities and on counter-terrorism.

### *Conclusion*

Overall, some progress has been made in the area of the judiciary following the adoption of the third judicial reform package, which introduces a number of improvements into the Turkish criminal justice system. However, the reforms failed to address core shortcomings. Further efforts are needed with regard to the independence, impartiality and efficiency of the judiciary, including the criminal justice system and the large backlog of serious criminal cases. The participation rate of women in the judiciary needs to be improved. Limited progress was made on anti-corruption, with some developments on incriminations and transparency in the financing of political parties. The implementation of the National Anti-Corruption Strategy requires greater political engagement. As regards fundamental rights, laws establishing an ombudsman institution and a national human rights institution were adopted. The situation regarding the respect for fundamental rights continues to be the source of serious preoccupation, notably stemming from the wide application of the legal framework on terrorism and organised crime, which leads to recurring infringements of the right to

liberty and security, of the right to a fair trial and of the freedom of expression, assembly and association.

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

Limited progress can be reported in the area of **migration**. The Law on Foreigners and International Protection was submitted to the parliament in May 2012 but still needs to be adopted. Its adoption is key to providing a single, coherent legislative framework governing Turkey's relations with foreigners and safeguarding the rights of migrants and refugees in line with EU and international standards.

In 2011, 217,206 persons were granted in Turkey a residence permit on various grounds, including work and education. Turkey continued to be a very important transit and destination country for irregular migration. In 2011, the number of irregular migrants apprehended in Turkey reached 44,415, an increase of 26% on the 2010 figures. The number of apprehended irregular migrants amounted to 14,559 between 1 January and 1 July 2012. The number of irregular migrants deported by Turkish authorities in 2011 was 26,889 and 4,739 between 1 January and 1 July 2012. Meanwhile, the number of third country nationals detected in 2011 by EU Member States' law enforcement forces when entering or attempting to enter illegally the EU and coming directly from or transiting through the Turkish territory amounted to 55,630. This represented a slight increase of 2 % on the 2010 figures. Turkish borders remained porous also in the first half of 2012. In the period between 1 January and 15 July 2012 the number of the irregular migrants coming or transiting Turkey and intercepted by EU Member States amounted to 25,944.

Pending adoption of the Law on Foreigners and International Protection, no substantial administrative measures were taken to improve the situation of irregular migrants. The overall capacity to host irregular migrants decreased to 2,176 in 2011. Minimum living standards at removal centres and their inspection remain unregulated. The lack of human and financial resources hampered the improvement of physical conditions in the removal centres. The construction of new removal centres in Van and Bitlis, each with a capacity of 400 to 600 people, was hampered by the Van earthquake. No structured approach to psycho-social services targeting irregular migrants is in place yet.

Access to legal aid for migrants remains limited. There is no institutional capacity at the level of Bar Associations to provide such support autonomously. Assisted voluntary return is carried out for a limited number of migrants through projects financed bilaterally and with the help of the International Organisation for Migration (IOM). Training of staff working in the migration management continued through national resources and with the support of the EU or other partners.

The readmission agreement with the EU was initialled on 21 June but still needs to be signed. Its swift conclusion and effective implementation remains of crucial importance. Meanwhile, the appropriate implementation of already existing bilateral readmission agreements is a priority. The bilateral readmission protocol between Greece and Turkey continued to be implemented only in a very limited manner. In February, Turkey signed a readmission agreement with Bosnia and Herzegovina.

Limited progress has been noted on **asylum**, pending the adoption of the Law on Foreigners and International Protection. Turkey continues implementing the Geneva Convention on Refugees on the basis of a reservation limiting the benefits of the Convention only to the asylum seekers originating from European countries. While the construction of seven reception centres for asylum seekers and refugees funded by the EU budget is still on-going, the sharp increase in the number of asylum applications turned out to be critical for the

reception capacity. Additionally, as a consequence of the earthquake in the eastern part of Turkey in October 2011, most of the refugees living in Van, one of the most important 'satellite cities' in the Turkish national asylum system, had to move out of the city as their accommodation was destroyed and they had little access to the assistance deployed for the local community.

The Turkish authorities demonstrated a high level of competence and operational capacity in dealing with the continuous inflow of Syrian nationals into Turkey since the outbreak of the crisis in Syria. The open-ended Temporary Protection status, granted at the end of October 2011 to all camp residents, sanctioned a situation of factual protection. This entails keeping borders open, ensuring humanitarian aid and refraining from forcibly returning Syrian citizens to their country.

According to the official estimates, the number of Syrian citizens staying in Turkey reached nearly 100,000. Most of them are in camp and container sites set up in four southern provinces. General living conditions in the camps have been praised by a number of international observers, including the UNHCR and ECHO. The UNHCR assisted the Turkish authorities on the ground: it followed and monitored camp operations and supported, in an advisory role, registration procedures in the Hatay registration centre. An increasing number of observers have been able to monitor and report on the situation in the camps. However, further efforts are needed to ensure full transparency and to allow other relevant players, including civil society organisations active in the field of asylum, access to the camp facilities.

There has been limited progress on **visa policy**. The Ministry of the Interior has introduced new provisions on short stays in Turkey. However, Turkey did not 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. No additional measures were taken to further strengthen checks at borders following the visa exemptions launched in early 2009. Furthermore, Turkey continues discriminating between Member States as regards visa policy: the citizens of 11 EU Member States continue to be required to hold a visa before entering Turkey, while the citizens of 16 Member States are exempted from this obligation. There is a clear need to step up training for consular staff, in particular on document security.

Limited progress can be reported on **external borders and Schengen**. Legislation on transferring border management tasks and coordination to a specialised and professional border security entity has not yet been submitted to parliament for approval. The draft roadmap for Integrated Border Management (IBM) has not yet been approved. The delays in the adoption of the law and the IBM roadmap are a major institutional hindrance towards the institutional development and implementation of integrated border management.

Both intra-agency and inter-agency cooperation and coordination need to be developed considerably in the interests of efficient border management. The proposed legislative amendment on expanding the tasks of Deputy Governors to act as administrative heads of the border agencies is still pending in the parliament.

A Memorandum of Understanding (MoU) between Frontex and the Turkish Ministry for Foreign Affairs was signed in May 2012. This MoU enables a framework to be set up for enhanced operational cooperation between Frontex and Turkey, including participation in training activities and in joint operations, the deployment of Frontex experts to Turkey and a more organised exchange of information and risk analysis. Overall, the lack of risk analyses, including joint analyses among relevant authorities in charge of border management, has led to inefficient border control and less-than-optimal use of resources.

Structured training is needed for all border agencies, including language training. The rotation of border staff needs to be carefully reviewed in order to ensure sustainability of expertise. Replacing the landmines with modern and humanitarian border surveillance tools is a priority. Problems posed by the architectural designs for the operational functionality of land border crossing points (BCPs) need to be addressed. Border agencies at local and central level need to be consulted regularly during both the design phase and utilisation of the modernised BCPs. This entails establishing proactive border checks procedures and regulations to control irregular migration at transit zone areas in the airports.

The existence of exclusive customs zones at the land BCPs poses a major challenge to the establishment of an integrated border management system locally. Cooperation with neighbouring countries and with countries of origin and destination, in terms of border management, needs to be improved. Enhanced cooperation between border authorities and the Turkish national airline also needs to be enhanced, in particular through joint training and better exchange of information leading to proper pre-boarding and pre-arrival screenings and analyses.

Limited progress can be reported on **judicial cooperation in civil and criminal matters**. On judicial cooperation in civil matters, in November 2011 Turkey set out the principles and rules to be followed by domestic institutions with regard to implementation of the 1965 Hague Convention on Service of Documents and the 1970 Convention on Taking Evidence Abroad in Civil and Commercial Matters. On child protection, ratification of the 2003 Convention on Contact concerning Children was completed and the convention entered into force in May 2012. The mediation law on legal disputes, which entered into force in June 2012, is expected to reduce the workload of the judiciary and allow rapid, low-cost and effective resolution of civil and criminal disputes as well as possible contribution to social peace. The law is also applicable to EU citizens. However, Turkey has not yet ratified the 1996 Convention on Parental Responsibility. During the reporting period 1,765 requests in the area of judicial cooperation in civil matters were received by Turkey and 6,779 requests were made by Turkey.

As regards judicial cooperation in criminal matters, Turkey has participated in the regular meetings of the European Judicial Network (EJN). Five judges are acting as contact points for Eurojust and the EJN to facilitate the execution of extraditions and requests for mutual legal assistance. During the reporting period 96 extraditions were requested by Turkey and seven extraditions by EU Member States; six extraditions to Turkey were enforced. Regarding mutual legal assistance in criminal matters, a total of 491 requests were received by Turkey and 2,933 requests were issued by Turkey. On transfer of convicts, six transfers took place to Turkey and two to EU Member States.

Uneven progress has been achieved in the area of **police cooperation and the fight against organised crime**. Turkey is a party to the main international conventions. Community policing divisions have been established in 81 provinces. However, the lack of a data protection law continues to limit police cooperation at international level and hinders the conclusion of an operational cooperation agreement with Europol. The assignment of a police liaison officer to Europol would help improve bilateral cooperation. The Monitoring and Assessment Board to Implement the National Strategy against Organised Crime (2010-2015) continues to meet on a regular basis under the coordination of the Ministry of the Interior.

No significant progress was noted in the area of combating trafficking in human beings. Drafting work continued on the framework law in this area. Consultations were organised with line ministries, representatives of civil society, law professionals and academia. Consultation meetings were also held with relevant international bodies and the EU. Further

efforts are needed in order to gather reliable statistical data on human trafficking. Victims' shelters in Ankara and Istanbul and a safe house in Antalya were operating and received financial support from the 2012 budget. The 157 toll-free helpline for victims continued functioning.

Following the establishment of a Cybercrime Department under the Turkish National Police in 2011, subordinated divisions were created at provincial level in February 2012. Turkey has not yet ratified the Council of Europe's Convention on Cybercrime, signed in 2010. With regard to forensics, a national fingerprint and DNA database is still to be established. Data collection and analysis in the area of law enforcement needs to be improved. The Turkish National Police has established witness protection units in 71 provinces. Inter-agency cooperation needs to be strengthened.

Progress can be reported in the **fight against terrorism**. Turkey ratified the Council of Europe's Convention on the Prevention of Terrorism and the International Convention for the Suppression of Acts of Nuclear Terrorism. However, Turkey still needs to ratify the Council of Europe's Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. The Law on Prevention of the Financing of Terrorism also needs to be adopted in order to meet the requirements of the Financial Action Task Force (FATF). Serious concerns remain as regards the broad definition of terrorism under the Anti-Terror Law. (*See Situation in the east and south-east and Freedom of expression*).

Turkey continued to face terrorist attacks from the PKK.

Turkey is actively engaged in a counter-terrorism dialogue with the EU. However, the absence of a data protection law prevents Turkey from concluding a cooperation agreement with Europol and limits judicial cooperation with Eurojust and with the EU Member States.

Some progress has been achieved in the area of **cooperation in the field of drugs**. The interim evaluation of the 2nd National Action Plan against Drugs and Drug Addiction (2010-2012) to implement the National Strategy (2006-2012) was carried out in February 2012. A total of 32 new psychoactive substances have been included in the scope of the Law on Supervision of Drugs as a result of the activities carried out by the Early Warning System Working Group. Successful operations resulting in the seizure of 76,392 kg of cannabis, 592 kg of cocaine, 7,294 kg of heroin and 1,364,253 ecstasy tablets were carried out by the Turkish law enforcement bodies. Two controlled delivery operations were carried out with Germany and 2 kg of cocaine was seized as a result of those operations.

The agreement concerning Turkey's participation in the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) was ratified in June 2012. Turkey reports annually to the EMCDDA and continues participating as an observer in Reitox meetings of heads of focal points. However, the status and human resources of the National Reitox Focal Point need to be strengthened further. There are 22 treatment centres, so overall capacity is limited. There is a need to establish better treatment and rehabilitation facilities to achieve a more balanced and effective approach against drugs. Data collection and analysis capacity need to be improved.

Limited progress has been achieved in the area of **customs cooperation**. In 2011, the institutional framework was changed, leading to the merger of the Ministry of Customs and the Ministry of Trade into a new Ministry of Customs and Trade.

The duties and responsibilities of the main units of the Turkish Customs Administration (TCA) have been revised and its regional organisation has been reshaped. The number of specialised Anti-Smuggling and Intelligence Directorates has increased from 18 to 29. At each Regional Directorate a risk analysis unit has been established to enable coordination and

cooperation with regard to risk analysis and profiling among the local customs units. Further training is needed to implement risk management. One centralised vehicle tracking system and a number of mobile inspection units are in use. However, the TCA needs to increase staffing at many BCPs.

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

### *Conclusion*

Overall, limited progress can be reported in the area of justice, freedom and security. Turkey is successfully providing humanitarian assistance to the Syrian refugees, however, its asylum system continues to be far from the EU standards. Turkey needs to step up its capacity to prevent irregular migration. Conclusion of the EU-Turkey Readmission Agreement and the full implementation of the existing readmission obligations remain of crucial importance. Adoption of the Law on Foreigners and International Protection as well as reforms in the area of border management continue to be a priority. Only limited progress could be reported in aligning visa legislation. Reforms are also needed in the fight against terrorism and organised crime. The lack of adequate data protection legislation is one of the main reasons preventing the development of police and judicial cooperation with the EU. Overall, alignment is at an early stage in this area.

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

Good progress can be reported in the area of **research and innovation policy**. Turkey continued to strengthen the research and innovation capacity at national level. Implementation of the 2011 new organisational set-up following the establishment of the Ministry of Science, Industry and Technology and the organisational changes in the structure of the Technological Research Council of Turkey (TUBITAK) and the Turkish Academy of Sciences (TUBA) entered into force.

The level of participation in the Seventh EU Research **Framework Programme** (FP7) increased both in terms of submitted and successful projects, with an average success rate of 16,5 % compared to EU average of 21,2%. Turkey is particularly successful in thematic areas such as ICT, KBBE (food, agriculture, biotechnology), Transport and Security and very good in terms of number of SMEs participating in FP7 and Marie Curie Actions. Turkey has very good administrative capacity with a well-developed and active network of National Contact Points. Participation in a number of key areas such as health and environment is still low, as is the overall number of applications. Participation in the specific programmes IDEAS is weak. Turkey is participating in a number of Joint Programming Initiatives in the framework of the Innovation Union which aims to address major European societal challenges by harmonising national research activities. Turkey participates, as an associated country, in the Strategic Energy Technology Plan and has been actively participating in European Innovation Partnerships on active and healthy ageing, water and sustainable agriculture.

Turkey is participating as a third country participant in the Seventh Euratom research Framework programme (2011-2013).

The active cooperation with the Joint Research Centre (JRC) continued through the participation of Turkish researchers in JRC workshops, high-level meetings and JRC projects and networks, and the secondment of Turkish researchers to JRC institutions. Since the signature of the memorandum of understanding between the JRC and Turkey in July 2007, a total of 30 Turkish researchers have been supported by TÜBİTAK to work at the JRC institutes. The memorandum of understanding will be renewed in the middle of 2012 for another five-year period.

With respect to **European Research Area**, Turkey has taken several important measures and updated national strategies to further strengthen its national research and innovation capacity. At its December 2011 meeting, the Turkish Supreme Council for Science and Technology (SCST) took several decisions aiming at increasing and improving their research and innovation capacity through target setting and policy instruments.

A TurkStat R&D activities survey over 2010 shows that the overall share of R&D in GDP decreased slightly to 0.84% from its 0.85% level in 2009 but the share of the private sector continued to increase to € 7.4 billion compared to € 6.6 billion in 2009, which represents a 12% increase. In 2010 the number of full-time equivalent researchers reached 64,000, compared to 58,000 in 2009.

Five provinces (Elazığ, Aydın, Diyarbakır, Hatay and Siirt) were chosen to be supported under the provincial innovation platforms support programme of TÜBİTAK, which aims to develop science, technology and innovation capacities at provincial level through involvement of local stakeholders, including public bodies, local universities, industry and civil society organisations.

New support programmes were also launched by TÜBİTAK, including the funding for research, technological development and innovation projects from the private sector, funding of technological entrepreneurship, and a co-funded brain circulation scheme. A new fellowship programme, also partially supported under the Seventh EU Research Framework Programme (FP7), aims to increase and facilitate mobility of experienced researchers of any nationality.

The establishment of science centres in 16 greater city municipalities by 2016 and in all 81 provinces of Turkey by 2023 was announced by the Minister of Science, Industry and Technology. Turkey's first science centre is scheduled to be opened in 2013 in Konya.

### *Conclusion*

Good progress has been made in the area of science and research. Steps were taken to further reinforce Turkey's capacity, and its integration into the European Research Area is well on track. Turkey's participation and success rate in the EU Research Framework Programme (FP7) have increased although further efforts are needed to strengthen the quality of submissions and improve the quality of researchers. Overall, Turkey is well prepared in this area.

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

There has been some progress in the area of **education, training and youth**. Public interest in the Lifelong Learning and Youth in Action Programmes continued to grow substantially, with a considerable increase in the number of grant applications in all sub-actions of both programmes. The Turkish National Agency signed a total of over 3,000 grant agreements with beneficiary institutions and individuals. The total number of final beneficiaries reached 55,000 and the Memorandum of Understanding was modified to increase Turkey's financial contribution to the programmes in 2012 and 2013 by 40 % and 60 % respectively, to allow for more projects to be supported. With a view to the next programming period starting in 2014, the parliament adopted a law increasing National Agency staff by 50 to a total of 220.

An amendment to the Turkish Education Law extending compulsory education from 8 to 12 years and introducing a new approach for schools (4+4+4 instead of 8+4) was enacted in April 2012. The law introduces some amendments to the current education system, including flexibility to choose among different school types, i.e. general and vocational schools (lower secondary part of imam-hatip schools) as lower secondary school. Children will thus be able



to begin religious education at the age of 10 rather than 14, a result which, together with the way in which this new legislation was introduced, caused controversy in Turkey.

Following the extension of compulsory pre-school education to 71 out of 81 provinces in the school year 2011-12, the enrolment rate for pre-school education for 2011-12 rose to 44% from 43.1% for the 4-5 age group and the number of students and teachers at pre-school education increased by 5.6% and 15.6% respectively. However, the objective of compulsory pre-school education in all provinces has been abandoned by the new education law. The net primary school enrolment rate rose to ca. 99%. For secondary education, the enrolment rate rose to 67.4% and the gender gap narrowed to 2.5%. A continued effort to increase enrolment at all levels, especially for girls, remains an important challenge on top of effective intervention strategies to reduce drop out.

Turkey is at an advanced stage of implementing the Bologna process recommendations. In the area of higher education, with the establishment of 6 universities in 2012 the total number of universities in Turkey reached 168. However, significant quality differences exist in terms of numbers of teaching staff and infrastructure. Further challenges are the recognition of qualifications, quality assurance and establishment of a national qualifications framework based on the European Qualifications Framework (EQF). Since November 2011 the Vocational Qualifications Agency is the sole body responsible for the entire qualification process. However, an independent and fully functional Quality Assurance and Accreditation Agency remains to be established in line with the European Standards and Guidelines. Preparations for the agreed quality assurance agency for higher education have not yet started.

The General Council of Higher Education Board (YÖK) decided in November 2011 to abolish the system of using a lower coefficient to calculate the final score in the university admission examination or the Undergraduate Placement Examination for graduates of vocational high schools. The 4+4+4 Law confirmed this decision.

In December 2011 YÖK endorsed the University of Tunceli's proposal to set up Zaza and Kurdish language departments. This will enable Tunceli University to open Zaza and Kurdish language departments offering a four-year university education.

Lifelong learning is in its early stages of development in Turkey and efforts need to be stepped up and coordinated, especially in the most disadvantaged regions of the country. With the adoption of authorisation procedures the regulatory framework for the National Vocational Qualifications System is now solidly established, but only a small number of sectoral certification bodies are likely to be operational in the near future. The National Qualifications Framework is scheduled to be adopted in 2012.

Little progress is to be reported in the area of **culture**. Despite the efforts undertaken by the Cultural Contact Point, Turkey's participation in the EU's Culture programme remains relatively low. The Ministry of Culture and Tourism extended the Tax Incentives for Cultural Investments and Enterprises Law to provide tax exemption for the Culture Programme and co-financing for organisations or sponsorships. At the same time, ineffective or late protection of cultural heritage, as demonstrated by cases in Göreme, İznik and Istanbul, has raised concerns.

Turkey has still not ratified the 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 culture. Popular interest in the Lifelong Learning and Youth in Action Programmes continued to increase. Turkey extended

compulsory education from 8 to 12 years. There has been little progress in the area of culture and no progress on legislative alignment. Overall, Turkey is moderately advanced in this area.

#### **4.27. Chapter 27: Environment and climate change**

In the field of **environment**, there was hardly any progress on *horizontal legislation*. Preparations have continued for transposing the Environmental Liability and INSPIRE Directives. As regards the Environmental Impact Assessment (EIA) Directive, procedures for transboundary consultations have not been aligned and Turkey has not yet sent to the relevant Member States the draft for general bilateral agreements on cooperation for EIA in a transboundary context. The planned Turkish-Russian nuclear power plant due to be built on the eastern Mediterranean coast of Turkey continues to cause public concern, both nationally and internationally. Transposition of the SEA Directive has not yet been completed. No strategic environmental assessments (SEAs) or proper environmental impact assessments (EIAs) have been carried out for the plans to build a large number of hydro-power plants.

Limited progress has been achieved on *air quality*. Preparations have continued for the transposition and implementation of the National Emissions Ceilings Directive. The administrative capacity to implement and enforce the legislation on ambient air quality remains insufficient.

Some progress can be reported in the field of *waste management*, with adoption of legislation on control of waste electrical and electronic equipment. Efforts have continued to bring landfill facilities up to EU standards and to improve the management of hazardous waste. The capacity for sorting and recycling has increased. Turkey still needs to fulfil the requirements of the EU Waste Framework Directive in connection with the preparation and implementation of waste management plans.

Good progress can be reported in the area of *water quality*, with the adoption of the new water law and legislation on river basin management and groundwater and drinking water. Preparations are continuing to convert river basin protection action plans into river basin management plans. However, the institutional framework for water management is still not organised at river basin level and, following the separation of the water sector from the Ministry of Environment and Urbanisation, institutional coordination has become problematic. A Water Institute has been established, to give scientific advice on water management issues. Transboundary consultations on water issues are progressing but are still at an early stage. An action plan has been prepared for the Ergene River at the border with Greece and discussions are ongoing with Bulgaria regarding the potential impact on the Natura 2000 site at the mouth of the Rezovska river of the plans to use water to supply the city of Istanbul. Wastewater treatment capacity has increased, due to recent investment.

Limited progress can be reported on *nature protection* with the adoption of a by-law on the procedure and principles for defining, registering and approval of the protected areas. Framework legislation on nature protection and the national biodiversity strategy and action plan are still to be adopted. The potential Natura 2000 sites have not yet been identified. The possible negative impact on these sites of building large water and energy infrastructure remains a major issue. The law on privatisation of degraded forest habitats raises concerns about shrinking forest habitats in Turkey.

Some progress can be reported regarding *industrial pollution control and risk management*. The by-law on control of industrial pollution was amended and Turkey ratified the amendments related to the international agreement on remediation of oil pollution (1992 Changes on Limitation Values). A Regulatory Impact Assessment (RIA) for Seveso II has

been completed in 2012. A web-based permitting system has been created for industries, but the establishment of an integrated permit system is still at an early stage.

No progress can be reported in the field of *chemicals*, including REACH. The capacity for effective implementation is still insufficient.

Legislative alignment in the field of *noise* is well advanced, but no progress can be reported on the preparation of noise maps and action plans.

Regarding **climate change**, limited progress was made on general policy development. Turkey adopted a national climate change action plan (NCCAP) covering the period up to 2023. Although the NCCAP provides for major emissions reductions in primary energy intensity and energy savings in buildings, industry, transport, waste, agriculture and forestry sectors, no overall domestic target was adopted. Significant need for awareness-raising on opportunities and challenges of climate action is needed at all levels.

At international level, Turkey, while listed among developed countries in Annex I to the United Nations Framework Convention on Climate Change (UNFCCC), continued to claim that it is in a situation different from that of Annex I Parties. This was recognised by COP17 in Durban in December 2011.

Turkey is one of the largest emitters that has not yet put forward a greenhouse gas emissions reduction target for 2020. Turkey has not yet submitted its fifth national communication under the UNFCCC. However, the country submits greenhouse gas inventories on an annual basis as required. Turkey associated itself with some formal EU positions.

Turkey no longer participated regularly in the climate work under the Regional Environmental Network for Accession (RENA). A successful high-level conference was organised in April 2012 under the RENA on EU–Turkey Climate Change Cooperation.

Turkey adopted a bylaw on Monitoring of Greenhouse Gas Emissions. The country took some steps to raise awareness on emissions trading. However, Turkey's status as an Annex I Party without a target continues to hold back progress. No steps were taken to promote convergence with the EU Effort-Sharing Decision. No progress was made as regards other legislation in the field of climate change and Turkey needs to take further steps to align with and implement EU legislation.

No progress can be reported in the area of **administrative capacity**. Last year's comprehensive administrative reorganisation resulted in a fragmented allocation of responsibilities in the field of water and nature protection. At the newly created Ministry of Environment and Urbanisation (MoEU) a balance between the environment and development agendas has still to be found and there are in particular concerns over the lack of attention paid to environmental considerations in the implementation of major infrastructure projects, as well as the willingness and ability to ensure a meaningful public consultation process, including with environmental NGOs. There are some concerns related to the loss of provincial competences in the field of environmental management, in particular as regards inspection, monitoring and permitting. Further efforts are needed to strengthen cooperation and coordination between various institutions with responsibilities in the fields of environment and climate change. The climate department within the MoEU requires further strengthening.

### *Conclusion*

Uneven progress was made towards further alignment in the area of environment and climate change. Special attention is to be paid to the sustainability of existing protected areas and potential Natura 2000 sites. A more ambitious and coordinated climate policy still needs to be established and implemented, both domestically and internationally, in particular as a critical

mass of countries are putting forward commitments internationally and taking action domestically. No further progress was made on administrative capacity. The environmental agenda of the MoEU needs strengthening, as well as coordination and cooperation between relevant authorities at all levels. Overall, preparations in this area are at an early stage.

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

Little progress can be reported in the **consumer protection** area. The consumer movement is still weak. A constructive and regular dialogue mechanism needs to be developed for active participation of consumer NGOs in policy- and law-making activities. The annual advisory Consumer Council did not meet during the reporting period, so there was no follow-up on previous decisions taken.

There has been little progress on *product safety-related issues*. The National Market Surveillance Strategy Document was revised for the years 2012-2014 and adopted by the Market Surveillance and Product Safety Assessment Board, consisting of Ministers and heads of market surveillance authorities, which held its first meeting in July 2012. No progress can be reported on the revision of general product safety legislation. (*See also Chapter 1 — Free movement of goods*)

The Ministry of Customs and Trade adopted a Communiqué which sets minimum safety requirements on safety risks for childcare products, plastic decorative materials, magnets, bath products and candles. The Communiqué refers to harmonised and national standards, but only with a non-mandatory character to check products' compliance. It does not contain a specific provision for imports, EU or non-EU and is applicable to all products on the market. The Communiqué will enter into force in January 2013.

Some progress has been made on *non-safety related issues*. After last year's creation of a DG for Consumer Protection and Market Surveillance within the Ministry of Customs and Trade, administrative capacity has been improved by recruiting additional (junior) consumer protection experts. A commission consisting of academics and civil servants has been established to continue work on drafts of consumer protection legislation in line with EU requirements. However, the Consumer Protection Law has not yet been adopted. With regard to enforcement, the capacity of consumer courts and arbitration committees needs to be further strengthened, including for consistent and better quality legal interpretations of consumer legislation. Consumer court decisions are not accessible. No statistical data are available on consumer complaints.

In the field of **public health**, some progress can be reported. As regards *horizontal aspects*, the ongoing institutional reform of the health system has led to improvements in the administrative capacity of the Ministry of Health. The reform also includes the establishment of a National Public Health Institute, which is responsible for the implementation of primary health care services, communicable diseases control programmes, non-communicable diseases/programmes and cancer, laboratories, and safety of consumers and workers.

In the field of *tobacco control*, Turkey fulfils the *acquis* requirements and also takes full account of the respective Council Recommendations. Turkey is one of the leading countries in the region and an active party to the WHO Framework Convention on Tobacco Control.

As for *communicable diseases*, the administrative reform has led to the setting-up of an Early Warning Response and Field Epidemiology Training Unit within the National Public Health Institute. The role of the Unit is to coordinate and control national early warning and response activities, provide support to sub-national/provincial units and facilitate information exchange with appropriate international organisations. Enforcement capacity is being strengthened, but continued efforts are needed in order to ensure a coherent monitoring and surveillance system

in line with EU legislation and International Health Regulations. Due to the absence of real HIV/AIDS policies, there is a need to raise public awareness of the disease, the incidence of which is increasing.

With regard to *blood, tissues, cells and organs*, in terms of legislative alignment, some progress can be reported. The Ordinance on Tissue Typing Laboratories, the Indication List for Composite Tissue Transplantation and the Donor Inclusion and Donor Exclusion List for Composite Tissues Transplantation were published in November 2011. The Regulation on organ and tissue transplantation services and the Regulation on management of organ and tissue transplantation centres have entered into force. As per the new administrative structure, tissues and cells and organ transplantation services are merged to become one unit under the Health Services Directorate-General, whereas the Blood Services Unit remains separate.

Good progress has been made in the field of *mental health*. Following the 2011 Mental Health Action Plan, some 50 new community-based mental health centres have been established in 42 provinces. Some promising measures were taken to promote the inclusion of people with mental health problems. Further action towards empowerment and protecting the human rights of this target group is recommended.

#### *Conclusion*

Some progress can be reported on consumer and health protection. Key legislation related to consumer protection is still to be adopted and the consumer movement remains weak. Turkey has established new administrative structures in the area of public health. Their functioning needs to be monitored closely. Preparations in this area are on track.

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

There has been uneven progress with regard to **customs legislation**. Turkey amended the provisions implementing its customs law by adopting rules mainly on summary declaration. Turkey aligned with opinions and regulations regarding classification of goods in the Combined Nomenclature. Further alignment needs to be achieved in the area of intellectual property rights (IPR). The rules on free zones and duty relief legislation, especially with regard to duty-free shops at entry points, are not fully aligned with the *acquis*. During the reporting period, Turkey introduced additional customs duties at varying rates on certain woven fabrics and apparel products for a group of third countries, although the goods were in free circulation in the EU, thereby excluding products originating in the EU and in Turkey's free trade partners.

The rules on surveillance and management of tariff quotas are not fully in line with the *acquis*. In particular, no progress can be reported with regard to tariff quotas for processed agricultural products. The requirement to declare the origin of third-country originating products which are subject to conformity assessment checks is not in line with the Customs Union as the relevant customs formalities have already been completed for release for free circulation in the EU. As a result of the EU-Turkey Customs Union, preparations in the area of customs legislation are well on track.

Some progress can be reported as regards **administrative and operational capacity**. Further efforts were made to strengthen security-related customs enforcement capacity. The Ministry of Customs and Trade reorganised regional directorates and the local customs offices operating under them. Risk analysis units were established at the regional directorates and the number of local anti-smuggling and intelligence units increased. The frequency of physical inspections has been slightly reduced; however, the risk management system still needs substantial improvement to reduce both physical and documentary checks and enhance risk analysis procedures. There is a need for automated risk management on summary declarations

to enable risk analysis to be carried out electronically before entry and exit of goods. Simplified procedures are implemented in a manner not fully in line with the *acquis*. On IPR infringement cases, seizures upon complaints by right holders increased whereas *ex officio* customs controls remained low, particularly as regards large shipments. Turkey continues to be one of the main countries from which counterfeit goods enter the EU. Turkey needs to strengthen its enforcement of IPR at customs, particularly in export controls.

Even though the interconnectivity and interoperability of the national transit IT system with the new computerised transit system (NCTS) was made possible (CCN/CSI connection), the accession of Turkey to the Common Transit Convention (CTC) is still pending. In the area of tariffs (TARIC, Quota and surveillance), IT systems are not yet in place. Progress regarding a paperless customs environment has been limited to export procedures. Activities in the area of a single window are at an early stage. The Ministry lacks a strategic plan for electronic customs as well as for converging IT activities and business initiatives to implement modernised customs rules. An IT strategy in this regard remains to be adopted. Preparations in the area of administrative and operational capacity are on track.

‘Customs Union’ 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*

Good progress was made in the field of the Customs Union. Further alignment is needed on duty relief, free zones, surveillance, tariff quotas and IPR. 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. Preparations in the area of customs IT systems need to continue. Additional efforts are required to improve risk-based controls and simplified procedures to facilitate legitimate trade while ensuring security and safety. Overall, the EU-Turkey Customs Union has enabled Turkey to reach a high level of alignment with the *acquis* in this area.

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

Limited progress can be reported in the area of the **common commercial policy**. There has been limited progress in the alignment of the Turkish generalised system of preferences (GSP). In particular, further alignment is needed with the EU’s GSP, namely with regard to geographic coverage and rules of origin.

During the reporting period, Turkey concluded all eight safeguard investigations with decisions on extension of measures applied to frames for spectacles, bags, cotton yarn, electrical appliances, matches, motorcycles and footwear and definitive measures on PET (polyethylene terephthalate). Intensive use of safeguard measures adversely affects progress towards alignment with the common commercial policy.

Turkey maintains a satisfactory level of coordination with the EU within the WTO, in particular as regards the Doha Development Agenda and in the context of the G-20. However, there is room for further improvements in this area. Coordination within the OECD has been satisfactory.

No further alignment in the area of medium- and long-term export credits can be reported although a new regulation is in the pipeline. There is room for improving legislation on *dual-use export controls* in particular by using a single consolidated list of dual use items and

technologies. Turkey's level of alignment with the EU common commercial policy continues to be high.

There has been progress on **bilateral agreements with third countries**. During the reporting period, the free trade agreement with Lebanon was ratified. Turkey signed free trade agreements with Mauritius and South Korea. The free trade agreement between Turkey and Syria has been suspended. Turkey has published amendments to origin protocols of free trade agreements with Bosnia-Herzegovina and Croatia to enable cumulation with the EU for the goods covered by the Customs Union.

Turkey made some progress in the field of **development policy** and **humanitarian aid**. The total amount of official development aid granted by Turkey in 2011 was about € 944 million in 2011. The level of alignment in this field remained satisfactory.

'External relations' 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*

Some progress was made in the area of external relations. Further alignment is required in areas such as the general system of preferences and control of dual-use goods. Intensive use of safeguard measures is a cause of concern. Overall, the level of alignment in this area remains high.

#### **4.31. Chapter 31: Foreign, Security and Defence Policy**

The regular **political dialogue** between the EU and Turkey covered international issues of common interest, including developments in North Africa, the Middle East and the Gulf, the Middle East peace process, the Western Balkans, Afghanistan/Pakistan, Russia and the Southern Caucasus as well as counter-terrorism and non-proliferation issues. Informal EU-Turkey consultations took place in Ankara on the Western Balkans, Africa, the Middle East, North Africa and the Gulf. (*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)**, Turkey aligned itself, when invited, with 37 out of 70 relevant EU declarations and Council decisions (53% alignment). Turkey did not align itself in particular with declarations and Council decisions on Syria, Iran, Libya, Tunisia, Egypt and Bahrain. Turkey did not sign the statute of the International Criminal Court. Turkey announced its candidacy for a non-permanent seat at the UN Security Council for 2015-16.

Bilateral relations with *Iraq* started deteriorating markedly in February although Turkey's relations with the Kurdish Regional Government in Northern Iraq have been significantly strengthened. Turkey strongly condemned terrorist attacks in Iraq.

Turkey continued to engage with *Iran*. On the nuclear dossier, Turkey hosted EU3+3 and Iran talks in April and July. Turkey did not align itself with restrictive measures imposed by the EU on Iran. Turkey's sole oil refiner Tupras however reduced imports of Iranian oil by 20% before 1 July.

Turkey stepped up its relations with *Gulf countries*. Turkey hosted the fourth Joint Ministerial Meeting of the GCC-Turkey High Level Strategic Dialogue in Istanbul in January. In April,

Prime Minister Erdoğan visited Saudi Arabia and attended the 13th United Nations Conference on Trade and Development in Qatar.

As regards the *Middle East*, Turkey's diplomatic relations with *Israel* remain downgraded and military agreements with Israel suspended. Turkey repeatedly strongly condemned Israeli settlement activities. Close relations were maintained with the Palestinian Authority.

Turkey was particularly vocal on Syria, condemning strongly and repeatedly the *Syrian* regime's violence against civilians and calling on it to refrain from disproportionate and excessive use of force. Turkey welcomed UNSC Resolutions 2042 and 2043 on a UN supervisory mission and UNGA Resolution of 3 August 2012. Turkey announced that it considered President Assad illegitimate and established close contacts with the Syrian opposition and in particular with the Syrian National Council. After the downing of a Turkish aircraft by Syria, Turkey increased its military presence along the borders. Turkey closed its Embassy in Damascus and Consulate General in Aleppo. Turkey closed its borders for commercial traffic with Syria, although it maintained an open border policy for individuals. Turkey provided humanitarian assistance to an increasing number of Syrians fleeing their country (nearly 100,000 present in September). As regards developments in *North Africa*, Turkey took a positive and supportive stance and welcomed the democratic trends in various countries. Foreign Minister Davutoglu visited Egypt on 2- 3 July 2012. Turkey welcomed the establishment of a new government under the leadership of Prime Minister Kandil in Egypt.

Turkey strengthened its relations with *African countries* and plans to have a network of 34 missions in Africa by end-2012. Turkey was particularly vocal on the humanitarian and political crisis in *Somalia* and hosted the Second Istanbul International Conference on Somalia on 1 June 2012. Turkey provides assistance to *Sudan* on health and vocational training.

As regards relations with the *Southern Caucasus and Central Asia*, Turkey's chairmanship of the Conference on Interaction and Confidence Building Measures in Asia was extended in April until 2014.

The first meeting of the High Level Strategic Cooperation Council between Turkey and *Azerbaijan* was held in Izmir in October 2011. An agreement was reached on the sale of gas from Shah Deniz II for consumption in Turkey and transit through Turkey. The protocols signed with *Armenia* in 2009 to normalise relations have still not been ratified.

Turkey also hosted the 20th anniversary Summit of the Black Sea Economic Cooperation Organisation (BSEC).

Turkey continued its efforts to enhance cooperation with and between *Afghanistan and Pakistan*, in particular through hosting the Istanbul Conference for Afghanistan 'Security and Cooperation in the Heart of Asia' – where the 'Istanbul process' to back political reconciliation at a regional level was also launched – and the sixth Trilateral Summit of Afghanistan, Turkey and Pakistan.

Turkey-*Russia* relations were marked by a number of high-level visits.

Turkey and the *United States* consulted regularly on regional developments and cooperated closely on security and counter-terrorism. The two countries co-chair the Global Forum on Counter Terrorism, a Ministerial level meeting of which took place in Istanbul in June.

Turkey strengthened its relations with *Asian countries* via a series of high-level visits. Turkey developed its relations with *South American countries*.

In November Turkey announced *restrictive measures* on Syria, including a travel ban, a freeze of assets and trade restrictions.



Concerning the *non-proliferation* of weapons of mass destruction, Turkey is party to all existing international arrangements. In February, Turkey ratified the 2005 UN Convention for the Suppression of Acts of Nuclear Terrorism. There has been limited progress on dual use goods. Turkey has revised nuclear transfer trigger and nuclear dual use lists. 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 continued to engage actively in *cooperation with international organisations*, such as the UN and the Council of Europe. Turkey ratified the third Protocol to the Treaty on Amity and Cooperation, which provides that the EU may accede to the Treaty. However, Turkey announced its intention not to align with any declaration or statement of the EU in the framework of international organisations during the Cyprus Presidency.

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

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

#### *Conclusion*

The political dialogue with the EU on foreign and security policy intensified significantly, also given Turkey's influential regional role in supporting reforms, including with regard to recent developments in North Africa. Turkey was also vocal on Syria, condemning strongly and repeatedly the regime's violence against civilians and providing vital humanitarian assistance. However, during the reporting period, Turkish alignment with CFSP declarations continued to be low when compared to earlier periods. Overall, preparations in the area of foreign, security and defence policy are moderately advanced.

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

Some progress can be reported in the area of **public internal financial control (PIFC)**. The Ministry of Finance presented draft for a new Policy Paper to the European Commission in June. This draft Policy Paper will need to be completed and should address the issues of managerial accountability, the functioning of the various inspection services and the delineation of control, audit and inspection functions, and also the establishment of a permanent Central Harmonisation Unit for Internal Audit (CHU-IA) and the restructuring of the Internal Audit Coordination Board. The appointment of internal auditors in the central and local administration has not yet been completed. The function of internal audit is not clearly described in the founding legislation of the public institutions. The Internal Audit Coordination Board issued an Internal Audit Quality Assurance and Development Programme. However, the Ministry of Finance needs to take a more active stance in steering the reform process. As regards financial management and control (FMC), the Gap Analysis and the Action Plan drafted by the Central Harmonisation Unit for Financial Management and Control (CHU-FMC) has yet to be adopted. Preparations in this area in terms of alignment with the *acquis* are advanced, while considerable further efforts are needed with regard to implementation.

Uneven progress can be reported in the area of **external audit**. Almost all implementing legislation under the revised 2010 Law on the Turkish Court of Accounts (TCA) has been issued. The TCA adopted a Regularity Audit Manual and drafted Manuals for Performance Audit and Audit of Performance Indicators. The TCA established the Audit Development and Training Centre. However, the TCA will now need to ensure that the law is implemented and that the new audit techniques and concepts are adopted and understood by its audit staff. The parliamentary follow-up to audit reports needs to be enhanced, and the parliament will need to establish the necessary institutional structure with the technical expertise to analyse the reports.

An amendment to the TCA Law adopted in July severely limits the competences of the Court and invalidates some of the above developments, taking the level of alignment back to below the standards of the International Organisation of Supreme Audit Institutions (INTOSAI) and EU best practices.

Some progress can be reported in the area of **protection of the EU's financial interests**. An amendment to the founding legislation of the Prime Ministry Inspection Board (PMIB) was adopted in November 2011. It reinforced the PMIB's legal mandate as Turkey's Anti-Fraud Coordination Service (AFCOS), responsible for cooperation with the European Commission and its European Anti-Fraud Office (OLAF). The PMIB issued guidelines on the process for investigating irregularities involving EU Funds. The PMIB together with other relevant institutions and OLAF continued operational cooperation on suspected fraud cases. However, the PMIB will need to adopt implementing rules to clarify the functioning of the AFCOS network on prevention, detection and follow-up of cases. With regard to the Convention on the Protection of the European Communities' Financial Interests (PIF Convention) and its Protocols, the Turkish penal code is now sufficiently aligned with the PIF Convention. However, monitoring of the actual implementation of the Convention needs to be scrutinised.

Good progress can be reported in the area of **protection of the euro against counterfeiting**. Turkey continues to participate in the Pericles Programme. The Counterfeit Tracking System continues to operate among the Treasury, the Central Bank of Turkey, the Public Prosecutors Office, the Turkish National Police and the Gendarmerie. The Turkish National Police is the National Central Office (NCO) for cooperation with the EU institutions as part of the Counterfeit Tracking System. Since July 2102, sanctions are in place against legal persons who fail to withdraw counterfeit domestic and foreign currency from circulation. However, the NCO will need to enhance centralisation of technical and police information. Institutions serving de facto as the national analysis centre and national coin analysis centre needs to be formally appointed. The law on enhancing the effectiveness of judiciary services, enacted in July introduces fines against credit institutions that fail to withdraw counterfeits from circulation. The Turkish institutions have prepared a Road Map for strengthening cooperation with Europol, to enact the 'Operational Cooperation Agreement' with that body. Turkey needs to take the necessary steps envisaged in the Road Map.

### *Conclusion*

Some progress can be reported in the area of financial control, in particular as concerns the protection of the euro. Additional efforts are still required, especially as regards the scope of the new PIFC Policy Paper, reinforcement of the internal audit function in the public administration and reinforcement of the Turkish AFCOS. Furthermore, recent amendments to the Law on the Court of Accounts invalidate previous developments in the area of external audit. Overall, preparations in this area are moderately advanced.

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

There is no development to be reported regarding preparations for the application of the own resources system. Basic principles and institutions in policy areas such as agriculture, customs, taxation, statistics and financial control linked to the application of this system are already in place. In the area of **traditional own resources**, Turkey's customs legislation largely complies with the *acquis*. However, additional efforts are needed for full alignment and implementation.

Preparations in the area of the **VAT resource** and administrative capacity building to calculate the statistical VAT base have yet to start. Turkey will need to take sound measures for combating fraud in VAT and customs duties in order to ensure that it contributes appropriately to the own resources system upon membership. There has been some progress in the area of the **Gross National Income resource**. Turkish financial and statistical data were further aligned with the European System of Accounts.

There has been no progress in the field of **administrative infrastructure**. Turkey will need to establish coordination structures and implementing rules for accurate collection, accounting, monitoring, payment and control of own resources, and reporting to the EU.

##### *Conclusion*

There has been no particular progress in this area. Sound coordination structures, administrative capacity and implementing rules will need to be determined in due course. Overall, preparations in the area of financial and budgetary provisions are at an early stage.

## Statistical Annex

### STATISTICAL DATA Turkey

Basic data	Note	2001	2007	2008	2009	2010	2011
Population (thousand)	1)	64 693	69 805	70 586	71 517	72 561	73 723
Total area of the country (km <sup>2</sup> )	2)	783 562	783 562	783 562	783 562	783 562	783 562

National accounts	Note	2001	2007	2008	2009	2010	2011
Gross domestic product (GDP) (billion national currency)		240.2	843.2	950.5	952.6	1 099	1 298
GDP (million euro)		219 816	472 897	501 339	440 942	547 348	556 428
GDP (euro per capita)	3)	3 375	6 735	7 052	6 120	7 498	7 524
GDP (in Purchasing Power Standards (PPS) per capita)	3)	7 445	11 349	11 829	10 943	12 013	13 412
GDP per capita in PPS (EU-27 = 100)	3)	37	45	47	46	49	52
Real GDP growth rate (growth rate of GDP volume, national currency, % change on previous year)		-5.7	4.7	0.7	-4.8	9.2	8.5
Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		-4.7f	3.5f	-1.5f	3.5f	2.7f	1.7f
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)		49.2f	63.6f	65.8f	70.0f	69.9	72.5
Gross value added by main sectors (%)							
Agriculture and fisheries		9.4	8.5	8.5	9.1	9.5	9.0
Industry		23.8	22.3	22.0	21.1	21.8	22.5
Construction		4.7	5.4	5.2	4.2	4.7	5.0
Services		62.1	63.7	64.3	65.6	64.1	63.5
Final consumption expenditure, as a share of GDP (%)		80.8	84.1	82.7	86.2	86.0	85.1
Gross fixed capital formation, as a share of GDP (%)		15.9	21.4	19.9	16.9	18.9	21.9
Changes in inventories, as a share of GDP (%)		-0.9	-0.4	1.9	-1.9	0.6	2.0
Exports of goods and services, relative to GDP (%)		27.4	22.3	23.9	23.3	21.2	23.7
Imports of goods and services, relative to GDP (%)		23.3	27.5	28.3	24.4	26.8	32.6

Industry	Note	2001	2007	2008	2009	2010	2011
Industrial production volume index (2005=100)	4)	72.6	114.8	114.2	102.9	116.4	126.8

Inflation rate	Note	2001	2007	2008	2009	2010	2011
Annual average inflation rate (HICP, % change on previous year)		56.8	8.8	10.4	6.3	8.6	6.5

Balance of payments	Note	2001	2007	2008	2009	2010	2011
Balance of payments: current account total (million euro)		4 198	-28 044	-28 232	-9 586	-35 184	-55 487
Balance of payments current account: trade balance (million euro)		-3 755	-34 186	-36 049	-17 816	-42 578	-64 275
Balance of payments current account: net services (million euro)		10 201	9 692	12 067	12 415	11 687	13 127
Balance of payments current account: net income (million euro)		-5 583	-5 186	-5 687	-5 873	-5 385	-5 585
Balance of payments current account: net current transfers (million euro)		3 335	1 637	1 437	1 688	1 092	1 246
of which government transfers (million euro)		224	590	495	853	425	570
Net foreign direct investment (FDI) (million euro)		3 188	14 550	11 528	4 917	5 713	9 634
Foreign direct investment (FDI) abroad (million euro)		-555	-1 537	-1 733	-1 113	-1 104	-1 770
of which FDI of the reporting economy in EU-27 countries (million euro)		-486	-1 090	-611	-884	-700	-1 134
Foreign direct investment (FDI) in the reporting economy (million euro)		3 743	16 087	13 261	6 030	6 818	11 404
of which FDI of EU-27 countries in the reporting economy (million euro)		3 178	10 631	9 070	3 776	4 163	8 407

Public finance	Note	2001	2007	2008	2009	2010	2011
General government deficit/surplus, relative to GDP (%)		-26.2	-1.5	-2.8	-7.0	-2.6	-1.1
General government debt relative to GDP (%)		85.2	39.9	40.0	46.1	42.4	39.8

Financial indicators	Note	2001	2007	2008	2009	2010	2011
Gross foreign debt of the whole economy, relative to GDP (%)		58.7	35.8f	39.5	42.2	39.5	:
Gross foreign debt of the whole economy, relative to total exports (%)		362.5	232.6	212.3	262.8	254.0	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	5)6)7)	8 965	44 644	39 927	49 691	65 976	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	5)6)8)	37 253	201 366	203 840	228 237	286 595	:
Money supply: M3 (M2 plus marketable instruments, million euro)	5)6)9)	38 973	215 308	214 473	240 246	299 805	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)		26 977	140 157	138 301	153 867	231 862	:
Interest rates: day-to-day money rate, per annum (%)		93.0	17.3	16.1	9.2	6.6	:
Lending interest rate (one year), per annum (%)	10)	58.9	20.0	17.5	9.0	9.0	12.5

Deposit interest rate (one year), per annum (%)	11)	62.2	22.3	22.9	17.2	15.0	:
euro exchange rates: average of period - 1 euro = ... national currency		1.094	1.778f	1.896	2.151	1.989	:
Effective exchange rate index (2005=100)		94.2	130.4	132.7	126.4	144.2	127.8
Value of reserve assets (including gold) (million euro)		22 649	51 926	53 342	51 949	64 350	68 180

<b>External trade</b>	Note	2001	2007	2008	2009	2010	2011
Value of imports: all goods, all partners (million euro)		46 255.8	123 959.4	136 441.0	100 763.7	138 813.8	173 098.9
Value of exports: all goods, all partners (million euro)		35 062.2	78 126.4	89 559.1	73 283.7	85 263.7	96 973.3
Trade balance: all goods, all partners (million euro)		-11 193.5	-45 833.0	-46 882.0	-27 480.0	-53 550.1	-76 125.6
Terms of trade (export price index / import price index)	12)	96.4	100.3	97.2	102.0	98.2	94.9
Share of exports to EU-27 countries in value of total exports (%)		56.0	56.3	47.9	45.9	46.2	46.2
Share of imports from EU-27 countries in value of total imports (%)		47.9	40.2	36.8	40.1	38.9	37.8

<b>Demography</b>	Note	2001	2007	2008	2009	2010	2011
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		13.5	11.7	13.4	13.3	13.0	12.8
Infant mortality rate: deaths of children under one year of age per 1000 live births		28.3	15.9	14.9	14.0	13.2	12.6
Life expectancy at birth: male (years)		69.4	71.4	71.5	71.7	71.8	72.0
Life expectancy at birth: female (years)		73.5	75.9	76.2	76.5	76.8	77.1

<b>Labour market</b>	Note	2001	2007	2008	2009	2010	2011
Economic activity rate (20-64): share of population aged 20-64 that is economically active (%)	15)	:	52.7	53.5	54.5	55.9	57.2
* Employment rate (20-64): share of population aged 20-64 in employment (%)	15)	:	48.2	48.4	47.8	50.0	52.2
Employment rate male (20-64) (%)		75.3	73.0	72.7	70.4	72.7	75.1
Employment rate female (20-64) (%)		27.4	24.2	24.9	25.8	28.0	29.8
Employment rate of older workers (55-64): share of population aged 55-64 in employment (%)		35.9	27.1	27.4	28.2	29.6	31.4
Employment by main sectors (%)							
Agriculture	13)	35.8	22.0	22.1	23.1	23.7	24.0
Industry	13)	18.1	21.2	21.4	19.6	20.3	20.0
Construction	13)	5.3	6.1	6.0	6.3	6.5	7.1
Services	13)	40.8	50.7	50.4	51.0	49.5	49.0
Unemployment rate: share of labour force that is unemployed (%)	14)	:	8.9	9.7	12.7	10.8	8.8
Share of male labour force that is unemployed (%)	14)	:	8.8	9.6	12.7	10.5	8.3
Share of female labour force that is unemployed (%)	14)	:	9.2	10.0	12.7	11.5	10.1
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)	14)	:	17.3	18.5	23.1	19.9	16.7
Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)	14)	:	2.6	2.6	3.2	3.0	2.3

<b>Social cohesion</b>	Note	2001	2007	2008	2009	2010	2011
Average nominal monthly wages and salaries (national currency)	16)	:	859.0	956.0	1 084.0	1 142.0	:
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 (%)	17)	58.1	46.9	45.5	44.3	43.1	41.9

<b>Standard of living</b>	Note	2001	2007	2008	2009	2010	2011
Number of passenger cars per 1000 population		70.1	92.7	96.3	99.2	104.0	110.0
Number of subscriptions to cellular mobile telephone services per 1000 population		282.9	887.8	932.5	877.8	851.3	886.0

<b>Infrastructure</b>	Note	2001	2007	2008	2009	2010	2011
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		11.1	11.1	11.1	11.6	12.2	:
Length of motorways (km)		1 696	1 908	1 922	2 036	2 080	:

<b>Innovation and research</b>	Note	2001	2007	2008	2009	2010	2011
Spending on human resources (public expenditure on education in % of GDP)		:	:	:	:	:	:
* Gross domestic expenditure on R&D in % of GDP	18)	0.54	0.72	0.73	0.85	0.84	:
Percentage of households who have Internet access at home (%)	19)	:	19.7	25.4	30.0	41.6	42.9

<b>Environment</b>	Note	2001	2007	2008	2009	2010	2011
* Greenhouse gas emissions, CO <sub>2</sub> equivalent (tons, 1990=100)		148.7	203.2	196.0	197.6	214.9	:
Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP)	20)	259.6	250.5	246.3	257.4	252.5	:
Electricity generated from renewable sources in % of gross electricity consumption		19.9	19.1	17.4	19.6	26.4	:

Road share of inland freight transport (% of tonne-km)		95.2	94.9	94.5	94.6	94.4	:
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<b>Energy</b>	Note	2001	2007	2008	2009	2010	2011
Primary production of all energy products (thousand TOE)		24 576	27 454	29 209	30 328	32 487	:
Primary production of crude oil (thousand TOE)		2 679	2 241	2 268	2 349	2 671	:
Primary production of hard coal and lignite (thousand TOE)		12 281	14 797	16 674	17 402	17 523	:
Primary production of natural gas (thousand TOE)		284	827	931	627	625	:
Net imports of all energy products (thousand TOE)		50 160	80 688	78 294	75 295	79 400	:
Gross inland energy consumption (thousand TOE)		75 402	107 627	106 421	106 138	109 260	:
Electricity generation (thousand GWh)		122.7	191.6	198.4	194.8	211.2	:

<b>Agriculture</b>	Note	2001	2007	2008	2009	2010	2011
Agricultural production volume index of goods and services (producer prices, previous year=100)		93.3	:	:	:	:	:
Total utilised agricultural area (thousand hectare)		40 967	39 505	39 122	38 911	39 011	38 247
Livestock: cattle (thousand heads, end of period)	21)	10 548	11 037	10 860	10 724	11 370	12 386
Livestock: pigs (thousand heads, end of period)		2.7	1.8	1.7	1.9	1.6	1.8
Livestock: sheep and goats (thousand heads, end of period)		33 994	31 749	29 568	26 878	29 383	32 310
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)		:	:	:	:	:	:
Crop production: cereals (including rice) (thousand tonnes, harvested production)		29 571	29 257	29 287	33 577	32 773	35 202
Crop production: sugar beet (thousand tonnes, harvested production)		12 633	12 415	15 488	17 275	17 942	16 126
Crop production: vegetables (thousand tonnes, harvested production)		24 164	25 661	27 218	26 780	25 997	27 547

: = not available

- = not applicable

p = provisional

f = forecast

e = estimated value

b = break in series

\* = 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) Population (Total, 15-64 and 20-64) for 2008-2011 is given from ABPRS annual results and the rest is given from population projections; demographic indicators were based on 2008 Address Based Population Registration System and Demographic and Health Surveys; population projections have been revised according to the final result of 2008 Turkey Demographic and Health Survey.
- 2) Including lakes.
- 3) Mid-year population figures were used.
- 4) 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.
- 5) Central Bank of Turkey (CBRT) selling rate is used when converting money supply data in national currency (TRY) to Euro.
- 6) Before December 2005, M1 included currency in circulation and demand deposits (TRY). From December 2005 onwards, M1 included currency in circulation and demand deposits (TRY,FX).
- 7) 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.
- 8) Before December 2005, M2 included M1 and time deposits (TRY); from December 2005 onwards, M2 included M1 and time deposits (TRY, FX).
- 9) 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.
- 10) Averages of monthly data, lending to enterprises more than one year.
- 11) Averages of monthly data, up to one year or longer.
- 12) 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.
- 13) 2001 - 2008, data according to NACE Rev 1; 2009 - 2011, data according to NACE Rev 2.
- 14) Calculations on unemployment are made in line with harmonized EU definition (4 weeks criterion is used for definition of job search).
- 15) Data are given by the results of labour force survey.
- 16) 2007 - 2009, data is based on Income and Living Conditions Survey.
- 17) Annual LFS results; the variable 'participation in non-formal education or training (COURATT)' was added into the calculation from 2004 (This variable was not asked in previous years).
- 18) Revised GDP series (base year 1998) have been used for computing R&D share in GDP since 2007.
- 19) From 2007 onwards, calculated according to mid-year population estimates.
- 20) 2001 - 2009, Kg of oil equivalent per 1000 euro GDP 1998.
- 21) Excluding buffaloes.