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## 1. INTRODUCTION

### 1.1. Context

Turkey remains a key partner for the European Union. Turkey has been linked to the EU by an Association Agreement since 1964 and a Customs Union was established in 1995. The European Council granted the status of candidate country to Turkey in December 1999 and accession negotiations were opened in October 2005. Within the framework of accession negotiations, 16 chapters have been opened so far and one of these was provisionally closed. The Turkish government reiterated its commitment to EU accession but this has not been matched by corresponding measures and reforms. On the contrary, Turkey has been moving away from the European Union. The Presidency conclusions of December 2016 stated that under the currently prevailing circumstances, no new chapters are considered for opening.

The EU and Turkey continued their dialogue and cooperation in the areas of joint interest including with a number of high-level visits, Leaders' meetings in May 2017 and March 2018 and a High Level Political Dialogue in July 2017. Dialogue was pursued on foreign and security policy, notably on Syria, Libya and Iraq, and a counter-terrorism dialogue was held in November 2017. Turkey and the EU further developed their cooperation in the areas of energy, transport and economy and trade, supported by high level dialogues. In December 2016, the Commission adopted a recommendation to open negotiations in view of the extension and modernisation of the EU-Turkey Customs Union, which has since been under consideration in the Council.

During 2017, the implementation of the March 2016 EU-Turkey Statement has continued to deliver concrete results in reducing irregular and dangerous crossings and in saving lives in the Aegean Sea. Turkey sustained its outstanding efforts to provide massive and unprecedented humanitarian aid and support to more than 3.5 million refugees from Syria and some 365 000 refugees from other countries. Turkey and the EU further built on the fruitful cooperation under the Facility for Refugees in Turkey. By the end of December 2017, the full envelope of EUR 3 billion had been contracted, with 72 projects and almost 1.2 million of the most vulnerable refugees benefited from monthly cash-transfers. Disbursements reached EUR 1.95 billion to date.

### 1.2. Summary of the report<sup>1</sup>

The **state of emergency** declared in the wake of the attempted coup of 15 July 2016 remains in force, aiming at dismantling the Gülen movement, designated by the Turkish authorities as a terror organisation responsible of the coup attempt, as well as at supporting the fight against terrorism, against the background of repeated attacks in Turkey.

The EU, which immediately and strongly condemned the attempted coup, reiterated its full support for the country's democratic institutions, and recognised Turkey's legitimate need to take swift and proportionate action in the face of such a serious threat. However, the broad scale and collective nature, and the disproportionality of measures taken since the attempted coup under the state of emergency, such as widespread dismissals, arrests, and detentions, continue to raise serious concerns. Turkey should lift the state of emergency without delay.

Serious shortcomings affect the 31 decrees taken to date under the state of emergency. They have not been subject to a diligent and effective scrutiny by parliament. Consequently, the decrees have long not been open to judicial review and none of them has yet been subject to a decision by the Constitutional Court. These emergency decrees have notably curtailed certain civil and political rights, including freedom of expression, freedom of assembly and procedural rights. They also amended key pieces of legislation which will continue to have an effect when the state of emergency is lifted.

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<sup>1</sup> This report covers the period from September 2016 to February 2018. It is based on input from a variety of sources, including contributions from the government of Turkey, the EU Member States, European Parliament reports and information from various international and non-governmental organisations.

Since the introduction of the state of emergency, over 150 000 people were taken into custody, 78 000 were arrested and over 110 000 civil servants were dismissed whilst, according to the authorities, some 40 000 were reinstated of which some 3 600 by decree.

A State of Emergency Appeal Commission became operational and received altogether some 107 000 appeal requests. This Commission only started to take decisions in December 2017 and it has so far provided redress to only few applicants. Its decisions are open to judicial review. It still needs to develop into an effective and transparent remedy for those unjustly affected by measures under the state of emergency.

Beyond the Appeal Commission, the capacity of Turkey to ensure an effective domestic legal remedy in the sense of the European Court of Human Rights has been further undermined by a number of unfortunate precedents. In one instance a lower court refused to observe a ruling of the Constitutional Court regarding an emblematic case; a follow up ruling by the Constitutional Court for one of the defendants was eventually abided with by a lower court. Several court rulings favorable to prominent defendants, including Human Rights Defenders, were swiftly reversed by another or even by the same court, in some instances following comments from the executive.

Key recommendations of the Council of Europe and its bodies are yet to be addressed by Turkey. Allegations of wrongdoing need to be established by transparent procedures and on an individual basis. Individual criminal liability can only be established with full respect for the separation of powers, the full independence of the judiciary and the right of every individual to a fair trial. Turkey should lift the state of emergency without delay.

In April 2017, Turkey held a referendum which approved by a close majority constitutional amendments introducing a presidential system. The amendments were assessed by the Venice Commission as lacking sufficient checks and balances as well as endangering the separation of powers between the executive and the judiciary. The referendum itself raised serious concerns in relation to the overall negative impact of the state of emergency, the 'unlevel playing field' for the two sides of the campaigns and undermined safeguards for the integrity of the election.

Under the state of emergency, the Parliament's key function as legislative power was curtailed, as the government resorted to emergency decrees with 'the force of law' to also regulate issues which should have been processed under the ordinary legislative procedure. In light of the worsening political frictions in the country, the space for dialogue among political parties was further narrowed in Parliament. Following the one-off lifting of parliamentary immunities in May 2016, many lawmakers of the opposition party HDP have been arrested and ten of them were stripped of their seats.

The President role over the executive increased, following several transfers of powers to the Presidency through emergency decrees. The appointment of trustees to replace municipal executives and elected representatives led to an important weakening of local democracy.

Civil society came under increasing pressure, notably in the face of a large number of arrests of activists, including human rights defenders, and the recurrent use of bans of demonstrations and other types of gatherings, leading to a rapid shrinking space for fundamental rights and freedoms. Many rights-based organisations remained closed as part of the measures under the state of emergency and an effective legal remedy has not been available with respect to confiscations.

The government overhauled the legal framework governing the civil-military relations and increased the powers of the executive over the military significantly, thereby strengthening civilian oversight. As part of the constitutional amendments, high military courts were effectively abolished. The military and intelligence services continue to lack sufficient accountability in Parliament.

The situation in the south-east has continued to be one of the most acute challenges for the country. The deteriorated security situation has in part shifted to rural areas. The government's pledge to continue security operations, against the background of recurrent violent acts by the Kurdistan Workers' Party (PKK), which remains on the EU list of persons, groups and entities involved in acts of

terrorism, remained as a defining element of the situation in the region. While the government has a legitimate right to fight against terrorism, it is also responsible for ensuring this is done in accordance with the rule of law, human rights and fundamental freedoms. Anti-terror measures need to be proportionate. The government's investment plan for the reconstruction of damaged areas in the south-east has resulted in the ongoing construction of thousands of dwellings but only few internally displaced persons received compensation so far. There were no developments on the resumption of a credible political process which is needed to achieve a peaceful and sustainable solution.

Turkey is moderately prepared in the area of **public administration** reform, with a strong commitment to a more open administration and the use of e-government. However, there has been serious backsliding in the area of public service and human resources management and in the area of accountability of the administration with regard to the right to administrative justice and the right to seek compensation. A transparent and effective remedy still needs to be provided for the large-scale dismissals.

Turkey's **judicial system** is at an early stage of preparation. There has been further serious backsliding in the past year, in particular with regard to the independence of the judiciary. The Constitutional amendments governing the Council of Judges and Prosecutors (CJP) entered into force and further undermined its independence from the executive. The CJP continued to engage in large-scale suspensions and transfers of judges and prosecutors. No efforts were made to address concerns regarding the lack of objective, merit-based, uniform and pre-established criteria in the recruitment and promotion of judges and prosecutors.

The country has some level of preparation in the **fight against corruption**, where no progress has been achieved. The legal and institutional framework needs further alignment with international standards and continues to allow undue influence by the executive in the investigation and prosecution of high-profile corruption cases. Turkey's track record of investigation, prosecution and conviction in corruption cases remained poor, particularly regarding high-level corruption cases. No progress was made in bolstering the accountability and the transparency in the work of public bodies. A broad, inter-party political consensus and strong political will are required to fight against corruption decisively. Turkey still needs to follow up on nearly all recommendations of the Council of Europe's Assembly of the Group of States against Corruption. Corruption remains prevalent in many areas and continues to be a serious problem. Corruption perception also remains high.

Turkey has achieved some level of preparation in the **fight against organised crime** and some progress was made with the adoption of a new strategy and improved institutional capacity. Turkey needs to improve its legislation on cybercrime, asset confiscation and witness protection. Data protection legislation is in place but it is not yet in line with European standards. Financial investigations remain underused. Precautionary freezing of assets is rarely applied and the level of confiscated assets is low. In the fight against terrorism, a comprehensive legal framework on terrorism financing is in place. Both the criminal and anti-terror legislation need to be aligned with European Court of Human Rights case-law. The proportionality principle must be observed in practice.

Turkey made good progress in the area of **migration and asylum policy** and remained committed to the implementation of the March 2016 EU-Turkey Statement effective management of migratory flows along the Eastern Mediterranean route. As regards the implementation of the Visa Liberalisation Roadmap, at the beginning of February, Turkey submitted to the European Commission a work plan outlining how Turkey plans to fulfill the seven outstanding visa liberalisation benchmarks. The Commission is assessing Turkey's proposals and further consultations with the Turkish counterparts will follow.

The Turkish legal framework includes general guarantees of respect for **human and fundamental rights**, which have however been further challenged and undermined by a number of emergency decrees. The serious backsliding on the **freedom of expression** continued, an area where Turkey is at an early stage of preparation. The scope of actions taken under the state of emergency has been

extended over time to many critical voices, in media and academia amongst others, in contradiction with the principle of proportionality. Criminal cases against journalists – more than 150 of them remain detained – human rights defenders, writers, or social media users, withdrawal of press cards, as well as the closure of numerous media outlets or the appointment by the government of trustees to administer them, are of serious concern and are mostly based on selective and arbitrary application of the law, especially provisions on national security and the fight against terrorism. The Internet Law and the general legal framework continue to enable the executive to block online content without a court order on an inappropriately wide range of grounds. There was also serious backsliding in the areas of freedom of assembly, freedom of association, procedural and property rights. Freedom of assembly continues to be overly restricted, in law and practice. Measures adopted under the state of emergency also removed crucial safeguards protecting detainees from abuse thereby augmenting the risk of impunity, in a context where allegations of ill-treatment and torture have increased. Emergency decrees imposed additional restrictions to procedural rights including on the rights of defence. The enforcement of rights is hindered by the fragmentation and limited mandate of public institutions responsible for human rights and freedoms and in a context where the judiciary's independence has been undermined. Extreme poverty and a lack of basic necessities remain common among Roma households in Turkey. The rights of the most vulnerable groups and of persons belonging to minorities should be sufficiently protected. Gender-based violence, discrimination, hate speech against minorities, hate crime and violations of human rights of lesbian, gay, bisexual, transgender and intersex persons are still a matter of serious concern.

Turkey expressed support for the talks on the Cyprus settlement between the leaders of the two communities, and for the efforts of the UN Secretary-General and his Special Adviser. A Conference on Cyprus, convened in Geneva in January 2017 and in Crans-Montana in July 2017, closed without an agreement. Turkey has still not fulfilled its obligation to ensure full and non-discriminatory implementation of the Additional Protocol to the Association Agreement and has not removed all obstacles to the free movement of goods, including restrictions on direct transport links with Cyprus. There was no progress on normalising bilateral relations with the Republic of Cyprus. The conclusions on Turkey that were adopted by the Council of the European Union and endorsed by the European Council in December 2006 remain in force. They stipulate that negotiations will not be opened on eight chapters<sup>2</sup> relating to Turkey's restrictions regarding the Republic of Cyprus and no chapter will be provisionally closed until the Commission confirms that Turkey has fully implemented the Additional Protocol to the Association Agreement.

Cooperation with Greece and Bulgaria on migration further intensified. However, tensions in the Aegean Sea and Eastern Mediterranean were not conducive to good neighbourly relations and undermined regional stability and security. Bilateral relations with several individual EU Member States deteriorated, including at times offensive and unacceptable rhetoric. In March 2018, the European Council strongly condemned Turkey's continued illegal actions in the Eastern Mediterranean and the Aegean Sea and recalled Turkey's obligation to respect international law and good neighbourly relations and to normalise relations with all EU Member States. The European Council also expressed its grave concern over the continued detention of EU citizens in Turkey, including two Greek soldiers, and called for the swift and positive resolution of these issues in a dialogue with Member States.

Turkey needs to commit itself unequivocally to good neighbourly relations, international agreements, and to the peaceful settlement of disputes in accordance with the United Nations Charter, having recourse, if necessary, to the International Court of Justice. In this context, the EU has expressed once again serious concern and urged Turkey to avoid any kind of threat or action directed against a Member State, or source of friction or actions that damages good neighbourly relations and the peaceful settlement of disputes.

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<sup>2</sup>Free movement of goods, right of establishment and freedom to provide services, financial services, agriculture and rural development, fisheries, transport policy, customs union, and external relations.

Regarding the **economic criteria**, the Turkish economy is well advanced and can be considered a functioning market economy. The economy supported by government stimulus measures, managed to recover from the contraction witnessed in the wake of the attempted coup of 2016 and achieved strong growth in 2017. However, high growth is coupled with significant macroeconomic imbalances. The current account deficit remains high and increased towards the end of 2017, making the country dependent on capital inflows and vulnerable to external shocks. Inflation moved to double-digit rates (11.1 %) in 2017, and the depreciation of the Turkish lira continued, highlighting concerns over the degree of commitment of monetary policy decision-makers to price stability. Turkey's economy continued to be characterised by a high level of informality. Overall, there was backsliding in this area. The tendency to increase state control in the economic sphere and the actions targeting companies, businessmen and political opponents and their businesses harmed the business environment.

Turkey has made some progress and has a good level of preparation to cope with competitive pressures and market forces within the EU. Turkey is well-integrated with the EU market in terms of both trade and investment. Some progress was made in the energy sector, particularly in the gas market, and in increasing research and development spending. However, significant problems remained with regard to the quality of education. There was no progress in improving the transparency of state aid.

Regarding its **ability to assume the obligations of membership**, Turkey has continued to align with the *acquis*, albeit at a limited pace. There have been more instances of backsliding regarding a number of key aspects in the areas of information society, social policy and employment and external relations. Turkey is well advanced in the areas of company law, trans-European networks and science and research and it has achieved a good level of preparation in the areas of free movement of goods, intellectual property law, financial services, enterprise and industrial policy, consumer and health protection, customs union and financial control. Turkey is only moderately prepared on public procurement as important gaps remain in its alignment. Turkey is also moderately prepared in the area of statistics and transport policy where further significant efforts are needed across the board. Turkey has only reached some level of preparation on environment and climate change where more ambitious and better coordinated policies still need to be established and implemented. In all areas, more attention needs to be given to enforce legislation whilst many areas require further significant progress to achieve legislative alignment with the EU *acquis*.



## 2. FUNDAMENTALS FIRST: POLITICAL CRITERIA AND RULE OF LAW CHAPTERS

### Measures under the state of emergency

The **state of emergency** declared after the attempted coup of 15 July 2016 remains in force. It has been extended six times, each time for a three-month period, and currently runs until 18 April 2018; its renewal for another three-month period, until July 2018, has been announced. Its primary objective is to dismantle the Gülen movement, designated as a terror organisation by the Turkish authorities in May 2016 and considered responsible for the organisation and execution of the attempted coup of 15 July 2016. The state of emergency is aimed more generally at supporting the fight against terrorism, against a background of repeated attacks in Turkey, overall a traumatic period in Turkey.

The EU, which immediately and strongly condemned the attempted coup, reiterated its full support for the country's democratic institutions and recognised Turkey's legitimate need to take swift and proportionate action in the face of such a serious threat. However, the broad scale and collective nature of measures taken since the attempted coup under the state of emergency, such as widespread dismissals, arrests and detentions, continue to raise very serious concerns.

Under the state of emergency and until early March 2018, the Council of Ministers issued a total of 31 **decrees**, which have 'the force of law' according to the Constitution. These emergency decrees provided the basis for limiting certain civil and political rights, including defence rights, expanding police powers and those of prosecutors for investigations and prosecutions, large-scale dismissals of public officials and closures of entities and the liquidation of their assets by the state. The decrees raise serious questions over the proportionality of the measures taken. They have not been subject to a diligent and effective scrutiny by parliament which received them for adoption only belatedly; 23 decrees were so far adopted by parliament, most of which only in the first quarter of 2018. Consequently, the decrees have long not been open to judicial review, as parliament adoption was a necessary prior step to any legal challenge before the Constitutional Court; none of them has yet been subject to a decision by the Constitutional Court. They affect key rights under the European Convention on Human Rights, such as the right to a fair trial, the right to an effective remedy and the right to protection of property. They introduce amendments to key pieces of legislation which will continue to have an effect after the state of emergency, notably in relation to property rights, local authorities, public administration and audiovisual policy. They also extend to a wide range of issues unrelated to the attempted coup, stipulating among other things the requirement for university rectors to be directly appointed by the President and the exemption of private radio and TV stations from monitoring for purposes of fair campaigning during elections.

Overall, over 150 000 people have been taken into **custody** since the state of emergency began. This included a large number of critical voices. Over 78 000 people have been arrested based on terror-related charges, of which, at the end of January 2018, 54 000 had been released pending trial with judicial control and 24 660 remained in pre-trial detention. Judicial processes involving suspected members of the Gülen movement and coup plotters raised serious questions about the respect of international standards. It is of particular concern that relatives of suspects were directly or indirectly targeted by a series of measures, including dismissal from public administration and confiscation or cancellation of passports. A set of unofficial criteria were relied upon to determine alleged links to the Gülen movement, including the attendance of a child at a school affiliated with the organisation, the deposit of

money in a bank affiliated with the organisation or the possession of the mobile messaging application ByLock. In September 2017, the Court of Cassation held that the possession of ByLock constitutes sufficient evidence for establishing membership of the Gülen movement. In October 2017, however, it ruled that sympathising with the Gülen movement does not amount to being a member of it and therefore does not constitute sufficient evidence of membership. Several people who had been arrested as a result of alleged usage of ByLock were released, after it was proven in December 2017 that hundreds of people had been wrongfully accused of using the mobile application.

In the reporting period, the government also continued its large-scale **dismissals** of officials from public service. A total of 115 158 civil servants, judges and prosecutors have been dismissed since the introduction of the state of emergency. While a relationship of trust and loyalty should exist between civil servants and the state, the broad scale and collective nature of these measures raised serious questions with regard to the lack of transparency in the administrative processes leading to dismissal from the civil service, and the vagueness of the criteria used to determine alleged links to the Gülen movement and establish personal involvement in the attempted coup. Dismissals have particularly affected the Ministries of Interior and Education. Thousands of police officers, teachers, academics, health workers and members of the judiciary are among those who have been removed from office. Among those dismissed from the education sector are teachers who are members of a left-wing teachers' union, and academics who had signed the 'Peace Declaration' of January 2016. Until the State of Emergency Appeal Commission was established and started handing down decisions in December 2017, 3 604 people had been reinstated to office by decree whilst another 36 000 reinstatements took place (according to the authorities), following an unclear and opaque administrative process across various institutions.

In its December 2016 opinion, the Venice Commission assessed in detail the state of emergency and the decrees and found a number of shortcomings. In January 2017, some improvements were made to the measures taken under the state of emergency in response to scrutiny by the Council of Europe and the recommendations made by its Secretary-General including the establishment of a State of Emergency Appeal Commission. In addition, the maximum length of police detention was reduced from 30 days to a maximum of 7 days, with the possibility of prolonging this by another 7 days, and a limit of only 24 hours without access to a lawyer was introduced.

The task of the seven-member State of Emergency Appeal Commission, which became operational in July 2017, is to individually review all complaints it receives. Its decisions will be open to judicial review before a designated administrative court in Ankara and then before the Constitutional Court. 220 staff, including judges, prosecutors, inspectors, experts and civil servants, have been seconded to the Appeal Commission. In August 2017, the Constitutional Court ruled some 70 000 individual applications were inadmissible as they had not exhausted all earlier domestic remedies, directing applicants to the Appeal Commission and/or to administrative courts. The European Court of Human Rights also re-directed some 28 000 applications it had received to the Appeal Commission. As a result, the Appeal Commission had by early March 2018 received altogether some 107 000 appeal requests. Decisions began to be handed down in December 2017. Until early March 2018, a total of 6 400 cases was examined, including 1 984 preliminary examination decisions regarding people who were reintegrated by decree. The Appeal Commission took over 4 400 examination decisions. Of these, 100 were favourable and 4 316 were rejected. There is a need for increased transparency in the Appeal Commission's work and for clear reasoning to be provided for its

decisions, following an individualised examination of each file based on its own merits. The Appeal Commission still needs to develop into an effective and transparent remedy for those unjustly affected by measures under the state of emergency.

It is also crucial that the judicial safeguards for all those who have been dismissed or imprisoned are based on the European Convention on Human Rights and on case-law from the European Court of Human Rights. Beyond the Appeal Commission, the capacity of Turkey to ensure an effective domestic legal remedy in the sense of the European Court of Human Rights (ECtHR) has been further undermined by a number of unfortunate precedents. In one instance a lower court refused to observe a ruling of the Constitutional Court regarding an emblematic case; a follow up ruling by the Constitutional Court for one of the defendants was eventually abided with by a lower court. In its decisions of 20 March 2018, the European Court of Human Rights expressed support to the reasoning and the role of the Turkish Constitutional Court. Several court rulings favourable to prominent defendants, including Human Rights Defenders, were also swiftly reversed by another or even by the same court, in some instances following comments from the executive.

In April 2017, the Parliamentary Assembly of the Council of Europe decided to reopen its full monitoring procedure in respect of Turkey, closed since 2005, until its serious concerns about the respect for human rights, democracy and the rule of law have been addressed. This will entail regular visits by rapporteurs to conduct a dialogue with authorities and plenary debates to review progress. In February 2018, the Assembly's Committee on Legal Affairs and Human Rights submitted to the plenary a report which found a number of serious shortcomings regarding the proportionality of the state of emergency in Turkey and urged Turkey to lift the state of emergency. Similar findings were recorded by the Office of the United Nations High Commissioner for Human Rights in a Report issued in March 2018 on the impact of the state of emergency on human rights in Turkey, including an update on the South-East (January – December 2017).

## **2.1. Functioning of democratic institutions and public administration reform**

### **2.1.1 Democracy**

#### **Constitutional amendments**

In April 2017, Turkey held a referendum which approved constitutional amendments introducing a presidential system. The Venice Commission assessed the constitutional amendments as lacking sufficient checks and balances as well as endangering the separation of powers between the executive and the judiciary. The referendum itself raised serious concerns for international monitors in relation to the overall negative impact of the state of emergency, the 'unlevel playing field' for the two sides of the campaigns and undermined safeguards for the integrity of the election. Turkey should use the period of adjustment to the new system in order to introduce checks and balances and to safeguard the basic principle of democracy, in line with its commitments and obligations as a candidate country and a member of the Council of Europe. In view of the far-reaching implications of the constitutional amendments and the close referendum result, the Turkish authorities also need to seek the broadest possible societal consensus on the implementation of the constitutional amendments. Turkey needs to address all the recommendations made by the OSCE/ODIHR relating to the constitutional referendum and past elections.

In the aftermath of the attempted coup, the ruling Justice and Development Party (AKP) and the Nationalist Movement Party (MHP) agreed on amendments to the Constitution, aimed at

introducing a presidential system in Turkey. The constitutional amendments were subsequently approved, in January 2017, by a three fifths majority in Parliament. The parliamentary process suffered from certain procedural shortcomings. There was no genuine opportunity for open discussion with all political forces nor did it involve civil society, and was held against a background of a general ban on assemblies and rallies in Ankara and in other parts of Turkey. The constitutional changes were endorsed in a close-run referendum (51.41 % in favour and 48.59 % against) which took place on 16 April 2017, while the state of emergency was in force. The Electoral Commission and Turkish courts rejected all objections to the results of the referendum. The presidential system is set to be fully operational following the next presidential and legislative elections, due to be held in November 2019 at the latest.

The International Referendum Observation Mission conducted by the Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Cooperation in Europe (OSCE) concluded that the constitutional referendum held on 16 April 2017 was generally well administered and that referendum day proceeded in an orderly manner. However, it highlighted serious concerns, particularly in relation to the broader environment in which the referendum took place, underlining the overall negative impact of the state of emergency. It found that the one-sided media coverage and the limitations on fundamental freedoms did not create a level playing field in which the two sides of the campaign could enjoy equal opportunities. The power the Supreme Election Council normally has to penalise private radio and television channels for making one-sided, biased broadcasts during election and referendum campaigns had been removed under an emergency decree. The OSCE/ODIHR further found that instructions issued on referendum day, which relaxed the validity criteria for ballots, had undermined an important safeguard protecting the integrity of the election.

Each sovereign state has the right to decide for itself on the form of its government and state. However, in its March 2017 opinion, the Council of Europe's Venice Commission highlighted several features of the new political system which raise particular concerns with regards to the basic principles of democracy. It concluded that the constitutional amendments, which were drafted without consultations with the Council of Europe, represent a dangerous step backwards in Turkey's constitutional democratic tradition. The Venice Commission underlined that the future presidential system was characterised by a lack of the necessary checks and balances required to safeguard against an excessive concentration of power in one single office and to ensure the independence of the judiciary. Under the new system, the President's political accountability will be mainly limited to elections. Several provisions curtail the independence of the judiciary from the executive and run contrary to European standards.

Under the new political system brought about by the constitutional amendments, elections of the President and of Members of Parliament (which increased from 550 to 600 members) are to be held on the same day. The entry into force of the presidential system will abolish the office of Prime Minister, and vice-presidents and ministers will be appointed directly by the President, with no role for Parliament. The President will have the power to:

- appoint and dismiss senior government officials;
- set national security policies and take the necessary implementation measures;
- declare a state of emergency;

- issue presidential decrees on executive matters outside the scope of the law;
- indirectly dissolve Parliament by calling for new Parliamentary and Presidential elections;
- draw up the government budget;
- veto laws; and
- appoint 4 out of 13 members of the Council of Judges and Prosecutors and 12 out of 15 judges of the Constitutional Court.

Parliament's traditional instruments for scrutiny of the executive, such as a vote of confidence and the possibility of oral questions to the executive, will no longer be possible; only written questions will be able to be addressed to vice-presidents and ministers. If three fifths of its members agree, Parliament will be able to launch a parliamentary investigation into alleged criminal actions by the President, vice-presidents and ministers related to their functions. The principle of precedence of laws over presidential decrees is enshrined in the new system and the President may not issue decrees in areas reserved to the legislature by the Constitution. The President has the power to veto any law although Parliament can override this veto if an absolute majority agrees, while Parliament can only apply to the Constitutional Court to annul presidential decrees.

Three constitutional amendments were implemented in May 2017: the reform of the Council of Judges and Prosecutors (*see Chapter 23 — Judiciary and fundamental rights*); the right for the President to also chair a political party; and the abolition of high military courts. In these constitutional amendments, Parliament was given six months to harmonise ordinary legislation with the amendments to the Constitution, but this extensive work has not yet been completed.

## Parliament

Under the state of emergency, Parliament's key function as the legislative power was curtailed, as the government resorted to decrees with 'the force of law' to regulate issues which should have been processed under the ordinary legislative procedure. Parliament discussed only a handful of key pieces of legislation, notably the law amending the Constitution and controversial changes to its rules of procedure. Following the worsening political frictions in the country, the space for dialogue among political parties was further narrowed in Parliament. The opposition People's Democratic Party (HDP) was particularly marginalised, with many HDP lawmakers being arrested on the grounds of alleged support for terrorist activities and ten of them being stripped of their seats. The system of parliamentary immunity in Turkey should be reinforced to ensure the freedom of speech of Members of Parliament.

The ordinary **legislative process** was applied only to a handful of key pieces of legislation, since the government resorted extensively to emergency decrees with 'the force of law' according to the Constitution. The 31 issued emergency decrees were used, under a broad interpretation of the needs of the state of emergency, for a wide range of social and economic policy issues (including the regulation of horse riding races and use of winter tyres), amending some altogether over 360 pieces of legislation, effectively circumventing the ordinary legislative process. Amendments to Parliament's rules of procedure were jointly put forward by the AKP and MHP in July 2017 without any involvement of the other political parties. They provide for shortened procedures and interventions by Members of Parliament (MPs) and/or party groups; penalties for MPs who bring any protest-related materials into

Parliament; and the possibility of temporarily suspending a MP who makes insults and accusations against the history and past of the Turkish nation, makes statements in violation of the first four articles of the Constitution in relation to the integrity of the Turkish state, its republican form, its anthem and symbols, or uses names and adjectives for the administrative structure of the Republic of Turkey that are contrary to the Constitution and Turkish legislation. These changes run contrary to a long-standing recommendation to Turkey to improve the inclusiveness, transparency, and quality of law-making. They also carry the risk of limiting the freedom of expression of MPs, in contravention of the principle of parliamentary privilege, an essential element of parliamentary immunity.

**Parliamentary oversight of the executive**, which was already weak, was further curtailed under the state of emergency. There was a lack of effective parliamentary scrutiny of emergency decrees issued by the government. As of February 2018 all 31 emergency decrees had been submitted to Parliament but well beyond the set deadlines, whilst only 23 decrees have been so far discussed and approved, in some instance with limited adaptations. There was no improvement in executive follow-up to ordinary parliamentary oversight, such as committee work, parliamentary questions or parliamentary inquiry committees. Some parliamentary committees scrutinise government work by assessing implementation of the major policies and legislation, but there is no systematic approach.

Parliamentary oversight of public spending also continues to need improvement. The audit reports from the Turkish Court of Accounts are only considered in the Planning and Budget Committees in connection with the approval of the final accounts and the draft government budget for the following year, but there is no formal parliamentary discussion of these audit reports. The special parliamentary investigation committee set up in October 2016 to probe the attempted coup held hearings with many witnesses. Its draft report from May 2017 provides a very detailed account of the attempted coup and of the attribution of responsibility to the Gülen movement. The opposition criticised the fact that key individuals only submitted written testimonies and the committee allegedly failed to reveal the full details of the attempted coup.

There was no progress on aligning the **legal framework on elections and political parties** with European standards, including the 10 % threshold requirement for parties to obtain seats in national elections and funding for political parties and elections, in line with outstanding recommendations by the OSCE/ODIHR and the Council of Europe's Group of States against Corruption (GRECO). In March 2018, amendments to the laws on elections and political parties were approved by the ruling AKP supported by MHP and strongly criticised by the opposition CHP and HDP. They provided for the possibility to form electoral alliances between parties, gave new powers to the Supreme Board of Elections to relocate or merge polling stations on security grounds and removed a requirement for ballot papers to be sealed by the polling station officials, regarded as an important safeguard for the integrity of the election.

Following the one-off lifting of **parliamentary immunity** in May 2016, a series of detentions of and/or arrests of MPs began, mainly from the HDP, mostly based on public speeches and on the grounds of alleged support for terrorist activities. As of early March 2018, nine MPs from the HDP, including its two co-chairs Selahattin Demirtaş and Figen Yüksekdağ, remained under arrest. Six of them have been convicted. In addition, one MP from the CHP was arrested and initially received a sentence to 25 years imprisonment, which was reduced to five years and ten months, on charges of revealing state secrets, following review by the

regional court of appeal. In all these cases, MPs were subjected to long pre-trial detention before charges were presented before the courts. Until January 2018, requests by HDP MPs to appear in person at court hearings were systematically rejected, the courts only granting them the right to take part through a video-conferencing system. Despite numerous attempts, international observers, including from the European Parliament, were denied the right to visit the two imprisoned HDP co-chairs. Ten MPs from the HDP, including one of its co-chairs, were stripped of their seats in Parliament. This emphasises that the restrictive interpretation of guarantees provided by the Constitution and shortcomings in anti-terror legislation continue to pose a direct risk to the freedom of expression of MPs. Freedom of expression of MPs is an essential part of democracy and should also be protected when they speak outside Parliament.

## Governance

The President's role over the executive increased further, in particular with several transfers of power to the Presidency through emergency decrees. A partial government reshuffle took place in July 2017. The government's activities continued to be marked by efforts to dismantle the Gülen movement and by the security challenges it is facing, including in the south-east. The appointment of trustees to replace municipal executives and elected representatives led to a significant weakening of local democracy.

The **President** continued to weigh in over the executive, notably by regularly chairing the Council of Ministers and the National Security Council and steering the country's domestic and foreign policy, in line with the current Constitution. The powers of the President were further strengthened as, under the state of emergency, decrees are made by the Council of Ministers under the chairmanship of the President. The President was also given authority over the National Intelligence Agency and the power to directly appoint rectors of public universities. In May 2017, in accordance with one immediately applicable change to the Constitution, President Erdoğan was elected chair of the ruling AKP. The presidential system will enter into full force from the next presidential election.

Turkey faced major domestic and foreign policy challenges during the reporting period. Following the attempted coup in July 2016, the **government's** primary focus has been dismantling the Gülen movement and tackling its influence over and infiltration of state structures and society. The government increased its diplomatic efforts to curb the presence and influence of the Gülen movement abroad. Internal and cross-border security also remained major priorities, with the continued risk of spillover from developments in Syria and Iraq. Following frequent terror attacks in late 2016, the government further intensified its fight against the PKK and conducted frequent operations against Da'esh cells inside Turkey.

In July 2017, there was a partial cabinet reshuffle affecting 11 out of 26 ministerial posts. The cabinet now includes two women, increased from one.

As regards **local government**, the detention or arrest under terrorism-related charges of elected representatives and municipal executives in the east and south-east continued. As of November 2017, 93 mayors and co-mayors had been dismissed and arrested within the last three years, of which 22 were released following proceedings and 71 are still in prison. Eleven local administrators were sentenced to a total of 89 years and 3 months of imprisonment due to terror-related charges. The number of municipalities to which a trustee has been appointed increased from 33 up to 99. 94 of these were municipalities run by the Democratic Regions Party (DBP), the regional affiliate of the HDP, in relation to alleged links with the PKK, and a trustee was also appointed to administer the Union of south-eastern Anatolia Region

Municipalities. Trustees were appointed to four municipalities run by the AKP, one by the MHP, mainly on the grounds of alleged links to the Gülen movement. It is crucial that citizens are permitted to choose new local elected representatives in accordance with Turkish law and with the European Charter of Local Self-Government, to which Turkey is a party. In its October 2017 opinion, the Venice Commission expressed concerns over the introduction of structural changes to the system of local government through emergency decree. In March 2017, the Council of Europe's Congress of Local and Regional Authorities adopted a resolution on the situation of the mayors who had been removed from office. In a separate development, seven mayors from the ruling AKP, including the mayors of Istanbul and Ankara, were asked to resign from office, as part of a renewal of officials launched by the AKP in the aftermath of the constitutional referendum, a move also seen as a further erosion of local democracy in Turkey.

The **Ombudsman** further built up its track record. In 2017, it received 17 131 new applications in 2017, almost three times as many as on average in the previous four years. It completed its examination of some 14 700 cases, and adopted 422 recommendations or partial recommendations. The public administration acted on about 65 % of these recommendations, confirming a trend of steady increase in their follow-up. The Ombudsman has been active in raising awareness of the role. However, lacking powers to initiate investigations and to intervene in cases with legal remedies, the Ombudsman remained silent on certain human rights concerns, most notably on reported human rights violations in the south-east. The limited powers of the Ombudsman reduce the effectiveness of his contribution to the fields of human rights and good governance.

The legal framework insufficiently protects Turkey's eight independent **regulatory authorities** from undue political interference. They have a broad legal mandate to undertake quasi-judicial regulation, inspection and supervisory functions in their sectors, including determining standards and tariffs. Given these important responsibilities, there is a need to ensure greater accountability and independence for the independent regulatory authorities.

### **Civil society**

There has been serious **backsliding** regarding civil society as it came under increasing pressure, notably in the face of a large number of arrests of activists, including human rights defenders, and the recurrent use of bans of demonstrations and other types of gatherings, leading to a rapid shrinking of space for fundamental rights and freedoms. Many rights-based organisations remained closed as part of the measures under the state of emergency and they have not been offered any legal remedy in relation to confiscations. Despite this, civil society remained active and involved in public life as far as was possible. The map of civil society organisations has started to change significantly, with a more visible role given to the pro-government organisations. Administrative burdens, including for international non-governmental organizations (NGOs), continue to hamper civil society activities. Systematic and inclusive mechanisms for consulting a wide spectrum of civil society, notably on new legislation and policies, need to be put in place and used consistently.

An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by the state institutions. Turkish civil society organisations (CSOs) continued to make crucial contributions on key challenges facing the country, notably in the areas of education, female workforce participation, awareness-raising regarding ethnic and social tolerance, and support for refugees. Many of the more than 23 000 CSOs in Turkey are dedicated to researching or advocating on political and social issues such as education,



gender rights and environmental justice or to supporting refugees. There are a limited number of CSOs operating in the field of human rights.

Civil society continued to face increasing pressure, in particular following the high number of detentions and arrests of civil society activists and human rights defenders. Smear campaigns in some media outlets against some of these activists, including for accepting funds from international donors, became a recurrent feature and a matter of serious concern. Defamatory public rhetoric cast serious doubt on Turkey's respect for due process and the presumption of innocence. International NGOs also faced difficulties in their work in Turkey, including those providing humanitarian aid to refugees. More than 1 400 associations were closed on the basis of emergency decrees. These associations were active in a wide spectrum of activities, such as children's rights, women's rights, cultural rights, and victims' rights, among others. 358 were allowed to reopen following a re-examination of their case. While there has been no effective domestic remedy available in respect of confiscation of assets from CSOs closed by emergency decrees, it remains to be seen whether the State of Emergency Appeal Commission will become effective for the re-establishment of such entities.

Other barriers to civil society remain. Administrative burdens imposed on NGOs by the authorities are still in place. Some associations and foundations are subject to disproportionately long and repetitive audits. The legislation on freedom of association for national and foreign organisations and the implementation of this legislation should be brought in line with European standards. Provisions restricting registration, procedures for obtaining required permissions and the functioning of associations need to be revised to meet these standards, including to facilitate the work of international NGOs working with refugees in Turkey.

The EU-Turkey civil society dialogue programmes have so far involved approximately 900 Turkish CSOs together with their counterparts in the EU. These programmes support the development of civil society and enable greater recognition of CSOs at local level. However, there is no comprehensive government strategy in place in relation to cooperation with civil society. Independent rights-based CSOs are mostly excluded from consultations as part of law and policy-making processes and monitoring. Overall, the legal, financial and administrative environment needs to be more conducive to developing civil society, as there is still no coordination body for monitoring, no transparent mechanism for public funding and no appropriate fiscal incentives.

### **Civilian oversight of the security forces**

The government overhauled the legal framework governing civil-military relations in the aftermath of the attempted coup of July 2016 and significantly increased the powers of the executive over the military, thereby strengthening civilian oversight. High military courts were abolished. A large number of high-ranking officers were dismissed and arrested on the grounds of their alleged involvement in the attempted coup. Security personnel who have counter-terrorism duties continue to enjoy extensive legal protection. The military and intelligence services continue to lack sufficient accountability before Parliament.

Emergency decrees introduced major changes to the organisational structure of the Turkish armed forces. The force commands were attached to the Ministry of National Defence. In a similar vein, the coast guard commands were attached to the Ministry of Interior. The Supreme Military Council was convened in August 2017. It pursued established practice to a large extent in promoting and appointing military staff. Alongside a number of other security

and defence issues, the organisational structure of the National Intelligence Agency (MIT) was overhauled outside the ordinary legislative process through an emergency decree. The MIT was brought under the authority of the President. The MIT's powers to gather intelligence about the Turkish armed forces and its personnel, abolished in 2011, were reintroduced. As part of the constitutional amendments, high military courts were effectively abolished.

Despite credible reporting of serious allegations of human rights violations and of the disproportionate use of force by the security forces in the south-east, the track record of judicial and administrative examination of these cases remains poor. A law enforcement oversight commission, set up in 2016 but lacking independence from the executive and with no powers to launch its own investigations, remained ineffective.

Parliamentary, administrative and judicial oversight and accountability of security and intelligence forces remains inadequate. The parliamentary security and intelligence committee continued to have a very limited mandate for oversight. The legal framework for overseeing military expenditure has not yet been improved.

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

The situation in the south-east has continued to be one of the most acute challenges for the country. The deterioration of the security situation in the region since the collapse of the Kurdish settlement process in 2015 continued, affecting urban areas to a lesser extent in 2017, instead shifting to rural areas. The government's pledge to continue security operations, against the background of the recurrent violent acts by the terrorist Kurdistan Workers' Party (PKK) and PKK-affiliated groups, remained a defining element of the situation in the region. The PKK remains on the EU list of persons, groups and entities involved in acts of terrorism. While the government has a legitimate right to fight against terrorism, it is also responsible for ensuring that this is done in accordance with the rule of law, human rights and fundamental freedoms. Anti-terror measures need to be proportionate. The government's investment plan for reconstructing damaged areas in the south-east, announced in September 2016, has resulted in the ongoing construction of thousands of dwellings. Only a small number of internally displaced persons have so far received compensation. There were no developments on the resumption of a credible political process which is needed to achieve a peaceful and sustainable solution.

The PKK or its affiliated groups continued to commit a large number of violent terrorist attacks during the reporting period, including the killing of individual politicians. The PKK killing of a minor in Trabzon stirred anger and condemnation in Turkish society and from all political parties. Dozens of other terrorist attacks by the PKK targeted cities in the south-east and east of Turkey and Istanbul. The EU unambiguously condemned these attacks and expressed solidarity with the families of the victims.

Province governorates reacted by declaring curfews and security zones, at times open-ended, in at least 47 districts in 11 provinces. These have only been lifted in some areas. These curfews disrupted the daily lives of the 1.8 million inhabitants of the affected areas, affecting their access to healthcare and education. The Venice Commission's recommendations in their June 2016 opinion on the legal framework governing curfews have yet to be implemented. Investigations into the deaths of civilians in 2015 during security operations under curfews in towns such as Cizre have not progressed. In March 2017, the Council of Europe's Human Rights Commissioner asked to intervene as a third party in 34 ongoing applications before the

European Court of Human Rights in relation to curfews and to basements where people lost their lives in Cizre, in the province of Şırnak and in the Sur district of Diyarbakır.

Human rights organisations and opposition parties reported serious violations of human rights by security forces, including alleged instances of torture, ill-treatment, arbitrary arrests and breaches of procedural rights. Ten citizens have filed criminal complaints regarding alleged use of torture in Hakkari. There were several reported instances where civilians were allegedly killed in anti-terror operations. A report by the Office of the UN High Commissioner for Human Rights published in February 2017 stated that it has seen no evidence that effective and independent investigations had been conducted into the reported killings and the numerous other serious human rights violations allegedly committed between July 2015 and December 2016 in relation to security operations. The UN Commissioner reported that human rights defenders face major difficulties in accessing areas affected by ongoing violence, also impeding their work in the field on forced disappearances that occurred in the 1990s. Using a very broad interpretation of the fight against terrorism, increasing restrictions were put in place on the rights of journalists and human rights defenders working on the Kurdish issue. Other associations and Kurdish-language media outlets were closed.

There were numerous new detentions and arrests of elected representatives and municipal executives in the east and south-east, under terrorism-related charges, and trustees were appointed in their place (*See section above — Governance*).

The clearance of landmines continued. The South-eastern Anatolia Project (GAP) continued to run, with the aim of improving socioeconomic development in the region. The government's investment plan for reconstructing damaged areas in the south-east, announced in September 2016 and worth more than EUR 3 billion, has resulted in the ongoing construction of thousands of dwellings. There were some initial work done by the government to restore the cultural, historical and religious heritage sites damaged in 2015 and 2016. However, civil society has continued to be critical of projects such as the Ilisu Dam which risks damaging natural habitats, agricultural land and historical heritage sites such as Hasankeyf. Some neighbourhoods of Sur district in Diyarbakır continued to be closed to the public. It was reported that only a small percentage of internally displaced persons have been offered new housing and only limited overall assistance, including compensation, has been made available. The expropriation of Sur district in 2016 by the government remains a legal issue. Cases brought by people against the expropriation have been lost in administrative courts.

There is still no comprehensive, consistent approach in relation to missing persons, the exhumation of mass graves and the independent investigation of all alleged cases of extrajudicial killing by security and law enforcement officers. The February 2017 Council of Europe report on missing persons and victims of enforced disappearance in Europe highlighted the excessive length of trials. Most of the investigations into cases of enforced disappearances from the 1990s are, or will soon be, facing the 20-year statute of limitations. The 2011 Uludere/Roboski case on the killing of 34 civilians by the military is pending before the European Court of Human Rights. The 2015 recommendations by the UN Special Rapporteur to tackle the lack of prosecutions over extrajudicial, summary or arbitrary executions have not been followed up.

The village guard system is still in place, despite criticism. There were reported incidents of human rights violations by village guards and of the PKK kidnapping and killing village guards.

### **Refugees and internally displaced persons**

At the end of 2017, Turkey hosted the largest number of refugees worldwide for the third consecutive year, comprising about 3.5 million Syrians and 365 000 people of other nationalities. Around 228 000 Syrians live in 21 camps managed by the Disaster and Emergency Management Agency (AFAD) along the Turkish-Syrian border. Significant efforts were made to provide wider access to schooling and healthcare. Out of 1.5 million Syrians of school age in Turkey, about 605 000 now have access to primary and secondary education. By the end of 2017, 15 700 work permits had been issued to Syrians under temporary protection (*see Chapter 24 — Justice, freedom and security*).

There has been only limited progress on the situation of internally displaced persons resulting from the violence in the south-east, and only a small percentage of them have been offered new housing (*see section above — Situation in the east and south-east*).

#### **2.1.2 Public administration reform**

Turkey is **moderately prepared** in the field of public administration reform. There has been serious **backsliding** in the areas of public service and human resources management: no effective remedy has been provided for large-scale dismissals or in relation to the administration's accountability, notably the right to administrative justice and the right to seek compensation. At the same time, very good progress has been made on e-government. The European Commission's recommendations from 2016 have not been implemented. There is still neither a comprehensive public administration reform strategy nor political ownership of this reform. Inclusive and systematic public consultations and regulatory impact assessments for major legal reforms have either not been carried out or have not been publicised. The politicisation of the administration and the low level of female representation in the higher echelons of bureaucracy continue to be of serious concern.

In the coming year, Turkey should in particular:

- ensure that the State of Emergency Appeal Commission becomes an effective remedy safeguarding the right of every individual to a fair administrative process;
- prepare changes to its legislation to introduce merit-based, competitive recruitment for senior managerial positions in the civil service;
- start to systematically conduct impact assessments for planning documents and legislative proposals, in line with the legislation in force.

#### Policy development and coordination

Turkey has a coherent **policy-making system**. Policy coordination among central government institutions has been traditionally strong, but annual planning, monitoring and reporting of whole-of-government performance continue to be lacking. The planning process could be further improved, with greater participation by stakeholders and by ensuring that objectives are better formulated and targets are properly quantified. The lack of systematic links between policy and fiscal planning has continued to jeopardise the implementation of strategies, reform programmes and legislation.

With regard to European integration related issues, a comprehensive legal framework exists for planning and legislative harmonisation with the *acquis*. The main shortcoming stems from unrealistic planning, with a large backlog of legislation to be adopted or amended, and a low implementation rate. Based on the latest available implementation information for 2017, progress has only been made on only one third of planned European integration-related legislative commitments.

Legislation and policy formulation do not follow an **inclusive and evidence-based policy development process**. Draft policies and laws are not subject to **public consultation**, despite legal requirements. The legal requirement to produce medium-term cost estimates and fiscal impact assessments for draft policies and laws continues not to be respected. Regulatory impact assessments are a formal exercise and they are neither sent to Parliament nor published. The lack of uniform monitoring and reporting on implementation of key government programmes and sector work hinders effective **public scrutiny of government work**, especially as most reports are not made publicly available.

#### Public financial management

Turkey still does not have an overarching **public financial management reform programme**. Overall, fiscal discipline is ensured, despite the absence of an independent fiscal council. **Budget transparency** still needs to be further improved at various levels. Transparency of public investment programmes and state assets is weak. Participation by civil society in the budgetary process remains limited. Legislation to bring revolving funds into the budget process is progressing slowly.

#### Public service and human resources management

The Law on Civil Servants gives an extremely broad definition for public service, including different categories of public servants such as contractual civil servants, temporary staff and other workers who do not all fall under the same legislation. Women's participation in public service, which was around 37 % both in 2016 and 2017, needs to be improved, as does the percentage of women in senior managerial positions (7.8 % in 2017 and 7.6 % in 2016). The employment rate for staff with disabilities remains short of the 3 % target.

The civil service legal framework does not fully guarantee neutrality, continuity or **merit-based recruitment and promotion** procedures. Investigations into the entry exam procedures have been further extended, following allegations that these had been rigged by the Gülen movement.

The government continued its large-scale **dismissals** of public servants. While the legal framework normally guarantees application of uniform criteria for demotion, dismissals and disciplinary measures, with provision for appeal against these, the large-scale dismissals made under the state of emergency did not identify verifiable evidence relating to each individual case and lacked minimum procedural safeguards in the absence of judicial review. At the end of February 2018, out of a total number of 110 778 people who had been dismissed, 3 604 people had been reinstated to office by decree whilst another 36 000 reinstatements took place (according to the authorities), following an unclear and opaque administrative process across various institutions. The State of Emergency Appeal Commission had received some 107 000 appeal requests by early March 2018 and by that date had completed the examination or pre-examination of 6 400 cases. The Appeal Commission started to make decisions in December 2017, but so far provided redress to only a small number of applicants. There is a need for increased transparency in the Appeal Commission's work and for clear reasoning to be

provided for its decisions, following an individualised examination of each file based on its own merits. The Appeal Commission needs to examine all alleged wrongdoings by these public servants on an individual basis, with due process and transparent procedures, thus safeguarding the right of every individual to an equitable administrative process. It still needs to develop into an effective and transparent remedy for those unjustly affected by measures under the state of emergency. It remains difficult to precisely assess the effect of dismissals on the institutional capacity of public administration in Turkey, in particular as the situation varies from one ministry or governmental agency to another. The impact on institutional capacity has been significant in those public institutions, including in the judiciary, the security forces and key regulatory bodies in the areas of public finance, energy, banking and capital markets, where a large percentage of staff, including senior management, and decision-making structures have been affected.

The State Personnel Presidency continued to lack the necessary coordination and monitoring capacity to ensure implementation of modern **human resources management** policy and standards across the administration. The civil service **remuneration system** is not standardised across institutions and lacks transparency. Although central institutions offer some training and are responsible for some aspects of training policy, the administration lacks sufficient tools to support the **professional development of civil servants**. While **integrity in public service** is boosted by ethics committees and an ethics board, set up in the Prime Ministry, no integrity plans have been issued since 2014.

#### Accountability of the administration

The state administration is organised in a hierarchical and rational way, ensuring basic **lines of accountability**. Most executive agencies are formally embedded under ministries, while they have a lot of autonomy in operational management. Some institutions have a culture of managerial accountability and delegation of responsibilities (*see Chapter 32: Financial control*).

Internal and external oversight arrangements regarding the **citizens' right to good administration** need to be better implemented. The role of oversight institutions such as the Ombudsman remained limited, in the absence of *ex officio* powers (*see Governance*). The rate at which oversight institutions' recommendations are implemented is difficult to assess due to a lack of data collection.

**Citizens' right to access public information** is regulated by the law on the right to information, which does not require proactive disclosure of information and provides for broad exemptions on grounds of protecting state secrets, commercial secrets and personal data. A simplified online access system received about 1.5 million applications for access to information in 2017. The percentage of requests refused remained small (approximately 8 % in 2017, similar to 2016). The Board of Review of Access to Information is responsible for considering appeals filed against a refusal to provide access to public information. Filing an appeal is free of charge.

**Citizens' rights to administrative justice** and their **right to seek compensation** could not be directly exercised by natural and legal persons affected by measures under the state of emergency. While the State of Emergency Appeal Commission was created to fill this legal vacuum, it only began to make decisions in December 2017. These will be open to judicial review, and the commission has yet to develop into an effective remedy. The lack of compensation remains an issue of concern for people in the east and south-east of Turkey.

## Service delivery to citizens and businesses

Strong commitment to a **user-oriented administration** has led to the expansion of e-government services and provision of smart identity documents. Very good progress has been made on e-government. The number of registered users has reached 35 million in 2017, up from 25.2 million in 2015. Public services are to a large extent accessible through e-government tools. One-stop-shops and points of single contact for citizens, particularly at local level, need to be further extended. A monitoring system is to be set up to reduce barriers in accessing services for people with disabilities.

**Simplifying administrative procedures** and cutting red tape is hindered by the absence of a law on general administrative procedures, which is necessary to provide citizens and businesses with greater legal certainty.

## Strategic framework for public administration reform

Turkey has no overarching **public administration reform strategy**. There are various planning documents and sub-strategies relating to different aspects of public administration reform, but the lack of **political support** and administrative ownership hinders comprehensive reform efforts. An administrative unit with a legal mandate to coordinate, design, implement and monitor public administration reform needs to be set up. The **financial sustainability** of overall public administration reform is not guaranteed, as key planning documents do not specify the expected costs of reform measures.

## **2.2. Rule of law and fundamental rights**

### **2.2.1 Chapter 23: Judiciary and fundamental rights**

*The EU's founding values include the rule of law and respect for human rights. A properly functioning judicial system and an effective fight against corruption are of paramount importance, as is respect for fundamental rights in law and in practice.*

Turkey is at an **early stage** of applying the *acquis* and European standards in this area. There was serious **backsliding** in this area and the recommendations in the previous report were not implemented. Continued political pressure on judges and prosecutors and collective dismissal of a large number of judges and prosecutors following the 2016 attempted coup had a significant negative effect on the independence and the overall quality and efficiency of the judiciary.

There has been no progress in addressing the many gaps in the Turkish anti-corruption framework. Corruption remains widespread and is an issue of concern.

Fundamental rights have been considerably curtailed under the state of emergency and pursuant to the decrees issued under it. As a result, there was no progress on the outstanding issues identified in previous reports. On the contrary, further backsliding continued in all areas of human rights, most notably on freedom of expression, freedom of assembly and association, protection of human rights defenders, property rights and procedural rights. Emergency decrees also removed crucial safeguards protecting detainees from abuse in a context where allegations of ill-treatment and torture increased.

In the coming year, Turkey should in particular:

→ lift the state of emergency;

- reinstate the necessary conditions to ensure the independence, accountability, quality, efficiency and professionalism of the judiciary;
- effectively implement its international obligations in relation to the fight against corruption, including the United Nations Convention against Corruption and the Council of Europe Conventions;
- respect its international obligations in relation to respect for fundamental rights and freedoms and effectively address serious human rights violations, including effectively investigating allegations of ill-treatment and torture.

### **Functioning of the judiciary**

Turkey is at an **early stage** in this area. There has been serious **backsliding** and the independence of the Turkish judiciary was severely undermined following, among other issues, the dismissal and forced removal of 30 % of Turkish judges and prosecutors following the 2016 attempted coup. These dismissals had a chilling effect on the judiciary as a whole and risk widespread self-censorship among judges and prosecutors. No measures were taken to restore legal guarantees ensuring the independence of the judiciary. On the contrary, constitutional changes in relation to the Council of Judges and Prosecutors (CJP) have further undermined its independence from the executive. No changes to the institution of criminal judges of peace were made. No measures were taken to address concerns regarding the lack of objective, merit-based, uniform and pre-established criteria for recruiting and promoting judges and prosecutors. The Commission's 2016 recommendations therefore remain valid.

In the coming year, Turkey should:

- create a political and legal environment that allows the judiciary to perform its duties independently and impartially; strengthens judicial responsibilities, with the executive and legislature fully respecting the separation of powers; and ensures that judgments by the Constitutional Court, whose decisions should follow European Court of Human Rights (ECtHR) jurisprudence, are respected by lower courts;
- limit the role and influence of executive power within the CJP and provide effective guarantees against transfers of judges against their will;
- introduce further safeguards against any interference by the CJP in judicial proceedings.

In addition, Turkey should:

- limit any suspension of judges, as a major infringement of guaranteed judicial independence under the Constitution, to cases where there are well-founded suspicions of serious misbehaviour; and ensure that the system of disciplinary proceedings is guided by objective criteria without undue influence from the executive;
- in relation to the measures taken against individuals following the attempted coup, ensure that any allegation of wrongdoing or crime is subject to due process, based on evidence, in line with fully transparent procedures under the authority of an independent judiciary. These procedures must fully respect fundamental rights, including procedural rights, including in particular the presumption of innocence, individual criminal responsibility, legal certainty, the right to a defence, the right to a fair trial, equality of arms and right to an effective appeal.



### Strategic documents

Implementation of the **judicial reform strategy** for 2015-2019 has continued. However, no measures were taken to revise the strategy following the substantial changes within the judiciary in the aftermath of the 2016 attempted coup. Changes to the strategy should include measures to improve the planning of legislative changes and move away from frequent and hasty changes, made without sufficient prior consultation with the relevant stakeholders or via emergency decrees.

### Management bodies

The constitutional amendments adopted following the referendum of April 2017 regarding the restructuring of the CJP became effective in May 2017. The number of members of the CJP was reduced from 22 to 13. While four members are now appointed by the President (almost one third of the members), seven members are appointed by Parliament by a qualified majority. Although nine of these members are judges and prosecutors, none of them are any longer elected by the judiciary itself. The remaining two seats are attributed ex-officio to the Justice Minister and his Undersecretary, who will also be appointed by the President when the presidential system enters into force. The CJP continues to enjoy autonomy in managing a budget of some EUR 14 million for 2018.

The changes to the CJP, and in particular to the procedure governing the appointment of its members, raise serious concerns in relation to its independence from the executive. The election of the presidents of CJP chambers and CJP's acting president and the appointment of members to the different chambers were done in the absence of secondary legislation. The perceived close ties of some candidates for CJP membership with the governing party and the government stirred controversy regarding further politicisation of the judiciary.

In December 2016, the European Network of Councils for the Judiciary (ENCJ) decided to suspend the CJP's observer status and to exclude it from participation in ENCJ activities. This decision was explained by the CJP's failure to comply with the ENCJ Statutes and its lack of independence from the executive and legislative powers.

Improved transparency, full independence from the executive and strict adherence to procedures in line with European standards are needed to restore not only the CJP's credibility, but also public trust in the entire judiciary.

### Independence and impartiality

While the principles of independence and impartiality are set out in the amended Constitution, the CJP continued to engage in large-scale suspensions and transfers of judges and prosecutors without their consent. There is a need for legal and constitutional guarantees to prevent judges and prosecutors from being transferred against their will, except where courts are being reorganised. In total, since the attempted coup, 4 399 judges and prosecutors have been dismissed from their positions of which 454 were later reinstated to their positions by the CJP. There are currently over 4 000 judges and prosecutors against whom legal action has been taken (dismissals or suspension). Judges and prosecutors who were in pre-trial detention, remained without an indictment for more than a year on average.

In its December 2016 opinion, the Venice Commission stated that every decision ordering the dismissal of a judge needs to be individual and reasoned, must refer to verifiable evidence, and that the procedures before the CJP must respect at least minimal standards of due process. The Venice Commission also emphasised that an appeal against disciplinary measures should

normally be available to judges who have been dismissed, which was not the case in these decisions. Dismissals in circumstances such as these have the potential to cause general self-censorship within the judiciary. This may weaken the judiciary as a whole, its independence and the separation of powers.

No changes to the institution of ‘criminal judges of peace’ were made. The perceived influence of the executive over their decisions and their jurisdiction and practice continue raising serious concerns. These particularly relate to their extensive powers, such as to issue search warrants, detain individuals, block websites or seize property, with considerable financial consequences; and to the fact that objections to their decisions are not reviewed by a higher judicial body but by another single-judge institution. Their rulings increasingly diverge from European Court of Human Rights case-law and rarely provide sufficiently individualised reasoning. The recommendations of the Venice Commission in its March 2017 opinion should be urgently implemented.

Pluralism in judges associations was affected by the closure under the state of emergency of two important associations, the Association of Judges and Prosecutors and the Judges Union. The biggest association, the Association for Judicial Unity, with around 9 145 members, is perceived as being close to the government.

Representatives of the executive and legislative branches continued to publicly comment on ongoing judicial cases, disregarding the presumption of innocence of the suspects, in a clear violation of European standards. In January 2018, a lower court refused to implement a Constitutional Court ruling to release two prominent journalists and one of the two journalists was shortly afterwards sentenced to an aggravated life imprisonment, all of which further increased the EU’s serious concerns relating to the independence of the judiciary in Turkey. In the case of the other journalist, the Constitutional Court confirmed on 16 March its January ruling, following which a lower court assigned him to house arrest. The European Court of Human Rights examined the applications of each of the two journalists and ruled on 20 March 2018 that the Turkish authorities had violated their rights to liberty and security and their freedom of expression. The ECtHR also supported the reasoning and the role of the Turkish Constitutional Court and criticised the lower court for not having conformed with the Constitutional Court ruling of January 2018.

A ceremony for 1236 new judges and prosecutors was held in the Presidential palace in March 2018 and contributed to the perception of an increased influence of the executive over the judiciary.

#### Accountability

In 2017, nearly all judges had declared their assets as required by law. Judges and prosecutors are under the obligation to declare their assets on years ending with 0 and 5. However, if they earn assets worth 5 times their salary, they have to declare it in that given year. It remains important to have a credible verification system and to ensure that due follow up is given to late or wrong declarations of assets. The Office of Judicial Ethics was founded in February 2016. A Law on Code of Ethics for judges and prosecutors is still pending adoption. The Court of Cassation adopted codes of conducts in the last quarter of 2017. **Disciplinary procedures** are in place for both judges and prosecutors but the system has been perceived as undermining important guarantees that safeguard the independence of the judiciary. Mechanisms to detect breaches of the integrity rules and to enforce disciplinary penalties need to be made effective and free from political interference.

### Professionalism and competence

Following the wave of dismissals after the attempted coup, vacancies are gradually being filled, by allowing the majority of candidates for positions as judges and prosecutors to enter the system through a fast track procedure, after the previous requirement for two years of training was waived. 4 680 candidate judges and prosecutors were integrated in the judicial and administrative jurisdictions since the attempted coup, following an accelerated and un-transparent selection process, which raised questions as to the application of the merit-based criteria. 31 % of them were lawyers.

Concerns remain over the lack of objective, merit-based, uniform and pre-established criteria for recruiting and promoting judges and prosecutors. The CJP is not sufficiently independent from the executive and the Ministry of Justice runs the selection boards for new judges and prosecutors and manages their yearly appraisal. The CJP itself plays no role in the selection boards (nor does the Justice Academy), even though it takes the final decision on recruitment.

### Quality of justice

In December 2016, a new **training** board was set up in the Ministry of Justice for in-service training although there are already multiple providers of similar training in Turkey. There are concerns that this fragmentation prevents the Justice Academy from developing a proper unified training capacity based on a multiannual planning process, with a sufficient budget, for in-service training. The academy should be allocated sufficient resources to tackle the increased need for pre-service and in-service training for newly recruited judges and prosecutors. The composition of the Board of the Justice Academy does not sufficiently guarantee its independence, which affects its capacity to operate and define and run training curricula independently.

Frequent **transfers of judges** and prosecutors have negatively affected the quality of justice. Indictments often reflect allegations and are not supported by credible evidence. These indictments, which are often based on statements by people who have been accused in other cases or by secret witnesses, raise serious concerns. In some cases, evidence presented by the defence is not included in the court's assessment. Overall, there are serious concerns regarding the quality of judicial decisions, particularly in terrorism-related cases, in relation to their legal reasoning and the factual evidence they are based on.

The **budget** for the judiciary was TL 14 billion in 2017 (around EUR 3 billion), representing 0.50 % of GDP and EUR 38 per inhabitant.

Two new departments, for mediation and for **alternative dispute resolution**, were created in the Ministry of Justice. As a positive step, a law adopted in December 2016 expanded the scope of offences falling under plea bargaining, amicable settlement or conciliation. Efforts have started to increase and promote alternative dispute resolution methods to help reduce the burden on the courts. Over 223 000 cases were resolved with conciliation in 2017, a sharp increase compared to 2016.

### Efficiency

Following the constitutional changes, the high military court was abolished, ending a long-standing dual-headed system.

Large parts of the Turkish judiciary continue to be under severe pressure to handle cases in a timely manner. The ability of the judiciary to effectively perform its tasks has suffered in the aftermath of the attempted coup and the large-scale dismissals, indictments and other

administrative measures that followed. There is still no specific **human resources strategy** for the judiciary.

Regarding the **backlog** of cases, in the High Courts the number of pending cases until November 2017, were: 38 454 for the Constitutional Court and 224 737 for the Council of State. The clearance rate of the Council of State has dramatically improved up to 170 % in 2017 from 50 % in 2016.

In 2017, the Court of Cassation received a total of 1 294 336 cases (486 449 new cases and 807 887 cases transferred from 2016), and dealt with 628 652 cases, resulting in a reduced backlog of 665 684 cases for 2018. This reduction stems from the creation in 2016 of nine regional courts of appeal. These regional courts of appeal continued to operate, but for both civil and criminal cases, their **clearance rate** remained below 100 % leading to an increasing backlog.

As regards first instance courts, the clearance rate for criminal courts in 2016 was 55 % compared to 61 % in 2015. The total number of cases finalised in 2016 was 1 324 153 compared to 1 560 520 in 2016. As regards the total length of proceedings it went up from 231 days to 274 days. The clearance rate for civil courts was 56 % in 2016 compared to 61 % in 2015. The total number of cases finalised in 2016 was 1 970 973 compared to 2 069 303 in 2015. As regards the total length of proceedings it went up from 218 days to 248 days. Systemic solutions are therefore still needed to further address the emerging backlog as well as the excessive length of some trials.

The Law on Court **Experts** entered into force in November 2016. It regulates qualifications and criteria in the process of selection and appointment of court experts.

Individual applications increased considerably in 2016, to 80 576 (up from 20 376 in 2015), in the aftermath of the attempted coup and the measures taken under the state of emergency. The Court received another 40 530 applications in 2017. In August 2017, the Constitutional Court ruled that some 70 000 individual applications regarding measures taken under the state of emergency were inadmissible, as they had not exhausted all available domestic remedies. The court directed these applicants to the State of Emergency Appeal Commission and/or to administrative courts. Regarding other cases, the Constitutional Court took 19 673 decisions in 2017 compared to 16 107 in 2016.

As of early 2018, there are 13.9 judges and 5.9 prosecutors per 100 000 inhabitants (16 104 judges and prosecutors in total). According to the European Commission for the Efficiency of Justice (CEPEJ) the European average is 21 judges/11 prosecutors per 100 000 inhabitants.

### **Fight against corruption**

Turkey has **some level of preparation** in the fight against corruption. **No progress** has been made in the reporting period, in the absence of any new legislation. Legal and institutional frameworks both need further alignment with international standards and continue to allow undue executive influence in the investigation and prosecution of high-profile corruption cases. No progress was made on increasing accountability and transparency in the work of public bodies. A broad, inter-party political consensus and strong political will are required to decisively fight against corruption. Turkey has not yet followed up on all of the Council of Europe's Group of States against Corruption (GRECO) recommendations. The Commission therefore reiterates the recommendations in its 2016 report.

In the coming year, Turkey should in particular:

- set up a functionally independent anti-corruption body, in line with the United Nation's Anti-Corruption Convention;
- ensure effective follow-up to the recommendations issued by the GRECO, including by adopting the necessary legislation;
- establish a track record of successful prosecution and convictions on high level corruption.

### Track record

Turkey's track record of **investigation, prosecution and conviction** in corruption cases remained poor, particularly in relation to high-level corruption cases. Corruption-related convictions by the courts decreased from 5 497 in 2016 to 3 889 in 2017. With few exceptions, sentences do not have a deterrent effect and suspects convicted of tender-rigging charges can take advantage of deferred sentences. Audit and inspection units sent a limited number of suspicious cases to the prosecution. Particularly vulnerable to corruption are local administrations, land administration and management, public procurement processes, and the construction and transportation industries, including when implemented via public-private partnerships.

The existing legal and institutional framework leaves room for potential **political influence** on judges and prosecutors, law enforcement officers and inspection units. **Financial investigations** are not systematically required in cases of corruption and organised crime. Following investigations for corruption in public procurement, there were 583 convictions in 2017, down from 1 115 in 2016. The track record of audits on the financing of political parties and electoral campaigns demonstrates a very low level of effectiveness. Regarding transparency of party funding, while the adoption of the Guidebook on the Financial Audit of Political Parties is a positive development, considerable progress is yet to be made regarding all other GRECO recommendations in this field.

### Institutional framework

#### *Prevention measures*

There is still no permanent, functionally independent anti-corruption body, nor is there sufficient coordination of the various institutions in charge of prevention or combating corruption. The Prime Ministry Inspection Board coordinates preventive anti-corruption measures, but it is not independent and has no autonomous investigative powers. Anti-corruption awareness-raising campaigns have not been conducted regularly and the impact of these remains limited.

There is no comprehensive policy in place to prevent corruption in the private sector, though some foreign companies have been active in the fight against corruption as they are also bound by legislation in their country of origin.

#### *Law enforcement*

The country still lacks a specialised prosecution service to lead anti-corruption investigations. There are also few specialised courts. The current legal framework prevents officers acting as judicial police from carrying out effective investigations, without undue influence from the executive. An information-sharing system between the police and the financial intelligence unit exists and electronic access to databases for the relevant agencies is at a moderately prepared level. **Inter-agency cooperation** needs to be further developed.

## Legal framework

The legislative amendments envisaged in the previous anti-corruption strategy, i.e. the **Law on General Administrative Procedure**, the **Law on Public Procurement**, the **code of ethics** for Members of Parliament and the **Law on Whistle-blower Protection**, are still pending. The updated anti-corruption action plan (2016) has not been followed up. Turkey should fully implement the United Nation's Anti-Corruption Convention, to which it is party.

Turkey so far did not implement in a satisfactory manner 20 of the 22 recommendations provided by GRECO in its last evaluation round on preventing corruption among parliamentarians, judges and prosecutors. In addition, 10 of the 17 recommendations contained in the third evaluation round on incriminations and transparency of party funding remain to be implemented by Turkey. Turkey is strongly encouraged to comply with all remaining recommendations.

Shortcomings remain in the corruption-related provisions of the Criminal Code, which do not meet the standards put in place by the Criminal Law Convention on Corruption. The definition of active bribery, though covered in Article 252 of Turkish Criminal Code, is still not in line with international conventions. The shortcomings concern, in particular, the provisions on bribery in the private sector.

Public procurement legislation is not in line with the EU *acquis* in a number of respects. Public tenders remained corruption-prone, largely due to a multitude of exemptions inserted into the framework law, particularly for tenders at municipal level and for public-private partnerships for large infrastructure investments. Legal privileges granted to public officials, such as the requirement for prior authorisation from their managers before starting an investigation, continued to provide a legal shelter for public officials in anti-corruption criminal and administrative investigations. Anti-corruption legislation sets out inadequate provisions on preventing, prosecuting and issuing penalties for conflicts of interest as well as on declaring, verifying and disclosing assets. Turkey has no legislation governing lobbying.

## Strategic framework

The 2010-2014 anti-corruption strategy and action plan failed to meet most of their initial objectives. Measures envisaged in the transparency and anti-corruption action plan announced in 2016 have not yet been implemented. In the absence of political ownership, these were limited in scope and have not resulted in concrete outcomes. Drafting of a follow-up anti-corruption strategy is advisable, along with the establishment of an independent coordinator to monitor implementation. Turkey needs to strengthen its overall capacity to coordinate, implement and monitor all anti-corruption actions among the many relevant preventive institutions and law enforcement agencies.

## **Fundamental rights**

The legal framework includes general guarantees of respect for human and fundamental rights. However, these have been undermined by a number of emergency decrees and need to be effectively implemented. There was further serious **backsliding** in the areas of freedom of expression, freedom of assembly, freedom of association, and procedural and property rights. Severe restrictions were imposed on the activities of journalists, human rights defenders and critical voices on a broad scale. Measures adopted under the state of emergency also removed crucial safeguards protecting detainees from abuse, thereby augmenting the risk of impunity for the perpetrators of such abuse, in a context where allegations of ill-treatment and torture

have increased. Enforcement of rights is hindered by the fragmentation and limited independence of public institutions responsible for protecting human rights and freedoms and by the lack of an independent judiciary.

There was no progress on any of the outstanding issues identified in previous reports.

Turkey should in particular:

→ put an end to the state of emergency as soon as possible and ensure that any measure is taken only where it is strictly required by the exigencies of the situation and meets the tests of necessity and proportionality; effectively ensure full respect for fundamental rights and freedoms;

→ put an end to pre-trial detentions that contravene standards set out in the European Convention on Human Rights and case-law of the European Court of Human Rights; ensure that any allegation of wrongdoing or crime is subject to due process, based on evidence and fully transparent procedures under the authority of an independent judiciary, and fully respecting relevant procedural rights, in particular the presumption of innocence, individual criminal responsibility, legal certainty, the right to defence, the right to a fair trial, equality of arms and right to an effective appeal; develop the State of Emergency Appeal Commission into an effective remedy;

→ align Turkish criminal and anti-terror legislation and their interpretation with European standards and European Court of Human Rights case-law;

→ implement measures to fight against impunity; urgently undertake effective investigations into allegations of ill-treatment and torture; and implement the recommendations made in the relevant reports by the Commissioner for Human Rights of the Council of Europe; publish all reports by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Turkey is party to most **international human rights instruments**. It has yet to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Third Optional Protocol to the Convention on the Rights of the Child, and the International Convention for the Protection of all Persons from Enforced Disappearance.

Since the state of emergency was declared, there have been no developments on Turkey's decision to invoke Article 15 of the European Convention on Human Rights, which gives governments the possibility to derogate in a temporary, limited and supervised manner from their obligation to secure certain rights and freedoms under the Convention in times of emergency.

Since September 2016, the **European Court of Human Rights (ECtHR)** has found violations of the European Convention on Human Rights (ECHR) in 163 cases (out of 168) relating mainly to the right to a fair trial, freedom of expression, freedom of assembly and association, right to liberty and security among others. During the reporting period, 33 373 new applications were registered by the Court. On 1 February 2018, the total number of applications pending before the Court was 7 059. There are currently 478 cases against Turkey in the enhanced monitoring procedure.

The implementation of the *Cyprus v. Turkey* case regarding missing persons and restrictions on the property rights of Greek Cypriots displaced or living permanently in the northern part of Cyprus is still pending, as is the question of 'just satisfaction' (compensation). Regarding

the implementation of the *Demopoulos v. Turkey* decision of 5 March 2010, 6 414 applications from Greek Cypriot owners have to date been lodged with the Immovable Property Commission (IPC), 113 of them during the reporting period. As of 21 March 2018, 888 applications had been concluded through amicable settlements and 27 through formal hearings. Altogether, the IPC has so far paid out the equivalent of EUR 310 million in compensation. On 14 March, the Committee of Ministers of the Council of Europe reviewed the *Cyprus v. Turkey* case as well as *Varnava and others and Xenides-Arestis group v. Turkey*. No progress was made on any of those cases.

On the **promotion and enforcement of human rights**, Turkey has two main institutions on human rights: the National Human Rights and Equality Institution (NHREI) and the Ombudsman institution. Both are authorised to monitor, protect and promote human rights, and to prevent violations in this area. They can also investigate individual complaints or allegations. The National Human Rights and Equality institution will provide an individual application mechanism for complaints in the field of alleged discrimination cases. The major difference with the individual application procedure of the Ombudsman Institution is that the latter deals only with complaints against the actions of the public administration. The NHREI also acts as the national preventive mechanism against torture and has the mandate to investigate ill-treatment and torture upon application or ex officio. It has also the power to launch investigations of its own initiative into potential human rights violations. Neither of these institutions has operational, structural or financial independence and their members are not appointed in compliance with the Paris Principles.

While the members of the NHREI were appointed in March 2017, and secondary legislation was laid down in November 2017 regarding its mandate on discrimination cases, it is not yet fully operational due to a lack of other key pieces of secondary legislation. As a result the NHREI has not yet handed down any decision on applications it started to receive and process. Moreover other types of alleged violations are currently not being investigated or followed up. This vacuum causes particular concern in light of the high number of alleged violations in the aftermath of the attempted coup. The NHREI can no longer accept applications that are in the remit of the Ombudsman. However, the efficiency and capacity of the Ombudsman to deal with such applications also need to be stepped up. Turkey should urgently ensure that any and all cases of alleged human rights violation are effectively dealt with and processed and put an end to the current legislative and administrative vacuum. Turkey should also ensure that these bodies are compliant with the Paris Principles.

There was limited implementation of and no revisions to the 2014 action plan on preventing violations of the ECHR. The implementation reports continue to be prepared but these are not made public, which limits the accountability of institutions responsible for implementation. Several legislative changes, not in line with European standards, were introduced by emergency decrees. These impinge in particular on freedom of expression, freedom of assembly and on the rights to a fair trial, to an effective remedy and to protection of property.

During the reporting period, Parliament's Human Rights Inquiry Committee visited prisons and published reports. The committee's Chairperson followed up some key human rights defenders' cases personally.

Conditions surrounding the activities of **human rights defenders** have deteriorated even further. Many of them continue to be subject to intimidation, judicial prosecution, violent attacks, threats, surveillance, prolonged arbitrary detention and ill-treatment. Smear campaigns in some media outlets against human rights defenders who have been detained or



arrested, including for accepting funds by international donors, have become a recurrent feature, casting serious doubt on the respect for due process and the presumption of innocence. Lawyers who provide legal assistance to human rights defenders and civil and political activists also face huge obstacles in performing their work and are at risk of arrest, detention and prosecution. The arrest of the chairperson of Amnesty International Turkey branch, the detention of a group of ten human right defenders in Büyükada Island, including the director of Amnesty International Turkey on charges of links to a terrorist organisation, the arrest of the philanthropist and chairman of Anadolu Kültür, added to the long list of detentions and arrests of civil society representatives, journalists, academics and others over the reporting period, further eroding fundamental rights and freedoms and leading to a shrinking space for civil society. Long detention and pre-trial periods have become the norm rather than the exception. The public rhetoric and accusations used against these activists cast serious doubt on the respect of due process and the presumption of innocence

With regard to the **right to life**, Turkey is a party to Protocol 13 of the ECHR, abolishing the death penalty in all circumstances. The most problematic situation persists in the south-east with a lack of follow-up and investigations into reported killings by the authorities, in the context of security operations and PKK attacks, as noted by the UN High Commissioner for Human Rights in March 2017. Statements on the possibility of reinstating the death penalty have been made by public officials, including by the President in early 2017.

Legislation passed in June 2016 is still in place, granting security forces judicial privileges and thereby increasing the risk of **impunity**, as is an emergency decree of July 2016 limiting their criminal liability. Another controversial decree was issued in December 2017, removing criminal liability for civilians who acted to resist the 15 July 2016 attempted coup, as well as any acts in the aftermath of the attempted coup. There were also alarming reports of alleged cases of abductions and enforced disappearances. The UN Working Group on Arbitrary Detention issued three public opinions in 2017 which found Turkey to have imposed arbitrary detentions.

The situation with regards to the **prevention of torture and ill-treatment** remains a source of serious concern. Several credible reports from human rights organisations have alleged that the removal of crucial safeguards by emergency decrees has augmented the risk of impunity for perpetrators of such crimes and has led to an increase in the number of cases of torture and ill-treatment in custody. The handling of complaints is also reported to be ineffective and allegedly entails a risk of reprisals. After his visit to Turkey in late 2016, the UN Special Rapporteur on torture also voiced concerns on Turkey as an ‘environment conducive to torture’.

The prohibition of torture and ill-treatment needs to be fully observed in law and in practice in line with the country’s international obligations, in particular the European Convention on Human Rights and the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. All allegations of torture or ill-treatment need to be swiftly, effectively and impartially investigated. Perpetrators must be prosecuted and convicted in accordance with the gravity of their acts.

The NHREI, which acts as the national preventive mechanism, does not meet the key requirements under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and is not yet effectively processing cases referred to it. Turkey should ensure that this institution effectively fulfils its mandate with a dedicated structure and appropriate resources for that purpose. The prison monitoring boards

were replaced with new members, but their effectiveness cannot be assessed as their reports are not public. The recommendations of the fourth periodic review by the UN Committee against Torture have not been implemented so far. The Council of Europe's Committee for the Prevention of Torture carried out a visit to Turkey in May 2017. This focused on people detained by the police/gendarmerie, the situation in prisons and the situation in detention centres for migrants. Turkey authorised the publication of two reports for earlier visits by the CPT: the visit in June 2015 focusing on foreign nationals detained under aliens legislation, which included recommendations notably on the holding facility in the transit zone of Istanbul Atatürk Airport and more generally on improving detention conditions; and in April 2016 to the Imralı special detention facility, which found that material conditions had improved but expressed serious concerns regarding the prisoners' quasi absence of contacts with the outside world. In line with its stated zero tolerance policy for torture, Turkey should authorise the publication of all pending CPT reports, including the one on its ad hoc visit in summer 2016, following the attempted coup.

As regards the **prison system**, overcrowding and deteriorating prison conditions are a source of deep concern. The prison population rate has grown to 290 per 100 000 inhabitants and the prison population now stands at 234 673. There are currently over 600 children staying with their detained mothers. The shortage of psychologists, social workers and sociologists continues to negatively affect the rehabilitation of inmates. There have been many allegations of human rights violations in Turkey's prisons, including arbitrary restrictions on the rights of detainees and the use of torture, mistreatment and solitary confinement as disciplinary measures. There are allegations that sick inmates are regularly denied access to medical care. State-run commissions responsible for monitoring prison conditions have either been dissolved following the attempted coup or remain largely ineffective. The result is that prison guards and administrations operate largely without oversight.

On the **protection of personal data**, the country has ratified the CoE Convention 108 on the Protection of Individuals with regard to Automatic Processing of Personal Data and its additional protocol. The Personal Data Protection Authority has become operational and its nine-member Board has been appointed by the Parliament, the President and the Government. However, the law is still not fully in line with the EU acquis. This concerns notably the powers of the Data Protection Authority, the balancing of data protection with the right to freedom of expression and information.

On **freedom of thought, conscience and religion**, freedom of worship continued to be generally respected. The Bulgarian Sveti Stefan Church and the Greek Orthodox Aya Yorgi (Saint George) Church and Monastery were reopened following their restoration. The controversial use for marking religious celebrations of the Hagia Sophia, which is a museum situated within a listed UNESCO world heritage site, continued to trigger reactions. Insulting religion and blasphemy are recognised as criminal offences. The government did not implement the action plan it submitted in 2016 to the Council of Europe Committee of Ministers related to the European Court of Human Rights decisions on Cem Houses and on compulsory religion classes. A comprehensive legal framework in line with European standards needs to be put in place and appropriate attention must be paid to implementing the European Court of Human Rights judgments on compulsory religion and ethics classes, indication of religious affiliation on identity cards and Alevi worship places. Inter-religious dialogue needs to be strengthened. The Venice Commission recommendations on the status of religious communities in Turkey and the right of the Orthodox Patriarch to use the title 'ecumenical' are yet to be implemented. No steps were taken to open the Halki (Heybeliada)

Greek Orthodox Seminary. Requests by different Christian communities to open places of worship and curricula for clergy are still pending. Hate speech and hate crimes against Christians and Jews continued to be reported (*see below — minorities*). Turkey is the only member of the Council of Europe that does not recognise the right to conscientious objection for conscripts.

### **Freedom of expression**

Turkey is at an **early stage** in this area and the serious **backsliding** continued. The scope of restrictive measures adopted under the emergency decrees has extended over time to many opposition voices in the media and in academia, contrary to the principle of proportionality. Freedom of expression has come under serious strain. Legislation and practice do not comply with European Court of Human Rights case-law. Criminal cases against journalists, human rights defenders, writers, or social media users, the withdrawal of press cards, and the closure of numerous media outlets or the appointment by the government of trustees to administer them, are of serious concern. These are mostly based on selective and arbitrary application of the law, especially provisions on national security and the fight against terrorism. The high number of arrests of journalists - over 150 journalists remain in prison - is of very serious concern. The Internet Law and the general legal framework continue to enable the executive to block online content without a court order on an inappropriately wide range of grounds. The judicial control for requests relating to content takedowns or blocking content continued to rely on individual decisions by criminal judges of peace. A large number of media workers (journalists, engineers, sound and image technicians, etc.) were laid off in 2016 (2 708) and 2017 (166).

The Commission's 2016 recommendations were not followed and are therefore restated in this report. In the coming year, Turkey should in particular:

- release journalists, human rights defenders, writers and academics being held in pre-trial detention; refrain from and end the practice exercised in various forms by both state and non-state agents of intimidating, interfering with and putting pressure on the media; ensuring a safe, plural and enabling environment for the media to carry out their work independently and without fear of reprisals;
- refrain from undue restrictions on freedom of expression, including in relation to anti-terrorism operations, in line with the Guidelines of the Committee of Ministers of the Council of Europe on protecting freedom of expression and information in times of crisis;
- ensure that existing legislation, in particular the Anti-Terror Law, the Criminal Code and the Internet Law, is revised to comply with European standards and is implemented in a manner which does not curtail freedom of expression and ensures proportionality and equality before the law. Ensure that criminal law provisions, in particular articles on defamation and other similar offences, are not used as a means of putting pressure on critical voices, by ensuring that courts apply European Court of Human Rights case-law and are able to act independently.

### Intimidation of journalists

Heavy pressure on the media continued, with arrests, detentions, prosecutions and dismissals of media staff, as well as increasing censorship and self-censorship. The number of journalists in prison is estimated by many sources to be over 150, as of March 2018. Civil society documented: threats and physical attacks on journalists and media organisations; government

interference with editorial independence and pressure on media outlets to fire journalists critical of the government; the state's takeover or the closure of private media companies; and restrictions on access to the airwaves, and fines and closure of TV and radio channels critical of the government.

The criminal justice system allowed journalists to be prosecuted and jailed on sweeping charges of terrorism, insulting public officials, and/or committing crimes against the state. The right to a fair trial and the respect of the principle of the presumption of innocence were often not ensured. Indictments mostly did not establish a link with the alleged offence and, in some high-profile cases, the defences provided by the defendants were not taken into consideration by the court. Details of prosecution files of journalists appeared in mainstream media which amplified smear campaigns against them. The judicial case against several Cumhuriyet journalists continued, and after the release pending trial of two more journalists in March 2018, the newspaper's chairman remains the sole suspect in pre-trial detention. A limited number of other writers and journalists have also belatedly been released pending trial. Several court rulings favourable to prominent defendants, including Human Rights Defenders (i.e. Chair of Amnesty International), were swiftly reversed by another or even by the same court, in some instances following comments from the executive.

Evidence relating to the charges brought against two prominent journalists was also examined by the Constitutional Court, which ruled on 11 January 2018 that the applicants' right to personal liberty and security as well as their freedoms of expression and press had been violated and that they should be released. It was of serious concern that a lower court refused to observe the ruling and maintained them in pre-trial detention. One of them, together with five other journalists, writers and media workers were sentenced on 16 February 2018 to aggravated life sentences, on charges related to the July 2016 coup attempt, a ruling which was criticised by international watchdogs as 'unprecedented' and done 'without presenting substantial proof of involvement in the coup attempt or ensuring a fair trial'. In the case of the other journalist, the Constitutional Court confirmed on 16 March 2018 its January ruling, following which a lower court accepted to release him but assigned him to house arrest. In its first judgments on 20 March 2018 regarding journalists arrested in the aftermath of the attempted coup, the European Court of Human Rights examined the applications of each of the two journalists and found that the Turkish authorities had violated their rights to liberty and security and their freedom of expression.

The editors of Turkey's leading media outlets were summoned to a meeting in January 2018 at which the Prime Minister gave them 15 'recommendations' on how to cover the military operations in a 'patriotic' manner. This and the detention of dozens of journalists, human rights activists and liberal professionals across Turkey for their social media activities in the days that followed, once again raised serious concerns about freedom of expression and freedom of press in Turkey.

#### Legislative environment

The current legal framework and practice do not guarantee the exercise of freedom of expression in the media and internet. Legislation on anti-terrorism, on the internet and on intelligence services impede freedom of expression and run counter to European standards. The Criminal Code provides for prison sentences for insulting the President and senior politicians. Prison sentences are also provided for insults to religion. In addition to prison terms, high fines have a deterrent effect on media reporting. Legislation on hate speech is not in line with European Court of Human Rights case-law.

The Internet Law and the general legal framework enable the executive to block online content without a court order on an inappropriately wide range of grounds. In March 2018, amendments were adopted which raised new serious concerns, by extending the scope of the regulation of broadcasting performed by the Radio and Television Supreme Council to any online media service providers and platform operators, including those operating from abroad. The amendments also gave the Council the power to impose bans on internet broadcasting.

### Implementation/institutions

The government continued to issue emergency decrees ordering the closure of TV channels and radio stations, initially mainly for alleged links to the Gülen movement, but over time extending these to a number of channels broadcasting in the Kurdish language, an Alevi channel and some opposition channels. Although 25 media outlets were authorised to reopen, 175 media outlets remained closed down. The OSCE/ODIHR concluded that the constitutional referendum ‘took place on an unlevel playing field’ and that restrictions on the media reduced voters’ access to a plurality of views. The trend of prosecutions of journalists, writers, social media users and other citizens, even children, for insulting the President of Republic continued. Such cases often end with prison sentences, suspended sentences or punitive fines. The increased use of harsh rhetoric against any form of critical voice by public officials, including at the highest level, is of particular concern. This restrictive and intimidating environment leads to increased self-censorship and is not in line with the emerging European consensus on decriminalising defamation of heads of state, or limiting this offence to the most serious forms of verbal attacks, while restricting the range of sanctions to exclude imprisonment. Regarding the internet, Turkish access to Wikipedia has been blocked since April 2017. Twitter Transparency reported over 2700 removal requests and 9 200 accounts reported by Turkish authorities in the first half of 2017. According to unofficial sources, some 110 000 websites have been banned, only 2.6 % of which were on the basis of a court decision. In one case, the Constitutional Court ruled to reverse a local court’s decision to ban access to a news website. There have been a growing number of people sentenced to prison for blasphemy. Independent artists have also been negatively affected by pressure from authorities and reduced public funding. In many Kurdish municipalities, there was increased pressure from trustees appointed in place of elected officials on the production of art.

Disciplinary and criminal proceedings continued against the ‘Academics for Peace’, who signed a declaration in January 2016 condemning the security operations in the south-east and calling for resumption of the peace talks, while falling short of condemning the terrorist acts from the PKK. As of the end of January 2018, 386 out of the total of 5 822 academics expelled from 118 universities were among the ‘Academics for Peace’, Many of them are now facing criminal charges.

In 2017, 87 press cards, including 17 permanent ones, were cancelled.

### Public service broadcasters

While the work of the Radio and Television Supreme Council (RTÜK) is fairly transparent, with decisions and supporting expert reports being published, there are concerns about the Council’s independence and neutrality. Members are elected by Parliament without input from civil society or professional organisations. Regulation of the public service broadcaster is not in line with European standards. The editorial policy of the public service broadcaster, the Turkish Radio and Television Corporation (TRT), displays a significant pro-government

line. Under the state of emergency, RTÜK continued to take a number of channels off the air as well as suspending and fining channels for broadcasting content that is ‘contrary to the national and moral values of society, general morality and the principle of family protection’.

#### Economic factors

The lack of transparency of media ownership continues to cast doubt on the independence of editorial policies. The concentration in the media market increased sharply after the sale of the Dogan holding to Demiroren holding. The takeover of media outlets and the appointment of trustees to control media groups have had a negative economic impact, with the loss of hundreds of jobs. Emergency decrees led to the closure of a large number of media outlets.

State-sponsored advertising is not fairly and transparently distributed. This further distorts the market and adds to the economic pressure on some media outlets from major customers, including the state. Independent and sustainable financing of the public service broadcaster is not ensured. The broadcasting law does not ensure fair competition, as it does not prevent monopolisation.

#### Professional organisations, professional conditions

The representation of journalists continues to be divided between the professional journalists’ associations and the pro-government union. Journalism in Turkey is an increasingly precarious profession with low wages, the risk of judicial harassment and lack of job security. Working conditions, insufficient trade union rights and application of labour legislation, the difficulty of obtaining a press card and arbitrary accreditation decisions remain major concerns.

There was further backsliding in the area of **freedom of assembly and association**. Legislation on this issue and its application are far more restrictive in practice than that provided for in the Constitution. In December 2017, the Constitutional Court abolished several restrictions on meetings and marches further to an application from an opposition party. However, the state of emergency expanded the administration’s powers to limit the right to peaceful assembly. Numerous peaceful meetings by opposition groups were banned and blanket bans were issued for weeks or months for all kinds of public events in several provinces. There was an increased number of penalties for participants in unauthorised events which acted as another deterrent. While a number of commemoration ceremonies and meetings were allowed, many events and demonstrations relating to the Kurdish issue were prohibited on security grounds. The unauthorised holding of such demonstrations at times resulted in forceful dispersal by the police forces. Lesbian, gay, bisexual, transgender and intersex (LGBTI) marches, including in Istanbul and Ankara, were banned for security reasons for the third year in a row. The applicable European Court of Human Rights case-law on freedom of assembly needs to be implemented and relevant national laws need to be revised accordingly. The number of associations closed on the basis of emergency decrees amounts to more than 1 400. These associations were active in a wide spectrum of activities, such as children’s rights, women’s rights, cultural rights, and victims’ rights, among others. 358 were allowed to reopen following a re-examination of their case. The executive sharply criticised the Turkish Union of Bar Associations and the Turkish Medical Association for acting against the national interest by failing to support the government's struggle against terrorism. There was mention of amendments to the legislation to reform their statutes which are a source of serious concern.

On **property rights**, confiscations under the state of emergency of property of many institutions, companies or private individuals, for which there is no domestic remedy, continue to be a serious concern. In the south-east, the authorities have started a reconstruction process in a number of cities and towns. Appeals against expropriation decisions for large parts of the historical centre of Diyarbakır were rejected in the court of first instance. Regarding the implementation of the Law on Foundations, most of the appeals against rejected claims for restitution of properties are pending either before local courts or at the European Court of Human Rights. Earlier favourable decisions have been challenged by the Treasury and are awaiting final judgments. The case in relation to the ownership of the Syriac Orthodox Mor Gabriel Monastery's land is ongoing. After a number of Syriac properties had momentarily been at risk of expropriation in Mardin, amendments to the Law on Foundations were introduced in March 2018 as a first step towards the registration to the Syriac community foundations of a list of 56 properties in Mardin, out of over 110 disputed immovables. The Council of Europe's recommendations on protecting property rights and education rights still need to be fully implemented. Council of Europe Resolution 1625 (2008) regarding property rights on the islands of Gökçeada (Imbros) and Bozcaada (Tenedos) needs to be fully implemented.

The principle of **non-discrimination** is not sufficiently protected by law nor enforced in practice. The National Human Rights and Equality institution which is in charge of applying anti-discrimination legislation has not yet finalised any of the cases it has started to process. This should happen without delay. Hate crime legislation is not in line with international standards and does not cover hate offences based on sexual orientation. Turkey signed the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems in April 2016, but ratification is still pending. Turkey should urgently adopt a law on combating discrimination in line with the European Convention on Human Rights, including with regards to sexual orientation and identity. Turkey should also ratify Protocol 12 of the Convention, which provides for the general prohibition of discrimination, and implement the recommendations of the Council of Europe's European Commission against Racism and Intolerance.

A legislative and institutional framework on **equality between women and men** is generally in place. However, discrimination against women and gender-based violence were not sufficiently addressed, due to weak implementation of legislation and the low quality of support services available. There is a lack of strong political commitment to gender equality, exemplified by frequent public statements of high-level officials reflecting a conservative view of the role of women. School enrolment for girls needs to improve, especially in secondary education. Early and forced marriage continued to be a major concern. 11 independent women's NGOs were closed down under the state of emergency and, in some provinces, events on International Women's Day were banned. Provincial and district muftis were given powers to conduct civil marriages which undermined the secular principles of the civil code and risked affecting the prevention of early and forced marriages. While it was the first country to ratify, in 2014, the Council of Europe's Istanbul Convention on preventing and combating violence against women, Turkey has still not adapted its legislation but adopted a action plan for 2016-2020 and started to raise awareness on this topic. Domestic violence led to the death of 282 women in 2017. There is very limited follow-up to cases of domestic violence, with no referral to social services. Violence Prevention and Monitoring Centres are in service in 68 provinces as of January 2018. There are 137 shelters for victims of domestic violence but some were closed down in the south-east. There is no comprehensive

data on gender-based violence and the number of reported cases remained low, casting doubt on the level of reporting.

There was little progress on the **rights of the child**. Implementation of the 2013 national children's rights strategy and action plan remained insufficient. No national strategy is in place to prevent violence against children. An effective system to monitor rehabilitation centres and institutions is also lacking. Research on sexual abuse and ill-treatment of children is inadequate. The proportion of religious education has been increasing and represents a significant proportion of the education budget. Juvenile courts have not been established in all provinces and more than half of juvenile offenders continue to be tried in non-specialised courts. The number of children in pre-trial detention increased to 1 746. 130 juveniles continued to be detained or were convicted on charges of terror or organised crime. The quality of legal aid for juveniles and rehabilitation activities in prisons is a matter of concern. Several CSOs dealing with juvenile rights were closed down by the authorities.

On the **rights of people with disabilities**, Turkey has legislation in place to promote equal opportunities for students with special educational needs and the number of students receiving inclusive education is increasing steadily. A large-scale financial support scheme for home-based care is also in place. However, there are discriminatory clauses in several laws such as the Criminal Code, the Civil Code and the Law on Judges and Prosecutors. The Human Rights and Equality Institution needs to become effective in dealing with discrimination on the basis of disability. Most public services and buildings are inaccessible for people with disabilities. Public awareness campaigns need to be stepped up. Turkey also lacks data on the participation of people with disabilities in economic and social life. Turkey has no mental health legislation and no independent body to monitor mental health institutions.

There are serious concerns on the protection of the fundamental rights of **lesbian, gay, bisexual, transgender and intersex** (LGBTI) people. No changes have been introduced to the military disciplinary system and medical regulations which define homosexuality as a 'psychosexual disorder/illness'. For the third year in a row, LGBTI marches were banned for security reasons. Activists have been sued for 'participating in an unauthorised demonstration'. LGBTI-themed events were forbidden in Ankara and other cities causing an international outcry. The detention and release under judicial control of an activist following his social media posts regarding Ankara governor's ban on LGBTI events for an indefinite period is testimony of the pressure exercised against activists in this field. In February 2018, an Administrative Court rejected the request of two NGOs' to lift the execution of this ban. Intimidation and violence against the LGBTI community continues to be a major problem and hate speech against LGBTI people is not effectively prosecuted, as it is mostly considered within the boundaries of freedom of speech. There is no specific legislation to address these crimes. There is limited protection given to LGBTI organisations who have been receiving threats. Discrimination towards the LGBTI community is still widespread.

**On labour and trade union rights**, *see Chapter 19: Social Policy and Employment.*

Some aspects of **procedural rights** are guaranteed by law, including legal aid and the right to translation and interpretation in criminal matters, but legislation needs to be further aligned with European standards. According to data from 2014 compiled by the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ), Turkey dedicated a substantial EUR 780 of legal aid per case, but this was provide to a limited number of eligible cases (171 000) with an overall limited effort of EUR 1.33 per capita. Turkey has been repeatedly criticised by the European Court of Human Rights for violating the right to a fair trial, notably



due to its failure to ensure trials take place within a reasonable timeframe. Under Turkey's Anti-Terror Law, lawyers' meetings with clients in police detention can be legally prohibited for the first 24 hours. Emergency decrees imposed additional restrictions to procedural rights including on the rights of defence. Even after the introduction of certain improvements to the rights of defence in January 2017, some lawyers claim that they have had limited opportunity to speak to their clients in confidence. Lawyers are increasingly at risk of being charged in relation to the cases of their clients. In November 2016, the government issued an emergency decree closing down three Turkish lawyers' associations that had played an important role in promoting fair trial standards and the rights of detainees and defendants. Another decree in December 2017 imposed specific uniforms for convicts or defendants arrested in relation to specific crimes when appearing before the judge endangering the principle of presumption of innocence and the right to a fair trial.

Discussions between the government and representatives of **minorities** continued. However, hate speech and threats directed against minorities remained a serious problem. A civil society survey on hate speech in the media revealed that articles/news targeting national, ethnic and religious groups increased during the reporting period. Anti-Semitic rhetoric in the media and by public officials continued. School textbooks need to be revised to delete remnants of discriminatory references. State subsidies for minority schools declined. The main case launched in connection with the assassination of Armenian journalist Hrant Dink in 2007 continued. In February 2018, the Court of Cassation accepted the case filed by Armenian Patriarchate regarding the restitution of the Sanasaryan Han, an education centre which was seized by the state. With this decision, the legal personality of the Patriarchate of the Armenians of Turkey has been de jure recognised for the first time. A Greek minority pre-school opened in Gökçeada (Imvros) in 2017.

The national strategy (2016-2021) and action plan (2016-2018) for **Roma** citizens is being implemented but the committee for monitoring and evaluating the strategy only met once, in February 2017. The strategy needs to be supported by sufficient budget allocation, measurable indicators and time-bound targets. In addition, the monitoring system needs to be strengthened and all stakeholders need to be included in the consultation processes. According to a comprehensive survey, education levels are rising among young Roma citizens. However, overall educational attainment levels are low. Extreme poverty and a lack of basic necessities remain common among Roma households. The overall employment rate is low, at 31 %, while just 11 % of Roma people have full time paid jobs and 6 % are self-employed. Roma in general live in very poor housing conditions, often lacking basic services and facing segregation. The urban renewal project often resulted in demolishing Roma settlements and displacing families. Access to any public services is extremely challenging for Roma not having a permanent address. Two court cases on a lynching campaign against Roma people continue before the Court of Cassation. There has been research drawing attention to discrimination and social exclusion faced by Syrian Dom communities. Turkish authorities have agreed to hold the first EU-Turkey Roma seminar in 2018.

On **cultural rights**, the government has not legalised the provision of public services in languages other than Turkish. Legal restrictions on mother tongue education in primary and secondary schools remained. Optional courses in Kurdish continued in public state schools, as did university programmes in Kurdish, Arabic, Syriac and Zaza. Some university lecturers on the Kurdish language and literature were dismissed by an emergency decree in January 2017, adding to the lack of qualified lecturers in Kurdish. According to civil society organisations, numerous theatres, libraries, cultural and art centres were closed down as a result of this

decree. On a positive note, children's channel Zarok TV, which had been shut down following the attempted coup, began broadcasting again in December 2016. However, in 2017 another TV channel broadcasting in Kurdish was dropped from the state-owned satellite TÜRKSAT and two more Kurdish-language news outlets were closed down (*see Chapter 10: Information society and media*). Several commemorative and literary monuments marking important Kurdish personalities as well as two Assyrian sculptures were removed by authorities in the south-east. Some Kurdish festivals were prohibited on security grounds.

### 2.2.2 Chapter 24: Justice, freedom and security

*The EU has common rules for border control, visas, external migration and asylum. Schengen cooperation entails the lifting of border controls inside the EU. There is also cooperation in the fight against organised crime and terrorism, and judicial, police and customs cooperation.*

Turkey is **moderately prepared** in the area of justice, freedom and security. There was **good progress** in the past year, in particular in the area of migration and asylum policy. Turkey remained committed to implementing the March 2016 EU-Turkey Statement and played a key role in ensuring effective management of migratory flows along the Eastern Mediterranean route. Turkey is not yet implementing the provisions relating to third-country nationals in the EU-Turkey readmission agreement, despite these entering into force on 1 October 2017. Turkey still needs to align its legislation in key areas in the fight against organised crime, in particular its Data protection legislation, as well as for the fight against terrorism.

For the coming year, Turkey should in particular:

- continue implementing the EU-Turkey Statement of 18 March 2016 and implement all the provisions of the EU-Turkey readmission agreement towards all EU Member States;
- align legislation on personal data protection with European standards and implement the necessary requirements for the negotiations of an international agreement allowing for the exchange of personal data with Europol;
- revise its legislation and practices on terrorism in line with the European Convention on Human Rights, European Court of Human Rights case-law and the EU *acquis* and practices. The proportionality principle must be observed in practice.

### Fight against organised crime

Turkey has **some level of preparation** in the fight against organised crime. There was **some progress**, notably through the adoption of a new strategy and improvement of institutional capacity notably regarding coordination of financial investigations. Turkey needs to improve its legislation on cybercrime, asset confiscation and witness protection. An operational agreement could not be finalised with Europol due to data protection requirements, and Turkish data protection law is not yet in line with European standards.

For the coming year, Turkey should in particular:

- *implement the necessary requirements for the negotiation of an international agreement allowing for the exchange of personal data including with Europol and Eurojust;*
- *take measures to improve its track record, in particular by dismantling criminal networks and confiscating criminal assets;*

→ collect and use appropriate aggregate statistics to facilitate threat assessment, policy development and implementation;

→ develop a strategic approach towards financial investigations, including by adopting the Financial Action Task Force concept of financial investigations; implementing financial investigations as a standard when dealing with organised crime, terrorism and serious corruption cases; starting financial investigations from the very start of the criminal investigation; applying a multidisciplinary cooperation and a pro-active approach with regard to financial investigations.

### Institutional set-up and legal alignment

Over recent years, Turkey has increased the number of specialised departments in the police and/or the gendarmerie to deal with specific forms of organised crime (e.g. drugs, migration, human trafficking, cybercrime, witness protection). The gendarmerie's anti-smuggling and organised crime department was reorganised in March 2017.

Turkey's legal framework in the fight against organised crime and police cooperation is partially aligned with the EU *acquis*. The witness protection law still has shortcomings. Its scope needs to be expanded to include all types of serious crime and procedural rules need improvement. Rules on third-party confiscation, on extended confiscation and on precautionary freezing of assets need to be aligned with the *acquis*. Turkey's capacity to identify and trace criminal assets needs to be strengthened, notably by establishing or designating a centralised agency (Asset Recovery Office) in order to enhance the effectiveness of the national asset recovery system and facilitate the operational cooperation with the Asset Recovery Offices in the Member States.

The Ministry of the Interior continues to coordinate implementation of the 2016-2021 strategy for combating organised crime strategy and the related 2016-2018 action plan. Turkey is implementing a number of sectoral strategies and action plans, such as a national cybersecurity strategy and action plan (2016-2019).

### Implementation and enforcement capacity

In 2017, of 1564 cases of organised crime, 189 people were convicted. This compares to 450 cases in 2016 with 66 convictions.

The operational capacity of the forces of public order has been affected by the measures taken after the attempted coup of July 2016. Since October 2016, 23 095 staff in the General Directorate Security, 186 Coast Guard staff and 3456 gendarmerie officers (including conscripts) have been dismissed. The capacity of the training academy has been stretched to meet the increasing number of training courses required.

In terms of equipment, law enforcement bodies continue to have appropriate modern vehicles, radio communication systems, software, hardware and premises. Most of the expected databases are in place, though they are not always interconnected.

An operational agreement could not be finalised with Europol due to data protection requirements, and Turkish data protection law is not yet in line with European standards. The Commission adopted in December 2017 a recommendation to open negotiations of an international agreement allowing for the exchange of personal data including with Europol. A strategic agreement with Europol has been in force since 2004, while a Turkish liaison officer has been seconded to Europol since 2016. Closer cooperation between Turkish law

enforcement and Europol can be achieved by making better use of the existing strategic cooperation agreement and liaison agreement. Closer cooperation would be desirable in addressing the Foreign Terrorist Fighters.

Cooperation between the European Union Agency for Law Enforcement Training (CEPOL) and the Turkish National Police Academy has continued.

Turkey has signed 51 cooperation agreements in relation to the fight against terrorism and crime with 21 Member States, with a view to sharing information and conducting joint operations. In total, 169 security cooperation agreements have been signed, with 92 countries.

In 2017, the number of suspicious transaction reports submitted to the Financial Crimes Investigation Board has increased from 132 570 in 2016 to almost 175 000 in 2017. The number of files that have been analysed and evaluated increased from 839 in 2016 to 10 554 in 2017. However, only nine people were convicted for money laundering down from 23 in 2016. In 2016, Turkish law enforcement authorities detained 114 276 suspects in connection with 81 222 drug-related crimes and courts issued 37 367 convictions.

Turkey is a destination and transit country, and to a lesser extent source country, for women, men and children subjected to trafficking in human beings for sexual and labour exploitation. Authorities reported that 303 victims of trafficking in human beings were detected in 2017, compared with 181 in 2016. The main shortcomings identified are a limited accommodation capacity for victims and weak inter-agency cooperation, which has a particularly negative impact on identifying victims. A comprehensive multidisciplinary, victim-focused approach to trafficking in human beings needs to be developed.

As regards trafficking in firearms, with war-torn countries at its borders, Turkey is becoming increasingly a source and transit country for trafficking of weapons, including small arms and light weapons. It is desirable for Turkey to strengthen its efforts to prevent and fight illegal trafficking of firearms, such as with the adoption of an Action Plan and amending the Law on Firearms to further align with the EU acquis in this area.

The National Cyber Security Council operated according to their 2016-2019 strategy and action plan.

Cooperation on the ground between law enforcement bodies needs to be further improved, in particular between the police and the gendarmerie. Courts need greater specialisation in organised crime cases.

The confiscation of criminal assets should become a strategic priority in the fight against organised crime, terrorism and corruption in Turkey. Turkey should develop and implement a more comprehensive and coherent legal framework for the confiscation of proceeds of crime. In addition, it is crucial that financial investigations into a person's assets are allowed to continue (for years if needed) after a criminal conviction in order to fully and effectively implement a previously issued confiscation order. Finally, Turkey should urgently improve its capacity to manage frozen or confiscated assets so that they do not lose economic value (asset management).

88 people were enrolled in the witness protection scheme in the period September 2016 – September 2017, showing an important reduction compared to the previous period.

Fighting organised crime and corruption remains fundamental to countering the illicit influence of criminal groups on the political, legal and economic systems.

## **Fight against terrorism**

Turkey continued to be struck by several terrorist attacks attributed to PKK and Da'esh in the reporting period. The EU has condemned all acts of terrorist violence. Turkey has a legitimate right to defend itself against such terrorist violence, but the measures taken need to be proportionate. In its efforts to fight terrorism, Turkey has been giving high priority to the PKK, particularly following a severe surge of violence in the country since July 2015 (*see Situation in the east and south-east*). The PKK remains on the EU's list of persons, groups and entities involved in acts of terrorism. The authorities have also continued to address the terrorist threat from Da'esh vigorously. The Turkish authorities have mobilised considerable resources on the dismantling of the Gülen movement which they designated as a terror organisation in May 2016 and to which they attributed the organisation and execution of the attempted coup of July 2016.

### Institutional set-up and legal alignment

Turkey continued its work on countering the financing of terrorism. Following the 2016 ratification of the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, Turkey aligned its legislation with the provisions of the Convention. Legislation on the confiscation of criminal assets is partly in line with the *acquis*. Turkey needs to further align with the *acquis* by strengthening its measures to prevent the misuse of its financial system for the purpose of terrorism financing. Turkey's legislation on terrorism and corresponding implementation should be revised in accordance with the European Convention on Human Rights, the European Court of Human Rights case-law and the EU *acquis* and practices, without reducing Turkey's capacity to fight terrorism. The proportionality principle must be observed in practice. Turkey has not made any such legislative changes in the reporting period.

### Implementation and enforcement capacity

The Financial Crimes Investigation Board (MASAK) serves as the national financial intelligence unit. It increased its administrative and enforcement capacity and improved its cooperation with law enforcement agencies and judicial authorities. Currently, there is no strategy/action plan, however MASAK has been preparing a comprehensive national risk assessment document in view of the next FATF assessment in 2018. Turkey's track record on suspicious transaction reports has improved. Turkey's counter-terrorism dialogue with the EU continued actively, with specific attention being paid to foreign terrorist fighters. Turkey developed its cooperation with EU Member States on detecting foreign terrorist fighters (FTF) wanting to cross Turkey to reach Syria or Iraq. Turkey has issued entry bans for more than 38 000 suspected FTFs and deported more than 3 500 FTFs in 2016 and 2017 whilst about 1 030 FTF were taken into custody. Turkish increased efforts to counter both home-grown and FTF cells operating in Turkey. However, police and judicial cooperation with EU Member States and EU agencies in combating terrorism remained limited, due to the absence of a personal data protection law in line with European standards and differences over the definition of, and penalties for, terrorist offences. Turkey should continue its efforts to effectively prevent and counter radicalisation. This needs to be done in close cooperation with religious leaders and communities, social workers, the education system and youth organisations.

## **Legal and irregular migration**

### Institutional set-up and legal alignment

Legislation in this area is partially aligned with the EU *acquis*. Following the entry into force in 2013 of the Law on Foreigners and International Protection, the Directorate-General for Migration Management (DGMM) continued to increase its capacity. DGMM developed a strategic plan for 2017-2021 which contains objectives for regular migration, irregular migration, international protection, the fight against trafficking in human beings, improved harmonisation and communication, and increased institutional capacity. DGMM employs a total of 3 675 staff centrally and in the Turkish provinces, and there are currently 1 500 vacancies. Recruitment and training continued and work on creating the DGMM's overseas structure is ongoing. GöçNet, an internal online platform containing data on every foreigner residing in the country, is now operational in all 81 provinces in Turkey. Turkey has also set up KÜRE, its country of origin report acquisition system, with the objective of providing staff in charge of international protection with accurate country of origin information.

DGMM continued to expand its capacity to accommodate irregular migrants. Turkey has 18 removal centres with a total capacity of 8 276, and DGMM is planning to increase this capacity to 15 476 by 2020. Turkey needs to align its practice with European standards for services provided in removal centres where access to legal counsel and sufficient staffing of centres with well-trained professionals need to be ensured. Turkey needs to set up appropriate procedures and provide sufficient resources, including staff from law enforcement agencies, to identify and deal with vulnerable migrants and asylum seekers, including those with special needs.

A bilateral readmission agreement with Montenegro entered into force on 1 December 2016. The internal procedures for approval of the readmission agreements with Bosnia and Herzegovina were completed, but the agreement has not yet entered into force. Bilateral readmission agreements were signed with Nigeria, Yemen, Kosovo\* and Norway, and internal ratification procedures are ongoing. Negotiations for a readmission agreement with Switzerland were finalized in December 2016. Turkey still awaits responses from Afghanistan and Sudan about its readmission agreement draft proposals.

The Law on Foreigners and International Protection has been amended by two emergency decrees. One decree, passed in October 2016, stipulates that people who are considered to be affiliated with terrorist organisations can be removed from Turkey without the possibility of suspending a removal decision by filing an appeal. This decree also provided DGMM with the authority to collect passenger and crew information from carriers that operate within Turkey. Another decree, adopted in August 2017, introduced new categories of people that can obtain short-term residence permits and extended the duration of short-term residence permits and family residence permits. It also expanded the categories of students that can receive residence permits for the duration of their studies in Turkey. The amendment also introduced the possibility of external service providers applying for residence permits.

Throughout 2017, the Migration Policies Board met four times. Convening the Migration Advisory board – a mechanism established by the Law to support DGMM - with the participation of academia and rights-based civil society organizations working in the field would promote dialogue between the government and civil society on migration management and also support migration policy development. Not all regulations issued with respect to the

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\* 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.

implementation of the Law on Foreigners are made public and there is a lack of public awareness about legislation related to migration, including emergency decrees and regulations.

#### Implementation and enforcement capacity

The EU-Turkey Statement of 18 March 2016 continued to deliver results, with both parties committed to its effective implementation. According to the International Organisation for Migration, the number of lives lost in the Aegean Sea stemming from irregular crossing attempts dropped significantly from 434 (1 January - 31 December 2016), of which 366 were in the three months before the activation of the Statement, to 62 (1 January - 31 December 2017). Likewise, the daily average of irregular crossings from Turkey into the Aegean islands fell from 1 794 in the period from January to March 2016, just before the activation of the Statement, to 80 from its activation to 7 March 2018. This trend was supported by intensified efforts by Turkey's law enforcement agencies to prevent irregular departures from coastal areas, the Turkish coast guard patrolling in the Aegean Sea, and the introduction of measures restricting the free movement of people seeking international protection and people under temporary protection to the provinces to which they had been assigned. According to the Turkish authorities, 175 752 people were intercepted in 2017 while crossing the border illegally, an increase of 0.7 % from 2016. 21 937 irregular migrants were apprehended by the coast guard in 2017, compared to 34 841 in 2016. The number of human smugglers apprehended increased from 3 314 in 2016 to 4 641 in 2017.

Turkey took proactive action to prevent the opening of a new migratory route in the Black Sea in August-September 2017. It also took some measures to prevent irregular departures to Cyprus and Italy. Turkey actively facilitated the implementation of the 'One-for-One' resettlement scheme under the EU-Turkey Statement by pre-selecting candidates for resettlements. Between 4 April 2016 and 31 December 2017, 11 711 Syrians were resettled from Turkey to the EU. Respecting the commitments under the EU-Turkey Statement, Turkey has readmitted - from the start of the implementation until the end of 2017 – 1 484 persons, including 236 Syrians who had reached the Greek islands directly from Turkey. Technical cooperation between Greece and Turkey on returns under the Statement has been facilitated by regular trilateral meetings also involving the EU.

Implementation of the EU-Turkey readmission agreement remained unsatisfactory. Provisions of the agreement that apply to Turkish nationals are not implemented consistently by all Turkish diplomatic missions in the EU. Turkey maintained its position that it would not implement the provisions in relation to third-country nationals that entered into force on 1 October 2017 until the visa requirement for its citizens travelling to the Schengen zone for a short stay has been lifted. Implementation of Turkey's existing bilateral readmission obligations towards Greece significantly deteriorated in 2017. Turkey does not readmit third-country nationals from Bulgaria, either under the bilateral border agreement or under the EU-Turkey readmission agreement.

Turkey has become a major destination country for regular migration. At the end of 2017, 593 151 non-Turkish nationals held a temporary residence permit in Turkey, up from 461 217 in 2016. The Law on International Labour Force adopted by the Turkish Parliament in July 2016 introduced simplified procedures for granting work permits. A new work permit system called the 'Turquoise Card' was introduced, aiming to attract qualified labour force into Turkey. A circular was issued in May 2017 regulating work permits allowing foreigners to work in special economic zones. The Law on International Labour Force also led to the establishment

of a Directorate-General for International Labour, which has 157 staff members handling matters concerning, among others, labour policies, foreign direct investments and international and temporary protection.

## **Asylum**

### Institutional set-up and legal alignment

Turkey's asylum legislation is partially aligned with the EU *acquis*. Under the Law on Foreigners and International Protection and two implementing regulations, DGMM is the main state body responsible for all refugee-related issues. A specificity of the Turkish asylum system is linked to the fact that the country signed the 1968 New York Protocol of the 1951 Geneva Convention with a geographical limitation. Accordingly, under Turkish law the vast majority of persons seeking international protection in Turkey cannot apply for fully-fledged refugee status but for 'conditional refugee' status and subsidiary protection only. If conditional refugee status is granted, this limits the stay in the country until the moment a recognised conditional refugee is 'resettled to a third country'. While relevant legislation avoids the term 'integration', there is a need to design integration pathways for different status holders. Refugees under 'temporary protection' are largely prohibited from acquiring Turkish citizenship. Against the backdrop of an amendment to the Law on Turkish Citizenship, which entered into force in November 2017, Turkish authorities completed the exceptional naturalisation process for 36 323 Syrian individuals in 2017. Around 50 000 Syrians have been identified for naturalisation. These individuals were highly-qualified and well-educated Syrians, including those who had lived in Turkey without temporary protection since before the start of the conflict in Syria.

Non-Syrian asylum seekers are subject to a dual asylum registration system. Newcomers must apply for asylum at a DGMM Provincial Directorate of Migration Management office (PDMM). They are also registered by the Association for Solidarity with Asylum Seekers and Migrants on behalf of UNHCR. Once registered, they receive the status of 'international protection applicant'. PDMMs issue an ID card to each applicant, which legalises the person's stay in Turkey. Applicants for international protection (including for conditional refugee status) and people under temporary protection can apply for a work permit. According to the Turkish authorities, 15 700 work permits had been issued to Syrians under temporary protection by the end of 2017. Applicants for international protection and people under temporary protection are also allowed to enrol in the general health insurance scheme, register at public schools, receive interpretation services free of charge and apply for social assistance.

### Implementation and enforcement capacity

As of December 2017, Turkey was hosting about 3.5 million Syrian and 365 000 non-Syrian refugees, the largest refugee community in the world. There are currently 62 'satellite cities' in Turkey where asylum seekers and recognised conditional refugees are required to reside, although Syrian refugees are exempt from this requirement. They may register in any of Turkey's 81 provinces, but must then reside in that province. Biometric registration in these provinces is done by the PDMM. According to a Ministerial Circular issued in November 2017, PDMM may cancel the temporary protection status granted to Syrians if they leave their province of residence without authorisation on three successive occasions without notifying PDMM and in the absence of a valid justification.

Around 228 000 of the 3.5 million Syrian refugees live in 21 camps managed by the Disaster and Emergency Management Agency (AFAD) along the Turkish-Syrian border, while more



than 3.2 million live in host communities spread across the entire country. Throughout 2017, significant work was done to provide wider access to schooling and healthcare to Syrians under temporary protection, including with EU support under the Facility for Refugees in Turkey. Out of 1.1 million Syrians of school age in Turkey, about 605 000 now have access to primary and secondary education. Work by the Ministry of National Education and AFAD to enable more Syrian children to have access to education continues. Syrians under temporary protection have the right to access healthcare at hospitals in the province of their first registration. Migrant health centres are being set up, where both Turkish and Syrian doctors who have obtained a professional authorisation certificate are employed.

Since late 2016, DGMM has been carrying out an exercise to check information about Syrians under temporary protection, updating and completing the information taken during their original registration. This will provide updated data that can be used to design evidence-based programmes for targeted assistance.

There is a risk that children of Syrians under temporary protection born in Turkey become stateless if the father is not present. This should be taken into account during the registration and certification process. More information should be provided to migrants and refugees about their rights, and more should be done to raise awareness of these among the host population.

There have been reports of alleged expulsions, returns and deportations of Syrian nationals, in contradiction of the *non-refoulement* principle.

As regards non-Syrians, the latest available figures from UNHCR indicate that at the end of 2017, 364 966 asylum-seekers and refugees from countries other than Syria were registered with UNHCR in Turkey, among them 163 413 Afghans, 152 976 Iraqis, 33 923 Iranians, and 14 654 classified as ‘other nationalities’. Of these, UNHCR reported that as of the end of 2017, the number of individuals recognised as refugees by UNHCR stood at 56 111.

The number of asylum seekers continued to increase in Turkey and a substantial backlog remained in determining international protection status. Turkey had by mid-March 2018 granted international protection to 69 614 applicants, refused 13 079 applications, and 251 574 cases remained under review. A new registration centre is planned in Ankara to work towards evaluating and processing 25 000 applications per year.

In 2017, DGMM started to cooperate with the European Asylum Support Office.

### **Visa policy**

Turkey needs to further harmonise its visa policy with the EU common visa policy. Further efforts are needed to align its legislation with the Visa Regulation, the Visa Code and other relevant EU legislation. This would include aligning Turkish visa requirements with the EU lists of visa-free and visa-required countries, full phasing-out of the issuing of visas at borders and of e-visas and ensuring that the issuing of visas at consulates is carried out in line with the conditions and procedures set out in the Visa Code. Turkey continues to apply a discriminatory visa regime towards 11 Member States, including the Republic of Cyprus for which the e-visa system refers to the country option Greek Cypriot Administration of Southern Cyprus. The Polnet integrated police database and the Konsolosluknet Ministry of Foreign Affairs database have been connected to DGMM’s Göçnet database.

The EU-Turkey visa liberalisation dialogue continued. Turkey made some progress in preparing to issue biometric passports that meet EU standards, but has yet to fulfil 7 out of 72

benchmarks on: the fight against corruption, judicial cooperation in criminal matters, cooperation with Europol, data protection legislation, anti-terrorism legislation, EU-Turkey readmission agreement, and biometric passports. At the beginning of February 2018, Turkey submitted to the European Commission a work plan outlining how Turkey plans to fulfil the seven outstanding visa liberalisation benchmarks. The Commission is assessing Turkey's proposals and further consultations with the Turkish counterparts will follow.

Using a new visa online system, activated in February 2016, applicants are required to upload relevant data, which is later verified against original documents by Turkish diplomatic missions abroad, followed by an interview. In 2017, 13 training courses including modules on document security were delivered to border and consular staff. New Turkish visa stickers with higher security standards are under development and need to be put in place.

## **Schengen and external borders**

### Institutional set-up and legal alignment

While Turkey's legislation on external borders and Schengen is inspired by the EU *acquis* and practices, its legislative and administrative frameworks are not fully aligned with EU standards. Some progress was made in the area of external borders and Schengen. Joint operations by all law enforcement authorities (gendarmerie, coast guard and national police) have increased and led to an increased number of apprehensions of irregular migrants and organisers of human smuggling in 2017. An important step forward in relation to inter-agency cooperation was the setting up of a joint law enforcement training academy for the gendarmerie and the coast guard.

To ensure better alignment with the EU *acquis*, specialised and professional staff should be put in charge of border check and border surveillance tasks. Risk analysis units need to be put in place, both in central administrations dealing with border management and also locally at border crossing points.

### Implementation and enforcement capacity

The March 2016 Regulation on Inter-institutional Cooperation and Coordination in the field of Border Management needs to be implemented. The Integrated Border Management Coordination Board set up under this regulation has not yet met. Another forum that was created, the Border Management Implementation Board, has met only twice. The National Coordination and Joint Risk Analysis Centre (NACORAC) that was set up under the regulation needs to start functioning, in order to collect, exchange and process data on border security and to carry out joint risk analysis among border authorities. Intense inter-agency cooperation based on risk analyses is necessary to improve effectiveness in tackling cross-border crimes and smuggling networks. Local sub-governors and deputy governors received the requisite training and a training manual was adopted by the Ministry of the Interior. Legislation to create a single organisation in charge of border security has been put on hold, mainly due to instability in the border regions.

DGMM has taken on responsibility for managing pre-arrival information and conducting risk analysis on passenger travelling by air. Advance passenger information/passenger name record (API/PNR) data should also be shared and analysed by the Turkish national police to efficiently identify passengers where there is an increased risk and take measures accordingly.

Mobile border surveillance capacity was considerably increased during the reporting period at land and sea borders. New technology was rolled out and the infrastructure was modernised.

Demining the eastern borders continued in the province of Iğdır, at Turkey's border with Iran. The Turkish national police's capacity to identify forged and falsified documents needs to be further strengthened, including in the transit zone to prevent irregular border crossings. The coast guard's maritime surveillance capacity needs to be ensured. The Land Forces Command and Turkish national police need to deploy professional staff who are specialised in their respective areas.

Turkey improved its border cooperation with neighbouring Greece and Bulgaria through the trilateral common contact centre for police and customs cooperation, which became operational in November 2016. Cooperation among the Turkish, Romanian and Bulgarian coast guards resulted in the prevention of irregular border crossings in the Black Sea. In 2017, the European Border and Coast Guard Agency (EBCGA) and Turkey continued to intensify their operational cooperation, supported by the presence of an EBCGA Liaison Officer in Turkey. EBCGA delivered training on risk analysis and data collection, and cooperation continued on joint analysis.

### **Judicial cooperation in civil and criminal matters**

The main Turkish legislation governing judicial cooperation in criminal matters is in place. The Law on International Judicial Cooperation in Criminal Matters entered into force in May 2016 and aims to speed up procedures. These procedures include the introduction of video-conferencing for mutual legal assistance requests, and the introduction of a 'consensual extradition' procedure. The mechanism of 'exact execution' was introduced for people who have been convicted and are transferred to Turkey. However, the independence and accountability of the justice system still needs to be strengthened so that the principle of mutual recognition of judgments and court decisions in criminal matters can be smoothly implemented.

Turkey has provided training courses on the new law but only to prospective judges and prosecutors at the Justice Academy. Such training should be extended to sitting judges and prosecutors.

Turkey has assigned direct contact points under the central authority, including for the Netherlands, Germany and the United Kingdom. Justice consultants have also been appointed in Turkey's diplomatic missions in Paris, Berlin, Brussels, and The Hague.

In 2017, EU Member States accepted 13 extradition requests out of 202 from Turkey, while Turkey accepted none of the 16 requests from EU Member States. EU Member States accepted no transfers of convicts to Turkey and Turkey accepted 2 transfers to an EU Member State.

An operational agreement could not be finalised with Europol due to data protection requirements, and Turkish data protection law is not yet in line with European standards. The list of Eurojust contact points in Turkey was updated several times in 2016 and 2017. In May 2017, the College of Eurojust approved an action plan on Turkey and contact points were newly appointed. Eurojust will consider how to reinforce cooperation with Turkey.

In 2017, Turkey was involved in four Eurojust cases. These criminal cases mainly concerned terrorism, illegal immigrant smuggling, money laundering and fraud.

Cooperation between the Turkish national police and Interpol needs to be improved to make more efficient use of Interpol's database to identify fraudulent documents and stolen passports.

On judicial cooperation in civil matters, Turkey is now party to most international conventions in this area, including the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children. The 2007 Hague Convention on the International Recovery on Child Support and Other Forms of Family Maintenance entered into force in February 2017. Turkey still needs to take effective measures to ensure shorter timeframes for proceedings in the context of the 1980 Hague Convention on civil aspects of the international child abduction. Turkey has not yet acceded to relevant international conventions in the area of civil justice. Turkey has signed, but not yet ratified, the 1983 European Convention on the Compensation of Victims of Violent Crimes.

## **Cooperation in the field of drugs**

### Institutional set-up and legal alignment

The High Council for the Fight against Drugs is responsible for inter-ministerial coordination on drug policy issues in Turkey. It is tasked with high-level strategy development, developing interinstitutional coordination and monitoring strategy implementation. The High Council includes ministers from all of the ministries involved in delivering the objectives of the national drug strategy. The Board for the Fight against Drugs supports the work of the High Council. In July 2017, the Ministry of Interior adopted its own institutional plan to implement specific projects in this field, the ‘implementation policy on the fight against drugs (2017-2018)’. In November 2017, a research committee was set up to conduct research on drug addiction and new types of addictions and to identify reasons for addiction and measures to be taken to address the issue. There is a scientific committee, composed of academics, which is tasked with making recommendations for studies and carrying out training on reducing demand for drugs. There is also a National Early Warning System for the control procedures at the Turkish National Monitoring Centre for Drugs and Drug Addiction tasked with identifying new substances to be covered by relevant legislation.

### Implementation and enforcement capacity

Turkey lies on the main transit route for drugs between Asia and Europe. Turkish law-enforcement bodies conducted successful operations during the reporting period, which resulted in the seizure of 146 954 kg of cannabis, 845 kg of cocaine, 5 585 kg of heroin, 3 783 737 ecstasy tablets and 12 918 309 captagon tablets. Four controlled delivery operations were carried out with 2 countries (United States and Austria). Since 2008 a total of 692 new psychoactive substances were included in the scope of the legislation as a result of the activities of National Early Warning System for the control procedures at the Turkish National Monitoring Centre for Drugs and Drug Addiction working group. The number of sniffer dogs used by the Turkish National Police increased to 391.

Since December 2014, specialist drugs teams have been set up in 50 provinces to support the fight against drugs in high-risk locations such as schools. (There were 11 such teams in 2015, 29 in 2016 and xx in 2017). Turkey reports annually to the European Monitoring Centre for Drugs and Drug Addiction. The quality and quantity of data Turkey provides is improving. Rehabilitation and treatment capacity in the country needs to be further increased. Turkey’s capacity for data collection and analysis needs to be strengthened.

**Customs cooperation** - see Chapter 29 (Customs Union).

### 3. FUNDAMENTALS FIRST: ECONOMIC DEVELOPMENT & COMPETITIVENESS

Key economic figures	2015	2016	2017****
Gross domestic product per capita (% of EU28 in PPS)	62**	62	NA
GDP growth (%)	6.1	3.2	7.2
Unemployment rate and older (female; male) (%)	10.3 (12.6; 9.3)	10.9 (13.6; 9.6)	11.0 (14.5;9.6)
Economic activity rate for people aged 20-64: proportion of the population aged 20-64 that is economically active (female; male) (%)	59.9 (32.6; 75.3)	60.9 (33.2;75.5)	NA
Current account balance (% of GDP)	-3.8	-3.7	-4.5
Net foreign direct investment inflows (% of GDP)*	2.0	1.5	1.3

Source: Eurostat, National Statistics Agency, \*World Bank, \*\* Turkstat revised its national accounting methodology leading to a 20 % increase in its GDP from the last country report.\*\*\* Reporting period: for GDP - first three quarters; for unemployment – first eleven months; for current account and FDI – 12 month rolling basis up to 2017 Q3

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the EU.

The monitoring of these economic criteria should be seen in the context of the central importance of economic governance in the enlargement process. Each enlargement country prepares an Economic Reform Programme (ERP) annually, which sets out a medium-term macro-fiscal policy framework together with a key structural reform agenda aimed at ensuring competitiveness and inclusive growth. These ERPs are the basis for country-specific policy guidance jointly adopted by the EU and the Western Balkans and Turkey at ministerial level in May each year.

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

The Turkish economy is **well advanced** and can be considered a functioning market economy. The economy, supported by government stimulus measures, managed to recover from the contraction witnessed in the wake of the attempted coup of 2016 and achieved strong growth in 2017. However, high growth is coupled with significant macroeconomic imbalances. The current account deficit remains high and increased towards the end of 2017, making the country dependent on capital inflows and vulnerable to external shocks. Inflation moved to double-digit rates in 2017, and the depreciation of the Turkish lira continued, highlighting concerns over the degree of commitment of monetary policy decision-makers to price stability. The tendency to increase state control in the economic sphere and the actions targeting companies, businessmen and political opponents and their businesses harmed the business environment. Overall, there was **backsliding** in this area.

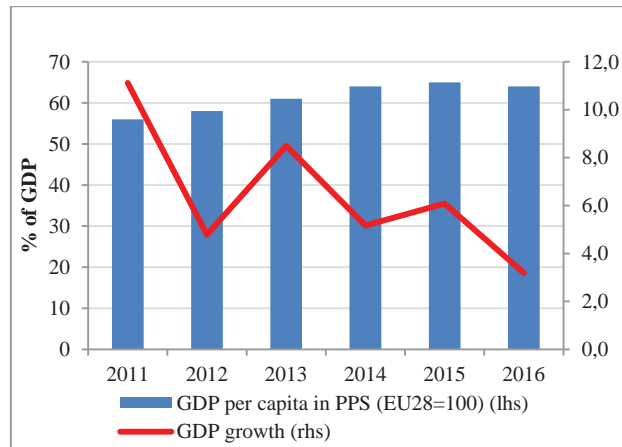
In order to support long-term growth, Turkey should pay particular attention to:

→ reduce macroeconomic imbalances by promoting domestic savings;

- achieve a more inclusive labour market, increasing flexibility and reducing informality;
- improve the business environment, including by strengthening the rule of law and the judiciary.

### Economic governance

**Figure 1 Turkey GDP growth**



Source: Eurostat, national sources

**Although still considered a functioning market economy, Turkey has been backsliding in its commitment to market-oriented approaches, with a deteriorating business environment and widening macroeconomic imbalances.** There was only limited implementation of the policy guidance jointly adopted in May 2017. The government's Economic Reform Programme for 2018-2020, submitted to the Commission in January 2018, projects an optimistic macroeconomic scenario in which GDP growth continues at a high pace and investment increases while unemployment, inflation, the government

deficit and the current account deficit decrease. In July 2017, a cabinet reshuffle strengthened economic management by concentrating the coordination of economic policy in the hands of the Vice Prime Minister responsible for the Treasury. At the same time, targeted government action against companies, business people, political opponents and their businesses and the large-scale dismissal of judges and prosecutors continued. This further negatively affected the business environment. Uncertainty over the central bank's independence in carrying out monetary policy increased, to the detriment of macroeconomic stability.

### Macroeconomic stability

**Economic growth rebounded after the coup attempt.** Following an average growth rate of 7.4 % from 2010 to 2015, domestic political uncertainty, geopolitical conflicts and security concerns led to an economic slowdown in the second half of 2015. High loan growth driven by government credit guarantees and macro-prudential measures, a waiver for employers' social contributions and other policy measures, the depreciation of the lira, strong growth in the construction sector, and the upswing in the European economy have contributed significantly to reviving the economy. Turkey recorded an average growth rate of 6.4 % year-on-year (2.4 % quarter-on-quarter) in the four quarters to September 2017. The high contribution from the construction industry to recent economic growth and the upward revision of GDP levels by 20 % under the new national accounting methodology complicate estimates of Turkey's sustainable economic growth rate. This is particularly true in a context of high inflation, a depreciating trend in the Turkish lira, high credit and money growth, and high unemployment. GDP per capita in purchasing power standard increased from 58 % of the EU average in 2012 to 64 % in 2016.

**Turkey's current account deficit has stopped narrowing in recent years and widened in 2017.** The deficit declined from 7.7 % of GDP in 2013 to 3.7 % in 2016, supported by declining oil prices and the depreciation of the Turkish lira. However, it increased during

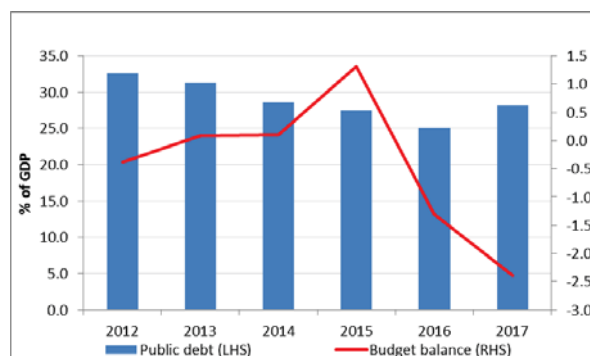
2017 to 4.5 % of GDP on a 12 month rolling basis in 2017 Q3. Political uncertainty following the attempted coup, combined with regional instability and bilateral crises (in particular with Russia), had a negative impact on trade revenues and on foreign direct investments (FDI). Most capital inflows tend to be portfolio investments. FDI inflows to Turkey declined sharply by 30.5 % to approximately 1.5 % of GDP in 2016. Dependence on volatile capital inflows makes the Turkish currency and economy vulnerable to a sudden loss of investors' confidence. Gross external debt stock as a percentage of GDP increased to 46.9 % in 2016, most of which is owed by the private sector.

**Domestic savings have been revised upward under the revised national accounting methodology but still fall well short of domestic investment.** The shortfall in domestic savings needs to be compensated with inflows of foreign capital. In order to promote domestic savings, private pension savings were subsidised and the Treasury started to issue gold-denominated bonds and lease certificates.

**Inflation remained high and Turkey faced the return of double-digit inflation for the first time since 2012.** The rise in food and energy prices and the depreciation of the Turkish lira put pressure on inflation in 2017, which was the first year to have a double-digit average headline (11.1 %) and a double-digit core inflation rate (10.1 %) since 2003, when the central bank regained control over inflation. High inflation has significant costs in terms of macroeconomic stability, resource allocation and redistributive effects. It also risks eroding the credibility of the central bank and reducing monetary policy's effectiveness.

**The central bank continued to pursue multiple objectives as part of an overly complex monetary policy framework in a context of challenges to its independence.** Although price stability is the primary objective, the central bank is also pursuing macro-financial stability and trying to dampen exchange rate fluctuations. Together with political calls for lower interest rates and question marks over the usefulness of an independent monetary policy, this has led to uncertainty in financial markets and, as a result, a volatile exchange rate. The 'Late Liquidity Window', the monetary policy for providing liquidity to banks in exceptional circumstances has become the only policy tool as of November 2017. Monetary policy should focus more on its primary objective of price stability in order to reach the official inflation target. In addition, simplifying the monetary policy framework would improve its transparency and predictability, and would strengthen the central bank's credibility.

**Figure 2 Turkey fiscal developments**



Source: Eurostat, national sources, ESA2010 till 2015

**Stimulus measures have led to deteriorating public finances and a rise in contingent liabilities.** The government has benefited from lower interest payments and the primary deficit has decreased to close to zero in recent years. At the same time, contingent liabilities to government finance have built up in the banking sector, from public-private partnerships and from government guarantees for the KGF credit fund. Government debt exceeded the legal limit set for 2017 by the end of the first eight months of the year. The borrowing limit was increased by the Parliament a first time by

5% and by an additional 5% in October 2017. The Parliament also added TL 37 billion to the net borrowing amount. The 2016 central government budget deficit amounted to 1.1 % of GDP, which is marginally lower than in the preceding year (1.2 %) and in the originally planned budget (1.6 %). Revenues increased by 14.8 % year-on-year, while expenditure increased by 15.3 %. Budgetary figures look more positive under the revised national accounting methodology. In 2017, government revenues increased by 13.8 % year-on-year and government expenditure increased by 16.0 %. The general government debt stock remained at a sustainable level. General government debt as a percentage of GDP increased from 27.5 % in 2015 to 28.1 % in 2016. Taking account of wider macroeconomic issues, however, Turkey's fiscal policy stance has not appropriately addressed the country's persistent external imbalance in recent years. Public finances have a significant role to play in increasing overall domestic saving and reducing the need for capital inflows through an appropriately tight fiscal policy stance.

**Turkey made some progress in increasing the transparency of its fiscal framework.** As of December 2016, key budget documents (with the exception of the pre-budget statement) are made publicly available online within a period that is consistent with international standards.

## **Functioning of product markets**

### *Business environment*

**Starting a business has become easier.** The number of procedures to start a company has been reduced by one to seven, now taking 6.5 days instead of 7.5 days. Obtaining construction permits is still burdensome, but the costs for registering the transfer of property have been lowered. The number of company bankruptcies decreased by 8.9 % year-on-year in 2016 but it increased by 22.5 % in 2017. The number of newly created businesses decreased by 4.5 % in 2016, but increased by 14.4 % in 2017. As a consequence, the net creation rate of companies was negative 3.5 % year-on-year in 2016, but turned to a positive rate of 12.7 % year-on-year in 2017.

**Market exit remained costly and time-consuming.** Insolvency procedures lasted an average of five years and recovery rates fell further, to an average of 15.3 %. Resolving insolvency became more difficult as applications to postpone bankruptcy procedures made before and during the state of emergency were suspended.

**Targeted actions against media companies, business people and political opponents critical of the government had a negative effect on the overall business environment.** The management of numerous companies has been transferred under the trusteeship of the Savings Deposit Insurance Fund (TMSF). As of 1 February 2018, 985 companies across Turkey, with a total value of assets of TL 47.6 billion (EUR 9.7 billion) and with a total of 49 587 employees, have been seized or have been moved under trusteeship following the attempted coup. The January 2017 introduction of a new communiqué law grants the minister in charge of the TMSF the power to decide on the sale and dissolution of companies transferred to the TMSF and to lay down implementing rules for their management. Trustees assigned to the transferred companies are immune from administrative, financial and criminal liability.

**There has been serious backsliding in the past year with regard to the judicial system.** Continued political pressure on judges and prosecutors and collective dismissal of a large number of judges and prosecutors following the 2016 attempted coup had a significant negative effect on the independence and the overall quality and efficiency of the judiciary. A



reasonably well-functioning legal system continues to be in place with regard to property rights. Although the introduction in 2015 of an electronic filing system for court users made enforcing contracts easier, the enforcement of commercial contracts remains a lengthy process that took an average of 580 days in 2016. Turkey ranked 107<sup>th</sup> out of 138 countries with regard to judicial independence, according to the World Economic Forum's 2016-2017 Global Competitiveness Report. Turkey also scores poorly on the efficiency of the legal framework in settling disputes, ranking 96<sup>th</sup>. From 2015 to 2017, Turkey dropped from 80<sup>th</sup> (out of 102 countries) to 101<sup>st</sup> position (out of 113 countries) in the World Justice Project's Rule of Law index.

#### State influence on product markets

**The state is still active in price setting in key sectors.** More than 25 % of the consumer price inflation basket in Turkey is composed of goods whose prices are either set or heavily influenced by the public authority either directly or indirectly (price limits, adjusting tax rates). This practice, which changes relative prices outside of market forces, is mostly driven by other economic concerns such as the current account balance and limiting the pass-through of foreign currency denominated prices. The Food and Agricultural Product Markets Monitoring and Evaluation Committee is seeking to contain the rise in the food prices by taking measures to improve supply conditions for unprocessed food products. For energy (natural gas and electricity), the government continued to set end-user prices, effectively suspending automatic pricing mechanisms. A transparent and cost-based pricing mechanism for the electricity and gas sectors has not yet been properly implemented.

**There was no progress in improving the transparency of state aid.** Legislation to implement the State Aid Law, originally scheduled to be passed by September 2011, has still not been adopted. The State Aid Authority has still not formally set up a comprehensive state aid inventory or adopted an action plan to align all state aid schemes, including the 2012 incentives package, with the *acquis*. On 5 December 2017 provision of the Law Monitoring and Supervision of the State Aid related to the enforcement of implementing legislation was amended. The amendment, repealing the set of previously defined deadlines without introducing a new one, enabled the Council of Ministers to delay the enforcement of the implementing legislation for an unlimited period and caused a strong deterioration of Turkey's determination on aligning its State Aid legislation with the related EU *acquis*.

#### Privatisation and restructuring

**The pace of privatisation slowed down further.** Following a surge in 2013, privatisation activities slowed down, with the total volume of completed deals decreasing from EUR 1.8 billion in 2015 to EUR 1.2 billion in 2016. Continued liberalisation in the markets for goods and services could improve competition.

**In 2017, a large proportion of state assets were transferred to the Turkish Sovereign Wealth Fund (TWF).** This was set up in August 2016 to provide funding for large-scale infrastructure and real estate projects in Turkey. The states assets concerned are predominantly the shares previously held by the Treasury of large companies and banks (such as Ziraat Bankası, Halkbank, Borsa Istanbul, Türk Telekom, THY, PTT, TÜRKSAT, BOTAŞ, Eti Maden and Çaykur). While these assets are not subject to any inspection, audit or monitoring by the Court of Accounts, every action taken by the fund will be reported directly to the Prime Ministry. In January 2018, an emergency decree was issued that allows foreign borrowing by the TWF against its assets.

## Functioning of the financial market

### *Financial stability*

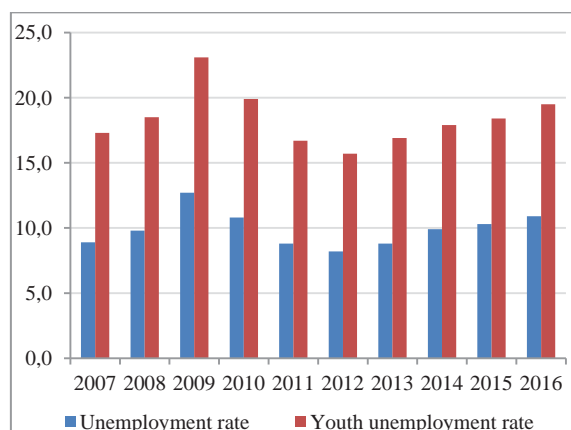
**The financial sector performed well and continued to demonstrate resilience.** The sector's capital adequacy ratio remained unchanged compared to 2015, at 15.6 % in 2016, and increased to 16.9% in 2017. It continues to be well above the regulatory target of 12 %. The proportion of non-performing loans of total banking sector loans slightly increased, from 3.1 % in 2015 to 3.2 % in 2016, but declined in 2017 as loan growth outpaced non-performing loans growth (2.9 % in December 2017). The banking sector's loans-to-deposits ratio has gradually increased to 126 % in 2017. The gap left by a lack of domestic deposits was funded from abroad, mostly by long-term financial instruments (bonds, deposits, loans) and financial instruments denominated in Turkish lira. The liquidity ratio of Turkish banks is below 100% for maturities between 7 days and 3 months and funded for half by derivatives (predominantly swaps). This may expose Turkish banks to counterparty risks, in particular in the case of exceptional events.

### *Access to finance*

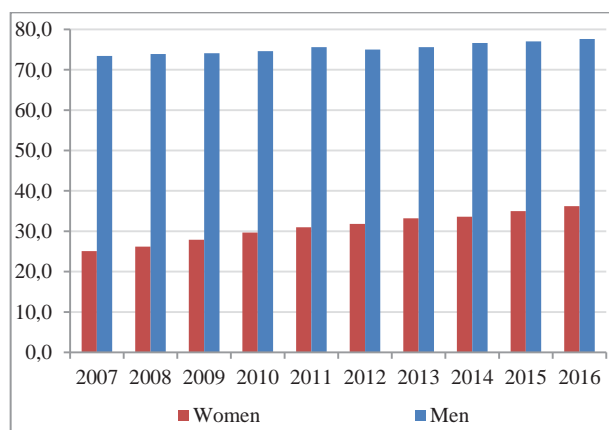
**Banks continued to dominate the financial sector.** Their rapid credit expansion continued in 2017, with total bank lending increasing by 22 % year-on-year. The value of the banking sector's assets as a ratio of GDP fell from 121 % in 2015 to 105 % in 2016. The size of the much smaller insurance sector (including private pensions) increased to 4 %. State-owned banks' proportion of total banking sector assets slightly increased to 34 % as of September 2017, while the proportion owned by foreign banks increased to 27 %.

## Functioning of the labour market

**Figure 2 Unemployment in Turkey (% of Active population)**



**Figure 3 Participation rates in Turkey (% of Labour Force)**



Source: Eurostat, national sources

**Unemployment remained high despite strong economic growth and government incentives.** The employment mobilisation campaign launched in 2017 seems to have had a limited impact. In 2016, the unemployment rate (for 15-64-year-olds) stood at 10.9 %, representing an increase of 0.6 percentage points compared to 2015. Labour force growth is driven by a growing number of people of working age, as well as a rising labour force participation rate (up from 56.1 % in 2015 to 57 % in 2016). The overall employment rate increased from 53.9 % in 2015 to 54.3 % in 2016 with a large difference between men

(75.5 %) and women (33.2 %). Turkey needs to focus on achieving a more inclusive labour market by increasing flexibility and reducing informality. The unemployment rate for people with higher education level reached 12.2 % in November 2017.

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

Turkey has made **some progress** and has a **good level of preparation** to cope with competitive pressures and market forces within the EU. Turkey is well-integrated with the EU market in terms of both trade and investment. Some progress was made in the energy sector, particularly in the gas market, and in increasing R&D spending. However, significant problems remained with regard to the quality of education. There was no progress in improving the transparency of state aid.

In order to support long-term growth, Turkey should in particular:

- raise the quality of the education system;
- improve qualifications for low-skilled workers through training;
- increase research and development capacity.

#### Education and innovation

**According to the most recent PISA<sup>3</sup> study on the educational performance of 15-year-old students, Turkish students' performance fell in all three subjects tested (science, mathematics and reading) between 2012 and 2015.** The measures taken by the government following the attempted coup in 2016 resulted in a considerable number of staff dismissals and changes in educational institutions, posing risks to the stability of Turkey's education sector. The continuous changes occurring in the education system also create an uncertain environment for both students and teachers.

A mismatch continues to exist between the requirements of the labour market and the skills produced by the education system. Turkey needs to make better use of its human capital to stimulate sustainable and inclusive growth and competitiveness, both through raising the level of qualifications for the workforce and creating a stable and solid framework for the education system.

**Public and private sector research and development (R&D) expenditure slightly increased from 0.86 % of GDP in 2014 to 0.94 % in 2016, though it remained well below the government's current target of 1.8 % by 2018.** About half of this investment came from the private sector. The Production Reform Package adopted in July 2017 contains measures to encourage R&D activities in universities and to strengthen cooperation between higher education institutions and the public and private sectors. However, intensified efforts are needed to develop a comprehensive strategy to support R&D, while building closer cooperation between research institutions and businesses.

#### Physical capital and quality of infrastructure

**The estimate of gross fixed capital formation in the economy has increased significantly under the revised national accounting methodology.** By far the largest proportion of this increase is attributable to an increase in construction investment. Total investment declined by

<sup>3</sup> OECD's Programme for International Student Assessment

0.2 percentage points to 28.2 % of GDP in 2016. The share of private investment in GDP decreased slightly from 24.2 % to 24.1 % and the share of public investment of GDP fell slightly from 4.2 % to 4.1 % between 2015 and 2016.

**Turkey has undertaken sizeable investments in its infrastructure in the past decade and almost all provincial centres are now connected by dual carriageways.** Major infrastructure works were completed and opened to traffic in 2016, such as the Eurasia tunnel under the Bosphorus and the third bridge over the Bosphorus. In relation to telecommunications, the number of internet subscribers increased by 28.1 % in 2016 and the internet penetration rate for households increased from 59.6 % in 2015 to 61.5 % in 2016 and to 66.8% in 2017.

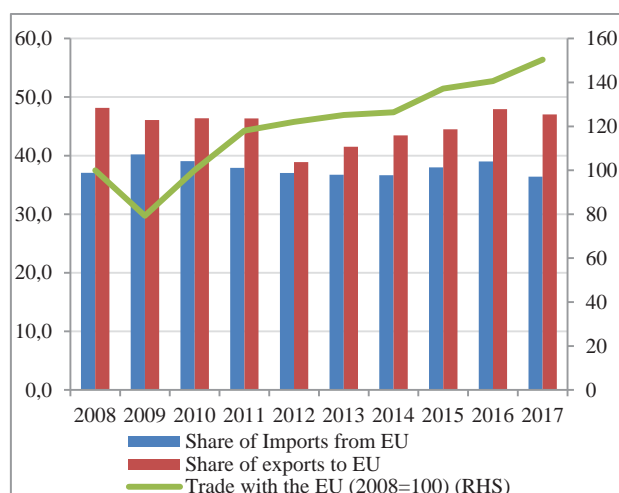
**Some progress was made in the energy sector, particularly in the gas market.** New implementing regulations on tariffs and organised wholesale markets are expected to further improve existing tariff methodology and to establish a fair and transparent platform for gas traders. Turkish Electricity Transmission Company (TEİAŞ) has been an observer at the European Network of Transmission System Operators for Electricity (ENTSO-E) since 2016, allowing market players to freely import and export electricity between the EU and Turkey and thus improving the security of supply. Although the Turkish Energy Stock Company (EPIAS) became fully operational in 2016, progress on creating a competitive and transparent energy platform has remained rather limited. Further progress is needed to open the natural gas market and create competition for the state-owned corporation BOTAŞ.

#### Sectoral and enterprise structure

In 2016, GDP grew by 3.2 %, while employment increased by just 2.2 %, indicating an increase in labour productivity in the overall economy. The sectoral breakdown of employment growth shows a continued shift towards the services sector, which accounted for 53.7 % of employment (and 62.3 % of GDP) in 2016. Industry (including construction) accounted for 26.8 % of employment (and 19.6 % of GDP). Agriculture employed 19.5 % of the workforce and its proportion of GDP decreased from 6.9 % in 2015 to 6.2 % in 2016. Small and medium-sized enterprises (SMEs) employ around three quarters of Turkey's work force and generate more than half of the economy's total value. In exports, Turkey has specialised in low-to-medium tech in its exported goods. The largest proportion of exports is provided by the automotive sector. The increased demand from, in particular, the EU has benefited Turkish exporters in recent years.

## Economic integration with the EU and price competitiveness

**Figure 5 Turkey trade integration with the EU**



Source: Eurostat, national sources

2015 to EUR 0.3 bn in 2016. Turkey's international price competitiveness improved slightly in 2016 and strongly in 2017 as a consequence of the depreciation of the lira outpacing the rise in the price level. Nonetheless, competitiveness based on wage levels did not improve over these two years due to increases in the real wage following a 30 % increase in the statutory minimum wage in 2016.

Turkey's trade and economic integration with the EU is high and increased further in 2016 and 2017. Turkey is the EU's fifth largest trade partner and the EU remains by far Turkey's largest trade partner. In absolute terms Turkey's trade with the EU further increased in 2017, even if in relative terms the share of Turkish exports going to the EU and Turkish imports coming from the EU decreased from 48 % to 47.1% and from 39 % to 36.4 % between 2016 and 2017, respectively. The EU also remains the largest source of FDI into Turkey with a 73 % share of FDI stocks in Turkey in 2016. **FDI flows from the EU into Turkey dropped exceptionally sharply** from a historic high of EUR 11.9 bn in

## 4. REGIONAL ISSUES AND INTERNATIONAL OBLIGATIONS

### Cyprus

Turkey expressed support for the talks on a comprehensive settlement between the leaders of the two communities, and for the efforts of the United Nations Secretary-General and the UN Secretary-General's Special Adviser. During the reporting period, a Conference on Cyprus, convened in Geneva in January 2017 and in Crans-Montana in July 2017, closed without an agreement.

Turkey continued to make statements challenging the right of the Republic of Cyprus to exploit hydrocarbon resources in the Cyprus Exclusive Economic Zone for the benefit of all Cypriots. In February 2018, Turkey undertook repeated manoeuvres by naval vessels blocking the drilling operations of a vessel contracted by the Italian company ENI and commissioned by Cyprus, which resulted in the abortion of the planned drilling activities. The EU has repeatedly stressed the sovereign rights of EU Member States, which include *inter alia* entering into bilateral agreements and exploring and exploiting their natural resources in accordance with the EU *acquis* and international law, including the UN Convention on the Law of the Sea. The EU has also stressed the need to respect the sovereignty of Member States over their territorial sea and airspace.

As emphasised in the Negotiating Framework and Council declarations, Turkey is expected to actively support the negotiations on a fair, comprehensive and viable settlement of the Cyprus issue within the UN framework, in accordance with the relevant UN Security Council

resolutions and in line with the principles on which the EU is founded. It is important to preserve the progress made so far and to pursue preparations for a fair, comprehensive and viable settlement, including in its external aspects. Turkey's commitment and contribution in concrete terms to this comprehensive settlement remains crucial. The process of granting the Committee on Missing Persons full access to all relevant archives and military areas has seen welcome developments but needs to be further expedited. Despite repeated calls by the Council and the Commission, Turkey has still not complied with its obligations as outlined in the Declaration of the European Community and its Member States of 21 September 2005 and in Council Conclusions, including those of December 2006 and December 2015. Turkey has not fulfilled its obligation to ensure full and non-discriminatory implementation of the Additional Protocol to the Association Agreement and has not removed all obstacles to the free movement of goods, including restrictions on direct transport links with the Republic of Cyprus. There was no progress on normalising bilateral relations with the Republic of Cyprus.

Turkey continued to veto applications by the Republic of Cyprus to join several international organisations, including the Organisation for Economic Co-operation and Development (OECD).

### **Peaceful settlement of border disputes**

Bilateral exploratory talks were held between Greece and Turkey to find common ground for the start of negotiations on the delimitation of the continental shelf. Greece continued to object to Turkey's launch of a tender for offshore oil and gas exploration including part of the continental shelf off the Greek island of Castellorizo.

The threat of *casus belli* in relation to the possible extension of Greek territorial waters, as made in a Turkish Grand National Assembly resolution in 1995, still stands. President Erdoğan visited Greece in December 2017, the first visit by a Turkish President in 65 years. However, statements made before and during his visit to Greece with regards to the Treaty of Lausanne caused public controversy. The agreement to ease increasing tensions in the Aegean Sea reached during the visit between the Turkish President and the Greek Prime Minister was not followed up in practice, as in February 2018, a series of incidents took place which culminated in the collision of a Hellenic Coast Guard vessel, co-financed by the European Border and Coast Guard, by a Turkish patrol boat off the islets of Imia. Another source of serious concern has been the detention of two Greek soldiers who were patrolling the land border between Greece and Turkey. Greece and Cyprus made formal complaints about repeated and increased violations of their territorial waters and airspace by Turkey, including flights over Greek islands. In line with the Negotiating Framework and previous European Council and Council conclusions, the Council has reiterated that Turkey needs to commit itself unequivocally to good neighbourly relations, international agreements and the peaceful settlement of disputes in accordance with the United Nations Charter, having recourse, if necessary, to the International Court of Justice. In this context, the EU has again expressed serious concern, and urged Turkey to avoid any kind of threat or action directed against a Member State, or any source of friction or action that would damage good neighbourly relations and the peaceful settlement of disputes.

### **Regional cooperation**

Good neighbourly relations form an essential part of Turkey's process of moving towards the EU. **Bilateral relations with other enlargement countries and neighbouring EU Member States** were generally good. Cooperation with Greece and Bulgaria on migration further

intensified. However, tensions in the Aegean Sea and Eastern Mediterranean were not conducive to good neighbourly relations and undermined regional stability and security.

Turkey has continued its policy of engagement in the Western Balkans, maintaining strong ties with countries in the region and supporting their respective efforts to join NATO and the EU. Turkey maintained its good relations with *Albania* with an increasing trend of Turkish investments focused on the infrastructure and energy sectors. Contacts with *Bosnia and Herzegovina* developed positively, including as part of Turkey's trilateral cooperation with Serbia and Bosnia and Herzegovina and its trilateral cooperation with Croatia and Bosnia and Herzegovina. Turkey maintained good relations with *Kosovo* with reciprocal state officials' visits during which commitments were made to increase cooperation on the economy and trade. Relations with *the former Yugoslav Republic of Macedonia* developed, including through high-level contacts. The bilateral readmission agreement with *Montenegro* entered into force in December 2016 and a plan for bilateral cooperation on defence was signed in September 2017. Relations deepened with *Serbia*, which President Erdoğan visited in October 2017, and a High Cooperation Council was set up.

However, bilateral relations with several individual EU Member States not neighbouring Turkey (in particular with Austria, Germany and the Netherlands) deteriorated, notably during campaigns on the constitutional referendum and national elections in EU Member States, including at times with offensive and unacceptable rhetoric. In early 2018, Turkey engaged in diplomatic efforts to mend ties with EU capitals, notably through Presidential and Ministerial visits. The Netherlands and Turkey were unable to normalise relations and the Netherlands recalled their Ambassador to Turkey after he had been subject to denial of entry into Turkey for almost one year. Reported tensions among members of the Turkish diaspora living in EU Member States and pressure on them to report on other members of these communities allegedly belonging to the Gülen movement continued.

In March 2018, the European Council strongly condemned Turkey's continued illegal actions in the Eastern Mediterranean and the Aegean Sea and recalled Turkey's obligation to respect international law and good neighbourly relations and to normalise relations with all EU Member States. The European Council expressed its grave concern over the continued detention of EU citizens in Turkey, including two Greek soldiers, and called for the swift and positive resolution of these issues in a dialogue with Member States.

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

### **5.1. Chapter 1: Free movement of goods**

*The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these creating unjustified barriers to trade.*

Turkey is at a **good level of preparation** for the free movement of goods. It made **some progress**, mainly in aligning with the 'New and Global Approach' *acquis* and market surveillance. Some technical barriers to trade prevent the free movement of goods and some localisation schemes and domestic requirements discriminate against EU products, violating Turkey's obligations under the Customs Union.

In the coming year, Turkey should in particular:

→ eliminate obstacles to the free movement of goods that breach Customs Union obligations, such as export restrictions and requirements related to registration, prior approval, licensing and surveillance;

→ re-consider its localisation schemes, so as to set up a more conducive investment environment;

→ continue to ensure prompt alignment to the EU *acquis* for this chapter, notably in the area of pharmaceuticals.

### General principles

With regard to **general principles**, the framework for the free movement of goods is largely in place in Turkey. However, issues relating to implementation remain. Problems have been reported in the implementation of the risk-based electronic import control system TAREKS for goods coming from the EU and technical barriers to the free movement of goods persist. In addition, localisation schemes in the area of pharmaceuticals and agricultural and forestry tractors, and local content requirements for renewable electricity generation create *de facto* market access barriers for EU products. The most recent plans adopted in mega wind and mega solar projects also provide for localisation of production.

### Non-harmonised area

A regulation on **mutual recognition in the non-harmonised area** has been in force since July 2013. The mutual recognition principle has been introduced to certain areas where national rules apply. There have been an increasing number of notifications from Turkey in the last three years, mostly consisting of mandatory technical specifications. The number of notifications is, however, insufficient in light of Turkey's legislative activity.

### Harmonised area: quality infrastructure

There is a legal basis and an administrative structure in place in relation to technical regulations, standards, conformity assessment, accreditation, metrology, and market surveillance. The framework law was partially revised as part of an omnibus law on industry in July 2017 but an overall revision is still pending. The Turkish Standards Institute is independent, able to implement European and international standards and has adequate staff resources and financing. As of October 2017, it adopted a total of 20 042 national standards aligned with European standards. The rate of harmonisation of CEN (European Committee for Standardisation) standards stands at around 98 % and at 94 % for CENELEC (European Committee for Electrotechnical Standardisation) standards. The Turkish Standards Institute has been a full member of CEN and Cenelec since 2012. Eight Turkish economic operators are full members of the European Telecommunications Standards Institute, ETSI. A national standardisation strategy for 2017-2020 was published during the reporting period.

There are 46 **notified bodies** in Turkey and 2 technical approval bodies as of November 2017. The Turkish Accreditation Agency, TÜRKAK, is a signatory of multilateral agreements as part of the European cooperation for Accreditation association. TÜRKAK signed a new multilateral agreement on proficiency testing providers in April 2017 (there are now 7). The National **Metrology** Institute, TÜBİTAK-UME, was accredited last year for the production of certified reference materials for proficiency testing and inter-laboratory comparisons. A three-year national metrology strategy was adopted in 2015.



Turkey carries out a regular **market surveillance** programme in line with EU legislation and submits its annual programme to the European Commission. An electronic information system enables the 10 authorities to report their observations and an annual report on the results is published. According to the 2017 report, the overall budget increased by 30 % and the number of market surveillance inspectors increased by 21 % in 2016. The number of market surveillance checks increased by 39 %. Penalties increased considerably in 2017 and legal provisions were further strengthened. 307 189 batches were inspected in 2016, of which 215 876 were produced in Turkey. During inspections carried out by Member State authorities on products originating in Turkey, 105 750 batches were found to be non-compliant or unsafe. The number of non-compliant or unsafe products detected increased by 164 % in 2016, mainly due to an increased number of inspections, resulting in fines amounting to some EUR 26 million on economic operators. However, actual measures taken in the case of non-compliance, including fines, are reported to be low in comparison with the level of market surveillance activity. An approach that gives priority to particularly risky products is also needed.

#### Harmonised area: sectoral legislation

For the '**New and Global Approach**' **product legislation**, Turkey adopted legislation to align with the *acquis* on civil explosives and recreational crafts and personal watercrafts in 2017. Legislation was amended on the eco-design requirements for lamps, water pumps, glandless stand-alone circulators, toy safety and noise emission by equipment for use outdoors. Implementing legislation was issued on construction products, lifts, personal protective equipment, toys, measuring instruments and recreational crafts and personal watercrafts.

On '**Old Approach**' **product legislation**, Turkey adopted new and amending legislation on two-or three-wheel vehicles and quadricycles, manufacturing, modification and assembly of vehicles, type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles and with respect to emissions from heavy duty vehicles, on manufacturing sites and packaging and pricing of medicinal products for human use. In the area of pharmaceuticals, contrary to Customs Union rules, Turkey does not accept EU good manufacturing practices certificates. The Pharmaceuticals Inspection Convention decided to accept Turkey as a member as of 1 January 2018. Turkey adopted a regulation in June 2017 aiming to improve alignment with the **REACH** (Registration, Evaluation, Authorisation, and Restriction of Chemicals) legislation, but full alignment is still pending. The national registration system for chemicals is expected to be operational by 2023. Turkey's localisation schemes for pharmaceuticals and agricultural and forestry tractors create *de facto* market access barriers for EU products.

There is a specific licensing and regulation system for economic operators dealing with **drug precursors**, with a strict follow-up and monitoring system in cooperation with the police and customs authorities.

On **procedural measures**, Turkey adopted national legislation in 2002 on textiles, footwear and crystal glass. National legislation is in place setting out licensing procedures for firearms. There was no progress on alignment to the *acquis* on cultural goods.

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

*Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.*

Preparations in the area of freedom of movement for workers are at an **early stage** and there has been **no progress** during the reporting period.

There has been no progress on **access to the labour market** or **coordination of social security systems**. So far, Turkey has concluded 16 bilateral social security agreements with EU Member States, but no new bilateral social security agreements were signed during the reporting period. There have been no developments on future participation in the European Network of Employment Services (**EURES**).

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

*EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. Postal services are gradually being opened up to competition.*

Preparations in the area of right of establishment and freedom to provide services are at an **early stage**. **No progress** was made in the reporting period. Substantial efforts are still needed to align with the *acquis*.

In the coming year, Turkey should in particular:

→ align with the Services Directive on the provision of cross-border services and set up a single point of contact.

There was no progress on the **right of establishment**, a right still restricted by many requirements regarding for instance nationality and residence requirements for a number of professions where for most cases, multiple authorisations are required or the lack of point of single contact.

Regarding the **freedom to provide cross-border services**, requirements for registration, licensing and authorisation remain in place for service providers registered in the EU. Preparations began on transforming the information system in the retail sector (PERBIS) into a sector-specific point of single contact.

Limited progress was made on **postal services**. A reserved area still exists in the standard letter-post service area, where the universal service provider enjoys exclusive rights. Turkey needs to further align this area with the *acquis*, which does not allow maintaining exclusive rights for the provision of postal services. Turkey should align with the Postal Services Directive as regards the provision of postal services.

On the **mutual recognition of professional qualifications**, the Vocational Qualifications Authority continued to issue occupational standards. Some regulated professions remain subject to reciprocal recognition requirements. Nationality and language requirements remain. Turkey should continue aligning its national legislation with the *acquis* in the area of mutual recognition of professional qualifications.

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

*In the EU, capital and investments must be able to move without restriction and there are common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.*

Turkey is **moderately prepared** in the area of free movement of capital. There was **some progress** during the reporting period, such as in the fight against money laundering and

financing of terrorism, in line with the recommendations of the previous report. Legislation on real estate acquisition is not aligned with the *acquis*.

In the coming year, Turkey should in particular:

→ draft and adopt an action plan on real estate acquisition by foreigners to lift restrictions and increase transparency;

→ further align with the *acquis* by strengthening measures to prevent the misuse of its financial system for the purposes of money laundering and terrorism financing.

On **capital movements and payments**, Turkey's legislation on **real estate acquisition by foreigners** remains opaque and does not apply to all EU citizens in a non-discriminatory way. Turkey needs to adopt and implement an action plan to further liberalise the purchase of real estate by foreigners, bringing its laws in line with the *acquis*. Turkey now grants Turkish citizenship to foreign investors under certain conditions such as making a fixed capital investment or buying a real estate for a determined value and with a commitment of not selling it for three years. Foreign ownership is subject to restrictions in relation to radio and TV broadcasting, transport, education and the electricity market.

Turkey has reached a good standard in **payment systems**. The central bank and the Banking Regulatory and Supervision Agency are the two authorities that can grant licences for payment system operators.

Turkey has made progress in the **fight against money laundering and terrorism financing**. It is party to the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. Turkey needs to further align with the *acquis* by strengthening its measures to prevent the misuse of its financial system for the purposes of money laundering and terrorism financing. Legislative and administrative capacity in this area need to be further strengthened to comply with the Fourth Round of the Financial Action Task Force's Mutual Evaluations.

The Financial Crimes Investigation Board (MASAK), which serves as the national financial intelligence unit, has strengthened its administrative and enforcement capacity and improved its cooperation with law enforcement agencies and judicial authorities. The number of suspicious transaction reports submitted to the Financial Crimes Investigation Board has increased from 132 570 in 2016 to almost 175 000 in 2017. The number of files that have been analysed and evaluated increased from 839 in 2016 to 10 554 in 2017. However, only nine people were convicted for money laundering. In 2016, 23 people had been convicted on money laundering charges. Confiscations and the level of seizure of assets remain limited in relation to money laundering and terrorism financing as stand-alone crimes.

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

*EU rules ensure that the public procurement of goods and services in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.*

Turkey is **moderately prepared** in the area of public procurement. **No progress** was made in the past year except for some improvement in enforcement capacity. Large gaps remain in its alignment with the *acquis*. Further work is needed in this area, which would potentially be covered by a modernised Customs Union.

In the coming year, Turkey should in particular:

→ revise its public procurement legislation to cover concessions and public-private partnerships and provide for remedies in line with EU public procurement directives, and to increase transparency;

→ start repealing exceptions contradictory to the *acquis*, as envisaged in the harmonisation schedule of the national action plan for EU accession, and eliminating domestic price advantages;

→ create a fully independent Procurement Review Board, separate from the Public Procurement Authority.

### Institutional setup and legal alignment

With regard to the **legal framework**, Turkey's national public procurement legislation broadly reflects the principles of the Treaty on the Functioning of the European Union. However, for certain goods, Turkey applies a compulsory domestic price advantage, which is discriminatory and therefore not in line with the *acquis*.

The **Public Procurement Law** is broadly aligned with the 2004 EU public procurement directives but Turkey is still to fully transpose the 2014 Public Procurement Directives. The legislation is harmonised with and supported by budget and expenditure regulations, so that public contracts can be prepared, awarded, and managed in line with sound project management principles. However, the legislation has a number of inconsistencies with the *acquis*. A range of sector-specific laws limit transparency and establish different legal remedies, depending on the sector. New derogations were introduced for defence, security and intelligence related procurements.

A domestic price advantage of up to 15 % continues to be compulsory for 'medium and high-technology industrial products'. Turkey's tenth development plan (2014-2018) aims to develop local manufacturing capacity via public procurement. Legislation now enables the procuring authority to require that the goods and software are domestically produced and implementing legislation sets a local content of 51 % as a requirement for procurement of vehicles for subway, cable cars and light rail transit systems. Turkey should eliminate restrictive measures, which contradict the *acquis*, and consider applying the new means provided for in the 2014 EU directives to promote innovation, domestic production and technology transfer arrangements.

The **Public Procurement Authority (PPA)** is responsible for implementing the Public Procurement Law and monitoring the public procurement system. The PPA is affiliated to the Ministry of Finance but is nominally autonomous. The Ministry of Finance was in charge of coordinating policy formulation and implementation in the reporting period.

### Implementation and enforcement capacity

Turkey's **public procurement market** corresponded to 6 % of the country's GDP in 2016 (7.1% in 2015). Procedures continued to generally respect transparency and efficiency principles. The public-private partnerships unit in the Ministry of Development provides an early-stage review of some projects, along with the Treasury and the Ministry of Finance. However, Turkey does not have a single framework for coordinating, supervising and monitoring public-private partnership operations. Turkey should fill the substantial number of vacant posts in the PPA in order to strengthen its administrative and coordination capacity.

**Monitoring** contract awards and implementation is satisfactory. The PPA issues statistics twice a year which provide the basis for measuring performance and outcomes and making improvements to the public procurement system.

Contracting authorities' **capacity to manage public procurement processes** continues to improve. Turkey uses e-procurement effectively. Mechanisms to identify and address corrupt and fraudulent practices are in place, including rules on **integrity and conflict of interest**. However, Turkey should develop a risk indicator system that signals potential integrity problems in the procurement process.

#### Efficient remedies system

The **right to legal remedy** is stipulated in the Constitution and in the Public Procurement Law. Any decision on complaints by a contracting authority can be appealed before the Public Procurement Board within the PPA. The review and remedies system provides for speedy, effective and competent handling and resolution of complaints and sanctions. However, several provisions in the Remedies Directive have not been implemented.

The Public Procurement Board received 1 741 complaints in the first half of 2017, amounting to some 4 % of the contracts, which is within the normal range. The board's position as part of the PPA needs to be reassessed. A fully independent Public Procurement Board would avoid possible conflicts of interest.

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

*The EU has common rules on the formation, registration, and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory audit.*

Turkey **is well advanced** in the field of company law. **Some progress** was made through the entry into force of implementing legislation on continuing education for statutory auditors and enhancing the capacity of the public audit oversight authority.

In the coming year, Turkey should pay particular attention to:

→ finalise the technical alignment of legislative amendments currently being prepared and continuing its work to align with the latest accounting and statutory audit *acquis*.

Turkey has a high level of alignment on **company law**. A few alignment issues remain in relation to mergers, divisions and takeovers. The central registration recording system (MERSIS) maintains company registration data electronically, and online services continue to be improved. Disclosure of and public access to company financial documents in the business register (as required by EU company law and accounting rules) remains to be ensured. Work continues to enhance the effectiveness of corporate governance standards.

Concerning **corporate accounting** and **statutory audit**, the Turkish financial reporting standards and standards on auditing are based on international financial reporting standards and international auditing standards. A new financial reporting standard for large and medium-sized companies (July 2017) aims to regulate the framework rules for companies which are subject to independent audit but which do not apply Turkish financial reporting standards. The Turkish Public Oversight, Accounting and Auditing Standards Authority and the Capital Markets Board further improved their administrative capacity through recruitment and training and organised awareness-raising activities. A system for investigations and sanctions has been set up with respect to statutory audits and specific requirements are in

place for auditing public interest bodies. A Communiqué on continuing education of statutory auditors entered into force. Further work is needed to align with the most recent EU corporate accounting and statutory audit *acquis*.

## 5.7. Chapter 7: Intellectual property law

*The EU has harmonised rules for the legal protection of intellectual property rights (IPRs) and of copyright and related rights. Rules for the legal protection of IPRs cover, for instance, patents and trademarks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, computer programmes and broadcasting.*

Turkey has a **good level of preparation** in this area. There was **good progress** on legal alignment with the EU *acquis* with the adoption and entry into force of the new Industrial Property Law in line with the recommendations made by the previous report.

In the coming year, Turkey should in particular:

- adopt pending copyright legislation in line with the *acquis*;
- improve enforcement measures to combat industrial and intellectual property infringements;
- sustain a constructive dialogue with intellectual property right (IPR) owners, increase awareness regarding counterfeiting and piracy and focus on the benefits of a strong IPR protection system for economic growth.

With regard to **copyright and neighbouring rights**, the draft copyright law remains to be adopted. Collective rights management remains an outstanding issue that the new copyright law should address, particularly in relation to foreign producers, public performance rights and reproduction rights.

The new **Industrial Property** Law entered into force in January 2017, followed by the relevant implementing regulation in April 2017. The law ensures greater legal alignment with the IPR *acquis* in relation to trademarks and design, and updates the Turkish IPR system in line with international agreements and practices. Simplified registration procedures were introduced. The new law does not include specific provisions for biotechnological inventions. An IPR Academy was set up in July 2017, which will be responsible for all IPR training for civil servants. In May 2017, the Regulation on the Code of Conduct and Disciplinary Measures for Trademark and Patent Agents entered into force. This Regulation addresses a legal gap with regard to the liability of trademark and patent agents registered in the Turkish Patent and Trademark Office. The Turkish Patent and Trademark Office improved its consultation on trademarks registration services with IPR owners and their representatives.

On judicial **enforcement**, the new Industrial Property Law aims to ensure a higher level of legal alignment with the EU Enforcement Directive. However, actual enforcement needs to be strengthened as numbers of IPR infringements and counterfeiting and piracy levels are still very high. The implementation of the accelerated destruction procedure and the functioning of IPR criminal courts need to be improved. In 2016, the number of counterfeit goods seized by customs at border controls increased by 35 % compared to 2015.

## 5.8. Chapter 8: Competition policy

*EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and abuse of dominant position. EU rules also prevent governments from unduly granting State aid which distorts competition.*

Turkey has **some level of preparation** in the area of competition policy. **No progress** was made in this field in the reporting period. Legislation on antitrust is largely aligned with the *acquis*. However, the gap in the alignment between Turkey's State aid policy and EU State aid rules remains.

In the coming year, Turkey should in particular:

→ implement the State aid law without further delay and finalising an updated inventory of aid schemes.

### Antitrust and mergers

The **legislative framework** is broadly aligned with the *acquis*. The Law on the Protection of Competition reflects the substance of Article 101 and 102 of the Treaty on the Functioning of the European Union (TFEU). Implementing legislation in this field is largely in place.

Regarding the **institutional framework**, the Competition Authority is responsible for implementing the Law on the Protection of Competition. Its mandate is very similar to that of the European Commission. Operationally, it is a largely independent body.

The Competition Authority's **enforcement capacity** is adequate. **Implementation** is effective overall, but has been decreasing in effectiveness. There is a fall in the number of decisions, in particular on antitrust (from 191 in 2013 to 80 in 2017), and in the fines imposed (from EUR 280 million in 2013 to 194 million in 2016). The low number of *ex officio* investigations continued to fall (from 17 in 2012, to 9 in 2016, and 0 in 2017). The Competition Authority conducted an average of 75 raids annually between 2013 and 2016 (84 in 2017). The number of complaints resulting in an investigation fell from 20 in 2013 to 5 in 2016. In 2016, the number of appeals against Competition Authority decisions increased to 257 (up from an average of 155 cases per year between 2013 and 2015). Three quarters of these decisions were upheld by national courts.

### State aid

The **legislative framework** is partially in line with the *acquis*. State aid regulations do not cover the agriculture, fisheries or the services sectors, which are not part of the EU-Turkey Customs Union. Turkey's Law on the Monitoring and Supervision of State Aid is broadly in line with Articles 107 and 108 of the Treaty on the Functioning of the European Union. The implementing legislation required to enforce this law is not in place yet.

Regarding the **institutional framework**, the State Aid Monitoring and Supervision Board is responsible for implementing the law. It is not considered to be operationally independent.

In December 2017, the set of previously defined deadlines in the Law on Monitoring and Supervision of the State Aid were repealed, empowering the Council of Ministers to delay the enforcement of the law indefinitely. Turkey has therefore not yet aligned its State Aid legislation and its enforcement with the related EU *acquis* and no assessment of Turkey's **enforcement capacity** can be made. A State Aid inventory has yet to be set up and an action plan for alignment has yet to be adopted.

## Liberalisation

Competition and State aid rules apply to state-owned enterprises. Turk Telekomunikasyon and TUPRAS, Turkey's sole oil refiner, have *de facto* monopolies in the fixed telecommunications and refined oil products markets, respectively. In 2016, the Competition Authority fined Turk Telekomunikasyon for abuse of its dominant position in the market.

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

*EU rules aim to ensure fair competition between and the stability of financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on the authorisation, operation and supervision of these institutions.*

Turkey has a **good level of preparation** in the area of financial services. **Some progress** was made, particularly in making it compulsory for employers to automatically enrol employees in pension schemes.

In the coming year, Turkey should in particular:

- further strengthen bank governance and supervision, crisis management and the resolution framework;
- support the development of Turkish capital markets and supervision of these.

In the areas of **banks and financial conglomerates**, the Banking Regulatory and Supervisory Agency revised the measurement and evaluation of capital adequacy of banks as well as the liquidity coverage ratio of banks. It eased reserve requirements and debt restructuring conditions to facilitate commercial loans and smooth the process for cross-border issuances. It also introduced changes in the calculation of banks' own capital regarding real estate acquired in exchange for their customers' unpaid debt. An emergency decree gave the agency the authority to regulate procedural rules for the sale to asset management companies of banks in which more than half of the shares are owned or controlled by the public.

There was some progress on **insurance and occupational pensions**. The amended Pension Savings Law entered into force on 1 January 2017 and made the enrolment of employees into a pension scheme compulsory. This will be implemented gradually for private sector employees. In August 2017, a regulation on participatory insurance activities was adopted. In July 2017, the Undersecretariat of Treasury amended the implementing regulation on measurement and evaluation of capital adequacy of insurance, reinsurance and private pension companies. Excessive premium increase risks are no longer taken into account when calculating capital adequacy. The Treasury also introduced amendments to the legislation on compulsory third party motor liability insurance, relating to the mandatory pooling of insurers.

There was no progress on **financial market infrastructure** but there was some progress on **securities markets and investment services**. The Capital Market Board clarified the requirements that apply to investment companies with a portfolio composed of infrastructure and services. The board also made provision for portfolio management companies to manage both venture capital and property investment funds.



## 5.10. Chapter 10: Information society and media

*The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audiovisual media services. The rules protect consumers and support universal availability of modern services.*

Turkey has **some level of preparation** in the area of information society and media. There was **backsliding**, notably with regards to changes in broadcasting legislation and its implementation. Overall, the sector is overregulated and overly restrictive in relation to the protection of freedom of expression. There is inadequate competition in fixed voice and broadband markets and excessive taxation and costs for operators and consumers of information and communications technologies.

In the following year, Turkey should in particular:

- strengthen the independence of the regulatory authorities and their board members and amend the Internet Law in line with the Venice Commission's recommendations;
- further align authorisation arrangements, market access, rights of way and universal service in electronic communication with the EU *acquis*;
- take the steps required to complete the digital switchover as soon as possible.

On **electronic communications and information and communications technologies**, there was no progress in aligning legislation with the *acquis* on market access and universal service. Competition in the fixed voice and broadband market is not effective. A minimum capital requirement for fixed phone operators remains a barrier to market entry. Fees charged by municipalities for rights of way and for base stations installation further increase costs. In December 2017, the special communication tax applied to the electronic communication services has been fixed to 7.5 %, increasing the rate for internet from 5 % and decreasing the rate for mobile calls from 25 %. The taxation regime remains complex and taxes are excessive. Mobile broadband penetration significantly increased, to 65 %, though it is still below the OECD average of 95 %. The fixed broadband penetration rate is 13 %, compared to an OECD average of 30 %. Within 8 months of implementation, there were 52 million 4G subscribers. Full independence for the Information and Communication Technologies Authority needs to be ensured. The Internet Law has not been amended in line with UN and Council of Europe recommendations and serious concerns remain (*see Chapter 23 — Judiciary and fundamental rights*).

A national strategy covering 2015-2018 is in place in relation to **information society services**. The proportion of citizens using e-government increased from 37 % to 42 %, while the proportion of businesses using e-government remained at 86 %. In December 2017 Turkey published the National Broadband Strategy and Action Plan (2017-2020).

In the area of **audiovisual policy**, there was backsliding in the alignment with the *acquis* of the broadcasting law which was repeatedly amended by emergency decrees in relation to the grounds for sanctions and restrictive requirements for broadcasting over a single antenna, in contradiction with the European Cross-Border Broadcasting Agreement in terms of monopoly prevention. RTÜK was effectively stopped from ensuring unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process which impacted the equitable campaigning for the 16 April referendum. Another effect was an increase in 2017 in the number of sanctions imposed on broadcasters

for praising terrorism, disturbing the public order and violating the integrity of the state. Since the beginning of the state of emergency, 36 TV channels (3 of which broadcasting from and licenced abroad) and 37 radio stations were dropped from TÜRKSAT and closed down. Many of these were critical towards the government, while some were closed down for alleged links to the Gülen movement and several were broadcasting in the Kurdish language.

Membership of the RTÜK board of directors was renewed in October 2017, but no member was designated by HDP and, as a result, the board does not reflect the current composition of Parliament as required. RTÜK's independence needs to be strengthened. In March 2018, amendments were adopted which raised new serious concerns, by extending the scope of the regulation of broadcasting performed by RTÜK to any online media service providers and platform operators, including those operating from abroad. The amendments also gave RTÜK the power to impose bans on internet broadcasting.

The editorial autonomy of the public broadcaster TRT was called into question after the government replaced its Director-General. The completion of the digital switchover remains uncertain as the re-tendering procedure has not yet been launched.

### 5.11. Chapter 11: Agriculture and rural development

*The common agricultural policy supports farmers and rural development. This requires strong management and control systems. There are also common EU rules for quality policy and organic farming.*

There is **some level of preparation** in the area of agriculture and rural development. **Some progress** was made in the past year, especially in further alignment on quality policy and in further improving implementation of the EU-Turkey trade agreement for agricultural products. Preparations have advanced on general agricultural issues and alignment with the common agricultural policy.

In the coming year, Turkey should in particular:

- adopt a strategy for producing agricultural statistics;
- manage its import quotas properly and transparently.

The **Farm Accountancy Data Network** covers all 81 provinces and has now been integrated with the agricultural production and registration system. Development of a land parcel identification system has continued, with EU support. The agricultural census is not yet complete and the strategy for agricultural statistics has not yet been adopted. Further alignment with EU policies requires decoupling payments from production and linking area-based payments to cross-compliance standards.

The EU and Turkey agreed to amend Protocol 2 to Decision No 1/98 of the EC-Turkey Association Council on the trade regime for agricultural products and agreed to broaden the scope of meat products sold from the EU to Turkey to include fresh and chilled bovine meat. This will be an important step forward if proper and transparent management of import quota are implemented effectively in parallel.

In **rural development**, the EU pre-accession programme for agriculture and rural development (IPARD I) provides for entrusting budget implementation tasks to Turkey for four measures implemented under IPARD I. The entrustment was also given by the Commission for pilot actions of the measure on agri-environmental, climate and organic

farming. In the first call for applications for IPARD, nearly 1 600 contracts were signed. The IPARD Agency recruited an additional 200 staff members. There has been some further progress in preparations for LEADER and a National Network for Rural Development was launched.

With regard to **quality policy**, good progress was achieved with the 2017 adoption of a law and corresponding implementing regulation on industrial property. This legislation aims to further align with the *acquis* on geographical indications.

The alignment of the regulation on principles and implementation of **organic farming** is advanced. The government supports organic production. The Turkish Accreditation Agency carries out the accreditation of certification bodies on organic agriculture.

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

*EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with quality of seeds, plant protection material, protection against harmful organisms and animal nutrition.*

There is **some level of preparation** in the area of food safety, veterinary and phytosanitary policy. There has been **some progress** in the past year on the enforcement capacity in relation to food, feed and animal by-products and food safety legislation. Full implementation of the *acquis* in this area will require significant further work, particularly in areas such as animal by-products, animal welfare, identifying and registering animals and controlling their movements.

In the coming year, Turkey should in particular:

- upgrade food establishments to meet EU standards, including submitting a national programme and a monitoring plan;
- take further steps to adapt and enforce rules on animal welfare and animal by-products.

There has been limited progress in aligning and implementing the *acquis* on **general food safety**. Work should be intensified to fully align **veterinary policy** with the EU *acquis*. The identification and registration of bovines and small ruminants has continued. Border inspection posts at land and sea borders and at the Sabiha Gökçen Airport in Istanbul are still not fully functioning.

Turkey has continued its fight against animal diseases. Foot and mouth disease outbreaks have decreased as a result of mass vaccination. The disease-free zone ensured through vaccination in the area of Western Turkey bordering Bulgaria and Greece has been maintained through strict movement controls. Vaccination against lumpy skin disease has continued. Significant efforts are still needed to fully align with the *acquis* on transmissible spongiform encephalopathies and surveillance systems, including full compliance with the February 1998 Decision of the EC-Turkey Association Council on the trade regime for agricultural products. Further structural and administrative work is necessary to fully implement the *acquis* on animal welfare. There has been no progress on zoonoses.

Turkey continued to implement training, inspection and monitoring programmes for the **placing on the market of food, feed and animal by-products**, and administrative capacity for official controls has been improved. No progress has been made on developing the national plan for upgrading agri-food establishments. Significant work is still needed on

applying the new rules on registering and approving food establishments. Substantial work on animal by-products is still required. Provisions for funding inspections have still not been aligned with the EU system.

Alignment of **food safety legislation** with the *acquis* has advanced on issues such as labelling, additives and purity criteria, flavourings, food supplements and enzymes. Relevant regulations have been published, e.g. on labelling and specifications for food additives, among many others.

Progress on **specific rules for feed** remained limited. There has been no progress on **phytosanitary policy**. Alignment is yet to be completed for new foods and for **genetically modified organisms** (GMOs).

### 5.13. Chapter 13: Fisheries

*The common fisheries policy lays down rules for management of fisheries, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules for markets and aquaculture as well as support for fisheries and coastal communities.*

Preparations in this area remain at an **early stage**. **Some progress** was made on resources and fleet management, inspection and control, and on international agreements.

In the coming year, Turkey should in particular:

→ adopt a fisheries law which aims to protect, manage and develop aquatic products in an environmentally-sensitive manner in line with sustainability principles.

Some progress was made on **resources and fleet management**. A further 214 fishing vessels were scrapped from the fleet under the ongoing subsidy scheme, bringing the total scrapped to 1 225. The number of vessels monitored under the vessel monitoring system has reached 1 350. A new support scheme and electronic logbook were introduced to update data on marine and inland artisanal fishing vessels to ensure the sustainable management of fisheries. Turkey signed the Malta MedFish4Ever Declaration on improving the sustainability of fishing resources in the Mediterranean.

On **inspection and control**, some progress was made on legislative alignment and on implementing the recommendations by the International Commission for the Conservation of Atlantic Tunas (ICCAT) on bluefin tuna. In 2017, increased cooperation between Turkey and the EU in the ICCAT led to substantial progress on the conservation of large, highly migratory stocks in the Mediterranean, including the adoption of a scheme allocating fishing opportunities for Mediterranean swordfish on the basis of a 2016 recovery plan. A longstanding dispute over Turkey's rights to fish for bluefin tuna was resolved. In the General Fisheries Commission for the Mediterranean (GFCM) the EU-Turkey cooperation allowed the adoption of a multi-annual management plan for Black Sea turbot, setting Total Allowable Catches for all riparian states and measures to fight Illegal, Unreported and Unregulated fishing (IUU). No progress was made on **market policy**. Regarding **international agreements**, cooperation between Turkey and the EU continued. Turkey is signatory to, but hasn't ratified yet, the Food and Agriculture Organisation's Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing. As the EU *acquis* implements provisions of the United Nations Convention on the Law of the Sea, including through the common fisheries policy, Turkey's ratification of the Convention is necessary to improve cooperation with the

EU on fisheries and maritime policy.

#### 5.14. Chapter 14: Transport Policy

*The EU has common rules for technical and safety standards, security, social standards, State aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.*

Turkey is **moderately prepared** in the area of transport policy. **Some progress** has been achieved in the reporting period, mainly on railways liberalisation. However, the institutional set up and market constraints in Turkey risk hindering new entrants in railways. In the maritime sector, the institutional and technical capacity to implement international conventions is limited. The aviation sector's institutional and technical capacity and human resources need strengthening.

In addition to addressing these shortcomings, in the coming year, Turkey should in particular:

- pursue the vision zero / safe system approach when preparing the strategic framework for road safety, including improve road users' behaviour by education, training and enforcement;
- provide the necessary conditions for genuine liberalisation of the railways sector;
- take steps towards aligning with the EU acquis legislation in the areas of aviation, including air safety, intelligent transport systems and EU passenger rights in all modes of transport.

As regards the **general transport acquis**, Turkey adopted a new strategic transport plan covering the 2017-2021 period, which does not refer to the most recent EU priorities on sustainable urban mobility and climate change. The transport master plan covering all modes of transport has been finalised. The logistics master plan is still being prepared. Administrative capacity for all modes of transport remains too low, in particular for aviation and railways.

On **road transport**, the legal framework is at a good level of alignment with the *acquis*. Roadside inspections are being performed rigorously, but legislation and procedures need to be updated, especially to introduce new elements of roadworthiness such as cargo securing. Priority should be given to aligning road safety policies with the *acquis* and designating a lead agency to implement the 'vision zero' strategy. There has been no progress in developing a Clean Power for Transport package or intelligent transport systems.

A new institutional set up is emerging in the **rail transport** sector, with a clear distribution of roles and responsibilities, but this is not fully aligned with EU unbundling alternatives. TCDD Infrastructure, the state-owned company in charge of the network, issued the network statement and a web application for path capacity allocation. However, implementing legislation provides that only domestically produced freight and passenger rolling stock will be registered until 1 January 2020. This creates difficulties for the provision of rolling stock, the flexibility of the rail market, and the entrance of newcomers into the sector. TCDD Transport, the state-owned company that manages rolling stock, does not operate as an independent commercial company in an open market. It remains dependent on subsidies from its parent TCDD Infrastructure and from transfer prices from the three rolling stock suppliers which are associated enterprises of TCDD Holding. TCDD Holding plays the role of infrastructure manager, which does not provide the adequate conditions for fair competition with other market players. The Directorate-General for Rail Regulation still acts as both the

regulatory authority and the safety authority, and is not sufficiently independent from the Ministry of Transport. The Ministry currently acts as the economic regulator, which is not compatible with Directive 2012/34 establishing a single European railway area. Therefore, further alignment is required.

In **maritime transport**, emergency response centres in Tekirdağ and Antalya are not fully operational as oil spill equipment is still being procured. Continued work by the authorities to protect the marine environment and strengthen their capacity for spill response is needed. The Maritime Labour Convention has been ratified in 2017. Turkey has not yet become a party to all of the basic conventions of the International Maritime Organisation, including Annex II of the Convention on Facilitation of International Maritime Traffic, and has not yet pursued signature of the Paris Memorandum of Understanding. Maritime authorities also need significant institutional and technical capacity-building so they can carry out their responsibilities under International Maritime Organisation conventions that Turkey has already ratified. Further improvements are needed to the legislative and technological framework for maritime transport monitoring, as required under international law applicable to coastal states, with a view to becoming part of the Vessel Traffic Monitoring and Information System.

The relevant EU legislation in the area of **inland waterway transport** remains to be transposed, and a new authority responsible for inland waterways has not yet been set up. Turkey does not participate in the EU strategy for the development of the Danube Region, and has not signed the main international agreements on inland waterways.

In the area of **aviation**, since 2016 the EU and Turkey have been negotiating a comprehensive aviation agreement, covering market access in addition to regulatory cooperation and convergence on a wide range of aviation issues such as environment, commercial opportunities, competition, security, safety and air traffic management. Turkey has stated its wish to fully integrate into the EU aviation system, including membership of the European Aviation Safety Agency (EASA), but needs to build on its earlier efforts to align its regulations with the *acquis*. In regard to aviation safety, no significant progress was made in regulations on air operations or aircrew. Moreover there have been no negotiations on renewing the working arrangement between the Turkish Directorate-General for Civil Aviation and EASA. Concluding a new arrangement would be an important step for ensuring aviation safety standards and would enable EASA to fully perform safety inspections including in relation to safety aspects of air traffic management and air navigation services. Turkey's level of progress in these areas cannot therefore be ascertained at this stage nor the capacity of the national aviation authority to properly discharge its safety oversight responsibilities. The lack of adequate communication between air traffic control centres in Turkey and Cyprus continues to compromise air safety in the Nicosia flight information region. An operational solution needs to be found urgently to resolve this safety issue. In other areas of the aviation *acquis*, Turkey is making progress in aligning its regulations with the *acquis* but efforts should be stepped up, in particular in the area of air traffic management.

There has been no progress on **combined transport**. The strategy on combined transport adopted in December 2014 has not been implemented yet. Considering Turkey's ambitions on modal shift in the long run, regulatory measures to shift freight to railways, inland waterways or short sea shipping in line with Directive 92/106/EEC and the EU White paper targets need to be approved.

As long as restrictions remain in place on vessels and aircraft registered in Cyprus, related to Cyprus, or whose last port of call was Cyprus, Turkey will not be in a position to fully implement the *acquis* relating to this chapter.

### 5.15. Chapter 15: Energy

*EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy and nuclear safety, and radiation protection.*

Turkey is **moderately prepared** in the area of energy. **Some progress** has been made in this area, mainly on security of supply and the renewable energy sector. The Commission's 2016 recommendations remain valid.

In the coming year, Turkey should in particular:

- complete the gas market reform in line with the *acquis*, by setting out a legally binding plan and a timetable, including third party access to the transit network and the unbundling of activities;
- adopt its nuclear energy law in line with the *acquis*, including restructuring the nuclear energy regulator to separate its operating functions and guarantee its full independence from any body involved in developing nuclear energy;
- make progress on transparent, cost-reflective and non-discriminatory tariffs for electricity and gas.

Good progress has been made on **security of supply**. Turkey adopted its new national energy and mining strategy which aims to improve security of supply, promote domestic resources and increase predictability in the market. There has been significant progress in relation to gas. The construction of the first phase of the Trans-Anatolian Pipeline project (TANAP) was largely completed at the end of 2017. (*See Chapter 21 — Trans-European Networks*). Turkey has set out an assertive programme to increase the capacity of its gas storage and liquefied natural gas (LNG) facilities, including floating storage and regasification units, two of which are operational. Turkey has also commissioned its second underground gas storage facility (1 billion cubic metres) in 2017. Turkey has set up a programme to double the entry capacity of its two LNG terminals within two years, along with setting up two additional terminals. There has been substantial progress on the TurkStream gas pipeline project with regard to infrastructure for delivering gas to Turkey. It is expected to be operational by 2019. The construction of the offshore pipelines was launched in May 2017 and over one third has now been completed. There has been limited progress on the interconnector with Bulgaria. No further progress can be reported on setting up a transparent, cost-reflective and non-discriminatory gas transit system. Turkey is at an advanced stage of implementing the *acquis* on mandatory oil stocks and it ensures storage of the necessary volume. However, a fuel market law regulating emergency oil stocks and oil security has not yet been adopted. Positive developments continued in relation to electricity networks. The Turkish Electricity Transmission Company (TEİAŞ), which has observer status in the European Network of Transmission System Operators for Electricity, has further improved its interconnection capacity with neighbouring countries.

As regards the **internal energy market**, good progress was made on the electricity market. The Energy Market Regulatory Authority produced two implementing regulations to improve information security and cyber security for its critical energy infrastructure and redesign

electricity side services. The Ministry of Energy and Natural Resources (MENR) issued a new regulation regarding the auditing of the electricity distribution companies. The eligibility threshold allowing electricity consumers to change supplier was further reduced from 3 600 kWh to 2 400 kWh, which corresponds to a theoretical market opening of almost 90 %. A transparent and cost-based pricing mechanism for electricity has not yet been properly implemented. There has been some progress in the gas market. Turkey has continued to adopt new implementing legislation in line with the EU's Third Energy Package on tariffs and organised wholesale markets, with a view to creating a fair and transparent platform for gas traders. The eligibility threshold for natural gas was kept unchanged at 75 000 m<sup>3</sup>, corresponding to a theoretical market opening of 80 %. The tendering process for gas distribution was completed for Turkey's 81 provinces and the gas network was extended to 77 provinces. A draft law amending the Natural Gas Market Law to address shortcomings regarding *acquis* alignment has been pending in Parliament since 2014. Full cost-reflective pricing has yet to be properly implemented.

Turkey's legislation on **hydrocarbons** is at an advanced stage of alignment with the *acquis*. Turkey already implements the Hydrocarbons Authorisation Directive but will need to align with the Directive on the Safety of Offshore Oil and Gas Operations, including in relation to the transit of hydrocarbons.

Good progress can be reported on **renewable energy**, which is a key pillar of the national energy strategy. The government issued two new implementing regulations on the technical assessment of solar applications and the setting up of large-scale renewable energy resource regions. Turkey launched two mega tenders for solar and wind energy, each with a total 1 000-megawatt installed capacity, designed on the basis of a fixed feed-in tariff, 80 % local content for R&D and manufacturing, as well as guaranteed R&D investment for a period of 10 years. The proportion of the total installed power capacity provided by renewable energy accounted for 44 %, of which 34 % hydro, while the proportion of power generation reached 33 % in 2016.

Good progress has been made on **energy efficiency**. A National Energy Efficiency Action Plan has been adopted in January 2018, aiming to reduce primary energy consumption by 14 % by 2023. Authorisations for energy efficiency services and work to raise public awareness have continued. Small and medium-sized enterprises have been supported through efficiency-enhancing projects and voluntary agreements. There is no timetable for achieving full alignment with the Energy Performance of Buildings Directive, or with the Energy Efficiency Directive. Turkey urgently needs to strengthen its institutional structure to improve coordination between the different ministries on implementing policies, possibly by creating an effective agency to do this, as many EU Member States have done.

Some limited progress has been made on **nuclear energy, nuclear safety and radiation protection**. The Turkish Atomic Energy Authority issued three implementing regulations to improve nuclear safety and security standards. Preparations for the Akkuyu nuclear power plant continued. In June 2017, the Energy Market Regulatory Authority granted the Akkuyu nuclear company a 49-year power generation licence and detailed site investigation studies are underway for the Sinop nuclear power plant. Turkey's existing legislation is only partially aligned with the Euratom *acquis*, specifically the Nuclear Safety Directive and the Spent Fuel and Radioactive Waste Directive. The draft framework law on nuclear energy is still pending. This should provide for the creation of an independent regulatory authority and more effectively deliver the safety objective of preventing and mitigating accidents. Turkey issued



the construction licence for the Akkuyu power plant. The stress test report on the design of the Akkuyu power plant needs to be completed. Turkey has not yet acceded to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. Turkey is not yet a member of the European Community Urgent Radiological Information Exchange system.

## 5.16. Chapter 16: Taxation

*EU rules on taxation cover value added tax and excise duties as well as aspects of corporate taxation. They also deal with cooperation between tax administrations, including the exchange of information to prevent tax evasion.*

Turkey is **moderately prepared** in the area of taxation. **No progress** was made on this area except for the 2009 action plan on tobacco and the ratification of the Convention on administrative assistance in tax matters.

In the coming year, Turkey should pay particular attention to:

- align the range of excisable energy products with the *acquis*;
- with regard to the 2009 action plan, ensure that discriminatory excise duties on alcoholic beverages and tobacco are fully eliminated in 2018;
- address the deficiencies identified by the Global Forum on Transparency and Exchange of Information; and the deficiencies in tax regimes that are considered potentially harmful.

As regards **indirect taxation**, deviating from the *acquis*, a wide the range of products are subject to a 1 % value added tax. Legislation on structure, exemptions, special schemes and the scope of reduced rates need to be further aligned with the *acquis*.

On excise duties, the specific duty on imported and blended tobacco that financed the Tobacco Fund was reduced to USD 150 per ton in December 2017, in line with the 2009 action plan, which aims to fully eliminate the discriminatory duty by 2018. Turkey's legislation on cigarette excise duties contradicts the *acquis* in terms of the specific and *ad valorem* elements of the tax, but the overall level of excise duties on cigarettes is close to EU levels. Regarding alcoholic beverages, Turkey continued to increase the taxation differentials in absolute terms between raki (mainly domestic produce) and certain alcoholic beverages (mainly imported) by raising excise duties on all alcoholic beverages by a fixed percentage. As a result, the excise duty gap between raki and equivalent spirits increased in absolute terms, contradicting the 2009 action plan which aims to abolish the discriminatory taxation difference in 2018. Excise duties on energy products are generally well above the EU minima rates, but kerosene, coal and electricity are not subject to excise duties as required in the *acquis*.

In the area of **direct taxation**, the Council of the European Union Code of Conduct Group (as well as the OECD Forum on Harmful Tax Practices) has evaluated the preferential tax regimes of Turkey and has assessed the Technology Development Zones and the Regional Headquarters regimes as potentially harmful. Turkey committed to solving these issues.

In the area of **administrative cooperation and mutual assistance**, in May 2017, Turkey ratified and put the Convention on Mutual Administrative Assistance in Tax Matters into force in November 2017, which requires the competent authorities in the parties to the convention to mutually agree on the scope of the automatic exchange of information and the

procedures to comply with. In June 2017, Turkey signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. This convention provides for the implementation of a series of tax treaty measures to update the existing network of bilateral tax treaties and reduce opportunities for tax avoidance by multinational enterprises.

Regarding **operational capacity and computerisation**, Turkey adopted the 2017-2020 integrated public finance management information system plan. This aims to design an integration module for decentralised and institutional automation systems to be developed and used by various public institutions and ministries.

### 5.17. Chapter 17: Economic and monetary policy

*EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.*

Turkey is **moderately prepared** in the area of economic and monetary policy. There was **no progress** in the past year. Strong political pressure on the central bank persisted, undermining its independence and credibility.

In the coming year, Turkey should in particular:

- avoid any political interference in the independence of the central bank;
- submit fiscal notifications by the set deadlines.

On **monetary policy**, further progress is needed on ensuring the independence of the central bank. The inflation target is determined jointly by the central bank and the government. In addition, the Prime Minister holds the right to mediate if there is disagreement between the central bank's board and the governor. Inflation moved to double digits in 2017, drifting further away from the official target of 5%. There has been increasing political pressure on the central bank to lower interest rates despite this significant overshooting of the inflation target. Political interference in the conduct of monetary policy needs to be avoided to reduce risks to the central bank's operational and institutional independence. The central bank's interest rate increased by 3.6 percentage points in 2017, confirming its intention not to ease its policy stance until the medium-term inflation outlook shows significant improvement. Further work should be done to ensure full alignment with the *acquis* in relation to privileged access to financial institutions by the public sector.

On **economic policy**, further alignment with the Directive on Requirements for Budgetary Frameworks is needed. Turkey revised its national account system to comply with the European System of National and Regional Accounts (ESA-2010). However, ESA-2010 has not yet been implemented for government accounts. Further improvements are needed to ensure the credibility of macroeconomic forecasts. Turkey does not have numerical fiscal rules or a fiscal council that monitors fiscal policy independently, as is required by the Directive. Turkey has started to submit fiscal notifications.

Turkey submitted its 2018-2020 economic reform programme on 31 January 2018. (*see also the economic chapter*).

## 5.18. Chapter 18: Statistics

*EU rules require that Member States are able to produce statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are provided for the methodology, production and dissemination of statistical information.*

Turkey is **moderately prepared** in the area of statistics. Turkey made **some progress**, especially with the revision of national accounts and the use of administrative registers. However, further work is needed on aligning macroeconomic and agricultural statistics with the EU *acquis* and improving statistics on asylum and migration.

In the coming year, Turkey should in particular:

→ improve the Gross National Income (GNI) inventory by aligning it with Eurostat's GNI inventory guide;

→ strengthen coordination between the National Statistics Office and other data providers, while further improving the quality and use of administrative records;

→ improve statistics on agriculture, asylum and migration.

As regards **statistical infrastructure**, legislation on statistics is based on the principles of the European statistics code of practice. It ensures the professional independence of the National Statistics Office. However, greater transparency should be applied to the appointment process for the President of the National Statistics Office. Cooperation between this office and some of the main data providers needs to be improved, in particular the Ministry of Food, Agriculture and Livestock.

For **macroeconomic statistics**, the GDP data was revised to ensure greater compliance with the system of national accounts (SNA 2008) and the European system of accounts (ESA 2010). The integration of administrative registers from public institutions into the national accounting system is the biggest development in this revision process. The methods used to estimate the national accounts were improved with the 2012 supply-use and input-output tables. Turkey submitted the 2012 supply-use table, the GNI inventory and the quarterly national accounts inventory to Eurostat in 2017. The GNI inventory is not yet in line with Eurostat's GNI inventory guide and therefore the Turkish GDP/GNI compilation cannot be checked. TurkStat compiled for the first time the annual Institutional Sector Accounts, covering the years 2009-2015. Turkey produces external trade statistics in line with the EU *acquis*. In December 2016, Turkey submitted tables for the excessive deficit procedure for the years 2012-2015 to Eurostat. Regional accounts were calculated at level 3 of the nomenclature for statistical regions for 2004-2014. Further progress is needed on foreign affiliate trade statistics and on publishing government finance statistics on an accrual basis. The harmonised index of consumer prices is implemented in line with the *acquis*.

In **business statistics**, the full implementation of the regulation on structural business statistics is ongoing. Business statistics are being recalculated in light of the new administrative registers that have been collected. Turkey is implementing the latest version of industrial production statistics according to EU standards. PRODCOM (list of products of the European Community) is aligned. Short-term statistics are largely aligned, with the exception of services. Transport, R&D and ICT statistics are produced according to the EU *acquis*. Tourism statistics are available. Statistics on science and technology are highly compliant.

As for **social statistics**, data from the survey on income and living conditions is available and labour market statistics are fully aligned with the EU *acquis*. The methodology for employment data follows EU practice. Alignment in public health statistics is very high for data relating to causes of death and health surveys. Further progress is needed on data on health expenditure and non-monetary healthcare. Social protection statistics are fully aligned. Crime statistics are available, as are education and vocational training data. Data on residence permits, asylum seekers and refugees are not yet sufficient to produce reliable migration flow tables. However, work is ongoing to improve international migration statistics.

In **agriculture statistics**, no agricultural census has been carried out since 2001. Animal production, milk and dairy statistics are available. Supply balance sheets are available for almost all basic crop products and for wine. However, updated economic accounts for agriculture and agricultural input price index data are not yet available. Turkey carried out a farm structure survey but the results have not yet been published.

As for **environment statistics**, further progress is needed, in particular on agricultural and construction waste and data on environment-related taxes by economic activity. Turkey published statistics on national greenhouse gas emissions for 2009-2015, which was submitted to United Nations Framework Convention on Climate Change (UNFCCC) in April 2017. However, environmental accounts are at an early stage. Energy statistics are in line with the EU *acquis*. Annual energy statistics and energy prices are available in good quality and sent to Eurostat.

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

*EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social dialogue at European level.*

Turkey has **some level of preparation** in the area of social policy and employment. There has been **backsliding** in this area owing to a strong deterioration of labour rights under the state of emergency, with mass dismissals and suspensions. Some implementing measures in relation to social inclusion and employment policy were taken. Double thresholds for collective bargaining at workplace and sector levels and the lack of a right to strike for public servants continue to be major obstacles to Turkey meeting this chapter's main opening benchmark: compliance with European standards and ILO conventions on trade union rights.

In the coming year, Turkey should:

- remove obstacles limiting the full enjoyment of trade union rights and the functioning of bilateral and tripartite social dialogue;
- increase monitoring and implementation of legislation on health and safety at work;
- promote women's employment by implementing appropriate work-life balance policies.

Turkey has been backsliding on workers' rights with mass dismissals and suspensions in the public sector. Due to high rates of informality (total 34.8 %, non-agricultural sector 22 %), a high ratio of the working population is not protected by the **labour law**. This law still does not apply to agriculture and forestry workplaces with less than 50 employees or to domestic workers, except in relation to matters of health and safety at work. Turkey abolished the ban on night shifts exceeding 7.5 hours in certain sectors, conditional on the consent of the employee. Removing this right in situations where there are usually weak collective bargaining mechanisms is particularly worrisome. Household poverty, combined with some

negative social representations and business practices, continues to lead to child labour, including some of its worst forms, such as child labour in seasonal agricultural work, begging and other street work. In March 2017, Turkey adopted a programme to eliminate the worst forms of child labour by 2023 and to reduce the rate of child labour below 2%. The current number of labour inspectors is well below the benchmarks set by the International Labour Organisation.

On **occupational safety and health**, the full entry into force of the law to align Turkey with the *acquis* in this area has been postponed once more, this time to July 2020. Occupational accidents claimed 1 405 lives in 2016, up from 1 252 in 2015. Deaths were predominantly in the construction and land transport sectors. Child workers continued to be victims of fatal accidents. The independence of occupational health and safety professionals from their employers needs to be ensured.

**Social dialogue** has backslid during the last year. The right of the Council of Ministers to *de facto* ban ongoing strikes has been expanded to include grounds of economic stability and continuation of service. In 2017, five strike actions were postponed, *de facto* banned. Trade unions continued to report dismissals, harassment, arrests and police assaults against their members for carrying out legitimate trade union activities. Several press announcements and meetings of trade unions have been cancelled by the authorities on the grounds of security risks. The number of private sector employees covered by collective agreements remains very low. Trade union density among private sector employees has slightly increased, to 12 % in 2017. Informal employees remain excluded from the right to join trade unions. In light of the very high level of informal employment in Turkey, actual union density is therefore lower. Trade union density among public servants is high at 69 %, despite a 2.5 % decrease in 2017, but the trade unions that have been more critical of government policies have suffered a loss of affiliation. A wide range of public servants are not allowed to belong to unions. Turkey's Economic and Social Council has been inactive since 2009 and the tripartite consultative committee only met once in 2017.

In 2016, the overall **employment** rate was 54.3 %, and 33.2 % for women. The unemployment rate was 10.9 %, up from 10.3 % in 2015. Unemployment remained high throughout 2017 despite strong economic growth and government incentives. The employment mobilisation campaign launched in 2017 seems to have had a limited impact. The labour force participation rate was 56.9 %, with an increase in female labour force participation to 38.5 %. 23 % of employed women work as unpaid family workers in agriculture. The youth unemployment rate was 19.5 % with an increase from 18.5 % in 2015. A sharp increase was observed in the number of women aged under 29 not in employment, education or training. The rate of informal work was stable at 33.5 %. 44 % of women are in informal jobs, but this rate reaches 94 % for women in agriculture. Turkey has set modest targets for 2020: reducing unemployment to 9.6 %. In 2017, Turkey launched an employment mobilisation programme to create 2 million new jobs. This primarily consists of covering the employers' share of social security premiums, but with little targeting to categories needing support. State aid for employment will continue in 2018 through a new generation of support schemes. The number of people benefiting from public employment services is increasing.

On **social inclusion and protection**, Turkey continued to extend social assistance and services to an increasing number of refugees. Income inequality remained much higher than in EU Member States, with a Gini coefficient of 0.404 in 2016. Inter-regional disparities remain high, as average household income in some western provinces is three times higher

than in south-eastern Anatolia where child poverty is particularly high. The impact of social transfers on alleviating poverty is limited. The relative poverty rate fell to 21.2 %, while the severe material deprivation rate increased to 32.9 %. The overall risk of poverty and social exclusion has increased slightly. People with disabilities face difficulties in accessing the labour market. Effective monitoring mechanisms and further budget allocation is needed in relation to the inclusion of Roma people in the labour market. Turkey lacks an integrated policy framework on poverty reduction, social inclusion and protection. Social protection expenditure represented 12.8 % of the GDP in 2016, with almost half of this spent on old age pensions. General health insurance premiums for around 8.7 million people in need are being covered by the state. High levels of unregistered work weaken the sustainability of the social security system. Social assistance beneficiaries are directed to the public employment service for active labour market measures. In addition, as a means to promote employment, an implementing regulation has been issued in June aiming to cover the social security premiums of persons benefiting from regular cash social assistance programmes.. The impact of this measure on the employment of the assistance recipients is to be seen. The process of transitioning from institutional to community-based care for vulnerable children, elderly persons and persons with disabilities continues but the impact is modest and needs to be increased. The monitoring, evaluation and inspection system for all home-based care services need to be strengthened.

There are no strategies or action plans in place on **non-discrimination in employment and social policy**. The National Human Rights and Equality institution has been established, its members elected in March 2017, and secondary legislation laid down in November 2017, setting up an individual application mechanism for complaints for alleged discrimination cases, but it has not yet finalised any of the cases it has started to process. The grounds for prohibited discrimination do not include sexual orientation (*see Chapter 23 – Judiciary and fundamental rights*).

On **equality between women and men in employment and social policy**, an implementing regulation was adopted in November 2016 in relation to part-time work for working parents in the public sector. There is a wide gap in the employment rates of women and men, and a gender pay gap observed for all levels of educational attainment. Home-based childcare services to support female employment are no longer financed from the national budget. The lack of institutions and services providing care for children and sick and elderly people continues to hinder women's employment, due to a gender bias in caring responsibilities. (*See also Chapter 23*).

Turkey has reached a good level of preparation for using the European Social Fund. The Ministry of Labour and Social Security manages similar sectoral funds under the Instrument for Pre-accession Assistance (IPA) and IPA II programmes. However, the implementation of the IPA II programme needs to be stepped up.

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

*EU enterprise and industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises.*

Turkey has a **good level of preparation** in the area of enterprise and industrial policy. There was **some progress** with regard to the legal framework for doing business and access to

finance, but issues such as tackling the informal economy, the long-term financing of small and medium sized enterprises and the legal framework for microfinance remain challenges.

In the coming year, Turkey should in particular:

→ improve policy compliance following the results of the Small Business Act report and focus on measuring the impact of policy tools.

On **enterprise and industrial policy principles**, there was some progress on the legal framework related to the business environment. A law on movable collaterals entered into force in January 2017. This eased SMEs' access to finance by giving them the opportunity to use their movable assets as collateral. Electronic registration of enterprises was further facilitated. Measures were taken on business registration, exemption of stamp duties, industrial and technology development zones, industry-university cooperation and the setting up a higher education quality system to increase R&D. EU energy efficiency requirements were made mandatory and the market surveillance of products was strengthened. However, Turkey maintained the 15 % domestic price advantage in public procurement, contrary to EU rules. A circular on the use of domestic products particularly for the light rail systems was published in November 2017 and an inter-ministerial Localisation Steering Board was established in January 2018. Such steps and the schemes on localisation in certain sectors such as pharmaceuticals, and agricultural and forestry tractors, are not compatible with the general principles of the EU common industrial policy as laid down in the EC Treaty. A regulation on health tourism set out the procedures and minimum standards for further development of this priority sector for Turkey. Sectoral strategies were adopted on software, machinery and nanotechnology, while two cross-cutting strategies on employment and standardisation were issued. Turkish legislation is not yet fully harmonised with the Late Payment Directive. The informal economy is still large and the weakened rule of law under the state of emergency raises concerns about the business environment.

Regarding enterprise and industrial policy instruments, Turkey continued to implement various schemes supporting companies, mainly SMEs. The scope of schemes to support participation in international fairs, market research and market entry, international competitiveness, R&D and design, and technological products was further extended to cover a wider range of beneficiaries and activities. Companies' expenses for participating in global value chains were included in the support scheme for certification for export markets. A credit volume of about EUR 50 billion was injected into the economy, including SMEs, through the Credit Guarantee Fund. In addition, several technical assistance and financing schemes run by the SME support administration (KOSGEB) are operational. Turkey continued to support technology development zones. There were 69 of these zones in 2017 (compared to 64 in 2015). In 2016, 640 patents had been obtained from 28 850 completed projects (compared with 627 patents from 19 322 projects in the previous reporting period). The OECD Forum on Harmful Tax Practices has assessed the technology development zones as potentially harmful from a taxation perspective. Turkey remains active in the COSME Programme, the Enterprise Europe Network and in the Small Business Act assessment process.

## 5.21. Chapter 21: Trans-European Networks

*The EU promotes trans-European networks in the areas of transport and energy to strengthen the internal market and contribute to growth and employment.*

Turkey is **well advanced** in the area of trans-European networks. **Good progress** was made in the reporting period, notably in the area of energy networks. Implementation has started on the national transport master plan and the transport information management system for the TEN-T, and planning and decision-making capabilities have been enhanced.

In the coming year, Turkey should in particular:

→ increase its human resource and technical planning capacity in relation to the tools in the master plan;

→ finalise the logistics master plan and accelerate efforts to align with key pieces of the *acquis* to facilitate alignment in TEN-T;

→ set up a transparent, cost-reflective and non-discriminatory gas transit system in line with the *acquis*.

As regards **transport networks**, the national transport master plan for Turkey has been adopted. The master plan and the planning tools it provides will improve Turkey's transport policy-making and project planning capacity. The transport information management system has been set up. It will monitor performance indicators and data for transport for all modes and exchange information in line with EU standards. The Halkali-Kapikule railway line project is part of the comprehensive TEN-T railway network and lies on a cross-border section of a TEN-T core network corridor. To ensure the sustainability of the project, Turkey needs to make a high level commitment to complete the link between the European and Asian rail networks through the third Bosphorus bridge in due time.

As regards **energy networks**, positive developments continued in relation to electricity networks. Turkey's capacity for electricity interconnection with its neighbouring countries was improved. Significant progress has been made on gas networks, particularly on the trans-Anatolian pipeline project (TANAP). The project is expected to start delivering gas to the Turkish market on 1 July 2018 and to the EU by 2020. There has been limited progress on the interconnection between Turkey and Bulgaria. The TurkStream project has progressed rapidly with regard to infrastructure to deliver gas to Turkey but much less so with regard to infrastructure targeting the European market (*see Chapter 15 — Energy*). The Ministry of Environment and Urbanization approved the environmental impact assessment for the offshore section of the project in October 2017. No progress was made on setting up a transparent, cost-reflective and non-discriminatory gas transit system.

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

*Regional policy is the EU's main tool for investing in sustainable and inclusive economic growth. Member States bear responsibility for its implementation, which requires adequate administrative capacity and sound financial management of project design and execution.*

Turkey is **moderately prepared** in the area of regional policy and coordination of structural instruments. **No progress** was made in strengthening the capacity for IPA programme implementation leading to continued decommitments of EU funds, although there were efforts in the reduction of procurement and contracting backlog for IPA I.



In the coming year, Turkey should in particular:

→ focus on the completion of ongoing operations and expedite mature operations within the existing pipeline by the set deadlines and deliver high quality results;

→ improve the Audit Authority's policies and procedures and further strengthen the capacity of the national IPA coordinator and the national authorising officer to coordinate operating structures and ensure effective strategic planning and risk management at programme level.

On the **legislative framework**, implementing legislation on Strategic Planning for Public Administrations and related guidelines are yet to be adopted.

There was slow progress on the **institutional framework**. All four operating structures (environment and climate actions; competitiveness and innovation; education, employment and social policies; and transport) have been entrusted with budget implementation tasks to manage multiannual programmes in the Instrument for Pre-accession Assistance (IPA) II period (2014-2020). However, their roles and responsibilities are often not correctly understood. The national IPA coordinator needs to further develop its coordination of implementation. Coordination between Turkish regional development policy and EU funded programmes is weak.

Some progress was made in improving the **administrative capacity** of some ministries in charge of managing EU funds. The line ministries responsible for the IPA multiannual operational programmes gained experience and developed their capacity to manage procurement procedures and contracts. For IPA I, the procurement and contracting backlog has been reduced, although large decommitments took place, amounting to EUR 322 million for multiannual programmes. For IPA II, the increasing backlog reached EUR 756 million for multiannual programmes; this remains a source of concern. High staff turnover, a lack of experience with contract enforcement and low levels of ownership by Operating structures led to significant delays in implementing operations and a low absorption of EU funds.

There has been some progress on **programming**. Project pipelines have been set up by all IPA structures for 2014-2020. Drafting of project documentation is fairly advanced and procurement has started.

On **monitoring and evaluation**, progress is slow on ensuring the effective use of the integrated monitoring information system developed by the Ministry of Development. Monitoring of sustainability and financial adjustment is not sufficient.

Concerning **financial management, control and audit**, operating structures still suffer from a lack of technical capacity to prepare tender documentation. Efficient prioritisation and organisation of the procurement processes are key to speeding up implementation. The Audit Authority continues to display methodological and organisational shortcomings and high staff turnover. The authority should improve its audit policies, procedures, and methodology.

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

*The EU provides significant support for research and innovation. All Member States can benefit from the EU's research programmes, the more so where there is scientific excellence and solid investment in research.*

Turkey's preparations in the area of science and research are **well advanced**. Some progress was made in the area of e-infrastructure.

In the coming year, Turkey should in particular:

- continue its work towards aligning its national research area with the European Research Area;
- intensify its work to increase its participation and success rates in EU Framework Programmes.

Regarding **research and innovation policy**, the proportion of overall GDP provided by R&D expenditure remained at 1 %. Turkey's overall research capacity is still limited in terms of the number of researchers per million inhabitants reaching only one third of the European average.

Participation in **framework programmes** as an associated country, notably in the EU research and innovation programme Horizon 2020, is a key element of Turkey's work towards aligning its national research area (TARAL) with the **European Research Area**. A positive development has been achieved in the area of e-infrastructure, where Turkey implemented country-wide tools for accessing scientific information, supporting the Horizon 2020 Open Access schemes. However, despite the ongoing work by the Scientific and Technological Research Council (TUBITAK), participation by Turkish researchers and other R&D actors in the Horizon 2020 programme has not increased. Measures taken under the state of emergency (such as dismissals, closures of institutions and travel restrictions) have also affected cooperation between European and Turkish researchers.

Turkey is still below the EU average in almost all indicators of the **European Innovation scoreboard**. Turkey has been active in some of the mutual learning exercises offered by the Horizon 2020 Policy Support Facility. Technology development zones supporting business-academia cooperation increased from 64 in 2016 to 69 in 2017.

## 5.26. Chapter 26: Education and culture

*The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policy through the open method of coordination. Member States must also prevent discrimination and facilitate the education of children of EU migrant workers.*

Turkey is **moderately prepared** on education and culture. There was **some progress** on this chapter, notably regarding the national qualifications system and the ratification of the UNESCO Convention.

In the coming year, Turkey should in particular:

- further improve inclusive education, with a particular focus on girls and children from disadvantaged groups and closely monitor and continue work to reduce the proportion of school drop-outs;
- ensure the good functioning of the Turkish Qualifications Framework.

In the area of **education, training and youth**, Turkey continues to successfully participate in the Erasmus+ programme. However, Turkey's commitment to implement the Bologna process has not been sustained in practice. Although the Turkish qualifications framework (TQF) is now referenced to the European qualifications framework, Turkey will have to ensure that principles and procedures relating to quality assurance, credit systems, inclusion of qualifications, and validation of non-formal and informal learning are fully in place. In the

formal vocational education and training sector, the implementation of modular curricula and a credited module system, instead of the current class passing system, remains an important issue for the effective implementation of the TQF. Significant quality differences also persist among Turkey's higher education institutions. Turkey set up a Higher Education Quality Board in charge of quality assessment and assurance. Turkey is however not yet a member of the European Association for Quality Assurance in Higher Education. Following the measures taken under the state of emergency, over 33 600 public and 22 400 private school teachers and managers have been dismissed, as well as 8 800 higher education staff. Thousands of institutions (private schools, universities, associations, student dormitories, etc.) have been closed. Education remains at high risk for inappropriate political influence, especially in higher education.

There has been some progress in the enrolment rate of children, particularly in pre-school education where it stands at 52 %. However, this remains well below the EU target of 95 %. Adult participation in lifelong learning, which stands at 6 %, also needs to be increased. In the academic year 2016-2017, the schooling rate for children was 91 % for primary, 96 % for lower secondary, 83 % for upper secondary education and 82 % for girls. Turkey needs to develop a system to reduce early school leaving, which stands at 34 %. Progress is still needed to make education more inclusive, especially for Roma children and children with disabilities. Based on the latest PISA results, Turkey appears at the bottom of the ranking table, suggesting serious issues with the overall quality of education.

In the area of **culture**, Turkey ratified, with some reservations, the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions in March 2017, thus delivering on the Commission's guidance from 2016. In February 2017, Turkey ratified the Enlarged Partial Agreement on Cultural Routes. Turkey withdrew from the Creative Europe programme as of January 2017.

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

*The EU promotes strong climate action, sustainable development and protection of the environment. EU law contains provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.*

Turkey has **some level of preparation** in relation to environment and climate change. Overall there was almost **no progress** made over the past year, except in areas such as chemicals. Enforcement still remains weak, especially on waste management and industrial pollution. More ambitious and better coordinated environment and climate policies still need to be drawn up and implemented. Strategic planning, substantial investment and increased administrative capacity are required as well. The Commission reiterates the recommendations in its 2016 report.

In the coming year, Turkey should in particular:

- complete its alignment with the directives on water, waste management and industrial pollution and ensure the Environmental Impact Assessment Directive is correctly implemented;
- ensure harmonisation with and the effective implementation of cross-cutting legislation, including the *acquis* on public participation and the right to access environmental information;

→ complete its alignment with the *acquis* on climate change, ratify the Paris Climate Agreement on climate change, and implement Turkey's contribution to this.

## Environment

Turkey has reached some level of preparation in the area of **horizontal legislation**. Alignment with the Strategic Environmental Assessment Directive was completed in 2017, with a transition period in several sectors from 2020 to 2023. Implementation of the Directive on Infrastructure for Spatial Information is still at an early stage. Civil society remains critical of the implementation of the Environmental Impact Assessment Directive, the application of the rule of law in court decisions on environmental issues, the respect for public participation and the right to environmental information. Turkey is still not a party to the Aarhus Convention. The 2016 law that waived licensing and other restrictions for strategically important investment projects remains a concern in terms of complying with the *acquis*. Procedures for transboundary consultations have not yet been aligned with the *acquis*.

On **air quality**, there has been no progress on alignment with the *acquis* on ambient air quality, national emissions ceilings and volatile organic compounds. Severe air pollution is reported in some cities each year which requires the preparation of local clean air action plans. A national strategy for air quality monitoring is in place and five out of eight planned regional networks have been set up and are operational. Air quality monitoring data is shared online.

Regarding **waste management**, the legal framework is mostly aligned. Turkey's capacity for sorting and recycling waste and for medical waste treatment has slightly improved, but there was no further progress on alignment. Further work is needed on the separate collection of different types of waste, reducing biodegradables going into landfills and incineration of hazardous waste. Incentives to promote these activities remain limited. The preparation of waste management plans at local level, in line with the Waste Framework Directive, is ongoing. Turkey ratified the Convention for the Safe and Environmentally Sound Recycling of Ships in 2017 but alignment with the EU Ship Recycling Regulation is still not completed.

In the area of **water quality**, there is moderate alignment and there has been no substantial progress in the reporting period. Over 780 bodies of water out of 2 500 were identified as sensitive areas for urban wastewater discharges and nitrates. Management plans for 11 out of 25 river basins are being prepared in line with EU directives. Turkey has begun transboundary consultations on water issues with neighbouring countries on the Maritsa (Meriç) river but these are generally still at an early stage. Wastewater treatment capacity has slightly increased. Alignment has not yet begun with regard to directives on marine strategy and bathing water. Alignment with the Water Framework Directive is not yet completed.

The framework legislation on **nature protection** and the national biodiversity strategy and action plan are yet to be adopted. The institutional framework for designating and managing future Natura 2000 sites has not yet been drawn up. Investments, particularly in hydropower and mining, need to be made in compliance with the relevant obligations to protect nature.

In the area of **industrial pollution and risk management**, alignment with most of the EU directives and regulations is at an early stage. Compliance with the Seveso II Directive is high, but alignment is still pending for the Industrial Emissions and Seveso III Directives, the eco-management and audit scheme, the Ecolabel Regulations and the volatile organic compounds, including in paints, directives.

On **chemicals**, the implementing legislation on the registration, evaluation, authorisation and restriction of chemicals (REACH) was adopted in 2017. The Rotterdam Convention on import and export of dangerous chemicals was ratified in 2017, but the relevant implementing regulation is pending. Alignment is also pending on persistent organic pollutants. Implementation of the regulation on classification, labelling and packaging of substances and mixtures is not complete. Implementation of the biocides legislation has been postponed to 2020.

Legislative alignment in the field of **noise** is well advanced. The preparation of noise mapping and local noise action plans is still underway.

Turkey has been a member of the European Union **Civil Protection** Mechanism since 2016. It still needs to connect to the common emergency communication and information system.

### **Climate change**

There was no progress in this area. A national strategy consistent with the EU 2030 framework on climate and energy policies has not yet been adopted. The national climate change strategy and action plan are inconsistent with other strategies, such as those for energy. A climate change adaptation strategy is yet to be adopted and enforced. Work to build climate action know-how in different government agencies and mainstreaming of climate change into different sector policies is still weak.

Turkey needs to ratify the Paris Agreement on climate change and start implementing its contributions to this. Turkey has submitted its 2017 annual greenhouse gas inventory under the UN Framework Convention on Climate Change.

Full alignment with the EU's economy-wide greenhouse gas monitoring mechanism is still pending. Turkey needs to comply with the decision on accounting rules on greenhouse gas emissions and removals resulting from activities relating to land use, changes in land use, and forestry. A regulatory framework for the monitoring and reporting of emissions from industrial installations specifically is in place, but full alignment with the Emission Trading Directive is needed. Further efforts should be made to fully implement national legislation aligned with the Fuel Quality Directive, and align with the EU Regulation on Emissions Standards for New Cars. Full alignment regarding ozone depleting substances and fluorinated greenhouse gases is still pending.

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

*EU rules protect consumers in relation to product safety, dangerous imitations and liability for defective products. The EU ensures high common standards for tobacco control, blood, tissues, cells and organs and medicines for human and veterinary use. The EU also ensures high common standards for upholding patients' rights in cross-border healthcare and tackling serious cross-border health threats including communicable diseases.*

Turkey has a **good level** of preparation in the areas of consumer protection and public health. **Some progress** was made on administrative and enforcement capacity in both areas.

In the coming year, Turkey should in particular:

- improve coordination and cooperation among all stakeholders including enforcement actors and consumer organisations;
- ensure the confidentiality and security of health data in the national information system;

→ increase institutional/administrative capacity, inter-sectoral cooperation, financial resources and appropriate diagnostic facilities to address public health issues at central and provincial level.

National legislation is partly aligned with the EU *acquis* on **consumer protection**. A consumer protection programme and action plan for 2016-2020 is in place. The number of safety and non-safety related inspections performed by the Ministry of Customs and Trade increased slightly over the reporting period. However, the capacity to carry out such inspections remains insufficient. On **product safety** related issues, national legislation is not fully aligned with the EU *acquis*. Regarding non-safety related issues, consumer rights enforcement remains weak and consumer information about their rights is very low.

With regard to **public health**, national legislation on healthcare is partly aligned with the EU *acquis*. The organisational structure of the Ministry of Health was changed through an emergency decree in August 2017, placing public health institutions and public hospitals back under the Ministry of Health, only a few years after the last reorganisation.

Turkey's tobacco control legislation is fully aligned with the EU *acquis*, but ratification of the Framework Convention on Tobacco Control Protocol on Illicit Trade is pending. The most recent data on smoking prevalence shows that 26.5 % of the population smoke.

Turkey's blood, tissues, cells and organs legislation still needs to be fully aligned with the EU *acquis*. The country has 43 blood establishments, each one inspected twice a year. The hemovigilance system has to become fully operational. As a result of capacity-building and awareness-raising work, organ donation rates reached 7.1 per million of the population at the end of 2016.

No legislative progress was made on patients' rights in cross-border healthcare. The Ministry of Health is responsible for e-health issues. The Data Protection Board has been set up and aims to ensure confidentiality and security of health data in the national information system. National registries for rare diseases do not exist yet, but Turkey is a member of the Orphanet.

No legislative progress was made on serious cross-border health threats. Regarding communicable diseases, in 2017, Turkey published its national epidemic preparedness plan and its national antimicrobial resistance strategic action plan (2017-2022). Prescription of antibiotics needs to be strictly controlled to support the fight against antimicrobial resistance

A national cancer control plan has been in place since 2007. There are cancer registry centres in every province (81 in total), of which 13 are accredited nationally and 8 by the International Agency for Research on Cancer. Cancer screening coverage reached 35.6 % for breast cancer and 81.3 % for cervical cancer. With the integration of the cancer control programme into primary healthcare, active surveillance and monitoring have been expanded to cover every province. The National Cancer Institute has become operational after the regulation to implement this was adopted in December 2017.

Slow progress was made on community-based mental health centres. In 2017, 14 new community-based mental health centres were set up, making a total of 163, and 350 family physicians were given mental health gap training.

National action plans on nutrition and physical activity and alcohol-related harm reduction and prevention are in place, focusing on awareness-raising.

An updated action plan on preventing drug abuse (2016-2018), built around the pillars of drug demand and drug supply reduction, is in place. National coordination mechanisms have been set up on drug policy issues. According to the Ministry of Interior, there was an increase in the number of drug-induced deaths in Turkey from 520 in 2016 to 1 020 in 2017. Significant work is necessary both on supply and demand control.

On health inequalities, access to healthcare services needs to be improved for people with disabilities, people living with HIV, and children and adults who use drugs. The hosting of a large Syrian refugee population continues to put an additional strain on the national healthcare system and financing.

### 5.29. Chapter 29: Customs union

*All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment, adequate implementing and enforcement capacity, and access to the common computerised customs systems.*

Turkey maintains a **good level of preparation** in the area of the customs union. There has been **no progress** during the reporting period. Duty relief, free zones, surveillance measures and management of tariff quotas are not fully in line with the *acquis* or with Turkey's obligations under the Customs Union.

In the coming year, Turkey should in particular:

→ further improve risk-based controls and simplified procedures in line with the *acquis* to facilitate legitimate trade, while ensuring security and safety;

→ remove import and export restrictions preventing the effective free movement of goods.

No progress was made in the area of **customs legislation**. The level of alignment is generally high. However, harmonisation with the EU Customs Code remains an outstanding issue. Some work was done on improving risk-based controls and simplified procedures, in particular through increasing the capacity of the local risk management and feedback mechanism between the central and local offices.

Rules on surveillance and management of tariff quotas, free zones and duty relief are yet to be aligned with the *acquis*, but a small number of restrictions on the management of tariff quotas were removed. Turkey has continued to deviate from the Customs Union by imposing new sets of additional customs duties on imports of goods originating in third countries, namely stationery products, textile and leather items, cosmetics and personal hygiene products, certain steel pipes, engines, pumps, electric motors and tractors, frames and mountings for glasses and motorcycles. Additional duties also apply to such goods even if they are in free circulation in the EU, thus eroding the fundamental principle of the Customs Union. The export restrictions on certain leather products are in breach of Customs Union rules. Designation of specialised customs offices and proof of origin requirements for goods in free circulation in the EU are not in line with Customs Union rules. Turkey maintained its disproportionately high agricultural component for sweet corn, contrary to Customs Union rules.

With regard to **administrative and operational capacity**, the customs' enforcement capacity in relation to intellectual property rights has increased (*See Chapter 7 — Intellectual Property Law*). Further work is required to strengthen risk-based controls relating to enforcing safety and security measures. Turkey has implemented a computerised transit system as part of its

membership of the Convention on a Common Transit Procedure. However, tariff IT systems (TARIC, Quota and Surveillance) are not yet in place. A strategy to bring IT activities together with business initiatives remains to be adopted.

### 5.30. Chapter 30: External relations

*The EU has a common trade and commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules in the field of humanitarian aid and development policy.*

Turkey is **moderately prepared** in the area of external relations. There was **backsliding** in the reporting period as Turkey extended the scope of additional customs duties, thus further deviating from the Common Customs Tariff (CCT), infringing the EU-Turkey Customs Union.

In the coming year, Turkey should in particular:

→ urgently re-align its customs tariff with the CCT;

→ complete its alignment with the EU's Generalised System of Preferences and dual-use export control regime.

No progress was made in the area of the **common commercial policy**. Thanks to its adherence to the EU-Turkey Customs Union, Turkey has to date generally maintained a good level of alignment with the EU common commercial policy. However, Turkey has further substantially deviated from the CCT, as it applies additional duties to a large and growing number of imported products (*See Chapter 29 – Customs Union*). As part of this tariff deviation, there was backsliding in the level of Turkey's alignment with EU Generalised Scheme of Preferences rules. The intensive use of safeguard measures remains a cause of concern. Turkey continues to open new investigations based on weak evidence and use safeguards where more targeted trade defence measures, such as the anti-dumping instrument, could be more appropriately used. Within the World Trade Organisation, in particular on the Doha Development Agenda, in the OECD and the G-20, coordination between the EU and Turkey should be improved. With regard to export controls on dual-use goods, Turkey has not aligned with the EU position on membership of certain multilateral export control arrangements, such as the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies and the Missile Technology Control Regime. Alignment with the EU position on medium and long-term export credits is also needed.

Regarding **bilateral agreements with third countries**, the free trade agreements Turkey signed with Moldova and the Faroe Islands entered into force. Although Turkey is generally aligned with the EU as regards the terms of the free trade agreements it has entered with third countries, it continued to implement its free trade agreement with Malaysia and its free trade agreement with Singapore also entered into force, despite the EU not yet having concluded similar agreements with these two countries.

As for **development policy** and **humanitarian aid**, official development aid granted by Turkey increased to EUR 5.3 billion or 0.8 % of ODA/GNI in 2016. The assistance was largely directed towards humanitarian support for Syria-related activities on Turkey's own territory.



### 5.31. Chapter 31: Foreign, security and defence policy

*Member States must be able to conduct political dialogue under EU foreign, security and defence policy, to align with EU statements, to take part in EU actions and to apply agreed sanctions and restrictive measures.*

Turkey is **moderately prepared** in the area of foreign, security and defence policy. **Some progress** was made through regular political dialogue on foreign and security policy, including at ministerial level. The EU and Turkey continued their dialogue on counter-terrorism. Turkey joined Russia and Iran in the Astana process with Syria. It continued to provide substantial humanitarian assistance to Syrian refugees. In January 2018, Turkey launched a new military operation in Syria, in the Afrin area, against the PYD/YPG. Turkey continued to provide humanitarian and development aid in other regions, in Afghanistan and to Rohingya refugees.

In the coming year, Turkey should in particular:

→ take urgent steps to significantly improve its alignment with EU declarations and Council decisions on common foreign and security policy.

The **political dialogue** between the EU and Turkey on foreign and security policy issues continued at all levels, and benefited from the results achieved through the joint implementation of the EU-Turkey Statement of 18 March 2016. A high-level political dialogue took place on 25 July 2017, where foreign policy issues were discussed at length. Ministerial level contacts have been constant, especially on Syria. Political Directors' meetings took place in January and June 2017. Discussions focussed mainly on developments in the MENA region (Syria, Iraq, Libya, Qatar, Middle-East Peace Process) and on key international developments. An EU-Turkey dialogue on counter-terrorism took place in Ankara in November 2017 and agreed concrete actions to increase operational cooperation. Turkey attended a number of conferences organised by the EU on Afghanistan, the Central African Republic, Mali/the Sahel and Syria.

(For information on bilateral relations with other enlargement countries and neighbouring Member States, see *Regional issues and international obligations*).

The **institutional framework** enabling Turkey's participation in the common foreign and security policy (CFSP) and security and defence policy (CSDP) is in place.

On **common foreign and security policy (CFSP)**, Turkey voiced support for the overall objectives in the Global strategy for the European Union's Foreign and Security Policy. Turkey aligned itself, when invited, with 10 out of 64 EU declarations and Council decisions representing an alignment rate of around 16 % during the reporting period. Turkey has not yet signed the statute of the International Criminal Court. Turkey has held the Chairmanship of the Organisation of Islamic Cooperation (OIC) Summit since April 2016.

In March 2017, Turkey announced the completion of the Euphrates Shield cross-border military ground operation in northern **Syria** capturing approximately 2 000 km<sup>2</sup> from Da'esh. In January 2018, Turkey launched 'Operation Olive Branch' in cooperation with the Free Syrian Army in the northern Syrian enclave of Afrin, aiming to root out the Democratic Union Party/People's Protection Units (PYD/YPG) which it regards as a terrorist organisation linked to the PKK. Since December 2016, Turkey has participated in the Astana talks together with Russia and Iran and became a co-guarantor of the ceasefire and contributed to the

creation of de-escalation zones which however did not translate into increased humanitarian access and sufficient protection of civilians and civilian infrastructure. Turkey continues to support the National Coalition for Syrian Revolutionary and Opposition Forces, based in Istanbul, and strives to prevent the weakening of the Syrian opposition delegation to the Geneva talks. Turkey continued to provide extensive humanitarian assistance to more than 3.5 million Syrian refugees. Over 30 000 Syrian refugees have reportedly returned to the de-escalation zones.

Turkey's relations with **Iraq's** government improved following the referendum on independence called by the Kurdistan Regional Government's President Barzani in September 2017 to which Turkey strongly objected. Prime Minister Abadi's visit to Ankara in October 2017 contributed to fixing an agenda for cooperation on the basis of renewed mutual trust materialised through a number of common initiatives. Turkey continued to conduct air strikes against camps run by the PKK and its affiliates.

**US** support for the PYD/YPG in the fight against Da'esh and the issue of the extradition of Fetullah Gülen remained major irritants in Turkey's relations with the US. The US recognition of Jerusalem as the capital of Israel and the prosecution of a group of Turkish officials and businessmen for alleged breach of sanctions on Iran further complicated bilateral relations. However, following a series of high-level contacts, Turkey and the US reaffirmed their commitment to resolve outstanding issues and agreed to establish a result-oriented mechanism for this purpose.

Turkey and **Russia** intensified dialogue and cooperation, in particular on Syria. Bilateral cooperation developed in a large number of fields such as energy and defence. Russian sanctions were progressively lifted, while restrictions on the import of Turkish tomatoes and visa restrictions have not yet been resolved.

Relations with **Ukraine** developed. While reiterating its condemnation of Russia's annexation of Crimea and concerns over the Tatar community, Turkey did not align with Council decisions, including EU restrictive measures relating to Russia and Ukraine.

Turkey's stance vis-a-vis the **Qatar** crisis impacted on its relations with **Saudi Arabia, UAE, and Bahrain**. Turkey's dialogue with **Iran** intensified and resulted in some concrete cooperation. Turkey continued to provide humanitarian and development assistance to **Afghanistan**. Turkey continued to encourage UN initiatives regarding **Yemen**. Turkey continued to increase its engagement in **Libya**. Relations with **Egypt** did not improve. The US administration's recognition of Jerusalem as Israel's capital and the extraordinary Summit of the OIC recognising Jerusalem East as capital of Palestine affected efforts to mend bilateral ties with **Israel**. Regarding **South Caucasus** and **Central Asia**, Turkey continued to engage closely with **Azerbaijan, Georgia, and Turkmenistan**, through its trilateral dialogue mechanisms on foreign policy, transport and energy. Bilateral contacts developed at a steady pace. The 2009 protocols on normalisation of relations with Armenia were not ratified and were renounced by Armenia in February 2018. Turkey continued to maintain close relations with the countries of the **Western Balkans**.

Turkey has further strengthened its relations with partners in **Africa, Asia** and, to a lesser extent, **Latin America**. Turkey became an ASEAN Sectoral Dialogue Partner on 5 August 2017. Turkey took a strong stance on issues in Myanmar concerning Rohingya refugees.

Turkey continued to participate in all international export controls arrangements and instruments on **non-proliferation**. It has not yet aligned itself with the EU position on

membership of the Wassenaar Arrangement and the Missile Technology Control Regime (*see Chapter 30 — External relations*).

Turkey continued to actively participate in military crisis management operations under the **common security and defence policy (CSDP)** notably EUFOR ALTHEA in Bosnia and Herzegovina. Turkish participation in EM Ukraine and EULEX Kosovo was suspended after Turkish seconded staff was withdrawn following the attempted coup of 2016, but Turkey later expressed its interest in continuing to contribute to these missions and submitted applications. The issue of EU-NATO cooperation, going beyond the ‘Berlin plus’ arrangements, involving all EU Member States, continues to be unresolved.

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

*The EU promotes the reform of national governance systems to enhance managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules further protect the EU’s financial interests against fraud in the management of EU funds and the euro against counterfeiting.*

Turkey has a **good level of preparation** in the area of financial control. **Some progress** was made in the reporting period, mainly on improved methodological guidance by the central harmonisation units. However, most of the Commission’s recommendations on public internal financial control (PIFC) from 2016 have not been implemented. Further significant work is needed at all levels of the administration and in state-owned companies.

In the coming year, Turkey should in particular:

- update the PIFC policy paper and its action plan and ensure a formal monitoring and reporting framework is put in place for the updated action plan;
- amend the Law on Public Financial Management and Control in line with the national action plan for EU accession;
- develop an effective monitoring system in the Turkish Court of Accounts to follow up implementation of the accepted audit recommendations by auditees.

#### **Public internal financial control**

The **strategic framework** in this area needs updating, as the PIFC policy paper dates back to 2012. There is no mechanism in place to coordinate implementation and ensure regular monitoring and reporting on implementation.

The Turkish administration has a uniform management structure that combines elements of **managerial accountability** and delegation with results-oriented performance management system. The Public Financial Management and Control (PFMC) Law applies to all public institutions and sets out the relevant responsibilities of the heads of public institutions, including managerial duties and the delegation of authority to authorising officers. However, there are weaknesses in accountability arrangements with agencies and gaps in the functioning of audit systems, in relation to risk management and reporting and monitoring of irregularities (*see Public Administration Reform*).

The PFMC Law regulates **internal control implementation**, mostly in line with the Committee of Sponsoring Organisations model and the guidelines issued by the International Organisation of Supreme Audit Institutions (INTOSAI). Ensuring a systematic approach to

risk management in Turkey is a key challenge. Also, reporting on irregularities needs to be further improved.

**Internal audit practice** is also regulated in the PFMC Law. An internal audit manual and a code of ethics are in place, as are manuals prepared by the central harmonisation unit (CHU). More than half of internal audit posts in government are still vacant. Quality assurance needs to be systematically implemented. There is generally a lack of data on internal audit planning and implementation of recommendations.

Two **central harmonisation units** in the Ministry of Finance supervise the implementation of public financial management and control. The central harmonisation unit for financial management and control provides methodological guidance and coordinates internal control implementation in line ministries. However, it does not systematically follow up on how internal control is implemented in first-level budget organisations. During the reporting period, the central harmonisation unit for internal audit published handbooks on quality assurance and development and on performance audit for internal auditors in public administrations.

### **External audit**

The independence of the Turkish Court of Accounts (TCA) is enshrined in the **Constitution**. The TCA law is in line with INTOSAI standards. It provides for an exhaustive audit mandate and gives the TCA full discretion in discharging its responsibilities.

The TCA board members are elected by Parliament. Concerning **institutional capacity**, 10 % of TCA staff has been dismissed under emergency decrees, leaving the TCA with 1 414 staff, 759 of whom are auditors. The TCA has a strategic development plan for 2014-2018, including a training strategy. Given the high number of potential auditees at local level, the capacity of the TCA to audit local administrations, municipal companies and associations needs to be increased.

The TCA seeks to improve the **quality of audit work** by adopting assessment manuals for performance audit and activity reports and by strengthening the external audit training centre. Audit reports comply with international standards, except for performance audit reports, which continue to focus on performance indicators. Planning for audit work is mostly risk-based. The TCA submits four audit reports (on general evaluation, accountability, financial statistics and state enterprises) to Parliament annually, in addition to a statement of general conformity.

Regarding the **impact of audit work**, the TCA assesses the internal control environment of audited entities as part of its audit work. The TCA publishes its reports on its website. Its annual audit report to Parliament is analysed by the Plan and Budget Committee and discussed in a plenary session. Despite the existence of a parliamentary follow-up mechanism, this follow-up process is neither systematic nor effective. A working group between the TCA and the Ministry of Finance is operational. A similar working group is needed with Parliament.

### **Protection of the EU's financial interests**

As regards **acquis alignment**, Turkey will need to align its legislation with the new EU Directive on the fight against fraud to the Union's financial interests by means of criminal law. The **national anti-fraud coordination service** continues to work with the European Commission. An anti-fraud network, involving other relevant authorities, is in place.

However, this network has been affected by staff dismissals under emergency decrees. The anti-corruption strategy and the action plan for 2016-2019 need to be implemented in an inclusive and participatory fashion and set a track record. A national anti-fraud strategy on the protection of the EU's financial interests is not in place yet.

Turkey **cooperated with European Commission** investigators in various cases in 2017. It has created the main procedures for reporting irregularities and suspected fraud cases, including online reporting to the Commission through the irregularity management system. 371 cases have been reported through the system since 2006, including 57 cases in 2016 and 83 cases in 2017. A solid track record on investigation activities and reporting on irregularities still needs to be established.

### **Protection of the euro against counterfeiting**

Turkey has reached a high level of **acquis alignment** in this area. Turkey is a party to the 1929 International Convention for the Suppression of Counterfeiting Currency. **Technical analysis** of counterfeit money, including euro banknotes and coins, is carried out by the central bank. Credit institutions that do not withdraw counterfeits from circulation are subject to financial penalties. Turkey cooperates closely with the Commission and the European Central Bank and takes part in the actions of the Pericles 2020 programme.

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

*This chapter covers the rules governing the funding of the EU budget ("own resources"). These resources mainly consist of i) contributions based on the gross national income of each Member State; ii) customs duties; and iii) a resource based on value-added tax. Member States must have the appropriate administrative capacity to adequately co-ordinate and ensure the correct calculation, collection, payment and control of own resources.*

Turkey has **some level of preparation** in the area of financial and budgetary provisions. **Some progress** was made on aligning statistics with EU standards, required for the gross national income-based resource. Solid coordination structures, administrative capacity and implementing rules will need to be set up in due course.

Basic principles and institutions in the underlying policy areas linked to the application of the own resources system are already in place (*see chapters 16–Taxation, 18–Statistics, 29–Customs union and 32–Financial control*). The Customs Union with the EU on processed agricultural goods and industrial goods (with the exception of coal and steel products) ensures considerable alignment of Turkey's customs legislation with the customs *acquis*. This will facilitate the creation of Turkey's **traditional own resources** system, for which procedures still need to be set up.

In the area of the **value added tax-based resource**, preparation is needed to correctly calculate the statistical VAT base, the weighted average rate and the positive and negative corrections to offset the impact of derogations from the *acquis*. To ensure Turkey can make the appropriate contribution to the EU own resources system upon EU membership, measures are needed to combat fraud in VAT and customs duties and to tackle the informal economy.

Concerning the **gross national income-based resource**, GDP data was revised in December 2016 to achieve greater compliance with the system of national accounts (SNA 2008) and the European system of accounts (ESA 2010). Turkey will need to make considerable efforts to

ensure its national accounts and GNI calculations are exhaustive, and take into account the informal economy.

Regarding the **administrative infrastructure**, Turkey will need to set up a fully operational coordination structure, with appropriate administrative capacity and implementing rules, to ensure that it will be able, from accession, to correctly calculate, forecast, account for, collect, pay, control and report to the EU on own resources in line with the *acquis*.

## ANNEX I – RELATIONS BETWEEN THE EU AND TURKEY

Within the framework of **accession negotiations**, 16 chapters have been opened so far and one of these was provisionally closed. Under the currently prevailing circumstances, no new chapters are considered for opening. Reforms and developments in Turkey continue to be monitored by the bodies set up under the **Association Agreement**. The Association Committee met in November 2017, while subcommittees kept being held throughout the reporting period.

The Commission, jointly with the European External Action Service, has maintained EU-Turkey relations in all key areas of joint interest based on a **broad strategic engagement**. Several visits by Commissioners to Turkey took place during the reporting period. President Erdoğan visited Brussels on 25 May 2017 on the occasion of the meeting of NATO Heads of State and Government and met with the Presidents of the European Council, of the European Parliament and of the European Commission. A follow-up Leaders meeting between Presidents Tusk, Juncker and Erdogan was hosted on 26 March 2018 in Varna, Bulgaria, by Prime Minister Borissov. Furthermore, the enhanced political dialogue between the EU and Turkey was maintained. High Representative/Vice President Mogherini and Commissioner Hahn took part in a **High Level Political Dialogue** with Ministers Çavuşoğlu and Çelik on 25 July 2017 in Brussels, prepared by a political dialogue at directors' level in June 2017. Regular discussions on foreign and security policy were held on a wide range of topics and regions including Syria, Iraq, Iran, Saudi Arabia, the Middle East and the Gulf, Afghanistan, Libya, Russia, Ukraine, the Western Balkans, the South Caucasus and Central Asia. A dialogue on counter-terrorism was held in November 2017 in Ankara.

Developing further close economic ties was another shared priority. Turkey is the EU's fifth largest trading partner, while the EU is Turkey's largest. Two out of five goods traded by Turkey come from or go to the EU and over 70 % of foreign direct investment in Turkey originates in the EU. A **High Level Economic Dialogue** was held in December 2017 in Brussels, where both parties discussed macroeconomic and investment developments and engaged with the business community. Turkey continues to participate in the multilateral economic dialogue with the Commission and Member States to prepare the country for participation in multilateral surveillance and economic policy coordination as part of the EU's Economic and Monetary Union. The EU and Turkey also continue to coordinate in the framework of the G-20. Turkey and the EU continued to improve their sectorial cooperation; a **High Level Dialogue** took place on **transport** in November 2017 and a technical dialogue on **energy** in February 2018. Regarding the **Customs Union**, the Commission adopted a recommendation for opening of negotiations with Turkey on the modernisation of the Customs Union on 21 December 2016. This recommendation has been forwarded to the Council where it has been under consideration, without prejudice to Member States' position. The Customs Union Joint Committee met in May 2017 to discuss a significant number of pending issues.

In the area of **visa, migration and asylum**, the implementation of the March 2016 EU-Turkey Statement has continued to deliver concrete results in reducing irregular and dangerous crossings and in saving lives in the Aegean Sea. Implementation reports have been issued in December 2016, in March, June, September and November 2017 and in March 2018. Turkey sustained its outstanding efforts to provide massive and unprecedented humanitarian aid and support to more than 3.5 million refugees from Syria and some 365 000 refugees from other countries. Regarding the Visa Liberalisation Dialogue, Turkey presented

in February 2018 a work plan outlining how Turkey plans to fulfil the seven outstanding benchmarks, out of 72 listed in the visa roadmap. Turkey and the EU further built on the fruitful cooperation under the Facility for Refugees in Turkey. By the end of December 2017, the whole envelope of EUR 3 billion had been contracted with 72 projects focusing mainly on humanitarian assistance, education, migration management, health, municipal infrastructure, and socio-economic support and almost 1.2 million of the most vulnerable refugees received with monthly cash transfers under the Emergency Social Safety Net. Disbursements reached EUR 1.9 billion to date.

**Regarding financial assistance**, in 2017, the Commission further reoriented funding towards the rule of law, fundamental rights and civil society and recentralised the management of support to civil society. The annual programme for 2017 with EUR 123.1 million of EU contribution is designed to support activities on fundamental rights and co-finance Turkey's participation in Union programmes and agencies in order to continue to enhance people-to-people contacts between Turkey and the European Union. Support to civil society, amounting to EUR 18 million will be implemented as part of the Civil Society Facility and Media programme 2016-2017. The multi-annual action programmes on Environment and climate action, Education, employment and social policies, Competitiveness and innovation and Transport have been amended to provide for an additional EU allocation of EUR 221.5 million for 2017. Furthermore, the Commission has reviewed the performance of Turkey in implementing effectively pre-accession funds as part of the IPA II mid-term performance review for the years 2018-2020. In light of the backsliding in the areas of rule of law and fundamental rights, as well as on public administration reform, two of the enlargement policy fundamentals, as well as because of the poor absorption capacity, the Commission has proposed to significantly reduce the 2018-2020 allocations for Turkey and to further reorient funding towards civil society and democracy and the rule of law.

Turkey participates in the following **EU programmes**: Erasmus+, Horizon 2020, Customs 2020, Fiscalis 2020, COSME, (Competitiveness of Enterprises and Small and Medium-sized Enterprises) and EASI (Employment and Social Innovation). As of 1 January 2017, Turkey's withdrawal from Creative Europe programme became effective. Turkey participates in the European Environmental Agency, in the European Monitoring Centre for Drugs and Drug Addiction and since 2015 in the Civil Protection Mechanism.



## Annex II – Statistical annex

### STATISTICAL DATA (as of 09.03.2018)

#### Turkey

Basic data	Note	2005	2012	2013	2014	2015	2016
Population (thousand)		68 010	74 724	75 627	76 668	77 696	78 741
Total area of the country (km <sup>2</sup> )		785 347	785 347	785 347	785 347	783 562	783 562s

National accounts	Note	2005	2012	2013	2014	2015	2016
Gross domestic product (GDP) (million national currency)		673 703	1 569 672	1 809 713	2 044 466	2 338 648	2 608 526
Gross domestic product (GDP) (million euro)		401 707	678 484	714 313	703 412	772 979	780 225
GDP (euro per capita)		5 907	9 080	9 445	9 175	9 949	9 909
GDP per capita (in purchasing power standards (PPS))		10 100	15 600	16 400	17 800	18 900	18 800
GDP per capita (in PPS), relative to the EU average (EU-28 = 100)		43	58	61	64	65	64
Real GDP growth rate: change on previous year of GDP volume (%)		9.0	4.8	8.5	5.2	6.1	3.2
Employment growth (national accounts data), relative to the previous year (%)		:	:	:	:	:	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		:	:	:	:	:	:
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2010 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-28 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		10.6	8.8	7.7	7.5	7.8	7.0
Industry (%)		22.6	21.9	22.4	22.7	22.4	22.3
Construction (%)		6.4	8.5	9.2	9.2	9.3	9.7
Services (%)		60.4	60.8	60.7	60.6	60.5	61.0
Final consumption expenditure, as a share of GDP (%)		76.4	76.6	76.0	74.9	74.3	74.6
Gross fixed capital formation, as a share of GDP (%)		26.7	27.3	28.5	28.9	29.7	29.3

Changes in inventories, as a share of GDP (%)		0.4	1.0	1.2	0.1	-1.4	:
Exports of goods and services, relative to GDP (%)		21.0	23.7	22.3	23.8	23.3	22.0
Imports of goods and services, relative to GDP (%)		24.4	28.6	28.1	27.6	26.0	24.9
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

<b>Business</b>	Note	2005	2012	2013	2014	2015	2016
Industrial production volume index (2010 = 100)		86.4	112.5	116.5	120.5	124.1	126.3
Number of active enterprises (number)		:	2 646 117	2 695 131	2 677 316	2 689 910	:
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		:	12.8	12.4	12.2	12.1	:
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		17.1	11.9	12.4	10.8	:	:
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)		:	75.8	74.2	73.5	72.7	:
Value added by SMEs (in the non-financial business economy) (EUR million)		:	91 137	97 399	95 399	104 876	:
Total value added (in the non-financial business economy) (EUR million)		:	168 180	184 511	178 415	207 088	:

<b>Inflation rate and house prices</b>	Note	2005	2012	2013	2014	2015	2016
Harmonised consumer price index (HICP), change relative to the previous year (%)		8.1	9.0	7.5	8.9	7.7	7.7
**Annual change in the deflated house price index (2010 = 100)		:	:	:	:	:	:

<b>Balance of payments</b>	Note	2005	2012	2013	2014	2015	2016
Balance of payments: current account total (million euro)	1)	-16 864	-37 330	-47 894	-32 783	-29 059	:
Balance of payments current account: trade balance (million euro)	1)	-26 474	-50 877	-60 174	-47 871	-43 404	:
Balance of payments current account: net services (million euro)	1)	12 758	17 581	17 830	20 149	21 738	:
Balance of payments current account: net balance for primary income (million euro)		:	:	:	:	:	:

Balance of payments current account: net balance for secondary income (million euro)		:	:	:	:	:	:
Net balance for primary and secondary income: of which government transfers (million euro)		:	:	:	:	:	:
**3 year backward moving average of the current account balance relative to GDP (%)	1)	:	-6.8	-7.1	-5.6	-5.0	:
**Five year change in share of world exports of goods and services (%)		:	:	:	:	:	:
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)		:	:	:	:	:	:
Foreign direct investment (FDI) abroad (million euro)		:	:	:	:	:	:
of which FDI of the reporting economy in the EU-28 countries (million euro)		:	:	:	:	:	:
Foreign direct investment (FDI) in the reporting economy (million euro)		:	:	:	:	:	:
of which FDI of the EU-28 countries in the reporting economy (million euro)		:	:	:	:	:	:
**Net international investment position, relative to GDP (%)		-36.3	-53.9	-48.1	-55.1	-51.1	:
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)		:	:	:	:	:	:

<b>Public finance</b>	Note	2005	2012	2013	2014	2015	2016
***General government deficit / surplus, relative to GDP (%)		:	-0.2	0.2	0.2	1.3	:
***General government gross debt relative to GDP (%)		:	32.6	31.3	28.6	27.5	:
Total government revenues, as a percentage of GDP (%)		:	34.9	34.7	33.9	34.4	:
Total government expenditure, as a percentage of GDP (%)		:	35.1	34.5	33.7	33.1	:

<b>Financial indicators</b>	Note	2005	2012	2013	2014	2015	2016
Gross external debt of the whole economy, relative to GDP (%)		35.9	38.0	39.7	47.0	47.1	:
Gross external debt of the whole economy, relative to total exports (%)		160.6	165.5	186.1	182.1	199.6	216.0
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		38 978	76 513	78 110	91 571	97 885	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		150 152	315 960	309 213	360 158	373 608	:

Money supply: M3 (M2 plus marketable instruments, million euro)		164 302	333 144	323 062	375 844	387 048	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)		83 772	318 918	341 791	418 789	443 147	:
**Annual change in financial sector liabilities (%)		:	:	:	:	:	:
**Private credit flow, consolidated, relative to GDP (%)		:	:	:	:	:	:
**Private debt, consolidated, relative to GDP (%)		:	:	:	:	:	:
Interest rates: day-to-day money rate, per annum (%)	2)	19.67	11.20	10.05	10.94	11.02	:
Lending interest rate (one year), per annum (%)		18.72	10.87	7.56	11.68	10.79	:
Deposit interest rate (one year), per annum (%)	3)	14.72	5.00	3.81	7.75	7.27	:
Euro exchange rates: average of period (1 euro = ... national currency)		1.670	2.314	2.534	2.906	3.026	:
Trade-weighted effective exchange rate index, 42 countries (2010 = 100)		89	92	90	86	85	84
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2010 = 100)		25.8	1.3	-9.6	-2.3	-7.1	-7.3
Value of reserve assets (including gold) (million euro)		42 142	92 748	98 640	95 824	99 620	:

<b>External trade in goods</b>	Note	2005	2012	2013	2014	2015	2016
Value of imports: all goods, all partners (million euro)		93 362	184 087	189 784	182 338	186 536	179 468
Value of exports: all goods, all partners (million euro)		58 778	118 644	114 563	118 654	129 555	128 792
Trade balance: all goods, all partners (million euro)		-34 584	-65 443	-75 222	-63 684	-56 981	-50 676
Terms of trade (export price index / import price index * 100) (number)	4)	107	97	98	100	107	111
Share of exports to EU-28 countries in value of total exports (%)		56.7	38.9	41.5	43.5	44.5	47.9
Share of imports from EU-28 countries in value of total imports (%)		45.3	37.0	36.7	36.7	38.0	39.0

<b>Demography</b>	Note	2005	2012	2013	2014	2015	2016
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		12.3	11.7	12.0	12.3	11.8	11.2
Infant mortality rate deaths of children under one year of age (per thousand live births)		25.8	11.6	10.8	11.1	10.7	:
Life expectancy at birth: male (years)		:	74.8	75.4	75.4	75.4	:
Life expectancy at birth: female (years)		:	80.5	81.1	80.9	81.0	:

<b>Labour market</b>	Note	2005	2012	2013	2014	2015	2016
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		52.9	57.4	58.4	58.9	59.9	60.9
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		48.1	52.8	53.4	53.2	53.9	54.3
Male employment rate for persons aged 20–64 (%)		73.6	75.0	75.3	75.0	75.3	75.5
Female employment rate for persons aged 20–64 (%)		23.6	30.9	31.8	31.6	32.6	33.2
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		27.9	31.9	31.5	31.4	31.9	33.4
Employment by main sectors							
Agriculture, forestry and fisheries (%)	5)	:	24.6	23.6	21.1b	20.6	19.5
Industry (%)		:	19.1	19.4	20.5b	20.0	19.5
Construction (%)		:	6.9	7.0	7.4b	7.2	7.3
Services (%)		:	49.4	50.0	51.0b	52.2	53.7
People employed in the public sector as a share of total employment, persons aged 20–64 (%)		15.7	13.8	13.5	13.1b	13.5	13.8
People employed in the private sector as a share of total employment, persons aged 20–64 (%)		84.3	86.2	86.5	86.9b	86.5	86.2
Unemployment rate: proportion of the labour force that is unemployed (%)	6)	9.3	8.2	8.8	9.9	10.3	10.9
Male unemployment rate (%)	6)	9.2	7.7	8.0	9.1	9.3	9.6
Female unemployment rate (%)	6)	9.4	9.4	10.6	11.9	12.6	13.6
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)	6)	17.4	15.7	16.9	17.8	18.4	19.5
Long-term unemployment rate: proportion of the labour force that has been unemployed	6)	3.5	2.0	2.1	2.0	2.2	2.2

for 12 months or more (%)							
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)	6)	7.7	6.7	7.3	8.4b	8.9	9.1
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)	6)	5.9	6.7	6.9	8.1	8.4	9.3

<b>Social cohesion</b>	Note	2005	2012	2013	2014	2015	2016
Average nominal monthly wages and salaries (national currency)	7)	667	1 327	1 509	1 648	1 828	2 031
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2010 = 100)		:	:	:	:	:	:
GINI coefficient		38	43	42	41	42	:
Poverty gap		:	30.3	27.9	28.4	27.8	:
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		49.8	39.6	37.6p	38.3	36.7	34.3

<b>Standard of living</b>	Note	2005	2012	2013	2014	2015	2016
Number of passenger cars relative to population size (number per thousand population)		84.9	115.7	122.8	128.6	136.3	143.7
Number of mobile phone subscriptions relative to population size (number per thousand population)		640e	895.0	909.0	925.3	935.2	940.4
Mobile broadband penetration (per 100 inhabitants)		2	10	11	12	12	13
Fixed broadband penetration (per 100 inhabitants)		0	26	32	42	50	65

<b>Infrastructure</b>	Note	2005	2012	2013	2014	2015	2016
Density of railway network (lines in operation per thousand km <sup>2</sup> )	8)	11.3	12.5	12.6	13.1	13.2	:
Length of motorways (kilometres)		1 667	2 127	2 244	2 278	2 282	2 542

<b>Innovation and research</b>	Note	2005	2012	2013	2014	2015	2016
Public expenditure on education relative to GDP (%)		:	4.4	4.4	4.4	4.3	4.6
*Gross domestic expenditure on R&D relative to GDP (%)		0.57	0.83	0.82	0.86	0.88	0.94

Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	0.32	0.37	0.32	0.32	0.29
Percentage of households who have internet access at home (%)		8.7	47.2	49.1	60.2	69.5	76.3

<b>Environment</b>	Note	2005	2012	2013	2014	2015	2016
*Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)		157.6	209.8	206.6	212.9	222.0	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2010 constant prices)		172.2	176.4	157.5	157.3	160.7	165.3
Electricity generated from renewable sources relative to gross electricity consumption (%)		24.5	27.2	28.8	20.9	32.0	32.9
Road share of inland freight transport (based on tonne-km) (%)		94.8	94.9	95.2	95.1	95.9	95.6

<b>Energy</b>	Note	2005	2012	2013	2014	2015	2016
Primary production of all energy products (thousand TOE)		23 710	30 596	29 161	28 661	31 248	35 519
Primary production of crude oil (thousand TOE)		2 264	2 438	2 484	2 534	2 566	2 641
Primary production of solid fuels (thousand TOE)		10 575	15 554	13 542	13 814	12 799	15 498
Primary production of gas (thousand TOE)		739	521	443	395	314	302
Net imports of all energy products (thousand TOE)		62 035	90 290	87 470	93 575	102 791	105 287
Gross inland energy consumption (thousand TOE)		85 302	119 320	115 592	121 452	131 561	139 687
Gross electricity generation (GWh)		161 956	239 496	240 154	251 963	261 783	274 408

<b>Agriculture</b>	Note	2005	2012	2013	2014	2015	2016
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)		41 223	38 399	38 423	38 558	38 551	38 328p
Livestock numbers: live bovine animals (thousand heads, end of period)	9)	10 526	13 915	14 415	14 223	13 994	14 080
Livestock numbers: live swine (thousand heads, end of period)		2	3	3	3	2	1
Livestock numbers: live sheep and live goats (thousand heads, end of period)		31 822	35 783	38 510	41 485	41 924	41 329

Raw milk available on farms (thousand tonnes)		11 108	17 401	18 224	18 631	18 655	18 489
Harvested crop production: cereals (including rice) (thousand tonnes)		36 472	33 377	37 489	32 714	38 637	35 281
Harvested crop production: sugar beet (thousand tonnes)		15 181	14 920	16 489	16 743	16 023	19 593
Harvested crop production: vegetables (thousand tonnes)		26 472	27 820	28 448	28 487	29 552	30 267

: = not available

b = break in series

e = estimate

p = provisional

\* = Europe 2020 indicator

\*\* = Macroeconomic Imbalance Procedure (MIP) indicator

\*\*\* = The government deficit and debt data of enlargement countries are published on an "as is" basis and without any assurance as regards their quality and adherence to ESA rules.

#### Footnotes

- 1) Based on balance of payments manual edition 5 (BPM5).
- 2) Average of monthly data. Lending to enterprises more than one year.
- 3) Average of monthly data. Overnight deposit facility.
- 4) Underlying indices are calculated with Fisher index formula.
- 5) 2012 and 2013: includes NACE Rev. 2 Group 98.1 (undifferentiated goods-producing activities of private households for own use).
- 6) Unemployment based on four weeks criterion and using only active jobs search methods.
- 7) 2005: data have been converted (rescaled) to the current national currency.
- 8) Main lines only.
- 9) Excluding buffaloes.