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**COMMISSION STAFF WORKING DOCUMENT**  
*Accompanying the document*

**Report from the Commission to the European Parliament and the Council**  
**Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap**

{COM(2016) 278 final}

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

**1. INTRODUCTION**

This Commission Staff Working Document (CSWD) accompanies the Commission's Third Report on progress by Turkey (the Third Report)<sup>1</sup> in fulfilling the requirements of its visa liberalisation roadmap (the Roadmap) and provides, for each requirement, an assessment of the state of play of its fulfilment and factual information justifying that assessment.

While the Third Report identifies the areas in which Turkey has not yet fulfilled the requirements of the Roadmap, and presents recommendations on the measures to be put in place in order to achieve this objective, this CSWD describes the measures taken by Turkey since the adoption of the first Commission's Report on progress by Turkey in implementing the requirements of its visa liberalisation roadmap (the Second Report) on 4 March 2016<sup>2</sup>.

The annex to the CSWD includes the assessment of the impact of the future visa liberalisation for Turkey on the security situation of the European Union, notably in relation to the risk that the visa liberalisation may result in an increase of activity by criminal organisations or terrorist groups in the EU, as well as irregular migration by third country nationals.

This annex complements another document which had been included in the CSWD accompanying the Second Report issued on 4 March 2016, and which had provided an assessment of the impact of the future visa liberalisation for Turkey on the migratory situation of the European Union, notably in relation to the risk that the visa liberalisation may result in an increase of irregular migration of Turkish nationals into the EU<sup>3</sup>.

The factual information included in these assessments draws on information provided by EU Agencies and other available sources, as well as evaluation missions to Turkey led by the European Commission, assisted by experts from EU Member States.

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<sup>1</sup> COM(2016) 278final.

<sup>2</sup> COM(2016) 140 final.

<sup>3</sup> SWD(2016) 97 final

## ASSESSMENT OF THE IMPLEMENTATION

### **2. Block 1: Document security**

- 1. Turkey should continue issuing machine readable biometric travel documents in compliance with ICAO standards and follow ICAO recommended practice, phasing out of any non-ICAO compliant passports, and gradually introducing international passports with biometric data, including photo and fingerprints, in line with EU standards, especially Council Regulation [2252/2004](#).*

#### **Almost fulfilled**

At the moment there are around 8 million valid passports in circulation in Turkey. As of November 2015, only biometric International Civil Aviation Organisation (ICAO)-compliant passports, bearing chips including a digital picture of the holder are in use.

In order to meet the recommendation without delay, Turkish authorities will issue as an interim solution between June and the end of 2016, temporary passports with a short validity duration, which are limited to a maximum production capacity of 10.000 passports a day. The passports use the encryption system EAC (Extended Access Control), which is in line with the current ICAO standards, as well as the 2014 EU standards and contains the fingerprints of the passport holder. The introduction of fingerprints of the passport holders in the chip will ensure a sufficient level of protection.

With effect from October 2016, Turkish authorities will start issuing permanent passports with chips including the holders' fingerprints protected with the SAC (Supplementary Access Control) encryption system. The equipment to produce the passports with SAC encryption will be supplied to the Turkish authorities through a project funded by the EU. The SAC is the encryption standard for all new passports issued by EU Member States. Member States are still authorised in exceptional circumstances to issue passports from stocks with chips encrypted only with the EAC encryption system.

- 2. Implement appropriate administrative measures ensuring the integrity and security of the personalisation and distribution and validation process for international passports and other breeder documents.*

#### **Fulfilled**

The system of personalisation and distribution of passports is very secure and well-organised, in line with international standards. The issue of passports is based on a verification of the personal data stored in the electronic database of the civil registry (MERNIS) where each citizen is identifiable by an individual identification number, and the collection of the fingerprints of the applicant.

The procedure for the destruction of invalid passports has been strengthened by Turkish authorities as a result of the Visa Liberalisation Dialogue (VLD). On 17 February 2016 the Turkish National Police issued a Circular instructing its staff working with expired passports to systematically invalidate their pages and chips in order to avoid their possible re-use for forgeries. The Circular was elaborated in line with EU Member States' best practices.

- 3. Establish training programmes and adopt ethical codes on anti-corruption targeting the officials of any public authority that deals with visas, breeder documents or passports.*

**Fulfilled**

Visas, passports and breeder documents are handled, respectively, by the staff of the Consular Department, the Directorate General for Security (the Turkish National Police), and the Directorate General for Civil Registration and Citizenship. The first of these three entities is part of the Ministry of Foreign Affairs, the latter two are part of the Ministry of Interior. The staff of these three entities is selected in a professional manner and benefit from technical instructions and specialised training, including on anti-corruption matters.

- 4. Promptly and systematically report to Interpol/LASP database on lost and stolen passports.*

**Fulfilled**

Turkish authorities report regularly to Interpol regarding lost and stolen Turkish passports.

- 5. Ensure a high level of security of breeder documents and ID cards and define strict procedures surrounding their application and issuance.*

**Fulfilled**

It is extremely difficult to use a falsified identity card to obtain the issuance of a passport. This is due to several reasons: the Police offices issuing the passports are linked to the electronic database of the civil registry (MERNIS) and are bound to compare the data indicated in this system with the data in the identity card presented by the passport applicant. This should allow the Police offices to discover any possible falsification or usurpation of identity.

The Law on the Civil Registration Services (No. 5490) was modified with an amendment that entered into force on 27 January 2016. As a result of this amendment, all new identity cards to be issued to Turkish citizens as of 14 March 2016 will be: polycarbonate-based; will include biometric identifiers of the holders; and have a maximum validity of 10 years. Until now, however, the distribution of the new card has only started at pilot level. As of 29 April 2016, 11.000 biometric ID cards have already been distributed. Distribution throughout Turkey will start by the end of 2016. The project is expected to be finalised by the end of 2018.

- 6. Regularly exchange passport specimens, visa forms and information on false documents, and cooperate on document security with the EU.*

**Fulfilled**

Until recently, Turkish authorities only occasionally exchanged passport specimens with some Member States and did not regularly exchange information regarding false documents with any Member States. As a result of the VLD there has been an improvement in collaboration with Turkish authorities. As of 25 February 2016, the Turkish authorities started entering data via Dial-Doc databases by Interpol on false documents and visas as well as on new methods in use by smugglers.

The Turkish authorities set up on 8 April 2016 three "police liaison bureaus" in Istanbul

Ataturk, Istanbul Sabiha Gokcen and Antalya international airports. The first and third of them have started to function. These offices will include specialised staff working 24/7 on suspicious, false or fraudulent EU travel documents. These bureaux will establish working relations with the EU Member States' police liaison officers (and with other relevant authorities) in order to exchange information on documents.

The specific tasks of the Bureau will be as follows:

- Inform carriers and private security companies on security risks;
- Inform foreign liaison officers on security risks;
- Transmit the notifications received from foreign liaison officers and authorities to relevant Turkish authorities, carriers and private security companies;
- Maintain constant contact with foreign security officers to coordinate security issues regarding passengers entering and exiting Turkey;
- Form necessary communication archives to perform its tasks in a swift and efficient manner.

The Turkish National Police invited the EU liaison officers on 2 May 2016 to the Bureau in Atatürk airport for a guided visit and a meeting.

- 7. Adopt and implement measures ensuring the integrity and security of the civil status and civil registration process, including the integration and linking of the relevant databases and the verification of scanned data against the civil status database, paying particular attention to the amendment of individuals' basic personal data.*

### **Fulfilled**

The civil registry system of Turkey is organised and managed in a robust manner, in line with international standards. Identity documents are issued on the basis of breeder documents handled in a reliable manner. Information is stored not only on paper documents, but also in an electronic database (MERNIS). Access to both archives for retrieval and introduction of data is well regulated. Modification of personal data stored in these archives is possible only on the basis of judicial decisions. Each person registered in the Civil Registry is attributed an identification number which cannot be changed under any circumstances, even in case of change of name. The Police staff in charge of assessing requests for new passports is obliged to consult the MERNIS before approving the issue of the new document.

## **3. BLOCK 2: MIGRATION MANAGEMENT**

### **3.2.1. Border management**

- 8. Carry out adequate border checks and border surveillance along all the borders of the country, especially along the borders with EU member states, in such a manner that it will cause a significant and sustained reduction of the number of persons managing to illegally cross the Turkish borders either for entering or for exiting Turkey.*

### **Fulfilled**

All border crossing points in Turkey are managed by the Turkish National Police (TNP) and by the Customs Enforcement Service, which are respectively in charge of inspecting the persons and the goods on the basis of the relevant accompanying travel documents. Sea borders are handled by the Coast Guard, which is responsible for controlling the territorial waters of the country. Turkey's land borders are guarded by Land Forces. The Gendarmerie is the leading law enforcement agency in all rural areas of the country, complementing the role played by the Turkish National Police in urban areas.

Although the Gendarmerie is not directly in charge of the surveillance of any border, it plays a very important role in border management, because it is in charge of surveillance on the coasts and the rural areas adjacent to the land borders, thus complementing the work done by the Coast Guard and the Land Forces.

During 2015, irregular departures of migrants and refugees from the Turkish territory towards the EU, at the land and sea borders, reached an unprecedented level. While in 2013 and 2014 the number of persons who arrived in the territory of EU Member States directly from the Turkish territory were 25.121 and 52.994 respectively, in 2015 the number increased to 888.457, which meant a daily average arrival of 2.430 persons. Around 98% of irregular entries took place in the Greek Aegean islands by persons departing from the nearby Turkish Aegean coasts. The remaining 2% were persons crossing the land border with Greece and Bulgaria.

The law enforcement agencies of Turkey did not manage to prevent such a quantity of departures. Nevertheless, according to Turkish authorities, in 2015, they detected 207.249 irregular migrants, i.e. a daily average of 567 persons, which indicates an exceptional effort to reduce the migratory pressure on the Greek islands. These preventive measures, along with the worsening weather conditions in winter, started to have an effect in the last months of 2015 and contributed to a reduced daily average arrival rate registered in Greece from 6 988 in October 2015 down to 1.987 and 1.942 in January and February 2016 respectively.

The Coast Guard intercepted 88.637 persons along the Aegean coast before they could exit the territorial waters, while 2.617 and 357 persons were intercepted in the Mediterranean region (nearby Antalya) and in the Marmara sea. 54.874 persons were apprehended on land in 2015 by Land Forces, Police and the Gendarmerie.

In 2016, the three law enforcement agencies of Turkey are continuing their efforts to prevent irregular departures, including through introducing norms aimed at reducing the possibility of refugees registered in Turkey to freely move within the country beyond the specific provinces in which they are requested to reside. This has the objective to prevent them from approaching the Aegean coasts and the Western borders of the country for the purpose of irregular migration. By 4 April 2016, 67.450 irregular migrants were apprehended, i.e. a daily average of 713, the majority along the Aegean coast and the Western land borders with Greece and Bulgaria.

A further drastic reduction of irregular departures, which fell from a daily average of around 2000 in January and February 2016 to 140 in April was the result of these efforts as well as the commitments taken by Turkey to readmit all irregular migrants who arrived after 20 March 2016, as expressed at the EU-Turkey Summit of 18 March 2016.

In this context, some irregular departures continue to take place from the Turkish Aegean coasts without Turkish authorities managing to stop them. However, given the geographic complexity of the Turkish Aegean coast and the extreme proximity of the Greek islands, it is not possible to eliminate these numbers completely.

It should be also noted that the Turkish authorities reached moderate results in the prevention of irregular migration entering into Turkey across its Eastern borders, notably at the border with Iran. The latter represents the main area of irregular entry into Turkey for Afghani migrants and refugees, as well as for Pakistani, Bangladeshis and Myanmaris (in 2015 more than 200.000 Afghans arrived irregularly to Greece coming from the Turkish territory; most of them appear to have entered Turkey by irregularly crossing the Iranian-Turkish border).

In 2015, the Land Forces, Gendarmerie and the Police in the provinces located along the Eastern borders of Turkey had jointly managed to intercept only 1.949 irregular migrants in the province of Van, 1.667 in the province of Hakkari, 1.169 in Agri and 1.054 in Artvin.

In 2016, however, the Turkish authorities increased their efforts also along the Eastern borders. As a result, in the first three months of the year, the Turkish authorities intercepted 12.250 irregular migrants in the province of Hakkari, 409 in Agri, 250 Artvin and 160 in Van.

9. *Adopt and effectively implement legislation governing the movement of persons at the external borders, as well as legislation on the organisation of the border authorities and their functions, in accordance with the 'National Action Plan for the Implementation of Turkey's Integrated Border Management strategy', approved on by Turkish authorities on 27<sup>th</sup> March 2006, and in line with the principles and best practices enshrined in the EU Schengen Border Code and the EU Schengen Catalogue.*

#### **Fulfilled**

In line with the 'National Action Plan for the Implementation of Turkey's Integrated Border Management strategy', Turkey should have reformed the organisation of its border management system and established a single civilian border agency which would be in charge of controlling all borders of the country, currently managed by several separate bodies, i.e. the Land Forces along the land borders, the Turkish National Police at the border crossing points and the Coast Guards at the sea borders.

In 2013 and 2014, during the first years of the VLD, Turkish authorities continued working on this ambitious reform. Due to the difficult geopolitical situation faced by the country as a result of the wars in Syria and Iraq, which imposed, at least on all the Southern and Eastern borders of the country, progress in implementing the reform has slowed down.

On the other hand, the Turkish authorities informed that the concept of integrated border management will be implemented and, in this perspective, they were planning to ensure, as recommended by the Commission in its first progress report, a stronger cooperation and coordination mechanism between the separate bodies in charge of border management.

On 17 March 2016, a by-law requesting all law enforcement and border agencies to cooperate more tightly entered into force. The Ministry of Interior instructed all the Governorships across Turkey on the effective implementation of the by-law.

10. *Take the necessary budgetary and other administrative measures ensuring the deployment at the border crossing posts and along all the borders of the country, especially on the borders with the EU member states, of well-trained and qualified border guards (in sufficient number), as well as the availability of efficient infrastructure, equipment and IT technology, including through a more extensive use of surveillance equipment, in particular electronic means, mobile and fixed,*

*video surveillance, infrared cameras and other sensor systems.*

**Fulfilled**

The movement of persons across Turkish border crossing points is registered and monitored by the Turkish National Police through an electronic database, POL-NET, which is accessible from all the border crossing points of the country, where all entries and exits of persons are registered. The system is connected to other databases, allowing real time verification whether the person trying to cross the border is in the list of persons wanted by the judicial or the police authorities, or on the list of persons declared inadmissible for any legal reason including past records as irregular migrant, or whether his/her passport was declared lost or stolen.

The Police officers at the border crossing points are equipped with basic tools allowing for the inspect the quality of passengers' travel documents. A "second line" of well-trained policemen is always present in the back offices of all border crossing points to carry out more thorough inspections of suspicious travel documents and to consult the Interpol databases.

Land border detachments are based in border stations and observation towers near the border. Land forces are responsible for surveillance and patrolling in an area extending a maximum of six kilometres into the territory from the border. A second line of surveillance is handled by the Gendarmerie.

The Land Forces of Turkey make significant use of conscripts led by officers that are generalists. However, in recent years they have been increasing the use of contractual professional soldiers for border surveillance tasks in order to increase the training of the conscripts assigned to the border detachments and to facilitate permanent detachments of officers willing to specialise in border surveillance activities.

The Turkish authorities have strengthened controls along the Syrian border through the construction of obstacles, fences, illuminations and patrolling roads.

Two EU-funded projects will contribute to the supply of surveillance equipment to the Land Forces deployed along the borders with Iran and Iraq. The implementation of these projects will take place over the next of years. Two other EU-funded projects are contributing to the modernisation of Land Forces' capability along the land borders with Greece and Bulgaria and to the development of cooperation between the border guards of these two countries.

The Coast Guard is organised on the basis of regional commands (Istanbul, Izmir, Mersin, Samsun) and uses both patrolling vessels and aircraft for patrolling and search-and-rescue activities. The Coast Guard has been enhancing its technical and human resources, notably in the Aegean region. An EU-funded project will supply patrolling boats and other equipment and support to the Turkish Coast Guard. Turkey is financing the development of a coastal radar system along the entire Turkish coast, expected to be completed by 2020, although certain areas of more critical importance, i.e. the Aegean coast, may already be completed by 2017.

***11. Enhance cooperation and information exchange between the staff and bodies in charge of border management, the custom service and the other law enforcement agencies, in view of enhancing the capacity to collect intelligence, to use human and technical resources efficiently, and to act in a coordinated manner.***

**Fulfilled**



In the first months of 2015, law enforcement agencies (notably the Gendarmerie with the Coast Guard and the Police) stepped up their cooperation in the prevention of irregular migration, by increasing the number of joint operations and sharing intelligence and information more frequently.

The by-law on Inter-institutional Cooperation and Coordination in the Field of Border Management entered into force on 17 March 2016. It foresees the setting up of the National Coordination and Joint Risk Analysis Centre to coordinate data exchange and other activities related to joint risk analysis by public entities in charge of border management and with other relevant public entities.

In accordance with the by-law, the first meeting of the Border Management Implementation Board was held on 31 March 2016 under the chairmanship of the Undersecretary of the Ministry of Interior. The Ministry of Defence, Ministry of Foreign Affairs, Ministry of EU Affairs, Ministry of Transport, Maritime Affairs and Communications, Ministry of Health, Ministry of Customs and Trade, Ministry of Agriculture, Turkish Intelligence, Turkish National Police, Turkish General Staff, Directorate General for Migration Management (DGMM), Turkish Land Forces, Turkish Gendarmerie and Turkish Coast Guard were represented in the meeting. The Board took the decision to establish the National Coordination and Risk Analysis Centre (NACORAC) and to reinforce the identification of migrant smuggling methods through risk analysis along the borders.

Following this decision, NACORAC started to operate on 3 May 2016. A total of 20-25 staff is expected to take up duties. It is located in a temporary venue within the 112 Ankara Urgency Call Centre until September 2016, when the infrastructure preparations of its own building will be finalised. The Ministry of Customs, Turkish Land Forces, Turkish Gendarmerie, Turkish Coast Guard, Turkish National Police, DGMM, Ministry of Health and Ministry of Agriculture will be represented in the Centre. The Ministry of Interior will provide the necessary budget for the Centre.

An EU-funded project will support the functioning and development of the NACORAC.

***12. Establish training programmes and adopt ethical codes on anti-corruption targeting the border guards, customs and other officials involved in the border management.***

**Fulfilled**

The by-law on Ethical Principles for Law Enforcement, in force since 2007, defines the principle duties to maintain justice, objectivity, honesty, competence, transparency and accountability.

The by-law on Inter-institutional Cooperation and Coordination in the Field of Border Management entered into force on 17 March 2016 and foresees the establishment of common ethical rules on corruption and border control rules.

Common ethical rules have been prepared and discussed in a meeting hosted by the Ministry of Interior with the participation of relevant authorities on 22 March 2016. The rules were adopted during the first meeting of the Border Management Implementation Board held on 31 March 2016. Training programmes promoting their implementation are being prepared.

***13. Implement in an effective manner the Memorandum of Understanding signed with FRONTEX, including by developing joint cooperation initiatives and exchanging data and risks analysis.***

### **Fulfilled**

In May 2012, Frontex signed a Memorandum of Understanding with Turkish authorities, which is being implemented since 2013 through a triennial Cooperation Agenda. In February 2016, Frontex intensified its cooperation with Turkish authorities in the collection and assessment of statistical data on irregular migration in the framework of the TU-RAN project. In April 2016 the officer appointed as Frontex liaison officer to Turkey was effectively deployed in Turkey.

***14. Ensure that border management is carried out in accordance with the international refugee law, in full respect of the principle of non-refoulement and effectively allowing the persons in need of international protection to have access to asylum procedures.***

### **Fulfilled**

Since 2011, Turkish authorities have allowed entry into Turkey and access to temporary protection status and to individual asylum procedures to around 2.7 million refugees fleeing the conflict in Syria, and between 200.000 and 300.000 persons in need of international protection originating from other countries (mostly Iran, Afghanistan and Iraq).

No cases of push-backs of persons seeking protection have been reported along the borders with Iran. In some cases, the entry of persons seeking protection from Iraq and Syria has been delayed, obliging people to wait at the border. However, this was normally followed by the authorisation to cross the border once it became apparent that the safety or the medical conditions of the waiting persons imposed it.

Amnesty International, through a report published in November 2015, has declared that Turkish authorities may have forcibly returned some arrivals from Syria. These allegations have been rejected by Turkish authorities, who declared that all returns towards Syria were of a voluntary nature.

Although Turkish legislation does not include an official declaration stating that Lebanon and Jordan are safe third countries, Syrian refugees arriving from these two countries and requesting asylum at the Turkish border are not given access to temporary protection and are returned to these two countries, in the assumption that they will not be submitted to danger, mistreatment or expulsion. As of 7 April 2016, the Turkish Government has also modified the provisional Article 1 of the *Regulation on Temporary Protection* to ensure that Syrians returned from Greece to Turkey who were not previously registered as beneficiaries of temporary protection could be granted temporary protection status upon their return from Greece.

Through letters sent to the European Commission in April 2016, the Turkish authorities have given guarantees that all the Syrians returned from Greece to Turkey will be granted temporary protection status upon their return from Greece, and that all non-Syrian migrants returned from Greece to Turkey willing to request asylum in Turkey will be given the possibility to do so.

As of 29 April 2016, UNHCR has also been guaranteed access to the removal centres and to speak with the migrants detained, allowing the Agency to fulfil its protection mandate.

***15. Ensure adequate cooperation with the neighbouring EU Member States, aiming in particular at reinforcing the management of the borders with EU Member States.***

### **Fulfilled**

Turkish border authorities are regularly cooperating with Greek and Bulgarian authorities along their common land border for the prevention of irregular crossing by migrants.

Turkey has ratified on 25 March 2016 the agreement signed in June 2015 with Bulgaria and Greece establishing at the *Captain Andreevo* border crossing point the Tripartite Centre for cooperation in the fight against border crime and migrant smuggling. The agreement will start being implemented as soon as the other parties complete the ratification process and the the offices at the *Capitan Andreevo* Centre are completed.

Following discussions started in December 2015, Turkish and Greek authorities are working to set up a secure communication line linking the headquarters of the two Coast Guards, allowing for exchange of information on smugglers and on irregular migration attempts. The line will be established as soon as the technical features are agreed.

Bilateral meetings took place between Turkish and Greek authorities to develop cooperation in the prevention of irregular migration and to facilitate the readmission of irregular migrants. In that context, the Turkish Coast Guard has deployed a liaison officer to the Turkish Embassy in Athens and the Greek Coast Guard has deployed a liaison officer to the Greek Embassy in Ankara. In the second half of March 2016, Turkish liaison officers were also deployed to the main Greek islands in the Aegean region to strengthen cooperation with Greek authorities in the prevention of irregular migration and in readmission matters.

### **3.2.2. Visa policy**

#### ***16. Enhance training on document security at the consular and border staff of Turkey, and develop and use the Turkish Visa Information System.***

### **Fulfilled**

Turkish consular and border staff is increasingly offered training on document security. The Turkish visa system (Konsulnet), which is also fed by the Turkish E-visa system, is being connected to Gocnet (the database of the DGMM registering the information on foreigners arrived to the country) and Polnet (the Police database registering entries and exits of nationals and foreigners across the Turkish borders).

#### ***17. Abolish issuance of visas at the borders as an ordinary procedure for the nationals of certain non-EU countries, and especially for countries representing a high migratory and security risk to the EU.***

### **Fulfilled**

Since 1 January 2015 the nationals of all 47 Sub-Saharan Africa countries, which are considered as potential sources of irregular migration cannot any longer obtain a visa at the border. As of 1 January 2016, in line with Article 13 of the Law on Foreigners and International Protection, issue of visas at the borders has become “exceptional” for a duration of 15 days. Currently, only nationals of Kuwait and Malta can receive visas issued at the border on a regular basis.

#### ***18. Put in use the new Turkish visa stickers with higher security features, and stop using stamp visas.***

### **Fulfilled**

As of 8 November 2014, all Turkish Embassies started using visa stickers including high security features, instead of visa stamps. E-visas include bar-codes which are difficult to duplicate and verified electronically through scanning at the border crossing point.

#### ***19. Introduce airport transit visas.***

### **Fulfilled**

The legal capacity to impose transit visas has been given to the Turkish Government by the *Law on Foreigners and International Protection*, which entered into force on April 2014.

In February 2016, Turkish authorities informed the European Commission that they have identified 18 countries, (Afghanistan, Bangladesh, Democratic Republic of Congo, Eritrea, Cote D'Ivoire, Ghana, South African Republic, Cameroon, Congo, Mali, Myanmar-Burma, Nigeria, Pakistan, Somali, Sri Lanka, Sudan, Uganda), that will be submitted to airport transit visas due to being countries of origin of irregular migration.

On 29 April 2016, in accordance with the *Law on Foreigners and International Protection*, the Ministry of Foreign Affairs and the Ministry of Interior has formally decided to prepare the necessary infrastructure to introduce airport transit visas for nationals of the abovementioned 18 countries as of 1 September 2016.

#### ***20. Amend the rules on the basis of which Turkey allows the entry into its territory to the nationals of the main countries representing important sources of illegal migration for the EU, in the aim of making the access more difficult for those willing to enter the Turkish territory with the purpose to subsequently attempt to illegally cross the external borders of the EU.***

### **Fulfilled**

On 24 September 2015, Turkish authorities reintroduced the visa obligations for Libyan citizens. On 8 January 2016, Turkish authorities introduced visa obligations to Syrian citizens arriving to Turkey through a seaport or airport from a third country, notably to stem the flows originating from Lebanon and Jordan. Furthermore, on 6 February 2016 Turkey strengthened visa obligations on Iraqis, who in 2015 represented the third most represented country of origin of irregular migration into the EU via Turkey after Syrians and Afghans.

In February 2016, Turkish authorities strengthened the criteria to grant access to e-visas, which represents an important facilitation to enter Turkey, as it allows the visa applicant to avoid logistical problems, waste of time, costs and embarrassment deriving from approaching and being questioned by an Embassy in order to obtain a visa.

Until February, the citizens of the African and Asiatic countries submitted to the Turkish negative list, who declared that their passport held a valid visa or residence permit of any Schengen or OECD country, were entitled to obtain an e-visa. After February this possibility is limited to the holders of Schengen, USA, UK and Ireland visas and residence permits, in order to make it easier for police officers at border crossing points to recognise and verify the quality of these residence permit and visas. Furthermore, Turkish authorities have put in place separate counters at most border crossing points, which e-visa holders are required to use, and where the control on the residence permits and visas can be carried out in a thorough manner.

Following the measures taken to strengthen the visa requirements for Syrian and Iraq citizens mentioned above, Turkish authorities have taken no additional restrictive measures on other

nationalities who are allowed to enter visa-free into Turkey and who in 2015 were frequently found staying irregularly in Turkey or entering the EU irregularly from Turkey.

Of the 888.457 irregular arrivals to the EU from Turkey, the main nationalities were as follows: 498.040 (56%) were Syrians, 214.552 (24%) Afghans, 93.028 (10 %) Iraqis, 24.291 (3%) Pakistanis, 23.087 (3%) Iranians, 7.419 Moroccans (1%), 6.368 Palestinians, 4.538 Somalians, 3.689 Bangladeshis, 2.044 Lebanese, 1.416 Algerians etc. Iranians, Moroccans and Lebanese are exempted from visa obligation to enter Turkey.

Based on statistics published on DGMM website, in 2015 Turkish authorities apprehended 146.485 irregular migrants (i.e. persons having irregularly entered or staying irregularly in Turkey), around 2.5 times more than in 2014 (58.647). Main countries of origin concerned were Syria (73.422) Afghanistan (35.921), Iraq (7.247), Myanmar (5.464), Pakistan (3.792), Georgia (2.857), Islamic Republic of Iran (1.978), Eritrea (1.445), Uzbekistan (1.393), Turkmenistan (1.241) etc. Citizens of Georgia, Iran, Uzbekistan and Turkmenistan are exempted from visa obligation to enter Turkey but are authorised to stay visa-free on its territory for a limited period of time.

*21. Pursue the alignment of Turkish visa policy, legislation and administrative capacities towards the EU acquis, notably vis-à-vis the main countries representing important sources of illegal migration for the EU.*

**Fulfilled**

This benchmark does not require Turkey to be perfectly aligned with the EU visa system but it requires progress towards this objective.

At the moment, the countries whose nationals are required to hold a visa when entering the Member States and that have a visa waiver for Turkey are: Azerbaijan, Belarus, Belize, Bolivia, Georgia, Iran, Jordan, Kazakhstan, Kyrgyzstan, Lebanon, Mongolia, Morocco, Russian Federation, Tajikistan, Thailand, Tunisia, Turkmenistan, Ukraine, and Uzbekistan.

The citizens of other countries that are in the negative list of the EU (Algeria and Egypt, the countries of Sub-Saharan Africa, and many countries in Southern and Eastern Asia, such as Afghanistan, India, Pakistan, Bangladesh, Vietnam, China), also need to obtain from an Embassy a visa to enter Turkey (unless they can prove that they hold a valid visa or residence permit issued by a Schengen country, the USA, Ireland or the United Kingdom, in which case they still need a visa to enter Turkey, but may simply obtain it through an e-visa<sup>4</sup>).

Furthermore, on 6 February 2016 Turkey strengthened visa obligations on Iraqis, who in 2015 represented the third country of origin of irregular migration into the EU via Turkey after Syrians and Afghans.

In recent months, Turkish authorities took decisive steps in improving the visa system, which is based on the EU model. In particular on 16 February 2016, the Ministry of Foreign Affairs has sent to all Turkish missions abroad on conducting a comprehensive risk analysis in visa applications, with focus on certain categories of persons and situations. The Ministry also circulated additional instructions to the Turkish missions located in source countries of migration and terrorism. On 26 April 2016, a Directive on Principles and Procedures Regarding Assessment of Visa Applications was also issued.

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<sup>4</sup> This restriction does not apply to Egyptian citizens, who may always enter through an e-visa provided that they are less than 20 or more than 45 years old and travel through Turkish airlines or Egyptian air.

Consequently, the consultation between the Turkish missions abroad and Ankara has been intensified in the evaluation of visa applications. As part of the risk analysis, visa applications are now also submitted to the Ministry of Interior (DGMM, Turkish National Police) and/or Turkish National Intelligence Organisation. As a result of these instructions, the Turkish missions abroad frequently request additional supporting documents from visa applicants and carry out more in-depth analysis of their profiles.

***22. Allow non-discriminatory visa-free access to the Turkish territory for the citizens of all the EU Member States.***

**Fulfilled**

On 2 May 2016, the Turkish Government adopted a decree stating that the citizens of all Member States will be able to enter Turkey from the date of the lifting of the visa requirement for Turkish citizens. This ensures the end of the discriminatory visa requirement to which citizens of eleven Member States (Austria, Belgium, Croatia, Cyprus, Ireland, Malta, the Netherlands, Poland, Portugal, Spain and the United Kingdom) are still subject.

**3.2.3 Carriers' responsibility**

***23. Adopt and effectively implement the legislation on carriers' responsibility defining sanctions.***

**Fulfilled**

A by-law regulating the carriers' obligations and introducing sanctions for carriers transporting passengers without valid travel documents entered into force on 7 November 2015.

**3.2.4. International Protection**

***24. Adopt and effectively implement legislation and implementing provisions, in compliance with the EU acquis and with the standards set by the Geneva Convention of 1951 on refugees and its 1967 Protocol, thus excluding any geographical limitation, so as to ensuring the respect of the principle of non-refoulement, taking into account also the European Convention on Human Rights, the possibility to lodge an asylum request and to obtain the refugee status protection or a subsidiary form of protection for any person in need of international protection, and allowing the UNHCR to effectively fulfil its mandate on the Turkish territory without restrictions;***

**Fulfilled**

The Turkish asylum system is based on the Law on Foreigners and International Protection of 4 April 2014 in conjunction with a Regulation on the implementation of the Law on Foreigners and International Protection of 17 March 2016. The Law provides for the following international protection statuses: refugee status, (Geneva Convention Refugees fleeing from events occurring in a European country); conditional refugee status (Geneva Convention Refugees, who are fleeing from events occurring in a non-European country); secondary protection (persons who not qualifying for the previous two forms of protection, but may not be returned to their country of origin due to indiscriminate violence or other ill-treatment); temporary protection, which was triggered for Syrians displaced by the Syrian

conflict by the Temporary Protection Regulation of 13 October 2014 as amended by Cabinet Decree of 6 April 2016<sup>5</sup> and complemented by the Regulation on work permits of foreigners under temporary protection of January 2016.

While Turkey still maintains a geographical limitation to the Geneva Convention, internal Turkish legislation now appears to afford to Geneva Convention Refugees protection broadly equivalent to the Geneva Convention.

Syrians under temporary protection requesting assistance are offered the possibility to be hosted in reception centres; those willing to live on their own are authorised to settle in the province of preference in Turkey, and are granted, whenever they settle, free access to public health care and education and social assistance; however they can only access social services and a work permit in the province where they are registered. The Note 2016/8 issued by the Government on 15 March 2016 limits their unauthorised mobility beyond the limits of the province of registration to prevent possible attempts to reach and depart from the Aegean coasts.

As of 31 January 2016 DGMM has registered 2.582.600 persons (mostly Syrians, but in a few cases also some Palestinians that used to live in Syria) as beneficiary of temporary protection.

As regards non-Syrians, an asylum claim may be introduced in any of the 81 Turkish provinces, as well as in any border crossing point. Nevertheless, during the asylum procedure and afterwards the international protection applicants are requested to live in one specific province of Turkey (selected out of a list of 61, which excludes Istanbul, the Marmara and the Aegean region, as well as the South-Eastern and some North-Eastern provinces of the country) with restrictions on travel to other provinces without authorisation.

The persons assigned to live in a province are obliged to report regularly to DGMM authorities (for instance by signing a book of presence once per week or every two weeks). In case the person absconds and fails to report more than three times to the authorities, his/her international protection application is considered automatically withdrawn in line with article 71 of the Law. In case the person reappears, he/she may still reintroduce an asylum application, which however may be considered on the basis of an accelerated procedure.

Asylum procedures related to non-Syrians have been implemented by DGMM until recently with major delays. At the beginning of April 2016, the overall backlog of pending asylum requests was 141.530. During April 2016, DGMM mobilised additional human and technical resources and started to implement a plan aimed at progressively reducing this backlog by a significant number per month (12.000 to 13.000 applications), while ensuring that from now on the newly launched procedures will not last more than the 6 months period prescribed by law from the date of registration until the decision on the application. By early May 2016, a first very significant reduction (31.000 out of 140.000 applications) was already noted, which is expected to allow for a total elimination of the backlog by the end of the year.

***25. Establish a specialised body responsible for the refugee status determination procedures with the possibility for an effective remedy in fact and law before a court or tribunal as well as for ensuring the protection and assistance of asylum seekers and refugees and provide that body and its staff with adequate working capacity and***

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<sup>5</sup> The amendment introduces the possibility to grant temporary protection status also to Syrians, who previously did not enjoy temporary protection in Turkey, and are readmitted by Turkey from Greece, i.e. from other places than directly from Syria, after having irregularly entered Greece after 20 March 2016.

*training;*

**Fulfilled**

The Law on Foreigners and International protection established the DGMM as the specialised body responsible for the refugee status determination procedures in Turkey. DGMM is effectively entitled to issue decisions on asylum procedures since 11 April 2014. In an initial period, while its staff was mostly under recruitment and training, asylum procedures continued to be carried out by the Foreigner department of the Turkish National Police, the same institution in charge of the issue before the establishment of the DGMM, which however now acted on behalf of DGMM under the supervision of its central offices and in respecting the newly adopted law. Since 18 May 2015 DGMM, completed the recruitment and training of its staff, and put in place its electronic database (GOCNET), it has been handed over by the Foreigners Department of the Police (which has been closed) the effective task to carry out asylum procedures.

While DGMM is in charge of asylum procedures, the Law also foresees remedies allowing the unsuccessful asylum seekers to appeal against its decisions. The appeal can be lodged upon the International Protection Assessment Committee (an administrative body, where an UNHCR representative sits as observer) or to an administrative court. The appeal system is effectively running. Since 2014, 28 cases have been ruled by the administrative courts following appeals filed by foreigners. 19 of these cases were about the rejection of international protection application; only in 1 of the cases did the appellant win, in all other 27 cases the DGMM won.

*26. Provide adequate infrastructures and sufficient human resources and funds ensuring a decent reception and protection of the rights and dignity of asylum seekers and refugees.*

**Fulfilled**

Syrians under temporary protection requesting assistance are offered the possibility to be hosted in reception centres, where they are given accommodation, food, schooling, health care. There are 26 of such reception centres in Turkey (mostly located in the provinces near by the border with Turkey) where are hosted around 270.000 persons (figures fluctuate on a daily basis).

In two of the 26 centres are also hosted 11.319 Iraqis. Set this aside, non-Syrian international protection applicant and beneficiaries had until now little access to public shelter. The only reception centre available (Yozgat) has a very limited capacity (100 places).

During the reporting period, however, DGMM has taken steps to expand its hosting capacity for non-Syrians in the near future: a reception centre –built with EU financial support- has just been made available in Erzurum (capacity of 750 places), two more are planned to be built in Ankara and Konya (the latter focussing on asylum seekers that are unaccompanied minors).

*27. Persons who are granted a refugee status should be given the possibility to self-sustain, to access to public services, enjoy social rights and be put in the condition to integrate in Turkey.*

**Fulfilled**

All Syrian and non-Syrian asylum seekers and refugees have access to public services and social rights. All Syrians under temporary protection and non-Syrian international protection



applicants and beneficiaries of asylum are granted free access to health care and schooling in public structures, with the costs being borne by the Turkish State (around 70 million Turkish liras spent between 2014 and February 2016 as a premium for the health care insurance). Non-Syrians also had access to social assistance whenever considered necessary: over 45 million Liras were granted to them between 2014 and 2015.

Through mobilisation of various funds (notably the Instrument for Pre-Accession Assistance (IPA), the funds of the European Commission Humanitarian Office (ECHO), the Instrument contributing to Peace and Stability (IcPS) and the Facility for Refugees in Turkey (FRIT), the EU will provide an increased support to refugees and their hosting communities to ensure an effective access to social services, a priority target being an increase in the share of children having access to schooling.

The Regulation on Syrians under Temporary protection and the Law on Foreigners and International Protection state the principle that Syrians and non-Syrian international protection applicants and beneficiaries may have access to legal employment at conditions to be determined.

These conditions were effectively set for Syrians under temporary protection in a by-law that entered into force on 15 January 2016, which *inter alia* gave unrestricted access to seasonal works and job opportunities in rural areas, as well as access to employment positions for which Turkish applicants may not be

On 26 April 2016, the Government has issued a Regulation setting comparable terms of access to the labour market to all applicants and beneficiaries of the international protection in Turkey.

***28. Adopt and implement legislation providing for an effective migration management and including rules aligned with the EU and the Council of Europe standards, on the entry, exit, short and long-term stay of foreigners and the members of their family, as well as on the reception, return and rights of the foreigners having been found entering or residing in Turkey illegally.***

#### **Fulfilled**

The Law on Foreigners and International protection adopted on 11 April 2013, in force since April 2014, was designed by taking direct and explicit inspiration from the EU acquis on migration and migrants' rights, although its alignment to the acquis is not precise.

The by-law implementing the Law on Foreigners and International Protection entered into force on 17 March 2016 and defines in detail how the Law should be applied.

DGMM is in charge of the implementation of the Law in all its aspects.

***29. Set up and start to apply a mechanism for the monitoring of migration flows, with data both on regular and illegal migration; establish bodies responsible for collection and analysis of data on migration stocks and flows; and develop a situational picture on illegal migration flows at national, regional and local level, as well as on the different countries of origin of the illegal migration, including implementation of risk analysis and intelligence.***

#### **Fulfilled**

For a long time Turkish authorities have been unable to provide detailed and consolidated statistical data on the irregular migration phenomena in Turkey which therefore also hampered their capacity to elaborate any trend assessment. Since its creation, DGMM is now in charge of the collection of statistics and the elaboration of analysis on all the migratory flows as well as, jointly with the law enforcement agencies, of the risk analysis.

DGMM is currently able to elaborate in real time data at provincial level of the number of irregular migrants apprehended. DGMM feeds also the collection of statistical data (TU-RAN project) organised by Frontex with Turkish authorities and other countries of the region (Bulgaria, Romania, Cyprus).

On 10 February 2015, DGMM has established a Strategy and Analysis Working Group under its Migration Policy and Projects Department. On 3 March and 15 April 2016, DGMM has published the Annual Migration Reports for 2014 and 2015. On 12 April 2016, the Turkish National Police instructed 163 land, air and sea border gates to collect risk analysis statistics on forgery and inadmissible passengers (origin and targeted destination countries).

However, using available data in view of elaborating operational and detailed risk analysis remains a capacity which DGMM has to develop further.

***30. Take measures improving the capacity to investigate cases of organised or facilitated illegal migration.***

**Fulfilled**

A unit specifically in charge of the fight against migrant smuggling and human trafficking has been established on 4 February 2016 within the Turkish National Police, taking inspiration from the Unit already set up within the Turkish Coast Guard.

The Turkish Gendarmerie also created a separate unit on migrant smuggling and human trafficking as of February 2016. Operational cooperation between the above-mentioned law enforcement structures having different areas of responsibilities as well strategic risk analysis are still to be developed.

Higher penalties for migrant smugglers were proposed by the Government for Parliament's approval. The amendment to the Turkish Penal Code foresees a prison sentence of up to 10 years and a pecuniary penalty of up to 15.000 TRL.

***31. Effectively seek to conclude and implement readmission agreements with the countries that represent sources of important illegal migration flows directed towards Turkey or the EU Member States.***

**Fulfilled**

In January 2016 Turkish authorities sent draft readmission agreements and proposed to start their negotiation to the authorities of 14 countries: Afghanistan, Bangladesh, Algeria, Eritrea, Morocco, Ghana, Iraq, Iran, Cameroon, Congo, Myanmar, Somalia, Sudan, Tunisia. Turkish authorities are currently holding preliminary talks with the authorities of many of these countries, which may soon lead to formal negotiations commencing.

Turkish Parliament has ratified on 7 April 2016 the readmission agreement which Turkish authorities had signed with Pakistan in 2010. The agreement entered into force on 20 April 2016.

In March 2016, the Government submitted to Parliament for ratification the draft readmission agreements with Nigeria, Yemen, Montenegro and Kosovo<sup>6</sup>.

***32. Ensure sufficient financial and human resources for effective migration management, including also adequate training programs.***

**Fulfilled**

DGMM has large human, technical and financial resources, well-trained experts and offices in all the provinces of the country.

Substantial funds are allocated by Turkey as well as by the EU to the implementation of the DGMM-led financial programmes.

***33. Ensure effective expulsion of illegally residing third-country nationals from its territory.***

**Fulfilled**

Turkish authorities are regularly returning or making attempts to return irregular migrants towards their countries of origin. They experience a success rate similar to the highest-performing EU Member States in this area. Specific difficulties to return irregular migrants relate to Afghanis, as well as to Myanmaris (a nationality which Pakistanis and Bangladeshis apprehended as irregular migrants in Turkey often pretend to hold to avoid deportation towards their respective countries of origin).

In 2015, Turkish authorities managed to return 18.591 irregular migrants to their countries of origin. In the first four months of 2016 this number had reached 3.900.

***34. Establish the conditions allowing a voluntary return to the third country nationals expelled from its country and willing to use this modality.***

**Fulfilled**

In December 2015, DGMM has started to implement, jointly with IOM, an EU-funded project supporting the assisted voluntary return of 750 irregular migrants. By the end of 2016 another project targeting 5.000 persons will be launched.

The possibility for voluntary return in Turkey, although foreseen already in principle under the Law on Foreigners and International Protection, is regulated through a specialised directive issued by DGMM on 15 April 2016.

The Roadmap on the establishment of a national voluntary return mechanism was adopted on 26 April 2016 and has started to be implemented.

***35. Provide adequate infrastructure (including detention centres) and strengthen responsible bodies to ensure effective expulsion of illegally residing and/or transiting third country nationals from the Turkish territory, while offering all the needed legal aid, as well as social and psychological assistance, and decent and fair***

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<sup>6</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence;

*detention conditions and removal procedures, to the returnees.*

**Fulfilled**

Turkish authorities have been intensively working to establish adequate removal centres for irregular migrants to be returned or just readmitted. The total capacity of the 18 removal centres currently operated by DGMM is 4.460. As of June 2016, DGMM will be operating 25 removal centres with a total capacity of 14.060 persons.

The construction of a removal centre in Çanakkale and a container centre in Aydın will be completed by May 2016. The construction of centres in Ağrı and Kocaeli will start soon(tenders have been finalised). The conversion of 5 accommodation centres to removal centres is expected to be finalised in April 2016. Removal centre in Çanakkale and a container centre in Aydın will be completed by May 2016. On the other hand, as of June 2016, preparations for the container removal centre in Istanbul will be completed. New removal centres in Malatya, Tekirdağ and Antalya are planned for December 2016.

Specialised staff, including psychologists and sociologists, are working in the removal centres, while a protocol was signed between DGMM and Turkish Red Crescent in order to monitor, identify and supply services to the migrants under detention in a removal centre that may have particular needs.

## **4. BLOCK 3: PUBLIC ORDER AND SECURITY**

### **4.2.1. Preventing and fighting organised crime, terrorism and corruption**

36. *Continue and complete implementation of its National Strategy and Action Plan for the fight against organised crime (in particular cross-border aspects) and ensure adequate human and financial resources for its implementation.*

#### **Fulfilled**

Following the implementation of the National Strategy 2010-2015 for the fight against organised crime and of its relevant Action Plan 2010-2012 and 2013-2015 (whose results have been communicated to the Commission within the framework of the visa liberalisation dialogue), Turkish authorities have adopted in March 2016 a new National Strategy Document on Combating against Organised Crime 2016-2021 and have adopted and started to implement an Action Plan on Combating Organised Crimes 2016-2018.

These new documents set pertinent and realistic targets. Their implementation will be coordinated and monitored by the Department of Smuggling, Intelligence, Operation and Data Collection of the Ministry of Interior.

The information provided by the Turkish authorities to the Commission and as regards the effective size and nature of the criminal organisations operating in Turkey, and the impact exercised by the Turkish law enforcement agencies' activity aimed at dismantling them, has remained limited, as Turkish authorities consider this information confidential. Turkish authorities have expressed their readiness to share more information as soon as an appropriate framework for the sharing of confidential information would be set up.

37. *Sign and ratify the Council of Europe's Convention on Action against Human Trafficking as well as adopt and effectively implement legislation, including provisions aligned on the standards set by this Convention as well as by the EU acquis related to the prevention of the trafficking in human beings, the prosecution of traffickers, and the protection and assistance of their victims.*

#### **Fulfilled**

The draft law ratifying the Council of Europe Convention on Action against Human Trafficking was adopted in the Turkish Parliament and published in the Official Journal on 19 February 2016. Turkey has also deposited the instrument of ratification for this Convention.

A specific by-law on the Prevention of Human Trafficking and Protection of Victims entered into force on 17 March 2016, complementing the provisions in favour of the victims of trafficking in human beings and those prosecuting the authors of this crime already included, respectively in the Law on Foreigners and International Protection and in the Penal Code.

38. *Provide adequate infrastructures and sufficient human resources and funds ensure decent reception and protection of the rights and dignity of victims of trafficking, and supporting their social and professional reintegration.*

#### **Fulfilled**

A specific department in charge of identifying and assisting victims of trafficking in human beings has now been established in the DGMM. A hot-line allowing the victims to request

assistance, three shelters to host and protect the victims, and programmes to support their social and psychological reintegration, were established a few years ago by the IOM with the EU-financial support in Istanbul, Antakya and Ankara. These initiatives are now entirely managed and supported by DGMM's trained and specialised staff. On 23 March 2016, a fourth shelter for 40 people was set up in Kırıkkale.

The capacity of the four existing shelters seems adequate, if compared with the number of victims of trafficking identified by Turkish authorities. On the other hand, the number of victims of trafficking identified by Turkish authorities seems far too limited, if compared with the number of migrants and refugees residing in or transiting through Turkey. In six years between 2010 and 2015 Turkish authorities liberated only 140 victims (only 15 in the year 2015) and arrested only 179 traffickers (only 14 in the year 2015) The persons identified as victims of trafficking in Turkey are mostly women from former Soviet Union republics (in Easter Europe or Central Asia) who are submitted to sexual exploitation. Only rarely Turkish authorities identify as victims migrants or refugees originating from Iran, Iraq or Afghanistan, or children, or persons submitted to labour exploitation or forced marriages. Of the victims identified between 2010 and 2015, 39 were Turkish citizens, 42 from Kirgizstan or Uzbekistan, 25 from Azerbaijan or Georgia. Between 2014 and 2015, when more than 2.5 million Syrians lived in Turkey, only 1 Syrian was identified as a victim of trafficking.

DGMM informed the European Commission that it will increase its attention on the above. A Handbook for public officers on how to identify and treat victims of trafficking is under preparation.

More generally, DGMM is further strengthening its capacity through an EU-funded project which started on July 2014. Judges, public prosecutors, migration experts working in local offices of DGMM and law enforcement officers were provided with trainings. DGMM prepared a new EU-funded project which should start by the end of 2016 and which should contribute to the opening of three new shelters.

At this time, Turkey does not have a strategy which targets the development of a long-term vision on how to comprehensively address trafficking in human beings, in full respect of the rights of victims.

***39. Ratify the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198) and transpose its provisions into the internal legislation and adopt and effectively enact legislation allowing to meet the requirements of this Convention as well as the recommendations of the Financial Action Task Force (FATF) on establishing a system on the freezing of assets and a definition of the financing of terrorism.***

#### **Fulfilled**

The fight against money laundering in Turkey is based on the Law on Prevention of Money Laundering N.4208 adopted on 19 November 1996 and then amended by law 5549 which entered into force on 18 October 2006, which also established the Financial Crimes Investigation Board of the Ministry of Finance (MASAK).

Article 282 of the Turkish Penal Code (lastly reformed in 2009) includes provisions criminalizing the activity of money laundering, of the activity of benefiting of proceedings of crime, including also aggravating clauses for public officers, certain categories of professionals, and criminal organisations.

On 6 February 2013 Turkey adopted the Law on the prevention of financing of terrorism establishing a system on the freezing of assets of terrorism to react to international request of freezing. The adoption of this legislation, jointly with other measures taken in 2014, allowed Turkey to be taken out by the Financial Action Task Force (FATF) from the list of non-cooperative countries.

The FATF revised its Recommendations in 2012 and as its assessment methodology which aims at assessing both the technical compliance with revised FATF standards, as well as the level of effectiveness of the countries' AML/CFT regime. It is necessary to assess whether the new legal framework in Turkey is compliant with the revised FATF standards and how far those rules are effectively applied.

Turkey has a legal system, based on its Penal Code, to freeze and confiscate the proceedings of criminal activities; however, it does not have an Asset Recovery Office.

The draft law ratifying the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198) , signed on 28 February 2007, was ratified by Turkey on 19 February 2016. The ratification should facilitate Turkey's capacity to cooperate at international level in combating against money laundering and the financing of terrorism. Turkey has now deposited the instrument of ratification for this convention at the Treaty Office of the Council of Europe Secretariat.

A draft bill amending the existing legislation on money laundering and financing of terrorism of Turkey to ensure the transposition of the provisions of the ratified Convention was presented by the Government in March 2016 and adopted in April by the Parliament.

The legal framework on money laundering, financing of terrorism, freezing and confiscation of criminal proceedings is largely in line with the standards set by the Convention. Nevertheless important steps forward still remain to be taken by Turkey in order to upgrade this framework and its implementation up to the EU standards as well as to entirely fulfil all the recommendations issued by FATF.

***40) Ratify the Council of Europe Convention on Cybercrime and adopt legislation and implement measures allowing to enact this Convention.***

**Fulfilled**

The Council of Europe Convention on Cybercrime was ratified by Turkey on 29 September 2014. Turkish legislation is largely aligned to the Convention.

A draft bill amending the existing legislation on cybercrime so as to ensure better transposition of the ratified Convention was presented by the Turkish Government in March 2016 and adopted in April by the Parliament.

***41) Continue implementing the National Strategy and the Action Plans against Drugs and Drug Addiction and develop cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA);***

**Fulfilled**

The international agreement between Turkey and EU on Turkey's participation in EMCDDA (European Monitoring Centre for Drugs and Drug Addiction) was signed on 30 October 2007 and came into force on 01 June 2014. Turkey has been participating on EMCDDA activities as a full member since then.

Besides annual data on drug addiction, Turkish Drug Reports that consist of studies on drugs are translated in English and shared with EMCDDA.

Turkish authorities, coordinated by the Turkish Monitoring Centre for Drugs and Drug Addiction (TUBIM), which was the Turkish counterpart to EMCDDA have been implementing Turkey's National Drug Policy and Strategy document (2013-2018) and the Third Action Plans against Drugs and Drug Addiction (2013-2015). In line with the Prime Ministry's Circulars dated 13 November 2014 and 2014/19, the task of ensuring the coordination between the institutions in the fight against drugs was transferred to the Ministry of Health and the two multiannual document were abolished and replaced by a Fight against Drugs Rapid Action Plan annual document listing priority actions for the sole year 2015.

Following the implementation of this annual plan, a new multiannual action plan was prepared by the Ministry of Health. The New Strategy and Multiannual Action Plan covering the period 2016-2018 was adopted on 18 April 2016.

***42) Continue implementing the National Strategy and the Action Plan on Fight against Corruption and the recommendations of GRECO (I, II and III. Evaluation Round).***

**Not fulfilled**

Turkey has only partially implemented the National Strategy and the Action Plan 2010-2014 on Fight against corruption. The Plan was mostly implemented by preparing studies, which were not always followed by concrete measures. The report on the implementation of the Action Plan, prepared by the Prime Ministry's Inspection Board, was only communicated to the Prime Ministry office, without any circulation to other institutions of the State or to the public opinion. Civil society organisations are not involved in developing or monitoring the anti-corruption policy. There is currently neither information exchange with them nor a regular consultation process.

Turkey has still to adopt legislation giving an effective follow up to the recommendations issued by the Council of Europe Group of States against Corruption (GRECO) under all its evaluation rounds, notably legislation on the funding of political parties, on immunities, on bribery, and on the independency of judiciary.

Turkey has adopted on 30 April 2016 a new strategy and action on corruption.

Turkey has taken part in the four rounds of evaluations carried out by the Group of States of the Council of Europe against Corruption (GRECO).

- The first round of evaluations assessed the independence, specialisation and means available to national bodies engaged in the prevention and fight against corruption, and the extent and scope of immunities.
- The second evaluation report assessed how legislation and practices are designed to allow for an effective identification, seizure and confiscation of corruption proceeds, the relation between public administration and corruption (auditing systems; conflicts of interest), the prevention of legal persons being used as shields for corruption, tax and financial legislation to counter corruption, and the links between corruption, organised crime and money laundering.
- The third round assessed the incriminations provided for in the Criminal Law Convention on Corruption (ETS 173), its Additional Protocol (ETS 191) and Guiding Principle 2 (GPC 2), the transparency of Party Funding with reference to the Recommendation of the Committee of Ministers to member states on common rules



against corruption in the funding of political parties and electoral campaigns (Rec (2003)).

- The fourth round of evaluation took place in April 2015, however Turkey gave its green light for the publication of the report only recently. It assessed the prevention of corruption in respect of members of parliament, judges and prosecutors, including ethical principles and rules of conduct, the conflict of interest, the prohibition or restriction of certain activities, the declaration of assets, the income, the liabilities and interests, the enforcement of the rules regarding conflicts of interest, the awareness.

The report on Turkey related to the first and second evaluation report, in its latest version (December 2010) had concluded that "*out of the 21 recommendations issued to Turkey, in total 15 recommendations have now been implemented satisfactorily or dealt with in a satisfactory manner*".<sup>7</sup> Based on the expert assessment carried out in 2015 in the framework of the visa liberalisation dialogue, the Commission believes that since 2010 little or no progress was made by Turkey in taking these measures.

The report on Turkey related to the third round of evaluation, which in its latest version (the Second Interim Compliance Report), was adopted in December 2015, and the publication of which was authorised in March 2016 concluded that "*Turkey has not made any tangible progress in the implementation of the eleven recommendations found to be not or partly implemented in the Interim Compliance Report. Out of a total of seventeen recommendations, six recommendations remain implemented satisfactorily. Seven recommendations remain partly implemented and four not implemented. Specifically, with respect to Theme I – Incriminations, recommendations i, ii, iii, iv, vi and viii have been implemented satisfactorily and recommendations v and vii remain partly implemented. With respect to Theme II – Transparency of Party Funding, recommendations ii, iii, iv, vii and viii remain partly implemented and recommendations i, v, vi and ix not implemented.*"<sup>8</sup>

Turkish authorities declared their intention to address some of the outstanding GRECO recommendations, through the adoption of the National Action Plan on corruption adopted on the 30 April 2016.

In both its first and second report on Turkey's progress on the fulfilment of its visa liberalisation roadmap the Commission has recommended that Turkish authorities involve civil society organisations both in preparing and in monitoring the implementation of this Action Plan, and to entrust the monitoring to an independent body.

The report on Turkey related to the fourth round of evaluation, adopted by GRECO in October 2015, the publication<sup>9</sup> of which was authorised by Turkish authorities in March 2016, issued Turkey with 22 recommendations on measures to be taken to better prevent corruption among members of parliament, judges and prosecutors, notably by strengthening measures to avoid conflicts of interests of MPs, by better protecting the other two categories from the influence of external pressures (notably those exercised by the political power), and by establishing and monitoring respect of codes of conduct. The report also concluded that the

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<sup>7</sup> [https://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2\(2008\)2\\_Add\\_Turkey\\_EN.pdf](https://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2(2008)2_Add_Turkey_EN.pdf).

<sup>8</sup>

[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2015\)17\\_2nd\\_Interim\\_Turkey\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2015)17_2nd_Interim_Turkey_EN.pdf).

<sup>9</sup>

[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/Eval%20IV/GrecoEval4Rep\(2015\)3\\_Turkey\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/Eval%20IV/GrecoEval4Rep(2015)3_Turkey_EN.pdf)

judiciary in Turkey is not perceived to be sufficiently independent from the executive powers of the country, despite constitutional guarantees to that end.

#### **4.2.2. Judicial cooperation**

*43) Implement and comply with international conventions concerning judicial cooperation in criminal matters (in particular the Council of Europe Conventions on Extradition (no 24 of 1957, including the not yet implemented Additional Protocols of 1975, 2010 and 2012), Mutual Assistance in Criminal Matters (no 30 of 1959, including the not yet implemented Additional Protocol of 2001), and the Transfer of Sentenced Persons ( no 112 of 1983, including the not yet implemented Additional Protocol of 1997).*

#### **Fulfilled**

Turkey signed on 22 March 2016 the 3 Additional Protocols to the CoE Convention on Extradition, and the 2001 Additional Protocol to the CoE Convention on Mutual Assistance in Criminal Matters. All 4 Protocols were adopted in the Parliament on 26 April 2016. Following the publication in the Official Gazette, they will be submitted to the Council of Ministers for approval, Minister of Foreign Affairs and to the President for signature of the instrument of ratification. Turkey hopes to finalise the whole ratification process by early June.

The Protocol to the Convention on the Transfer of Sentenced Persons was signed on 10 November 2010. It was adopted in the Parliament and published in the Official Journal on 19 February 2016. The instrument of ratification was deposited by Turkey's Permanent Representative to the Council of Europe to the Secretariat of the Council on 29 April 2016.

*44) Take measures aimed at improving the efficiency of judicial cooperation in criminal matters of judges and prosecutors with the EU Member States and with countries in the region.*

#### **Fulfilled**

Judicial cooperation in criminal matters between Turkey and the Member States takes place on the basis of the Council of Europe, United Nations and bilateral protocols<sup>10</sup>.

In general, cooperation with the Member States works well, although with varying results depending on the cases and on the Member States, and with some delays. Based on data provided by Turkish authorities, between 1 January 2014 and March 2016 Turkey has received from the EU Member States 786 requests of judicial assistance in criminal matters, of which 414 were fulfilled, 212 could not be satisfied, and 160 are still pending. In approximately half of the cases the request could not be satisfied because either the Turkish person to whom the request referred to was not found at his/her known address, or because his/her address was not known. It should be underlined that Turkey does not offer any cooperation to the Republic of Cyprus as a result of its policy of non-recognition.

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<sup>10</sup> Turkey has signed 36 bilateral judicial cooperation agreements in criminal matters with 33 non-EU states, but only with three EU Member States.

Turkey's Ministry of Justice has a Directorate General for Internal Law and Cooperation which is in charge of handling incoming and outgoing requests for judicial cooperation in criminal matters. The Directorate is in charge of maintaining contacts with Member States' authorities not only for formal but also informal contacts. In the framework of the VLD they expressed their readiness to take a more proactive role towards the EU Member States Embassies in Ankara to enable them to more easily identify their interlocutors within the administration, and to clarify Turkish procedures. This would be an important step forward.

On 23 April 2016, a single legal act on judicial cooperation was adopted. Once this law is also complemented with the relevant secondary (implementing) by-laws defining in a stricter manner deadlines for implementing the procedures prescribed in the law and criteria for the acceptance or rejection of the requests of cooperation, this overall legislation will certainly contribute to improve judicial cooperation in criminal matters between Turkey and its international partners.

#### *45) Develop working relations with Eurojust.*

##### **Fulfilled**

Eurojust may conclude with a third country a cooperation agreement allowing for inter alia the exchange of information, including personal data, and the secondment of liaison officers or liaison magistrates to Eurojust, only after consultation by Eurojust with the Joint Supervisory Body concerning the provisions on data protection and after the approval by the Council, acting by qualified majority.

Talks between Eurojust and Turkish authorities on the possibility to start the negotiation of a cooperation agreement took place in 2012. The conclusion of such an agreement with Turkey is not yet possible because Turkey's legislation on personal data protection is not yet fully aligned with EU standards.

In the interim, Turkey and Eurojust have established contact points to facilitate the exchange of non-sensitive information. The Turkish contact points also take part in the meetings of the European Judicial Network.

Eurojust and the Turkish authorities have exchanged letters on further practical cooperation. The Turkish authorities wrote to Eurojust on 2nd May 2016 to formally reaffirm their intention to conclude a cooperation agreement as soon as possible and to step up practical cooperation in the meantime. It will be of crucial importance that the Turkish contact points swiftly reply and follow up on requests for information and cooperation sent to them via Eurojust and to participate in strategic meetings on organised crime and terrorism.

Eurojust replied to the Turkish authorities on 3rd May 2016 to invite Turkey to the Eurojust tactical meeting on terrorism: building an effective judicial response to foreign terrorist fighters scheduled for 22-23 June 2016 and further proposed the active participation of Turkish judges and prosecutors in Eurojust's events on enhanced cooperation in criminal justice issues and to share information and best practice.

#### *46) Continue implementing the 1980 Hague Convention on civil aspects of the international child abduction, and accede to the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, as well as to the 2007 Hague Convention on the International Recovery of Child*

### ***Support and Other Forms of Family Maintenance.***

#### **Fulfilled**

Turkey finalised the necessary procedures on 25 March 2016 to become party to the 1996 and 2007 Hague Conventions. Both Conventions were adopted by the Parliament on 25 April 2016. Following the publication in the Official Gazette, they will be submitted to the Council of Ministers for approval, Minister of Foreign Affairs and to the President for signature of the instrument of ratification. Turkey hopes to finalise the whole ratification process by early June.

Turkey became party to the 1980 Hague Convention on 1 August 2000. The Ministry of Justice issued a circular dated 16 November 2011 on the effective implementation of the Convention. Then, the Law on Civil Aspects and Scope of Child Abduction aimed at implementing the provisions of the Convention entered into force on 4 December 2007. Faster start, shorter duration and the use of specialised courts for judicial proceedings are foreseen in Articles 6 and 9 of the said Law. In this framework, these proceedings are heard with simple procedure by Family Courts.

Seminars for judges and prosecutors on the effective implementation of the Convention are held throughout Turkey. The last seminar was organised in the Ministry of Justice on 11 February 2016.

Turkey is party to and regularly implements the 1980 Hague Convention on international child abduction. However, based on information collected and the expert assessment elaborated within the framework of the VLD, it appears that Turkish authorities implement the judicial proceedings launched under the Convention with systematic delays.

This situation is due especially to the complex judiciary procedure designed for the verification of each case, which usually run for over twelve months, sometimes twenty-four. Thus, the availability of the 1980 Hague Convention is of limited value to the parent of an abducted child.

Further to the expert report suggesting steps to be taken to reduce delays in the proceedings resulting from the 1980 Convention, the Ministry of Justice made an assessment of the whole judicial process and came to the conclusion that delays arise mainly from the appeal stage.

In the current system, all the appeals arrive to the Supreme Court in Ankara which creates a bottleneck. Consequently, the High Council of Judges and Prosecutors issued a decree on 25 March 2016 to establish Regional Civil Tribunals in Ankara, Antalya, Erzurum, Gaziantep, İstanbul, İzmir and Samsun. The tribunals which will deal with the appeal cases will be operational by 20 July 2016.

***47) Provide effective judicial cooperation in criminal matters to all the EU Member States, including in extradition matters inter alia by promoting direct contacts between central authorities.***

#### **Partially fulfilled**

EU Member States and Turkey cooperate in extradition matters, however in a limited manner. A major problem is represented by the fact that Turkey does not accept to provide any cooperation to the Republic of Cyprus due to its policy of non-recognition. Cooperation with other Member States does not work in a satisfactory manner.

Based on Turkish data, between 1 January 2014 and 31 December 2015 Member States sent to Turkey 49 requests of extradition of which only 6 were accepted and 6 rejected, while all the others are still pending.

One of the main reasons for the limited cooperation on extradition is based on Article 38 of the Turkish Constitution, and article 18 of the Turkish Penal Code, which stipulates that Turkish authorities do not accept to extradite a Turkish citizen to a foreign country unless for an offence punished by the International Criminal Court. This means that Turkish authorities, on the basis of a request sent by a Member State on the basis of the Council of Europe Convention on extradition or the Council of Europe Convention on a mutual assistance in criminal matters, may accept to arrest and extradite only a EU Member State citizen or a third country national, but not a Turkish citizen.

On the other hand, it must be underlined that Turkish authorities would accept to arrest their citizen and to detain him/her, instead:

- if the request was submitted on the basis of the provisions of the Council of Europe Convention on the International Validity of Criminal Judgments (CETS 70) - *in this manner they would accept to execute in Turkey a foreign sentence past against that citizen for a crime committed by the latter abroad,*
- or on the basis of the provisions of the Council of Europe Convention on the Transfer of Proceedings in Criminal Matters (CETS 73) - *in this manner they would accept to launch a national prosecution and issue a sentence against a Turkish citizen for a crime committed by the latter abroad.*

Furthermore, the Turkish legal system foresees an additional way that may ensure within certain limits the possibility for Turkish authorities to ensure the prosecution of Turkish citizens having committed a crime abroad and having subsequently fled to the Turkish territory. This stems from the "universal competence" of Turkish authorities to prosecute Turkish citizens for crimes committed abroad, enshrined in the Articles 11 and 13 of the Turkish Penal Code<sup>11</sup>. On the basis of these articles, four possible scenarios exist, depending on the gravity of the case:

1. Where the offence requires a punishment whose lower threshold is less than one year imprisonment, the trial is filed only upon the lodging of a complaint by the injured party or the foreign country, and the complaint is filed within six months as of the date of entry of the citizen into Turkey.
2. For offences requiring a punishment whose lower threshold is not less than one year imprisonment according to the Turkish laws, Turkish authorities have to start automatically the trial upon acquisition of the relevant information by their prosecutors, if the offender is found in Turkey, provided that he/she is not convicted in the said foreign country for the same offense and there is possibility to proceed a trial in Turkey.
3. Where the offence is related to one of the crimes listed under the First Chapter of the Second Volume (crimes against humanity, human trafficking, sexual assault, homicide, crimes against freedom of believe, thought, private life, property etc), or torture, deliberate pollution of the environment, production and trading of drugs or

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<sup>11</sup> Interestingly, Turkish authorities confirmed in the framework of the visa liberalisation dialogue that the criminal procedures against a Turkish citizens having committed a crime abroad would be launched by them also in case the crime would be committed in the Republic of Cyprus and the notification of the crime was sent by the authorities of the latter

stimulants, facilitation of use of drugs or stimulants, counterfeiting money, manufacturing and trading of instruments used in production of money and valuable seals/stamps, counterfeiting seals, prostitution, confiscation or hijacking of aircraft, vehicles or vessels, or offences committed with the intention to give damage to these properties, the filing of a trial in Turkey for the offences falling under the scope of paragraph one shall depend on the request of the Minister of Justice.

4. Where the offence is related to one of the crimes listed under the First Chapter of the Second Volume (crimes against humanity, human trafficking, sexual assault, homicide, crimes against freedom of believe, thought, private life, property etc), or under the Third, Fourth, Fifth, Sixth, Seventh and Eighth Sections in the Fourth Chapter of the Second Volume (crimes committed against the state, the security of state, the constitutional order, national defence, secrets of the state, espionage, and against the relations between the foreign states), a trial shall be filed in Turkey upon the request of the Minister of Justice, even if the offender has been convicted or acquitted in a foreign country.

Some Member States are well acquainted with these procedures and use them in a regular manner, obtaining results, although with some delays. Other Member States however have a more limited use of these procedures and experience more difficulties, depending also on the cases.

The use of these procedures is complicated by the following:

- As regards the possibility to introduce a request to Turkey under the Council of Europe Conventions on the International Validity of Criminal Judgments (CETS 70), and on the Transfer of Proceedings in Criminal Matters (CETS 73), it should be noted that not all the Member States are parties to them. Turkish authorities can exceptionally accept to cooperate also with countries that are not parties to them, but they do it in a discretionary manner, by taking into account of the principle of reciprocity and the principle of *ne bis in idem*.
- For the activation of this prosecution based on “universal competence”, furthermore, it is key for Turkish institutions to acquire adequate information on the crime committed by Turkish citizens abroad. The possibility to acquire this kind of information however is limited, considering the fact that the information may hardly be collected through direct investigations or interrogations of the involved persons (as the crime took place abroad), and would therefore depend mostly on the availability of the concerned foreign country to transfer the information. However for the EU Member States it may be problematic to pass this kind of information, in the absence of Turkish legislation on the protection of personal data in line with the EU standards.

Turkish authorities have expressed the intention to establish closer contacts with Member States' authorities in order to further clarify the legislation and procedures applicable in Turkey, and the modalities to ensure prosecution of the criminals whenever extradition is not possible.

#### **4.2.3. Law enforcement cooperation**

- 48) Take necessary steps to ensure effective and efficient law enforcement cooperation among relevant national agencies - especially border guards, police, customs officers, through full inter-agency collaboration in the field of intelligence and information exchange - as well as cooperation with the judicial authorities.***

## **Fulfilled**

Law enforcement agencies' cooperation in combating crime is ensured, in principle, by the fact that all their investigations are coordinated by and submitted to the leadership of the prosecutors in charge of preparing criminal charges against suspects.

However, notably in the initial phases of the instruction of the criminal investigations, law enforcement agencies, due to their tendency to work separately without sharing information, may frequently fail to understand that several criminal cases separately identified by each of them at local level should be identified into a single investigation of a national or even a trans-national nature.

In order to address this, Turkish authorities have decided to insert, in the Action Plan on Organised Crime adopted in March 2016 a measure aimed at establishing a common database, into which all the law enforcement agencies should feed and would be entitled to consult, and where all information on started criminal investigations should be inserted.

Meanwhile, in order to strengthen cooperation between law enforcement agencies and border agencies at practical level, a bylaw on Inter-institutional Cooperation and Coordination in the Field of Border Management was adopted and entered into force on 17 March 2016.

***49) Reinforce regional law enforcement services cooperation and implement bilateral and multilateral operational cooperation agreements, including by on time sharing of relevant information with competent law enforcement authorities of EU Member States.***

## **Fulfilled**

Turkey has concluded 148 bilateral Security and Cooperation Agreements with 77 countries and several protocols and memorandums of understanding with a view to strengthening mutual cooperation in police and security matters. These agreements in general provide inter alia a legal basis for the parties' law enforcement authorities to act jointly against cross-border crimes, in particular against terrorism, organised crime and cybercrime, and to exchange information.

Turkey has liaison officers in 23 foreign countries (including 10 EU Member States) and hosts 89 liaison officers from 29 countries (including 15 EU Member States).

Police cooperation is dealt with, in Turkey, in particular by the Interpol-Europol-Sirene Department of the Police, which plays the role of contact point for the communication with Interpol and Europol and ambitions at representing the single point of contact in the meaning of the European Information Exchange Model.

Turkey regularly cooperates in police matters with all the EU Member States, through Interpol or via the direct bilateral security agreements which Turkey has signed with most of the Member States.

The cooperation is generally good, although its quality and speed may vary depending on the nature of the cases and of the different relation with the different Member State.

Turkish authorities do not cooperate bilaterally with the authorities of the Republic of Cyprus due to their policy of non-recognition. In the framework of the visa liberalisation dialogue, they have declared to be ready to indirectly cooperate with them, at least by exchanging information through the mediation of Interpol secretariat. Based on information provided by Turkish authorities, cooperation through this channel was offered twice in the course of 2016.

***50) Improve the operational and special investigative quality and capacity of law enforcement services to more efficiently serious cross-border crime, including identity and travel document fraud.***

**Fulfilled**

Turkish law enforcement agencies have access to very large human and technical resources and appear in general to have operational and special investigative capacity in line with the best international standards.

This is also based on the support provided by several EU-funded projects, notably on forensic matters.

***51) Effectively cooperate with OLAF and Europol in protecting the euro against counterfeiting.***

**Fulfilled**

Turkey is cooperating with OLAF, Europol and the EU Member States law enforcements in protecting EURO against counterfeiting. Turkish experts and representatives contributed to operations and participated to events organised within the EU in this area. Turkey is party to the international Geneva Convention for the suppression of counterfeiting currently of 20 April 1929; its national legislation (articles 197 and 200 of the Penal Code) includes a comprehensive definition of counterfeiting, punishes it up to a maximum of 2 to 12 years of imprisonment and a judicial fine, and imposes confiscation of the counterfeited currency. The Interpol-Europol department of the Police has been playing since 2008 the role of National contact point on Euro counterfeiting.

***52) Strengthen the capacities of the Turkish Financial Crimes Investigation Board (MASAK) and develop its cooperation with other Financial Intelligence Units within the EU Member States.***

**Fulfilled**

In 1996 Turkey established its Financial Intelligence Unit (FIU) called MASAK (*Mali Suçları Aratırma Kurulu*) under Law on Prevention of Money Laundering 4208 of 19 November 1996 as amended in 2006 by law 5549 Article 14. MASAK is responsible for receiving and analysing suspicious transaction reports from the obliged entities in the financial sector. MASAK has powers under article 19 of law 5549 carrying out preliminary investigations into Money laundering offences, to request search and seizure in co-operation with law enforcement authorities. It also issues regulations to the relevant financial institutions concerning their reporting obligations, and can promote the elaboration of new legislation at national level. Additionally MASAK has responsibility for the execution of financing of terrorism laws and the freezing, seizing and management of terrorist funds and property.

MASAK has been a member of the 'Egmont Group' of Financial Intelligence Units since 1998. MASAK carries out exchange of information with the members of Egmont Group using the Egmont Secure Web and in accordance with the Statement of Purpose of the Egmont Group and its Principles for Information Exchange. Since 2006 MASAK has signed 41 Memorandums of Understanding with foreign financial intelligence units (including 11 with FIUs from EU Member States



Since its establishment the MASAK has continued stepping up its human and technical resources. Based on expert assessment carried out in the framework of the visa liberalisation dialogue, MASAK is already operating at a fairly good level, but may still enhance the quality and quantity of its activity, by increasingly engaging in international cooperation, and taking a more proactive investigative approach. Its capacity to collect and analyse information will depend also on the increased capacity of the staff of the obliged entities to report to it on suspicious transactions possibly noted.

On 2 March 2015 MASAK technical capacities have started to receive the support and advice of an EU-funded Twinning project aimed specifically at developing at giving an effective follow up to the recommendations of the FATF a preparing a National Risk Assessment, and at analysing and strengthening the effectiveness of the supervisory processes.

It will be important that Turkish authorities continue upgrading the capacities of MASAK and of all the other actors involved in the monitoring, reporting, analysis, investigation and prevention of suspicious financial transactions. FATF considers that the overall Turkish system in this area remains weak and fragile, and the country is at heavy risk of being used for money laundering and financing of terrorism.

*53) Continue implementing the Strategic Agreement with Europol.*

**Fulfilled**

Turkey and Europol are implementing a Strategic Agreement, which allows the organisation of common activities, some forms of cooperation, and the exchange of any kind of information, excluding personal data.

Exchange of non-personal data of restricted or secret nature is only possible upon conclusion of a specific agreement, while only the conclusion of an operational cooperation agreement may allow for the exchange of personal data.

On 21 March 2016 Turkish authorities signed an agreement with Europol allowing for the appointment of a representative of the former to the latter and his deployment within Europol's premises in The Hague. On 7 April 2016 the name of the newly appointed liaison officer was communicated to Europol. His effective deployment is due to happen shortly. The new liaison officer will start work as of 1 May 2016.

*54) Conclude with EUROPOL and fully and effectively implement an Operational Cooperation Agreement.*

**Not fulfilled**

The signature of an operational cooperation agreement with Europol is only possible once Turkish data protection law ensures adequate standards in respect of those of the EU.

The negotiations, leading to the conclusion of an operational cooperation agreement, can start, upon authorisation of the management board of the Agency, as soon as it will be certified that the legislation on data protection of Turkey will be in line with the EU standards.

Turkish authorities sent a letter to Europol on 2 May 2016 to express their desire to sign an operational cooperation agreement with Europol.

**4.2.4 Data protection.**

***55) Sign, ratify and implement relevant international conventions, in particular the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 1981 and its Additional Protocol no 181.***

**Fulfilled**

Both the Convention and its Protocol mentioned under this benchmark are ratified in the Parliament.

The instrument of ratification for the Convention was deposited by Turkey's Permanent Representative to the Council of Europe to the Secretariat of the Council on 29 April 2016.

As for the Protocol, following the publication in the Official Gazette, it will be submitted to the Council of Ministers for approval, Minister of Foreign Affairs and to the President for signature of the instrument of ratification. Turkey hopes to finalise the whole ratification process by early June. It is very important that the deposit of the instrument of ratification takes place as soon as possible.

***56) Adopt and implement legislation on the protection of personal data in line with the EU standards, in particular as regards the independence of the authority in charge of ensuring the protection of personal data.***

**Partially fulfilled**

The Turkish Government has submitted to the Parliament a law on Personal Data Protection, which the Parliament has adopted on 24 March 2016. The new law was published in the Official Journal on 7 April 2016.

The new law represents progress, compared with the previous situation in which no legislation existed on this matter. However, the approved law is not in line with current EU standards, for various reasons, but in particular as the provisions on the composition and the functioning of the authority in charge of supervising the use of the personal data do not provide assurances for it to act in a completely independent manner, and because the activities of the law enforcement agencies and judicial authorities are not entirely covered by the obligation to respect the personal data protection rules in the new law.

The shortcomings of the draft law had been clearly indicated by the European Commission to the Turkish Government before its submission to the Parliament. In December 2015 the European Commission also organised a seminar for the Turkish experts providing all possible support and advice on the drafting of a law in line with EU standards.

Moreover, other changes will be necessary to fully align the law with the requirements of the current EU data protection legislation, and to prepare for the future General Data Protection Regulation and the Data Protection Directive for Police and Criminal Justice authorities.

## **5. BLOCK 4: FUNDAMENTAL RIGHTS**

### **5.2.1. Freedom of movement of the citizens**

*57) Ensure that freedom of movement of citizens of Turkey is not subject to unjustified restrictions, including measures of a discriminatory nature, based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. Carry out related full investigations when needed.*

#### **Fulfilled**

Article 10 of the Turkish Constitution provides that all individuals are equal without any discrimination before the law irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations. It further provides that men and women have equal rights and that it is the State's obligation to ensure that this equality exists in practice. Finally, it states that measures taken to achieve this equality, or the protection of vulnerable groups such as the disabled, cannot be considered a violation of the principle of equality.

Sexual orientation is not a protected ground of discrimination in the Constitution or the Criminal Code. There were however no reports of a possible impact on the freedom of movement of the citizens.

Article 23 of the Constitution establishes that the freedom of movement may be restricted by law for the purpose of investigation and prosecution of an offence, and prevention of crimes, that a citizen's freedom to leave the country may be restricted only by the decision of a judge based on a criminal investigation or prosecution, that a citizen shall not be deported or deprived of their right to entry into the homeland.

In order to ensure having a more comprehensive legal framework on anti-discrimination in line with international standards Turkey is encouraged to become party to the Protocol 12 of the European Convention for the protection of Human Rights.

### **5.2.2. Conditions and procedures for the issue of identity documents**

*58) Provide information about the conditions and circumstances for the acquisition of Turkish citizenship.*

#### **Fulfilled**

The information requested under this benchmark has been provided by the Turkish authorities to the Commission. The conditions and circumstances for the acquisition of Turkish citizenship are defined by the law n.5901 adopted on 29 May 2009.

Citizenship is acquired by birth from at least a Turkish parent. A child born in Turkey, but acquiring no citizenship from his/her alien mother or alien father acquires Turkish citizenship by birth. An alien who wishes to acquire Turkish citizenship can do so by decision of the competent authority, provided he/she fulfils the conditions laid down Article 11 of the Law. These include being of age according to his/her own national legal system or according to the Turkish law if s/he is stateless; having been resident in Turkey for five years, without interruption, prior to her/his date of application; having the intention of settling in Turkey and

proving this intention with action; not having any disease that constitutes a hazard to public health; being a person of good morals; speaking an adequate level of Turkish; having an income or profession to provide for his/her own livelihood and for that of his/her dependants in Turkey; not posing a threat to national security and public order. Mere fulfilment of these conditions does not grant an absolute right to the acquisition of citizenship.

Turkish citizenship may be acquired by marriage with a Turkish citizen. Aliens who have been married to a Turkish citizen for at least three years and whose marriage still continues can apply for the acquisition of Turkish citizenship. The applicants shall fulfil the following conditions: a) living within the unity of marriage, b) abstaining from acts incompatible with the unity of marriage, c) having no quality constituting an obstacle in respect of national security and public order. With the law n.25127 of 3 June 2003 were introduced in the Turkish legislation aimed at preventing the acquisition of citizenship and residence permit by foreigners through faked marriages.

Article 12 of the law on citizenship states also that the following categories of aliens can exceptionally acquire Turkish citizenship by decision of the Council of Ministers provided they do not pose a threat to national security and public order: persons who have established industrial plants to Turkey or have rendered or are expected to render in future outstanding services in the scientific, technological, economic, social, sporting, cultural and artistic fields and about whom a reasoned proposal has been submitted by the ministries responsible; persons whose naturalisation has been considered necessary; persons who have been recognised as immigrants.

***59) Provide information about the conditions for changing personal data.***

**Fulfilled**

The 2006 Civil Registration Services Law, together with implementing legislation, establishes the conditions and principles with regard to the registration of the personal data and the issuance of the identity cards.

Under Article 35 of the Law on Civil Registry Services, no civil registry record shall be amended or annotated in a way to modify the meaning and the data of the records unless required by a final court decision. Only factual errors to family registries shall be amended by civil registration offices in accordance with the source document.

At the birth each Turkish citizen is a unique Turkish Republic Identity Number which does not change even in case the person obtains to change his/her name. Foreigners residing in Turkey at least six months for any purpose receive a Foreigner Identification Number.

***60) Ensure full and effective access to travel and identity documents for all citizens including women, children, people with disabilities, persons belonging to minorities, internally displaced people, and other vulnerable groups.***

**Fulfilled**

The 2006 Civil Registration Services Law, together with implementing legislation, establishes the conditions and principles with regard to the registration of the personal data and the issuance of the identity cards. Turkish Passports are issued under the 1.950 Passport Law to Turkish citizens who wish to travel abroad.

There appear to be no restrictions to access to identity or travel documents. In certain more remote areas of the country or among more marginalised groups of persons there could be

persons still deprived of identity cards, but they represent a rarity, and in any case the authorities struggle to ensure that all persons obtain an identity card.

Based on article 22 of the Passport Law, the passport is refused only to persons whose going abroad is prohibited by the courts, and those whose leaving the country is found to be inadvisable by the Ministry of the Interior with respect to public safety. No specific reports on an abusive use of this article were collected within the framework of the visa liberalisation dialogue.

***61) Ensure full and effective access to identity documents for the refugees and stateless persons residing in Turkey.***

**Fulfilled**

In line with the provisions of the law on Foreigners and International Protection, all applicants and beneficiaries of international protection, including the persons benefiting of temporary protection, registered in Turkey, timely obtain an identification card, while the Stateless persons are deemed to obtain Stateless Person Identification Document.

The DGMM is in charge of the registration of the foreigners and of the stateless persons and of the issuance of the identification documents.

***62) Provide accessible information on registration requirements to foreigners wishing to reside in Turkey, and ensure equal and transparent implementation of respective legislation.***

**Fulfilled**

The rules related to residence permits are defined by the article 19 to 49 of the Law on Foreigners and International Protection and the corresponding articles of the implementing regulation of this law.

DGMM, with its 81 provincial branches, is in charge to receive and decide on the requests of residence permit.

No information on specific problems in the implementation of this legislation was collected by the Commission services within the framework of the visa liberalisation dialogue.

**5.2.3. Citizens' rights and respect for and protection of minorities**

***63) Develop and implement policies addressing effectively Roma social exclusion, marginalisation and discrimination in access to education and health services, as well as its difficulty to access to identity cards, housing, employment and participation in public life.***

**Fulfilled**

There are no official data on the number of Roma in Turkey. Existing figures are based on estimations and vary significantly. Some sources put the number of Roma in Turkey to half a million while others suggest numbers ranging between two and five millions. Most, if not all Roma living in Turkey, are Turkish citizen.

The last few years have witnessed an increasing number of studies and reports depicting the situation of Roma in Turkey. According to these reports Turkish Roma face poverty, discrimination and difficulties in access to employment, education, housing and health services. This is similar to the situation of many other countries where Roma live.

According to the Turkish Constitution, Roma people do not constitute an ethnic minority and benefit from the same rights as Turkish citizens. This has contributed to preventing the Turkish authorities until recently from elaborating specific policies and legislation addressing the social inclusion problem they frequently face, and to collect statistical data.

Nevertheless in 2009 the Turkish Government started to recognize the existence of Roma-specific problems in Turkey and to promise to place attention on them. Until now however no specific measures to address this challenge could be seen in practice.

On 26 April Turkish Government adopted a National Strategy and an Action Plan for the Social Inclusion of Roma Citizens which was published in the Official Journal on 30 April 2016. A monitoring and evaluation committee will be established before 21 June 2016. The strategy and action plan are a positive step forward in that they address key obstacles to the social inclusion of Roma. Its effective implementation and monitoring requires a dedicated budget, impact indicators and timeline.

In addition, the Parliament adopted a Law on the National Human Rights and Equality Institution on 6 April 2016.

The law prohibits discrimination on grounds of gender, race, colour, language, religion, belief, philosophical or political opinion, ethnic origin, property, birth, marital status, medical condition, disability and age. Thus, it covers prohibition of discrimination on the grounds of racial and ethnic origin. The Turkish authorities have stated that they will interpret this list as being non-exhaustive and that applicants can bring discrimination cases on the basis of the general provisions of the Constitution.

Under the new law, the Turkish Human Rights and Equality Institution will be established to ensure compliance with the prohibition of discrimination, replacing the current Turkish Human Rights Institution. The new institution will have the power to launch ex-officio investigations into potential human rights violations. However, it will no longer be possible for applicants to bring human rights cases directly to the new institution as these will now be addressed to the Ombudsman.

Furthermore, the Turkish authorities indicated that until the establishment of the new National Human Rights and Equality Institution, which may take up to six months, the previous Turkish Human Rights Institution would continue to exist but it would not be processing any cases, only filing them until they can be addressed to the new institution.

#### ***64. Ratify Additional Protocols 4 and 7 to the European Convention on Human Rights (ECHR).***

##### **Fulfilled**

The draft Law to ratify the Protocol 7, which Turkish authorities had signed in 1985, was adopted in the Parliament and published in the Official Journal on 25 March 2016.

Protocol 4 provides for the prohibition of the imprisonment of a person for debts, the prohibition to expel a person from his/her own country or to prevent him/her from leaving it, and the prohibition of collective expulsions of aliens from a country.

In the framework of the visa liberalisation dialogue, Turkish authorities have declared that, although they have signed it already on 1992, they do not intend to ratify the Protocol 4. Nevertheless they have provided information explaining that Turkish national legal framework includes already provisions equivalent to those prescribed by the Protocol 4

On this regard, Turkish authorities have stated that the Turkish legislation already has equivalent provisions:

- As regards the “prohibition of imprisonment for debt”, laid down in Article 1 of Protocol No. 4 to ECHR, Article 38 § 7 of the Constitution provides, since the amendment of 3 October 2001 (Law No. 4709) that “no one shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation”. Therefore, the Constitutional provision is compatible with the said Article of the Protocol.
- As regards the “freedom of movement”, laid down in Article 2 of Protocol No. 4 to ECHR, Article 23 of the Constitution, titled “freedom of residence and movement” provides that everyone has the right to freedom of residence and movement and that freedom of residence may be restricted by law for the purpose of preventing offences, promoting social and economic development, ensuring sound and orderly urban growth, and protecting public property; freedom of movement may be restricted by law for the purpose of investigation and prosecution of an offence, and prevention of offences. Therefore, the Constitutional provision is compatible with the said Article of the Protocol.
- As regards the “prohibition of expulsion of nationals” laid down in Article 3 of Protocol No. 4 to ECHR, the last sentence of Article 23 of the Constitution provides: “Citizens may not be deported, or deprived of their right of entry to their homeland”. Therefore, the Constitutional provision is compatible with the said article of the Protocol.
- As regards the “prohibition of collective expulsion of aliens”, laid down in Article 4 of Protocol No. 4 to ECHR, the procedure and principles relating to the expulsion procedure have been stipulated in Article 52 et. seq. of the Law No. 6458 on Foreigners and International Protection. The said articles do not contain any provisions stating that foreigners could be expelled collectively. Moreover, under Article 53 § 2, any deportation order given in respect of a foreigner shall be served on the foreigner, his/her legal representative or lawyer. Accordingly, deportation orders shall be served on each foreigner separately. Therefore, it has been considered that the provisions of the Law No. 6458 are compatible with Article 4 of the Protocol.

***65) Revise - in line with the ECHR and with the European Court of Human Rights (ECtHR) case law, the EU acquis and EU Member States practices - the legal framework as regards organised crime and terrorism, as well as its interpretation by the courts and by the security forces and the law enforcement agencies, so as to ensure the right to liberty and security, the right to a fair trial and freedom of expression, of assembly and association in practice.***

### **Not fulfilled**

The Turkish definition of terrorism remains different from the one enshrined in the EU acquis. The Council Framework Decision 2002/475/JHA on combating terrorism (as amended by Council Framework Decision 2008/919/JHA of 28 November 2008) requires EU Member States to criminalise and deem as terrorist offences a series of well-defined intentional acts. Offences include: serious damage to a country or an international organisation, acts committed with the specific aim of seriously intimidating a population, or unduly compelling

a Government or international organisation to perform or abstain from performing any act, or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.

Turkish legislation on terror is drafted in a way that seems to allow for an overly broad application of the term of terrorism. This is problematic because if terrorist offences are not defined precisely and relate to crimes of a significant level of severity, they may entail serious restrictions upon human rights and fundamental freedoms. The principle of proportionality, enshrined in European and International law should also be enshrined in Turkish legislation.

Turkish authorities have in recent years made several amendments to their counter-terrorism legislation. For instance, the maximum pre-trial detention for terrorist crimes was reduced from ten to five years, and other reforms narrowed the scope of terrorist-related offences, in particular as regards those related to freedom of expression. However, no additional reforms took place after 2013. Some amendments introduced by the "Internal Security Package" adopted in March 2015 have had a negative effect on fundamental rights.

In addition to legislation, attention needs to be paid to courts' interpretation of anti-terror legislation. Participants in demonstrations have been convicted for being members of a criminal or a terrorist organisation even though a link with the organisation was not demonstrated. There were also frequent restrictions on freedom of expression and media, freedom of association and impunity. The recurring arrests and prosecutions of journalists and academics on terrorist-related charges, including the provision on "making propaganda for a terrorist organisation" have a detrimental effect on freedom of expression and lead to self-censorship, as noted by the Commissioner for Human Rights in his recent statements on Turkey.

Further criticism focused on legislation on meetings and demonstrations that criminalise peaceful participation in demonstrations; the conduct of police during demonstrations which is not in line with international human rights standards; provision of medical aid to any injured or affected person at the earliest possible moment; and the possibility for journalists to perform their duties in reporting from the scene of demonstrations unhindered and in safety. The definition of limited routes for demonstrations by the Turkish authorities further restricts freedom of expression and assembly.

The Commissioner for Human Rights of the Council of Europe considered in his 2013 report that the Turkish legal framework concerning assemblies and demonstration marches is more restrictive than necessary in a democratic society, in particular concerning demonstrations which are deemed unlawful but which are peaceful, leading to unnecessary dispersal by force. He also considered that the Turkish authorities need to adopt clearer rules about the proportionate use of force by law enforcement officials in the context of demonstrations, in particular with respect to: the use of tear gas and projectile-firing weapons; better safeguards against ill-treatment and violations of the right to freedom of assembly by law enforcement officials; steps to ensure that law enforcement personnel act in accordance with the ECHR; and that domestic authorities conduct effective investigations into allegations of ill-treatment.

The Turkish authorities have not yet addressed these shortcomings. The adoption, in March 2015, of so-called "Security Package" was actually a step backwards, as it further increased the possibility for the law enforcement agencies to use force against the population.

A law on the establishment of a commission to inspect alleged violations committed by the law enforcement agencies in times of peace was adopted by Turkey on 3 May 2016. Once available, the Commission services will assess the new law. During the drafting phase of this



law, the European Commission had called on the Turkish authorities to ensure that this commission will act independently from the Ministry of Interior.

## **6. BLOCK 5: READMISSION OF IRREGULAR MIGRANTS**

*66) Fully and effectively implement the readmission obligations existing with the Member States.*

### **Fulfilled**

Turkey has bilateral readmission obligations with three Member States: Romania, Bulgaria and Greece. At the end of 2012 Turkey has unilaterally ceased to implement its obligations toward Bulgaria, while continuing to implement those towards Romania.

As regards Greece, which represents by far the main target of irregular migrants from Turkey, the cooperation on readmission offered by Turkey has been always very poor until mid-2015.

In the second half of 2015, and notably after the EU-Turkey Summit of 29 November 2015, Turkish authorities started accepting a growing share of the readmission requests sent by Greek authorities, although significant delays to their replies continued, which hampered the possibility for Greek authorities to return the persons for whom the readmission had been accepted<sup>12</sup>. Cooperation on readmission picked up strongly in the week before the 7 March EU-Turkey summit, with the entire backlog of readmission requests dealt with in a bilateral meeting and several return operations organised during the month of March and early April.

At the EU-Turkey Summit on 18 March 2016, Turkish authorities agreed to readmit from the Greek islands any irregular arrival from Turkey; not only economic migrants as had been the case until then, but also persons in need of international protection, on the basis of the safe third country or first country of asylum principles.

In order to further facilitate the identification and delivery of the persons to be readmitted, after 20 March Turkish authorities have deployed 25 liaison officers to the hotspots in the Greek islands where irregular arrivals of migrants and refugees originating from the Turkish coast are registered.

On 13 April 2016, Turkey notified the Greek authorities of its readiness to readmit irregular migrants not only in the seaport of Dikili (located in front of the Lesbos island), but also in other seaports of its Aegean coast closer to other Greek islands, notably Çeşme (for readmissions from Chios), Kuşadası (from Samos) and Güllük (in the proximity of Rhodes).

As a result of these combined measures, the implementation of the readmission obligations between Turkey and Greece has substantially improved, and while in 2014 and 2015 the number of irregular migrants readmitted by Turkey from Greece was only six and eight respectively, this number has been 1292 in the first 100 days of the 2016 (from 1 January until 13 April 2016).

*67) Ratify the EU-Turkey readmission agreement initialled on 21 June 2012.*

### **Fulfilled**

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<sup>12</sup> While in 2014, out of the 9 664 readmission requests sent by Greece, Turkey had accepted only 579, in 2015 the number has increased up to 4318 accepted out of 11.427 requested .

The EU-Turkey readmission agreement, signed on 16 December 2013, was ratified in the course of 2014, and entered into force on 1 October 2014.

***68) Fully and effectively implement the EU-Turkey readmission agreement in all its provisions, in such a manner as to provide a solid track record of the fact that readmission procedures function properly in relation to all Member States.***

**Partially fulfilled**

On 1 October 2014 the EU-Turkey agreement entered into force, but the only provisions to apply related to: readmission of nationals of the two sides; stateless persons residing on their territories; and third country nationals citizens of the countries with which Turkey has a readmission agreement. The entry into force of the provisions related to the readmission of all third country nationals was left for an application three years later, i.e. as of 1 October 2017.

On 1 April 2016, as a concrete follow-up to the political decision taken at the EU-Turkey Summit of 29 November 2015, the two sides agreed to advance the start date of the application of the provisions related to the readmission of the third country nationals to 1 June 2016. This decision, signed by the Turkish Government, was subsequently ratified by the Turkish Parliament.

Given that the provisions related to the readmission of third country nationals will only start to apply as of 1 June 2016, the Commission is not in a position to provide any assessment of their implementation.

As regards the provisions related to the readmission of the nationals of the two sides, it can be noted that Turkish authorities, notably Turkish consulates in several Member States, have so far not always implemented the agreement properly, notably by failing to identify their nationals and issue them with Emergency Travel Documents within the time limits foreseen by the agreement. Turkish consulates are de facto contesting the legitimacy of the return decisions issued by Member States by privileging their consular protection role over their role in the readmission process and thus imposing additional steps in the procedures not foreseen by the agreement. This significantly delays, hampers or stops the readmission process.

These shortcomings have been clearly and regularly denounced by the Commission on the occasion of all EU-Turkey readmission committee meetings held until now. The Ministry of Foreign Affairs issued an instruction on 27 April 2016 to the diplomatic missions in the EU countries for the effective implementation of the Turkey-EU Readmission Agreement with all its provisions into force. The instruction made reference to the existing gap between the statistics on Turkish nationals subject to readmission and asked to revise their current procedure to speed up the process.

***69) Establish and implement internal procedures allowing for the rapid and effective identification and return of Turkish citizens, third-country nationals and stateless persons who do not, or no longer, fulfill the conditions for entry to, presence in, or residence on the territories of one of the Member States, and for the facilitated transit of persons to be returned to their country of destination, in a spirit of cooperation.***

**Fulfilled**

Detailed internal procedure explaining in which manner the readmission requests must be handled, particularly with reference to the readmission of third country nationals, have been

adopted by Turkish authorities and were shared with the European Commission in the framework of the visa liberalisation.

Turkish authorities will need to closely monitor the respect of these procedures by all the Turkish relevant bodies.

***70) Strengthen the capacity of the competent authority to process readmission applications within the timeframe given in the readmission agreement and reduce the number of pending readmission requests, including those related to third country nationals.***

**Fulfilled**

Since the handing over in May 2015 from the Turkish National Police to the DGMM of the task to deal with the readmission requests, the performances of Turkish authorities have been steadily improving, also thanks to the continued expansion of the human and technical resources made available by the Turkish Government to the DGMM for this purpose.

Turkish authorities have shown in the first months of 2016 to be able to cope with an increased number of readmission requests in the framework of the bilateral readmission agreement with Greece. It remains to be seen whether and how the authorities will be able to cope with the further increased flow of readmission requests which they are expected to receive as of May, when the decision taken on 18 March to readmit all irregular migrants arrived to the Greek islands will be fully enforced, and as of June, when all the EU Member States will be entitled to return to Turkey irregular migrants, following the entry into force of the provisions of the EU-Turkey readmission agreement related to third country nationals.

A work tool, which following the recommendation of the Commission, Turkish authorities are considering to install, and which may facilitate the management of an increased quantity of readmission cases, while enhancing the transparency of that management, would be an electronic system of transmission and management of readmission requests.

Turkish authorities will start testing a pilot phase of this project on 2 May 2016.

***71) Ensure that applications for readmission are processed in compliance with the domestic and the EU data protection requirements.***

**Fulfilled**

Turkey has adopted a law on personal data protection on 24 March 2016. The adoption of this law represents an important step forward, although, as indicated in more detail earlier, the adopted law is not fully in line with the current EU acquis on personal data protection, notably because of the limited independence of the data protection authority and because the prosecution activity of the law enforcement agencies is exempted from the provisions of the law.

DGMM however, which is in charge of the readmission operations, is not a law enforcement and does not carry out activities falling in the regime of exceptions as defined by the law. Therefore the provisions of the law on personal data protection apply to the readmission operations. The further improvements in the data protection law sought vis a vis the independence of the body in benchmark 56 will enhance this protection even further.

In addition, the obligation for Turkey to apply rules on personal data protection to any foreigner is also stipulated by the Law on Foreigners and International Protection.

*72) Compile and share in a timely manner with the competent authorities of Member States and the European Commission detailed statistics on readmission.*

**Fulfilled**

Since the end of 2015 Turkish authorities have started to collect and share on a regular basis with the EU statistical data related to the readmission requests related to third country nationals received from Greece in the framework of the Turkey-Greece bilateral readmission provisions and fulfilled. It will have to be seen how this work of collection and sharing will continue after the 1 June 2016, when several Member States, and not just Greece, will start sending readmission requests related to third country nationals.

Meanwhile, the statistical data collected and shared with the Commission by Turkish authorities in relation to the readmission requests the latter have received from the Member States and fulfilled in relation to Turkish nationals, remain of a poorer quality and less reliable also in terms of regularity. In any case they do not coincide with the statistical data proposed by the Member States.

The Ministry of Foreign Affairs issued an instruction on 27 April 2016 to the diplomatic missions in the EU countries for the effective implementation of the Turkey-EU Readmission Agreement with all its provisions into force. The instruction made reference to the existing gap between the statistics on Turkish nationals subject to readmission and asked to revise their current procedure to speed up the process.

## ANNEX

### ASSESSMENT OF THE SECURITY IMPACT OF VISA LIBERALISATION

#### **1) Introduction**

According to the Visa Liberalisation Roadmap (VLR) methodology, the Commission committed to assess the possible migratory and security impacts of the proposed visa liberalisation for Turkish citizens travelling to the EU, i.e. to foresee whether the lifting of visa obligations, by facilitating the ability of Turkish citizens to enter the Schengen area unimpeded, risks being accompanied by an increase of irregular migration and of criminality inside of the EU.

These two assessments were not provided on the occasion of the adoption of the First Report issued in October 2014, because at that moment the conclusion of the visa liberalisation appeared to be some distance away.

The assessment of the possible migratory impact has been provided in the Commission Staff Working Document issued jointly with the Commission's Second report on Turkey's progress in fulfilling its visa liberalisation roadmap, issued on 4 March 2016.

The assessment of the security impact, which is an integral part of the visa liberalisation methodology and hence applied for all third countries concerned, is provided on the occasion of the adoption of the Commission's Third report on Turkey's fulfilment of the requirements of its visa liberalisation roadmap.

#### **2) Methodology**

This Annex presents an assessment which draws on information provided by Europol, Frontex, Member States and Turkish authorities, as well as from a combination of international organisations and open data sources. This Annex clearly indicates how the measures recommended by the Commission in the framework of the implementation of the visa liberalisation roadmap for Turkey, alone or in cooperation with the Member States, are relevant to address and mitigate the possible risks to their security in the EU.

#### **3) Key actors in the security area**

The Turkish State fights against crime through the joint effort of several law enforcement agencies, i.e. the Gendarmerie, responsible for the law and order in rural areas, the Police, responsible for the urban areas, the controls on the persons at the border crossing points and international cooperation, the Coast Guard, responsible for the territorial waters, and the Customs Enforcement Department, responsible for the controls on the goods at the border crossing points.

Their activity is also complemented by that of four State bodies which play an important role in combating crime, although they are not by themselves law enforcement agencies, i.e. the Land Forces, responsible for the land borders and the defence of the country against external threats, the Directorate-General for Migration Management, responsible for any relation with the foreigners present in the country (including irregular migrants, victims of trafficking and foreign fighters), the Financial Crime Investigation Board (MASAK), in charge of assisting the law enforcement agencies and the courts in identifying and analysing suspicious financial transactions, and the National Intelligence Organisation (MIT).

Some of the law enforcement agencies and bodies have ongoing working relations of cooperation with counterparts located in several EU and non-EU countries, mostly on the basis of the many Security Agreements which Turkey has signed with many partner countries.

Turkish law enforcement agencies and other security bodies are well endowed, by the Turkish State, with human and financial resources, equipment, facilities and training.

On the basis of this powerful structure, the Turkish authorities have been obtaining very important results in combating organised crime and terrorism.

Nevertheless, organised crime groups (OCGs) are particularly strong and active in the country, and the challenges which they continue to impose remain very high.

There are several OCGs present all over the national territory, although they are, reportedly, stronger and more wide-spread in the South-eastern and in the Black Sea regions of the country, where they are largely based around kinship or ethnic ties. Many of these organisations also enjoy the cooperation of gangs and individuals of Turkish origin or other nationalities (frequently Albanian or Russian speaking persons) residing or operating in European countries, and which are able to provide support for implementing criminal activities.

Furthermore, the range of action, skills and resources of these criminal organisations was able to develop, due to some structural factors:

One factor was the war in Syria, which has facilitated the smuggling of illicit goods and weapons, promoted the recruitment, transfer and training of foreign and Turkish fighters by terrorist organisations, and triggered the arrival of slightly less than 3 million Syrian refugees, some of whom have subsequently embarked in irregular migration, fuelling the activities of migrant smugglers.

Another factor was the development of the role of Istanbul as one of the most lively and best connected airport hubs in the world. This has increased the expediency for criminals of many countries to use the Turkish territory as a transit place for their international activities, and has facilitated also the capacity of Turkish criminal OCGs to act at transnational level. The increased possibility to reach the Turkish territory by plane has produced in some cases considerable shifts in criminal phenomena, such as the tendency of Moroccan irregular migrants to enter the EU via the Turkish-Greek border, and the increasing use of the Turkish territory as a way to smuggle to Europe or elsewhere cocaine originating from South-America.

This overall situation needs to be observed in light of the possible lifting of Schengen visa requirement for Turkey and the facilitated mobility which it would offer to Turkish citizens, including to those that may be involved in criminal or terrorist activity. The impact of the proposed visa liberalisation, however, will be different in the criminal areas considered.

The subsequent section provides an overview of the possible evolution of security risks as a result of the proposed visa liberalisation as well as of the measures adopted and to be adopted in that context to address these risks. They are set out in more detail in section 5.

#### **4) Situation, trends and mitigating factors in the main areas of illegality**

##### **4.1 Drug trafficking**

Turkey is a key transit country for most types of illicit drugs destined for European markets.

Turkey remains a main point of entry into Europe of heroin and other opiates originating from Afghanistan and Southeast Asia. Turkish OCGs are also active in the production of cannabis within EU Member States, particularly in Germany, Belgium and the Netherlands. Turkey is both a transit and destination country for cocaine. Methamphetamine originating from Iran also appears to be trafficked via Turkey to the EU.

Turkey is principally a source country for the precursors that are used in the production of synthetic drugs (methamphetamine in particular). Besides drug trafficking, Turkish nationals are involved in drug distribution in Western EU Member States. They act as receivers of bulk amounts of drugs then store, pack and distribute smaller amounts on the local market, sometimes across several cities or states.

The proposed visa liberalisation for Turkish citizens travelling to the EU could potentially have an impact on the work of Turkish OCGs involved in the above-mentioned drugs-related offences in as far as their movements to and from the Schengen area and the trafficking of drugs is concerned. This security risk is addressed by:

- existing bilateral law enforcement cooperation between Turkey and Member States,
- border control measures in Turkey and at the Schengen external border,
- the preventive and mitigating measures proposed in the Roadmap (see section 5 below), in particular benchmark 41.
- existing EU-Turkey cooperation: Within the framework of the existing EU-Turkey Subcommittee on Justice and Home Affairs, the EU closely monitors trends and developments in the area of drugs trafficking via Turkey to the EU. Turkey participates in the work of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), takes part in the REITOX network and delivers a variety of data which allows monitoring the drug situation within Turkey.

## **4.2 Migrant smuggling**

While the number of Turkish nationals intercepted in the EU as irregular migrants is limited, on the opposite the number of third country nationals departing from Turkey and apprehended in the EU reached unprecedented highs in 2015.

In 2015, around 900.000 migrants and refugees (around a half Syrians, the remaining part Afghans, Iraqis, Iranians etc.) irregularly departed from the Turkish Aegean coasts and landed at the adjacent Greek islands, while more than 200.000 of them were stopped by Turkish border authorities on the coasts or in the territorial waters, and 4413 smugglers (out of whom 3696 were Turkish nationality) were arrested by Turkish law enforcement agencies

This phenomenon is a clear result of the geographic position of Turkey and of the presence of so many migrants on its territory. Turkey hosts around 3 million of migrants and refugees, mostly of Syrian origin, and has borders with very important countries of transit and origin of migrants and refugees, such as Syria, Iraq and Iran, or is easily reachable via plane, thanks to the connecting flights established by Turkish airlines with hundreds of cities all over the world. All this has led the OGCs dealing with migrant smuggling to flourish in Turkey.

Based on statistics, most of the migrant smugglers apprehended by the police forces are Turkish citizens, followed at the second rank by Syrians. Smugglers operating in Turkey however frequently cooperate with foreign OCGs based in the countries of origin, in Iran, in the Balkan countries or in the destination countries in the EU.

Migrant smugglers operate in Turkey mostly as facilitators of spontaneous movements made by irregular migrants: the smugglers intervene to help the latter, for instance, to enter in a

clandestine manner the country by crossing the mountains located along the Iranian-Turkish border, or to leave it by purchasing a ride on a clandestine motorboat departing from the Aegean coast, or to cross it by arriving at Istanbul airport and subsequently reaching it in the Syrian border,

However in some cases the OCGs dealing with migrant smuggling have also demonstrated the capacity to organise large-scale initiatives. This was notably the case in the second half of 2014 when Turkish OCGs with the assistance of Syrian leaders, put in place – in the Turkish South-Eastern coastal area nearby the town of Mersin – the system of the so-called "ghost ships".

The potential impact of the proposed visa liberalisation for Turkish citizens in this area is addressed by:

- the result of the EU-Turkey meeting of 29 November 2015: Turkish authorities have started to prevent in a more effective manner the irregular departures of migrants and refugees directed from the Turkish coasts towards the EU, as well as the activity of the smuggler;
- the EU-Turkey Statement of the 18 March 2016, as an even and more decisive step forward towards breaking the overall business model used by the migrant smuggling organisations operating on the migratory route leading from Turkey towards the Greek islands. Following the implementation of that Statement, migrant smuggling activities in the Turkey have dramatically decreased and led to a drastic reduction of irregular departures which fell from a daily average of around 2.000 in January and February 2016 and 147 in April 2016 with a downward trend still there noticeable;
- the EU-Turkey readmission agreement, in particular the entry of force of the provisions related to the readmission of third-country nationals as of 1 June 2016;
- the preventive and mitigating measures proposed in the Roadmap (see section 5 below), in particular benchmarks 8, 11, 15 and 30.

#### **4.3 Trafficking in human beings (THB)**

Turkey remains a source, transit and destination country for victims of THB for the purpose of labour and sexual exploitation. Victims identified in Turkey mainly come from Eastern European Central Asia countries and are frequently used for labour or sexual exploitation. Victims transiting through Turkey are mostly trafficked to Western EU Member States including Germany, Denmark, France, the Netherlands, the United Kingdom and Belgium. Increasingly migrants from Africa or Latin America who attempt to travel to the EU via Turkey can become victims of THB upon arrival in the EU.

Turkish OCGs involved in forced labour and sexual exploitation of foreign nationals (especially Bulgarians and Romanians) in Western European countries extensively use legal businesses (bars, clubs, hotels and restaurants) or private accommodation (apartment buildings) to facilitate their activities. In some cases, several Turkish companies located in different countries are used to recruit, transport and exploit victims along the chosen THB route.

The proposed visa liberalisation for Turkish citizens travelling to the EU could potentially have an impact on the work of Turkish OCGs involved in trafficking in human beings from Turkey into the EU in as far as their movements to and from the Schengen area are concerned. This security risk is addressed by:

- existing bilateral law enforcement cooperation between Turkey and Member States;
- border control measures in Turkey and at the Schengen external borders;



- the preventive and mitigating measures proposed in the Roadmap (see section 5 below) in particular benchmark 37.
- the implementation of the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016;
- Turkish legislation penalising trafficking in human beings.

#### **4.4 Firearms trafficking**

Turkey is a transit country for firearms trafficking, and this has further increased as a result of its geographic proximity to areas of characterised by armed conflicts (Syria, Iraq, Caucasus and Black Sea regions, the Balkans). When trafficked towards the EU, this is frequently done by traffickers who often have dual nationality, residency permits or visas in EU Member States, making it easier for them to travel across the EU. Moreover, Turkey is a relevant country of production of convertible blank firing weapons. Most of those currently recovered in the EU are from Turkish manufacturers. Fully automatic and semi-automatic handguns are the most commonly recovered models.

The proposed visa liberalisation for Turkish citizens travelling to the EU could potentially have an impact on the work of Turkish OCGs involved in firearms trafficking from Turkey into the EU in as far as their movements to and from the Schengen area is concerned. This security risk is addressed by:

- existing bilateral law enforcement cooperation between Turkey and Member States;
- border control measures in Turkey and at the Schengen external borders;
- the implementation of the EU Action Plan against illicit trafficking in and use of firearms and explosives adopted in December 2015, according to which the current EU-Turkey dialogue on Counter-terrorism will be extended to the illicit trafficking and use of firearms and explosives;
- the preventive and mitigating measures proposed in the Roadmap (see section 5 below) in particular benchmark 36.
- Turkey's participation in the European Firearms Expert Group established in 2004 to facilitate exchange of information and promote cooperation against the illicit trafficking of firearms;
- the actions taken by Turkish authorities to combat the trafficking in firearms and seize weapons, with a huge quantity of weapons seized every year. Notably in 2015, Turkish authorities seized 2.530.141 blank guns, 2.635 long barrel rifles, 274.599 bullets, 19.283 stabs, 4.835 guns, 141.341 cartridges, 13.691 hunting rifles, and 37.867 magazines.<sup>13</sup>

#### **4.5 Financial crime**

There is legislation and institutions established in Turkey to combat against money laundering. Still, Turkey is a significant location for this kind of phenomenon. As a largely cash based economy, funds are known to be moved for integration in the legal economy via trade-based money laundering.

The proposed visa liberalisation for Turkish citizens travelling to the EU could potentially have an impact on the above-mentioned financial crimes as far as the movement of cash to and from the Schengen area is concerned. This security risk is addressed by:

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<sup>13</sup> Source: Turkish authorities.

- existing bilateral law enforcement cooperation between Turkey and Member States;
- border control measures in Turkey and at the Schengen external borders;
- the preventive and mitigating measures proposed in the Roadmap (see section 14 below) in particular benchmarks 39 and 52.
- the reforms taken by Turkey in reply to the recommendations by the Financial Action Task Force (FATF), and the on-going work of Turkey to implement FATF recommendations;
- an EU-funded twinning project providing technical assistance to the Financial Crime Investigation Board (MASAK) to further promote its development;

The proceedings of drug trafficking, as well as of other forms of organised crime, are moved from the EU to and through Turkey informally through money exchange bureaus, jewellery stores, and other businesses which are part of the Hawala banking system. Family members are also used as couriers to physically move criminal proceeds back to Turkey. Through these mechanisms, funds are also transferred to terrorist groups in conflict zones. Sources of revenue for the terrorist group Islamic State (IS) include the control of oil fields and refineries, robbery of economic assets and looting of cultural goods. Due to its geographical location, the smuggling of these goods to fund IS is bound to take place also on Turkish territory.

The proposed visa liberalisation for Turkish citizens travelling to the EU could potentially have an impact on terrorist financing as far as the movement of cash to and from the Schengen area is concerned. This security risk is addressed by:

- existing bilateral law enforcement cooperation between Turkey and Member States;
- border control measures in Turkey and at the Schengen external borders;
- the preventive and mitigating measures proposed in the Roadmap (see section 5 below) in particular benchmarks 39 and 52.
- the implementation of the EU Action Plan on terrorist financing which has a specific focus on neighbouring countries. In particular, the EU will assist these countries in complying with FATF recommendations, to enhance their capacity to counter terrorist financing and to increase cooperation with EU Member States and EU agencies.

#### **4.6 Counterfeiting of goods and currency**

Turkey ranks as the third at world level among the countries of origin of the counterfeited goods in the world and among the most important ones for counterfeit goods entering into the EU. Categories of counterfeit products reaching the EU from Turkey include cosmetics, body care items, sportswear and electrical equipment.

The proposed visa liberalisation for Turkish citizens travelling to the EU could potentially have an impact on the work of Turkish OCGs involved in the trafficking of counterfeited goods into the EU in as far as their movements to and from the Schengen area is concerned. This security risk is however, addressed by existing bilateral law enforcement cooperation between Turkey and Member States, border control measures in Turkey and at the Schengen external border as well as by the preventive and mitigating measures proposed in the Roadmap (see section 14 below).

In the past Turkey was linked to the production of counterfeit euro coins, as a country of origin for raw materials and machinery. The coins, which were produced in Turkey or in neighbouring EU Member States, were subsequently transported to the Eurozone countries for

distribution. Turkish authorities are actively contrasting the counterfeiting and are cooperating closely with Europol and the European Anti-Fraud Office (OLAF) to that end.

The proposed visa liberalisation for Turkish citizens travelling to the EU could potentially have an impact on counterfeiting of goods and currency in as far as the movement of counterfeit goods and currency to and from the Schengen area are concerned. This security risk is addressed by:

- existing bilateral law enforcement cooperation between Turkey and Member States;
- border control measures in Turkey and at the Schengen external borders;
- the preventive and mitigating measures proposed in the Roadmap (see section 5 below) in particular benchmark 51.

#### **4.7 Terrorism**

Turkey is a country of origin of foreign fighters, around 1.300 Turkish citizens are believed having joined the ranks of IS in Syria and Iraq. Increasingly active in Turkey, notably with several suicide bomb explosions in the country, is the Islamic State (IS). The IS has also used the Turkish territory to transfer foreign terrorist fighters from various countries (including EU Member States) to the Syrian territory. Turkey was in the last years an important transit hub for foreign terrorist fighters directed towards Syria and Iraq, who originated from EU Member States and many other countries, including North Africa, Middle East, Central Asia and the Balkans. Foreign terrorist fighters have been found travelling through the Turkish territory also on their way back towards their origin countries. It should be noted however, most of the individuals involved in the recent attacks by Da'esh, which took place in Paris and Brussels, were conducted by individuals with either dual nationality one of which was from an EU Member State or by individuals originally from the Member State in which the attack took place.

The proposed visa liberalisation for Turkish citizens travelling to the EU could potentially have an impact on the terrorist risk in the EU in as far as the movement of terrorists of Turkish citizenship to and from the Schengen area is concerned. This security risk is addressed by:

- existing bilateral law enforcement cooperation between Turkey and Member States;
- border controls measures in Turkey and at the Schengen external borders;
- the preventive and mitigating measures proposed in the Roadmap (see section 5 below) in particular benchmarks 48 and 49;
- Specific measures implemented by the Turkish authorities have to prevent travel of terrorist, notably through travel interdictions and increased detection of suspected terrorists at airports, border crossings and other transport hubs;
- the EU-Turkey dialogue and cooperation on foreign and security policy, including on counter-terrorism. At the EU-Turkey Summit on 29 November 2015, it was agreed to enhance this dialogue and cooperation. To this end, the annual high level counter-terrorism dialogue, in addition, to the expert level exchanges which are already taking place, will serve as a vehicle to deepen the cooperation by encouraging alignment of Counter-Terrorism-related policies and strategies, through information exchange and to regularly assess progress across all strands of the Counter-Terrorism cooperation.

### **5) The security impact of visa liberalisation and the preventive and mitigating measures proposed in the Roadmap**

It is difficult to anticipate what would be the general impact on the security of the EU of the proposed visa liberalisation for Turkish citizens travelling to the EU. This would depend on many factors which may differently evolve depending also on the course on the institutional relations being developed between the EU and Member States' relevant authorities and those of Turkey, as well as several other factors.

In the light of this analysis, however, the following consideration should be made.

1. The removal of the visa obligation currently imposed on Turkish citizens travelling to the EU is not expected to increase growth of organised crime and terrorist activities in the EU, given that most criminals and terrorists already use travel routes throughout the EU. It is therefore unlikely that the proposed visa liberalisation will result in drastic changes in the Turkish or EU criminal landscapes.
2. The proposed visa liberalisation is not expected to produce a substantial increase of irregular migration of Turkish citizens into the EU because, as already argued in the Assessment of the migratory impact of visa liberalisation included in the CSWD accompanying the Second Report issued on 4 March 2016, Turkish citizens appear interested only in a limited manner to emigrate towards the EU. Moreover, the EU-Turkey Readmission agreement, whose provisions related to the readmission of the nationals of the two parties entered into force on 1 October 2015, offers a powerful tool to ensure the removal of persons attempting to remain in the territory of the EU beyond the regular limit of 90 days out of every 180 day period.
  - On 27 April 2016, the Ministry of Foreign Affairs of Turkey sent instructions to the Turkish missions abroad requesting them to strictly respect the procedures set out in the EU-Turkey readmission agreement.
  - The entry into force of the proposed Entry/Exit System of the EU in due course will also improve the management of the Union's external borders and should, in particular, contribute to the identification of any person who does not or no longer fulfils the conditions of duration of stay within the territory of the Member States.
  - The risk will also be mitigated by the reinforced visa liberalisation suspension clause proposed by the Commission.
3. Third country nationals residing in Turkish territory will not benefit from the proposed visa liberalisation and, therefore, granting visa liberalisation to Turkish citizens would have a neutral effect on the capacity of third-country nationals to irregularly migrate to the EU.
  - Granting visa liberalisation to Turkish citizens can even be expected to substantially enhance the prevention of irregular migration of third-country nationals from Turkey to the EU, as it represents an essential component of the overall package of measures which have been agreed with the EU-Turkey Statement of 18 March 2016.
  - The implementation of this Statement has contributed to break the business model of the smugglers operating from Turkey. This business model in the year 2015 had managed to irregularly bring from the Turkish coasts into the Greek islands, and from there towards the rest of the EU, around 900.000 non-Turkish migrant and refugees.
  - The granting of visa liberalisation, by strengthening the cooperation with Turkish authorities, and persuading them to continue the cooperation with the EU in readmission and in preventing irregular departures, will contribute to ensure that irregular migration flows of that kind will not resume.

4. On the other hand, it is realistic to expect that the proposed visa liberalisation for Turkish citizens travelling to the EU, by broadening the capacity of the latter to enter into the Schengen area unimpeded, will facilitate the movement of all Turkish citizens across the EU borders, including criminals of Turkish nationality. This may not necessarily produce an expansion of the criminal activities committed in the EU, but it may lead to a direct territorial expansion towards the EU of the presence of Turkish OCG. Similarly, suspect individuals being allowed to travel to the Schengen territory without the need to go through a visa request procedure would have a greater ability to enter the EU without being noticed. The **security risk related to the increased mobility** into the Schengen area of criminals and terrorists who are citizens of Turkey, or who are foreigners based in Turkey, is addressed and mitigated by the following benchmarks:

- Benchmarks related to enhancing **police cooperation** (*benchmark 49: implementing regional and bilateral police cooperation agreements signed by Turkey with the EU Member States; benchmarks 53 and 54: implementing the Strategic Agreement and concluding an Operational Cooperation Agreement with Europol, once Turkish data protection law ensures adequate standards in respect of those of the EU*);
- Benchmarks related to establishing more efficient and effective **judicial cooperation in criminal matters** (*such as those necessary to implement benchmarks 43: ratification and implementation of all the protocols of the Council of Europe Conventions related to Extradition, Mutual Assistance in Criminal Matters, Transfer of Sentenced Persons; benchmarks 44 and 47: improvement of the efficiency of the judicial system of Turkey in cooperating in criminal matters, and of its readiness to effectively do so with all the Member States, notably in extradition matters; and benchmark 45: developing working relations with Eurojust*);
- Benchmarks 55 and 56 (*Adopt and implement legislation on the protection of personal data in line with the EU standards, in particular as regards the independence of the authority in charge of ensuring the protection of personal data*) is an indispensable prerequisite to enhance the quality of both the police cooperation and of the judicial cooperation in criminal matters (*commit internationally Turkey to respect European standards in the field of **personal data protection**, and align its national legal framework to these standards*);
- Benchmark 65 related to **counter-terrorism** (*adopting and implementing the legislation on terrorism in line with the European standards*) is indispensable for ensuring full police and –more particularly - judicial cooperation in criminal matters in the fight against terrorism, because without that alignment the EU Member States and Turkish authorities may risk to follow too different definitions of and approaches towards the concept of terrorism;
- Benchmarks related to strengthening the capacity to combat **specific forms of organised crimes** at national level (*this is the case for the benchmarks 40: cybercrime; 41: fight against drug trafficking; 37: human trafficking; 39 and 52: money laundering and terrorism financing and 51: protecting the Euro against counterfeiting*);
- Benchmarks related to strengthening the capacity of the overall security system of Turkey to **fight against organised crime in an effective manner**, by promoting the coordination, cooperation and exchange of information and intelligence among all the agencies which compose it, while ensuring the efficiency, effectiveness and integrity of each of them (*this is the case for the*

*benchmarks 36: implementing action plans to fight against organised crime; 48: strengthening the internal cooperation among the law enforcement agencies of Turkey, and 42: taking the adequate measures against corruption, which includes notably to give an effective follow up to the recommendations issued by the Council of Europe Group of States against Corruption – GRECO).*

5. There are border control measures in place both in Turkey and on the EU side that seek to detect and stop criminals and terrorists through border checks conducted on persons exiting the Turkish territory and on persons entering the Schengen area. Both the Polnet system and the Schengen Information System (SIS), i.e. the two databases respectively consulted by the border police of Turkey and the border guards of the Schengen countries, include information on persons who, for various judicial or security reasons, should be refused entry, put under surveillance, or arrested on the spot. The SIS was upgraded in 2015 to improve information exchange on terrorist suspects and to display to end-users if a person subject of an European Arrest Warrant or a discreet and specific check is wanted for terrorism or terrorism related activity. Some of the benchmarks listed under point 6 below are equally relevant for this.
6. It can be expected that, as soon as Turkish citizens will obtain visa-free entry to the EU, foreign nationals will start trying to obtain Turkish passports in order to pretend to be Turkish citizens and enter the EU visa free, or use the identities of Turkish citizens, or to obtain by fraud the Turkish citizenship. This possibility may attract not only irregular migrants, but also criminals or terrorists. The **security risks that non-Turkish citizens may try to obtain forged or falsified Turkish travel or identity documents**, or may too easily obtain a fake or real Turkish citizenship, with the aim to enter visa-free into the EU as a Turkish citizen is addressed by the following benchmarks:
  - Benchmark 1: to establish biometric passports with chips including the fingerprints of the holders protected against forgery by high-level encryption system;
  - Benchmark 2: implementing measures ensuring the integrity and security of the personalisation and distribution and validation process for international passports and other breeder documents;
  - Benchmark 3: establishing training programmes and adopt ethical codes on anti-corruption targeting the officials of any public authority that deals with visas, breeder documents or passports;
  - Benchmark 4: promptly and systematically reporting to Interpol on lost and stolen passports;
  - Benchmark 5: ensure a high level of security of breeder documents and ID cards and define strict procedures surrounding their application and issuance;
  - Benchmark 6: cooperate on document security with the EU;
  - Benchmark 50: enhancing the investigative capacity of Turkish law enforcement services to investigate on identity and travel document fraud;
  - Benchmark 58: understanding the rules for the acquisition of Turkish citizenship;
  - Benchmark 59: provide information about the conditions for changing personal data.
7. There are measures in place both in Turkey and the EU to detect persons who seek to travel with forged or falsified documents. Checks carried out by the Turkish border police on the travel documents of the persons exiting the Turkish territory as well as those carried out by Schengen Member States' border guards on persons entering the

Schengen area seek to detect forged or falsified documents. In addition, the Commission will present measures to enhance electronic document security and ID management and to strengthen the fight against document fraud.

## **6) Turkey's implementation of the measures foreseen in the Roadmap**

As this CSWD and the Third Report to which it is attached show in great detail, Turkey has fulfilled all but one of the requirements addressing the risk that non-Turkish citizens, possibly including also persons willing to migrate irregularly or commit criminal and terrorist acts in the EU, may try to obtain forged or falsified Turkish travel or identity documents, or may too easily obtain a fake or real Turkish citizenship, with the aim to enter visa-free and in a facilitated manner into the EU as a Turkish citizen or by pretending to be a Turkish citizen.

The only requirement that, for objective reasons, given the acceleration of the time frame for visa liberalisation decided by Heads of State or Government, has not yet been achieved (*benchmark 1, requiring to establish biometric passports with chips including the fingerprints of the holders protected against forgery by high-level encryption system*) will be completed by Turkish authorities between June and October 2016, as soon as a certain number of preparatory steps, which are well underway, but whose realisation needed a timeline impossible to compress, will be completed. The introduction of fingerprints in addition to the photograph of the passport holders in the chip will ensure a sufficient level of protection. The level of encryption meets ICAO standards.

Despite good progress in addressing many other benchmarks of the Roadmap, nevertheless Turkey has not yet fulfilled all the requirements important to adequately address the risk of potentially increased mobility into the Schengen area of terrorists and criminals that are citizens of Turkey.

This is not without consequences. While both the EU and Turkey have put policies, legislation and structures in place to address and mitigate the consequences of these security risks, the full implementation of all benchmarks of the Roadmap would further improve the situation if the following measures are taken in order to fulfil all the benchmarks:

- Once Turkey has aligned its national legislation to the EU standards in the field of personal data protection, it will be able to negotiate and conclude an operational cooperation agreement with Europol. This would further enhance Turkey's cooperation with the EU in combating organised crime and terrorism. As regards Eurojust, Turkey has indicated that it intends to take concrete steps to upgrade its working relations.
- Furthermore, the fact that Turkey has not yet aligned its legislation and practices on terrorism with the European standards limits the full implementation of a comprehensive and effective police and judicial cooperation between Member States and Turkey in the fight against terrorism.
- Mutual trust between Turkey and the Member States would be further strengthened by Turkey's implementation of the measures against corruption which were recommended by the Council of Europe Group of States against corruption (GRECO), including measures on the funding of political parties, on immunities, on bribery, and on the independency of judiciary, and also the fact that Turkey is not yet accepting to offer judicial cooperation in criminal matters to all Member States, which would facilitate the cooperation between Turkey and Member States.

## **7) Conclusions**

Turkey has met 65 of the 72 benchmarks of its roadmap. There are effective measures in place in Turkey and the EU to address and mitigate the security risks related to the proposed visa liberalisation. The counter-terrorism dialogue between Turkey and the EU aims to strengthen cooperation and further mitigate security risks. Moreover, several of the 65 implemented benchmarks fulfilled substantially contribute to further addressing and mitigating these security risks. The fulfilment of six of the seven outstanding requirements would further ensure that any negative impact on the security situation on the EU of the proposed visa liberalisation for Turkish citizens would be addressed and mitigated. Of these six requirements, the fulfilment of one (upgrading the existing biometric passports so as to include security features in line with the EU standards) is well underway.