

# **Turkey**

## **2013 Progress Report**

## Conclusions on Turkey

*(extract from the Communication from the Commission to the European Parliament and the Council 'Enlargement Strategy and Main Challenges 2013-2014', COM(2013)700 final)*

Turkey is a candidate country and a strategic partner for the European Union. Turkey, with its large, dynamic economy, is an important trading partner for the EU and a valuable component of EU competitiveness through the Customs Union. Turkey has a strategic location, including on energy security, and plays an important regional role. The Commission underlines the importance of ongoing cooperation and dialogue on foreign policy issues. Equally, the EU remains an important anchor for Turkey's economic and political reforms. The events surrounding Gezi Park have highlighted the importance of promoting dialogue across the political spectrum and society more broadly and the need for respect of fundamental rights in practice.

The Positive Agenda, launched in 2012, continues to support and complement accession negotiations with Turkey through enhanced cooperation in a number of areas of joint interest. While it has delivered some positive results, it is not a substitute for negotiations. The full potential of the EU-Turkey relationship is best fulfilled within the framework of an active and credible accession process. This process remains the most suitable framework for promoting EU-related reforms, developing dialogue on foreign and security policy issues, strengthening economic competitiveness and increasing cooperation in the field of energy and justice and home affairs. Accession negotiations need to regain momentum, respecting the EU's commitments and the established conditionality. In this regard, the opening of chapter 22-Regional policy, after more than three years of stalemate in the negotiations, represents an important step. Turkey can accelerate the pace of negotiations by the fulfilment of benchmarks, meeting the requirements of the Negotiating Framework and by respecting its contractual obligations towards the EU, including the full and non-discriminatory implementation of the Additional Protocol to the Association Agreement towards all Member States.

A mixed picture emerges from developments over the past twelve months in Turkey under the **political criteria**. Important reform efforts have continued. The fourth judicial reform package adopted in April strengthens the protection of fundamental rights, including freedom of expression and the fight against impunity for cases of torture and ill-treatment. The government has started a peace process aiming to end terrorism and violence in the Southeast of the country and to pave the way for a solution of the Kurdish issue. This process should be pursued in good faith on all sides. Announced measures in the democratisation package presented in September 2013 foresee further reforms on a range of important issues, including the use of languages other than Turkish, rights of persons belonging to minorities and changes to the current high thresholds for representation in parliament and financing of political parties, which should increase pluralism. Progress in cooperation with opposition parties and implementation in line with European standards is key.

The cross-party conciliation committee of the parliament, which was set up to draft a new constitution, has pursued its work and has achieved agreement on a number of articles. This work should continue in a spirit of compromise. With the adoption of a comprehensive law on foreigners and international protection, an important step has been taken towards adequate protection of asylum seekers. Efforts have also continued aimed at protecting women's rights, notably through implementation of the Law on the Protection of Family and Prevention of Violence. The Ombudsman Institution has been established and is already actively working to fulfil its role. The National Human Rights institution also became operational.

In addition, there is more public debate on topics previously considered as sensitive, including the Kurdish issue, the role of the military, the Armenian issue or the rights of persons

regardless of their sexual orientation. Democratic debate is spreading, in particular through the social media, and is also being expressed beyond traditional party politics, including through demonstrations. In this respect, the wave of protests in June is also the result of the broad democratic reform that has taken place in the past decade and the emergence of a vibrant and diverse civil society that needs to be respected and consulted more systematically at every level of decision making, irrespective of who holds the majority in parliament.

However, further progress is held back by various persisting factors. The political climate is still marked by polarisation and lacks a spirit of compromise. The government has tended to rely exclusively on its parliamentary majority to pass laws and decisions, including on socially sensitive issues, without sufficient consultation and dialogue with stakeholders. The resulting tensions and frustration eventually peaked in May and June around a controversial urban development project in Gezi Park in Istanbul and overflowed into major protests in many other cities. Attempts to reach out to protestors were limited and overshadowed by excessive use of force by the police, polarising language and an overall absence of dialogue. As a result of the confrontations six people lost their lives and more than 8 000 were injured. The inspections carried out by the Ministry of Interior concluded that police used disproportionate force against protesters in May and June.

The wave of protests in June highlighted a number of issues that need to be urgently tackled. With regard to the excessive use of force by the police, the administrative and judicial investigations launched should be followed through in accordance with the case law of the European Court of Human Rights and those responsible need to be held to account. Legislation on the establishment of a law enforcement monitoring commission as an independent oversight body for police offences should be adopted and implemented in line with European standards. The Minister of the Interior took a first positive step by issuing circulars to regulate the conduct by police officers during demonstrations. However, the overall legal framework and practice on the intervention of law enforcement officers should be brought in line with European standards so as to guarantee under all circumstances respect for human rights and, in particular, the right to freedom of assembly.

Key provisions of the Turkish legal framework and their interpretation by members of the judiciary continue to hamper freedom of expression, including freedom of the media. The ownership structure of the Turkish media, dominated by large industrial groups, combined with at times intimidating statements by high-level officials and warnings by the authorities, also makes self-censorship in the media widespread, as shown when mainstream media failed to report on the June protests. This environment has also led to dismissals and resignations of journalists.

A restrictive interpretation by the judiciary of legal provisions on provoking public hatred has led to a number of convictions of public figures for critical remarks on religion. The unclear definition in criminal legislation of membership of an armed organisation continues to be the source of a large number of arrests and prosecutions. An ECHR-compatible legal framework has yet to be established on matters of faith and conscientious objection. Substantial efforts are needed to effectively guarantee the rights of women, children, and lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals. Domestic violence, occasional honour killings and the issue of early and forced marriages remain a serious concern. Turkey needs to ensure full respect for all property rights, including those of non-Muslim religious communities.

These shortcomings need to be addressed and the fourth judicial reform package properly implemented in line with European standards. The authorities need to enhance efforts to protect other fundamental rights and freedoms so that all citizens can exercise their rights without hindrance. The measures announced in the democratisation package hold out the prospect of progress on a number of these issues.

These issues underline the importance for the EU to enhance its engagement with Turkey on fundamental rights. Progress in the accession negotiations and progress in the political reforms in Turkey are two sides of the same coin. It is in the interest of both Turkey and the EU that the opening benchmarks for *chapters 23-Judiciary and Fundamental Rights, and 24-Justice, Freedom and Security* are agreed upon and communicated to Turkey as soon as possible with a view to enabling the opening of negotiations under these two chapters. This would significantly contribute to ensuring that the EU and its standards remain the benchmark for reforms in Turkey.

In view of the reforms required, the overall decision making process, both nationally and locally, should involve more structured and systematic consultation of civil society. It is essential to reform the existing legal environment and make it more conducive to the development of civil society organisations in general. As an example, environmental impact assessments need to be carried out fully respecting the EU *acquis*. Major infrastructure projects should no longer be excluded. Consultation of relevant civil society actors in other policy areas is also strongly encouraged.

The signature of the *EU-Turkey readmission agreement and the simultaneous start of the visa dialogue* are the first steps towards visa liberalisation, which can give a new momentum to EU-Turkey relations and bring concrete benefits for both. It is important that these two processes move forward and that the ratification procedure of the readmission agreement in Turkey is swiftly finalised in view of its full and effective implementation.

On *foreign policy*, Turkey has continued to play an important role in its wider neighbourhood, for example expanding its activities as a non-traditional donor in the Horn of Africa, supporting democratic transition in North Africa, and enhancing cooperation with and between Afghanistan and Pakistan. It has played a particularly important role on Syria, supporting the development of a more unified opposition and providing vital humanitarian assistance to large numbers of Syrians fleeing their country. It has also continued to provide practical support to the E3+3 talks with Iran. The ratification of an intergovernmental agreement on the Trans Anatolian Pipeline Project (TANAP) between Turkey and Azerbaijan was an important contribution to the goal of promoting greater European energy security through the southern energy corridor. The regular political dialogue between the EU and Turkey continued to intensify, covering both international issues of common interest such as the Middle East and Central Asia, and global issues such as counter-terrorism and non-proliferation. Turkey has continued its policy of engagement in the Western Balkans, including through its active participation in the South East European Cooperation Process and its contribution to EU-led military, police and rule of law missions in Bosnia and Herzegovina and Kosovo\*.

Turkey continued to express support for a resumption of talks aimed at achieving a fair, comprehensive solution and viable settlement of the *Cyprus issue* under the good offices of the United Nations. The willingness of Turkey and Greece to accept contacts with the chief negotiators of the two communities is a positive step that could potentially support the settlement process.

The EU has also underlined the importance of progress in the normalisation of relations between Turkey and all EU Member States, including the Republic of Cyprus. In this regard, it has called on Turkey to stop blocking the accession of Member States to international organisations and mechanisms. Furthermore, the EU has stressed again all the sovereign rights of EU Member States, which include, inter alia, entering into bilateral agreements, and

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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.

to explore and exploit their natural resources, in accordance with the EU *acquis* and international law, including the UN Convention on the Law of the Sea.

In this context, in the Council conclusions of 11 December 2012, the EU noted with deep regret that Turkey, despite repeated calls, continues refusing to fulfil its obligation of full, non-discriminatory implementation of the Additional Protocol to the Association Agreement towards all Member States and has not removed all restrictions on vessels and aircraft registered in Cyprus or whose last port of call was in Cyprus. The EU has underlined that fulfilling this obligation could provide a significant boost to the negotiation process. In the absence of progress on this issue, the EU will maintain its measures from 2006, which will have a continuous effect on the overall progress of the negotiations. The EU will continue to closely follow and review progress made on all issues covered by the declaration of the European Community and its Member States of 21 September 2005. Progress is now expected without any further delay.

In line with the Negotiating Framework and previous European Council and Council conclusions, Turkey needs to commit itself unequivocally to good neighbourly relations and to the peaceful settlement of disputes in accordance with the United Nations Charter, having recourse, if necessary, to the International Court of Justice. In this context, the 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, which could damage good neighbourly relations and the peaceful settlement of disputes.

The EU has welcomed the fact that the co-operation initiatives between Greece and Turkey to improve bilateral relations are continuing. The latest, 55<sup>th</sup> round of exploratory talks for the delimitation of continental-shelf took place in September. Greece and Cyprus made formal complaints about violations of their territorial waters and airspace by Turkey, including flights over Greek islands.

As regards the **economic criteria**, Turkey is a functioning market economy. It should be able to cope with competitive pressure and market forces within the Union in the medium term, provided that it accelerates the implementation of its comprehensive structural reform programme.

Following strong growth rates of around 9% in the preceding two years, Turkish GDP growth slowed down to 2.2% in 2012. This was accompanied by a rebalancing of growth from domestic demand to foreign trade, a temporary narrowing of the current account deficit, and a decline of inflation. In the first half of 2013, GDP growth strengthened again to 3.7%. At the same time, the current account deficit has widened again and consumer prices have re-accelerated. Public debt as a share of GDP has continued to recede and is now clearly below 40%. Since May, due to domestic and global factors, financial markets have come under pressure which led to immediate reactions by the central bank with a view to stabilising the exchange rate and containing capital outflows.

Turkey's recent economic performance illustrates both the high potential and the continuing imbalances of the economy. On the external side, the reliance on sustained capital inflows to finance a large structural current account deficit makes Turkey vulnerable to changes in global risk sentiment, resulting in large exchange rate fluctuations and boom-bust cycles in economic activity. Addressing this vulnerability calls for measures to increase national saving and fiscal policy has an important role to play in this respect. The adoption of a fiscal rule would enhance budget transparency, provide an important fiscal anchor and enhance credibility. Relatively high inflation continues to be a major challenge. A rebalancing of the macroeconomic policy mix would be helpful to ease the burden on monetary policy. For the medium to longer term, it is essential that the functioning of the markets for goods, services and labour is improved through structural reforms to increase international competitiveness.

The ongoing survey on the functioning of the EU-Turkey **Customs Union** provides an important opportunity to reflect on and discuss the necessary modernisation of this key instrument in EU-Turkey relations, with a view to re-energising trade performance on both sides and economic integration.

Given Turkey's further development potential as an energy hub and the common energy challenges it shares with the EU, it is important that the enhanced dialogue develops on all issues of joint interest.

As regards the **ability to take on the obligations of membership**, Turkey has continued to align with the *acquis*. There has been good progress on free movement of goods; financial services; energy; regional policy and coordination of structural instruments; science and research; and education. There have been significant developments on establishing the legal framework in the area of migration and asylum. The legal framework against the financing of terrorism has improved. The new legislation on electricity has brought this area to a great extent in line with the *acquis*. The Commission has assessed progress made in the framework of the working groups under the Positive Agenda and informed Turkey and the Member States which benchmarks it considers to be met. The Commission also acknowledged progress achieved on important requirements as regards the judiciary and fundamental rights. Progress has been limited in some chapters, including public procurement, competition policy, agriculture and rural development, food safety, veterinary and phytosanitary policy, and taxation.

Comprehensive efforts should continue in the area of intellectual property law, agriculture and rural development, food safety, veterinary and phytosanitary policy, social policy and employment, environment and climate change as well as consumer protection. Further significant progress is needed on judiciary and fundamental rights and justice, freedom and security. Legislative alignment needs to be pursued especially in public procurement, competition policy, and taxation. Turkey needs to develop its institutional capacity, in particular under chapters on company law, transport as well as regional policy and coordination of structural instruments.



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**TURKEY  
2013 PROGRESS REPORT**

*Accompanying the document*

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

**Enlargement Strategy and Main Challenges 2013-2014**

{COM(2013) 700 final}

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## 1. INTRODUCTION

### 1.1. Preface

This report largely follows the same structure as the Commission's previous regular reports to the Council and the Parliament on progress made by Turkey in preparing for EU membership. The report:

- briefly describes the relations between Turkey and the European Union;
- analyses the situation in Turkey in terms of the political criteria for membership;
- analyses the situation in Turkey on the basis of the economic criteria for membership;
- reviews Turkey's capacity to take on the obligations of membership, i.e. the *acquis* expressed in the Treaties, the secondary legislation, and the policies of the Union.

This report covers the period from October 2012 to September 2013. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a rule, legislation or measures which are under preparation or awaiting parliamentary approval have not been taken into account. This approach ensures equal treatment across all reports and enables an objective assessment.

The report is based on information gathered and analysed by the Commission. Many sources have been used, including contributions from the government of Turkey, the EU Member States, European Parliament reports<sup>1</sup> and information from various international and non-governmental organisations.

The Commission draws detailed conclusions regarding Turkey in its separate Communication on enlargement,<sup>2</sup> based on the technical analysis contained in this report.

### 1.2. Context

The European Council of December 1999 granted Turkey the status of candidate country. Accession negotiations with Turkey were opened in October 2005. The Association Agreement between Turkey and the then EEC entered into force in December 1964. Turkey and the EU formed a Customs Union in 1995.

### 1.3. Relations between the EU and Turkey

The **Positive Agenda** launched in 2012 continued to support and complement the accession negotiations through enhanced cooperation in a number of areas of joint interest: political reforms, alignment with the *acquis*, dialogue on foreign policy, visas, mobility and migration, trade, energy, counter-terrorism and participation in EU programmes. The Commission assessed progress made in the framework of the working groups and informed Turkey and the Member States which benchmarks it considers to be met. The Commission also acknowledged progress achieved on important requirements as regards the judiciary and fundamental rights.

The Commission prepared a roadmap for visa liberalisation in line with the Council conclusions of 21 June 2012 inviting it to take steps towards visa liberalisation as a gradual and long-term objective in parallel with the signing of the readmission agreement between Turkey and the EU. Signing the readmission agreement to allow for an effective start of the process and improved cooperation in this key area in EU-Turkey relations remains crucial.

Turkey and the Commission continued efforts to enhance their cooperation on energy, focusing mainly on electricity and gas.

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

<sup>2</sup> Enlargement Strategy and Main Challenges 2013-14, COM(2013) 700.

Turkey's readiness to start accession negotiations on individual chapters was assessed on the basis of screening reports. Of a total of 33 reports, eight are pending in the Council, while one has yet to be delivered. Work has been interrupted over the years on a number of negotiating chapters due to lack of consensus amongst Member States.

So far, **accession negotiations** have been opened on 13 chapters (Science and research; Enterprise and industry; Statistics; Financial control; Trans-European networks; Consumer and health protection; Intellectual property law; Company law; Information society and media; Free movement of capital; Taxation; Environment; and Food safety, veterinary and phytosanitary policy), one of which (Science and research) was provisionally closed. In June 2013, the Council agreed to open Chapter 22 — Regional policy and coordination of structural instruments, negotiations on which will begin in the autumn.

The conclusions on Turkey adopted by the Council (General Affairs and External Relations) on 11 December 2006 and endorsed by the European Council on 14/15 December 2006 remain in force. They stipulate that negotiations will not be opened on eight chapters<sup>3</sup> relevant to Turkey's restrictions regarding the Republic of Cyprus and no chapter will be provisionally closed until the Commission confirms that Turkey has fully implemented the Additional Protocol to the Association Agreement. As long as these restrictions remain in place on vessels and aircraft registered in Cyprus or whose last port of call was in Cyprus, Turkey will not be in position to fully implement the *acquis* relating to these eight chapters.

The **enhanced political dialogue** between the EU and Turkey has continued. A political dialogue meeting at political directors' level was held in January 2013. In line with the call in the December Council conclusions for further intensification of the foreign policy dialogue, regular discussions were also held on *inter alia* the Western Balkans, Syria, North Africa, the Middle East, Afghanistan, Pakistan, Russia, South Caucasus, Central Asia, and on counter-terrorism and non-proliferation. Turkey continues to be actively involved in its wider neighbourhood and is an important regional player. The Council recognised Turkey's role on Syria, in particular with regard to support provided to Syrians fleeing violence across the border. A number of high-level visits to the European institutions took place during the reporting period.

Turkey froze its relations with the Presidency of the Council of the EU during the second half of 2012 and during that period did not align itself with EU positions or statements in international fora. Recalling the European Council conclusions of 9 December 2011, the Council underlined that the Presidency of the Council of the EU is provided for in the Treaty on European Union, and called for full respect of its role.

Progress on the reform priorities is encouraged and monitored by the bodies set up under the **Association Agreement**. The Association Committee met in April 2013 and the Association Council in May 2013.

Turkey participates in the multilateral economic dialogue with the Commission and the Member States to prepare the country for participation in multilateral surveillance and economic policy coordination under the EU's Economic and Monetary Union.

The Commission also launched an evaluation of the EU-Turkey **Customs Union**, 18 years after its entry into force in 1996. Its aim is to assess the impact of the Customs Union on both parties and the opportunities arising were it to be updated. The final report from the evaluation is expected by end 2013. Bilateral trade between the EU and Turkey totalled €123 billion in 2012. Turkey continues to be the EU's sixth biggest trading partner, while the

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<sup>3</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.

EU is Turkey's biggest. 38% of Turkey's total trade is with the EU and almost 71% of foreign direct investment in Turkey – with a strong high-technology component – comes from the EU. However, Turkey maintains legislation that violates its commitments under the Customs Union and a number of Turkey's commitments on removing technical barriers to trade remain unfulfilled. The EU has urged Turkey to remove all remaining restrictions on the free movement of goods, including on means of transport regarding Cyprus, and to implement the Customs Union fully. Turkey has also expressed concerns, pointing *inter alia* to serious difficulties in concluding free trade agreements with some of the countries with which the EU has signed or is negotiating such agreements and stressing that the resulting asymmetry disrupts the proper functioning of the Customs Union.

As regards **financial assistance**, around €903 million have been earmarked for Turkey for 2013 from the Instrument for Pre-accession Assistance (IPA). In view of the next Multi-annual Financial Framework (2014-20), some changes have been introduced in a shift towards a more sectorally integrated approach to programming IPA financial assistance. Substantial parts of IPA 2013 Component I have been programmed through sectoral intervention in the priority sectors of justice, home affairs and fundamental rights, energy, and agriculture. The government and the Commission are currently preparing a comprehensive Country Strategy Paper for the period 2014-2020, which will provide a coherent and strategic framework for financial assistance under the new Instrument for Pre-Accession Assistance (IPA II). Turkey will need to continue strengthening its administrative capacity in order to make best use of IPA funding in 2014-20.

Turkey participates actively in the following **EU Programmes**: the Seventh Research Framework Programme, Customs 2013, Fiscalis 2013, the Competitiveness and Innovation Framework Programme (including the Entrepreneurship and Innovation Programme and the Information Communication Technologies Policy Support Programme), Progress, Culture 2007-13, Lifelong Learning and Youth in Action. IPA funds are used to meet part of the costs of participation in most of these programmes. Turkey also cooperates actively with the European Environment Agency. The agreement on the participation of Turkey in the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) has been ratified but still needs to be officially notified to the EU. Participation of Turkey in Union Programmes is important for both Turkey and the EU.

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

This section examines progress made by Turkey towards meeting the Copenhagen political criteria, which require stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and the protection of minorities. It also monitors compliance with international obligations, regional cooperation and good neighbourly relations with enlargement countries and Member States.

### **2.1. Democracy and the rule of law**

In late May, protests started against an urban development project in Gezi Park in the centre of Istanbul. The protests grew, encompassing broader demands and spreading to other cities. Overall, the demonstrations were peaceful, despite the involvement of a small number of violent protestors. At several instances the police used excessive force against demonstrators. Six people died, including one policeman, thousands were injured, some of them severely, over 3 500 were taken into police custody, of whom over 112 remained in detention on judge's decision, including members of NGOs participating in the Taksim Solidarity Platform (a grouping of associations active on the Gezi Park issue). Out of that figure 108 persons were detained on suspicion of being a member of a terror organisation.

Following the alleged violations of human rights during the demonstrations and complaints lodged in this context, based on information provided by the Turkish authorities, the Ministry of the Interior has so far launched administrative investigations into 164 law enforcement officers including 32 police chiefs and 30 police officers have been suspended from duty. Some cases were transferred to the courts and the cases are ongoing.

Procedures to adopt a draft law establishing a Law Enforcement Monitoring Commission as an independent supervisory body for police offences remain pending. With an independent body, it would be possible to conduct independent, impartial and effective investigations, with the involvement of victims, into all allegations of misconduct by security forces, in accordance with the case law of the European Court of Human Rights.

In June and July the Ministry of the Interior issued two circulars which improve procedures for intervention during demonstrations. Turkish legislation and its implementation concerning the right to assembly and intervention by law enforcement officers are still to be brought further in line with European standards, which focus on the peacefulness of demonstrations. Improvements in the legal framework need to be complemented with appropriate training for law enforcement officers.

The new Ombudsman has received 23 complaints relating to the protests and has started inquiries in line with the institution's mandate. The National Human Rights Institution has set up an *ad hoc* Commission tasked to draft a report on alleged human rights abuses during the protests.

On 30 September 2013 the government announced a democratisation package. For the implementation of the package both legislation and decrees will need to be adopted by the parliament and government, respectively. The package opens the perspective for changes to the current 10% threshold for representation in parliament and provides for the decrease of the threshold for budget support to political parties, the easing of conditions for the establishment of political parties and the removal of restrictions on political party membership. It would also allow the conduct of political activity in languages and dialects other than Turkish, education in languages and dialects other than Turkish in private schools, the removal of criminal sanctions for the use of the letters Q, X and W used in Kurdish and the change of names of villages back to the versions which preceded the 1980 military coup. The package also provides for criminal sanctions for non-respect of lifestyles, the increase of punishment for hate crimes and foresees the establishment of an equality and anti-discrimination body.

As regards freedom of assembly, the democratisation package provides that the authorities will consult stakeholders before making decisions on rallies and demonstrations, extends the time periods within which rallies and demonstrations can be held, and gives authority for monitoring and terminating the rallies to an *ad hoc* body including representatives of demonstrators. It also provides that data protection legislation will be submitted to parliament and that an institute on Roma language and culture will be established within a university. On 7 October 2013 the property of Mor Gabriel Monastery was returned to the Monastery Foundation. Since 8 October 2013 the school oath is no longer recited by primary school pupils.

These measures hold out the prospect to address concerns covered in more detail below. Implementation in cooperation with stakeholders and in line with European standards will be key.

### *Constitution*

Work on a new Constitution was carried out in the Parliamentary Conciliation Committee, on which all four political parties were represented equally. In an initial phase of public

consultation, Members of the Committee took part in public events arranged by civil society organisers around Turkey, which stimulated debate.

The Committee reached consensus, in principle, on close to 60 articles, including a number of provisions regarding the protection of fundamental rights and freedoms. The parties also agreed on a number of contentious issues, most notably the attachment of the Chief of General Staff to the Ministry of Defence and the replacement of the current Higher Education Board as a constitutional institution with a more independent structure.

The Conciliation Committee's negotiations focusing on the proposals of the four political parties took place in closed sessions. No records were published of discussions or of submissions to the Committee. The Committee has not yet consulted the Venice Commission.

There was no consensus on key political issues such as the separation of powers or a new definition of citizenship without ethnic references, a central demand of the pro-Kurdish Peace and Democracy Party (BDP). Other contentious subjects were mother tongue education, equality and non-discrimination, issues related to the link between state and religion, the possible amendment of the first three 'irrevocable' articles of the current Constitution and decentralisation.

Implementation of the 2010 constitutional amendments proceeded, with legislation providing for the right of individuals to petition the Constitutional Court entering into force in September 2012 and a law on collective bargaining, strikes and lockouts for private sector employees adopted in October. However, the adoption of key implementing laws on the protection of personal data and military justice, and laws introducing affirmative action measures to promote gender equality, are still pending.

*Overall*, the work the cross-party Parliamentary Conciliation Committee continued. However, consensus was limited to 60 articles and clarity and transparency on procedure and follow-up was lacking. The Constitution will need to provide for adequate checks and balances fully guaranteeing freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. The work would benefit from consultations with the Venice Commission. Steps were taken to implement the 2010 constitutional amendments.

### *Parliament*

A number of important reforms, including the 4th Judicial Reform Package, were adopted in the legislative term in moves towards compliance with EU standards.

Work was re-launched on a comprehensive reform of rules and procedures which had been abandoned twice since 2008 due to lack of consensus among the political parties.

However, work on political reforms and parliament's ability to perform its key functions of law-making and oversight of the executive continued to be hampered by a persistent lack of dialogue and spirit of compromise among political parties. There was a pattern of insufficient preparation and consultation — within and outside parliament — prior to the adoption of key sensitive legislation. There was no progress in the long-standing discussion on the need for systematic consultation with civil society and other stakeholders in law-making.

There was no progress in improving parliament's capacity to monitor performance and audit public expenditure (*see Public Administration*). This generated criticism from the opposition and civil society regarding a lack of government accountability. Furthermore, parliament's oversight functions continued to suffer from the weakness of other scrutiny instruments at its disposal.

While the scope of parliamentary immunity in relation to corruption charges is particularly wide, shortcomings in anti-terror legislation and a restrictive interpretation of Article 14 of the Constitution continued to pose a risk to MPs' freedom of expression. (*See Chapter 23 — Judiciary and fundamental rights*)

The 10% national threshold for a party to obtain seats in parliament remains the highest among Council of Europe member states. This raised criticism by the Council of Europe in the Parliamentary Assembly's Resolution on Post-monitoring Dialogue with Turkey in April. There was no progress on alignment with European standards of laws on the closure of political parties or on the financing of political parties and election campaigns. The democratisation package announced on 30 September by the government opens the perspective for changes to the 10% threshold for representation in parliament and provides for the decrease of the threshold for budget support to political parties.

*Overall*, it is positive that a comprehensive reform of rules and procedures of the parliament was launched to move beyond a confrontational approach and to improve parliament's functioning. Still, more attention needs to be paid to the adoption of an inclusive approach to law-making, with systematic consultation of all stakeholders, including on sensitive issues. The overall scope and arbitrary interpretation of parliamentary immunities remained a major concern. The legal framework on elections and political parties needs to be aligned with European standards.

#### *President*

The President maintained his conciliatory role across Turkey's political spectrum and society, warning against polarisation, including during the demonstrations in May and June, when he defended the right to peaceful assembly and dissent.

He also continued to stress the need to pursue political reforms in line with Turkey's EU accession perspective.

The President lent active support to the peace process aimed at ending terrorism and violence in the Southeast of the country, the ultimate purpose of which he defined as raising the democratic standards of Turkey.

#### *Government*

The government maintained its overall commitment to further democratisation and political reforms. The ministerial Reform Monitoring Group, in which key Ministers coordinate policies for EU integration, met twice.

Nevertheless, a divisive political climate prevailed; the government notably adopted overall an uncompromising stance during the protest late May and early June, including a polarising tone towards citizens, civil society organisation and businesses.

The government did not conduct sufficient consultations with stakeholders on the adoption of key policies and legislation and failed to carry out adequate impact assessments. Examples included the Law on Metropolitan Municipalities, the draft Law on the Court of Accounts, and legislation restricting the advertisement and sale of alcoholic beverages. An exception was the Law on Foreigners and International Protection, which saw extensive consultation.

There was some progress in devolving power to *local governments*. The Law on Metropolitan Municipalities, adopted in November, extended the scope of the municipalities' competences, thus partially addressing Council of Europe criticism of some small municipalities' weak capacity to deliver public services. It did not, however, implement Council of Europe recommendations on strengthening municipalities through devolution of powers or enabling them to raise their own revenue.

Decentralisation and the devolution of powers to local government were discussed in the context of work on a new Constitution and in relation to the peace process. While all parties except the Peace and Democracy Party (BDP) advocate centralised public administration, there emerged a growing consensus on the need to lift Turkey's reservation on the Council of Europe's European Charter of Local Self-Government. There was discussion on introducing a system of elected governors, without firm commitment at this stage.

Formal introduction of an announced arrangement to legalise the provision of public services in languages other than Turkish, notably Kurdish, as recommended by the Council of Europe's Congress of Local and Regional Authorities, is pending.

Numerous investigations into the Union of Communities of Kurdistan (KCK), the alleged urban wing of the Kurdistan Workers' Party (PKK), which is on the EU list of terrorist organisations, continued to lead to the arrest and detention of many BDP-affiliated Kurdish politicians, party activists, locally elected mayors and members of municipal councils, adversely affecting the exercise of regional and local democracy. (*See Situation in East and Southeast*)

*Overall*, the government continued to express its commitment to further democratisation and political reforms. A polarising political climate prevailed, marked by a lack of dialogue and of a spirit of compromise, as illustrated by the government's handling of major civil protests in May-June. The pattern of adopting key policies and proposing legislation without sufficient consultation was broadly maintained. There was some progress in devolving powers to local government.

#### *Public administration*

A civil service reform aiming to improve public sector human resources management and ensure merit-based advancement is still needed. Ministerial powers over independent regulatory authorities, which run counter to EU legislation, remained in place. Administrative simplification and work on providing basic public services online (e-government) continued. The government has launched a series of projects and actions aiming at increasing efficiency of public administration.

No progress was made with developing regulatory impact assessments with a view to increasing the quality of legislation. In particular, no regulatory impact assessment was conducted prior to the adoption of key legislation.

Parliamentary deliberations on the 2013 general budget were held in December without proper feedback on previous public expenditure management. This was due to a government-sponsored amendment to the Turkish Court of Accounts (TCA) Law adopted in July 2012, which weakened the TCA's legal mandate and working procedures, including parliamentary oversight. This amendment was repealed by the Constitutional Court in December 2012 and a subsequent draft law, which might result in a distortion of the TCA's mandate and its ability to carry out independent and effective audit, was submitted to parliament in April 2013. Although the new law mandates the TCA to carry out all types of government auditing, performance audits, which would be an important element to boost public administration reform, do not seem to be carried out.

Implementation of the Law on Public Financial Management and Control continued with the introduction of strategic planning and performance budgeting. All line ministries and major public agencies prepared performance programmes and accountability reports. However, such planning activities need to be better coordinated with the respective budgets. The internal audit system is not effective and continues to suffer from confusion between the objectives, roles and responsibilities of internal audit and inspectorate functions.



*Overall*, external audit and public financial management and control need to be strengthened, but recent proposals for amending the TCA Law raise serious concerns as to the independence and effectiveness of TCA audit and control. Efforts need to be made to increase transparency and accountability in all public institutions. A comprehensive civil service reform is still needed.

#### *Ombudsman*

Parliament elected Turkey's first Head Ombudsman in November 2012 and subsequently appointed five Ombudsmen. The Ombudsman Institution became operational and began receiving complaints in April 2013. The regulation establishing the *modus operandi* of the Institution follows the recommendations of the European Ombudsman and provides for final decision-making power to remain with the Head Ombudsman. It also provides for a simple application procedure and the admissibility of applications in languages other than Turkish. Discussions are ongoing on draft amendments encompassing the right of own initiative, on-the-spot checks and the follow-up of Ombudsman's recommendations by the parliament. As of July 2013, the Institution had received more than 3 400 applications concerning alleged violations relating to human rights, the rights of the disabled, civil service-related matters, social security, property rights, financial, economic and tax issues and the conduct of local administrations. As regards administrative acts of the Turkish Armed Forces, the Ombudsman considered eligible a number of complaints on dismissal and mistreatment during military service. The Ombudsman received 23 complaints relating to the Gezi Park protests, which were found eligible, without requiring prior exhaustion of administrative remedies. The Ombudsman has engaged with the EU and European Ombudsman Institution, and confirmed his participation in the European Network of Ombudsmen. He should systematically seek to identify best practices in colleague institutions belonging to this Network with a view to benefiting from these and adapting them to the situation in Turkey.

*Overall*, the fact that the Ombudsman Institution became operational so quickly was an important step towards safeguarding citizens' rights. The Institution took a number of steps in the right direction. However, further efforts are needed to consolidate the trust of civil society in the Ombudsman Institution, to grant the Ombudsman the right of own initiative and of conducting on-the-spot checks, and to provide for parliamentary follow-up of his recommendations.

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

Civilian oversight of the security forces was further consolidated. The General Staff abstained from exerting pressure on political issues beyond its remit. A law overhauling the Turkish Armed Forces' disciplinary system, adopted in January 2013, provides for the conversion of disciplinary tribunals into administrative disciplinary committees, the abolition of solitary confinement and the strengthening of appeal mechanisms for disciplinary punishments.

The report of an inter-party Parliamentary Commission tasked with investigating coups and alleged 'deep state' networks was published in December. Judicial investigations into the 1980 coup and the 'Postmodern Coup' of 28 February 1997 continued. In November, a Court heard the two surviving perpetrators of the 1980 coup via video-conference. 103 suspects have been charged with involvement in the 28 February 'Postmodern Coup' of 1997.

Amendments made to the Law on Provincial Administrations, which is used as the legal basis for the use of military force upon request of governors in domestic security incidents, gave civilian authorities a broader oversight of military operations. In July, the Internal Service Law of the Turkish armed forces, which broadly defined the duties of the military and contained one article to justify military intervention in politics, was amended. Military service has been re-defined and the amendment also clarified that members of the Turkish Armed

Forces cannot engage in political activities. Civilian oversight of the Gendarmerie's law enforcement activities, in particular, remained insufficient.

There was only limited access to the Turkish Court of Accounts audit reports on security, defence and intelligence agencies.

Military and civilian judicial investigations into the December 2011 Uludere incident in which 34 civilians lost their lives as a result of a military airstrike remained subject to a secrecy decision and were not finalised. No administrative measure was taken to punish any individual for the incident. A parliamentary investigation report was published — with dissenting opinions — but did not clarify political or operational responsibility.

The civilian and military court systems continued to run in parallel. Increasing civilian control of the military requires the amendment of legal provisions on the composition and powers of the Supreme Military Council. Pending the finalisation of a new constitution, the Chief of the General Staff continued to report to the Prime Minister rather than the Minister of Defence.

*Overall*, progress was made in consolidating civilian oversight, in particular with the parliamentary investigation into past military coups and legislative amendments, confirming the profound shift in the balance of civil-military relations in favour of the civilian authorities. However, further reforms are needed, particularly as regards the military justice system and civilian oversight of the Gendarmerie.

#### *Civil society*

There is a growing and active civil society in Turkey. The Gezi Park protest in Istanbul and related protests across Turkey from May-June reflected the emergence of vibrant, active citizenry.

Civil society in Turkey needs to overcome a number of challenges. As illustrated during the Gezi Park events, it is still not widely considered by those traditionally involved in politics as a legitimate stakeholder in democracy. Government-civil society and parliament-civil society relations should be improved through systematic, permanent and structured consultation mechanisms at policy level, as part of the legislative process and with regard to non-legislative acts at all levels of administration. The Ministry of the Interior has launched consultations with civil society actors in the preparation of a law on the collection of aid for associations. Legislation, including social and tax legislation, needs to facilitate the funding of civil society organisations and guarantee freedom of association according to European standards.

The legal framework hampers the functioning of civil society organisations (CSOs) and the extensive bureaucracy often still discourages civil society participation. There are no inherent participatory mechanisms whereby CSOs can voice demands and be involved in policy-making; rather, the approach can be *ad hoc* and often limited to specific phases of policy design as opposed to the entire policy cycle (including the monitoring of implementation). The legislation on associations and foundations should be implemented so as to empower the former more. Currently, problems arise in the areas of penalties and auditing. Other legislation continues to be interpreted restrictively *vis-à-vis* CSOs. (*See Freedom of association*).

Some civil society activities are regulated by restrictive primary and secondary legislation, e.g. limiting the right to publish press statements and requiring advance notification of demonstrations, which are often confined to a limited number of designated sites and dates.

CSOs' financial environment is characterised by insufficient tax and other incentives for private donations and sponsorship, making many of them dependent on public (often international) project grants. Public funding for CSOs is not sufficiently transparent and rule-

based. Public funds are allocated to CSOs via ministries and through project partnership mechanisms, rarely through grant allocations or service contracts. Tax exemption and public benefit status are granted to a very limited number of CSOs by Council of Ministers decision. Social enterprises are not defined in legislation as a separate form of legal entity. CSOs need support to enhance their lobbying power and broaden their appeal to Turkish society.

The EU-Turkey Civil Society Dialogue programmes continued and have now involved more than 1 600 CSOs in Turkey. They contributed to civil society development and a greater recognition of CSOs at local level and helped to increase the capacities, partnerships and visibility of individual CSOs. Still, more effort is needed if the programmes are genuinely to promote sustainable contacts between EU and Turkish CSOs.

### *Judicial system*

The High Council of Judges and Prosecutors continued with the implementation of its 2012-16 strategic plan, broadly promoting the independence, impartiality and efficiency of the judiciary. Criticisms of the legislation on the High Council, including of the role given to the Minister of Justice and to the Under-Secretary of the Ministry, have, however, not been addressed as yet. In any constitutional reform, Turkey needs to consolidate the achievements of the 2010 constitutional amendments, in particular that more than half of the members of the Council are judges chosen by their peers from all levels of the judiciary, and address the shortcomings such as the role given to the Minister of Justice and to the Undersecretary of the Ministry.

The 3rd Judicial Reform Package, adopted in July 2012, started to produce results, in particular as regards detention (including its length). The 4th Judicial Reform Package provides judicial remedies for a number of issues on which Turkey had been condemned by the European Court of Human Rights. It narrowed the scope of terror-related crimes by removing the link between the imparting of ideas through publications, statements, speeches, etc., and the use or threat of use of coercion or violence. If implemented in line with European standards, these changes should have a positive impact on freedom of expression. The 2009 judicial reform strategy is still being revised. Further efforts are needed to consolidate the independence, impartiality and efficiency of the judiciary, including the criminal justice system.

Concerns about legislation and practice in the criminal justice system remained, in particular as regards the capacity of prosecutors to lead investigations, limited access by the defence to prosecution files, poor implementation of cross-examination at trial, and the poor quality or lack of reasoning in indictments. There was no significant change in the gender balance in the profession, with women making up approximately a quarter of the judiciary and underrepresented in particular in prosecutorial and managerial positions. The scope and quality of legal aid is inadequate and there is no effective monitoring that would contribute to remedying long-standing problems.

For a detailed analysis of developments in the judicial system, *see Chapter 23 — Judiciary and fundamental rights*.

### *Fight against corruption*

Implementation of the National Anti-Corruption Strategy continued. Further efforts are needed to fully implement the Strategy, to follow up policy proposals from working groups on corruption-related issues and to engage effectively with civil society. The institutional set-up needs to be strengthened. Greater political will is needed to achieve concrete results. Alignment with the recommendations of the Group of States against Corruption (GRECO) also remains a priority. In this context, the financing of political parties needs to be addressed, including provisions on prohibited funding sources, donation ceilings, and obligations on

candidates to disclose assets and submit financial information during a campaign. Measures are required to reduce the broad scope of parliamentary immunity in corruption cases and to define objective criteria for the lifting of immunity. Arrangements to verify assets declared by political figures and public officials need to be strengthened. Turkey collects certain statistics on court decisions in corruption cases, but efforts are required to develop a thorough track record of investigation, indictment and conviction. Concerns remain about impartiality in the processing of anti-corruption cases. Turkey needs to ensure dissuasive penalties in all corruption cases.

For a detailed analysis of developments in the area of anti-corruption policy, *see Chapter 23 — Judiciary and fundamental rights.*

### *Fight against organised crime*

Turkey adopted a new Action Plan against Organised Crime (2013-15), implementing the National Strategy against Organised Crime (2010-15). Turkey signed but has not yet ratified the Council of Europe Convention on Cybercrime. Data collection and analysis capacity need to be improved. Further efforts are also needed as regards trafficking in human beings. The framework anti-trafficking law has still to be adopted. A comprehensive, multi-disciplinary and victim-oriented approach to trafficking needs to be developed and identification of victims needs to be improved.

For a detailed analysis of developments in the fight against organised crime, *see Chapter 24 — Justice, freedom and security.*

## **2.2. Human rights and the protection of minorities**

Good progress was made in terms of establishing Turkey's human rights mechanisms and institutions. However, these institutions have still to develop a track record as regards effectiveness and impartiality. Pressure on human rights defenders continued.

Excessive use of force, notably during the demonstrations in May and June, continues to be a matter for concern. Steps were taken to tackle impunity, including lifting the statute of limitations for offences of torture. Judgments were issued in a limited number of high-profile cases. More efforts are required to tackle the security forces' long-standing practice of lodging counter-allegations, promote independent and impartial investigations into allegations of torture and ill-treatment by the police and establish the truth about the numerous cases of extrajudicial killings in the 1990s.

Reform of the prison system continued, with improved detention conditions and efforts to combat overcrowding by increasing prison capacity and the use of probation, but further reforms remain necessary.

The 4th Judicial Reform Package improved the legal framework on freedom of expression. A consistent track record of implementation is required, as are further changes, including as regards Article 314 of the Turkish Criminal Code on membership of an armed organisation. Problems remained, including continued pressure on the media by state officials, widespread self-censorship, the firing of critical journalists, frequent website bans and the fact that freedom of expression and media freedom are in practice hampered by the approach taken by the audio-visual regulator and the judiciary.

Regarding freedom of assembly, Newroz<sup>4</sup> and some Kurdish celebrations took place peacefully. However, there is a need to revise and introduce clarity to the application of the law on demonstrations and meetings. The democratisation package announced in September by the government provides for changes to the law on demonstrations. Substantial efforts are

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<sup>4</sup> New Year celebrated by the Kurds.

necessary to reduce disproportionate use of force by law enforcement officers, which culminated during the protests in May and June.

More efforts are needed to eliminate obstacles to the development of associations such as trade unions and to prevent the launch of closure cases against public workers' unions. Fundraising rules remain restrictive and discretionary. There were no developments regarding legislation on political parties.

As regards freedom of thought, conscience and religion, there were efforts to intensify dialogue with non-Muslim religious communities, with positive results. New religious education textbooks were more inclusive. In practice, though, citizens professing a faith other than that of the majority, or with no faith, continued to experience discrimination. An ECHR-compatible legal framework has yet to be established on matters of faith and conscientious objection.

Legislation and action plans continued to be implemented in the field of women's rights and gender equality. The authorities, in particular the Minister responsible, took a strong line in addressing domestic violence. However, further sustained work is needed to turn legislation into political, social and economic reality. Gender equality, including access to education and the labour market, political representation, combatting violence against women (including honour killings) and early and forced marriages, remains a major challenge for Turkey.

On children's rights, greater effort is needed to further improve enrolment rates, in particular for girls, throughout the period of compulsory education and address absenteeism and dropping-out. Further sustained efforts are needed to address regional disparities in education. The same applies to combatting child labour and improving health, administrative capacity and coordination.

Substantial efforts are needed to effectively guarantee women's rights and protect vulnerable groups, including children and lesbian, gay, bisexual and transgender individuals, from abuse, discrimination and violence. There is a need for concrete legal and practical steps to address violence and discrimination based on sexual orientation and gender identity.

A new law on trade unions and collective agreements in the private sector was adopted. The law has removed some obstacles to the establishment and internal functioning of trade unions, though important shortcomings remain, in particular as regards the right to collective bargaining at all levels and to action including strike.

As regards property rights, a constructive approach was taken and progress made on property restitution, with the implementation of the revised Law on Foundations. The political commitment to resolve ongoing cases against the Mor Gabriel Syriac Orthodox monastery needs to be translated in practice and the cases are still a cause for concern. Turkey needs to ensure full respect for all property rights, including those of non-Muslim religious communities.

Dialogue between the authorities and minorities intensified and there has been progress including on minorities' educational and religious matters. Apart from the non-Muslim minorities recognised by Turkey under the Treaty of Lausanne, the Turkish authorities consider Turkish citizens as individuals with equal rights before the law rather than belonging to the majority or a minority. However, this approach, which provides for full equality for all citizens, should not prevent Turkey from granting specific rights to certain citizens, in line with European standards, on the basis of ethnic origin, religion or language, so that they can preserve their identity.

Turkey made progress on cultural rights with the introduction, notably, of the right of the accused to use a language of their preference other than Turkish at certain stages of judicial

proceedings, even if they can express themselves adequately in Turkish. There was clear engagement from state officials and institutions on Kurdish issues. Whereas the democratisation package announced by the government in September provides for education in languages and dialects other than Turkish in private schools, no consensus emerged from discussions on the general right to mother-tongue education, including in the context of work on a new Constitution. Legislation that restricts the use of languages other than Turkish, including the Constitution and the Law on Political Parties, should be amended.

For a detailed analysis of developments in the area of human rights and the protection of minorities, *see Chapter 23 — Judiciary and fundamental rights*. For developments in the areas of trade union rights, anti-discrimination and equal opportunities, *see also Chapter 19 — Social policy and employment*.

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

The government's initiative for a peace process was a turning point and met strong engagement from Kurdish actors. The Kurdish issue and options for a solution were widely discussed, along with the hope that it would facilitate economic and social development in the south-east. The government expressed determination to bring an end to terrorism and to provide safe passage for PKK members leaving the country. Parliamentarians were allowed to hold contacts with imprisoned PKK leader Abdullah Öcalan. Öcalan called for an end to the armed struggle and the PKK announced its withdrawal from Turkey, and began to withdraw. The government established a civic commission of wise persons tasked to boost public backing for the peace process, which has been significant and is growing. The international community, including the EU, also expressed its support.

The peace process coincided with the 4th Judicial Reform Package and the release pending trial of some defendants accused in cases relating to the Kurdish issue, such as trade-unionists, local politicians and human rights defenders. The right to make one's defence before a court in one's mother tongue at some stages of judicial proceedings was introduced in January.

The clearance of landmines continued, as did the South-East Anatolia Project (GAP), which is aimed at improving the socio-economic development of the region, although dam projects that are part of the GAP are criticised by local NGOs and citizens for destroying historical heritage, natural habitats and agricultural land.

Before the announcement of the peace talks, military operations and terrorist attacks had continued, with tension peaking during a hunger strike launched by Kurdish prisoners and joined by hundreds of family members and local politicians in late autumn and many demonstrations, clashes and violent confrontations between demonstrators and the police.

No steps were taken to abolish the village guard system, a paramilitary force of more than 50 000 paid and armed by the state. Some village guards, while expressing their support for the peace process, also noted concerns for their future and the need for severance pay, a pension scheme and social security.

Many journalists, academics, students and human rights defenders remained in prison on criminal charges, including under Article 314 of the Turkish Criminal Code on armed organisations, which was not amended by the 4th Judicial Reform Package.

There were isolated protests against members of the civic commission of wise persons.

The opposition objected to the investigative report by the parliamentary Human Rights Inquiry Committee on the 2011 Uludere incident, which fell short of identifying responsibility for the death of 34 civilians.

The 4th Judicial Reform Package does not lift the statute of limitations for cases of missing persons and extrajudicial killings dating from the 1990s, some of which are therefore still covered by it.

*Overall*, the launch of the peace process raised considerable hope. The tension, violence and terrorist activity of 2012, peaking with the hunger strikes between September and November, virtually ceased. The peace process moved forward in parallel with a number of confidence-building measures. A vast number of KCK court cases continued but with a number of releases pending trial. The village guard system remained a cause for concern.

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

The adoption of the Law on Foreigners and International Protection represents significant progress in the area of refugees and asylum seekers, introducing a comprehensive legal and institutional framework on migration and asylum with a view to bringing Turkey into line with EU and international standards. The adoption of implementing legislation is crucial. The Law provides for judicial remedies and legal aid for migrants, in turn creating a need for greater resources. (*See also Chapter 24 — Justice, freedom and security*)

Detailed provisions on the management of removal centres are needed, as well as structured psycho-social services for irregular migrants staying in the centres.

Turkey has maintained an open border *policy* with Syria and is granting temporary protection to more than 200 000 Syrians living in well-run and well-equipped camps. Turkey is currently registering a further sizeable number of refugees from Syria not residing in the camps, estimated at 200 000 – 400 000, who are particularly vulnerable in terms of access to education and psycho-social care. It has also provided Syrians in Syria with humanitarian assistance at the border. Turkey joined the UN Regional Response Plan in late 2012. The formal registration of international NGOs is difficult, slow and sometimes blocked.

Apart from the Syrian population, Turkey also hosted other asylum-seekers and refugees, including children. The number of asylum applications filed by non-Syrians increased sharply in the first half of 2013 as compared with 2012. Some of the children received social assistance and healthcare and were able to attend school, but others faced difficulties due to poverty, language competence or issues relating to identity documents and compulsory places of residence. Cases were reported of difficulties in accessing UNHCR services and of asylum procedures being blocked. Individuals involved in asylum procedures experienced problems with access to adequate accommodation, work, health services, education and integration support.

The situation of internally displaced persons (IDPs) has not changed. The process of compensating IDPs continued, but there is no comprehensive national strategy in place to address the needs of IDPs or those who wish to return to their homes.

*Overall*, significant progress can be reported on the legislative framework on refugees and asylum seekers, with the adoption of the Law on Foreigners and International Protection. The adoption of the implementing legislation is now crucial. Detailed provisions on the management of removal centres are needed. Turkey has maintained an open border *policy* with Syria and has been providing considerable assistance to an increasing number of Syrian refugees living in camps. The situation of the refugees staying outside the camps requires attention. There is still no comprehensive national strategy in place to address the needs of internally displaced persons.

### 2.3. Regional issues and international obligations

#### *Cyprus*

Turkey continued to express public support for the negotiations between the leaders of the two communities in Cyprus under the good offices of the UN Secretary-General, for a fair, comprehensive and viable solution. Turkey granted the Committee on Missing Persons increased access to a fenced military area in the northern part of Cyprus, and is encouraged to build on this welcome step and be more accommodating of the Committee's requirements to access relevant archives and military zones for exhumation.

However, Turkey continued to issue statements challenging the Republic of Cyprus' rights to exploit hydrocarbon resources in Cyprus' Exclusive Economic Zone for the benefit of all Cypriots, and announced retaliatory measures against one EU company awarded an exploration licence by Cyprus. The EU stressed the sovereign rights of EU Member States which include, inter alia, entering into bilateral agreements, and to explore and exploit their natural resources in accordance with the EU *acquis* and international law, including the UN Convention on the Law of the Sea.

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

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 2010.

It 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 Cyprus. There was no progress on normalising bilateral relations with the Republic of Cyprus.

Turkey has not lifted its veto of Cyprus' membership of several international organisations. Turkey issued a circular to all its multilateral embassies instructing them to avoid contacts with the EU Council Presidency in the second half of 2012, when it was held by Cyprus.

#### *Peaceful settlement of border disputes*

Turkey and Greece intensified their relations. High-level visits took place in October 2012 and February 2013, followed by a second meeting of the High-Level Cooperation Council at Prime Ministerial level (three years after the first one) in Istanbul in March 2013. Several cooperation agreements were signed. Since 2002, 55 rounds of exploratory contacts have been held 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 response to any extension of Greek territorial waters, as made in a Turkish Grand National Assembly resolution in 1995, still stands. 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 and to the peaceful settlement of disputes in accordance with the United Nations Charter, having recourse, if necessary, to the international Court of Justice. In this context, the Union



expresses once again serious concern, and urges Turkey to avoid any kind of threat or action directed against a Member State, or source of friction or actions, which could damage good neighbourly relations and the peaceful settlement of disputes.’ Greece and Cyprus made formal complaints about violations of their territorial waters and airspace by Turkey, including flights over Greek islands.

### *Regional cooperation*

Relations with other enlargement countries and neighbouring EU Member States have been positive. Turkey has continued its policy of engagement in the Western Balkans.

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

Turkey supports Kosovo’s integration into the international community, European institutions and regional initiatives. Turkey maintained strong ties with *the former Yugoslav Republic of Macedonia* and supported its efforts to join NATO and the EU.

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

## **3. ECONOMIC CRITERIA**

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

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

#### *Economic policy essentials*

The Pre-Accession Economic Programme (PEP) for 2013-15, submitted to the Commission in January 2013, is based on the assumption of relatively moderate growth and a further reduction of the current account deficit. However, even in this relatively optimistic scenario, the external deficit remains large. Combined with a precarious external debt structure, it makes Turkey vulnerable to capital flow reversals, either in the context of increasing global risk aversion regarding emerging market assets, or as a result of a rise in perceived country-specific risks. The fragmentation of responsibilities between government bodies continues to complicate the coordination of budgeting and medium-term economic policy-making. However, it seems that economic policies have not been affected by internal conflicts and tensions in recent times. *Overall*, the consensus on economic policy essentials has apparently been preserved.

#### *Macroeconomic stability*

In 2012, the Turkish economy continued a slowdown which had started in the middle of the previous year. Year-on-year growth rates declined gradually from 5.3% in the fourth quarter of 2011 to 1.4% in the fourth quarter of 2012. In seasonally adjusted quarter-on-quarter terms, real GDP barely grew in the second half of 2012. Annual GDP growth dropped from 8.8% in 2011 to 2.2% in 2012. The slowdown was combined with a rebalancing of growth from domestic demand to export-led growth. Private consumption and investment declined by 0.6% and 4.8%, respectively. Export volumes, on the other hand, accelerated to an annual growth rate of 16.7%. Most of this impressive rise was, however, accounted for by extraordinary

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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.

exports of non-monetary gold to Iran. Import volumes stagnated as a consequence of the retrenchment in domestic demand. The only domestic demand component which added to GDP growth in 2012 was public spending. Public consumption and investment expanded by 6.1% and 9.3%, respectively.

In the first half of 2013, overall domestic demand started to recover, not least due to strongly increasing public spending, particularly investment. Private investment, however, continued to contract. Consumer spending returned to a moderate growth path helped by some decline in interest rates. Export growth fell back to 3.2% year-on-year as gold exports declined sharply from the previous year's levels. Import growth of 9.5% reflects to a large extent surging gold imports. The net result from the contributions of the various components was 3.7% year-on-year GDP growth in the first half. In seasonally adjusted quarter-on-quarter terms, GDP growth increased from 0.2% growth in the fourth quarter of 2012 to 1.5% in the first quarter and to 2.1% in the second quarter of 2013. In 2012, the per capita GDP of Turkey (PPP adjusted) amounted to 56% of the EU average, up from 52% in 2011. *Overall*, the economic slowdown has ceased and economic activity has re-accelerated in the first half of 2013.

The current account has continued to register a large deficit, which leaves the Turkish currency vulnerable to sudden loss of investor confidence. In conjunction with the softening of domestic demand and strong export growth, the current account narrowed significantly from 9.7% of GDP in 2011 to 6.0% in 2012. Most importantly, imports of goods declined by 1.5%, while exports of goods surged by 13.9% in value terms. The balance of payments data for the first half of 2013 suggest a reversal of this trend, as goods exports increased much more moderately (2.8% year-on-year) while goods imports recovered strongly (7.1%). The 12-month cumulative current account deficit has risen back up to 6.6% of GDP. However, Turkey's foreign trade data have been distorted by strong fluctuations in exports and imports of non-monetary gold in recent years. Net exports of gold in 2012, corresponding to 0.7% of GDP, were succeeded by large net imports in the first six months of 2013.

The bulk of the current account deficit was financed by portfolio investments in 2012, while net inflows of foreign direct investments covered a relatively small proportion (17.8%) of the deficit. The high degree of dependence on shorter-term capital inflows exposes Turkey to changes in global risk appetite. The central bank's foreign exchange reserves increased from €56 billion at the end of 2011 to €78 billion at the end of 2012 and further to €94 billion at the end of June 2013 (16% of GDP). The gross foreign debt rose by 10.8% in the course of 2012, but expressed as a proportion of GDP it fell by 1.8 percentage points to 42.5%. *Overall*, the external imbalances have remained significant and their short-term financing makes the country vulnerable to sudden changes in global investor sentiment.

The labour market performed relatively well in 2012 despite the economic slowdown. For the population aged 20-64, the annual unemployment rate fell from 8.8% in 2011 to 8.2% as employment rose by 3.0%. The employment rate increased by 0.6 percentage points to 52.8% while the labour force participation rate increased by 0.2 percentage points to 57.4%. When economic growth picked up in the first six months of 2013, average employment accelerated to a growth rate of 4.1% year-on-year. Nevertheless, the average unemployment rate was 0.4 percentage points higher year-on-year in this period because the labour force rose even faster than employment.

While the employment rate was 75.0% for men in 2012, it was as low as 30.9% for women. Despite the low proportion of the female population actively looking for work, the female unemployment rate is higher than the male unemployment rate. In addition, about one third of women who are considered as employed are unpaid family workers in the agricultural sector. The efficient functioning of the labour market continues to be impeded by a lack of flexibility, regarding labour contracts for instance, and undeclared work remains a widespread practice.

*Overall*, employment has continued to grow at a robust rate and unemployment edged down in 2012, but the female employment rate has remained very low.

In the context of a generally strengthening currency and the slowing down of the economy, consumer price inflation decreased from 10.5% at the end of 2011 to 6.2% at the end of 2012. This outcome was above the central bank's year-end target of 5% but within its tolerance band of +/- 2% around the target. While core goods inflation was trending downward in 2012, services inflation was relatively stable. In the first eight months of 2013, increases in unprocessed food prices, tax adjustments for tobacco products, and the lira depreciation over the summer months have pushed up inflation. *Overall*, inflation was reduced noticeably in 2012, but has picked up again more recently and remains above the central bank's target.

The central bank has continued to apply and refine the unconventional monetary policy framework, adopted in late 2010, in which inflation and macro-financial stability are the main targets. In the conduct of monetary policy, the bank is attaching a reference value of 15% to credit growth, defined as the year-on-year change in bank credit to the non-financial sector. It also targets the floating exchange rate of the Turkish lira by aiming to dampen short-term volatility and by responding to exchange rate movements which are considered to constitute excessive appreciations or depreciations of the lira. As regards the instruments of monetary policy, a wide variety of tools is applied in a complex interplay, including reserve requirement ratios and a mix of various repo facilities. Following a period with a relatively tight monetary stance to cool down an overheating domestic economy, the central bank adopted a more accommodative stance in the second half of 2012, when economic activity had stabilised and the Turkish lira had appreciated noticeably. The interest rate corridor between the central bank's overnight borrowing and lending rates has been moved gradually downward and narrowed from 5-11.5% to 3.5-6.5% between September 2012 and May 2013. Within the same period, the central bank's policy rate (the one-week repo rate) was cut in three steps from 5.75% to 4.5% with a view to supporting the domestic economy and containing further currency appreciation. The Turkish lira appreciated by 7.8% in the course of 2012 in real effective terms and by a further 1.5% over the first five months of 2013. Since May, Turkey's financial markets and the Turkish lira have come under severe downward pressure in the context of anticipated changes in international monetary conditions, domestic political unrest and the civil war in neighbouring Syria. Net capital inflows in the first five months of the year have been succeeded by significant net capital outflows. In response, the central bank has intervened directly in the foreign exchange market by selling foreign exchange reserves equal to €6.7 billion in June-August. It has also raised the upper band of the interest rate corridor (the lending rate) by a combined 125 basis points to 7.75%. *Overall*, the central bank continued to pursue multiple objectives within an unconventional and complex monetary policy framework that hampers transparency and predictability. The policy stance was adjusted frequently in response to changing domestic and international conditions.

In contrast to the preceding years, the fiscal target was missed in 2012 due to expenditure overruns and an economic slowdown which was faster than the authorities expected. The central government's budget deficit widened from 1.4% of GDP in 2011 to 2.0% (the original target was 1.5%). The lack of timely information on the fiscal balance of general government continues to reduce the transparency of overall public finances. Central government revenues from indirect taxes fell short of budget, as private consumption contracted while central government expenditures, particularly for the compensation of public employees, rose faster than planned. The expenditure overruns were also caused by government transfers to state-owned enterprises as a result of delayed price adjustments in the energy sector. In the first six months of 2013, the fiscal performance improved, with the central government's 12-month rolling budget deficit falling to 1.3% of GDP in June, as compared with an unambitious 2013 deficit target of 2.2%. A surge in revenues reflects the recovery in economic activity and the

indirect tax hikes from last September. Non-interest expenditures have also increased strongly, not least for public investment, in spite of a projected decline in capital spending as a proportion of GDP in 2013 in Turkey's 2013-15 Pre-Accession Economic Programme. Part of the rise in non-interest expenditures has been offset by a decline in interest expenses. Although general government debt (for which data are available) increased marginally in absolute terms in 2012, the debt-to-GDP ratio fell from 39.1% at the end of 2011 to 36.2% at the end of 2012 due to high nominal GDP growth. Over the same period, the average maturity of the outstanding debt stock was extended from 55 to 69 months while the average borrowing rate was reduced from 9.8% to 6.4%. *Overall*, the fiscal performance suffered from continuing expenditure overruns, but was satisfactory regarding the sustainability of public debt. There was no progress on increasing the transparency of the fiscal framework and adopting a fiscal rule.

The tightening of monetary policy from the summer of 2011 onwards contributed to lowering output growth to a more sustainable level and to reducing inflation and the large current account deficit in 2012. The reorientation of monetary policy towards easing between mid-2012 and May 2013 seems to have been similarly helpful in stimulating a re-acceleration of economic activity in the first half of 2013. It remains to be seen how the renewed monetary tightening in the summer of 2013 will affect the real economy. Fiscal policy has been less responsive to macroeconomic needs in the recent past as public expenditures have become more rigid. This has reduced the ability of fiscal policy to contribute to a more balanced macroeconomic policy mix, thereby putting an excessive burden on monetary policy to deliver on multiple targets. The adoption of a strong fiscal rule would not only enhance budgetary transparency but also provide a fiscal anchor and enhance credibility. Fiscal policy also has an important role to play in increasing domestic saving and thereby reducing Turkey's reliance on external financing. The dependence on capital inflows is a macroeconomic vulnerability which makes Turkey prone to boom-bust cycles. *Overall*, the Turkish economy remains vulnerable to bouts of financial uncertainty and changes in global risk sentiment and there is scope for improving the macroeconomic policy mix.

#### *Interplay of market forces*

The share of directly administered prices in the Consumer Price Index (CPI) basket has remained at the relatively low level of 4.5%. However, food and alcohol prices, which together make up more than 25% of the consumer basket, are highly sensitive to policy and administrative decisions. For transport and energy (natural gas and electricity), automatic pricing mechanisms are applied in principle, linking end-user prices to a cost-based methodology. In practice, however, the government continues to set end-user prices, thereby effectively suspending the automatic pricing mechanisms. There has been some reduction in cross-subsidisation between consumers in the wholesale and retail electricity markets.

There has been limited progress in the restructuring and transparency of state-owned enterprises related to the privatisation of energy generation and distribution assets. The private sector's share in GDP decreased somewhat as private investment contracted while public investments continued to expand. As investors' access to long-term external financing improved in 2012, the pace of privatisations increased, but remained below initial targets. The total volume of completed deals more than doubled, to €2.34 billion (0.4% of GDP), as compared with 2011, but was still less than half the average 2005-08 level. The secondary public offering of the state-owned Halkbank represented 65% of the privatisation revenue. The tender for the privatisation of highways and bridges was cancelled as the government refused offers. Privatisation tenders continued in early 2013, particularly in the energy sector. *Overall*, there has been no progress in price liberalisation as the government continues to

interfere in the price-setting mechanism in key sectors. Privatisation has re-accelerated, but remains at a relatively low level.

#### *Market entry and exit*

In 2012, the number of newly-established businesses fell by 6.7% as compared with the previous year. Starting a business in Turkey requires six separate procedures, takes six days, and costs 10.5% of per capita income on average. Some fees are still not transparent, such as those for the official registration of a company's articles and accounts. Trade registry fees remain significant. Obtaining a construction permit is still very cumbersome and time-consuming. The number of businesses closing down or being liquidated fell by 13.9% as compared with 2011. Closing a business remains expensive and time-consuming. Insolvency procedures take about 3.3 years and recovery rates — at 23.6% on average — remain very low. *Overall*, market entry conditions are satisfactory, while market exit remains costly and long, and insolvency proceedings are still heavy and inefficient.

#### *Legal system*

A reasonably well-functioning legal system, including in the area of property rights, has been in place for several years. Enforcement of commercial contracts is still a rather lengthy process, partly because commercial court judges are insufficiently specialised. Out-of-court dispute settlement mechanisms are seldom used, major exceptions being the insurance sector, tax and customs. The judicial system and administrative capacity could be further improved. *Overall*, the legal system continues to function relatively well, but no progress has been observed.

#### *Financial sector development*

Banks have continued to dominate the financial sector with their share of the sector's total assets remaining at 88%, while the share of the relatively small insurance sector (including private pensions) increased from 4.0% in 2011 to 4.6% in 2012. The value of banking sector assets increased from 94% of GDP in 2011 to 97% in 2012. The share of state-owned banks in total banking sector assets decreased from 25.5% in 2011 to 23.1% in 2012. After the partial privatisation of Halkbank, the state's share in the bank decreased from 75% to 51.1%. The share of foreign-owned banks (where international banks either have a controlling share or have an equal partnership with a local partner) decreased slightly from 41.6% in 2011 to 41.3% in 2012.

In tune with the monetary policy stance, credit expansion continued to slow down in the first three quarters of 2012. Following the switch to a more accommodative monetary policy, the foreign-exchange adjusted loan portfolio of banks started to accelerate again in November 2012 and reached a growth rate of 23.1% year-on-year at the end of June 2013. The banks' loan-to-deposit ratio has increased by 7 percentage points year-on-year to 106% in May 2013.

The banking sector maintained an adequate profitability performance in 2012 and the first seven months of 2013. Its capital adequacy ratio decreased from 16.3% in July 2012 to 15.9% in July 2013, which is still significantly above the regulatory target of 12%. The share of non-performing loans in total banking sector loans has remained broadly stable at just below 3% (2.8% in July 2013). The Financial Stability Committee, established in June 2011 under the chairmanship of the Deputy Prime Minister in charge of the economy, has monitored the functioning of the financial system, including systemic risks and their management. Parliament adopted the long-awaited Capital Markets Law, which aims at further harmonising the legislative framework in securities markets and investment services. *Overall*, the financial sector has performed well and has continued to demonstrate resilience.

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

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

Turkey's growth performance in a context of global economic volatility in recent years confirms the economy's improved fundamentals and enhanced resilience to shocks. However, the large structural current account deficit and relatively high inflation indicate the persistence of significant underlying imbalances in the Turkish economy. *Overall*, the functioning of market mechanisms has remained appropriate.

#### *Human and physical capital*

The educational reform programme, which is a key component of the 2007-13 National Development Plan, is coming to an end. It sets two key priorities for education modernisation and reform: increasing the responsiveness of education to demand and enhancing the quality of the education system. Some progress can be recorded. The literacy rate increased from 88% in 2010 to 90.8% in 2011. The schooling ratios have increased at all levels of education, in particular at tertiary (university) level. Important gaps persist regarding the schooling ratios for girls, especially in secondary education. Participation in higher education remains low by international standards. The effects of extending compulsory education from 8 to 12 years as from the 2012-13 school year remain to be seen. *Overall*, reforms and increased spending on education have so far generated a positive impact on educational attainment and schooling rates, but significant problems remain with regard to gender equality and the quality of education.

Total investment decreased from 21.8% of GDP in 2011 to 20.3% in 2012, entirely due to the slump in private investments, which fell from 18.0% of GDP in 2011 to 16.4% in 2012. Public investments continued to increase and their share in GDP rose from 3.8% in 2011 to 3.9% in 2012. Gross foreign direct investment (FDI) inflows to Turkey decreased from €11.5 billion in 2011 to €7.7 billion in 2012. Although the official aim of the government is to increase expenditures on research and development to 2% of GDP, the actual outcomes remain much lower; R&D expenditure amounted to just 0.86% of GDP in 2011. Modest progress was made in the upgrading of the transport infrastructure, including a 1.9% extension of the motorway network between 2010 and 2011. *Overall*, improvements in the country's physical capital have been modest.

#### *Sectoral and enterprise structure*

While output growth had clearly outstripped employment growth in 2011, overall employment in the Turkish economy increased by 3.0% in 2012, i.e. significantly faster than output growth. The sectoral breakdown of employment growth shows a clear shift towards the services sector, the share of which in total employment went up by 1.3 percentage points to 49.4%. The proportions of total employment accounted for by agriculture, industry and construction declined to 24.6%, 19.1% and 6.9% respectively. As a proportion of GDP, services increased by 1.2 percentage points, whereas all other sectors declined.

There has been some progress in the liberalisation of the network industries. A new electricity market law entered into force on 30 March 2013 which aims at improving market competition and alignment with the *acquis*. In the market for natural gas, the energy regulator granted import licences to four private companies, increasing the private sector's market share to 20%. However, further progress is needed in the programme to liberalise the natural gas market by reducing the monopolistic market share of state-owned BOTAŞ. There was progress in the telecommunications market with the adoption of regulations to improve competition and transparency. *Overall*, the liberalisation of network industries gathered some pace.

### *State influence on competitiveness*

The legislation implementing the State Aid Law, originally scheduled to be enacted by September 2011, has been postponed for a second time. The State Aid Authority still needs to establish a formal state aid inventory. It is also expected to enact an action plan for aligning all state aid schemes, including the 2012 incentives package, with the *acquis*. The legal framework for public procurement continued to comprise various exemptions and is still not in line with the EU *acquis*. *Overall*, there has been no progress in enhancing the transparency of state aid.

### *Economic integration with the EU*

The openness of the economy, as measured by the value of exports and imports of goods and services as a percentage of GDP, increased from 56.6% in 2011 to 58% in 2012. The EU's share in Turkey's total trade decreased from 40.8% in 2011 to 37.7% in 2012. Its share in Turkey's exports declined particularly strongly from 46.2% to 38.8%, mainly due to depressed demand conditions in the EU and the surge in Turkey's gold exports to Iran. Its share in Turkey's imports decreased more moderately, from 37.8% to 37%. The EU remained by far the largest source of FDI in Turkey, with a share of 71.3% in 2012. Foreign capital investment inflows originating from the EU countries — excluding real estate — fell from €8.2 billion in 2011 to €5.5 billion in 2012. *Overall*, trade and economic integration with the EU remained high.

Labour productivity declined in general in 2012, with employment increasing more than twice as fast as output. For industry, where sector data are available, production per hour declined by 2.0% between the fourth quarter of 2011 and the fourth quarter of 2012. Over the same period, hourly labour costs in industry increased by 8.0%. This implies a rise in unit labour costs of around 10%. At the same time, the Turkish lira appreciated by 7.8% in real terms. *Overall*, Turkey's international price competitiveness declined significantly in 2012 due to rising unit labour costs and currency appreciation.

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

This section examines Turkey's ability to take on the obligations of membership — that is, to adopt the Union *acquis* as expressed in the Treaties, its secondary legislation and its policies. It also analyses Turkey's administrative capacity to implement the *acquis*. The analysis is structured according to the list of 33 *acquis* chapters. In each sector, the Commission's assessment covers progress achieved during the reporting period, and summarises the country's overall level of preparations.

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

The Ministry of Economy extended the implementation of the **general principles** applicable to the free movement of goods to the remaining industrial products covered by the risk-based import control system, 'TAREKS' (which determines whether the imported product requires a conformity check). For products with an A.TR certificate, and thus in free circulation in the EU, import authorisation is provided irrespective of origin and without further checks. This formally solves the long-standing problem of conformity checks on products with third country origin entering Turkey via the EU.

The mutual recognition principle, which had been introduced in 2012, was applied in a Product Safety and Control Communiqué in 2013.

There are still technical barriers to trade in areas such as pharmaceuticals, textiles, second-hand or retreated goods, and alcoholic beverages. With regard to pharmaceuticals, EU Member States' good manufacturing practice certificates are still not accepted by the Turkish Ministry of Health. Licences are still required for old goods, such as construction equipment

and motor vehicles, including second-hand goods, for those considered as renovated or faulty – such as retreated tyres - and for alcoholic beverages. Exports of aluminium, paper, and copper scrap are subject to restrictions which constitute a *de facto* ban, contrary to Customs Union provisions.

As regards **horizontal measures**, in the area of *standardisation*, the Turkish Standards Institute (TSE), a full member of the European Committee for Standardisation (CEN) and the European Committee for Electro-technical Standardisation (CENELEC), has to date adopted a total of 17 395 CEN and CENELEC standards and a total of 392 European Telecommunication Standards Institute (ETSI) standards. The overall rate of harmonisation with European standards stands at around 99%.

In terms of *conformity assessment*, there are currently 20 Turkish Notified Bodies, following the expiry of the old construction products directive and the related notified bodies under this directive. The number of *accreditations* provided by the Turkish Accreditation Agency, TURKAK, increased by 26% since the previous year and reached 813. The Ministry of Science, Industry and Technology issued a communiqué ceasing the intermediary role of TURKAK as technical assessor for notified bodies.

The Ministry of Science, Industry and Technology released its 2012 market surveillance report. The Cabinet issued a decision specifying the responsibilities of surveillance agencies; this decision addresses several long-standing deficiencies. The Ministry issued a regulation on *market surveillance* for products in its area of competence. The Information and Communication Technologies Authority issued a similar regulation in the field of radio telecommunication terminal equipment. The regulations aimed to further refine market surveillance procedures in their respective fields. Market surveillance is an area where progress can be achieved in terms of the methods and resources used by the agencies, and of activities and visibility.

A decree was issued on technical regulations forming the inter-ministerial basis of legislation and policy coordination carried out by the Ministry of Economy in the technical field. The decree reflects a modern approach to import control based on risk analysis, a more institutionalised approach to coordination between import control and market surveillance authorities, and a clear mandate for the Ministry to notify technical legislation to the WTO and the EU. Alignment of horizontal measures is advanced. Full alignment with the General Product Safety Directive and the Regulation on accreditation and market surveillance is expected. Effective implementation of market surveillance has yet to be achieved.

As regards ‘**Old Approach**’ **product legislation**, new and amending legislation was adopted on motor vehicles and agricultural and forestry tractors. An amending regulation on cosmetics updated the annexes of the original regulation in accordance with the *acquis*.

In the already advanced area of ‘**New and Global Approach**’ **product legislation**, regulations were published on transportable pressure equipment and on construction products aiming align Turkey’s legislation to the relevant EU legislation.

As regards **procedural measures**, steps were taken on the actual number of notifications of technical legislation under Directive 98/34/EC. There has been no progress on cultural goods and firearms.

### *Conclusion*

Good progress can be reported in the area of free movement of goods. However, some technical barriers to trade continue to prevent free movement of goods in violation of Turkey’s obligations under the Customs Union. Overall, the state of alignment in this chapter is advanced.



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

There were no developments as concerns **access to the labour market**, future participation in the **EURES** (European Employment Services) network or the **European Health Insurance Card**. As regards the **coordination of social security systems**, in June the Council of Ministers approved the social security agreement with Italy, which had been signed in 2012.

##### *Conclusion*

There has been limited progress in the area of freedom of movement for workers. Overall, preparations in this area are at an early stage. Turkey is encouraged to continue to conclude bilateral social security agreements.

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

As regards the **right of establishment and the freedom to provide cross-border services**, the alignment strategy has not been produced yet. Disproportionate requirements continue to restrict the right of establishment. In the field of the freedom to provide services, registration, licensing and authorisation requirements are still in place for providers established in the EU. Alignment with the Services Directive remains an outstanding issue; there is no ‘point of single contact’.

In the area of **postal services**, the new postal law was adopted. The law provides for further liberalisation, yet maintains a statutory monopoly for the incumbent, which is the designated universal service provider. It envisages the Information and Communication Technologies Authority as an independent regulator. Secondary legislation, covering issues such as cost accounting requirement, categories of operators required to obtain a license and to pay a universal service fee, authorisation conditions and the extent of the price regulation remains to be adopted.

The **mutual recognition of professional qualifications and academic qualifications** is not yet differentiated. Reciprocal recognition still applies to some regulated professions. Nationality and excessive language requirements persist.

##### *Conclusion*

Overall, limited progress can be reported. Alignment is at an early stage. The work on the alignment strategy with regard to the right of establishment and the freedom to provide services needs to continue.

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

As regards **capital movements and payments**, Turkey’s legislative framework on the acquisition of real estate by foreigners is not in line with Article 63 of the Treaty on the Functioning of the European Union. The list of eligible countries whose citizens are allowed to acquire real estate is not public and based on a non-transparent assessment by the government of ‘national interests and bilateral relations’. Greek, Bulgarian and Cypriot citizens are subject to specific restrictions. Turkey needs to adopt and implement an action plan for gradually liberalising the acquisition of real estate by foreigners in line with the *acquis*. Sector restrictions on foreign ownership remain in place, namely in radio and TV broadcasting, transport, education and electricity generation and distribution.

As regards **payment systems**, a new Law has entered into force regulating settlement systems in securities and payments, and on electronic money. Implementing regulations will be adopted within a year. The current legislative framework on capital movements and payments needs to be aligned with the *acquis*.

As regards the **fight against money laundering** and terrorist financing, in February 2013 Turkey adopted the Law on the Prevention of Financing of Terrorism and in May a relevant

implementing regulation. This Law addresses many of the shortcomings identified by the Financial Action Task Force (FATF) and creates the legal basis for the freezing of terrorists' assets. This is an important step towards improving Turkey's compliance with international standards in this field. However, the new Law does not address all the shortcomings identified by the FATF. As a result, the task force still keeps Turkey on its list of *jurisdictions with strategic anti-money laundering/counter-terrorist financing deficiencies*.

The number of suspicious transaction reports notified to the Turkish Financial Crimes Investigation Board (MASAK) in 2012 was 15318 as compared with 8 739 notified in 2011; they originated mostly from the banking sector. The number of suspicious transaction reports regarding the financing of terrorism increased to 332. Results concerning convictions, confiscations, seizures and the freezing of assets remain limited. Turkey has not yet ratified the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198), which was signed in 2007.

### *Conclusion*

Some progress can be reported in the area of free movement of capital. A new Law has entered into force on settlement systems in securities and payments, and on electronic money. Arrangements for real estate acquisition remain non-transparent, not aligned with the *acquis* and restrictive of the rights of a number of Member State nationals. Sector restrictions continue to exist in capital movements. The legal framework to counter the financing of terrorism has improved, although further alignment with the FATF recommendations is needed. Overall, preparations in this area are at an early stage.

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

As regards **general principles**, the National Strategy and Action Plan for Public Procurement have existed in draft form for three years and have yet to be adopted. Exemptions and domestic preferences still need to be addressed. The domestic price advantage has been used more extensively despite increasing openness to international competition. In 2012, it amounted to 41% of the overall contract value, as compared with 34% in 2011. It was applied to 11% of all contracts above the threshold, as compared with 9% in 2011. The scope of the Public Procurement Law needs to be aligned with the *acquis* to ensure the consistency of the legislative framework.

As regards the **award of public contracts**, there has been a decrease in the value and number of contracts awarded outside the Public Procurement Law. The Public Procurement Authority (PPA) widened the scope of the electronic public procurement platform (EKAP), which enables publication of all tender notices, including those subject to exemption. The PPA takes an active part in the EU-funded Multi-beneficiary Programme for the Provision of Training on Public Procurement.

The Ministry of Finance is in charge of coordinating policy formulation and implementation. Administrative capacity in the Ministry of Finance, Public Procurement Authority and the Ministry of Development improved incrementally. Market functionality and competition are satisfactory in the majority of sectors. The level of preparedness in this area is high.

Several inconsistencies between Turkish public procurement legislation and the *acquis* persist. There is no separate legislation for utilities sectors, the rules for which are more restrictive than envisaged by the EU Utilities Directive. The 2013 thresholds and financial limits for public procurement continue to be higher than those in the EU. A more coherent legal framework for concessions and public-private partnerships and further alignment with the *acquis* is needed to enhance transparency and efficiency.

As regards alignment with the **Remedies Directives**, complaints were made in relation to 4.4% of all tenders, a similar level to previous years. Turkey needs to further align its legislation on review mechanisms with the *acquis*.

#### *Conclusion*

There has been limited progress in the area of public procurement. The institutions are operational, with sufficient administrative capacity. Turkey needs to adopt an alignment strategy with a time-bound action plan and further align its legislation, particularly on derogations, utilities, concessions and public-private partnerships. The organisation of the remedies system remains to be reviewed. Preparations in this area are moderately advanced.

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

As regards **company law**, Turkey amended the Capital Markets Law in December 2012 with a view to align with the *acquis* (see Chapter 9 – *Financial services*). Preparations for online company registration continued. Some legislation has been adopted to implement the Turkish Commercial Code (TCC). The Capital Markets Board (CMB) has amended the corporate governance principles, including for financial institutions and banks. 704 judges, including Supreme Court members, received training on the new TCC and business organisations also organised such training. However, the corporate governance principles continue to give the CMB more power to control or influence companies, which allows the state involvement in the corporate governance.

In the area of **corporate accounting**, the legal framework for financial reporting is in place. Statutory corporate reports are publicly available. Turkey continued with the adoption of Turkish Accounting and Financial Reporting Standards (TAS/IFRSs) based on the corresponding International Financial Reporting Standards. As of January 2013, companies of large capitalisation applying IFRSs are audited by statutory auditors. The Turkish Public Oversight, Accounting and Auditing Standards Authority further improved its institutional capacity.

As regards **auditing**, in December 2012 a by-law on statutory audit was adopted with a view to aligning with the *acquis* on issues including qualifications of statutory auditors, approval of statutory auditors and audit firms, establishment of audit firms and the education and examination of auditors. However, a Ministerial Decree adopted in February 2013 reduced the scope of statutory audit excessively so that it applies to companies of large capitalisation only.

#### *Conclusion*

Some progress was made in the area of company law. The Public Oversight, Accounting and Auditing Standards Authority and commercial judiciary and business organisations improved their capacity. This needs further strengthening to deal with the changes made by the new legislation. Overall, Turkey is well advanced in this area.

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

In the area of **copyright and neighbouring rights**, the restructured Directorate-General for Copyright in the Ministry of Culture and Tourism improved further its administrative capacity, awareness-raising and training activities, and online services. A new collecting society was established in the field of cinematographic works, raising the total number of collecting societies to 28. Transparency around collecting society operations can be improved. Provincial inspection commissions for anti-piracy worked efficiently and specialised intellectual property rights (IPR) police units conducted large-scale operations against counterfeiters and pirates. A new copyright law is still undergoing drafting.

A law on **industrial property rights** still needs to be adopted. Several by-laws were adopted, relating to the protection of trademarks, protection of industrial designs, protection of patents and implementation of the European Patent Convention. The Turkish Patent Institute (TPI) has improved further its administrative capacity. With regard to implementation, the decisions of the TPI are still not solidly justified. Consistency between the TPI's final decisions and those of the IPR judiciary has improved, although further efforts are needed. More qualified human resources are necessary to ensure the protection of industrial design. A regulatory framework for the supervision of the conduct of trademark and patent agents is still lacking. The legal regime for dealing with bad faith trademarks needs improving.

With regard to judicial **enforcement**, and despite the number of IPR courts rising to 22, efforts are needed to sustain the performance of the IPR specialised judiciary. The average time for decisions by civil and criminal IPR courts decreased remarkably and the quality of IPR statistics was improved. The third meeting of the IPR Working Group between the EU and Turkey was held in January 2013. Turkey needs to adopt IPR enforcement procedures in line with the EU Enforcement Directive. The issues of the return of counterfeit goods to offenders, storage of the confiscated materials by right holders and difficulties in obtaining preliminary injunctions remain unaddressed. Trade in counterfeit and pirated goods still represents a distinct pattern of organised crime. In some tourist areas, IPR owners abstain from requesting seizures of counterfeit products because they fear for their safety. Turkish police held large-scale raids upon complaint and *ex-officio* for counterfeit and pirated goods in Ankara and Istanbul.

In the area of IPR enforcement at customs, the Ministry has made it possible for right holders to make online complaints and developed risk profiles for import controls. A manual for online applications was published. Administrative capacity and awareness improved, in particular among field customs officers. *Ex officio* customs controls continued and there were more destructions of goods under the simplified procedure. The number of applications regarding infringement cases and seizures increased remarkably. The level of coordination and co-operation between customs and right holders improved. However, Turkey remains one of the main countries from which goods suspected of IPR infringement enter the EU. Further progress on IPR enforcement at customs is required. Overall, there is a need for more effective campaigns to raise awareness of the risks of IPR infringements and the benefits of strengthened IPR protection in the country.

### *Conclusion*

Some progress can be reported in the area of intellectual property law. Updated laws need to be adopted to regulate intellectual and industrial property rights and enforcement procedures in line with the *acquis*. Strengthening the capacity of the judiciary is crucial. Customs and police enforcement is quite effective and constantly improving. Closer coordination and co-operation between IPR stakeholders and public bodies is necessary, as are campaigns to raise awareness of the benefits of IPR protection. Overall, alignment with the *acquis* is advanced.

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

In the area of **anti-trust and mergers**, the Competition Authority continued to consolidate its enforcement record, notably by imposing the largest fine ever on the banking sector in March 2013. The Competition Authority adopted several new guidelines, including on horizontal cooperation agreements and on the assessment of mergers. It published a report on public authority interventions, pointing the way towards giving greater effect to competition disciplines in the Turkish economy. The Authority's administrative capacity remains high, and it continued to uphold a satisfactory level of administrative and operational independence.

Banking mergers and acquisitions resulting in a combined sectoral market share below 20% remain outside the scope of the Competition Act. Turkey is still expected to align with the *acquis* on horizontal co-operation agreements, *de minimis* rules, as well as public undertakings and undertakings enjoying exclusive and special rights. Alignment in the field of anti-trust and merger control is advanced.

As regards **state aid**, the entry into force of legislation implementing the State Aid Law was postponed for a second time. The State Aid Authority still needs to establish a formal state aid inventory. It is also expected to enact an action plan for aligning all state aid schemes, including the 2012 incentives package, with the *acquis*.

### *Conclusion*

Little progress is to be reported in this chapter. Anti-trust and merger control rules are largely aligned, and Turkey continued to enforce them effectively. However, no progress has been made in the area of state aid, while a number of schemes remain incompatible with the Customs Union. In the absence of implementing legislation, the State Aid Law remains ineffective. Turkey is moderately advanced in this area.

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

In the areas of **banks and financial conglomerates**, the Banking Regulatory and Supervisory Agency (BRSA) signed a bilateral cooperation agreement with the World Bank to further strengthen its institutional capacity. The regulator published two regulations aiming at alignment with the BASEL III capital adequacy framework. Upon rapid depreciation of Lira, the BRSA launched an extensive probe regarding banks' foreign currency sales to investors.

As regards **insurance and occupational pensions**, the insurance supervisory authority launched an external study to assess the extent to which the Turkish legislative framework is currently aligned with the EU *acquis*, with a view to facilitating future work on legislative alignment. No development can be reported in the establishment of an independent regulatory authority for the sector. A new by-law on pension funds was adopted with the aim of diversifying their assets, increasing competition and reducing costs.

In the area of **financial market infrastructure**, where there is already a high level of alignment with the *acquis*, the new Capital Markets Law aims at further aligning the legislation relating to 'settlement finality' in payment and securities settlement systems by defining basic concepts such as 'central counterparty' and 'clearing house'.

In the areas of **securities markets and investment services**, the adopted Capital Markets Law defines investment and ancillary services and authorisation procedures following the principles of the Markets in Financial Instruments Directive (MiFID). The Law introduces the general principles regarding prospectuses (e.g. on minimum information, approval processes), leaving further details to be specified in an implementing regulation. The coverage of the existing investor compensation scheme was extended from holdings in shares to all types of investments, although the overall limit remains below the minimum of €200 000 specified in the Directive on investor-compensation schemes. With the aim to align with the Directive on undertakings for collective investment in transferable securities (UCITS), the new Law provides for the establishment of investment trusts with variable capital. In a negative development, it involved the board members of the capital markets regulator (Capital Markets Board) being dismissed before the end of their terms, allowing the government to reshape the decision-making body. Based on the legal obligation for the Board to investigate transactions in case of unusual market fluctuations, the new Board launched a large-scale investigation concerning foreign investors' transactions at the stock exchange during Gezi incidents with a view to detecting market manipulations.

## Conclusion

There has been good progress in the area of financial services. The banking regulator adopted implementing legislation aiming at alignment with the BASEL III standards. A key Capital Markets Law has been adopted aiming at further aligning the legislative framework with the *acquis*. Alignment efforts need to continue, particularly in the insurance sector and as regards the securities markets and investment services. Overall, preparations in the area of financial services are advanced.

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

In the field of **electronic communications and information and communications technologies (ICT)**, there has been some progress on the implementation of universal service, market analysis, rights of way and cyber security policy. Further efforts are needed in the areas of spectrum management, the universal service regime, authorisation and predictability, and division of responsibilities between the Ministry of Transport, Maritime Affairs and Communications and the Information and Communication Technologies Authority (ICTA). Further clarification is needed on some aspects of spectrum management, including the digital dividend policy and cross-border coordination, in accordance with EU law and European Conference of Post and Telecom Administrations (CEPT) recommendations.

As regards competitive safeguards, the Information and Communication Technologies Authority (ICTA) adopted a by-law on market analysis, including remedies on operators with significant market power and finalised the third round of market analysis. It also issued a decision on improving the market access conditions for virtual mobile network operators (MVNO) through two-stage dialling. Due to double taxation, MVNOs are not yet operational in the market. A by-law on rights of way was adopted. While the fixed and mobile broadband (dedicated datacards/modems) penetration rate increased slightly (to 10.2% and 2.5% of the population, respectively, according to the latest available data, as compared with the EU averages of 28.2% and 8.8%), overall mobile broadband penetration grew fast, reaching 14.3% (EU average: 47.8%) due to competition in the mobile market. The mobile termination rates (MTRs) were further reduced by ICTA, while the fixed termination rates remain higher than EU average and calls of international origin are exempted from the MTR regulation, resulting in distortion of the market. The Ministry of Transport, Maritime Affairs and Communications designated an operator — through a public tender — to provide mobile coverage in rural areas under a three-year universal service obligation.

Regarding the **information society services**, a Cyber Security Council was established in October 2012 to develop a national cyber security policy and strategy and a short-term action plan. The Strategy and Action Plan on Cyber Security (2013-2014) was adopted in June 2013. The action plan aims at identifying threats and measures to reduce or eliminate the impact of potential cyber security incidents. Laws on e-commerce and personal data protection have not yet been adopted. Turkey is not yet a party to the European Convention on the Legal Protection of Services based on Conditional Access.

In the field of **audiovisual policy**, the TV frequency planning completed by the Supreme Council of Radio and Television (RTÜK – media regulator authority) in April, was suspended in July by the 8<sup>th</sup> Administrative Court of Ankara due to violation of principles of openness, reliability, transparency and competition in the tender procedure. Digital switch-over is planned for November 2013 in Ankara and for 2015 in the eastern part of Turkey, unless these dates are revised pending the final decision of the court, which is likely to impact the indicative calendar. Broadcasting in languages and dialects other than Turkish continued without restrictions on content, time limits or sub-titling/consecutive translation requirements. There is still no private broadcaster at national level.

As regards transparency, RTÜK's decisions are currently published on its website. Sanctions issued by the Supreme Council for violation of the national and moral values of the society, general morality and the principle of family protection continue to raise concerns. Similarly, the concept of obscenity is vaguely defined, which leaves room for interpretation. In June 2013, RTÜK fined a number of television stations for providing live coverage of the so-called Gezi Park protests on the basis of incitement to violence.

RTÜK's independence has been a matter of concern for a long time due to its political composition. It has nine members elected by the parliament for a period of six years from a pool of candidates nominated by political parties, in proportion to the number of seats they hold in parliament.

As regards freedom of expression and freedom of the media, including the issue of website bans and the Law on Internet *see Chapter 23- Judiciary and fundamental rights*.

### *Conclusion*

Some progress can be reported in the area of information society and media, especially on rights of way and competitive safeguards. Further efforts are required on the alignment of the electronic communications and information society services legislation with the *acquis*. On audiovisual policy, the progress achieved concerning the long-awaited frequency planning is currently suspended due to a court decision. This may impact the transition to digital broadcasting. Lack of clarity on concepts such as general morality, protection of the family and moral values of the society, leading to contentious implementation of the law and a lack of independence on the part of RTÜK, remains a source of concern. Overall, preparations are moderately advanced.

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

As regards **horizontal issues**, the Ministry of Food, Agriculture and Livestock (MoFAL) has improved its administrative capacity relating to the Farm Accountancy Data Network (FADN). The strategy for agricultural statistics has still to be adopted.

Regarding direct support to producers, Turkey has initiated preparations for an impact assessment, as a first step towards drafting a strategy for adjusting its agricultural support policy to the Common Agricultural Policy (CAP). The agricultural budget for 2013 continued to increase. Some efforts continued to develop the Land Parcel Identification System (LPIS), but overall limited progress has been observed in preparation of the Integrated Administration and Control System (IACS).

The Turkish authorities have maintained some restrictions on imports of live cattle, beef meat and derivative products from certain EU Member States, thus freezing the progress reported between 2010 and 2012. Turkey needs to make further efforts to fully implement its bilateral obligations under the trade agreement for agricultural products. The Commission and Turkey started an enhanced dialogue in an effort to resolve the long-standing issue of the beef ban.

There were no developments as concerns **common market organisation**.

In the field of **rural development**, Turkey achieved conferral of management of EU funds under the Instrument for Pre-Accession Assistance in Rural Development (IPARD) for a further 22 provinces, six of which are subject to conditionality. Overall, IPARD is now implemented in 42 provinces, as envisaged in the Programme. There has been a significant increase in applications for support, which reached a cumulative total of 3 381. However, so far only 162 projects have been completed. The rate of absorption is expected to increase but speedy implementation is important to avoid major decommitments at the end of 2013. Continued efforts and possible simplifications are needed to build and maintain the project pipeline and to ensure more involvement of advisory systems and better credit availability.

The Managing Authority in MoFAL still needs to improve its access to decision-makers and its effectiveness.

There were no developments as concerns **quality policy**. MoFAL adopted a strategy and an action plan to develop **organic farming**. Amending legislation has also been adopted in this area with a view to align with the *acquis*.

### *Conclusion*

There has been limited progress on alignment in the area of agriculture and rural development. Implementation of the pre-accession rural development programme has advanced. The capacity relating to FADN has increased. The *de facto* import ban on live cattle, beef meat and derivative products has not been fully lifted and there are no strategies in place for the reorientation of agricultural support, nor for agricultural statistics. Overall, preparations in the area of agriculture and rural development are at an early stage.

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

Limited progress can be reported on the alignment and implementation of the *acquis* as concerns **general food safety** issues. Advisory scientific commissions have been established in the Ministry of Food, Agriculture and Livestock (MoFAL). Several pieces of legislation are not in line with EU import rules and international standards, and they create unnecessary administrative burden. As regards **veterinary policy**, Turkey progressed on the identification and registration of bovines and control of their movements. However, the system is still not fully in line with the *acquis*. Identification and registration of ovine and caprine animals has continued. No progress has been observed on the full functionality of land and seaport border inspection posts (BIPs) or at the BIP at Sabiha Gokcen Airport in Istanbul.

Turkey's fight against animal diseases has continued. Mass vaccination for foot and mouth disease (FMD) progressed in the Thrace region, together with strict animal movement controls between the region and Anatolia to help maintain its FMD-free status with vaccination. No progress has been made on transmissible spongiform encephalopathies (TSEs) and significant efforts are needed for full alignment with, and implementation of, the *acquis* in this area. Turkey continued to notify animal diseases on a voluntary basis. (See *Chapter 11 - Agriculture and Rural Development for the restrictions on imports of live cattle, beef meat and derivative products*)

Turkey continued to implement the national residue monitoring plan and to control veterinary medicinal products. As regards zootechnics, a communiqué on pure-breeding sheep and goats was adopted. Implementation of animal welfare legislation remained limited. No progress has been made on animal welfare during slaughter. Further structural and administrative efforts are required in this area.

Turkey continued its training, inspection and monitoring programmes on the **placing on the market of food, feed and animal by-products**. Progress on developing a national upgrading plan for agri-food establishments has remained limited. The implementation of the new rules for the registration and approval of food establishments requires significant efforts. Stronger administrative capacity is required to ensure more effective official controls in the implementation of hygiene rules. Risk-based inspections have begun. Further efforts are needed to adapt the animal by-products sector to the new rules. There has been no progress as regards funding of checks.

In the field of **food safety rules**, legislation was adopted on a variety of issues, such as labelling, additives, purity criteria, flavourings and food supplements. However, the new legislation on additives is not aligned with the *acquis*. Further studies are needed in the area of food contact materials. Alignment in the area of food enzymes and novel food is not yet



complete. Limited progress has been observed regarding **specific rules for feed**. A regulation on feed additives in animal nutrition was adopted.

As regards the alignment of **phytosanitary policy**, some implementing legislation on certain harmful organisms has been adopted. Work has continued to implement the plant passport system and to register operators. The use of pesticides containing several active substances not authorised in the EU is banned from 30 June or 31 December, depending on the substance. Progress in the area of seed and propagating materials remained very limited. Turkey's signing of the revised International Plant Protection Convention (IPPC) has been ratified. Laboratory capacity has improved in the field of **genetically modified organisms (GMOs)**.

#### *Conclusion*

Progress in the area of food safety, veterinary and phytosanitary policy has been limited. Substantial efforts are needed on the identification and registration of animals, animal health, including the fight against FMD, upgrading agri-food establishments to EU standards, animal welfare and animal by-products. Efforts are necessary to comply with certain import conditions. Overall, preparations in this area are at an early stage.

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

The establishment of the Directorate-General for Aquaculture and Fisheries in the Ministry of Food, Agriculture and Livestock in 2012 further improved administrative capacity, the organisation of tasks and enforcement. Preparations for a revision of the Fisheries Law are ongoing. More efforts are needed on alignment with the fisheries *acquis*.

Recently adopted conservation measures and alignment with the turbot fishing *acquis* are important steps in the area of **resource and fleet management**. A communiqué on support for the withdrawal of fishing vessels provides for a 25% reduction in the number of vessels longer than 12 m by the end of 2013. New modules and programmes, monthly survey data on aquaculture and inland water fishing, fishing data collection, inspection and control forms have further improved the Fisheries Information System. A fisheries geographical information system has been established. Progress has been made with implementation of the action plan on anchovy. The total number of fisheries port offices has reached 42.

In the area of **inspection and control**, the Fisheries Dialogue Group has further contributed to cooperation between Turkey and the European Commission in the field of the fisheries control policy concerning the Bluefin Tuna campaign. There have been improvements in inspections and the enforcement of sanctions.

There were no developments as concerns **structural actions, market policy and state aid**.

With regard to **international agreements**, some recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) on bluefin tuna (BFT) and swordfish have been transposed into national legislation and progress has been made with their implementation. The number of authorised BFT vessels has been reduced from 11 to 9. As the EU implements United Nations Convention on the Law of the Sea (UNCLOS) provisions *inter alia* in the Common Fisheries Policy, ratification of UNCLOS by Turkey would improve cooperation with the EU in the area of fisheries and maritime policy.

#### *Conclusion*

There has been progress in the field of fisheries, in particular with regard to resource and fleet management and inspection and control. Further efforts are needed on legislative alignment, structural actions, market policy, state aid and international agreements. Overall, alignment in this area is at an early stage.

#### 4.14. Chapter 14: Transport policy

In the area of **road transport**, Turkey became a party to several international agreements: the UN Road Traffic Convention (a major step for the alignment of driver licences to EU standards), the Agreement on the International Carriage of Perishable Foodstuffs, and the International Convention on the Harmonisation of Frontier Controls. A new regulation on dangerous goods safety advisors needs to be approved. In parallel, a new initiative for road safety has been established to carry out grassroots activities involving stakeholders. The Ministry of Transport, Maritime Affairs and Communications (MoTMC) set up two additional initiatives on transport accessibility and on the promotion of intermodal transport. Dangerous goods transport remains an area of concern because of the inadequate number of competent staff in the newly established Directorate General for Dangerous Goods, despite a noticeable increase in the number of road checks.

On **rail transport**, a new law on railways liberalisation was adopted in May. It represents a significant step forward, but falls short of complying with some EU *acquis* requirements. It does not establish a comprehensive framework of action and the independence of essential functions needs to be ensured. There is still a question mark over the financial and institutional autonomy of the rail regulator (DGRR). A successful opening-up of the railways sector requires the new infrastructure ‘manager’ to establish national safety systems and effective traffic management capacity. The Turkish State Railways’ (TCDD) operational losses and method of subsidisation are still a cause for concern.

In the area of **air transport**, technical preparations for Turkey’s full integration into the EU aviation system continued, including participation in the work of the European Aviation Safety Agency. Turkey’s signing of the horizontal aviation agreement, which will be the major stepping stone towards this objective, is still pending. The Directorate-General for Civil Aviation (DGCA) issued regulations to align with the *acquis* on air operations and continuing airworthiness. DGCA also issued regulations on certification of air navigation service providers, on approved aircraft maintenance organisations and on general aviation. Air traffic management is still suffering from a lack of regional cooperation. The lack of communication between air traffic control centres in Turkey and the Republic of Cyprus is seriously compromising air safety in the Nicosia flight information region. Currently, there are no developments concerning the exchange of flight data and requirements for the application of a flight message transfer protocol between air traffic control units. An operational solution needs to be found urgently to resolve this safety issue.

In the field of **maritime transport**, Turkey continued its efforts to become party to numerous International Maritime Organisation agreements. The most relevant regarding EU legislation is adoption of Annex III, IV and VI to the International Convention for the Prevention of Pollution from Ships. Turkey became a party to the 1988 protocol of the Convention on Safety of Life at Sea and Convention on International Salvage 1989. Turkey also became a party to the International Convention on Safe Containers and the International Convention on Civil Liability for Bunker Oil Pollution Damage. As long as restrictions remain in place on vessels and aircraft registered in Cyprus or whose last port of call was in Cyprus, Turkey will not be in a position to fully implement the *acquis* relating to this chapter.

#### *Conclusion*

There has been some progress in the area of transport policy, in particular on legislative alignment. Further efforts are needed to strengthen institutional capacity to align with the *acquis* and especially to implement it in the areas of dangerous goods and railways. Overall, in the area of transport, Turkey is moderately advanced.

#### 4.15. Chapter 15: Energy

In the field of **security of supply**, the Intergovernmental Agreement and its attachment, the Host Government Agreement, on the Trans-Anatolian Pipeline Project (TANAP) between Turkey and Azerbaijan, were ratified in March 2013. The Agreement between Turkey and Azerbaijan concerning the sale of natural gas to Turkey, its transit passage across the territory of Turkey and the development of a standalone pipeline for the transportation of natural gas across the territory of Turkey was ratified by the Council of Ministers in October 2012. The Trans-Adriatic Pipeline project (TAP) was selected in June to link with TANAP to distribute gas further west. No progress can be reported on a transparent gas transit regime.

The Turkish Petroleum Law was adopted in June. Its aim is to open Turkish on-shores and offshore to third parties for effective exploration, development and production of hydrocarbon sources.

The parallel trial interconnection of the Turkish power grid with the European Network of Transmission System Operators for Electricity (ENTSO-E)'s Continental European Synchronous Area is in the final stage of the third and last phase. The Turkish transmission system operator (TEIAS) will need to address some remaining issues before the final decision on permanent synchronous operation can be taken. The construction of an asynchronous electricity connection with Georgia is well advanced.

As regards the **internal energy market**, a new Electricity Market Law was enacted in March 2013 with a view to creating more competition in the market and improving alignment with the EU Electricity Directive ('third package'). Overall alignment with the internal energy market has further improved and is at a satisfactory level. The adoption of regulations to implement the Law is ongoing; all implementing legislation is to be published within six months upon enactment of the Law. In March 2013, the regulator published a communiqué to establish an electricity price equalization mechanism to protect consumers from the price differences resulting from the unbundling of the distribution system from wholesale activities.

A new entity, the Energy Markets Operation Joint Stock Company, is created to carry out organised wholesale operations in electricity markets and conciliation in financial transactions for the activities regarding the electricity market. However, the duties of the Energy Market Regulatory Authority (EMRA) in monitoring and supervising distribution companies are transferred to the Ministry, which is not in line with the *acquis*.

An implementing regulation on service quality in electricity distribution and retail sale activities, published in December 2012, aims to strengthen the security of electricity supply, trade and the technical quality of services. The threshold for eligible consumers was further reduced from 25 000 kWh to 5 000 kWh for 2013, which corresponds to a theoretical market opening of 85%, the aim being to make all consumers eligible by 2015. The tenders for privatisation of electricity distribution assets were completed in the first quarter of 2013. As for the generation assets, the facilities to be privatised (of a total capacity of 16 000MW) have been restructured under separate portfolio groups with the aim of finalising the tenders by 2016. No progress can be reported on cost-based tariffs, as the cross subsidy will be applied in the national tariff until 2016.

As regards the *gas market*, in October 2012 the Ministry of Energy and Natural Resources (MENR) launched a public consultation on a draft law amending the Natural Gas Market Law. All non-household consumers in the gas market became eligible consumers in 2013. EMRA approved the tariff methodology to be applied for retail sales in some distribution regions. EMRA granted import licences to four private companies to import 6 bcm of Russian gas after the Russian contract was terminated in December 2012, with gas deliveries starting in January 2013. The private sector share of the imported gas portfolio has now reached 25%.

The Petroleum Pipeline Corporation (BOTAS) existing import licenses were extended for an additional 10 years by EMRA in June 2013. The Council of Ministers adopted a decree on designation of BOTAS to carry out the necessary investments in remote and isolated areas which remained out of tendered gas regions. No further development can be reported regarding the gas release programme and the unbundling of BOTAS to meet the requirements of the Natural Gas Market Law.

In the area of **renewable energy**, an implementing regulation on research and development projects in the energy sector was amended with a view *inter alia* to improving renewable energy technologies. The Electricity Market Law revised the measurement standards for wind and solar energy to streamline the applications. The minimum for unlicensed electricity generation from renewable energy sources was increased from 0.5 MW to 1 MW. At the end of 2012, 27.2% of electricity was generated from renewable energy sources (up from 26% in 2011). In June 2013, EMRA received licence applications for the generation of electricity from solar energy sources. Demand exceeded 15 times the 600 MW proposed for approval. Following adoption of implementing legislation, streamlined administrative procedures for authorisation, certification and licensing of renewable energy installations would contribute to the rapid deployment of energy from renewable sources.

As regards **energy efficiency**, authorisations of energy efficiency consulting companies continued. An ambitious and coordinated action plan still needs to be established for the effective implementation of the Energy Efficiency Strategy Paper if the targets identified in the Strategy are to be achieved. Additional efforts are required to strengthen the capacity of the newly established Directorate-General, possibly by establishing an effective dedicated agency (as in many EU Member States) with a clear coordination function. The Energy Efficiency Law and related legislation are not harmonised with the 2012 Energy Efficiency Directive.

In the field of **nuclear safety and radiation protection**, two new regulations on radioactive waste management and clearance in nuclear facilities, and removal of site from regulatory control, were published by the Turkish Atomic Energy Authority (TAEK) in March 2013. Turkey continued its nuclear programme, with the award to a Japanese-French consortium of the construction of a second nuclear power plant in Sinop on the Black Sea coast. It will have a total installed capacity of 4 500 MW. The law on acceding to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management is awaiting ratification by parliament. The ratification of the agreement signed by TAEK in 2005 on the European Community Urgent Radiological Information Exchange (ECURIE) has not yet materialized. The compliance of the existing regulations with the *acquis* still needs to be verified. No developments can be reported on the adoption of a framework nuclear law.

### *Conclusion*

Good progress has been made in the area of energy. Liberalisation of the electricity sector and the level of alignment with the Electricity Directive are advanced. However, a functioning competitive market and progress in legislative alignment in the natural gas sector are still lacking. Progress in the renewable energy sector needs to be speeded up, namely through streamlined administrative procedures. Further efforts are needed in the areas of energy efficiency and nuclear energy, in particular on alignment with relevant EU Directives. Overall, Turkey is at a rather advanced level of alignment in the field of energy.

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

In the area of **indirect taxation**, Turkey's *value-added tax* legislation is partially in line with the *acquis*. There is a need for further alignment with the *acquis*, particularly regarding structure, exemptions, special schemes, and the application of reduced rates.

As regards *excise* duties, Turkey reduced the Tobacco Fund on imported tobacco to 50% as from 1 January 2013, in line with the 2009 Action Plan for eventual elimination of discriminatory practices in taxation. Excise duties on tobacco and tobacco products are revised bi-annually in line with the increase in the producer price index. A specific excise duty on cigarettes was introduced in 2013. Nevertheless, discrepancies remain between the Turkish legislation and the *acquis* in terms of the structure of excise duty on tobacco and tobacco products and the system to determine the taxed amount.

There has been no further alignment concerning the taxation of alcoholic beverages. Imported products remain subject to higher excise duties than the comparable domestic ones. The 2009 Action Plan set agreed milestones to the full elimination of such discriminatory taxation. The excise duty on alcoholic beverages is revised bi-annually across the board, but the gap has not diminished: Turkey is not properly implementing the 2009 Action Plan. Gradual elimination of discriminatory practices in taxation in line with the Action Plan is key to making further progress on this chapter.

As regards **operational capacity and computerisation**, the former was made more efficient by merging tax audit functions in a single operating unit, thus ensuring consistency in tax audit planning and practice. The Revenue Administration obtained ‘commitment to excellence’ certification from the European Foundation for Quality Management. All tax returns are now filed electronically.

### *Conclusion*

There has been limited progress in the area of taxation, in particular as regards legislative alignment. Steps towards eliminating discriminatory practices in the taxation of tobacco and on operational capacity have been taken, but discrepancies with the *acquis* continue to exist. Further efforts are required to gradually eliminate discriminatory practices, especially as regards the taxation of alcoholic beverages in accordance with the 2009 Action Plan. Overall, preparations in this chapter are moderately advanced.

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

On **monetary policy**, the central bank’s primary objective was to achieve price stability. It also pursued financial stability with macro prudential measures. Within the framework of a floating currency, the central bank tried to dampen short-term exchange rate fluctuations and movements which were considered inconsistent with economic fundamentals. It employed a wide and complex set of policy instruments to manage liquidity and short-term interest rates. The central bank’s statute still does not ensure its full independence. The government and the central bank decide jointly on the inflation target. Consumer price inflation decreased to 6.2% at the end of 2012, higher than the official inflation target of 5% but within the central bank’s uncertainty band of  $-/+ 2\%$ . Discriminatory withholding tax rates favouring public sector debt instruments over private ones are not in line with the principle of prohibiting privileged access to financial institutions by the public sector. Turkey’s level of alignment remained advanced in monetary policy, though incomplete.

As regards **economic policy**, in January 2013 Turkey submitted its 2013 Pre-Accession Economic Programme which derives from the government’s Medium-Term Programme adopted in the autumn of 2012. The Pre-Accession Programme projects a rather optimistic scenario in which gradually higher growth, driven by domestic demand, is combined with a declining inflation rate and a narrowing of the current account deficit. On the fiscal side, the central government missed the original target for the budget deficit in 2012 while the debt-to-GDP ratio for general government continued to decline. The Programme projects a gradual decline of the deficit and debt ratios in 2013-2015. The structural and institutional reform agenda covers a broad range of issues and is a continuation of previous plans. The capacity

for economic policy formulation and coordination is adequate. Turkey's overall level of preparedness in the area of economic policy is advanced.

#### *Conclusion*

Some progress was made on economic and monetary policy. Alignment with the *acquis* is advanced, albeit incomplete, particularly with respect to central bank independence and the prohibition of privileged access of the public sector to financial institutions. The capacity for economic policy formulation and coordination is adequate. Overall, Turkey's level of preparedness is advanced.

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

As regards **statistical infrastructure**, a complete reorganisation of TurkStat took place, with a view to improve efficiency. Cooperation between TurkStat and main data providers, particularly the Ministry of Finance, the Ministry of Food, Agriculture and Livestock, and the Social Security Institution, needs to be strengthened. Statistical use of administrative records, where standardisation and data quality remain critical issues, can be improved.

In the area of **classifications and registers**, TurkStat has made progress with the development of a metadata editor. Turkey adopted a regulation that prescribes the use of the NACE Rev. 2 classification by owners of administrative data.

As regards **sectoral statistics**, TurkStat revised its methodology for *tourism statistics*, bringing it more in line with the EU methodology. In *agriculture statistics*, the timing of crop production estimates was aligned with Eurostat's data collection periods. A draft strategy for agriculture statistics was submitted to the Commission, with a view to fulfilling a benchmark regarding a detailed description on the progress made in setting up the farm register and on foreseen methodology and organisation for the collection of statistics. Turkey needs to submit key national accounts indicators, together with an inventory of the methodology and sources used, which is key for further progress in this chapter. Regional statistics are in most cases either unavailable or published with considerable delay.

#### *Conclusion*

Progress has been made in the area of statistics, with the submission of an agriculture statistics strategy and the revision of tourism statistics. Further progress is needed on national accounts, agriculture statistics and regional statistics. Cooperation between TurkStat and main data providers needs to be strengthened. Alignment with the *acquis* is at an advanced level.

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

Due largely to high informality and insufficient enforcement around 40% of the labour force does not enjoy full protection under **labour law**. Long working hours with no overtime pay, non-respect of weekly rest, unjustified dismissals, and restrictions on using annual leave and benefitting from severance payments are common problems, especially in small enterprises, which is where most workers are employed. Child labour has not been reduced, with 5.9% of children aged 6-17 involved in an economic activity.

In the field of **health and safety at work**, implementing legislation has been issued for the Law on Occupational Health and Safety (OHS), including legislation formally establishing the National OHS Council which is an advisory and social dialogue platform in this field. The enforcement of certain articles related to the provision of health and safety services by the employer and support for those services by the Ministry has been made subject to transitional periods depending on the number of employees and of the level of risk level to which they are exposed. The number and capacity of inspectors covering OHS issues have increased, but enforcement of the legislation in the workplace needs to be closely monitored and supported

with the involvement of social partners and professional organisations. OHS professionals in enterprises have few safeguards to ensure the independence of their work. Given that occupational accidents and diseases recorded in the formal sector have increased, that child workers are still victims of fatal accidents, and that the majority of occupational disease cases go unreported, improvements are needed in the promotion of a safety culture and the diagnosis of occupational diseases.

In the area of **social dialogue**, a new law on Trade Unions and Collective Agreements for the private sector entered into force in November 2012. Some improvements have been made, such as facilitating the internal functioning of trade unions, easing membership procedures and requirements, limiting the prohibition of strikes, and reducing penal provisions, but significant obstacles remain as regards the functioning of industrial relations. Due to high and cumulative thresholds for entering into collective bargaining, a very low number of workers benefit from collective agreements and are able to engage in collective action, including strikes. Union members in small workplaces are insufficiently protected from dismissal on the grounds of their trade union activities. Many categories of civil servants encounter limitations on the right to organise, and the general prohibition to strike in the public sector remains. The functioning of tripartite and bipartite social dialogue mechanisms remains weak and the Economic and Social Council remained inactive.

As regards labour market performance and **employment policy**, overall unemployment declined to 9.2% in 2012 and youth unemployment to 17.5%. Employment and labour force participation rates have improved thanks to an increase of 757 000 jobs in non-agricultural sectors. While women's participation in the labour market remains low, a slight upward trend continued in female employment rate reaching 29.4% in 2012, which is still very low. The state contribution to social security premiums is delivering positive results for female employment, as well as for reducing undeclared work. The situation of the long-term unemployed remains a concern, as does the very high rate of young people not in employment, education or training (NEET), at 30.2%. The national employment strategy has still not been adopted. A substantial staffing increase enhanced administrative capacity and service provision in the Public Employment Service. Job placements have increased, a third of them benefiting women. Legislation has been issued on active labour market measures (training courses, public works and job placement services). While more quantitative information is now being gathered on the implementation of these measures the evaluation of their impact on employment needs to be further reinforced. The most vulnerable groups and those outside urban areas have difficulties in accessing employment services. A decreasing trend in *undeclared work* continued, especially in non-agricultural sectors. The Social Security Institution continued its efforts to tackle informal employment. The number of registered employees increased by 1 million in 2012. However, the under-declaration of salaries continues to be a problem, and the registration of part-time and domestic workers needs to be improved significantly.

As regards preparations for the **European Social Fund**, the Ministry of Labour and Social Security (MoLSS) has further increased its capacity to manage IPA funds under the Human Resources Development Operational Programme. Efforts to establish an operation pipeline need to be further strengthened in order to ensure absorption of funds effectively in the coming years. Evaluation of completed operations needs to be further enhanced.

In the area of **social inclusion**, an overall policy framework is still lacking. The coverage and variety of social services have continued to increase. The proportion of persons living below the poverty line decreased in 2011. Income inequality remains considerable as compared with the EU and social transfers have a limited impact in alleviating poverty. Social expenditures have increased further but are still low. The living and working conditions of seasonal

agricultural migrants remain a source of concern. The administrative capacity to design, implement and evaluate policies tailored to the needs of the most vulnerable groups is increasing but still insufficient. People with disabilities continue to face serious difficulties in accessing employment in the private sector, though there is a limited upward trend in the public sector.

In the field of **social protection**, 15% of the population was not covered by the social security umbrella in 2012, with no significant change from previous years. Monthly social assistance payments have started for elderly and disabled citizens in need who are not covered by the social security system. There was an increase in the ratio between the number of workers contributing to pension schemes and the number pensioners. Financial incentives have been introduced to promote complementary private pension schemes. The rapidly increasing pension and health expenditures continue to produce deficits in the social security system. Active ageing policies to complement efforts in this field are not in place. The de-institutionalisation of care services for children, the elderly and the disabled has continued.

Current **anti-discrimination** laws are insufficient to fight discrimination in access to education, employment, health and social services. Turkey gives no protection from discrimination in employment on the basis of sexual orientation and age. (*See also Chapter 23 — Judiciary and Fundamental rights*)

As for **equal opportunities** for women and men, the public and private sector have launched new initiatives to boost women's employment, but this has not increased the proportion of women in decision making positions. Policies promoting work-life balance need to consider women's career paths and avoid gender stereotyping. Lack of affordable child and elderly care services is a major issue for female employment. Flexible working arrangements need to address the current precarious and informal working conditions for women. Some women are dismissed or discouraged to work as a result of being pregnant or having children. Far more women than men are unpaid family workers and greater efforts are needed to enforce fully the principle of equal pay for work of equal value. Specific groups, e.g. victims of domestic violence, have severe difficulties in accessing employment. The equality body required by the *acquis* has not been created. (*See also Chapter 23 — Judiciary and Fundamental rights*)

### *Conclusion*

Some progress, albeit uneven, was achieved in the area of social policy and employment. Trade union and collective agreement legislation was approved but there remain important obstacles to the effective functioning of industrial relations. Further efforts are needed to establish a national employment strategy, address undeclared work, widen the coverage of social protection mechanisms, and increase employment rates among women and people with disabilities. Overall, legal alignment is moderately advanced.

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

On the **principles of enterprise and industrial policy**, the Ministry of Science, Industry and Technology (MoSIT) continued to implement the Industrial Strategy and Action Plan (2011-14), a key aspect of the accession negotiations in this chapter. The government launched the 10<sup>th</sup> Development plan (2014-2018), which is largely in line with Europe 2020 principles.

The definition of small and medium-sized enterprises (SMEs) was amended by increasing the maximum turnover to approximately €15 million, but leaving the alternative maximum number of employees at 250 and thereby keeping this aspect of the definition in line with the *acquis*.

As regards **enterprise and industrial policy instruments**, a regulation on 'business angels' published in February 2013 seeks to facilitate SMEs' access to finance for business start-ups



by clarifying procedures and granting tax incentives to invest in new businesses. The number of technology development zones increased to 52 in 2013 from 43 in 2012, with 37 currently operational. MoSIT started an assessment exercise on the zones and published a ranking of them according to performance. Another index on the contribution of universities to innovation in the economy was published. A new support mechanism for the promotion and marketing of technological products was introduced. The SME Development Organisation (KOSGEB) disbursed a total of €127 million to Turkish SMEs in 2012 under seven different programmes. Turkey continued to run subsidised loan programmes for SMEs via various banks and to implement the principles of the Small Business Act for Europe with good results in areas such as entrepreneurship and access to finance. Turkey is also successfully participating in the EIP programme and is an active Member of the Enterprise Europe Network.

MoSIT adopted a **sector strategy** on electrical equipment and electronics. In December 2012, the government adopted an Input Supply Strategy (GITES) aimed at reducing Turkish industry's dependency on imports of some raw materials.

#### *Conclusion*

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

#### **4.21. Chapter 21: Trans-European networks**

In the area of trans-European **transport networks**, the Ministry of Transport, Maritime Affairs and Telecommunications has started work on a national master plan and transport information system. The future trans-European transport network in Turkey is based on the TEN-T guidelines currently in force and may need to be slightly adapted in line with the Commission's new proposal.

As for **energy networks**, the Intergovernmental Agreement and its attachment, the Host Government Agreement, on the Trans-Anatolian Pipeline Project (TANAP) between Turkey and Azerbaijan were ratified in March 2013. The Agreement between Turkey and Azerbaijan concerning the sale of natural gas to Turkey, its transit passage across the territory of Turkey and the development of a standalone pipeline for the transportation of the natural gas was ratified by the Council of Ministers in October 2012. The Trans-Adriatic Pipeline (TAP) project was selected for the transportation of the Shah Deniz 2 gas from Turkey onwards. Both TANAP and TAP will now need to ensure the ability to take a successful final investment decision as scheduled, including full-fledged economic and technical feasibility studies particularly for TANAP.

As regards *electricity*, the parallel trial interconnection of the Turkish power grid with the European Network of Transmission System Operators for Electricity (ENTSO-E)'s Continental European Synchronous Area has entered the final stage of the third and last phase. When this stage finishes there will be a permanent synchronous connection and commercial energy exchanges will be carried out in both directions between the Turkish transmission system operator (TEIAS) and their Bulgarian and Greek counterparts. The construction of an asynchronous electricity connection with Georgia is well advanced.

#### *Conclusion*

Some progress has been made in the area of trans-European networks. However, a transport master plan and reliable transport data are still lacking. The trial interconnection of synchronous electricity networks is almost completed, but continued efforts are needed on electricity to address the remaining issues and on gas to establish gas interconnections and make the Southern Gas Corridor operational. Overall, alignment in this chapter is advanced.

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

In March 2013, Turkey submitted a detailed action plan to meet the regulatory and operational requirements of the relevant *acquis*. The National Strategy for Regional Development (NSRD), which establishes a general framework and sets out guidance for regional and local plans and strategies, is expected to be approved by the Supreme Regional Development Council (SRDC) and become operational in the second half of 2013. The 10th National Development Plan (NDP), which among others aims at reducing regional and urban-rural disparities, was approved by the Council of Ministers on the 10<sup>th</sup> of June 2013.

There have been some developments as regards the **legislative framework**, with changes in the local administrative system and increases in the capacity of local authorities.

As regards the **institutional framework**, Turkey has put in place arrangements to implement the Instrument for Pre-accession Assistance (IPA). All operating structures (OSs) under IPA Components III and IV are functional, accredited and already implementing the relevant operational programmes (OPs). Regarding the OSs for the transport OP, a Commission decision in November 2012 approved the taking-over by the Ministry of Transport, Maritime Affairs and Communication (MoTMC) of procurement and contracting functions from the Central Finance and Contract Unit (CFCU).

In the field of **administrative capacity**, training and technical assistance has continued to strengthen all institutions involved in the implementation of IPA. However, further measures need to be taken to increase institutional capacities in the OSs and ensure speedier implementation. The National Authorising Officer's Manual of Procedures and the administrative chart have been amended so as to strengthen its control-supervision capacity. The staff retention rate remains low. Measures to retain experienced staff would ensure the necessary operational continuity.

As regards **programming**, the identification, preparation and appraisal of projects under IPA Components III and IV progressed during the reporting period. A pipeline of mature projects has been presented in the environment sector, while implementation in other sectors under IPA Component III was hampered by an insufficiently diverse project pipeline. During reporting period a limited numbers of operations were also approved under IPA Component IV. IPA strategic coordinator, the Ministry of Development (MoD) has ensured coordination and alignment between institutions and committees at different levels. The consultation process needs to ensure broader stakeholder participation.

In the field of **monitoring and evaluation**, the Integrated Monitoring Information System has been further developed and is now partly operational. Monitoring of programmes under IPA Components III and IV needs to be further enhanced. The work of the Sectoral Monitoring Committees for IPA Components III and IV continued as scheduled. The MoD has been developing evaluation guidelines identifying the main steps for evaluation activities but evaluation capacity within IPA bodies needs to be strengthened further.

In the area of **financial management, control and audit**, the CFCU has delivered training in the area of rejection-rate tracking and reporting, and shared its data with the ministries accredited as OSs for IPA Components III and IV.

#### *Conclusion*

Good progress was made in the field of regional policy and the coordination of Structural instruments. This includes the completion of the institutional arrangements for implementation of IPA Components III and IV, the accreditation of the operating structure for the transport operational programme and further identification of projects under operational programmes. The administrative capacity of the IPA institutions remains an issue of concern;

this needs to be strengthened further in order to speed up the programme implementation process, improve delivery quality and avoid loss of funds. Preparations in this area are moderately advanced.

#### **4.23. Chapter 23: Judiciary and fundamental rights**

##### *Judicial system*

As regards the **independence** of the judiciary, the High Council of Judges and Prosecutors continued with the implementation of its 2012-16 strategic plan. In cooperation with the Turkish Justice Academy and other judicial bodies, it promoted training of a large number of judges and prosecutors all over the country, including on new legislation, human rights and judicial ethics. In cooperation with the Ministry of Justice, the High Council promoted the translation and publication of European Court of Human Rights (ECtHR) judgments, and notified the judges who had taken the relevant decisions of violations of the European Convention on Human Rights (ECHR) found by the Strasbourg Court. Such violations were taken into account in the professional evaluation of judges and prosecutors. The High Council organised legal consultation meetings, bringing members of first instance and higher courts together to compare notes on case law and try to ensure the coherence and consistency of legal decisions in practice. Overall, the predictability and transparency of the decisions of the High Council has been further strengthened. In its effort to provide the public with information on judicial matters, it assigned, and provided training to 62 spokespersons from among judges and prosecutors.

Criticisms of the legislation on the High Council, including of the role given to the Minister of Justice and to the Under-Secretary of the Ministry,<sup>5</sup> have, however, not been addressed as yet. In any constitutional reform, Turkey needs to consolidate the achievements of the 2010 constitutional amendments, in particular that more than half of the members of the Council are judges and prosecutors chosen by their peers from all levels of the judiciary, and address the shortcomings, such as the role given to the Minister of Justice and to the Undersecretary of the Ministry.

With regard to **impartiality**, the Constitutional Court started receiving individual applications as of September 2012. Anyone who claims that his or her fundamental rights have been violated can apply to the Constitutional Court if other domestic remedies have been exhausted. The Constitutional Court dealt with applications regarding detention or length of proceedings while the case is still pending at first-instance level, following the same approach as that of the ECtHR. In its decision in the *Hasan Uzun v. Turkey* case, the ECtHR declared the application inadmissible. The Court reiterated that the rule of the exhaustion of domestic remedies was an indispensable part of the functioning of the ECHR mechanism. Having examined the main aspects of the individual application to the Constitutional Court, the ECtHR found that the Turkish Parliament had entrusted the Constitutional Court with powers that enabled it to provide, in principle, direct and speedy redress for violations of the rights and freedoms protected by the ECHR.

By end August 2013, the Constitutional Court received more than 6 700 applications. It rejected or found inadmissible 2 155 of them whereas work on more than 300 other was continuing. The majority of the applications related to alleged violations of Article 5 (Right to liberty and security) and Article 6 (Right to a fair trial) of the ECHR. The first decisions were made in July 2013 on applications regarding length of trial and of detention. The Constitutional Court annulled provisions in Turkish anti-terror legislation that allowed for the doubling of the detention on remand period provided for under Turkish criminal law. This

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<sup>5</sup> See October 2011 Progress Report, pages 14-16.

reduces to five years the maximum duration of detention on remand, including for crimes falling under anti-terror legislation, instead of the previous 10 years.

In cooperation with the Council of Europe, the Ministry of Justice completed technical work on a Human Rights Action Plan based on ECtHR case law and aimed at addressing issues raised in judgments of the Court where Turkey was found to have violated ECHR provisions. The action plan has yet to be adopted officially. The Ministry and the High Council continued to deliver human rights training for judges and prosecutors on priority issues.

The Regulation on the Judicial Police adopted in 2005 under Article 167 of the Criminal Procedure Code has yet to be implemented in accordance with European standards. There are currently no judicial police units attached to prosecution offices. Prosecutors rely on police units working for the Ministry of the Interior and have to develop their capacity to guide police investigations effectively and keep strict control of police activity.

With regard to the **efficiency** of the judiciary, the number of pending cases before the Court of Cassation was reduced by mid-2013, compared to mid-2012. The Council of State increased the number of cases it concluded in 2012 compared to the year before. With respect to first instance courts, the number of criminal cases pending in April 2013 increased as compared with the cases pending at the end of 2011 while the number of civil cases remained approximately the same. The 2013 budget for the judiciary amounted to approximately €2.68 billion, roughly 0.45% of Turkey's GDP. The total number of judges and prosecutors at the end of July 2013, including those in the administrative judiciary, was 13 145 (10 318 at the end of 2011), a quarter of whom were women. At the end of 2012, 34% of judges and 7% of prosecutors were women. There were 11.39 judges and 5.98 prosecutors per 100 000 people.

Implementation of the 3rd Judicial Reform Package adopted in July 2012 led to an increase in the use of judicial control (rather than detention) by more than 50% between the end of 2011 and 30 April 2013. This increase partly reflects the new forms of judicial control introduced in the 3rd package, e.g. prohibitions on leaving the house or a certain location, or on visiting a specific place or area. The 3rd package also led to the release of a significant number of detainees; in the case of juveniles, however, it was reported that the absence of a proper monitoring system led to relatively fewer releases. Less than 1% of the decisions taken up to 31 December 2011 to confiscate, ban and prevent the distribution and sale of publications continued to be valid after the entry into force of the 3rd package. Training was provided to liberty judges assigned to the regional serious crimes courts set up under Article 10 of the Anti-terror Law, whose task is to decide on preventive measures during the investigation phase.

As of 10 June 2013, detainees constituted around one fifth of the prison population<sup>6</sup> (as compared with half at the end of 2006), the vast majority of whom were detained for up to a year and a very small proportion for more than three years. The number of detainees accused of crimes falling under Article 100 of the Criminal Procedure Code dropped significantly in the first half of 2013, as compared with both 2011 and 2012. This Article covers the so-called catalogue crimes, which include those tried in the context of high-profile cases such as the KCK and the alleged deep-state criminal network Ergenekon. As a result, there was a significant decrease in detention-on-remand periods and an increase in the use of preventive measures as an alternative to detention, both overall and for crimes falling under Article 100 of the Criminal Procedure Code. However, the maximum duration of detention on remand, as provided for by law and interpreted by courts, remained excessive.

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<sup>6</sup> This number includes those detainees awaiting a first instance court decision but does not include those awaiting a Court of Cassation decision or those whose first-instance conviction was quashed by the Court of Cassation. If these two categories are added, detainees constitute a little less than a third of the prison population.

A 4th Judicial Reform Package, adopted in April 2013, includes amendments to a number of laws and focuses on criminal law provisions. The package provides judicial remedies for a number of issues on which Turkey had been condemned by the ECtHR. Notably, it introduces a distinction between freedom of expression, on the one hand, and incitement to violence or to committing acts of terrorism, on the other (see *Freedom of expression*). Under the new legislation, a final ECtHR judgment constitutes grounds for re-opening a case before the High Military Administrative Court. The judge should hear the suspect and/or his lawyer when reviewing, on a monthly basis as provided for by the law, whether the conditions for continued detention are met — previously, the judge based his decision on the opinion of the prosecutor, of which neither the suspect nor his lawyer were informed. An investigation is re-opened within three months if the ECtHR finds that the decision for non-prosecution has been taken as a result of an ineffective investigation. The time restrictions provided for under former Article 311(2) of the Turkish Criminal Procedure Code were abolished for the 223 cases monitored by the Council of Europe Committee of Ministers on 15 June 2012 and thus a re-trial is now possible on the basis of final ECtHR judgments without such restrictions. Conditions for granting legal aid have been made easier and a hearing may be held, on request, to decide on the granting of such aid. If implemented in line with European standards, these amendments should have a positive impact.

Further to the adoption of the 4th Package, the Court of Cassation has been reviewing first instance court decisions on the basis of the new provisions. The Committee of Ministers of the Council of Europe noted with satisfaction developments regarding re-opening of judicial proceedings and decided to continue supervision of the *Hulki Günes v. Turkey* group of cases under the standard rather than the enhanced procedure. As regards the *Demirel v. Turkey* group of cases, the Committee welcomed the efforts made by the Turkish authorities in the context of the 3rd and 4th Packages to align Turkish legislation and practice with Convention requirements, noted with satisfaction statistical information demonstrating that there is a significant decrease in the period of detention on remand and an increase in the use of preventive measures as an alternative to detention, and invited the Turkish authorities to continue providing information on developments in judicial practice.

A Human Rights Compensation Commission started working in February 2013 following adoption of the relevant legislation in January. This is a domestic remedy concerning length of judicial proceedings and non-enforcement or delayed enforcement of judicial decisions that Turkey was required to put in place under a pilot ECtHR judgment, confirmed by a subsequent decision of the Strasbourg Court. It is expected to reduce by around 4 000 the number of pending cases against Turkey at the Court.

The Criminal Procedure Code was amended in January 2013 to allow defendants to conduct their defence in a language of their preference other than Turkish at certain stages of the judicial process even if they can express themselves adequately in Turkish. The Code on Enforcement of Sentences was amended in the same period to extend the scope of probation to those who will not yet have served six months of their sentence by 1 January 2016.

Concerns about legislation and judicial practice in the criminal justice system remained. The capacity of prosecutors to lead investigations and filter evidence obtained by police, limited access by the defence to prosecution files, poor implementation of cross-examination at trial, and the poor quality or lack of reasoning in the indictments have been criticised as impediments to effective defence. In February 2013, the President of the Council of State criticised the influence of police in prosecution decisions. Decisions relating to detention or continuation of detention are broadly still not accompanied by adequate reasoning: even liberty judges, established under the regional serious crimes courts to deal specifically with protective measures, hardly refer to specific facts, evidence and grounds justifying the

deprivation of liberty in criminal cases regarding the security of the state, organised crime and terrorism. Very few indictments were rejected by the courts, which sometimes led to trials taking longer, as evidence had still to be collected. All of this also applies to high-profile cases such as those against the KCK and Ergenekon.

The Ergenekon case was finalised at first instance in August 2013. An Istanbul Serious Crimes Court handed over 22 life sentences, more than 200 prison sentences from one to 49 years, and 21 acquittals for the 275 defendants (66 of whom had been detained on remand) of the Ergenekon case. The ruling acknowledges the existence of a criminal network aiming to undermine democratically elected governments. The flaws of the Turkish criminal justice system outlined above undermined the acceptance of the ruling by all segments of Turkish society and tainted it with allegations of political score-settling.

Practical arrangements at courthouses and during trials regarding judges, prosecutors and the defence do not guarantee that the principle of equality of arms is respected or perceived to be. This continues to cloud the perception of the impartiality of judges. The regional courts of appeal which, by law, should have been in operation by June 2007 have not been established yet.

Anti-discrimination provisions do not specifically refer to persons with disabilities wishing to serve as judges or public prosecutors and statistics referring to people with disabilities in the profession are not collected.

Lawyers continued to be tried for alleged terrorist offences linked to the KCK and the armed outlawed Revolutionary People's Liberation Party-Front (DHKP-C), and — in the case of lawyers of the Istanbul Bar — for attempting to influence the judiciary, experts or witnesses in the Sledgehammer Case.

Revision continues of the Justice Ministry's 2009 *judicial reform strategy*, the objectives of which were to a large extent achieved. This revision will be finalised following completion of the work on a new Constitution.

As regards **access to justice**, the 4th Judicial Reform Package loosened the conditions for granting legal aid and a hearing may be held, on request, to decide on the granting of such aid. A party may be partially or fully exempted from payment if the court considers that court expenses could cause them to be victimised. The Ministry of Justice website provided information on legal matters and published brochures providing information on procedures. Civil society organisations and Bar Associations contributed to raising awareness of citizens' rights as regards access to justice.

Public awareness of legal aid was limited in rural areas and among disadvantaged groups. A low level of awareness of legal rights among women, combined with a low level of gender equality awareness among law enforcement officials, meant that women faced obstacles in accessing justice and services provided for under the law. An overall strategy for legal aid has yet to be developed and the current system needs further revision. The quality of legal aid was not monitored and its scope and quality were influenced by the limited budgetary resources available. Legal aid fees continued to be unattractively low for experienced lawyers.

#### *Anti-corruption policy*

Implementation of the 2010-14 National Anti-Corruption Strategy and Action Plan continued. Working groups on corruption-related issues completed their work and reported to the Ministerial Committee overseeing implementation of the Strategy. The working groups' policy suggestions included conducting annual country-wide corruption perception surveys and establishing comprehensive tracking of data on corruption. These have not yet been followed up. The working groups engaged with civil society in a limited and *ad hoc* manner.

The anti-corruption agenda would benefit from greater civil society involvement in updating the Strategy and monitoring its implementation.

The legal mandate of the Prime Ministry Inspection Board in the area of anti-corruption needs to be strengthened. Currently, the Board provides technical and secretarial support for the implementation of the Strategy and there is no institution permanently tasked with anti-corruption policy development and implementation. The operational independence of the Board and adequate human resources, including full-time staff, need to be ensured.

No further progress can be reported on the alignment with the recommendations of the Group of States against Corruption (GRECO). The adoption of a law addressing GRECO recommendations in the field of financing of political parties and regulating prohibited funding sources, donation ceilings, obligations on candidates to disclose their assets and to submit specified financial information during a campaign, is a priority.

No changes were introduced with regard to the broad scope of immunities of members of parliament and certain public officials in corruption-related cases or with regard to establishing objective criteria for lifting their immunity. All elected public officials, certain appointed public officials and political figures submit an asset declaration every five years or at any time there is a significant change in their assets. However, arrangements to verify the assets effectively need to be strengthened. Codes of ethics were not introduced for academics or military personnel. The Council of Ethics for Public Servants and Ethical Commissions are not able to enforce their decisions with disciplinary measures.

Turkey collects certain statistics on court decisions in corruption cases, with a break-down of figures for bribery, embezzlement, extortion and misuse of power. Overall for these four types of offence, there were 3 902 convictions, 15 265 acquittals and 69 arrests in 2012. Efforts are needed to develop a thorough track record of investigation, indictment and conviction. Following up on the policy suggestion to establish comprehensive tracking of data on corruption is of crucial importance in this respect.

In November, a chamber of the Court of Cassation acquitted the former prosecutors in the Deniz Feneri charity case of allegations of corruption. This judgment was appealed by the interveners. The prosecutors had been removed from the case and charged with falsifying documents and with abuse of office, which had raised concerns about judicial independence. After the removal of the initial prosecuting team, the case continued to be heard by the Court but with amended charges that did not refer to organised criminal activity.

The trial of the mayor and other officials of the İzmir Metropolitan Municipality on charges of corruption and membership of a criminal organisation continued. An investigation into the alleged corruption of officials of the Eskişehir Metropolitan Municipality was initiated in January.

The length of sentences for bid rigging has been reduced. The sentence for public servants who rig bids is decreased from 5-12 years to 3-7 years. If no public harm is done to a public institution, the penalty is further reduced to 1-3 years. Turkey needs to ensure dissuasive penalties in all corruption cases.

#### *Fundamental rights*

With regard to **international human rights instruments** Turkey signed the Optional Protocol to the Convention on the Rights of the Child. This Protocol grants authorisation to the UN Committee on the Rights of the Child to examine individual applications. Three additional Protocols to the European Convention on Human Rights (ECHR) have not yet been

ratified.<sup>7</sup>

During the reporting period, the **European Court of Human Rights** (ECtHR) delivered judgments on 115 applications, finding that Turkey had violated rights guaranteed by the ECHR. The number of new applications went down for the first time after six consecutive years of increase, with 5 919 new applications having been made since September 2012 compared with the 8 010 applications submitted in the period September 2011 – September 2012. Most concern the right to a fair trial and protection of property rights. As of September 2013, 13 900 applications regarding Turkey were pending at the ECtHR, down from 16 641 applications in September 2012. Turkey closed 142 cases over the reporting period while the adoption of the 4th Judicial Reform Package is expected to contribute to the closure of more cases. In January, Turkey adopted legislation putting in place a system of domestic remedy in cases of excessively long trial and the late, partial or non-execution of court judgments (see *section under Judiciary*). The EU has called on Turkey to enhance its efforts to implement all the judgments of the European Court of Human Rights.

In the *Cyprus v. Turkey* case, the issues of missing persons and restrictions on the property rights of Greek Cypriots displaced or living permanently in the northern part of Cyprus remain pending. In a number of other cases, including *Xenides-Arestis v. Turkey*, *Demades v. Turkey*, and *Varnava and others v. Turkey*, Turkey has yet to fully execute the decision. Following the Grand Chamber Decision of 5 March 2010 in the *Demopoulos v. Turkey* case, 5 270 applications from Greek Cypriot owners have been lodged with the Immovable Property Commission (IPC), 1 465 of them during the period 1 October 2012 – 31 August 2013. By September 2013, around 412 cases had been closed mainly with friendly settlements, and the IPC paid GBP 133 014 051 in compensation (€154 662 629). On 2 April 2013, the Court in Strasbourg confirmed the Demopoulos doctrine in *Meleagrou and others v. Turkey*.

Regarding the **promotion and enforcement of human rights**, the 4th Judicial Reform Package addressed a number of issues on which Turkey had been condemned by ECtHR (see *Judiciary* and *Freedom of expression*). Public officials, judges, public prosecutors and police officers received human rights training. The Department of Human Rights in the Ministry of Justice published translations of relevant ECtHR judgments on its website. The Department itself was significantly strengthened.

Parliament's Human Rights Inquiry Committee received nearly 1 520 petitions in the reporting period. It adopted 14 reports and four draft laws, and 41 legislative proposals were referred to it. Three additional sub-committees were established.

The Ombudsman Institution became operational and began receiving applications in April, including a number related to the Gezi Park protests, following a period of intensive work (see '*Ombudsman*' in *section 2.1 Democracy and the rule of law*).

The Turkish National Human Rights Institution (NHRI) elected its President and became operational in January 2013. It has also received applications regarding alleged violations of human rights, including a number related to the Gezi Park protests. As regards the latter, the NHRI set up an *ad hoc* Commission tasked to draft a report. A work plan for the Institution has still to be established. No application has yet been made to the International Coordinating Committee for National Human Rights Institutions to review and accredit the institution in compliance with the Paris Principles. A number of complaints about a lack of dialogue with civil society were made. The institution needs further strengthening.

The national preventive mechanism under the Optional Protocol of the Convention against Torture has not yet been established. No specific body has been established to combat racism,

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



xenophobia, anti-Semitism and intolerance. Legislation establishing an anti-discrimination and equality board has not yet been adopted.

There were a number of high-profile cases, individual criminal proceedings and investigations launched and continuing against human rights defenders, mostly under anti-terrorism legislation and charges of violating the Law on Demonstration and Marches.

As regards the **prevention of torture and ill-treatment**, excessive use of force during demonstrations and arrests, in official detention places, as well as in prisons, continued to be a matter of concern. The excessive use of force during largely peaceful protests across the country in May-June 2013 and other cities raised serious concerns. The European Court of Human Rights in the case of *Yaşa and Others v. Turkey* considered that the safeguards surrounding the proper use of tear-gas grenades needed to be strengthened in order to minimise the risk of death and injury resulting from their use. In June, following the demonstrations across Turkey and accusations of excessive use of force by the police, the Ministry of the Interior issued a circular detailing stringent rules governing the use of tear gas and pepper spray by the police. The Council of Europe Secretary-General called for a change of mentality in the police and judiciary.

There were some changes in regulations on examinations at time of recruitment, health checks and disciplinary measures for conscripts, and there was growing awareness of conscript rights, with many civil initiatives undertaken. However, instances of ill-treatment of conscripts continued to be reported and efforts are needed to address this issue. Parliament's Human Rights Inquiry Committee opened a monitoring dossier on ill-treatment during military service.

Turkey intends to establish a National Preventive Mechanism within the National Human Rights Institution.

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

There was progress regarding the *fight against impunity*, with the amendment of the Turkish Criminal Code in the 4th Judicial Reform Package lifting the statute of limitations for the offence of torture; the provision is not applicable retroactively and, thus, does not cover alleged crimes committed in 1990s.

In accordance with 'zero tolerance for torture' policy, audio-visual recoding systems were installed in the detention and interview rooms in 15 provincial counter-terrorism departments. Works are under way to install similar systems in further provincial counter-terrorism departments.

Law enforcement bodies continued to launch counter-cases against those alleging torture or ill-treatment. In many instances, such cases were given priority by the courts. There were positive developments in a number of individual cases, where courts found police officers guilty of torture or murder. However, the absence of prompt, thorough, independent and effective investigations into all allegations of torture committed by law enforcement officers remains a concern. Law enforcement officers found guilty of torture, ill-treatment or fatal shootings continued to receive short or suspended sentences. An independent Law Enforcement Monitoring Commission has yet to be set up.

Several trials remain ongoing in connection with allegations of ill-treatment of conscientious objectors in military prisons. An ECtHR judgment in this area remains to be executed.

There is no comprehensive approach to missing persons and the exhumation of mass graves or thorough and independent investigations of alleged cases of extrajudicial killings by security and law enforcement officers. Mass graves discovered in the south-east were not adequately investigated. Regarding unresolved execution-type killings and forced

disappearances by suspected state perpetrators in the 1990s, as well as execution-type killings suspected to have been committed by the PKK, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions noted that only a handful of trials had been conducted and expressed regret at the lack of political will.

Reform of the **prison system** continued, with some improvements in prison conditions.

Nearly half of the prison staff received training on European prison rules and international standards, and additional staff were recruited. Steps were taken to increase cooperation between civil society organisations and prisons. A public awareness campaign took place on the functioning of, and developments in, the Turkish prison system.

Work on increasing prison capacity to remedy overcrowding continued, including the construction of new facilities. The government developed an ambitious construction programme of detention centres intended to improve conditions for minors.

However, overcrowding remained a concern in many prisons. There was a shortage of probation officers and training. The tripartite protocol of 2011 between the Ministries of Health, Justice and Interior, which states that law enforcement officers' should not be present at medical examinations of prisoners, was not always implemented.

Standards for monitoring prisons were not harmonised with those of the UN. Prison Monitoring Boards did not have sufficient resources to carry out their work effectively and their reports and activities were not published.

Ill-treatment allegations were made relating to the tape-recording of prisoners, excessive use of solitary confinement, the forcible collection of blood and tissue samples from some prisoners and strip searches of inmates and visitors. There was no uniform practice regarding use of the Kurdish language during visits and in exchanges of letters.

In January, the European Court of Human Rights (ECtHR) found Turkey liable for compensation claimed by victims of a crackdown by security forces in an Istanbul prison in December 2000. In March 2013 it found Turkey guilty of violating the ECHR for failing to accord an inmate proper access to health services in prison prior to her death from cancer in 2001. In September 2013 the Court ruled that Turkey had violated the right to free elections, finding in particular that the ban on convicted prisoners' voting rights in Turkey was automatic and indiscriminate and did not take into account the nature or gravity of the offence, the length of the prison sentence or the prisoner's individual conduct or circumstances.

A major hunger strike by PKK/KCK prisoners came to an end on its 68th day (18 November). There were 683 strikers in 66 different prisons across the country. The Ministries of Health and Justice provided adequate healthcare to the hunger strikers. The transfer of some hunger strikers to other prisons after the strikes was criticised for hampering the rights of defence and family visits.

As regards **freedom of expression**, the 4th Judicial Reform Package adopted in April addresses a number of key stumbling blocks. Notably, the definitions of the crimes of publishing, printing or producing propaganda on behalf of a terrorist organisation have been narrowed down significantly by the introduction of the necessary element of coercion, violence or threats. The scope of the offence of committing a crime in the name of an organisation without being a member of that organisation has been narrowed down to armed organisations only. Moreover, the definition of the offence of praising a crime or a criminal has been narrowed with the introduction of the necessary element of clear and imminent danger to public order. Implementation of these legal changes in line with European standards should lead to a significant improvement in the level of respect for freedom of expression in

Turkey (see *section on Judiciary*).

In January, thousands of titles were removed from the list of banned publications in accordance with a provision in the 3rd Judicial Reform Package of July 2012.

There was also progress in terms of the opening-up of space for free debate on topics perceived as sensitive, such as the Kurdish and Armenian issues, and parts of the media in Turkey continued to be outspoken. The use of the Kurdish language in public was partially normalised.

Nevertheless, dozens of mostly left-wing or Kurdish journalists are still detained, notably under Article 314 of the Turkish Criminal Code on membership of an armed organisation, which remained unchanged. A number of cases continued against writers, academics and journalists writing and working on the Kurdish issue, but also numerous students and lawyers. (*See also Situation in the east and south-east*)

Implementation of two ECtHR judgments on Article 301 of the Turkish Criminal Code, which criminalises insulting the Turkish nation, remained pending and the Article was not amended. In 2012, permission was given by the Minister of Justice to initiate proceedings on the basis of this Article in 18 cases and in the first semester of 2013 in 12 cases. An investigation was launched against the editor-in-chief and a journalist of *Agos*, the magazine of murdered Armenian journalist Hrant Dink, after they criticised the Dink trial verdict.

Statements of state officials had a chilling effect and instigated investigations by public prosecutors. Moreover, state officials themselves continued to launch suits against critical journalists and writers. This, together with the high concentration of media ownership in the hands of industrial conglomerates with interests going far beyond the free circulation of information, continued to lead to widespread self-censorship by media owners and journalists. In particular, the mainstream media hardly reported on the Gezi Park protests in early June. Columnists and journalists were fired or forced to resign after criticising the government. As a result, freedom of the media remained restricted in practice.

A restrictive interpretation by the judiciary of Article 216 of the Turkish Criminal Code, on provoking the public to hatred and hostility, has led to a number of public figures being convicted for critical remarks on religion. Pianist and composer Fazıl Say was handed down a suspended ten-month prison sentence in first instance for insulting religion on Twitter.

Website bans of disproportionate scope and duration continued. The Telecommunications Communication Presidency (TİB) has not published statistics on banned sites since May 2009. An independent website that monitors banned sites stated in September that more than 32 000 sites were not accessible in Turkey. The Law on the Internet, which limits freedom of expression and restricts citizens' right of access to information, needs to be revised in line with European standards.

The Supreme Board of Radio and Television (RTÜK) issued numerous warnings and fines to television and radio stations, in particular for 'broadcasting superstitious beliefs', 'denigrating morals and national values' and 'damaging the family', 'broadcasting obscenity' and 'praising terrorism'. In June, RTÜK issued warnings to a number of television stations which had transmitted live coverage of the Gezi Park protests on the basis that they were violating the principle of objective broadcasting and fined them for inciting violence. All stations concerned appealed to the courts and the cases are ongoing.

On several occasions, high-level officials criticised the social media as a threat to society. A number of citizens were put in police custody, albeit subsequently released, for posting Twitter messages about the Gezi Park protests.

The alleged violations of Human Rights in the context of the protests in May and June across

the country underline the need for far-reaching reforms in order to ensure respect for **freedom of assembly** in line with European standards. On several occasions, there were scenes of violence, leading in several instances to deaths, disruption of demonstrations and disproportionate use of force by the police against demonstrators, e.g. in rallies in connection with the Taksim and Gezi Park protests in Istanbul, students' rights, the environment, the activities of the Higher Education Board (YÖK) and trade union rights. The 1 May march in Istanbul, which was not allowed, ended in violent clashes. There was also excessive use of force by law enforcement officers to break up protests against the renovation of the historic Emek cinema and during the (partly violent) protests against the presence of the Prime Minister at the Middle East Technical University in Ankara in December.

The Newroz celebrations in March took place peacefully in Diyarbakır and elsewhere. Major rallies in Diyarbakır and elsewhere in the south-east to mark the return of the bodies of three female PKK members assassinated in Paris in January were also peaceful. In neither case was action taken in response to speeches made in Kurdish, which signals a shift towards normalisation of the use of Kurdish in public spaces. Activities organised by civil society groups and initiatives to mark 'Armenian Genocide Commemoration Day', to commemorate the events in 1915, also proceeded peacefully. Lesbian, gay, bisexual, transgender and intersex (LGBTI) pride parades went ahead without disruption. Here the right to assembly was respected. The democratisation package announced in September by the government provides for changes to the law on demonstrations. It notably foresees that authorities need to consult stakeholders before making decisions on rallies and demonstrations, extends the time periods within which rallies and demonstrations can be held and gives authority for monitoring and terminating the rallies to an ad hoc body including representatives of demonstrators.

Civil society organisations reported that they faced fines, closure proceedings and administrative obstacles on the basis of a Ministry of Interior circular of November 2012 which provides a legal basis for visual and voice recording of activities by law enforcement officers where there is a threat to public order or evidence of a crime in preparation. NGOs were fined for disobeying orders under the Law on Misdemeanours and reported that they were prevented by the authorities from holding meetings and demonstrations and issuing press statements. Contrary to the European Convention on Human Rights, there is a tendency to authorise use of force by police when a protest is deemed illegal even when the protest is peaceful. In June and July the Ministry of the Interior issued a circular on use of teargas by the riot police and another circular on Courses of Action in Social Incidents.

Many court cases were launched against human rights defenders and civil society representatives in cases relating to freedom of assembly. In June, anti-terror police raided multiple addresses in Ankara, Istanbul, Eskişehir and other cities, detaining dozens as part of an investigation into the Gezi Park protests. A high number of human rights defenders also faced prosecution and legal proceedings on charges of making propaganda for terrorism during demonstrations and meetings and following their attendance at press conferences, and of breaking the law on demonstrations.

Regarding **freedom of association**, there were examples of a restrictive interpretation of legislation *vis-à-vis* associations and civil society organisations. Many associations had to seek court protection to defend their rights. A court case in Van for the closing-down of 10 NGOs accused of having helped terrorist organisations and engaged in terrorist propaganda was rejected for lack of evidence. A German political association was refused the right to establishment in Turkey. A court case is continuing regarding the rejection of establishment of an UK based charity organisation as an association. International NGOs providing relief to the Syrian refugees and displaced were investigated. A number were closed down by the

authorities.

Confederations of trade unions KESK and DISK and associated trade unions faced investigations in relation to terrorism charges. Many trade union representatives were arrested. Some trade unionists on trial in KCK cases were released pending trial following the launch of the peace process.

The European Court of Human Rights found Turkey in violation of Articles 10 (freedom of expression) and 11 (freedom of assembly and association) of the ECHR concerning the closure case launched against a trade union for referring in its charter to its support for the ‘right to mother tongue education’. The Court concluded that calling for mother tongue education did not create a threat to national security or public order. The trade union for civilian staff working for the military faced a closure case, as civil servants employed in the Ministry of Defence and Turkish Armed Forces were not allowed to create or join trade unions. The Constitutional Court in April annulled this prohibition for non-military public servants. An application by police officers to establish a trade union was rejected in November and a closure case opened in June (*See also trade union rights*). A new trade union for judges was established.

The new trade union legislation still has important obstacles. The requirement of a double threshold to meet the trade representativeness levels hinders the development of trade unions by limiting their ability to act and negotiate collective agreements. They can be set up but face considerable obstacles to grow and to being relevant and effective.

Legislative and bureaucratic obstacles impeding the financial sustainability of civil society organisations persisted. The collection of domestic and international funds was difficult and bureaucratic procedures cumbersome. There were complaints of discrimination against associations applying for public benefit status and permission to raise funds.

Concerning **freedom of thought, conscience and religion**, freedom of worship continues to be generally respected. In November 2012, the President of the Republic hosted a first ever official fast-breaking dinner attended by Alevi representatives. In February 2013, he underlined that ‘the state should stand at an equal distance from members of all beliefs and those who do not hold a belief’. The Ministry of National Education issued new textbooks for religious culture and ethics courses, including information on the Alevi faith, and non-Muslim students were exempted from these classes. Judicial investigations were launched after Alevi citizens’ houses were marked in a number of provinces. In February 2013, the Ministry of National Education declared that there would be alternative questions in the university entrance and secondary school final examinations for non-Muslim students, following the introduction of questions on Islam.

As regards conscientious objection, the 4th Judicial Reform Package restricts the scope of Article 318 of the Turkish Criminal Code to those who encourage on-duty conscripts to desert or who discourage future conscripts from performing military service. Previous provisions criminalised any behaviour having the effect of discouraging people from performing their military service.

Implementation of the August 2011 legislation amending the 2008 Law on Foundations continued, with properties being returned or compensation paid (*See section on property rights*).

The European Court of Human Rights’ 2007 *Zengin v. Turkey* judgment on religious culture and ethics classes, which remain compulsory in primary and secondary schools, has yet to be implemented.

Non-Muslim communities — as organised structures of religious groups — continued to face

problems as a result of being unable to acquire legal personality, with adverse effects on property rights, access to justice, fundraising and the ability of foreign clergy to obtain residence and work permits. The relevant 2010 Council of Europe Venice Commission recommendations have yet to be implemented. The Ecumenical Patriarchate received no indication from the authorities that it may use the 'ecumenical' title freely. The Venice Commission's 2010 conclusion that any interference with this right would constitute a violation of the autonomy of the Orthodox Church under Article 9 of the ECHR has yet to be implemented.

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

As regards participation in religious elections, the authorities in the past have granted citizenship to 15 Metropolitans of the Ecumenical Patriarchate. A formal legal solution, however, has yet to be adopted that would ensure equal treatment of Turkish and foreign nationals in terms of exercising the right to freedom of religion by participating in the life of organised religious communities according to European standards.

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

No concrete steps have been taken to follow up the opening in relations with the Alevi community in 2009. *Cem* houses were not officially recognised as places of worship and Alevis experienced difficulties in establishing new places of worship. The Turkish Presidency of Religious Affairs (Diyanet) took the view that mosques are the only place of worship in Islam. This view was repeated by senior Turkish officials and used in courts. Alevi groups have been critical about the information on Alevis in the revised religious culture and ethics textbooks. Alevis' perception is that they are discriminated against, including in the civil service and the education system. There were clashes surrounding the decision to co-locate a mosque and a *cem* house in one area of Ankara.

Non-Muslim religious communities reported frequent discrimination, administrative uncertainty and numerous obstacles to establishing or continuing to use their places of worship. Protestant Christians and Jehovah's Witnesses were unable either to legalise existing places of worship or receive permits for the construction of new ones. In June 2013, the DG for Foundations declared the Hagia Sophia Museum in Trabzon a mosque.

On at least two occasions, foreign clergy were denied permission to live and work in the country, without adequate explanation. Clear criteria need to be established for renewing or issuing residence and/or work permits.

Alevis and non-Muslim religious communities that are not officially recognised have to pay electricity and water bills for their places of worship, whereas the state budget covers such expenses for mosques. The application of the exemption for recognised non-Muslim religious communities from having to pay such bills has frequently been arbitrary, despite a decision of the Council of Ministers providing for this. Protestant Christian places of worship and Jehovah's Witnesses Kingdom Halls continued to exist informally. Jehovah's Witnesses received notices from sub-province governorates in Istanbul transmitting court decisions, on

the basis of a Council of State decision, that worship places cannot be located in houses and work places. There are two cases before the ECtHR regarding Kingdom Halls.

The court case concerning the killing of three Protestants in Malatya in April 2007 continued and allegations of links to the Ergenekon organisation were considered. A number of Protestant, Armenian and Greek Orthodox churches in İstanbul were attacked. A plot to assassinate a pastor in İzmit was foiled by the police. Non-Muslims perceived a number of articles in the media as anti-Semitic and promoting hate speech. Lawsuits were filed, but rejected by the courts. The Diyanet's five-year strategy mentions the need to follow up and evaluate missionary activities inside and outside the country.

Implementation of the May 2010 Prime Ministerial circular instructing all relevant authorities to pay due attention to the problems of non-Muslim Turkish citizens has not always been consistent.

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

As regards **women's rights and gender equality**, the Law on the Protection of Family and Prevention of Violence against Women of March 2012 and the Ministry for Family and Social Policies' National Action Plan to Combat Violence against Women (2012-15) continued to be implemented. A database on violence against women is under preparation. The Minister was heavily engaged in efforts to address domestic violence issues and frequently spoke on the matter in public.

Under current legislation, each metropolitan municipality and each municipality with a population of over 100 000 must have a shelter for women who are victims of domestic violence. A regulation on the management of shelters was adopted in early 2013. The Ministry of Labour and Social Security established a department to deal with cases of harassment at work as part of efforts to build up capacity in the public sector. Members of the judiciary and law enforcement officers underwent awareness-raising and training on new legislation. Violence Prevention Centres were established in 12 pilot cities, with two further centres planned. Public and private sector representatives launched initiatives to increase women's participation in the labour force.

The Parliamentary Committee on Equal Opportunities between Men and Women issued two opinions on draft legislation during the reporting period.

However, a number of NGOs requested increased engagement with the Committee, and more focus on mainstreaming gender equality via the legislative process and on monitoring the implementation of laws and circulars on gender equality. An anti-discrimination and equality board has yet to be established.

There are no clear follow-up mechanisms where municipalities fail to establish shelters for women subject to domestic violence. Detailed statistics on incidents of violence against women, including killings, were not available; however, the media frequently reported killings by (ex-) partners and occasionally honour killings. The issue of early and forced marriages remained a serious concern, as did the inadequacy of family courts. 'Consent', 'undue provocation' and 'appearing older' were used to justify a reduction in sentences for sexual crimes while the Forensic Medicine Institute was criticised for delays in finalising reports on such alleged crimes. Implementation of the ECtHR judgment in the *Opuz v. Turkey* case relating to effective judicial decisions with preventive or deterrent effect for offenders remained pending.

The participation of women in the labour force remained low, at 29.5%. This reflects also the low level of women's access to education. The lack of affordable childcare facilities for working women remained an issue. Under current legislation, employers are obliged to provide childcare services or to help improve access to affordable care services to reconcile work and family life only if they employ 150 women or more.

The number of women in politics and at senior levels in the administration remained very small. Legislation has not been amended to promote women's inclusion in politics.

Under current legislation, women cannot use exclusively their maiden name after marriage despite an ECtHR ruling in this sense. Gender equality education was not fully integrated into the training of public officials, including law enforcement personnel, health professionals, social workers and teachers.

Stakeholders have not always been consulted adequately and the perception was that dialogue with civil society organisations was limited to those close to the government.

National statistics reported annually by the Turkish Statistical Institute (TÜİK) indicate that gender inequality continued to constitute a key problem in Turkey's development agenda.

More work is needed to break down stereotypes and change perceptions of gender roles in all spheres.

Concerning **children's rights**, enrolment rates in pre-school education institutions remained stable at around 44% among 4 and 5 year olds. Administrative capacity increased significantly thanks to intensive teacher recruitment, curriculum development and training activities, although there was no monitoring and inspection mechanism covering all pre-school education and care services.

Schooling rates in primary education were around 99%, while (upper) secondary school enrolment rates reached 70%. Net enrolment in upper secondary education in the 2012-13 school year was 1.5% higher for boys than for girls and much higher in western, central and northern provinces, including Ankara, than in eastern and south-eastern provinces. Absenteeism and school drop-out rates were not published officially, but, on the basis of official data, NGOs reported them to be high. Turkey needs to continue strengthening its monitoring of school attendance and drop-out rates.

According to the National Child Labour Survey in 2012, the child labour situation has not improved since 2006. Around 6% of children aged 6-17 are involved in economic activity, including street work, heavy and hazardous work in small and medium-sized enterprises and paid, non-family, migratory and temporary work in agriculture. 28 child workers died in workplace accidents.

Child poverty fell overall, but remained high in rural and eastern regions of Turkey. Almost one quarter of children continued to face material deprivation, with social services and transfers insufficient to reduce the currently high level of child poverty.

There was a positive trend in terms of reducing infant and child mortality and communicable diseases. The education system offered little information on sexual and reproductive health issues. Capacity to identify and support children with developmental/disability risks in line with international standards needs to be improved.

The Minister for Family and Social Policies committed to complete a National Strategy on Violence against Children, which would complement ongoing efforts to address domestic violence and violence in schools, abuse, exploitation and neglect. A Deputy Ombudsman was made specifically responsible for women's and children's rights. However, violence against children and early marriages remained issues of concern. Corporal punishment was not



explicitly prohibited at home or in psychiatric facilities and rehabilitation centres.

There remained deficiencies in the national children's rights monitoring system, which lacks an effective complaint and reporting mechanism. A 2012-16 National Child Rights Strategy to introduce a comprehensive rights-based approach for the full and effective implementation of international obligations has not yet been put in place. The Monitoring and Assessment Board for the Rights of the Child, designated to coordinate implementation and monitoring of the Convention on the Rights of the Child, did not meet during the reporting period and coordination between government Ministries, departments and institutions dealing with children's rights was inadequate at national, regional and local levels.

The limited resources available for an effective juvenile justice system are a matter of concern. Of 18 serious crimes courts for juveniles, eight were operational. The total number of juvenile courts was 96, of which 80 were operational. The Child Protection Law provides that such courts should be established in all 81 provinces. In provinces where such courts did not exist, children were tried in ordinary courts for adults.

Arrests of juveniles on charges of membership of a terrorist organisation continued. As of May 2013, around 2 000 children aged between 12 and 18 were in prison, of whom around 200 had been convicted and the rest were being detained. Conditions continued to vary from place to place, and there were complaints of overcrowding, inadequate hygiene, mistreatment, personnel shortages and violence and/or abuse of inmates. The case concerning allegations of ill-treatment and sexual harassment in Pozanti prison remained pending.

The principle of the best interests of the child was not appropriately integrated or consistently applied in all legislative, administrative and judicial proceedings or in all policies, programmes and projects relevant to and with an impact on children.

State-led pilot action was conducted to raise awareness of the **socially vulnerable and/or persons with disabilities** and a Board on Monitoring and Evaluating the Rights of People with Disabilities has been set up in order to comply with the relevant UN Convention of which Turkey is a signatory. However, a national monitoring mechanism as required by the UN Convention on the Rights of People with Disabilities has not yet been established and further efforts are needed to challenge stereotypes. Implementation of the Strategy Paper and the National Action Plan on accessibility remained limited.

Children with disabilities faced difficulties in accessing affordable and inclusive education services, from pre-primary level upwards. Inclusive vocational and lifelong learning opportunities were also limited. The monitoring, evaluation and inspection of private special education and rehabilitation services require particular attention.

The employment rate of people with disabilities in the public sector increased but remained low, at less than 2% of the total. Financial incentives for employers to recruit people with disabilities and establish protected workplaces were available but disabled individuals faced serious difficulties gaining employment in the private sector.

A national workshop was organised on transport services for people with reduced mobility. However, access to public buildings and most transport services was often problematic.

Coverage of home-based care services for the disabled and the elderly increased.

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

There was no progress on comprehensive **anti-discrimination** legislation. The current legal framework is not in line with the EU *acquis*. A draft law on the establishment of an anti-discrimination and equality board remained pending before the Prime Ministry. References to discrimination on grounds of sexual orientation or gender identity were taken out of the initial

draft. There is no specific legislation against hate crimes.

Violence against **lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons continued. Hate attacks and hate speech against homosexuals increased. Twelve LGBTI hate murders were reported in Turkey, and several lynching attempts and incidents of torture, rape, ill-treatment, domestic violence, harassment, and cyber-attacks against LGBTIs. There was repeated application by the judiciary of the principle of ‘undue provocation’ and reduced sentences due to the ‘good behaviour’ of perpetrators of crimes against LGBTI persons. There were increasing concerns that shortcomings in the investigation and prosecution of crimes against people of a different sexual orientation or gender identity lead to impunity for the perpetrators.

Instances of discrimination against LGBTI individuals were frequent. There were cases of police officers, teachers and bank personnel being dismissed from their jobs due to the disclosure of their sexual identity. High school and university students were reported to face discrimination, including pressure to leave schools. In January, a review of the Turkish Armed Forces’ disciplinary system defined homosexuality as ‘unnatural’ and envisaged that ‘morally indecent’ personnel would be discharged. LGBTI and women’s rights’ associations criticised the discriminatory language and the possible discriminatory implementation of the law *vis-à-vis* female personnel. In addition, the military’s Medical Competence Regulation continued to refer to homosexuality and trans-sexuality as illnesses.

The Penal Code and the Law on Misdemeanours were used against transgender persons in a discriminatory and arbitrary manner. The Law on the Internet was used against some LGBTI and other websites which were considered politically and morally unsuitable. The Penal Code provision against resisting an officer in the course of his duty was frequently used to counter accusations of harassment.

In the field of **labour and trade unions rights**, a new law was adopted on trade unions and collective agreements in the private sector. The law facilitates the establishment and internal functioning of the trade unions, eases membership procedures, lifts the ban on strikes in certain sectors and reduces criminal penalties. However, important shortcomings remained, including high representativeness thresholds for entering into collective bargaining, which hinder negotiations at appropriate levels and hamper the development of unions. A provision removing protection from dismissal for trade union activities in small workplaces is still under examination by the Constitutional Court.

For public servants, the blanket absence of the right to strike and the ban on establishing trade unions at professional or workplace level remained in place. Although the Constitutional Court annulled the provision prohibiting civil servants in military establishments from establishing and joining trade unions, many categories of civil servants were still deprived of the right to organise. These groups’ attempts to establish unions were prevented by administrative or legal acts. An application by police officers to establish a trade union was rejected and the organisers dismissed for ‘disobedience’ and ‘humiliation of the profession’. However, a new trade union for judges was established after dissolution of the previous one.

In several anti-KCK operations, police continued to raid trade union offices and arrest unionists on suspicion of terrorist activity. Court cases are pending or have started for more than 400 trade union members and executives. Out of them more than 60 are imprisoned pending trial for more than 7 months. The indictments in these cases raised concern about the respect of freedom of association.

On **property rights**, the authorities made significant efforts to implement the 2011 legislation revising the 2008 Law on Foundations. Under the revised legislation, 116 minority community foundations applied for the restitution of a total of 1 560 properties. By August

2013, the Foundations Council had approved the return of 253 properties and the payment of compensation for 18 properties, and decided that 878 applications were not eligible.

The Greek Orphanage in Büyükada re-gained its foundation status at the end of 2012, bringing the number of minority foundations to 166. On 7 October 2013, the Foundations Council returned to Mor Gabriel Syriac Orthodox monastery the lands that had been transferred to the Treasury pursuant to a Court of Cassation ruling. In March 2013, a Turkish Deputy Prime Minister paid a visit to the Syriac community in Germany, where he expressed the government's determination to address the issues affecting the monastery. The Latin Catholic Church in Mersin won two court cases against the Treasury and the Directorate-General of Foundations regarding two properties around the church and was given the title deeds.

Current legislation does not, however, cover foundations which have had their management taken over by the Directorate-General for Foundations, nor properties of foundations which have been transferred to third persons. Alevi have also raised the issue of the return of properties. It was reported that, during implementation of the revised legislation, the local title deeds and cadastre offices were in some cases not cooperating with applicant foundations, or that disputes arose over the valuation of properties for which compensation was paid.

The Syriac community continued to face difficulties with property and land registration, especially in the south-east. A number of court cases continued, concerning both private individuals and religious institutions. There were new property/land issues as a result of the ongoing process to establish a cadastre, in particular in the south-east. The Mor Gabriel monastery land ownership cases continued. The Monastery Foundation applied for the return of lands it claims within the framework of the revised Law on Foundations. A forestry case against the monastery was taken to the ECtHR and a decision on admissibility was pending.

A large number of properties of the Latin Catholic Church remained confiscated by the state. Catholic churches have no legal personality and no minority foundation status.

The implementation of the recommendations of March 2010 of the Council of Europe Venice Commission on the protection of property rights (Council of Europe Resolution 1625 (2008)) on Gökçeada (Imvros) and Bozcaada (Tenedos) were pending.

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

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

In February 2013, a delegation of Syriacs from Sweden visited the President of the Republic. The President met with the Syriac community for a second time in Sweden during his official visit to the country in March 2013. In the same month, a meeting between the Prime Minister and religious leaders of non-Muslim communities was organised on the occasion of the German Chancellor's visit to Turkey. A Deputy Prime Minister and the Minister of Culture called on minorities who had been obliged to leave Turkey due to 'errors of the past' to return.

In December 2012, six persons were fined 3 000 TL each for incitement to hatred and enmity after displaying anti-Armenian banners at an İstanbul rally. Since February 2013, the Armenian-Turkish bilingual newspaper Agos has been available at the Turkish Airlines stand

at airports. The Press Advertising Institution paid minority newspapers a sum of money instead of paying for advertisements as, despite the goodwill demonstrated in 2012, minority newspapers cannot in practice receive and publish official announcements or advertisements due to their limited circulation and the fact that they are not necessarily in Turkish.

In March, the Minister for National Education accepted the request for the reopening of a Greek minority school on Gökçeada (Imvros) Island. The school opened in September 2013. The Ministry also informed all Turkish schools of their obligation to respond positively to requests from non-Muslims to be exempted from compulsory religious culture and ethics lessons. As a result, the number of complaints dropped. Further to a Court decision that became final in August 2013, Syrians can now open their own schools. In 2012, the authorities, together with stakeholders, started preparing textbooks and curricula so that Christian students can have classes on Christianity at school. An *ad hoc* commission was set up to review options on the Halki (Heybeliada) Seminary. This took place, however, without the involvement of the Ecumenical Patriarchate (*See also section on freedom of thought, conscience and religion*).

A request from the Istanbul Syriac Orthodox Church for land for the construction of a new church was approved by the İstanbul Greater Municipality. A request from the Syriac community in İstanbul to open a kindergarten was initially refused by the authorities on the basis that the legislation provides for the opening of Armenian, Jewish and Greek schools only. An administrative court in Ankara ruled that there was no legal reason to prevent Syrians from opening their own school on the basis of the Treaty of Lausanne.

The Malatya Municipality re-constructed buildings in the Armenian cemetery in Malatya which had been demolished by accident in February 2012. These were opened in June 2013.

In January 2013, in the case involving the 2010 killing of a Roman Catholic Bishop in Iskenderun, the Iskenderun 2nd Serious Crimes Court sentenced the accused to 15 years in prison, considering that the killing was not the result of a politically motivated or an organised criminal attack.

The 10th grade History school textbook was amended in response to complaints of discriminatory rhetoric against Syrians.

In the case of murdered Armenian journalist Hrant Dink, the chief public prosecutor of the Court of Cassation demanded the reversal of the decision of the 14th Serious Crimes Court of İstanbul on the grounds that ‘the accused had committed this crime within the framework of the activities of an organisation’. The retrial started in September. Following the relevant 2010 ECtHR judgment, a separate investigation continued into the conduct of various law enforcement and other state officials. This ECtHR judgment on the Dink Case requires Turkey to hold all involved accountable before the law.

The Malatya chief public prosecutor’s office issued a new indictment on the Zirve press murders of three Christian missionaries in Malatya in 2007. In January 2013, the Malatya Serious Crimes Court issued an arrest warrant for retired General Hurşit Tolon — already under arrest in the context of the Ergenekon Case — along with two sergeants and another civilian suspect for their alleged involvement. One of the lawyers in the case received death threats from a defendant during a court session. In March 2013, a Diyarbakır Military Court sentenced the accused for the killing of a compatriot soldier of Armenian origin to four years and five months in prison for manslaughter. The judgment was appealed by the family of the deceased.

However, the current legal framework together with its implementation by the administration and the enforcement by courts do not fully guarantee the rights of persons belonging to minorities. Apart from the non-Muslim minorities recognised by Turkey under the Treaty of

Lausanne, the Turkish authorities consider Turkish citizens as individuals with equal rights before the law rather than belonging to the majority or a minority. However, this approach, which provides for full equality for all citizens, should not prevent Turkey from granting specific rights to certain citizens, in line with European standards, on the basis of ethnic origin, religion or language, so that they can preserve their identity.

Turkey needs to make sustained efforts to prevent and punish hate speech or crimes targeting persons belonging to minorities or minorities as such.

Regarding minority schools, children who are not Turkish citizens continued to have the option of attending as guest students without receiving graduation certificates. The management of minority schools, including accountability of both minority Heads and non-minority Deputy Heads, remained an issue, pending an implementing regulation. The reciprocity principle remained. In January 2013, the Parliamentary Assembly of the Council of Europe urged the Turkish government to implement Resolution 1625 of 2008 without further delay, restore the properties of the Greek minority and address the needs of the people on Gökçeada (Imvros) and Bozcaada (Tenedos).

Rhetorical content against missionaries or minorities remained in a number of compulsory school textbooks and in the first Diyanet five-year plan for 2010-14.

The Protestant Churches' report on human rights violations stated that hate crimes directed at Christians continued in 2012 and that physical attacks were carried out against Protestant and other churches and worshippers.

The court case regarding the April 2011 attack on the Latin Catholic Church in Adana continued, with lawyers calling for it to be combined with the Ergenekon case.

There were regular contacts between **Roma** NGOs and the administration. The Ministry of Family and Social Planning worked on a National Strategic Action Plan for Roma together with the Ministries of Labour and National Education to remedy the absence of an official Roma strategy. Consultations took place in April with NGOs. In November, over 70 Roma associations and six federations established the Roma People Forum of Turkey.

Nevertheless, there continued to be reports of discrimination. The provision of temporary public benefit jobs for Roma continued, but measures to increase the employability of Roma were lacking and Roma children had high drop-out and absenteeism rates at all levels of education. Problems of poor housing conditions and difficult access to health services, partly due to not having an identity card, continued.

An opposition-sponsored motion to set up a special committee to address the problems faced by Turkey's Roma was not supported by the governing party.

Turkey is still not a party to the 2005-15 international Decade of Roma Inclusion initiative.

The court case launched by Roma associations and individuals regarding urban renewal in Sulukule was upheld by the Council of State.

As regards **cultural rights**, the Criminal Procedure Code was amended in January 2013 to allow defendants to use a language of their preference other than Turkish at certain stages of a judicial proceeding even if they can express themselves adequately in Turkish. There were many cases illustrating immediate uptake of this new provision.

In February 2013, the Constitutional Court ruling that prosecutions cannot be brought against the use of Kurdish in political party signs, posters and statements entered into force. Preparations were launched for the eventual provision of public services in languages other than Turkish. Remaining legislative provisions currently restrict the use of languages other than Turkish.

On several occasions, state officials, governors and security directors used Kurdish when speaking in public. The Diyarbakır police chief celebrated International Women's Day in both Turkish and Kurdish. A judicial investigation into his statement in 2012 that 'if you don't feel grief when a terrorist dies on the mountain, you are not a human being' ended with a decision not to prosecute.

Mardin Artuklu University continued to provide post-graduate education in Zaza and Kurmanjî Kurdish, as did Dicle University in Diyarbakır and Bingöl University. Tunceli University offered graduate courses.

The teaching of elective courses in Kurdish language in public schools continued (subject to a minimum of ten students per class) and 25 000 students have enrolled.

In April 2013, the President of the Diyanet spoke in Kurdish in a ceremony to mark the birth of the Prophet and prayers were said in both Kurdish and Turkish. The Diyanet started preparing a Kurdish version of the Quran and Kurdish Quran courses, and allowed prayers to be recited in Kurdish in mosques.

The Anatolia news agency started broadcasting in Kurdish in September 2013.

A court case regarding the demolition in Kars of the statue of humanity devoted to Turkish-Armenian reconciliation remains pending before the ECtHR after being found admissible by the Court.

The democratisation package announced by the government in September provides for education in languages and dialects other than Turkish in private schools.

There have been no significant developments as regards the **protection of personal data**. Turkey has yet to adopt a general law on the protection of personal data and, in that context, to set up a fully independent data-protection authority.

### *Conclusion*

There was progress in the area of the *judiciary*. The High Council of Judges and Prosecutors continued with the implementation of its 2012-16 strategic plan broadly improving the predictability and transparency of its decisions, and promoting the independence, impartiality and efficiency of the Turkish judiciary. The Constitutional Court started receiving individual applications for alleged violations of fundamental rights and delivered a number of important decisions aligning itself with the approach of the European Court of Human Rights. Implementation of the 3rd Judicial Reform Package started to produce results as regards, for instance, detention on remand and the use of preventive measures as an alternative to detention. The adoption of the 4th Judicial Reform Package was another important step in the right direction. Concerns remained as regards both legislation and practice in the criminal justice system, in particular as regards prosecutors' ability to lead investigations, limited access by the defence to prosecution files, poor cross-examination at trial, and the poor quality and/or lack of reasoning in the indictments.

Implementation of the 2010-14 national *anti-corruption* strategy and action plan continued. However, the institutional framework for developing policy and monitoring its implementation needs to be clarified and strengthened. Issues relating to the financing of political parties and the scope of MPs' immunities have yet to be addressed. Greater political will and civil society involvement are needed if results are to be achieved on the ground so as to establish a track record of investigations, indictments and convictions.

There was a decidedly mixed picture in the area of *fundamental rights*. The implementation of the 3rd Package contributed to improving, *inter alia*, the situation as regards the right to liberty and security. The 4th Package provided judicial remedies on a number of issues for

which Turkey had been condemned by the European Court of Human Rights. It narrowed down the scope of terror-related crimes by removing the link between the imparting of ideas through publications, statements, speeches, etc., and the use or threat of use of coercion or violence. Implemented in line with European standards, these changes should have a positive impact on freedom of expression. Newroz celebrations and the gay pride parade went ahead without disruption. The implementation of legislation on foundations resulted in the return of a significant number of properties to minority foundations. The authorities were vocal on, and showed commitment to combatting violence against women. Dialogue between the government and representatives of minorities continued with some positive results, and measures were adopted to promote cultural rights. The Ombudsman Institution and the National Human Rights Institution became operational. However, serious concerns were raised by instances of an excessive use of force, with numerous reports of disproportionate use of tear gas and pepper spray by law enforcement bodies in largely peaceful protests across the country in May-June 2013, and fatal shootings. Independent, impartial and effective follow up in accordance with ECtHR case law should be carried out. Freedom of expression and of the media was restricted in practice: the ownership structure of the Turkish media, at times intimidating statements by politicians, and remaining restrictive legal provisions and their interpretation by members of the judiciary led to widespread self-censorship by media owners and journalists or the sacking of journalists. Freedom of assembly was not respected on a number of occasions, including during the Gezi Park events. The Turkish authorities failed in these instances to protect, or to be seen to wish to protect, the rights and freedoms of others according to European standards. Shortcomings in legislation on trade unions hinder collective bargaining and the development of trade unions. On women's rights and gender equality, Turkey needs to make further sustained efforts to turn legislation into reality as regards women's employment, education and political representation, tackling violence against women, and early and forced marriages. As regards children, greater efforts are needed to improve access to education, and health services, combat child labour and improve administrative capacity and coordination. Anti-discrimination legislation needs to address discrimination on the grounds of sexual orientation. Steps in the right direction were made on minorities and on cultural rights but further efforts are needed.

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

As concerns **migration**, following a consultative process, a significant progress was made with the adoption of the Law on Foreigners and International Protection in April 2013. The new Law introduces a comprehensive legal and institutional framework on the legal status of migrants, procedures and safeguards to be followed in the context of detention and expulsion of irregular migrants as well as protection of vulnerable categories of migrants such as minors, with a view to bringing Turkey into line with EU and international standards. The establishment of a civilian institution, the General Directorate of Migration Management (GDMM) to deal with foreigners, suggests a shift away from the security-oriented approach followed in this field until now. Adoption of the implementing legislation allowing to effectively enact all the provisions of the Law is now a priority.

Turkey continued to be an important transit and destination country for migration. In 2012, 232 158 applicants were granted a residence permit in Turkey. 193 957 residence permits have been issued by 2 August 2013. 47 510 irregular migrants were apprehended by the Turkish authorities in 2012, which represents an increase of 7% as compared with 2011, and 21 332 were apprehended between 1 January and 2 August 2013. 21 059 persons were deported in 2012 and 16 060 between 1 January and 2 August 2013.

In 2012, the number of third country nationals detected by EU Member States' law enforcement agencies when attempting to enter illegally the EU and coming directly from the

Turkish territory amounted to 37 531, thus decreasing by 33% as compared with the previous year. The decreasing trend continued in 2013: there were only 7 032 such cases in the first half of 2013. A large share of the third country nationals detected at the EU external border coming directly from the Turkish territory were found having previously entered Turkey through regular channels. In many cases the migrants landed at the Istanbul airport, which in the last years has been directly connected to a number of countries which are potential sources of irregular migration, and subsequently were easily admitted to Turkey, thanks to the leniency of the Turkish visa procedures.

The capacity of Turkey to host irregular migrants decreased in 2012 (1 941) as compared with 2011 (2 176). The construction of removal centres in Erzurum, Edirne, Aydın, Bitlis and Van has not yet been completed. There are still no structured psycho-social services for irregular migrants staying in the centres. Adoption of legislation to implement the new Law on the establishment, management and inspection of the centres is a priority. The courts' capacity to handle migration cases and the Bar associations' capacity to provide legal aid need to be enhanced.

The signing of the EU-Turkey Readmission Agreement is still pending. Its swift conclusion and effective implementation remains of crucial importance. Effective implementation of existing bilateral readmission agreements needs to be ensured. Turkey concluded negotiations on the text of such an agreement with Serbia. Agreements were signed with Yemen, Belarus and Montenegro. Ratification of the agreements with Pakistan and Belarus are pending.

With regard to **asylum**, the new Law on Foreigners and International Protection introduces significant safeguards, including the respect of the principle of non-refoulement, and the access to refugee status determination procedures for any person in need of international protection. However, the provisions of the Law on the refugees of European and non-European origin differ, in line with Turkey's geographical reservation to the 1951 Geneva Convention. The new system needs to be further developed, notably with regard to refugees' rights, through implementing legislation. The GDMM is gradually to take over responsibility for asylum management from the Turkish National Police.

The Turkish authorities have made significant efforts to cope with the Syrian refugee crisis. According to official Turkish data, the number of Syrians staying in 15 tent cities, five container camps and a temporary reception centre exceeded 200 000. The authorities acknowledge that 200 000 to 400 000 Syrians live outside the camps. They are registered in coordination centres in Gaziantep and Kilis. Registered Syrians receive an ID card, valid for one year, which gives them access to medical and other material assistance. All Syrian refugees benefit from a temporary protection regime entailing open borders, protection and non-refoulement. However, the situation on the ground remains critical. Additional camps need to be set up in Malatya, Mersin, and Sanliurfa. The situation of out-of-camp refugees requires attention.

The Syrian crisis coincided with a sharp increase in the number of asylum applications filed in Turkey by non-Syrian asylum seekers: 14 758 applications were lodged only in the first half of 2013 as compared with 14 051 in the whole 2012. The processing of the asylum applications is cumbersome and needs to be streamlined. It has been increasingly more difficult to find a resettlement country willing to receive recorded refugees.

Turkey did not align its legislation and practice with EU **visa policy**, and continued to discriminate between EU Member States in allowing or refusing their citizens visa-free access to its territory. Turkey granted unilateral visa exemption to tourists holding ordinary passport of Slovakia. Visa exemption agreements valid for all types of passports were enacted with Brunei, Belarus, Colombia and with the former Yugoslav Republic of Macedonia. Similar agreements signed with Moldova and Yemen during the reporting period are not yet in force.



As a result of changes to the visa system in April 2013, nationals of certain countries can obtain authorisation to enter and stay in Turkey through an on-line electronic system. There is no such system in the Schengen Member States.

In the area of **external borders and Schengen**, Turkey has not yet adopted a border security law to establish a specialised professional border security organisation and regulate tools for integrated border management. It has stepped up border cooperation with neighbouring countries. Negotiations continued with Bulgaria on a protocol on coordinated border surveillance and were concluded with Bulgaria and Greece on a trilateral common contact centre for law enforcement cooperation. In October 2012, an agreement was signed with Georgia on the joint use of land customs crossing points to facilitate border crossings. Data exchange started in August 2013 in the framework of the 2012 memorandum of understanding between Frontex and Turkey.

As of early 2013, 65 new border posts have been created, 150 surveillance towers renovated and 1 150 kilometres of roads for border patrolling constructed. The Ministry of Justice's national judicial network (UYAP) has enabled more efficient border checks. Customs Enforcement has 790 new staff. The Ministry of Health adopted a risk-analysis-based National Contingency Action Plan for human health services at seaports and airports and a training programme for its implementation. The Ministry of Interior and the Ministry of Customs and Trade need to cooperate more effectively to combat smuggling. It is essential that the role of the Coordination Board for Integrated Border Management be enhanced if tangible progress is to be made in the area of border management.

With regard to **judicial cooperation in civil and criminal matters**, Turkey initiated a study for the introduction of a mutual legal assistance law with a view to consolidating international rules and regulations on civil and criminal judicial assistance in a single law. Protocols were signed on increasing mutual judicial cooperation with Belgium, Croatia, Georgia, Iran, Serbia and Tajikistan. Turkey received 2 107 requests for judicial cooperation in civil matters and made 8 942. On judicial cooperation in criminal matters, legal advisors have been assigned to the Turkish missions in several EU countries and international organisations, including the EU. 15 judges have been assigned in line with a new practice of mutually designating liaison contact points. 168 extraditions were requested by Turkey and seven by EU Member States. Only 17 extraditions to Turkey were enforced. Turkey received 792 requests for mutual legal assistance in criminal matters and made 4 974. 14 transfers of convicts to Turkey were enforced and three transfers to EU Member States. Turkey has not yet signed or ratified the 1996 Child Protection Convention. Overall, judicial cooperation with the EU was limited.

Turkey is a party to the main international conventions in the area of **police cooperation** and the **fight against organised crime**, but a lack of data protection legislation limits police cooperation at international level and an operational cooperation agreement with Europol cannot be concluded. Europol and Turkey have been preparing a memorandum of understanding on confidentiality and information security. The assignment of a police liaison officer to The Hague would improve bilateral cooperation. Inter-agency cooperation needs to be strengthened.

Turkey adopted a new Action Plan against Organised Crime (2013-15), implementing the National Strategy against Organised Crime (2010-15). The Turkish National Police has established an additional witness protection unit, widening its presence locally to 74 provinces. Turkey signed but has not yet ratified the Council of Europe Convention on *Cybercrime*. A Cyber Security Council was established in October 2012 to develop a national cyber security strategy and an action plan, which were adopted in June (*see also Chapter 10 – Information society and media*). As to forensics, Turkey needs to establish a national

fingerprint and DNA database. Overall data collection and analysis capacity need to be improved.

As concerns *trafficking in human beings*, the Turkish National Police identified a limited number of victims and prosecuted a limited number of traffickers. The Law on Foreigners and International Protection provides for the issuing of residence permits to victims or those strongly suspected of being victims of trafficking. The law also provides for the creation of a Department for the Protection of Victims of Human Trafficking within the GDMM. However, the framework anti-trafficking law has still to be adopted in line with the *acquis*. A comprehensive, multi-disciplinary and victim-oriented approach to trafficking still needs to be developed and victim identification needs to be improved. Victims need to have unhindered access to assistance, support and protection. The re-integration of victims upon return and the cooperation with civil society are vital. Prevention needs to be stepped up and efforts are needed to effectively curb demand for trafficking in human beings. The Council of Europe Convention on Action against Trafficking in Human Beings needs to be ratified. There is a growing concern about an increase in human trafficking as a consequence of the Syrian crisis.

With regard to the **fight against terrorism**, Turkey adopted the Law on the Prevention of the Financing of Terrorism, which addresses certain shortcomings identified by the Financial Action Task Force (FATF). (*See Chapter 4 — Free movement of capital*). Turkey has not yet ratified the Council of Europe's Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. Turkey's active counter-terrorism dialogue with the EU has intensified. However, police and judicial cooperation with the EU Member States and EU Agencies in this area is limited given the absence of a data protection law and the difference between the norms defining and sanctioning terrorism in Turkey and in the EU and the Member States.

As concerns **cooperation in the field of drugs**, the final evaluation of the 2nd National Action Plan against Drugs and Drug Addiction (2010-12), implementing the National Strategy (2006-12), was carried out in February 2013. The updated 2013-18 National Strategy and the 2013-15 Action Plan have been adopted. Successful operations by Turkish law enforcement bodies resulted in the seizures of 152 086 kg of cannabis, 476 kg of cocaine, 13 301 kg of heroin and 2 961 553 ecstasy tablets. Six controlled delivery operations were carried out with Germany, the former Yugoslav Republic of Macedonia, Sweden, the United Kingdom and the United States, which also resulted in the seizure of heroin and cocaine. A total of 34 new psychoactive substances were included in the scope of the Law on Supervision of Drugs, which now covers a total of 94 new substances. Continued efforts are needed by the customs administration to detect and seize narcotics at the borders.

The agreement on the participation of Turkey in the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) has been ratified but still needs to be officially notified to the EU. Turkey is reporting annually to the Centre and participates as an observer in the Reitox meetings of Heads of Focal Points. The status and human resources of the National Reitox Focal Point need to be strengthened. The number of treatment centres has increased to 25 but current capacity is still not sufficient. There is a need for a more balanced approach on drugs involving the establishment of better treatment and rehabilitation facilities. Data collection and analysis capacity needs to be improved.

As concerns **customs cooperation**, *see Chapter 29 — Customs Union*. For measures against **counterfeiting of the euro**, *see Chapter 32 — Financial control*.

### *Conclusion*

Good progress can be reported in the area of justice, freedom and security. Turkey made significant efforts to deal with the influx of Syrian refugees although the situation on the

ground remains critical. The adoption of the Law on Foreigners and International Protection provides for a single, coherent framework in the area of migration and asylum. It represents significant progress, which needs to be followed up by the timely adoption of the implementing legislation. Against these positive developments the conclusion of the EU–Turkey Readmission Agreement and the full implementation of the existing readmission obligations remain of crucial importance. No progress has been made on visa policy. Border authorities still need better coordination and an integrated management structure. A data protection law is needed to further international police and judicial cooperation in combating organised crime. The cooperation in combatting terrorism also needs the alignment of the Turkish legislation on the definition and sanction of terrorism. Efforts need to be stepped up as regards the prosecution and prevention of human trafficking and the identification and protection of victims. Overall, alignment in the area of justice and home affairs is at an early stage.

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

Turkey continued to strengthen its **research and innovation** capacity in line with the European Research and Innovation Union flagship initiative.

With respect to participation in the Seventh EU research **Framework Programme** (FP7), Turkey has been very active in promoting research and innovation cooperation with EU partners which resulted in an increased number of submissions and successful projects. Participation of SMEs is very good. Three months before the end of FP7, Turkey has an average success rate of 15.20%, as compared with the EU-27's 20%. There is thus room for improvement. Turkey's participation in the Specific Programme Ideas, governed the European Research Council (ERC) is however insufficient. Turkey has been very active in promoting cooperation under FP7 and with other international partners.

Cooperation with the Joint Research Centre (JRC) continued, with renewal of the Memorandum of Understanding (MoU) in October 2012. During the period of the first MoU, 35 Turkish researchers work in JRC institutes with support from the Technological Research Council of Turkey. The first call under the renewed MoU led to 150 applications from Turkey.

As regards further integration into the **European Research Area** (ERA), Turkey is an observer in the European Research Area Committee (ERAC) and is involved in nine Joint Programming Initiatives. It participates in the Strategic Energy Technology Plan (SET Plan) and the European Innovation Partnerships on active and healthy ageing, water and sustainable agriculture. The number of full-time equivalent R&D personnel had increased to 92 801 by the end of 2012. According to TurkStat, investments in R&D remained at 0.86% of GDP. The share of private business expenditure is 43%.

Turkey is contributing to the Innovation Union, but its overall innovation performance is still below the EU average. Turkey's target of establishing science centres in 16 greater city municipalities by 2016 and in all 81 provinces of Turkey by 2023 has advanced with the first centre in Konya opening in 2013. In December 2012, the Ministry of Science, Industry and Technology published its 2013-17 strategic plan, which covers the protection and commercialisation of the knowledge generated, strengthening the technological capacity in industry, developing research infrastructure, promoting university-industry cooperation and increasing entrepreneurship, innovation and industrial R&D capacity.

#### *Conclusion*

Good progress has been made in the area of science and research. Steps were taken to further reinforce Turkey's capacity. Integration into the European Research Area is well on track. Turkey's participation in the EU Research Framework Programme (FP7) and its success rate

have increased, but further efforts are needed in particular to increase participation in the scientific excellence programmes and collaboration projects. To sustain its economic development, Turkey needs to increase public R&D expenditure and spread efforts over the entire country. Overall, Turkey is well prepared in this area.

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

In the area of **education, training and youth**, applications in the Lifelong Learning and Youth in Action Programmes continued to grow considerably. Turkey continued to improve its performance in all the Europe 2020 and ET 2020 targets, and to reduce the gap with the EU average in all but tertiary education attainment. Tertiary education attainment improved, but less than the EU average.

The new ‘4+4+4’ pattern of school education introduced in 2012 has lowered the age for the start of compulsory education from 84 to 66 months. Curricula have not been revised accordingly, which causes problems for school beginners. The net school enrolment rates in primary school (first four years) and lower secondary school (second four years) were 98.9% and 93.1% respectively. In upper secondary education, the net school enrolment rate increased from 67.4% to 70.1%. The enrolment rate for girls rose from 67.0% to 69.3%. The gender gap continued to narrow, from 2.4% to 1.5%, but it remains considerable in some regions.

Turkey is at an advanced stage of implementing the Bologna process recommendations, but significant quality differences persist among Turkey’s 170 universities. An independent and fully functional Quality Assurance and Accreditation Agency remains to be established in conformity with the European Standards and Guidelines. Preparations for the agreed quality assurance agency for higher education have not yet started.

A National Lifelong Learning Web Portal was developed and guidelines on the recognition of prior learning were produced.

Turkey continued to participate very successfully in the Lifelong Learning and Youth in Action programmes, which reached more than 60 000 beneficiaries in 2012. The number of applications exceeded more than 4 times the number of grants awarded. The share of Turkey’s financial contribution (incl. the EU subsidy) reached more than 10% of the total EU budget for the two programmes.

Interest from Turkish organisations under the EU’s **culture** and dialogue programme have increased. While no grant application was selected, the number of Turkish co-organisers in projects has increased to 14 in 2013. Preparations for the ‘Creative Europe’ programme have started. Some ongoing urban renovation projects may pose a risk to some cultural and historic heritage. The decision-making processes do not consistently involve civil society and there is often a lack of transparency and public consultation.

The ratification of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, signed by Turkey in October 2005, is still pending.

#### *Conclusion*

There has been good progress in the area of education. Popular interest in EU programmes continued to increase. There has been little progress in the area of culture. Turkey should ratify the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

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

In April, Turkey amended its *horizontal legislation* on the **environment** in a way that was not consistent with the requirements of the Environmental Impact Assessment (EIA) Directive, by introducing additional exemptions to the EIA. As a result, several large infrastructure projects,

including nuclear power plants in the Black Sea and the Mediterranean region, micro hydro-power plants, the 3<sup>rd</sup> bridge and the new airport in Istanbul are excluded from EIA. Procedures for trans-boundary consultations have not been aligned and Turkey has not yet sent to the relevant Member States the draft for general bilateral agreements on EIA cooperation in a trans-boundary context. Alignment with the Strategic Environmental Assessments (SEA) Directive has not started yet.

As regards *air quality*, draft legislation aiming at alignment with and implementation of the National Emissions Ceilings Directive and the Directive on Ambient Air Quality and Cleaner Air for Europe (CAFE Directive) has been prepared but not yet adopted. Marmara Clean Air Centre, the first of seven planned centres, with 39 stations in 11 provinces is now operational. The Air Emissions Coordination Board has been established in order to coordinate between different institutions for activities required under the UNECE Convention on Long-range Trans-boundary Air Pollution.

In the field of *waste management*, efforts have continued to bring landfill facilities up to EU standards. Sorting and recycling capacity has increased but significant further progress is needed in this area. Turkey still needs to fulfil the EU Waste Framework Directive requirements on preparing and implementing waste management plans. The studies for the alignment with the Mining Waste Directive are ongoing.

In the area of *water quality*, legislation was adopted on river basin management and surface water management. The contracting procedures for technical assistance to convert the river basin protection action plans into river basin management plans are ongoing. The Ministry of Forestry and Water Affairs (MoFWA) defined the roles and responsibilities of Basin Management Commissions. Following the transfer of the water sector from the Ministry of Environment and Urbanisation (MoEU) to the MoFWA, institutional coordination has become problematic due to the lack of a clear division of responsibilities. Trans-boundary consultations on water issues are progressing but are still at an early stage. Wastewater treatment capacity has increased due to recent investments.

Framework legislation on *nature protection*, as well as the national biodiversity strategy and action plan have still to be adopted. The draft Nature Protection Law is not in line with the EU *acquis*. If adopted without secondary legislation, the draft will repeal the National Parks Law, causing a legal vacuum. The potential Natura 2000 sites have not yet been identified.

As regards *industrial pollution control and risk management*, EU technical assistance for the implementation of Industrial Emissions Directive and the Seveso II Directive are ongoing. As regards *chemicals*, draft legislation aiming at alignment with the REACH Regulation has been prepared but not yet adopted. The studies on alignment with Regulation on Persistent Organic Pollutants have started. Legislative alignment in the field of *noise* is well advanced. Preparations for pilot studies on the provision of noise maps and action plans are continuing.

Turkey has decreased its level of participation in the IPA programme for *civil protection* cooperation with the EU candidate countries and potential candidates. It is not yet a member of the EU Civil Protection Mechanism. A new law on the transformation of areas at risk of natural disaster aims to improve the quality of life in urban areas through urban regeneration and to create safe and healthy living environments in areas at risk of disaster or where building safety is poor.

Turkey's national **climate change** action plan lacks an overall domestic greenhouse gas emissions target. Under the recently approved Pre-accession Economic Programme (2013-15), climate and energy efficiency priorities need to be taken into account in national revenue policy. With the adoption of the renewable energy law, the energy efficiency strategy and some awareness-raising projects, investments on energy efficiency and renewable energy are

growing. Awareness-raising on mitigation and in particular on adaptation to climate change is needed at all levels.

At international level, Turkey's special circumstances have been recognised under the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol. Turkey is one of the largest emitters still to put forward a greenhouse gas emissions reduction target and has not yet submitted its second national communication under the UNFCCC. However, the greenhouse gas inventories are submitted annually as required. Turkey associated itself with some formal EU positions. It no longer participated regularly in the climate work under the Regional Environmental Network for Accession (RENA).

Alignment with the EU *acquis* in the field of climate change has not progressed. The lack of an overall greenhouse gas emissions target constitutes a barrier to further development of Turkey's carbon market mechanisms. Preparations on setting up and implementing a monitoring, reporting and verification (MRV) system, regulatory and sectoral impact assessments of EU climate policy, and capacity building on land use, land use change and forestry (LULUCF) and fluorinated gases are continuing. In line with the EU Green Paper 'A 2030 framework for climate and energy policies' the country is invited to start reflecting on its climate and energy framework for 2030.

The split of the former Ministry of Environment and Forestry into two in 2011 and the further reorganisations within the new Ministry of Environment and Urbanisation (MoEU) have substantially weakened Turkey's **administrative capacity** to pursue robust environmental and climate change policy. A balance has still to be found within the MoEU between the environment and development agendas. The very high rate of staff turnover is worrying, as it has resulted in a loss of competence in specialised units. There are some concerns relating to the loss of provincial competences in the field of environmental management, in particular as regards inspection, monitoring and permits. Further efforts are needed to strengthen cooperation and coordination between various institutions with responsibilities in the fields of environment and climate change. The recent amendment to the Metropolitan Municipality Law creates and extends the number of Metropolitan Municipalities, which is expected to improve the implementation of certain environmental directives such as urban wastewater directive.

### *Conclusion*

Limited progress was made towards further alignment in the fields of environment and climate change. Some progress was made on water quality. Special attention needs to be paid to the sustainability of existing protected areas and potential Natura 2000 sites. The changes to the legislation on EIA raise concerns. More ambitious and coordinated environment and climate policies still need to be established and implemented, both domestically and internationally. Continuous institutional restructuring has seriously hampered the administrative capacity. A stronger political commitment would help to accelerate the alignment with and implementation of the *acquis*, as well as coordination and cooperation between relevant authorities at all levels. Overall, preparations in these fields are at an early stage.

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

As regards **consumer protection**, the consumer movement remains weak. Involvement of consumer NGOs has taken place in fora such as the advertisement board, consumer advisory board and in arbitration committees, along with the legal requirements. Follow-up of Consumer Council decisions remained insufficient. In the reporting period there were less consumer cases filed by consumer NGOs for public interest against public service providers or banks while related initial legal costs increased. Constructive dialogue and co-operation

among all stakeholders of the sector needs to be further sustained for active and efficient involvement of all stakeholders in policy and law-making activities.

In the area of *product safety-related issues*, full alignment with the General Product Safety Directive and the Directive on Dangerous Imitations is pending. In May the Cabinet issued a decision specifying the responsibilities of surveillance agencies. Consequently, the Ministry of Economy issued a regulation mandating agencies to regularly notify surveillance activities to the single National Market Surveillance Information System. Also, the Ministry of Science, Industry and Technology and the Information and Communication Technologies Authority issued further regulations on market surveillance for products falling under their responsibility. Resources allocated to market surveillance have increased slightly. Market surveillance remains an area where progress needs to be achieved in terms of the methods and resources used by the agencies, as well as of activities and visibility. Effective implementation of market surveillance has yet to be achieved. (See also Chapter 1 — *Free movement of goods*) The Ministry of Customs and Trade carried out market surveillance checks on 515 firms and 27 200 products and 44 firms were given administrative fines for safety faults in 3 017 products.

As regards *non-safety-related issues*, the Directorate-General for Consumer Protection and Market Surveillance further improved its online services and increased awareness and consumer education activities. The draft Consumer Protection Law was sent to the Turkish Parliament in May, but still needs to be adopted. With regard to enforcement, the capacity of consumer courts and arbitration committees needs to be further strengthened. Consumer court decisions are not accessible. Some statistical data is made available on consumer complaints, of which 440 924 were received by arbitration committees in 2012.

On *horizontal aspects of public health*, the institutional reform of the health system has been completed at central level. Preparation of operational procedures for the local level management structures is continuing. A national health information system is being set up. It will require solutions for personal data confidentiality and security.

As for *tobacco control*, efforts to enforce the aligned legislation are under way. The Ministry of Health is implementing the tobacco control action plan and offers free quitting services through the 24/7 national hotline, which takes 1 500 calls a day. The proportion of adults consuming tobacco products dropped further, to 27.1% in 2012 (as compared with 31.4% in 2008).

In the area of *communicable diseases*, a national Early Warning and Response System (EWRS), a key component of the health security strategy was established with EU funding. The EWRS management centre was set up within the Turkish Public Health Institute. Of 420 alerts, 12 resulted in outbreak investigations. Standard operating procedures for health threat detection, verification, analysis, communication and response are in place at central level and under preparation at provincial level. Sub-EWRS units are being established in all 81 provinces. Human resource capacity building continues through the Turkish Field Epidemiology (TFETP) and Laboratory training programmes. The sustainability of both programmes remains to be ensured. After the recent restructuring of the health system, the structure and process for routine reporting of laboratory data from all laboratories remains to be redefined and strengthened. Preparations for the 2013-17 Strategic Action Plan on HIV/AIDS continued, but still need to be finalised.

There is a significant degree of alignment with the *acquis* when it comes to *blood, tissues, cells and organs*. Administrative capacity to implement and enforce the *acquis* requires further strengthening at both central and local level. This includes establishing competent authorities and setting up systems for vigilance and traceability. The Turkish Organ and Tissue Donation Database has been created to encourage and facilitate organ donation.

In the area of *mental health* policy, the National Mental Health Action Plan and the Ankara Action Plan for social care services are under revision with a view to the de-institutionalisation of services. A model of community-based social care services has been developed, and training and care models have been finalised. 67 community Mental Health Centres have been opened in 54 provinces. Training for community-based mental health personnel is ongoing.

Further progress is needed in the field of *health inequalities* to ensure that the social insurance scheme enables all citizens to benefit from equal access to health services. Progress has been made in expanding home care services to the elderly and people with disabilities. In the field of *nutrition*, preparations are ongoing to update the Healthy Nutrition and Active Life Programme (2010-14) and obesity counselling units have been established in primary care services. New *alcohol* legislation forbidding the sales of alcohol beverages between 10 p.m. to 6 a.m. has become effective. *Cancer screening* services are integrated under primary healthcare services. Cancer registration centres of Izmir, Edirne, Antalya and Trabzon have been accredited by the International Agency for Cancer Research (IARC). Turkey is participating in the European Innovation Partnership on active and healthy ageing.

### *Conclusion*

Limited progress can be reported on consumer protection. More product safety checks were carried out, but full alignment with the *acquis* and effective implementation of market surveillance have yet to be achieved. Further progress has been made in the area of public health. The new Public Health Agency is a step forward in terms of strengthening administrative capacity. Sustainable structures for intensive staff capacity building are needed at central and grassroots levels. Overall, preparations in this area are on track.

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

As regards **customs legislation**, Turkey introduced the concept of authorised economic operator (AEO) and relevant simplified procedures. Provisions are similar with those in the *acquis*. Nevertheless, local clearance is currently limited only to export transactions. In December 2012, Turkey acceded to the Convention on a Common Transit Procedure and began to use the New Computerised Transit System (NCTS) for transit operations.

Thanks to the EU-Turkey Customs Union, the overall level of alignment in the area of customs legislation remains high. However, the rules on free zones and duty relief legislation, especially with regard to duty-free shops at entry points, are not fully aligned with the *acquis*. No progress can be reported on surveillance measures and the management of tariff quotas. Implementation of surveillance based on minimum CIF/customs value is not in line with the *acquis*. The requirement to present a proof of origin for some goods in free circulation and imported to Turkey from the EU, e.g. woven fabrics and apparel, is not in line with Customs Union provisions.

In the area of **administrative and operational capacity**, the Ministry of Customs and Trade further enhanced its customs enforcement capacity, in particular regarding maritime operations. Risk analysis on pre-departure and pre-arrival declarations in real time has begun in local risk analysis units after electronic lodging of declarations is made available. An action plan on the further development of risk management and risk analysis has been developed. The frequency of physical inspections has been further reduced. However, the capacity of local risk management units and feedback mechanisms between the central and local offices need to be further strengthened. In the area of intellectual property rights (IPR) enforcement at customs, the Ministry has enabled online application for complaints by right holders and developed risk profiles for import controls. *Ex officio* customs controls continued and there were more destructions of goods under the simplified procedure. The number of applications



regarding infringement cases and seizures increased markedly. Further progress is required with regard to IPR enforcement during customs controls.

Tariff systems (TARIC, quota and surveillance) needed for future interconnectivity and interoperability with EU IT systems are not yet operational. A strategy for converging business objectives and IT activities remains to be adopted.

#### *Conclusion*

Some progress was made in the field of customs union, namely on authorised economic operators and accession to the Convention on a Common Transit Procedure. Shortcomings remain in the area of duty relief, free zones, surveillance, tariff quotas and measures such as certification of the origin of goods in free circulation. Further alignment is required in the area of risk-based controls particularly related to safety and security measures. There is a need for further improvement of IPR enforcement during customs controls. Overall, the level of alignment in this area remains high.

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

In the area of **common commercial policy**, no progress can be reported in the alignment of the Turkish generalised system of preferences (GSP) with regard to rules of origin and geographic and product coverage. During the reporting period, Turkey dropped its safeguard measure on imports of cotton yarn and initiated a new safeguard investigation on imports of terephthalic acid (TPA) and a second review investigation of safeguard measures on certain electrical appliances. During the preparations for the 9<sup>th</sup> WTO Ministerial Conference, Turkey has raised bilateral EU-Turkey trade issues within the context of multilateral trade negotiations. Turkey also took a negative position on the enlargement of the OECD towards the EU Member States, which are not yet members of this organisation.

Thanks to the Customs Union, Turkey has a high level of alignment with EU common commercial policy. However, with regard to *dual-use export controls*, 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.

As regards **bilateral agreements with third countries**, the free trade agreements with South Korea and Mauritius have entered into force and the free trade agreement with Lebanon has been ratified.

In the field of **development policy** and **humanitarian aid**, the total amount of official development aid granted by Turkey in 2012 doubled and reached €1.9 billion, as compared with €944 million in 2011. The level of alignment in this field is satisfactory.

#### *Conclusion*

Some progress was made in the area of external relations. Turkey needs to further align its position with that of the EU in the context of WTO and OECD and in such areas as the GSP and control of dual-use goods. Intensive use of safeguard measures remains a cause of concern. Overall, there is a high level of alignment in this area.

#### **4.31. Chapter 31: Foreign, security and defence policy**

The regular **political dialogue** between the EU and Turkey intensified further, covering international issues of common interest, including developments in North Africa, the Horn of Africa, the Middle East and the Gulf, the Middle East peace process, Afghanistan/Pakistan, Russia, the Southern Caucasus, Central Asia, counter-terrorism and non-proliferation issues. Informal EU-Turkey consultations took place *inter alia* on closer common security and defence policy cooperation and the Western Balkans. (*Concerning relations with other*

*enlargement countries and EU Member States, see Political criteria 2.3 — Regional issues and international obligations*) The EU Counter-Terrorism Coordinator visited Turkey in February.

The rate of Turkey's alignment as regards the **common foreign and security policy (CFSP)** (46% alignment) was affected *inter alia* by its approach to the EU during the second half of 2012 when Cyprus held the Presidency of the Council of the EU and Turkey did not align with any EU declaration or statement in the framework of international organisations. Turkey did not sign the statute of the International Criminal Court.

Turkey continued to develop and expand its diplomatic footprint and **bilateral relations**. It took a positive and supportive stance towards democratic transition in *North Africa*. It opened new diplomatic representations in *Africa*. It continued its efforts to enhance cooperation with and between *Afghanistan* and *Pakistan*. In the *Middle East*, a process of normalisation with Israel was launched in March 2013, and close relations were maintained with the Palestinian Authority. Turkey was vocal on the crisis in *Syria* and its spill-over effect, strongly and repeatedly condemning the Syrian regime's violence against civilians. It continued to play a leading role in supporting the Syrian opposition and in providing vital humanitarian assistance to an increasing number of Syrians fleeing their country. Turkey was also vocal on events in Egypt. Further EU3+3 talks with *Iran* took place in Istanbul in March and May. Turkey did not align itself with restrictive measures imposed by the EU on Iran. There was increasing tension in bilateral relations with Iraq, although Turkey's relations with the Kurdish Regional Government in Northern Iraq strengthened significantly. Regarding relations with the *Southern Caucasus & Central Asia*, an intergovernmental agreement on the Trans-Anatolian Pipeline Project (TANAP) between Turkey and Azerbaijan was ratified in March 2013. The protocols signed in 2009 to normalise relations with Armenia have still not been ratified. For the first time, Turkey held High-Level Strategic Cooperation Councils with Kazakhstan and Kyrgyzstan. Turkey and the United States consulted regularly on regional developments and cooperated closely on security and counter-terrorism. High-level visits and talks with *Russia* as well as Western Balkan and Asian countries continued, together with outreach to ASEM.

**Restrictive measures** on Syria, including travel bans and the freezing of certain individuals' assets, remained in place alongside a suspension of bank transactions with the Syrian regime and the exclusion of Syria from the list of countries benefiting from trade preferences.

Turkey is party to all existing international arrangements on the **non-proliferation** of weapons of mass destruction. The 2005 UN Convention for the Suppression of Acts of Nuclear Terrorism entered into force for Turkey. Turkey has not aligned itself with the EU position on membership of the Wassenaar Arrangement on export controls for conventional arms and dual-use goods and technologies, and of the Missile Technology Control Regime. (*For dual-use goods, see Chapter 30 — External relations*)

Turkey continued to engage actively in **cooperation with international organisations**, such as the UN and the Council of Europe. It's pursued its candidacy for a non-permanent seat on the UN Security Council for 2015-16. It continued to play an active role within regional forums and organisations, but did not support the holding of Union for the Mediterranean (UfM) Ministerial meetings during the Cyprus Presidency. It hosted a second Istanbul Conference on Mediation.

As regards civil and military crisis management in the framework of the **common security and defence policy**, Turkey continues to contribute to the EU-led military mission in Bosnia and Herzegovina (EUFOR Althea) and the EULEX mission in Kosovo. Turkey was invited to join a number of additional EU-led missions. The issue of EU-NATO cooperation beyond the 'Berlin plus' arrangements, involving all EU Member States, remains to be resolved.

## *Conclusion*

The political dialogue with the EU on foreign and security policy continued to intensify. Turkey took a prominent position on Syria, condemning the regime's violence against civilians, supporting the opposition and providing vital humanitarian assistance. Turkish alignment with CFSP declarations should increase. Overall, preparations in the area of foreign, security and defence policy are moderately advanced.

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

In the area of **public internal financial control** (PIFC), the Action Plan for Alignment with the Internal Control Standards has entered into force. The Central Harmonisation Unit for Financial Management and Control (CHU-FMC) in the Ministry of Finance has provided training and awareness-raising activities. The new PIFC Policy Paper has still to be finalised. A policy needs to be defined regarding the compatibility between PIFC and financial inspection. The internal audit function is not yet clearly defined in the founding legislation of the public institutions. Internal audit is not yet fully functional in the general administration and further internal auditor appointments still have to be made at central and local administration level. The number of internal auditors has actually gone down.

In the area of **external audit**, the Turkish Court of Accounts (TCA) has adopted its 2013-17 strategic development plan and a new Audit Performance Manual. Currently, no performance audits are conducted on the basis of the existing manual, although the TCA holds a mandate to carry out all types of government auditing. The Audit Development and Training Centre has become operational. The TCA needs to increase audit staff to adequately implement its audit mandate at the local administration level. The government-sponsored amendments to the TCA law that were adopted in July 2012, which severely limited the competences of the Court to comply with the standards of the International Organisation of Supreme Audit Institutions (INTOSAI), were repealed by the Constitutional Court. The TCA law now needs to be implemented. The TCA will need to ensure that the new audit techniques and concepts are 'internalised' among its audit staff. The parliamentary follow-up to audit reports needs to be ensured and parliament will need to establish the necessary institutional structure, backed by sufficient technical expertise, to analyse the reports.

As regards the **protection of the EU's financial interests**, the Prime Ministry Inspection Board (PMIB) has continued improved cooperation with the European Commission on suspected fraud cases. In order to reinforce the independence of the AFCOS, the Prime Minister delegated his mandate to approve the launch of investigations regarding EU funds to the PMIB. The PMIB's draft guidelines on the process of investigating irregularities affecting EU funds and the AFCOS Training Strategy have been updated. The Turkish Penal Code is in line with the Convention on the Protection of the European Communities' Financial Interests (PIF Convention) and its protocols. Its actual implementation needs to be scrutinised.

Turkey continues to participate in the Pericles Programme on the **protection of the euro against counterfeiting**. The Counterfeit Tracking System continues to operate among the Treasury, the Central Bank of Turkey, the Turkish National Police and the Gendarmerie. Sanctions apply to legal persons failing to withdraw counterfeits from circulation. Turkey will need to take the steps as set out in the Road Map for strengthening cooperation with Europol to enact the Operational Cooperation Agreement with that body.

## *Conclusion*

Some progress can be reported in the area of financial control. However, the revision of the PIFC policy paper, a policy ensuring the compatibility between PIFC and financial inspection, reinforcement of internal and external audit functions in the public administration and

strengthening of the Turkish Anti-Fraud Cooperation Service (AFCOS) remain outstanding issues. Overall, preparations in this area are moderately advanced.

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

Concerning the preparations for the application of the own resources system, basic principles and institutions in policy areas are already in place. (*For progress in these areas, see Chapter 16 — Taxation; 18 — Statistics; 29 — Customs Union; and 32 — Financial Control*). For the area of **traditional own resources**, the alignment of Turkey's customs legislation is described under chapter 29 – Customs Union.

In the area of the **VAT resource** and administrative capacity building, preparations to calculate the statistical VAT base have yet to start. Turkey will need to accelerate efforts for combatting VAT and customs duty fraud in order to ensure an appropriate contribution to the own resources system on membership. As regards the **Gross National Income resource**, Turkey's financial and statistical data is already quite well aligned with the European System of Accounts.

In the field of **administrative infrastructure**, Turkey will need to establish coordination structures and implementing rules for the accurate collection, accounting, monitoring, payment and control of own resources, and the reporting thereof to the EU.

#### *Conclusion*

No progress can be reported in the area of financial and budgetary provisions. Turkey will need to establish robust coordination structures and ensure administrative capacity and implementing rules in due course. Overall, preparations in the area of financial and budgetary provisions are at an early stage.

## Statistical Annex

### STATISTICAL DATA Turkey

<b>Basic data</b>	Note	2001	2008	2009	2010	2011	2012
Population (thousand)	1)	64 693e	70 586b	71 517	72 561	73 723	74 724
Total area of the country (km <sup>2</sup> )	2)	783 562	783 562	783 562	783 562	783 562	783 562
<b>National accounts</b>							
	Note	2001	2008	2009	2010	2011	2012
Gross domestic product (GDP) (million national currency)		240 224	950 534	952 559	1098 799	1 297 713	1,419,401
GDP (million euro)		218 386	497 662	440 999	549 400	554 578	614,459
GDP (euro per capita)		3 376	7 050	6 166	7 572	7 522	8,223
GDP (in Purchasing Power Standards (PPS) per capita)	3)	7 445e	11 829b	10 943	12 013	13 412	13 807
GDP per capita in PPS (EU-27 = 100)	3)	37	47	46	49	52	:
Real GDP growth rate (growth rate of GDP volume, national currency, % change on previous year)		-5.7	0.7	-4.8	9.2	8.8	2.2f
Employment growth (national accounts, % change on previous year)		:	:	:	:	:	3.0f
Labour productivity growth: GDP growth per person employed (% change on previous year)		-4.7f	-1.5f	3.5f	2.7f	1.7f	-0.8f
Real unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:
Labour productivity per person employed (GDP in PPS per person employed, EU-27 = 100)		49.2f	65.8f	70.0f	69.9f	72.5f	:
Gross value added by main sectors (%)							
Agriculture and fisheries	4)	9.2	8.3	8.9	9.3	8.8	8.6
Industry	4)	24.0	22.2	21.3	22.0	22.7	22.0
Construction	4)	4.7	5.2	4.2	4.7	5.0	4.9
Services	4)	62.1	64.3	65.6	64.1	63.5	64.5
Final consumption expenditure, as a share of GDP (%)		80.8	82.7	86.2	86.0	85.1	84.7
Gross fixed capital formation, as a share of GDP (%)		15.9	19.9	16.9	18.9	21.8	20.3
Changes in inventories, as a share of GDP (%)		-0.9	1.9	-1.9	0.6	1.7	0.0
Exports of goods and services, relative to GDP (%)		27.4	23.9	23.3	21.2	24.0	26.4
Imports of goods and services, relative to GDP (%)		23.3	28.3	24.4	26.8	32.7	31.5
<b>Industry</b>							
	Note	2001	2008	2009	2010	2011	2012
Industrial production volume index (2010=100)	5)	:	98.3	88.6	100.0	110.1	112.9
<b>Inflation rate</b>							
	Note	2001	2008	2009	2010	2011	2012
Annual average inflation rate (HICP, % change on previous year)		56.8	10.4	6.3	8.6	6.5	9.0
<b>Balance of payments</b>							
	Note	2001	2008	2009	2010	2011	2012
Balance of payments: current account total (million euro)		4 198	-27 494	-8 724	-34 282	-53 945	-36 400
Balance of payments current account: trade balance (million euro)		-3 755	-36 049	-17 816	-42 553	-64 037	-51 115
Balance of payments current account: net services (million euro)		10 201	12 794	13 322	12 565	14 461	18 845
Balance of payments current account: net income (million euro)		-5 583	-5 688	-5 956	-5 442	-5 633	-5 196
Balance of payments current account: net current transfers (million euro)		3 335	1 450	1 727	1 149	1 263	1 067
of which government transfers (million euro)		224	495	853	425	570	430
Net foreign direct investment (FDI) (million euro)		3 188	11,702	5,098	5,712	9,841	6573
Foreign direct investment (FDI) abroad (million euro)		-555	-1,733	-1,113	-1,104	-1,688	-3171
of which FDI of the reporting economy in EU-27 countries (million euro)		-487	-574	-566	-447	-1004	-2256
Foreign direct investment (FDI) in the reporting economy (million euro)		3 743	13 435	6 211	6 816	11 528	9744
of which FDI of EU-27 countries in the reporting economy (million euro)		3 178	9 070	3 775	4,075	6817	6821
<b>Public finance</b>							
	Note	2001	2008	2009	2010	2011	2012
General government deficit/surplus, relative to GDP (%)		-23.7	-2.3	-6.5	-2.9	-0.8f	:
General government debt relative to GDP (%)		77.3	40.0	46.1	42.3	39.1f	:
<b>Financial indicators</b>							
	Note	2001	2008	2009	2010	2011	2012
Gross foreign debt of the whole economy, relative to GDP (%)		58.7	39.5	42.2	39.5	:	:
Gross foreign debt of the whole economy, relative to total exports (%)		362.5	212.3	262.8	254.0	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	6)	8 965	39 927	49 691	65 976	65 555	72 816
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	6)	37 253	203 840	228 237	286 595	274 239	300 693
Money supply: M3 (M2 plus marketable instruments, million euro)	6)	38 973	214 473	240 246	300 348	288 210	317 047
Total credit by monetary financial institutions to residents (consolidated) (million euro)		26 977	138 301	153 867	231 862	255 706	303 509
Interest rates: day-to-day money rate, per annum (%)		95.5	16.1	9.2	6.6	7.3	7.6
Lending interest rate (one year), per annum (%)	7)	78.8	19.7	19.7	14.8	12.3	9.0

Deposit interest rate (one year), per annum (%)	8)	62.2	22.9	17.2	15.0	14.2	5.0
euro exchange rates: average of period - 1 euro = ... national currency		1.094	1.896	2.151	1.989	2.322	2.314
Effective exchange rate index (2005=100)	9)	:	114.9	116.8	125.8	109.6	110.7
Value of reserve assets (including gold) (million euro)		22 660	52 442	52 160	64 874	68 391	90 332

<b>External trade</b>	Note	2001	2008	2009	2010	2011	2012
Value of imports: all goods, all partners (million euro)		46 256	136 441	100 764	138 814	173 099	184 087
Value of exports: all goods, all partners (million euro)		35 062	89 559	73 284	85 264	96 973	118 644
Trade balance: all goods, all partners (million euro)		-11 194	-46 882	-27 480	-53 550	-76 126	-65 443
Terms of trade (export price index / import price index)	10)	96.4	96.7	104.7	96.1	93.2	96.3
Share of exports to EU-27 countries in value of total exports (%)		56.0	47.9	45.9	46.2	46.2	38.8
Share of imports from EU-27 countries in value of total imports (%)		47.9	36.8	40.1	38.9	37.8	37.0

<b>Demography</b>	Note	2001	2008	2009	2010	2011	2012
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)	11)	13.5e	13.4e	12.4	12.2	11.7	12.0
Infant mortality rate: deaths of children under one year of age per 1000 live births	11)	28.3e	14.9e	13.8	12.0	11.7	11.6
Life expectancy at birth: male (years)	12)	69.4e	71.5e	71.7e	71.8e	72.0e	72.0e
Life expectancy at birth: female (years)	12)	73.5e	76.2e	76.5e	76.8e	77.1e	77.2e

<b>Labour market</b>	Note	2001	2008	2009	2010	2011	2012
Economic activity rate (20-64): share of population aged 20-64 that is economically active (%)	13)16)	:	53.5	54.5	55.9	57.2	57.4
* Employment rate (20-64): share of population aged 20-64 in employment (%)	16)	51.2	48.4	47.8	50.0	52.2	52.8
Employment rate male (20-64) (%)	16)	75.3	72.7	70.4	72.7	75.1	75.0
Employment rate female (20-64) (%)	16)	27.4	24.9	25.8	28.0	29.8	30.9
Employment rate of older workers (55-64): share of population aged 55-64 in employment (%)	16)	35.9	27.4	28.2	29.6	31.4	31.9
Employment by main sectors (%)							
Agriculture	14)16)	37.6	23.7	24.6	25.2	25.5	24.6
Industry	14)16)	17.5	21.0	19.2	19.9	19.5	19.1
Construction	14)16)	5.2	5.9	6.1	6.3	7.0	6.9
Services	14)16)	39.7	49.5	50.1	48.6	48.1	49.4
Unemployment rate: share of labour force that is unemployed (%)	13)16)	:	9.8	12.7	10.8	8.8	8.2
Share of male labour force that is unemployed (%)	13)16)	:	9.7	12.7	10.5	8.3	7.7
Share of female labour force that is unemployed (%)	13)16)	:	10.0	12.8	11.6	10.1	9.4
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)	13)16)	:	18.5	23.1	19.9	16.7	15.7
Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)	13)16)	:	2.6	3.2	3.0	2.3	2.0

<b>Social cohesion</b>	Note	2001	2008	2009	2010	2011	2012
Average nominal monthly wages and salaries (national currency)	15)	:	956.0	1 084.0	1 142.0	1 242.0	:
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI/HICP) (2000=100)		:	:	:	:	:	:
* Early school leavers - Share of population aged 18-24 with at most lower secondary education and not in further education or training (%)	16)	58.1	45.5	44.3	43.1	41.9	39.6

<b>Standard of living</b>	Note	2001	2008	2009	2010	2011	2012
Number of passenger cars per 1000 population		70.1e	96.3b	99.2	104.0	110.0	115.7
Number of subscriptions to cellular mobile telephone services per 1000 population		282.9e	932.5b	877.8	851.3	886.1	905.7

<b>Infrastructure</b>	Note	2001	2008	2009	2010	2011	2012
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		11.1	11.1	11.6	12.2	12.3	12.3
Length of motorways (km)		1 696	1 922	2 036	2 080	2 119	2 127

<b>Innovation and research</b>	Note	2001	2008	2009	2010	2011	2012
Spending on human resources (public expenditure on education in% of GDP)		:	:	:	:	:	:
* Gross domestic expenditure on R&D in% of GDP		0.5	0.7	0.9	0.8	0.9	:
Percentage of households who have Internet access at home (%)		:	25.4	30.0	41.6	42.9	47.2

<b>Environment</b>	Note	2001	2008	2009	2010	2011	2012
* Greenhouse gas emissions, CO2 equivalent (tons, 1990=100)		148.2	194.9	196.4	213.4	224.2	:
Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP)	17)	259.6	246.3	257.4	252.5	:	:
Electricity generated from renewable sources in% of gross electricity consumption		19.9	17.4	19.6	26.4	25.4	:
Road share of inland freight transport (% of tonne-km)		95.2	94.5	94.6	94.4	94.7	95.1

<b>Energy</b>	Note	2001	2008	2009	2010	2011	2012
Primary production of all energy products (thousand TOE)		24 576	29 209	30 328	32 487	32 229	:
Primary production of crude oil (thousand TOE)		2 679	2 268	2 349	2 671	2 555	:
Primary production of hard coal and lignite (thousand TOE)		12 281	16 674	17 402	17 523	17 869	:
Primary production of natural gas (thousand TOE)		284	931	627	625	652	:
Net imports of all energy products (thousand TOE)		50 160	78 294	75 295	79 400	84 087	:
Gross inland energy consumption (thousand TOE)		75 402	106 421	106 138	109 260	114 480	:
Electricity generation (thousand GWh)		122.7	198.4	194.8	211.2	229.4	:

<b>Agriculture</b>	Note	2001	2008	2009	2010	2011	2012
Agricultural production volume index of goods and services (producer prices, previous year=100)		93.3	:	:	:	:	:
Total utilised agricultural area (thousand hectare)		40 967	39 122	38 911	39 011	38 231	38 412
Livestock: cattle (thousand heads, end of period)	18)	10 548	10 860	10 724	11 370	12 386	13 915p
Livestock: pigs (thousand heads, end of period)		2.7	1.7	1.9	1.6	1.8	3.0p
Livestock: sheep and goats (thousand heads, end of period)		33 994	29 568	26 878	29 383	32 310	35 783p
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)		:	:	:	:	:	:
Crop production: cereals (including rice) (thousand tonnes, harvested production)		29 571	29 287	33 577	32 773	35 202	33 377
Crop production: sugar beet (thousand tonnes, harvested production)		12 633	15 488	17 275	17 942	16 126	15 000
Crop production: vegetables (thousand tonnes, harvested production)		24 164	27 218	26 780	25 997	27 547	27 753

: = not available  
b = break in series  
e = estimated value  
f = forecast  
p = provisional  
\* = Europe 2020 indicator

The balance of payments sign conventions are used for FDI. For FDI abroad a minus sign means investment abroad by the reporting economy exceeded its disinvestment in the period, while an entry without sign means disinvestment exceeded investment. For FDI in the reporting economy an entry without sign means that investment into the reporting economy exceeded disinvestment, while a minus sign indicates that disinvestment exceeded investment.

#### Footnotes:

- 1) Between 2000 and 2007, the indicators as of 1st January of the reference years, were calculated and converted from mid-year estimations of national population projections (cohort-component method). Population projections were based on 2008 Address Based Population Registration System and Demographic and Health Surveys. Between 2008 and 2012, the indicators as of 1st January of the reference years, were calculated and converted from the as of 31st December of (end of year) results of ABPRS (Address Based Population Registration System).
- 2) Including lakes.
- 3) Mid-year population figures were used.
- 4) Nace Rev 1.1
- 5) 2008 - 2012, Industrial production index (according to NACE Rev. 2 with base year 2010=100) - index data prior to 2010 are linked by using growth rates.
- 6) Central Bank of Turkey (CBRT) buying rate is used when converting money supply data in national currency (TRY) to Euro.
- 7) Averages of monthly data, lending to enterprises more than one year.
- 8) Averages of monthly data, up to one year or longer.
- 9) 2008 - 2012, Effective Exchange Rate Index is based on Consumer Price Index (CPI) (2003=100).
- 10) Indices were based on 1994 from 1995 to 2002, based on 2003 from 2003 to 2009, after 2009, based on 2010. The base year of three indices has been rearranged as 2000=100.
- 11) Between 2000 and 2008, the data is based on population projections. Between 2009 and 2012, data is based on administrative registers. Population projections were based on 2008 Address Based Population Registration System and Demographic and Health Surveys.
- 12) Between 2000 and 2012, the life expectancy indicators are based on and indirect estimations and mid-year estimations of national population projections (cohort-component method). Life expectancy estimations refer to the mid-years. Population projections were based on 2008 Address Based Population Registration System and Demographic and Health Surveys.
- 13) 2008 - 2012, calculations on unemployment are made in line with harmonized EU definition (4 weeks criterion is used for duration of job search).
- 14) 2001 - 2008, data according to NACE Rev 1.1; 2009 - 2012, data according to NACE Rev 2.\*
- 15) 2008 - 2012, data is based Survey on Income and Living Conditions.
- 16) Annual LFS results.
- 17) Kg of oil equivalent per 1000 euro GDP 1998.
- 18) Excluding buffaloes.