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**TURKEY 2008 PROGRESS REPORT**

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TO THE EUROPEAN PARLIAMENT AND THE COUNCIL**

**Enlargement Strategy and Main Challenges 2008-2009**

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## **STATISTICAL ANNEX**

# COMMISSION STAFF WORKING DOCUMENT

## TURKEY 2008 PROGRESS REPORT

### 1. INTRODUCTION

#### 1.1. Preface

Following the conclusions of the Luxembourg European Council in December 1997, the Commission has reported regularly to the Council and the Parliament.

This report on progress made by Turkey in preparing for EU membership largely follows the same structure as in previous years. The report:

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

The period covered by this report is from 1 October 2007 to early October 2008. 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 permits an objective assessment.

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

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

#### 1.2. Context

The Helsinki European Council of December 1999 granted the status of candidate country to Turkey. Accession negotiations with Turkey were opened in October 2005.

The Association Agreement between Turkey and the then EEC was signed in 1963 and entered in force in December 1964. Turkey and the EU formed a customs union in 1995.

#### 1.3. Relations between the EU and Turkey

**Accession negotiations** with Turkey continued. During the preparatory analytical phase the level of preparedness to start negotiations on individual chapters has been assessed on the

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<sup>1</sup> The rapporteur for Turkey was Ms Oomen Ruijten.

<sup>2</sup> Enlargement Strategy and Main Challenges 2008-2009.

basis of screening reports. Of a total of 33 screening reports, one has still to be delivered by the Commission to the Council whilst nine are being discussed in the Council.

So far, negotiations have been opened on eight chapters (*Enterprise and industry, Statistics, Financial Control, Trans-European Networks, Consumer and health protection, Intellectual property law, Company law*) one of which (*science and research*) was provisionally closed. In addition, the EU informed Turkey about the progress needed to reach a satisfactory level of preparedness to start negotiations on eleven chapters. The December 2006 Council decision<sup>3</sup> remains in force.

The **enhanced political dialogue** between the EU and Turkey has continued. Political dialogue meetings were held in May and September 2008 at ministerial level and in February and July 2008 at political director level. These meetings focused on the main challenges faced by Turkey in terms of the Copenhagen political criteria and reviewed progress being made towards fulfilment of Accession Partnership priorities. Foreign policy issues related to regional areas of common interest to the EU and Turkey, such as Iraq, Iran, the Middle East and the Caucasus, were also regularly discussed.

The EC-Turkey **customs union** contributed to a further increase in bilateral EU-Turkey trade, which was nearly € 100 billion in 2006, thereby making Turkey the EU's seventh trading partner. The EU asked Turkey to remove all remaining restrictions on the free movement of goods, including restrictions on means of transport regarding Cyprus. A number of Turkey's commitments on technical barriers to trade, import licences, State aid and enforcement of intellectual property rights remain unfulfilled. No progress can be reported concerning Turkey's longstanding ban on imports of live bovine animals, beef and other animal products.

The EU provides guidance to the authorities on reform priorities through the **Accession Partnership**. The Council adopted a revised version of the Accession Partnership in February 2008. Progress on these reform priorities is encouraged and monitored through the bodies set up under the Association Agreement. The Association Committee met in March 2008, the Association Council in May 2008. Eight sectoral sub-committees have been held since November 2006.

Turkey has not pursued the negotiations on a readmission agreement with the European Community since December 2006.

As regards **financial assistance**, some € 540 million have been earmarked for Turkey from the Instrument for Pre-accession Assistance (IPA) in 2008. The Multi-Annual Indicative Planning Document 2008-2010, which provides the strategic multi-annual framework for all programmes at national level, was adopted by the Commission on 25 July 2008. In addition, Turkey is benefiting from a series of regional and horizontal programmes under IPA.

In relation to IPA preparations, Turkey's focus in the last year has been on finalisation of the first set of programmes under all components, the negotiation of a Framework Agreement with the Commission and preparations for the setting up of implementation systems. Delays have occurred in these preparations, which put some of the IPA 2007 programme allocations

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<sup>3</sup> The decision sets out that negotiations will not be opened on eight chapters relevant to Turkey's restrictions regarding the Republic of Cyprus and no chapter will be provisionally closed until the Commission confirms that Turkey has fully implemented the Additional Protocol to the Association Agreement.

at risk. Turkey needs to vigorously address remaining system weakness findings and to further improve the quality and efficiency of the project and programme cycles.

## **2. POLITICAL CRITERIA**

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

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

On 14 March 2008 the Chief Public Prosecutor applied to the Constitutional Court for the governing AK party to be dissolved and for 71 former and present party officials, including the President of the Republic and the Prime Minister, to be banned from being member of a political party for five years. The charges brought against the party alleged that it was a focal point for anti-secular activities. On 30 July, the Constitutional Court fell short of the required majority to close down the party, but considered that the latter had carried out activities against the secular principles of the Republic. It thus ordered that 50% of the government funds due in 2008 be cut off. (*See also section on freedom of association*).

Pursuant to Articles 68 and 69 of the Constitution and to the relevant provisions of the Law on political parties, on 16 November 2007 the Chief Public Prosecutor at the Court of Cassation applied to the Constitutional Court for closure of the Democratic Society Party (DTP). He also requested that 221 former and present members of the party be banned from being member of a political party for five years. The party is accused of engaging in activities against the unity and integrity of the country. This case is pending before the Constitutional Court.

An investigation started in 2007 into an allegedly criminal network, known as Ergenekon, led to the arrest of a number of people, including retired Army generals. The indictment against Ergenekon, presented on 14 July 2008 by the Istanbul Public Prosecutor Office, is based on charges such as forming a terrorist organisation and attempting to overthrow the government and to undermine its operation by use of violent means. During the course of the investigation, there were reports regarding the insufficient safeguarding of the rights of defence and the excessive duration of detention period without indictment. The first hearing of the trial, first of this kind on such a scale, was held as planned on 20 October.

#### *Constitution*

The governing party gave a group of academics a mandate to revise the 1982 Constitution with a view, among other things, to aligning Turkey with international standards on fundamental rights.

However, no draft has been presented either to the public or to parliament, and no clear timetable has been set for discussing it.

Instead, in February 2008, the Parliament amended Article 10 ("Equality before the law") and Article 42 ("Right and duty of training and education") of the Constitution, with the aim of lifting the headscarf ban for university students. The amendments were adopted with the

support of the governing Justice and Development Party (AKP) and of the opposition Nationalist Movement Party (MHP) and Democratic Society Party (DTP).

Following an appeal by the opposition Republican People's Party (CHP) and Democratic Left Party (DSP), on 5 June 2008 the Constitutional Court annulled the amendments on the grounds that they were against the secular nature of the State. A minority of two judges argued that the Court can only examine constitutional amendments with regard to their form and not their content.

### *Parliament*

The Parliament - the Turkish Grand National Assembly - adopted 116 bills. Since October 2007 the government submitted 397 draft bills, while 313 were submitted by individual members of Parliament.

In March 2008 an amendment to the Law on elections and electoral rolls was adopted, extending the right of Turkish citizens living abroad to participate in parliamentary elections, in line with the recommendations of the OSCE Election Monitoring Report.

However, in response to an appeal filed by the CHP, the Constitutional Court ruled in May that the possibility of postal voting is unconstitutional. The CHP referred to the Constitutional Court a total of 16 laws adopted in 2008, some of which were intended to introduce EU-related democratisation reforms (including, for example, the law on Foundations and the amendments to the Law on the public service broadcaster).

### *President*

The new President has exerted efforts to play a conciliatory role with regard to political actors and civil society. He established a good working relationship with the government, while repeatedly calling for an acceleration of the pace of EU-related reforms.

He played an active role in foreign policy and travelled extensively abroad. In September 2008, at the invitation of the Armenian President, he paid the first-ever visit by a Turkish President to Armenia, with a view to establishing a bilateral dialogue leading to the normalisation of bilateral relations.

### *Government*

The government expressed its commitment to the EU accession process and to political reforms.

However, despite its strong political mandate, the government did not put forward a consistent and comprehensive programme of political reforms. On 1 September 2008 the Government announced a draft National Programme for the Adoption of the *Acquis*, and started a consultation process with civil society and the opposition. The Programme remains to be adopted. The staff and resources of the Secretariat General for EU Affairs (EUSG), the main coordinating body in charge of EU affairs, remain weak.

As regards *local government*, Parliament adopted a Law on municipalities in March 2008. This Law established 43 new districts, merged 239 municipalities and closed down 863 of them. In July 2008, Parliament adopted a Law to increase the revenue of local Governments,

aimed at enabling them to fulfil their mandate more effectively. The implementation of local administration laws and capacity-building has continued.

However, the Law on municipalities adopted in March 2008 is still under review in the Constitutional Court, following the appeal by the CHP. There has been no progress regarding the adoption of the Framework Law on public administration, which aimed at devolving more powers to local Government.

City councils, which are designed to be a platform to enhance citizens' participation in local government, have been functioning effectively in only a limited number of cities. Efforts are needed to strengthen all city councils. Accountability systems and transparency also need to be strengthened.

Overall, as concerns the legislative and executive functions, while the new President played a positive role by calling for further political reforms, the government did not put forward a consistent and comprehensive programme of political and constitutional reforms. Furthermore, the lack of dialogue and spirit of compromise between the main political parties had a negative impact on the smooth functioning of the political institutions. The work of the newly elected parliament was affected to a considerable extent by legal cases aimed at dissolution of two parties. As regards local government, the recently adopted local administration laws need to be implemented and decentralisation of powers in favour of local governments to be strengthened.

#### *Public administration*

As part of the efforts to reduce red tape, the government issued a circular in May 2008 instructing all public agencies to use the ID shared data base (KPS) for residence and birth records of citizens, instead of requesting them from citizens. The current recruitment and promotion procedure (up to mid-career level) is based on a merit-based competitive examination, managed by an autonomous body.

However, the politicisation of senior level appointments has been criticised. As regards the reform of public administration, a number of issues remain to be addressed, such as reducing administrative burden, ensuring simplification, establishing regulatory impact assessments (RIA), developing administrative procedures, enhancing transparency and improving policy-making and coordination systems.

Strategy development units, which are pillars of financial management and policy-making, need to be strengthened. Efforts are needed to secure full implementation of the Public Financial Management and Control Law.

Parliament has not received a comprehensive draft law on the Civil Service.

Overall, there has been limited progress on public administration reform. The civil service system needs to be modernised.

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

Political control over the military was applied in practice in the context of military operations aimed at terrorist targets in Northern Iraq. Such operations were authorised by the parliament and decided upon by the government.



However, the armed forces have continued to exercise significant political influence via formal and informal mechanisms. Senior members of the armed forces have expressed their opinion on domestic and foreign policy issues going beyond their remit, including on Cyprus, the South East, secularism, political parties and other non-military developments.

No change has been made to the Turkish Armed Forces Internal Service Law and the Law on the National Security Council. These define the role and duties of the Turkish military and grant the military wide room for manoeuvre by providing a broad definition of national security. No progress has been made on enhancing civilian control over the Gendarmerie when engaged in law enforcement activities.

An internal military memorandum leaked to the press identified NGOs that had received financial aid from foreign organisations, including the EU. The memorandum was not denied by the General Staff.

The 1997 *EMASYA* secret protocol on security, public order and assistance units remains in force unchanged. The protocol allows military operations to be carried out for internal security matters under certain conditions without a request from the civilian authorities.

No progress has been made on strengthening parliamentary oversight of the military budget and expenditure. The Parliamentary Planning and Budget Committee reviews the budget of the Ministry of National Defence. However, extra-budgetary funds are excluded from parliamentary scrutiny. The Defence Industry Support Fund (SSDF), from which most procurement projects are funded, is still an extra-budgetary fund.

As regards auditing, under the Constitution the Court of Auditors can carry out external *ex-post* audits of military expenditure. In 2007, some 25% of all military accountancy offices were audited. In July 2008, the Court of Auditors decided that it has a mandate to audit the SSDF. However, the Court remains unable to audit assets belonging to the military, pending adoption of the revised legislation on the Court of Auditors, which is overdue. Furthermore, the 2003 Law on public financial management and control, which provides for internal audits of security institutions, has yet to be properly implemented

Overall, no progress has been made in ensuring full civilian supervisory functions over the military and parliamentary oversight of defence expenditure. Senior members of the armed forces have made statements on issues going beyond their remit.

### *Judicial system*

The Ministry of Justice has been working on a draft **judicial reform** strategy, which it presented in spring 2008. The document is comprehensive and covers issues related to the independence, impartiality, efficiency and effectiveness of the judiciary, enhancement of its professionalism, the management system and measures to enhance confidence in the judiciary, to facilitate access to justice and to improve the penitentiary system. Judges and prosecutors discussed the draft strategy at a meeting in Antalya.

In 2007, a total of 846 judges and prosecutors were appointed. The total number of judges and prosecutors on 1 May 2008 was 6,914 (6,785 on 1 May 2007) and 3,917 (3,744 on 1 May 2007) respectively. On the same date, the total number of vacant posts for judges and prosecutors was 4,166. The funds available to the judiciary in 2007 totalled € 865 million. This covers salaries and social security payments for all members of the judiciary, plus services and real estate acquisition for the judiciary.

However, there have been no developments on establishment of the regional courts of appeal. This is a matter of concern. Under the law, these should have been operational by June 2007. In addition, there is a need to strengthen efforts to ensure that interpretation by the judiciary of legislation related to human rights and fundamental freedoms is in line with the ECHR, with the case-law of ECtHR and with article 90 of the Turkish Constitution.

Concerns remain about the impartiality of the judiciary. On some occasions senior members of the judiciary made public political comments which may compromise their impartiality in future cases. As regards independence, there has been no progress on the composition of the High Council of Judges and Prosecutors<sup>4</sup> or on the reporting lines of judicial inspectors<sup>5</sup> (*See also Chapter 23 – Judiciary and fundamental rights*).

The Şemdinli case was transferred to the Van military court following a decision of the Court of Cassation<sup>6</sup>. The Van military court ordered the release – pending trial – of the accused.

Other high-profile cases underlined the importance of the quality of the investigation. This pointed to the need to improve the institutional relationship between, on the one hand, the police and the gendarmerie and, on the other, the judiciary.

Overall, the work to date on the draft judicial reform strategy has been a positive development. The Ministry of Justice needs to continue and expand the consultations with all stakeholders, including civil society, and build the necessary broad support for the strategy. However, concerns remain as regards the independence and impartiality of the judiciary.. Reforms in the area of the judiciary are a priority of the Accession Partnership.

#### *Anti-corruption policy*

Turkey has implemented one third of the recommendations made in GRECO's 2005 joint first and second round evaluation report. It has made efforts to ensure practical implementation of the existing anti-corruption legislation, *inter alia* by enhancing training on corruption detection and investigation for law enforcement officers, establishing guidelines on seizure and confiscation and developing systems for monitoring the impact of anti-corruption measures.

However, the Government failed to prepare a comprehensive anti-corruption strategy. Policy making in this field has not received adequate political support.

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<sup>4</sup> The composition of the High Council is not representative of the judiciary as a whole: only senior members of the judiciary from the Court of Cassation and the Council of State are members of this Council.

<sup>5</sup> The judicial inspectors, who are responsible for evaluating the performance of judges and prosecutors, are attached to the Ministry rather than to the High Council.

<sup>6</sup> This case concerns the bombing in November 2005 that killed one person and injured others in the town of Şemdinli in Southeast Turkey. The prosecutor on the case published the indictment in March 2006. The indictment included also accusations against high-ranking military commanders. The General Staff criticised the indictment and urged those bearing constitutional responsibility to take action. In April 2006, the High Council of Judges and Prosecutors dismissed from office the Şemdinli prosecutor. The disproportionate character of this decision raised questions on the independence of the High Council from other state institutions. A first instance civil court sentenced the accused - two non-commissioned officers and a PKK informant - to a total of thirty-nine (39) years of imprisonment. On appeal, the Court of Cassation ruled that the offences had not been properly constituted and that the case falls under the jurisdiction of the military court.

Furthermore, several of GRECO's most important recommendations have not been addressed, such as the recommendation to entrust an oversight body, involving civil society, with the responsibility of overseeing implementation of national anti-corruption strategies and of proposing new strategies.

Corruption incidents, involving in particular real estate agencies, local government and universities, were frequently reported by the media. As a result, law enforcement agencies have conducted a series of high-profile corruption investigations in various agencies. In the context of a fraud case against the charity association Deniz Feneri in Germany, the Regional Court of Frankfurt am Main convicted three charity's managers for having misused funds collected as donations. The Court also stated that part of the funds have been channelled to entities based in Turkey. In this context, an Ankara prosecutor initiated an investigation, and asked the Ministry of Justice to request the necessary documents from the German Court.

There has been no progress on limiting the immunity of Members of Parliament and there is no legislation in place on election campaign financing. The European Court of Human Rights noted in a ruling that that no objective criteria had been set to define the conditions under which immunity could be lifted<sup>7</sup>.

No progress has been made regarding new legislation on the Court of Auditors. There has been no progress on strengthening Parliamentary oversight over public expenditure.

Overall, there has been limited progress in the area of *anti-corruption*. Corruption remains a widespread issue. There has been limited progress towards strengthening the legal framework and institutional set-up to fight corruption. The continuing absence of an overall strategy, action plan and coordination mechanism is a cause for continuing concern in this area. Turkey needs to develop a track record of investigations, prosecutions and indictments of allegations of corruption.

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

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

### *Observance of international human rights law*

There have been no developments as regards **ratification of human rights instruments**. The Optional Protocol to the UN Convention against Torture (OPCAT), signed in September 2005, has not been ratified. The ratification of the UN Convention on the Rights of Persons with Disabilities is pending. Turkey has not ratified three additional Protocols to the European Convention on Human Rights (ECHR)<sup>8</sup>.

During the reporting period, the **European Court of Human Rights (ECtHR)** delivered a total of 266 judgments finding that Turkey had violated the ECHR. Similarly to last year, the total number of new applications to the ECtHR continued to increase, with 3,705 applications during the reporting period. The majority of these new applications concerned the right to a fair trial and protection of property rights. Few of them concerned violations of the right to life or torture and ill-treatment.

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<sup>7</sup> *Kart v. Turkey* (Application 8917/05).

<sup>8</sup> Protocols n° 4, n° 7 and n° 12.

Turkey abided by the final judgment of the ECtHR in the majority of cases. However, a considerable number of ECtHR judgments are awaiting enforcement by Turkey. This is sometimes because general legislative measures are required. For instance, the legal provision preventing the re-opening of domestic proceedings in certain circumstances following a judgment by the ECtHR remains in force. The Committee of Ministers of the Council of Europe indicated that continuation of this situation amounts to a manifest breach of Turkey's obligation under the ECHR. Furthermore, Turkey has not adopted legal measures to prevent repetitive prosecution and conviction of conscientious objectors. Other cases pending before the Committee of Ministers awaiting adoption of the necessary implementing measures relate to control of the activities of security forces, effective remedies against abuses and restrictions on freedom of expression.

In the *Cyprus v. Turkey* case, the issue of missing persons and the restrictions on the property rights of Greek Cypriots living permanently in the northern part of Cyprus remain pending. The compensation mechanism put in place to address the property rights of displaced persons fulfils in principle the requirements indicated by the ECtHR and has continued to receive requests for compensation. On 22 April 2008 the Court welcomed settlement in the case of *Eugenia Michaelidou Developments Ltd and Michael Tymvios v. Turkey* brokered by the Turkish Cypriot Immovable Property Commission, which provides for the payment of USD 1 million and a property exchange. However, the ECtHR has not assessed whether the available remedy is effective for all relevant issues. Turkey has not yet fully implemented the ECtHR judgements on the *Loizidou* and *Xenides-Arestis* cases.

Overall, Turkey has continued to make progress on the execution of ECtHR judgments. However, further efforts are needed in this context. Furthermore, there has been no progress on ratification of international human rights instruments, including in particular OPCAT.

Several State-sponsored bodies have the task of ensuring the **promotion and enforcement of human rights**. These include the Human Rights Presidency under the Prime Minister's office and the Human Rights Boards (931 in all). The latter have the task of visiting places of detention and State-sponsored social services.

At parliament level, the Human Rights Investigation Committee has established two sub-committees to investigate torture and ill-treatment in prisons and detention centres and the murder of journalist Hrant Dink. The latter Commission finalised its report in July 2008. The report came to the conclusion that there was negligence, error and lack of co-ordination in the activities of the security organisations and of the gendarmerie in failing to prevent the murder. These findings need to be properly followed-up.

The institutional framework for human rights promotion and enforcement does not meet the independence requirement and lacks financial autonomy and transparency. There is a need for greater public awareness of the work of these institutions. The Human Rights Advisory Board – a body representing NGOs, experts and ministries – has not been operating since the publication of a report on minority rights in October 2004.

Furthermore, the establishment of the Ombudsman has been outstanding since 2006, following the application of former President Sezer to the Constitutional Court for the annulment of some provisions of the Law. The Constitutional Court suspended the entry into force of the Law pending its final ruling. In the absence of an Ombudsman system, there is no alternative remedy, other than the judiciary, for investigating complaints against administrative decisions at central and local level, as regards the respect of human rights,

liberties, law and justice. The establishment of a scrutiny mechanism *via* the Ombudsman would help defuse tensions between different sections of society by strengthening the rule of law and the protection of individual rights.

Human rights defenders have faced criminal proceedings because of their work. Some faced threats from extremist groups, and were subsequently placed under police protection.

Overall, the institutions for the promotion and enforcement of human rights lack independence and resources. The introduction of an Ombudsman is overdue and is of key importance to prevent tensions in society. Furthermore, threats to personal safety and occasional criminal proceedings have an adverse effect on the work of human rights defenders.

### *Civil and political rights*

The rights of detainees are protected by a comprehensive set of safeguards which serve to prevent cases of **torture and ill-treatment** in custody. This includes medical examinations of detainees in police custody. Efforts are ongoing to ensure compliance with these provisions. They include training for judges, prosecutors and forensic experts with a view to better implementation of the Istanbul Protocol, which provides guidance on effective investigation and documentation of torture and ill-treatment cases.

The Ministry of Interior continued its work for the establishment of an independent national mechanism to investigate citizens' complaints against law enforcement officers. As a next step the establishment of this mechanism requires public consultations on its structure and function.

The Council of Forensic Medicine is preparing for ISO quality accreditation, which will enhance the credibility of its reports. The Council has seven branch offices, and efforts are ongoing to increase the resources for forensic medicine in the country through the creation of units in each of Turkey's 81 provinces.

However, the number of applications to NGOs in relation to cases of torture and ill-treatment has increased, in particular outside official places of detention, notably during apprehension, transfer, or in the open with no detention registered. Furthermore, there are cases where the legal safeguards in place failed to prevent or stop the occurrence of torture and ill-treatment while in custody or in prison. These developments are a matter of concern.

Amendments to the law on the duties and legal powers of the police, adopted in 2007, provide that the police are not entitled to use force unless confronted with resistance. These amendments, together with the instructions given to members of the security forces, appear to align the Turkish legislation with the ECHR standards. However, there are concerns that the implementation of this law has resulted in cases of ill-treatment during routine identity checks. Strict implementation of the amended provisions needs to be monitored by the Turkish authorities in order to prevent human right violations.

Pending the ratification of OPCAT (*see Ratification of international human rights instruments*), that requests Parties to designate or establish an independent national preventive mechanism for monitoring places of detention, there is no such mechanism in place. Visits by the Human Rights Boards are often not followed up and the boards do not have sufficient expertise.

The use of statements obtained in the absence of legal counsel or not confirmed before a judge is prohibited by the Criminal Procedure Code. However, the Court of Cassation ruled that the ban on use of such statements does not apply retroactively. There have been cases where lower courts have not removed such evidence from the case file, although allegations of ill-treatment were made by the defendant.

Medical reports established upon admission to and exit from police custody are sometimes inaccurate due to lack of resources or expertise. Furthermore, for their own security, the legal framework allows doctors to request the presence of a law enforcement officer during medical examinations of detainees. However, in some reported cases, law enforcement officers were present during examinations without the request of the doctor in charge.

Victims of torture and ill-treatment rely essentially on rehabilitation services provided by NGOs. This is partly due to the lack or inaccessibility of State-sponsored services for victims of torture and ill-treatment.

As concerns **impunity**, the Minister of Justice expressed a public apology for a recent case of death following torture in detention. However, impunity for human rights violations is a cause for concern. There is a lack of prompt, impartial and independent investigation into allegations of human rights violations by members of security forces. None of the 70 complaints submitted to the prosecutor in relation to the Diyarbakir incidents in March 2006 have been closed so far. Furthermore, judicial proceedings into allegations of torture and ill-treatment are often delayed by the lack of efficient trial procedures or abuse of such procedures.

Overall, there have been limited efforts as regards the prevention of *torture and ill-treatment*. A comprehensive set of safeguards is in place. However, allegations of torture and ill-treatment during detention or outside official places of detention are a cause for concern. The efforts to prevent torture and ill-treatment need to be enhanced. The ratification of the OPCAT and the fight against impunity are key in this context.

As regards **access to justice**, reports indicate that in urban areas most detainees have access to a lawyer immediately after detention. In rural areas, however, in particular in the South-East of the country, there have been cases where defendants have not had access to a lawyer on terms equivalent to those in urban areas.

As regards **prison** conditions, the physical infrastructure of prisons continued to improve. Twelve new prisons have been completed and a further 22 new prisons are under construction.

Staff training continued to improve. There are four prison staff training centres, which deliver pre-service, in-service and promotion training. The trainers have been trained under the EU's judicial modernisation and penal reform (JMPR) programme.

Greater transparency was introduced to the operations of the Penal Institutions and Detention Houses Monitoring Boards. These boards carry out regular visits to prisons and the findings of their reports are now publicly accessible. Furthermore, the Law provides for the publication of an annual report on the activities of the Penal Institutions and Detention Houses Monitoring Boards.

However, the national framework for prison monitoring falls short of the requirements of the OPCAT (*see Torture and ill-treatment*).

Restrictions on prisoners' correspondence and inadequate health/psychiatric resources remain a problem. The total number of prisoners is 95,551 for a total prison capacity of 90,558. Prisons in big cities are especially faced with the problem of overcrowding. Implementation of the circular on high-security F-type prisons has failed to remedy the shortcomings as regards communal activities for inmates. Proper implementation of the circular depends on increasing the numbers and training of staff, and making more rooms available for the activities of different groups of prisoners.

Provisions allowing solitary confinement of persons sentenced to aggravated life imprisonment remain in force. In its 2006 report on Turkey, the Council of Europe Committee for the Prevention of Torture indicated that such rules need to be applied for as short a time as possible and must be based on an individual risk assessment of the prisoner concerned.

Cases of ill-treatment by prison staff have been reported, but few lawsuits have been launched to probe these allegations.

Overall, good progress was made on improving infrastructures and on training of staff. However, shortcomings as regards restrictions on prisoners' conditions, on solitary confinement and on occasional ill-treatment remain to be addressed.

Open debate continues in the Turkish media on a wide range of issues, including those perceived as sensitive by Turkish society. In April, the Turkish parliament adopted amendments to Article 301 of the Turkish Criminal Code with the intention of strengthening the safeguards for **freedom of expression** in Turkey. The amendments changed the wording of the article<sup>9</sup>, lowered the upper limit of the penalty and abolished the higher penalty for insults in a foreign country. Furthermore, the amendments introduce a requirement for permission to be obtained from the Justice Minister in order to launch a criminal investigation. A circular on implementation of the amended article was issued on 9 May 2008<sup>10</sup>.

Following the adoption of the amendments to Article 301, Turkish courts had forwarded, by September, 257 cases to the Minister of Justice for prior authorisation. This requirement concerns cases at the investigation stage or for which judicial proceedings have started. By September, the Minister had reviewed 163 cases and refused to grant permission to proceed in 126 cases.

However, the wording of Article 301 remains largely the same and the prior authorisation requirement opens up the possibility that the article will become subject to political

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<sup>9</sup> The amended article 301 reads as follows:

1. A person who publicly degrades the Turkish nation, the State of the Republic of Turkey, the Turkish Grand National Assembly, the Government of the Republic of Turkey and the judicial bodies of the State, shall be sentenced to a penalty of imprisonment for a term of six months to two years
2. A person who publicly degrades the military or security organisations of the State shall be sentenced to a penalty in accordance with the first section
3. The expression of an opinion for the purpose of criticism does not constitute an offence.
4. The conduct of investigation for such offence shall be subject to the permission of the Minister of Justice.

<sup>10</sup> The circular referred to the relevant case law of the ECtHR on freedom of expression and pointed out that international conventions on human rights automatically become part of the Turkish legal order - without any additional legislative steps for transposition - once they have been adopted by the Parliament. Furthermore, the circular establishes, that for offences against Article 301, statements cannot be taken from the suspect without permission from the Minister of Justice in order not to discredit the suspect in the eyes of the public.

consideration. So far, the Minister of Justice authorised the criminal investigations to continue in 37 cases. This includes one case which was initiated following a statement made by a Turkish writer on the Armenian issue shortly after the assassination of the Turkish journalist of Armenian origin, Hrant Dink. Furthermore, there is legal uncertainty as regards cases which had been granted authorisation by the Minister of Justice under the former Article 159 of the Turkish Criminal Code.

Other legal provisions that restrict freedom of expression remain a cause of concern. For example, Articles 215, 216 and 217 of the Turkish Criminal Code, that criminalise offences against public order, and the Anti-Terror Law have been applied to prosecute and convict those expressing non-violent opinions on Kurdish issues. Turkish judges and prosecutors apply a wide interpretation of the provision on "incitement to violence" or "public interest", in particular as concerns Kurdish-related issues. This is not in line with the ECtHR case law on freedom of expression and implies in particular a lack of differentiation between violent and non-violent opinions. Moreover, press articles on ongoing judicial proceedings have led to prosecutions and convictions under Article 288 (attempt to influence a fair trial) of the Turkish Criminal Code or under the Press Law. Similarly, public statements on the right to conscientious objection are prosecuted under Article 318 (discouraging the people from military service) of the Turkish Criminal Code.

Furthermore, there have been statements by senior figures strongly criticising the press, in particular following press reports on alleged corruption cases and the fight against terrorism. Another problematic area is the frequent website bans, which are disproportionate in scope and duration. Along with other websites, the popular You Tube site has been closed down several times.

The Turkish Armed Forces still deny access to military receptions and briefings to some journalists and media organisations.

The case against 53 DTP mayors for sending a letter to the Danish Prime Minister requesting that Roj TV not be closed was finalised in April 2008. The Court sentenced the defendants to 2 months and 15 days imprisonment, which was commuted to a fine. The Court's ruling cannot be appealed.

Overall, with the amendment of Article 301 there has been some progress in the efforts to strengthen the safeguards for freedom of expression, which is a priority of the Accession Partnership. However, only a consistent track record of implementation will show whether or not the revised article is adequate. Moreover, further legislative reforms are needed to ensure full respect of freedom of expression, in law and in practice, in line with the ECHR and the ECtHR case law. Against the background of pressures on the press and electronic media, there is a need to guarantee an atmosphere conducive to full respect of the freedom of the press.

The legal framework for **freedom of assembly** is broadly in line with European standards.

However, as regards implementation, arbitrary limitations have been applied in practice to the right to peaceful assembly. The Turkish police used disproportionate force against protestors and trade union representatives who ignored the ban on 1 May demonstrations in Taksim Square in Istanbul. The Kurdish *Newroz* Spring celebrations in March 2008 resulted in violence against demonstrators in several provinces, in particular Hakkari, Yuksekova and Van. Three citizens died during the course of the *Newroz* demonstrations in Van.



Investigation files are pending on the circumstances of these deaths in the Van Chief Public Prosecution Office.

Investigations have been initiated into the allegations of disproportionate use of force by the police during demonstrations. However, in such cases, the opening of a criminal case depends on the authorisation of the Governor. In certain cases, the authorisation has been refused for lack of conclusive evidence, against the findings of prior investigations. Furthermore, some protestors who allege police ill-treatment during demonstrations have faced criminal charges. The criminal investigation into the cases of disproportionate force by the police during the 1 May 2007 demonstrations in Istanbul resulted in charges being pressed against two police officers. However, the parallel disciplinary investigation was closed without any administrative sanction against the police officers on duty during the demonstrations.

Overall, further efforts are needed to ensure freedom of assembly in practice in line with European standards, as arbitrary limitations and disproportionate use of force against demonstrators still occur.

As regards **freedom of association**, the legal framework further improved with the adoption of the amendments to the Law on foundations in February 2008. The scope of the new Law extends to all existing foundations. The new provisions relax the conditions for establishing a foundation and ease the regulatory framework for their activities, in particular on selecting board members, acquiring or selling assets, receiving funds from abroad and co-operating with foreign foundations. The previous ban on foreigners establishing foundations in Turkey has been replaced by the principle of reciprocity. The new Law provides tax incentives for donations to all foundations and allows tax exemptions for the repair, restoration and landscaping of cultural properties that belong to foundations. Furthermore, the Law provides for the establishment of the Foundations Council as the highest decision-making body for foundations. As a positive step, the foundations themselves are represented in this new body.

However, the obligations imposed by the Law on associations to notify the authorities before receiving financial support from abroad and to provide detailed documents on such support continue to place a burden on associations' operations. Furthermore, frequent inspections of NGOs receiving funds from abroad, including EC funds, remain a cause of concern. Certain NGO activities were videotaped by the security forces, especially in East and Southeast Turkey.

The registration of the Turkish Armenian Business Development Council was rejected by the Governorate of Istanbul, without clear legal grounds. Following a case brought by the Istanbul Governorate, an Istanbul court decided in May to close down a lesbian, gay, bisexual, transgender/transsexual (LGBTT) association. The Istanbul Governorate is accusing Amnesty International (AI) of illegal money collection. The competent Istanbul Administrative Court heard the case and decided in favour of AI. The Governor has appealed the case before the Council of State.

As regards political parties, the closure cases against the AKP and the DTP (*see section on Parliament*) illustrate that the current legal provisions applicable to political parties do not provide political actors with an adequate level of protection from the state's interference in their freedom of association and freedom of expression.

Overall, there were improvements to the legal framework on freedom of association. However, some associations faced disproportionate administrative difficulties or judicial

proceedings. Furthermore, in the light of the recurrent closure cases against political parties, the legal provisions on political parties need to be amended in line with the case law of the ECtHR and best practices in EU Member States, as outlined by the Council of Europe's Venice Commission. This is a priority of the Accession Partnership.

As regards **civil society organisations**, governmental bodies regularly consult NGOs. However, there is no coherent legal framework organising this cooperation. As a result, consultations are held on an *ad hoc* basis, with unclear selection criteria, and do not result in tangible policy outputs. Political pluralism would be enhanced if participation of civil society and other stakeholders in policy-making were increased. Furthermore, the breadth and scope of civil society organisations needs to be strengthened.

As concerns **freedom of religion**, freedom of worship continues to be generally respected. The Law on foundations adopted in February 2008 addresses, among other things, a number of property issues regarding non-Muslim minorities (*See Right to property and Freedom of association*).

The court case on the killing of three Protestants in Malatya in April 2007 continued. A leading defence lawyer was provided with protection after receiving threats. A limited number of court decisions have ruled against use of threats or insults against representatives of non-Muslim minorities.

As regards the Alevis, the government announced an initiative aimed at improving dialogue with this community and addressing its concerns. In what was noted as a first decision of its kind in the country, a municipal council recognised a Cem house as a place of worship and applied mosque tariffs to its water charges.

However, the government's initiative has not been followed through. Overall, Alevis continue to face the same problems as before, in particular as regards education and places of worship. This has led an AKP Alevi MP to resign from the position of Advisor to the Prime Minister on Alevi issues.

As regards education, under Article 24 of the Turkish Constitution religious culture and ethics classes are compulsory in the curricula of primary and secondary education. This was not the case previously, i.e. before the entry into force of the current Constitution in 1982. In October 2007, further to an application lodged by a family who are followers of Alevism, the ECtHR<sup>11</sup> found that these classes did not just give a general overview of religions but provided specific instruction in the major principles of the Muslim faith, including its cultural rites. The Court requested Turkey to bring its educational system and domestic legislation into conformity with Article 2 of Protocol No1 to the ECHR. This ECtHR judgment needs to be implemented. In August 2008 an Alevi Federation applied to the Committee of Ministers of the Council of Europe complaining that this judgment is not being implemented and claiming that the new textbooks include superficial information on Alevis part of which could also be considered misleading. In March 2008, in two separate cases, the Council of State (CoS) decided that children of Alevi families were entitled to be exempted from these religious education classes.

As regards places of worship, two cases regarding Alevi places of worship (Cem houses or Cemevi) are pending before the courts, one of them before the Council of State. In both cases,

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<sup>11</sup> *Hasan and Eylem Zengin v. Turkey* case (Application 1448/04).

Alevis were refused plots to construct Cem houses. These are not recognised as places of worship and, as a result, receive no funding from the authorities. Two Protestant churches and a Jehovah's Witnesses assembly have been unable to register their places of worship.

Attacks against non-Muslim clergy and places of worship have been reported in a number of provinces. Missionaries continue to be portrayed and/or perceived as a threat to the integrity of the country and to the Muslim religion. The Turkish Alliance of Protestant Churches submitted a report to Parliament's Human Rights Committee on the state of religious minorities in Turkey. This report pointed out that non-Muslim groups in the country had been the targets of attacks, provided a list of such incidents and noted that no suspects had been arrested. Implementation of the Ministry of Interior circular of 19 June 2007 on freedom of religion of non-Muslim Turkish citizens has not yet had the desired effects.

Non-Muslim communities – as organised structures of religious groups – still face problems due to lack of legal personality. Restrictions on the training of clergy remain. Turkish legislation does not provide for private higher religious education for these communities and there are no such opportunities in the public education system. The Halki (Heybeliada) Greek Orthodox seminary remains closed. There have been reports of foreign clergy who wish to work in Turkey facing difficulties in obtaining work permits. The Ecumenical Patriarch is not free to use the ecclesiastical title Ecumenical on all occasions. In January 2008, Prime Minister Erdogan declared that use of the title "ecumenical" should not be a matter on which the State should rule.

Judicial proceedings against conscientious objectors have continued and there have been frequent allegations of ill-treatment of conscientious objectors in prison. Furthermore, public statements on the right to conscientious objection have led to convictions (*see section on freedom of expression and observance of international human rights law*).

Overall, there has been some progress, in particular as regards adoption of the Law on foundations. However, the implementation of the Law, together with the resolution of the outstanding property-related issues regarding non-Muslim minorities remains a challenge. Furthermore, Alevis continue to face the same problems, including on education and places of worship. A legal framework in line with the ECHR has yet to be established, so that all non-Muslim religious communities and Alevis can function without undue constraints. Turkey needs to make further efforts to create an environment conducive to full respect for freedom of religion in practice and to carry out consistent initiatives aimed at improving dialogue with the various religious communities.

#### *Economic and social rights*

As regards **women's rights**, the Prime Ministerial circular on combating honour killings and domestic violence against women has helped to improve cooperation between public institutions. Awareness-raising activities have been organised for members of the judiciary and law enforcement bodies. To date, 30 000 law enforcement officers have reportedly participated in training with a further 10 000 planned by the end of 2008. Gender sensitivity training programmes have also been conducted for health workers. The number of shelters for

women victims of domestic violence has marginally increased. Courts have applied the amended Law on protection of the family<sup>12</sup>.

There are some notable examples of high-level presence of women in Turkish society in business, academia, the civil service and politics. Parliament adopted the "Employment Package" amending the Labour Law and certain other laws in order to promote women's employment. (*See Chapter 19 – Social policy and employment*). The gender gap in primary education decreased further to 2.3% (*See Children's rights*).

However, gender equality remains a major challenge in Turkey. According to official statistics, participation by women in the labour force is low (24.8 % in 2007), and on a decreasing trend. The rate of women's employment is the lowest among the EU Member States and the OECD countries.

Political representation of women, at both national and regional levels, is very low. Civil society organisations have submitted proposals to address this issue, in particular with a view to the forthcoming municipal elections scheduled for 2009.

Documents posted on the Diyanet's (Presidency for Religious Affairs) site contain language perceived by NGOs as discriminatory against women.

Women's access to education is the lowest among the EU Member States and the OECD countries. The good results on reducing the gender gap in primary education need to be sustained and strengthened, in particular by ensuring the continuing attendance of girls at school and identifying and addressing school drop-outs (*see children's rights*).

Domestic violence, honour killings, and early and forced marriages are still a serious problem. The Court of Cassation ruled that sentences for honour killings are given only if there is evidence showing that the murder was committed following a decision of the family assembly. This decision was criticised by a member of the Court, who claimed that it would complicate efforts to eradicate these killings. According to the Prime Ministry Human Rights Directorate, 220 honour killings were reported in the country in 2007, most of which happened in big cities. This is an increase compared with 2006 and illustrates the need to target efforts to raise awareness on women's rights among urban migrants. Finally, there is a need to improve reliability of data on all these issues.

Women are reportedly reluctant to have recourse to the police or the courts due to lack of confidence in provision of effective protection. Women's economic fragility further reinforces this attitude. The Law on municipalities<sup>13</sup>, in particular the provisions on shelters, are not yet fully implemented and the number of shelters remains lower than provided for under that law. Women's NGOs are conducting surveys to define the number and capacity of properly functioning shelters. NGOs have reported that it is not possible to obtain information about the scope or an assessment of the impact of awareness-raising campaigns.

A Gender Equality Body and a Parliamentary Committee on Gender Equality have still to be established. Women's civil society organisations have requested the establishment of a fully-

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<sup>12</sup> Amendments have extended the Law to all individuals in the family, including family members living separately. They have also abolished all fees for applications and administrative transactions related to court proceedings.

<sup>13</sup> The 2005 Law on municipalities provides for establishment of shelters for women in metropolitan municipalities and in municipalities with a population of 50 000 or more.

fledged committee that could play an essential role in mainstreaming women's issues in all policy areas.

There have been complaints from civil society organisations about the consultations organised by the government on the direction and implementation of gender policy. These relate to both the limited number of civil society organisations consulted, but also the extent to which positions expressed are eventually taken into account.

Overall, the legal framework guaranteeing women's rights and gender equality is broadly in place. However, further significant efforts are needed. To reduce the gap between men and women in economic participation and opportunity, educational attainment, access to healthcare, and political empowerment. Efforts to prevent honour killings and domestic violence have continued. However, these issues remain a serious problem, and efforts need to be stepped up.

With respect to **children's rights**, there was an increase in net primary school enrolment from 90% in the 2006/2007 school year to 97% in 2007/2008<sup>14</sup>. Over the same period, the gender gap in primary education was halved from 4.6% to 2.3%. The number of pupils in pre-school education has increased by 28% over the last three years, from 550,000 in 2005 to 700,000 in 2007. The government target is to attain a 50% pre-school enrolment rate from the current 25%. The Ministry of National Education has established an e-school database containing information on school attendance. The Ministry can thus identify children that are out of school and try to ensure their enrolment or provide catch-up education. In May 2008, the Education Board approved the catch-up education programme: this is meant to give a second chance to children of 10–14 years of age who either never enrolled or who dropped out. This measure is targeted mainly at working and Roma children. In addition, mobile schools are trying to reach out to children working in agriculture.

The proportion of children under 15 years of age in households experiencing poverty decreased from 27.7% in 2005 to 25.2% in 2006. The Social Services and Child Protection Agency (SHCEK) has collected data on domestic violence and child abuse and on children living and working on the streets. However, these data have not yet been made public.

Minimum standards on care and protection for children living outside parental care have been developed, and efforts to strengthen and monitor the parenting system have intensified. The new Social Insurance and General Health Insurance Law provides for coverage for every citizen under 18 years of age. Parliament has ratified the Hague Convention on the Civil Aspects of International Child Abduction, which provides for a simplified procedure for returning children to their legal custodian.

SHCEK has recruited new members of staff. The number of specialised staff such as psychologists, child development experts and sociologists increased during the same period. Staff of institutions involved in child care, including members of the judiciary, have been trained on juvenile justice. SHCEK has also made efforts to improve the quality of the services it provides and has assumed more responsibilities in implementation of the Law on

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<sup>14</sup> This is partly due to the revised method of calculation of the total population. The Turkish Statistical Institute (TURKSTAT) revised its population figures based on its new address-based population registration system. Thus, the Ministry of National Education's formal education statistics for 2007-08 apparently paint the clearest picture yet of enrolment rates at various levels of the school system and of the gender gap in access to education.

child protection. Reception centres have been opened in a number of provinces for children who are perpetrators or witnesses of crimes or victims of violence. Six (6) such centres were established for the first time in 2007 in accordance with provisions of the Child Protection Law. Four (4) of these centres are "Protection, care and rehabilitation centres" and assist children involved in criminal activities; two (2) are "Care and social rehabilitation centres" and assist child victims of violence and abuse.

However, respect for and implementation of children's rights continue to be a matter of concern. Children out of school remain a problem: the e-school database has revealed that approximately 450 000 children between 6 and 14 years of age do not attend school.

Implementation of minimum standards of care and protection of children living outside parental care needs to be improved. SHCEK needs to make the data on domestic violence against children and child abuse and on children living and working on the streets publicly available in order to improve policy-making and public debate. Efforts to combat child labour in the field need to improve and shortcomings in legislation<sup>15</sup> must be addressed.

Despite some progress in the juvenile justice system, the number of child courts is still inadequate<sup>16</sup>, there is a lack of social workers in these courts and their workload is heavy. This results in longer trials<sup>17</sup> and, thus, possibly in children being deprived of their liberty for longer periods of time. There has been an increase in the number of children in detention. The conditions in detention centres need to be improved, both in terms of physical conditions and as regards the quality of the services provided. The probation system should also be improved to prevent recurrence of the offence and to support children and their families.

Overall, there has been progress on access to education, social services and the juvenile justice system. However, efforts need to continue in all areas related to children's rights, including administrative capacity, education, the juvenile justice system and child labour.

As regards **socially vulnerable persons and/or persons with disabilities**, the State will pay the social security premiums for people with disabilities to promote their employment. There was an increase in the resources allocated to care services for people with disabilities. A circular was issued with a view to immediate placement of people with disabilities who are in need of urgent care. As regards mental health, progress has been made in the field of electro-convulsive therapy which is implemented in hospitals in line with medical standards and respecting patients' rights.

However, people with disabilities are not receiving adequate public services. This is mainly due to lack of awareness of the available services and problems in accessing the services, especially physical barriers. The lack of data and research on persons with a disability and on conditions of care for mentally ill persons is preventing informed policy-making. Community-based services are not sufficiently developed as an alternative to institutionalisation, and

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<sup>15</sup> The labour law prohibits night work for children under eighteen (18) only for the industry sector; it does not provide protection for children working in agricultural enterprises employing less than fifty (50) employees; and it does not regulate the work of children in artistic and cultural activities and in the media. Lastly, the current legislative framework does not tackle the issue of children working on the streets.

<sup>16</sup> Under the 2005 Law on child protection, child courts need to be established in every province. However, currently there are such courts in only 40 of the 81 provinces in the country.

<sup>17</sup> On the basis of 2005 data, the average duration of trials in child courts is 326 days, compared with 234 days in ordinary courts.

resources continue to be limited in relation to needs. There is an ongoing problem of insufficient general medical care and treatment in mental health hospitals and rehabilitation centres.

On **labour rights and trade unions**, the pending legislation amending the Trade Unions and Collective Bargaining, Strike and Lockout Laws has not moved forward substantially. Turkey needs to ensure that trade union rights are fully respected in line with EU standards<sup>18</sup> and the relevant International Labour Organisation (ILO) conventions, in particular the rights to organise, to strike and to bargain collectively. This is a priority of the Accession Partnership. There are reports about restrictions on the exercise of existing trade union rights and dismissals due to trade union membership. Social dialogue mechanisms, including at tripartite level, are weak (*See also Chapter 19 – Social policy and employment*).

The principle of **anti-discrimination** is enshrined in the Constitution and upheld in several laws. Homosexual relationships between consenting adults in private are permitted in Turkey. In recent years, associations of the lesbian, gay, bisexual and transgender (LGBT) community registered for legal status in Turkey and prosecutors refused to press charges following a request by the Ministry of Interior to close them. This has enabled them to start advocating and defending the rights of lesbian, gay, bisexual and transgender people.

However, the law does not duly mention all the grounds of discrimination, such as sexual orientation, and provisions of the Turkish Criminal Code on "public exhibitionism" and "offences against public morality" are sometimes used to discriminate against LGBT. In May 2008, upon an appeal by the Istanbul Governorate, an Istanbul court decided to close down Lambda Istanbul, as its statute was considered against general morality. An appeal has been lodged before the Council of State in this case.

Homosexuals have the right to exemption from military service. If they request such exemption, their sexual orientation is verified by means of degrading medical and psychological tests or by demanding proof of homosexuality.

Transsexuals are occasionally subjected to physical assaults, including by the police. Homophobia has also resulted in cases of physical and sexual violence. These allegations require prompt and effective investigation.

With respect to **property rights**, the Law on foundations was adopted in February 2008<sup>19</sup>. This Law was first voted by Parliament in November 2006, but was subsequently vetoed by the then President Sezer. The Law addresses a large number of issues faced by religious communities, mainly over management and acquisition of property. In particular, under the Law, community foundations can own property and manage it without prior permission<sup>20</sup>. Foundations can establish companies and commercial bodies and can participate in existing companies with a view to achieving their objectives and generating income. Non-Muslim community foundations can register in the Land Registry, under their names, immovable

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<sup>18</sup> Turkey maintains its reservations on article 5 (right to organise) and article 6 (right to bargain collectively) of the revised European Social Charter.

<sup>19</sup> In March 2008, the opposition Republican People's Party (CHP) filed an application with the Constitutional Court requesting annulment of Articles 5(3), 6(3), 11, 12(1), (2) and (3), 14, 25, 26, 41 and 68 of the Law. The Law entered into force on 28 February 2008.

<sup>20</sup> A court decision should be issued when foundations sell immovable property or rights acquired on their establishment, whereas only a decision by the competent body of the foundation is needed to sell immovable property or rights acquired at a later stage.

property which is either entered in their 1936 declarations, under figurative or fictitious names or was purchased by or bequeathed or donated to community foundations after their 1936 declarations but registered under the name of the testator or of the donator or of the Treasury or of the Directorate-General for Foundations because of restrictions on owning property. Donations of immovable property to foundations cannot be seized or mortgaged. Properties which are no longer used, wholly or in part, for their original purpose, can be transferred to another foundation of the same community, leased or have their use changed. The Directorate-General for Foundations issued a Circular in May 2008 that deals with the process of restitution of properties of non-Muslim foundations registered under figurative or fictitious names, or in the name of the Treasury or the Directorate General for Foundations. An implementing regulation was published in the Official Gazette in September 2008.

However, the Law addresses neither the issue of properties seized and sold to third parties nor that of properties of foundations that were fused before the adoption of the new legislation. In addition, implementation will be crucial to attaining its objectives.

On 8 July 2008, the ECtHR decided<sup>21</sup> on the claim of the Ecumenical Patriarchate that had been deprived of its property acquired in 1902 and dedicated to a specific use in 1903 via the Foundation of the Büyükada Greek Orphanage for Boys. The applicant alleged, in particular, that by ordering registration of its real estate in the name of the orphanage, under the management of the State Directorate-General for Foundations<sup>22</sup>, the domestic courts had breached its right to peaceful enjoyment of its property. The Court held that the Turkish authorities were not entitled to deprive the owner of its property without providing for appropriate compensation, and that there had been a violation of the ECHR.

Problems encountered by Greek nationals in inheriting and registering property continue to be reported, in particular as regards, inter alia, the application by the Turkish authorities of the amended Land Registry Law. With respect to that issue, the ECtHR held<sup>23</sup> that there had been a violation of Article 1 of Protocol 1 (peaceful enjoyment of possessions) to the ECHR and ordered either the return of the property or the financial compensation of the applicants.

Syriacs continue to face difficulties in relation to property. Complaints about the seizure of their properties have increased, in particular in the context of the establishment of the cadastre. This concerns both private individuals and religious institutions.

Overall, adoption of the Law on foundations has been a welcome step forward. However, implementation of the Law will be crucial. The outstanding issues also need to be addressed. Finally, the quality of the dialogue between the authorities and the communities concerned will be instrumental in creating an environment conducive to achieving progress.

#### *Minority rights, cultural rights and protection of minorities*

Turkey's approach to **minority rights**, which refers to the 1923 Treaty of Lausanne<sup>24</sup> remains unchanged. Without prejudice to the Treaty, the Turkish authorities consider Turkish citizens

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<sup>21</sup> Fener Rum Patrikligi (Ecumenical Patriarchate) v. Turkey case (application 14340/05)

<sup>22</sup> The Directorate-General for Foundations considered the orphanage a "defunct" foundation in 1995 and took over its management.

<sup>23</sup> *Apostolidis & Others vs. Turkey (Application No. 45628/99)*.

<sup>24</sup> According to the Turkish authorities, under the 1923 Treaty of Lausanne minorities in Turkey consist exclusively of non-Muslim religious communities. In practice, the minorities which the authorities associate with the Treaty are Jews, Armenians and Greeks.



as individuals with equal rights before the law, rather than as individuals belonging to the majority or to a minority. This should not prevent Turkey, in accordance with European standards, from granting specific rights to certain Turkish citizens on the grounds of their ethnic origin, religion or language, so that they can preserve their identity. Full respect for and protection of language, culture and freedom of association, assembly, expression and religion and effective participation in public life for all citizens irrespective of their background or origin, in accordance with the principles laid down in the Framework Convention for the Protection of National Minorities and in line with best practice in Member States, have yet to be fully achieved.

Turkey is a party to the UN International Covenant on Civil and Political Rights (ICCPR). However, its reservation regarding the rights of minorities and its reservation concerning the UN Covenant on Economic, Social and Cultural Rights (ICESCR) regarding the right to education are causes for concern<sup>25</sup>. Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages.

The repeated requests of the OSCE High Commissioner on National Minorities (HCNM) to follow up on his last visit to Turkey of December 2006 were not accommodated. There is a need to start a dialogue between Turkey and the HCNM on issues such as the participation of minorities in public life and broadcasting in minority languages. This would facilitate Turkey's further alignment with international standards and best practice in EU Member States.

Management of minority schools, including the dual presidency, remains an issue, pending an implementing regulation. Work is under way to remove discriminatory language from textbooks.

The Greek minority continues to encounter problems with education and property rights. In June, the Parliamentary Assembly of the Council of Europe (PACE) adopted a Resolution<sup>26</sup> on the Greek minority on the islands of Gökçeada (Imvros) and Bozcaada (Tenedos). The resolution calls for preserving the bicultural character of the two Turkish islands as a model for cooperation between Turkey and Greece. Furthermore, it takes account of positive gestures made by the Turkish authorities, mainly in connection with the Greek community's architectural heritage, and calls on Turkey to maintain up the momentum by taking additional measures, in particular on property and education issues.

Overall, Turkey has made no progress on ensuring cultural diversity and promoting respect for and protection of minorities in accordance with European standards.

As regards **cultural rights**, following the June 2008 amendments to the relevant Law, TRT - the public service broadcaster - is allowed to broadcast nationally all day long in languages other than Turkish. Since 2004 this has only been possible for half a day. An appeal against the Law is pending before the Constitutional Court. Furthermore, a new local radio channel, Muş FM, has received authorisation to broadcast in Kurdish.

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<sup>25</sup> Extract from the reservation to the ICCPR: "The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the International Covenant on Civil and Political Rights in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes."

<sup>26</sup> Resolution 1625 (2008).

However, the launching of a channel broadcasting in languages other than Turkish has been delayed on several occasions. Furthermore, two of the four local TV and radio channels that started broadcasting in languages and dialects traditionally used by Turkish citizens closed down during the reporting period. Time restrictions laid down in the law on the Radio and Television Supreme Council (RTÜK) continue to apply, with the exception of films and music programmes. Educational programmes teaching the Kurdish language are not allowed. All broadcasts, except songs, must be subtitled or translated into Turkish. These restrictions make broadcasting in languages other than Turkish cumbersome and non-viable commercially. The police and the Radio and Television Supreme Council (RTÜK) apply a policy of strict monitoring of broadcasts in Kurdish. Several court cases and investigations against GÜN TV - the only TV channel currently broadcasting in Kurdish - are ongoing, in relation to the wording of Kurdish songs the channel has aired.

Children whose mother tongue is not Turkish cannot learn it in the Turkish public schooling system. Under the current legislation such education can be provided only by private educational institutions. However, in the case of Kurdish, courses which had opened following the changes to the law have now closed down. As a result, there are currently no opportunities to learn Kurdish in either the public or private schooling system.

No measures have been taken to facilitate access to public services for non-speakers of Turkish, although interpretation is usually available in courts. The case against the municipality of Sur (Central Diyarbakir) in June 2007, in which the Council of State dismissed the mayor from office and dissolved the Municipal Council for providing multilingual municipal services, is now before the ECtHR. A vice-governor will continue to serve as mayor of Sur until new elections, scheduled in March 2009, although by law by-elections should have been held within 60 days of the dismissal.

According to the Law on political parties, the use of languages other than Turkish remains illegal in political life. In this context, a large number of investigations and court cases have been launched against officials and executives of the Democratic Society Party (DTP).

As regards **Roma**, no steps have been taken to amend the Law on the Movement and Residence of Aliens, which authorises "the Ministry of Internal Affairs to expel stateless and non-Turkish citizen gypsies and aliens that are not bound to the Turkish culture", thus promoting discrimination against Roma. This provision needs to be repealed. Turkey has yet to establish a strategy to address the problems of Roma. Turkey is not participating in the 2005-2015 Decade of Roma Inclusion.

Roma, who comprise other similar but distinct ethnic groups such as Dom, Lom and Travellers, face social exclusion and marginalisation in access to education, discrimination in health services, exclusion from employment opportunities, difficulties in accessing personal documentation and exclusion from participation in public affairs and public life.

As regards housing, the Roma population has faced several instances of demolition of communities, forced evictions and exposure to poor living and sanitary conditions without recourse to any publicly accountable process. In many cases, Roma who have been dispossessed as a result of demolition join the ranks of IDPs, with all the social problems that this entails. As regards demolition of the Roma neighbourhood in Istanbul's Sulukule district and the relocation of its members, which started in spring 2008, the Prime Ministry's Human Rights Commission has called for an inquiry into any possible infringement of human rights.

In addition, civil society organisations have filed a suit for cancellation of the urban regeneration project in Sulukule.

Overall, Turkey made some limited progress on *cultural rights*, but restrictions continue, particularly on the use of languages other than Turkish in broadcasting, in political life and when accessing public services. There are no opportunities to learn these languages in the public or private schooling systems. There has been no progress in the situation of the *Roma*, who frequently face discriminatory treatment in access to adequate housing, education, social protection, health and employment. Demolitions of Roma neighbourhoods, in some cases involving forced evictions, continue.

#### *Situation in the East and South-East*

In May 2008 the Government announced the guidelines and general content of a plan for development of the South-East. The Government pledged to allocate total funding equivalent to €14 billion to complete the ongoing South-East Anatolia Project (GAP) between 2008 and 2012, thus increasing the originally planned spending on the project by €10.2 billion. The four pillars of the action plan are: economic development, social development, infrastructure development and institutional strengthening. Most investments will concentrate on the energy and agriculture sectors.

Terrorist attacks by the PKK, which is on the EU list of terrorist organisations, continued in the South-East, but also throughout the country and claimed many lives. Following parliament's authorisation the government ordered air strikes against terrorist hideouts in Northern Iraq. The "temporary security zones" established in June 2007 in the provinces of Sirnak, Siirt and Hakkari close to the Iraqi border remain operational.

The *Newroz* spring celebrations were marked by tensions in the provinces of Van and Hakkari (see section on freedom of assembly). No incidents were reported in other provinces, such as Diyarbakir and Istanbul, where demonstrations were allowed.

Landmines remain a security concern for both military personnel and civilians. The government reported ongoing use of anti-personnel mines by the PKK/KONGRAGEL. During the reporting period there have been 66 casualties among civilians and security forces due to anti-personnel landmine explosions. Under the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (the 'Ottawa Convention'), of which it is a signatory party, Turkey has undertaken to destroy all antipersonnel mines in mined areas as soon as possible, but no later than 1 March 2014.

#### *Refugees and internally displaced persons*

The process of compensation of losses due to terrorism and the fight against terrorism continued to make progress. By May 2008, 313 829 cases had been filed under the relevant Law. Some 40% of these, i.e. 126 945 cases have been finalised, out of which 82 893 obtained a favourable response. The deadline for applications for compensation expired on 31 May 2008.

However, despite the efforts made by the Government to improve the situation, reports on shortcomings in implementation of the Law, in particular as regards uneven and inequitable calculation of compensation between provinces, have continued. Furthermore, due to lack of resources and the heavy workload of the Damage Assessment Commissions, progress in the assessment and payment of compensation has been slow.

The situation of IDPs in urban areas remains a cause for concern. IDPs suffer from economic and social marginalisation and have little or no access to social, educational and health services. Return of IDPs is prevented by a number of factors. These include mainly the security situation, but also the lack of basic infrastructure, lack of capital, limited employment opportunities and the threat posed by the village guard system.

There is no overall national strategy to address the situation of IDPs. The insufficient institutional capacity of departments responsible for IDPs remains a challenge. There is a need to involve civil society further in the development of IDP policies.

No steps have been taken to abolish the system of village guards.

Arbitrary cases of *refoulement*, although not numerous, remain a high concern. There are reports that one of them ended in life loss. (*For the situation of asylum seekers and refugees see chapter 24, Justice, Freedom and Security*).

Overall, as regards the East and South-East, the government's decision to complete the South-East Anatolia Project is a step in the direction of addressing the economic and social difficulties of the region. Further efforts are needed in order to create the conditions for the predominantly Kurdish population to enjoy full rights and freedoms. Compensation of internally displaced persons (IDPs) has continued. However, the government lacks an overall national strategy to address the IDP issue. The village guard system still has to be phased out.

### **2.3. Regional issues and international obligations**

#### *Cyprus*

The Turkish government has continued to express its commitment to a comprehensive settlement of the Cyprus problem under the auspices of the United Nations. It welcomed the start full-fledged negotiations in September between the leaders of the two Cypriot communities under the Good Offices Mission of the UN Secretary General. Turkey needs to take concrete steps to contribute to a favourable climate for a comprehensive settlement.

Since the Council's decision of December 2006, Turkey has made no progress towards fully implementing the Additional Protocol.

Turkey has made no progress on normalising bilateral relations with the Republic of Cyprus. Turkey continues to veto Cyprus's membership of several international organisations and of the Wassenaar Agreement on the Code of Conduct on Arms Exports and on Dual-Use Goods.

#### *Peaceful settlement of border disputes*

Turkey and Greece have continued their efforts to improve bilateral relations. The 40<sup>th</sup> round of exploratory talks was held in July 2008 in Athens. Exploratory talks have been continuing since 2002.

In November 2007, the Turkish and Greek Prime Ministers met at the border to inaugurate a natural gas pipeline. In January 2008, the Greek Prime Minister paid an official visit to Turkey - the first of this kind in 49 years. Both Prime Ministers expressed their commitment to improving bilateral relations.

So far 31 agreements have been signed and 24 confidence-building measures have been agreed since 2000. The third joint exercise between military disaster response units was conducted in May in Athens. Contacts at military level continue. The Greek Chief of General Staff paid an official visit to Turkey in May 2008.

The threat of "casus belli" in relation to the possible extension of Greek territorial waters in the resolution adopted by the Turkish Grand National Assembly in 1995 still remains. The Council highlighted in December 2007 that "Turkey needs to unequivocally commit to good neighbourly relations and to the peaceful settlement of disputes in accordance with the UN Charter, including, if necessary, jurisdiction of the International Court of Justice. In this context, any threat or action which could negatively affect good neighbourly relations and the peaceful settlement of disputes should be avoided".

During the reporting period, Greece formally complained to Turkey about continued airspace violations.

As a full member of the Barcelona process, Turkey participated in the launch of the Barcelona Process: Union for the Mediterranean in July 2008.

**Bilateral relations with other enlargement countries and other neighbouring Member States** have been developing positively. Turkey continues to play a positive role in the *Western Balkans*. Relations with *Bulgaria* remained positive.

As regards the **International Criminal Court (ICC)**, see *Chapter 31 – Common Foreign and Security Policy*.

### **3. ECONOMIC CRITERIA**

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

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

##### *Economic policy essentials*

Turkey broadly implemented the economic policy agreed with the Commission and with international financial institutions and successfully completed the stand-by arrangement with the International Monetary Fund (IMF) in May 2008. The pre-accession economic programme submitted to the Commission in December 2007 adequately reflected the needs for, and commitments to, further reform. At times, the domestic political crisis hampered the decision-making process with regard to reforms. The fragmentation of responsibilities between government bodies has been partly addressed in the new government's programme by assigning the role of coordinating economic policy to a Deputy Prime Minister. However, coordination of budgeting and medium-term economic policy-making has so far only partially benefited. Decisions sometimes appear to be taken on an *ad hoc* basis and impact assessments are either lacking or based on partial information. In conclusion, consensus on economic policy essentials has been maintained and coordination has improved.

### *Macroeconomic stability*

In 2007, GDP growth slowed down to 4.6% from 6.9% one year earlier, mainly due to contraction in agriculture and weaker aggregate demand. There was a slowdown or stagnation in many sectors of the economy from construction to textiles, while agriculture was severely hit by a drought. Private consumption growth remained weak in 2007 growing by 3.8%, in spite of a strong surge (up 6.3%) in the third quarter. The public sector purchased significantly lower volumes of goods and services and markedly reduced construction after sizeable spending increases in these areas in the run-up to the July 2007 elections. The contribution of the external sector to growth fell substantially, as imports grew by 14.4% and 15.7% year-on-year in the third and fourth quarters respectively, while export growth was 2.5% in the fourth quarter, down from 12.5% in the first quarter of 2007. The slowdown in domestic demand was triggered mainly by a tighter monetary stance, higher interest rates and lower lending.

In the first half of 2008, the economy slowed down, due to the global financial turbulence and the domestic political uncertainty, and GDP grew by 4.2%. GDP growth slowed down to 1.9% in the second quarter of 2008 from 6.7% in the first. Agriculture contracted by 3.5% in the second quarter after output had increased by 2.6% in the first quarter. Final consumption of households lost steam in the second quarter, as expenditure rose by 2.8% after a 7.6% increase in the first. In March 2008, the GDP methodology was aligned with the European System of Accounting (ESA95). Consequently, one third was added to the size of the economy, which resulted in a 2006 GDP of more than TRY 750bn (about EUR 380bn). Although economic growth has slowed down, due to a combination of weaker aggregate demand and higher uncertainty linked to the global financial crisis and domestic political developments, overall economic performance demonstrated that the foundations and resilience of the Turkish economy are substantially stronger today than some years ago.

The thorough revision of Turkey's national accounts in March 2008 reduced the current account deficit relative to GDP by one third to more benign levels. The sharp rise in oil prices has been putting pressure on Turkey's current account. This has become more pronounced in recent months as oil prices have soared to record levels. The current account deficit in the first half of 2008 totalled about 6.3% of GDP, compared with 5.7% in 2007 and 6.2% in 2006. The same indicator, excluding energy, was below 2.8% throughout the period. This pointed to a trade deficit of about 7% in the first half of 2008. As in previous years, over one third of the gap is covered by services, mainly tourism, which performed better in 2007 and 2008 than in 2006. On the capital account, capital inflows have more than funded the current account deficit, leading to an increase in official reserves. Recently almost 40% of the current account deficit has been financed by foreign direct investment (FDI) and the remainder by long-term inflows, comprising long-term external borrowing by the private corporate sector and banks. The share of portfolio investments declined significantly and became negative from March 2008 on. FDI inflows totalled 3% of GDP in 2007 and 2% in the first half of 2008. The services sector (mainly banks and telecommunications) accounted for almost two thirds of total FDI. Turkey's external debt rose by almost 20% in nominal terms to roughly 45% of GDP by mid-2008. Private external debt makes up two thirds of the total and is rising fast, which is a source of potential risk. International reserves increased by over 15% to EUR 47 billion, or about six months of imports. Although higher oil and commodities prices put pressure on Turkey's current account, long-term capital inflows remained high, leading to an increase in official reserves. Turkey's external position remained solid throughout 2007 and the first half of 2008.

So far (by mid-October 2008), the global financial crisis has caused a correction in Turkish asset prices and in the currency, which could also lead to further output losses and inflationary pressures. The impact on the Turkish banking system has remained limited so far, largely due to previous restructuring measures and comfortable prudential indicators. However, considerable external financing needs stemming from large external deficits in combination with the private sector's significant reliance on external financing and a sizeable - albeit falling - debt stock make Turkey potentially vulnerable to changes in investor sentiment. The quality of financing of the current account deficit has deteriorated, gradually moving away from equity investment towards debt accumulation. The close cooperation amongst Turkish financial authorities as well as with the international and European financial institutions, the existence of strong prudent regulations, the implementation of restrictive monetary and fiscal policies as well as the continuation of structural reforms are providing a stabilising effect to financial markets and the economy.

Labour market conditions remained challenging. The working-age population increased by over 700,000 in 2007. Fewer than 300,000 of them joined the workforce; the rest remained outside the labour market. Consequently, the employment rate hovered around 43% in 2007-2008. In particular, the female employment rate remained low at less than 24% of the total working-age population. The unemployment rate remains between 10% and 11%. Unemployment was much higher among the young (about 20%). Long-term unemployed accounted for more than half of job-seekers. Agriculture typically employs many unpaid family workers. This leads to a statistically lower rate of unemployment, but suggests large pockets of underemployment in this sector and the economy at large. Job creation continued to be hampered, in part, by labour market rigidities (for example, high severance payments and the sizeable social security wedge), by the skills mismatch between labour demand and supply and by the cost of hiring and firing. Overall, labour continues to act as a brake on employment.

Annual inflation rose to 8.4% by the end of 2007 and to 10.6% by mid-2008, well above the inflation target, partly due to soaring food and energy prices. Excluding unprocessed food and energy, underlying inflation rose to 10.4% in mid-2008, a four-year high, depreciated substantially vis-à-vis the euro in September and October 2008. The Central Bank maintained the formal inflation targeting policy adopted in January 2006, but chose to raise its inflation targets in June 2008 in an effort to anchor inflationary expectations more firmly. At the same time, the Central Bank decided to raise rates by a cumulative 150 base points, after having cut them by 225 base points in the course of 2007 and early 2008. It has also announced a tightening bias with the aim of fighting second-round effects on prices. This action was seen as a reaffirmation of the independence of the Central Bank and a strong signal of its continued commitment to fighting inflation. Credit to the private sector remained broadly constant on around 30% of GDP and is therefore not seen as a significant threat to price stability. In conclusion, price stability has weakened significantly over the last year, partly due to external factors.

Fiscal performance has been satisfactory, although the government missed its 2007 fiscal targets. Public debt (ESA95 definition) fell from 46.1% of GDP in 2006 to 38.8% in 2007 and is expected to continue to fall over the medium term, improving fiscal sustainability. The 2007 primary surplus – which excludes interest payments – equalled 3.5% of GDP (ESA95 methodology), down from 5.5% in 2006. In June 2008, the authorities announced the introduction of a five-year (2008-2012) medium-term fiscal framework (MTFF), which offers good visibility over the government's medium-term fiscal strategy. The MTFF seeks to reduce public debt from around 39% in 2007 to 30% in 2012. This is to be achieved by means of a

primary surplus of 3.5% in 2008 (unchanged compared with 2007), declining to 2.4% in 2012. The overall deficit is projected to remain below 1.7% over the five-year period. The fiscal space gained from reducing debt service is to be used to finance three major policy initiatives: an employment package and social security reform, the South Anatolian project (mainly infrastructure investment) and decentralisation to municipalities. Fiscal targets for the first half of 2008 have been met, in large part due to the higher – mainly tax – revenue which kept pace with inflation.

The recent depreciation of the Turkish currency caused a limited decrease in government debt in the first few months of 2008. Recent interest-rate increases had much less impact on the debt stock, which increasingly comprises fixed-rate government securities. However, domestic financial markets remain relatively shallow and the debt service dynamics are still closely related to movements on global financial markets. The average maturity of government debt securities therefore fell in the first quarter of 2008 to 23.5 months, from 25.7 months in 2007. By mid- 2008, almost 60% of total government securities were in the hands of banks, up by almost 2% from 2007, and thus mitigating the decline in non-residents' share. Completion of the IMF stand-by agreement, combined with the perceived uncertainty regarding the future direction of economic policy and the protracted global financial crisis, call for stronger anchoring of the fiscal position. In addition to the MTFF, introduction of a robust and binding fiscal rule would substantially reduce uncertainty and the vulnerability of Turkey's public finances to further turbulence on the financial markets. Overall, fiscal sustainability has been further strengthened thanks to a prudent fiscal policy, but the fiscal position remains vulnerable to shocks and requires stronger anchors in the face of heightened uncertainty and the ongoing financial crisis.

In 2007, several coordination and control bodies were set up within the Ministry of Finance. Accountability, efficiency and transparency of the budgeting process have benefited substantially. This is illustrated, for example, by the development of the MTFF. As last year, some key elements are still lacking, in particular unifying all tax administration functions under the Revenue Administration, strengthening audit capacity and making increased use of standard risk-based audit techniques, which would all enhance transparency and provide significant support for anti-corruption efforts. Overall, measures to increase fiscal transparency have continued.

Over the last few years, Turkey has successfully implemented a strong stabilisation programme. Now it is entering a new stage in its development strategy aimed at raising the growth potential by means of higher public investment, job creation, structural reforms and better education. This entails a difficult balancing act between the desire for higher growth and the need to maintain price stability and reduce the current account deficit. While the public debt level is no longer a major concern for fiscal sustainability and the current policy mix is broadly adequate, macroeconomic stability remains vulnerable to shocks, given the wide external imbalances. *Interplay of market forces*

The independence of regulatory and surveillance agencies has been largely preserved, although some imperfections persist. However, for the first time in several years significant progress was made, in particular in the area of price liberalisation. Electricity and gas prices were raised in January and June 2008 respectively to reflect the actual costs better. Since July 2008, electricity prices are subject to automatic indexation. Price subsidies are being phased out with a view to privatising some public electricity companies by the end of 2008. Administrated prices make up less than 10% of the total weight of the consumer price index (CPI) basket.



Despite its stated intention to allow State-owned firms to set their own prices, the government continued to set prices of goods produced by them. The prices of some key commodities produced by the State are periodically raised. In general, the government sets annual prices for a range of crops. The municipalities continue to place ceilings on the retail price of bread and the Ministry of Health controls medicine prices. Permission for price increases has traditionally depended more on political than on economic criteria. Public institutions and local authorities have large arrears with the State-owned energy company. Price liberalisation is fairly advanced and further progress has been made recently. However, the government continues to control the prices of some key commodities.

Although privatisation continued, with a number of major operations, the private sector's share of GDP remained virtually constant at almost 89% in mid-2008. The pace of privatisation slowed down only slightly from the peak years of 2005-2006. Between July 2007 and mid-2008, privatisation proceeds totalled about EUR 5 billion. Major privatisations included the sales of the petrochemicals company Petkim (EUR 1.4 billion), the State railways port facility in Izmir (EUR 0.8 billion) and of the State tobacco company TEKEL (EUR 1.2 billion) and the initial public offering of 15% of the shares in Türk Telekom (EUR 1.3 billion). In conclusion, privatisation has advanced significantly.

#### *Market entry and exit*

Turkey has made efforts to improve the business climate and reduce impediments to market entry and exit. Appreciation for this has been voiced by international experts. The business registration process was further streamlined in 2007. Legal changes were enacted to make it easier to obtain business and operating licences, including in the mining sector. About 55,000 new companies were established in 2007, an increase of 5% compared with 2006. During the same period, roughly 10,000 firms were liquidated. Sectoral restrictions on foreign ownership continued in the areas of maritime transport, civil aviation, groundhandling, road transport, radio and TV broadcasting, energy, accountancy and education. Entry to the banking and capital markets remained restricted to mergers and acquisitions as no new licences have been issued. Overall, some progress can be reported in business entry and exit.

#### *Legal system*

A reasonably well functioning legal system, including in the area of property rights, has been in place for several years. However, no major progress has been made over the last year. Registering a property takes six procedures and six days in Turkey. Enforcing commercial contracts remains a lengthy process, which needs 36 procedures and takes 420 days on average. The specialisation of commercial court judges appears insufficient, leading to lengthy court proceedings. The expert witness system continues to function as a parallel judiciary system, without improving the overall quality. Use of out-of-court dispute-settlement mechanisms remains low. The legal environment continues to pose practical challenges and creates an obstacle to a better business environment.

#### *Financial sector development*

The financial sector grew steadily in 2007 and 2008 and attracted sizeable foreign investments. The total assets of the financial sector grew by 18% in 2007 and at a similar pace in early 2008. Almost 90% of these assets belong to banks. The ratio between the banking sector's balance sheet and GDP increased to almost 68% at the end of 2007 compared with 66% a year earlier. The ratio of deposits and loans to GDP increased by 3% and 15%

respectively in 2007, which demonstrates the continuing financial deepening and increasing intermediation, channelling more savings into productive investment. The efficiency of financial intermediation improved slightly, as the interest rate spread narrowed by about 0.2% in the previous year. The banking sector attracted strong interest from foreign investors. Consequently, foreign shareholders' share of the sector's assets grew to 26% by the first quarter of 2008 from 22% in early 2007. Including shares listed at the stock exchange, almost 45% of the Turkish banking sector is owned by foreigners.

The Central Bank made significant efforts to monitor developments in the financial sector more closely. Liquidity requirements were tightened and a new survey was launched to monitor better both private-sector debt and the exposure of the corporate sector to exchange rate volatility. The delay in adoption of the new Turkish Commercial Code is hampering the Central Bank's risk assessment capacity, since financial statements have not been aligned with international financial reporting standards. More broadly, adoption of the new Commercial Code is a priority, as it would significantly improve the business environment. Banking profitability ratios improved markedly, by about one third in the year to December 2007. Capital adequacy ratios decreased significantly, albeit from very high levels, from 21.8% in 2006 to 17.3% by March 2008. Concentration in the banking sector is at the same level as last year, as the five largest credit institutions' share of the banking system remained at 60% at the end of 2007. In April 2008, the Banking Regulation and Supervision Agency (BRSA) increased the liquidity requirements for banks in order to mitigate the increased risk stemming from the corporate sector's growing foreign exchange borrowing. The net liabilities of the non-bank corporate sector in foreign denominations increased by 60% in the year to December 2007 to about EUR 45 billion (12% of GDP). The share of foreign exchange-denominated corporate loans as a percentage of the banking sector's total loans fell from almost two thirds at the end of 2006 to just 56% in early 2008. In spite of several bouts of instability during 2007-2008 the financial sector has shown remarkable resilience.

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

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

Macroeconomic stability has been broadly preserved during the reporting period. Financial market turbulence and domestic political developments added some uncertainty to the business environment, but at the same time underlined the economy's improved shock resilience so far. The authorities have improved the investment climate by reducing administrative barriers to firms' entry and operation, by reducing and simplifying the tax system while improving the effectiveness of the tax administration and corporate governance and by privatising State-owned enterprises.

#### *Human and physical capital*

In 2007-2008, the authorities continued to implement the educational reform programme, which is part of the National Development Plan (2007-2013). This programme has two key pillars for education: modernisation and reform. On the one hand, it aims to increase the responsiveness of education to demand and, on the other, to enhance the educational system. The challenges are significant. The top students in Turkey perform well. However, the gap with the vast majority of Turkish students remains significant. Participation in higher education remains low by international standards. Around 40% of 20- to 24-year-olds had completed secondary education, but about ten percent of school-age children are still not

enrolled in primary schools. Reforms and increased spending on education are having some positive impact on educational attainment. In 2007, enrolment rates improved at all levels of education, in particular for female students, but significant problems persist.

Little progress has been made on correcting the mismatch between supply and demand forces on labour markets, which largely stem from the sectoral shift away from agriculture combined with often inadequate education. Coverage of the population eligible for unemployment benefit is limited by rigid eligibility conditions. In May 2008 the government adopted a new employment package, which provides incentives to employ young workers, women and people with disabilities. The package aims to reduce non-financial burdens and social security contributions, which had acted as a disincentive to formal employment. In particular, the package reduces employment costs for five years for newly employed people in the above-mentioned categories. However, it does not affect other barriers which complicate job creation, for example the very high severance payments. The Turkish Employment Agency continued its efforts to improve its institutional capacity and the services provided to job-seekers. Turkey declared 2008 the year for combating undeclared work. Overall, the situation on the labour market remains challenging, but a set of broadly adequate reforms have been tabled.

Both domestic and foreign investments remain robust. Private gross fixed capital formation grew by around 5% in 2007 and in the first half of 2008. Private capital formation totalled around 17% of nominal GDP. FDI inflows decreased to 3% of GDP in 2007 and 2% of GDP in the first half of 2008. Around 80% of these FDI inflows were equity investment and around 20% real estate purchases. As a result, the FDI stock stood at EUR 53.7 billion (about 15% of GDP), of which about one quarter was due to 2007 inflows. Most of the equity investments in 2007 were in financial services (60%) and manufacturing (20%). Investment growth weakened, albeit from very high levels.

For many years infrastructure investment has been hampered by the need to consolidate public finances and the failure to cut lower-priority spending. Inadequate infrastructure is increasingly affecting economic activity. Therefore, the government adopted a spending programme, which aims at releasing about TRY 17 billion (EUR 8.7 billion) for investment in infrastructure in the South-eastern Anatolia region between 2008 and 2012. In addition, extra power-generating capacity is planned in order to keep pace with the rapidly growing electricity consumption (7% on average in each of the past five years). The new government's initiatives aim at boosting investment in infrastructure. Also, the EBRD shareholders have recently decided that the Bank should start operating in Turkey, a decision that was supported by the Commission and the EU shareholders. The EBRD's support will contribute to Turkey's further development and reform programme. The EBRD can support the development of a more open and entrepreneurial economy by promoting growth of small businesses, supporting the Turkish government's privatisation programme, bringing private sector financing and know-how to the provision of public services.

#### *Sectoral and enterprise structure*

The share of agriculture in employment fell by about 1 percentage point to 26.5% in 2007. Most jobs were created in the services sector. The share of services in the total labour force rose to 48%. Employment in industry and construction accounted for roughly 20% and 6% respectively. The relative size of agriculture in GDP fell from 8.3% in 2006 to 7.7% in 2007. Industry's (including construction) contribution to GDP remained stable at roughly 31%,

while services generate about 60% of national income. The sectoral shift away from agriculture towards services has continued.

SMEs account for 99% of all enterprises in Turkey and 77% of total employment. However, SME ratios for capital investment (38% of the total), value added (26.5%), exports (10%) and bank credit (5%) point to low labour productivity, insufficient access to finance and barriers to entering foreign markets. Informality is widespread throughout all corporate sectors, but particularly amongst SMEs. Small enterprises continue to suffer from insufficient managerial capacity and a too small knowledge base to cope with the increasing competition on the markets. To sum up, SMEs continue to have insufficient access to finance and know-how and too often operate in the grey economy.

Restructuring was supported by privatisation in some areas, such as telecommunications. Progress has been made on restructuring and preparing for privatisation in the energy sector, where the main outstanding problems are related to cross-subsidies and large distribution losses. In the private sector, strong productivity gains indicate that the restructuring process has been largely successful. Overall, the process of structural transformation of the economy has advanced relatively well, mainly in the form of privatisation.

#### *State influence on competitiveness*

Transparency in the corporate sector has improved and accounting standards have been upgraded, although the new Commercial Code has not yet been adopted. The absence of transparent monitoring of State aid and of supporting policies to reduce distortion has an adverse effect on competition and competitiveness in the economy. Public procurement policies continue to be undermined by exceptions to the regulatory framework. In addition, a number of derogations have been introduced by sectoral laws, which has further limited the scope of the law. Overall, State intervention continues to influence competition and competitiveness considerably, although the State's role as an active player on the markets is being further reduced.

#### *Economic integration with the EU*

Turkey's trade openness has increased marginally. Exports and imports of goods and services totalled 60% of GDP in 2007. The share of exports to the EU increased slightly from 56.0% in 2006 to 56.4% in 2007. Imports from the EU as a share of total imports declined, from 42.6% to 40.4%, mainly due to the rising import bill for energy, which Turkey imported almost exclusively from non-EU countries. Investors from EU Member States continued to invest heavily in Turkey, though at a slower pace. About two thirds of all FDI inflows recorded in 2007 originated from EU Member States, down from 82% in 2006. In the first quarter of 2008, the share of FDI flows from the EU fell further to 53%. In 2007, GDP per capita in Turkey stood at 43.3% of the EU-27 average. The EU remains Turkey's largest trading and investment partner.

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

This section examines Turkey's ability to assume the obligations of membership – that is, the *acquis* as expressed in the Treaties, the secondary legislation, and the policies of the Union. It also analyses Turkey's administrative capacity to implement the *acquis*. The analysis is structured in accordance with the list of 33 *acquis* chapters. In each sector, Commission's

assessment covers progress achieved during the reporting period, and summarises the country's overall level of preparations.

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

Some progress can be reported with alignment on the **general principles** applicable to free movement of goods. The communiqué on standardisation in foreign trade, applicable in 2008, further reduced the list of items subject to conformity assessment upon import to 100 from about 150 in 2007. For the first time, all 20 communiqués regarding standardisation in foreign trade were published together at the beginning of 2008. This provided a consolidated overview of the standardisation and licensing requirements for imports into Turkey, which was helpful to traders as import checks and licensing are carried out by five different public authorities. Mandatory standards on gas appliances, pressure equipment, batteries and chemicals used in batteries were abolished. In principle, products in free circulation in the EU and bearing the “e”, “E” or “CE” marking are exempted from conformity assessment procedures.

However, technical barriers to trade still exist, in particular in the area of old approach directives such as on legal metrology, pharmaceuticals, chemicals and foodstuffs. There are limitations to the free circulation of goods in the non-harmonised areas, as Turkey has not introduced the mutual recognition principle. Licences are still necessary for goods considered old, renovated or faulty and second-hand motor vehicles.

As regards **horizontal measures**, further progress can be reported on *standardisation*. Adoption of European standards by the Turkish Standards Institute (TSE) gained pace. So far the TSE has adopted a total of 11 048 standards of the European Committee for Standardisation (CEN), 3 725 standards of the European Committee for Electro-technical Standardisation (CENELEC) and 336 standards of the European Telecommunication Standards Institute (ETSI). The overall rate of harmonisation with EN standards rose to 97.4% from more than 90% last year. The restructuring of the TSE continued and it has been reinforced with a separate standards preparation centre, 89 operational committees and a clear separation of its various tasks. However, a revised law reflecting the new structure of the TSE, in accordance with the requirements for full membership of the CEN and CENELEC, has yet to be adopted.

As regards *conformity assessment*, further progress was made in the area of notified bodies. There are six Turkish notified bodies, operating in the areas of lifts, appliances burning gaseous fuels, construction products (cement), pressure vessels and recreational craft.

Further progress can be reported regarding *accreditation*. Following the signature of four European Accreditation Cooperation (EA) multilateral agreements (MLA) last year, the outcome of EA assessment of the Turkish Accreditation Agency (TURKAK) in the fields of certification of products and persons has been positive. TURKAK is already a member of the International Accreditation Forum (IAF) and has a mutual recognition agreement with International Laboratory Accreditation Cooperation (ILAC). The number of TURKAK accreditations rose to 246, an increase of 13% since last year. TURKAK has become the monitoring authority for good laboratory practice, following signature of a protocol between the designating ministries and TURKAK. The revised law aiming at further harmonising TURKAK's structure with the European accreditation system has not yet been adopted.

Limited progress has been made in the area of *metrology*. An amending regulation on the type approval of measures and measuring instruments was adopted and published in the Turkish Official Gazette on 6 November 2007. Measuring instruments remain a problematic area, with excessive requirements on service stations that need to be established prior to import. Turkey is now able to affix its own TR sign for initial verification of measuring instruments in accordance with the relevant EU directive.

Limited progress on *market surveillance* can be reported. Some public authorities, including the telecommunications authority, the Ministry of Health and the Ministry of Industry and Trade, published revised regulations on the method and principles of their market surveillance systems. In the cases of the telecommunications authority and the Ministry of Health, the amendments are of minor importance and further clarify earlier texts. The new regulation from the Ministry of Industry and Trade replaced the 2003 text and contains specifications on the qualifications and training of inspectors. It also provides for a single inspection report template and includes sections on the principles of market surveillance, measures to be imposed, powers and obligations and coordination. The Under-secretariat of Foreign Trade increased the administrative fines for violation of the Framework Law regarding technical legislation on products, which lays the foundation for market surveillance, by 7% in 2008. The fines have almost tripled since the law was published in 2002. However, there are no reliable data on the sanctions and fines imposed by the ministries concerned. The skills of relevant personnel in the Ministry of Industry and Trade, the Ministry of Health and the Ministry of Public Works and Settlement have been considerably enhanced. The Ministry of Industry and Trade and the Ministry of Health increased considerably their market surveillance activities in 2007 as compared with 2006. However, the operational budgets allocated for market surveillance remain too small. Generally, considering the size of the country, more extensive surveillance activities are required, taking into account visibility considerations and risk assessment principles. Continuous training remains to be institutionalised in order to maintain the benefits of the recently acquired knowledge. A common method for data gathering has still not been achieved. Coordination between surveillance agencies remains problematic, including automated exchanges of information. The consumer movement needs support if market surveillance is to become really effective.

Alignment of horizontal measures is advanced. However, the effective implementation of market surveillance, the adoption of final legislative changes on standardisation and accreditation, and the alignment in the area of legal metrology have all been delayed.

Alignment of product legislation adopted under the **old approach** is advanced. Further progress was made on motor vehicles by amending existing and introducing new legislation. The Ministry of Trade and Industry has published a transposing regulation regarding the type approval of agricultural or forestry tractors, their trailers and other interchangeable towed machinery. The Ministry of Health published amending legislation on the pricing of pharmaceuticals and on the pre-packaging and labelling of pharmaceuticals for human use. The latter launched a pharmaceuticals tracking system to fight against counterfeit products. The problem regarding regulatory data protection and the authorisation system for generics for which a marketing authorisation was applied for before 1 January 2005 has still not been solved. The double import licensing obligation for alcoholic beverages has ended, after the import permission procedure of the Tobacco and Alcoholic Beverages Regulatory Authority was converted into a notification requirement. The control certificate and obligatory sampling requirement by the Ministry of Agriculture is still a cause for concern.

Limited progress has been made on the **new and global approach** product legislation, as alignment in this area was already advanced. Full alignment on four more directives was verified during the reporting period, following the 20 directives verified last year. The Ministry of Industry and Trade transposed the revised electromagnetic compatibility directive. The new regulations will enter into force in December 2009. The Ministry of Industry and Trade also transposed the directive on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels. Harmonised standards on recreational craft were published in October 2007. Amendments were made to the legislation on toys and childcare articles containing certain phthalates and intended to be placed in the mouth by children. The new provisions transpose Directive 2005/84/EC.

Regarding **procedural measures**, no progress can be reported. No provisions to align with Regulation 339/93 have been adopted. However, the Under-secretariat of Foreign Trade is implementing the directives on radio and telecommunication terminal equipment, toys, personal protective equipment, construction products, batteries and medical devices, based on standardisation in foreign trade communiqués. Products that have to bear the CE marking and entering Turkey from third countries are subject to checks by the TSE upon import. There has been no progress on cultural goods and firearms.

There has been no progress in the **non-harmonised area**. The mutual recognition principle, a key element for this chapter, has not yet been introduced into the Turkish trade regulations.

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

### *Conclusion*

Some progress can be reported in this chapter. Alignment of product legislation and horizontal measures, except on market surveillance and legal metrology, is advanced. Effective market surveillance activities are needed, taking into account visibility considerations and risk assessment principles, including coordination between surveillance agencies. Some key issues for this chapter, such as identifying and abolishing remaining import licences, restrictions on the import of used motor vehicles, introduction of the mutual recognition principle into Turkish legislation and transitional issues connected with application of regulatory data protection for pharmaceutical products are yet to be solved.

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

With regard to **access to the labour market**, legislation on work permits for foreigners that eased procedures and exempted certain professionals from obtaining work permits, including people working on national and international projects, was vetoed and is still before Parliament.

Efforts to strengthen the capacity of the Turkish Employment Agency (ISKUR) continued. These concerned, in particular, IT infrastructure and training to allow job-matching services in an electronic environment. Further efforts are needed to prepare for participation in the **EURES** (European employment services) network.

With regard to **co-ordination of social security systems**, efforts to build the administrative capacity of the Social Security Institution continued. Appointment of medium- and high-level managers at central and provincial level also contributed to consolidation of the (Social Security) Institution. The efforts to build “one-stop-shop” social security centres in districts are continuing.

There have been no developments as regards preparations for the introduction of the **European Health Insurance Card**.

### *Conclusion*

Overall, limited progress has been made. Alignment is at an early stage. The administrative capacity needs to be strengthened further.

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

Limited progress can be reported on right of establishment and freedom to provide services.

As regards **freedom of establishment**, Turkey still has not provided a detailed alignment strategy on this chapter, as required under the Accession Partnership. Gender, nationality and residence requirements, but also disproportionate language and other requirements, such as the one-office rule for pharmacists, continue to be incompatible with the *acquis*.

No new developments can be reported as regards **freedom to provide cross-border services**. Registration, licence or authorisation requirements continue to be incompatible with the *acquis* in this specific area. Firms already established in a Member State are still subject to specific registration and authorisation requirements. The same applies to service providers, who have to fulfil particular requirements in order to obtain the necessary work and residence permits.

Work to identify obstacles to exercising the right of establishment and freedom to provide services has not yet started. No steps have been taken to establish the structure needed for that purpose. Alignment in the fields of establishment and services is at an early stage.

No progress can be reported in the field of **postal services**. The legal monopoly (reserved area) regardless of weight limits is still intact. No independent regulatory authority exists in the sense of the *acquis*. The accounting system still lacks transparency for want of an appropriate accounting method for reserved and non-reserved services and of separation of accounts.

Some progress can be reported in the area of **mutual recognition of professional qualifications**. A regulation on harmonisation of the minimum training requirements for regulated professions (medicine, nursery, midwifery, dentistry, veterinary medicine, pharmacy and architecture) has been adopted and published in the Official Gazette, with the aim of aligning with Directive 2005/36. The Vocational Qualifications Authority (VQA) has taken further steps towards becoming operational, including recruitment of staff and adoption of several regulations on staff and working methods. This should allow the authority shortly to develop standards on the professions which will fall under its remit. However, the principle of reciprocal recognition is still applied to a number of regulated professions whereas automatic recognition is the general rule under the *acquis*. Various requirements based on nationality and language criteria persist. Discrimination based on gender also persists in the area of midwifery. Despite a cross-reference to the midwife profession in the recently adopted



Law on nurses, male students are still not entitled to attend midwife schools. No procedure has been set up to allow distinctive recognition of professional and academic qualifications, whereas the current administrative structures allow recognition of foreign qualifications at academic level only. Turkey still needs to designate a contact point as part of implementation of Directive 2005/36 on the recognition of professional qualifications.

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

### *Conclusion*

Alignment in the area of services and establishment is still at an early stage. The legal groundwork in the field of postal services still needs to be launched. Alignment with Community law on the mutual recognition of professional qualifications is progressing slowly but at a steady pace.

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

Some progress has been made on **capital movements and payments**. An out-of-court dispute settlement mechanism for customer complaints (the “Arbitration Panel for Customer Complaints”) has been established under the sectoral association. This collegiate body now needs to demonstrate independent decision-making. Some progress can be reported on transactions in the area of securities, instruments other than securities and foreign currencies. The Capital Markets Board abolished the maximum limit on investments by pension funds in foreign securities. The Board also removed the minimum requirement for private pension funds to invest in Turkish government debt instruments by amending the Regulation on the principles regarding the establishment and activities of pension funds. The Council of Ministers amended the Decree on protection of the value of Turkish lira and abolished several restrictions. Following this amendment, residents in Turkey are now entitled to buy and sell foreign currency from and to institutions which are authorised to do so in other countries. The amendment also entitles Turkish residents to purchase capital market instruments other than securities (e.g. derivatives) from abroad. Export revenue no longer has to be converted into Turkish lira. The corresponding decree entitles the Ministry in charge of the Treasury to entrust other institutions with execution of foreign currency transactions in Turkey and with extension of foreign currency denominated loans abroad. However, residual exchange controls remain on certain significant outward capital movements (i.e. foreign consumer and real estate credits to Turkish residents) which are considered by Turkey to have possible macroeconomic implications.

The Turkish legislation in the field of real estate acquisition by foreigners is not fully consistent with Article 56 of the Treaty establishing the European Community. Acquisition of real estate by foreign physical and legal persons (established in other countries) has been regulated by the Land Registry Law. Foreign capital companies (established in Turkey) were subject to different arrangements for real estate acquisition which was regulated by the Foreign Direct Investment Law. In January 2008 the Constitutional Court overruled some provisions of the Land Registry Law on real estate acquisition by foreign physical and legal persons. In April 2006 the same court cancelled some provisions of the Foreign Direct

Investment Law on real estate acquisition by foreign capital companies. To fill the legal gap, in July 2008 the Turkish Grand National Assembly enacted a Law amending the Land Registry Law. The new law takes into account the views expressed by the court in both the above-mentioned decisions and regulates the arrangements on real estate acquisition by foreign physical and legal persons and foreign capital companies. Under the new law, foreign physical persons can acquire real estate for residence or business up to certain area limits, while foreign capital companies established according to the Foreign Direct Investment Law may acquire real estate in Turkey to conduct business in accordance with the activities listed in their articles of association. Foreign capital companies are legally considered as Turkish companies, regardless of the citizenship of their shareholders. Authorities also issued an implementing regulation requiring foreign capital companies to get the approval of the military chief of staff and the provincial governor when purchasing immovable property.

Restrictions on foreign direct investment originating from the EU persist in a large number of sectors, such as maritime transport, civil aviation, ground handling, road transport, radio and TV broadcasting, energy, accountancy and education. A number of the restrictions depend on participation by Turkey in the relevant EU sectoral policies (in particular, in the area of transport). Little tangible progress has been made with free movement of capital in these various sectors to date.

Turkey needs further to align its **payment systems** legislation with the *acquis*, as outlined under the Accession Partnership.

Some progress has been made in the **fight against money laundering**. A number of implementing regulations have come into force, which supplement the Law on the prevention of laundering proceeds of crime. Those implementing regulations relate to reporting suspicious transactions with regard to financing of terrorism, customer due diligence, extension of obliged parties to lawyers and accountants, simplified customer identification measures in the necessary cases and the working principles and procedures of the Coordination Board for Combating Financial Crime. Turkey made a number of legislative amendments in order to prohibit those criminalised as a result of laundering of proceeds of crime and financing of terrorism from becoming founders, partners or managers in exchange offices, investment funds, capital markets brokerage houses, precious metals brokerage houses and real estate investment partnerships.

Turkey signed Memoranda of Understanding with five countries on information exchange (Indonesia, Sweden, Portugal, Mongolia and Afghanistan). A special unit has been established in the Financial Crimes Investigation Board (MASAK) to fight financing of terrorism. A general communiqué regarding the reporting of suspicious transactions and terrorist financing has been adopted. A regulation on measures to prevent laundering of proceeds of crime and terrorist financing has also been adopted, including measures on customer due diligence. The number of reports of suspicious transactions to MASAK increased from 1 140 in 2006 to 2 946 in 2007, mostly originating from the banking sector. Similarly, the number of reports of suspicious transactions with regard to financing terrorism increased from 8 in 2006 to 144 in 2007. In 2007, 43 dossiers were referred by MASAK to the public prosecutors office for prosecution as compared with 39 in 2006. 22 of those resulted in the opening of cases before courts in 2007 as compared with 27 in 2006. However, convictions, confiscations, seizures and freezing of assets have remained quite rare up until now.

The lack of effective enforcement capability and implementation mechanisms remains a cause of concern. MASAK provided training for bank staff, judges and prosecutors, finance and tax

inspectors, obliged parties and other relevant enforcement bodies. However, MASAK's resources are still insufficient and the skill levels of the judiciary and law enforcement bodies are not considered adequate. Turkey has not yet ratified the 2005 Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism. Deficiencies identified in the report on the third review by the Financial Action Task Force (FATF) will be discussed in the FATF plenary meeting in February 2009. They still need to be properly addressed.

Overall, Turkey has made further progress as regards alignment with the *acquis* on the fight against money laundering and financing of terrorism.

### *Conclusion*

There has been some, albeit uneven, progress on this chapter. The maximum limit on investments by private pension funds in foreign securities has been removed. Restrictions on the use of export proceeds and on foreign currency transactions have been abolished. Restrictions on free movement of capital persist in various sectors of the economy. The Parliament enacted an amending law regulating the acquisition of real estate by foreign physical and legal persons and by foreign capital companies. Turkey made further progress with alignment with the *acquis* on the fight against money laundering. New implementing regulations and communiqués have been adopted and the number of suspicious transactions reported has increased considerably. Turkey needs to continue alignment in this area.

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

There has been no progress on the **general principles**. The 15% price advantage for domestic bidders is still enshrined in the legislation. However, less use was made of it than during the previous year (1.5% of the overall contract value in 2007 compared with 8% in 2006). A number of additional derogations from the Public Procurement Law have been adopted, notably in the laws with regard to associations, on Istanbul as the 2010 capital of culture and on witness protection. The amendment of the electricity market law brought in another derogation to the public procurement law. Such derogations reduce competitiveness and efficiency in public tender.

Little progress has been made on the **award of public contracts**. The fairly high participation rate in tendering procedures indicates that information on public tenders is widely available, including on the internet. However, the Turkish Public Procurement legislation remains different from the *acquis* in various respects. The legislative amendment in 2007 introduced the concept of framework agreements to be applied only in the health sector. Utilities continue to be subject to the classical public procurement procedures. There is no coherent legal framework for the award of concessions and public private partnerships. The 2008 thresholds and financial limits for procurement remain above EC levels.

Both the Public Procurement Agency and the State Planning Organisation have significant administrative capacity. However, staff awareness of the State Planning Organisation as regards the *acquis* needs to be strengthened. The specialisation of functions and staff competencies in the Public Procurement Agency needs to be enhanced.

As regards the institutional set up, Turkey has designated the Ministry of Finance as coordinator of public procurement policy, including concessions and PPPs, which is one priority of the Accession Partnership. This decision has had a positive impact, as it has allowed better coordination of legislative preparations in 2008.

No progress can be reported on alignment with the **Remedies** Directives. The number of complaints lodged by dissatisfied tenderers has grown over the years, from about 900 in 2003 to over 4 000 in 2007, though representing only 3% of all contract awards. The review procedure is lengthy and results in creation of backlog of cases.

### *Conclusion*

Some limited progress can be reported in this chapter. Turkey has started to address its priorities in the area of public procurement and has the capacities to address them. The designation of the Ministry of Finance as overall policy coordinator on public procurement is a positive development. The Ministry will have to ensure consistent policy development in the area of public procurement and steer its implementation. This needs to be backed up by a comprehensive strategy on the reforms necessary in terms of legislative alignment and institutional capacity-building in order for Turkey to comply with the *acquis*. Derogations from the general provisions that have the effect of reducing competition and efficiency in public tenders need to be avoided.

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

No substantial progress can be reported on **company law**. The Turkish Commercial Code (TCC) and the law on the entry into force and implementation of the TCC were not adopted yet. Adoption of these two laws would mark an important step forward in this chapter, although some of the provisions of the TCC are not fully aligned with the *acquis*. Companies cannot register online in the registries operated by Chambers of Commerce. Establishment of an electronic database and on-line access to basic company information depend on adoption of the TCC. Adoption of the TCC will trigger amendment of various other laws, including the Capital Markets Law (CML) concerning domestic mergers and divisions of public limited liability companies, the exercise of certain rights of shareholders in publicly held companies and takeover bids.

Little progress can be reported in the area of **corporate accounting**. The Turkish Accounting Standards Board (TASB) adopted and published several interpretations and revisions of a number of international accounting standards (IAS). The adopted standards apply solely to listed companies. The Capital Markets Board of Turkey (CMB) imposes an obligation on listed companies to publish their yearly and quarterly financial statements in compliance with the IAS and the international financial reporting standards (IFRS) in the format applicable in the EU. However, only a few companies in Turkey are listed. The majority are non-listed. Further recruitment took place in order to enhance the administrative capacity of the TASB. Specific training was organised for newcomers. The process to enhance the professional skills of the TASB continued.

No progress can be reported on **auditing**. The regulatory framework for the Auditing Standards Board is still under preparation.

### *Conclusion*

No substantial progress can be reported in the period under consideration. Overall, alignment remains moderate. The new TCC, designed to improve alignment with the *acquis* and trigger the process of alignment of other laws in this area, has not been adopted.

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

The overall legislative framework for intellectual and industrial property rights is largely aligned with the *acquis*, but administrative capacity remains insufficient to ensure effective enforcement, as required by the Customs Union Decision. Turkey remains one of the countries where IPR protection and enforcement are most problematic. Effective enforcement is a priority under the Accession Partnership Agreement and for the negotiations on this chapter.

Some progress has been made in the area of **copyright and neighbouring rights**. Turkey has considerably improved coordination and cooperation between various stakeholders in the area of copyright and related rights issues. A coordination committee was set up in 2007 within an EU-funded twinning project. It was convened in January 2008 to draft an action plan to strengthen copyright protection in Turkey. Another twinning project to strengthen enforcement capacity started in 2008 and will be conducted throughout the year with the Turkish national police as the main target group. Many training sessions and seminars have been organised to raise awareness of IPR enforcement issues. The number of collecting societies increased from 22 to 24. Four collecting societies in the music sector agreed on a common approach to setting tariffs, licensing and other issues. They also signed an agreement on the licensing of musical works used in hotels. However, conflicting views persist regarding collective rights management between users and rights-holders. Piracy of books and other media, such as CDs and DVDs, remains widespread. Turkey's enforcement capacity is still lagging behind. The laws for ratification of the WIPO Copyright and Phonograms Treaties were published in the Official Gazette.

Some progress can be reported concerning the legislative framework for **industrial property rights**. A revision of the regulation implementing the European Patent Agreement in Turkey has entered into force. The Turkish Patent Institute (TPI) has further improved its internal and external IT structure. Improvements can also be reported in online services (including an e-application system), search portals and public relations. Fifteen new staff members have been recruited. Several members of staff have attended training courses to improve their legal knowledge and various awareness-raising activities have been organised. However, inconsistencies persist between the trademarks department and the appeals board. Most of the appealed decisions are reversed by the appeals board and the courts. Measures should be taken to harmonise implementation on the basis of absolute and relative grounds, especially for earlier use, the level of similarity and the signs which may be used as trade marks, including three-dimensional trade marks. Appeal and opposition procedures are very lengthy. Infringements of well-known designs, trademarks and trade dresses are still a cause for concern. TPI practices and courts' understanding of the same issues diverge. Proper reasons should be given for the decisions of the TPI. The regulatory framework, including a code of ethics for patent and trademark agents to prevent misconduct and take implementation forward, is not yet in place. So far no constructive dialogue has been established between the TPI and its customers and the various professional groups dealing with IPR.

Particular attention should also be paid to bad faith and similar trademarks and industrial design issues.

As regards **enforcement**, a high-level Intellectual and Industrial Property Coordination Board, co-chaired by the Ministry of Industry and Trade and the Ministry of Culture, has been established. The purpose of the Board is to foster cooperation between relevant institutions in order to improve the level of IPR protection. The Board will meet every six months. The

Board will be able to invite other public institutions and private-sector representatives to its meetings. An action plan has been drawn up. The criminal provisions of the Turkish Copyright Law have been amended to harmonise them with the new Turkish Criminal Code and Turkish Criminal Procedure Code. The new provisions have reduced legal predictability and enforceability with regard to banderol application and the *ex-officio* powers of the police to seize pirate goods. Consequently, enforcement against piracy has almost come to a halt in most Turkish cities, with the exception of Istanbul, Ankara and Izmir. During the drafting of these special provisions, the opinions of the IPR enforcers (i.e. judges and prosecutors specialising in IPR and collecting societies) were not sufficiently taken on board. Therefore, stakeholders (including the judiciary) need to acquire a better understanding of the amendments to the criminal provisions in order to ensure effective enforcement.

Following a recent Constitutional Court decision, Turkey's trademark protection is at a crucial point. The court pointed out that trademarks infringements could not be punished under the current legislation because crimes and punishments are not defined appropriately in the relevant Turkish legislation. The court invited the government to remedy this situation and to address the current legal vacuum within six months, ending in January 2009. The relevant law prepared by the government has not been adopted. As long as the legal vacuum persists, all similar pending trademarks infringements will be affected. However, since other industrial property rights, like designs, patents, utility models and geographical indications, are also regulated in the same way as trademarks, the court's decision will affect all infringements of industrial property rights. The Turkish authorities need to tackle this situation as a matter of urgency and to eliminate the risk that industrial property infringements cannot be punished.

Nine new specialised IPR courts (three civil and four criminal in Istanbul, one civil in Ankara and one civil in Izmir) were recently established and brought into operation. The locations of the courts were selected on the basis of the level of commercial activities. The appeal stage of the IPR court procedure is very lengthy. Most of the files on criminal acts have been pending before the Supreme Court for a long time. Rights-owners are experiencing difficulties in obtaining preliminary injunctions or search and seizure warrants which would offer a proper enforcement solution to most cases. Training seminars and workshops have been held for stakeholders such as customs officers, national and municipal police forces, lawyers and the related staff of the enforcement bodies. Three public-awareness seminars were organised. Customs officers seized goods in 160 cases on their own initiative in 2007 compared with 45 in 2006. Turkey remains one of the main sources of counterfeited and pirated products seized at EU borders.

### *Conclusion*

Overall alignment with the *acquis* is relatively advanced. Coordination and cooperation between the IPR-related public bodies and their awareness have improved significantly. However, serious deficiencies remain in the area of industrial property rights, in particular with implementation and enforcement. Turkey is still considering its response to the European Commission's suggestion to establish a dialogue on Intellectual property Issues.

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

In the field of **anti-trust**, including mergers, there has been further progress on legislative alignment.

The Competition Law was amended to provide further clarity and legal certainty in the provisions regulating fines imposed for competition infringements. The competition authority adopted a block exemption communiqué covering the insurance sector, in line with the *acquis*. The authority issued another block exemption communiqué on technology transfer agreements. There are a few divergences between this communiqué and the relevant Commission rules, in the form of hardcore restrictions due to the Turkish legislation on intellectual property rights. The authority published two guidelines on market definition and subcontracting agreements between non-competing undertakings. The rules on horizontal cooperation agreements, *de minimis* and sector-specific block exemptions for telecommunications and postal services still need to be transposed. The Banking Law exempts mergers and acquisitions leading to a market share below 20% in the banking sector from the competition authority's control. This exemption limits enforcement of the merger control rules in the banking sector. The authority's efforts to promote competition might be limited in the upcoming privatisation of public banks due to this exemption.

The competition authority enjoys a sufficient level of administrative and operational independence. The authority's emphasis on training for its staff is a determining factor for effective enforcement of the competition rules. All public authorities, including the Ministry of Industry and Trade to which the competition authority is linked administratively, need to respect the administrative and operational independence of the authority.

As regards the enforcement record, in 2007, 238 merger and acquisition cases were handled and 232 cases were concluded (up from 199 and 186 in 2006). The authority opened 131 cases on anti-competitive behaviour and finalised 148 cases (up from 108 in 2006). The Board opened 34 negative clearance and individual exemption cases and concluded 39 in 2007 (36 and 33 in 2006). The fines imposed by the authority decreased by 50%, from TRY 27,002,139 in 2006 to TRY 13,641,633 in 2007. The authority has also been active during the first half of 2008. It took decisions on 65 cases of anti-competitive behaviour and on 109 merger notifications. The administrative capacity of the Council of State (high administrative court) for handling appealed competition cases still needs to be improved. However, the establishment of a special chamber in the Council of State in 2007 is expected to speed up the review of competition decisions.

There has been no progress on alignment of the rules concerning public undertakings and undertakings having exclusive and special rights.

In the field of **state aid**, no progress has been made. Turkey has not adopted the state aid legislation nor set up an operationally independent state aid monitoring authority. Furthermore, Turkey has not prepared the state aid inventory and has not reported on state schemes, as required by the transparency commitments. There are no rules ensuring transparency of financial relations between public authorities and public undertakings.

Some progress has been achieved as regards state aid in the steel sector. Following the transmission of new information in 2008, the Commission has an improved understanding of the state aid granted from 2001 until now. Furthermore, Turkey has reviewed the national restructuring programme concerning both the state aid aspects and the market analysis and forecast for the Turkish steel industry. However, information is still needed on several capacity developments and some state aids of the last years as well as on a clear position of the Turkish authorities concerning future state aid to the steel sector.

## Conclusion

In the field of anti-trust, including mergers, a high level of alignment has been achieved. The administrative capacity and operational independence of the competition authority are satisfactory. The authority enforces the competition rules effectively. There has been no alignment in the field of state aid. Turkey needs to implement the EU state aid discipline in the steel sector, in line with the long-standing commitment given in the ECSC Free Trade Agreement. Alignment in this chapter is not complete.

### 4.9. Chapter 9: Financial services

Good, but uneven, progress can be reported on **banks and financial conglomerates**. With a view to strengthening the liquidity position in the banking system, the Banking Regulatory and Supervisory Agency (BRSA) introduced additional liquidity requirements. However, Turkey has postponed implementation of the BASEL II Accord. The Agency also advised private banks to build up a solid capital stock in response to the recent financial turmoil. Moreover, the prudential and supervisory standards have been tightened up. The BRSA imposed marked-to-market valuation for the derivative instruments recorded on bank balance sheets. The BRSA clarified the coordination rules for consolidated supervision of financial institutions which are being supervised by separate regulatory authorities. The Savings Deposits and Insurance Fund (SDIF) introduced five deposit premium categories for banks, based on their detailed risk profiles. In turn, the BRSA introduced additional reporting requirements for the representative offices of foreign banks. The Agency also placed an obligation on foreign banks' branch and representative offices to apply for authorisation in the event of any change in the ownership of the parent undertaking in the home State. The BRSA organised several training sessions for its staff and gave a dozen staff members an opportunity to study abroad. The BRSA has also established further memoranda of understanding with third countries, taking the number of MoUs up to 16. Supervisory capacity has been enhanced by introducing new reporting requirements and an early warning system. In the area of banking and financial conglomerates, Turkey has further aligned with the *acquis*. Further efforts are needed to continue alignment with the new capital requirements for credit institutions and investment firms and with the other related directives (on deposit guarantee schemes, winding up and reorganisation, financial conglomerates and bank accounts), as outlined in the Accession Partnership.

There has been significant progress in the area of **insurance and supplementary pensions**. The Treasury introduced the concept of "sponsoring undertaking" in a newly published regulation on occupational pension schemes. The same regulation also introduced limits on the fees and expenses that insurance companies are allowed to be charged, whereas the vesting period for group insurance policies was reduced to five years. The Treasury published a regulation on supplementary pension companies covering fit and proper criteria for ownership, licensing applications, mergers and *acquisitions*, rules on advertising and public disclosure. As far as solvency is concerned, the paid-in capital of an insurance company's subsidiaries and affiliates has been included in the definition of the owners' equity. As regards passenger transport, Turkey has increased the minimum level of coverage under the compulsory insurance scheme. However, coverage levels for personal injuries are still well below EU standards. The Treasury adopted a new communiqué requiring insurance and supplementary pension companies to publish their financial statements both in newspapers and on their own websites. Turkey has introduced a new type of insurance for loan repayments by bank customers. A new regulation on insurance mediation has entered into force. It has improved consumer protection and set new standards on registration and



minimum capital, while introducing professional indemnity insurance for intermediaries. However, indemnity coverage levels are markedly below the EU standards. Several other insurance regulations have been published, covering training, internal control and risk management systems, and rules on establishment for brokers. However, provision of cross-border services is impeded, as the regulations place an obligation on foreign brokers to operate via branch offices established in Turkey. A regulation on the activities of committees of insurance experts has also been adopted. Finally, a regulation implementing the rules on the professional qualifications, accounting and bookkeeping responsibilities and activities of insurance experts has been published. Alignment in the area of insurance and supplementary pensions is partial. Establishing an independent regulatory and supervisory authority is a priority. Further alignment is needed, in particular on calculation of solvency margins, supervision of insurance groups and the minimum amounts of cover in motor insurance.

Turkey already largely fulfils the *acquis* requirements. No further progress can be reported on **financial market infrastructure**.

Some progress can be reported on **securities markets and investment services**. The Capital Markets Board of Turkey (CMB) imposes an obligation on listed companies to publish their yearly and quarterly financial statements in compliance with the international accounting standards (IAS) and the international financial reporting standards (IFRS) in the format applicable in the EU. The CMB successfully completed a twinning project which contributed to further improving the capital market legislation and the administrative capacity of the regulatory authority. Alignment in the area of securities markets and investment services is moderately advanced. Further progress is needed, in particular on markets in financial instruments, investor compensation schemes, prospectuses and market abuse.

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

### *Conclusion*

There has been good progress in the area of financial services. Progress has been made on tightening up prudential and supervisory standards, both in banking and in the non-bank financial sector. Authorities have taken measures to strengthen the liquidity position and the capital adequacy of the banking system. A risk-based deposit insurance premium system has been introduced. As regards insurance and supplementary pensions, Turkey has made significant progress by adopting regulations on occupational pension schemes, publication of financial statements and insurance mediation. The CMB has introduced IAS and IFRS standards for listed companies. There was further alignment as regards banks and financial conglomerates, while alignment in securities markets and investment services is moderately advanced. Turkey largely meets the *acquis* requirements in the area of financial market infrastructure. Alignment in the area of insurance and supplementary pensions is incomplete; in particular, an independent supervisory authority in the insurance and supplementary pensions sector needs to be set up.

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

Some progress can be reported in the field of **electronic communications and information technologies**. As of June 2008, the total number of fixed subscribers is around 18 million with a penetration rate of roughly 25%. The total number of mobile subscribers reached to 63.6 million with a penetration rate of 90%. The number of Internet subscribers reached to approximately 5.4 million, 5.3 million of which are broadband (ADSL) subscribers.

Turkey continued its alignment by introducing new regulations on access and interconnection based on the 2002 EU framework, on operators with significant market power (SMP) on the reference interconnection offer (RIO) and the reference Unbundling Offer and wholesale broadband access conditions from the incumbent internet operator. Furthermore, mobile termination rates have continued to gradually decrease.

There has been some progress on number portability, which may become possible from 10 November 2008 in the mobile market after a central database became operational in the Telecommunications Authority. Some initial progress can also be reported for local loop unbundling following the revision on Turk Telekom's reference unbundling offer last year. .

However, the Electronic Communications Law which would provide the basis for alignment with the EU framework did not enter into force after its adoption by the Parliament. The Turkish President vetoed four articles on the administrative and financial conditions for the regulatory authority and the draft is back in Parliament for discussion. Competition in the fixed and broadband markets remains marginal. More than 95% of the broadband internet access services are provided by the incumbent's internet operator. Limited progress can be reported towards equitable and transparent conditions for fixed wholesale broadband access. No progress can be reported with regard to accounting separation and cost accounting imposed on the fixed incumbent. High taxation on communication services unrelated to administrative costs for regulating the sector remains a problem. The scope and implementation of universal service obligations are still incompatible with the relevant *acquis*. Liberalisation of local telephony is still pending and undermines competition in the fixed and broadband markets. The regulatory body is well staffed and is self-financed. However, it lacks independence - notably in the authorisation process - and the decision making process of the Telecommunications Authority is not transparent.

Implementing regulations on provision of internet services at public places and on principles and procedures concerning the regulation of the broadcasts on internet have been adopted during the reporting period. Implementation of these regulations have the potential to violate freedom of expression.

In the area of **audiovisual policy** some progress can be reported, the Turkish Grand National Assembly amended the Turkish Radio and Television Corporation (TRT) Law allowing broadcasts in languages other than Turkish (*See Political criteria*). RTÜK promoted self-regulation by broadcasters and enhanced its administrative capacity to fulfil its monitoring duties. Since August 2008, RTÜK decisions are accessible to the public.

However, Turkey's level of alignment with the EC *acquis* on audiovisual policy remains limited to provisions concerning advertising and the protection of minors. The Law on the establishment of radio and television broadcasts still poses problems in terms of non-discrimination on the grounds of nationality, definitions, jurisdiction, freedom of reception and retransmission, major events, promotion of European and independent works and

restrictions on the share of foreign capital and television enterprises. As regards administration of the broadcasting sector, RTÜK has not reallocated frequencies or reviewed temporary licences. RTÜK established a regular dialogue with the broadcasters and enhanced the transparency of its decisions. However, further measures are needed in order to strengthen the functionality of the regulator.

### *Conclusion*

Some progress can be reported in the field of electronic communications, in particular as regards competitive safeguard measures imposed on dominant operators, notably in the mobile and broadband markets. However, alignment with the EU framework remains limited. The adoption of a new primary electronic communications law well aligned with EU rules is crucial. As regards the *acquis* on audiovisual policy, Turkey's level of alignment remains limited.

## **4.11. Chapter 11: Agriculture**

Progress on legislative alignment with the common agricultural policy (CAP) has been limited. No progress can be reported concerning the announced restructuring of the Ministry of Agriculture and Rural Affairs (MARA).

As regards **horizontal issues**, Turkey has made limited progress. The government's announcement of the intention to scrap decoupled area payments and replace them by coupled payments remains a cause for concern. This would lead to Turkey's agricultural policy drifting away from the reformed CAP and from the principles of competitiveness and market orientation.

Turkey has advanced in preparing a strategy to develop the system of land identification and a farmer's register, as well as a strategy to develop agricultural statistics in line with EU requirements. Efforts to set up a pilot Farm Accountancy Data Network (FADN) have continued.

Turkey continues to ban imports of beef and of live bovine animals originating in the EU. These barriers are not in line with bilateral obligations and their removal is a key component of the accession negotiations on this chapter.

Concerning the **common market organisations**, some progress on *acquis* alignment could be noted with the adoption of two regulations on purchases and sales of cereals and rice and paddy rice. Progress has also been made on alignment of Turkey's legislation with EU marketing standards for fruit and vegetables. The conformity checking operations, performed by the Turkish authorities prior to import into the Community for all fresh fruit and vegetables are recognised by the EU/Community.

As regards **rural development**, substantial progress has been made. The Turkish rural development programme for 2007-2013, prepared under component V of the Instrument for Pre-Accession Assistance (IPARD) and designed to support policy development in the field of agriculture and rural development, as well as the preparation for the implementation and management of the Common Agricultural Policy, was approved by the Commission in February 2008. This marks a major step towards implementation of IPARD in Turkey. Concerning administrative structures, the head of the IPARD Agency has been appointed and a concise action plan for the accreditation process has been submitted to the Commission. According to the plan conferral of management powers by the Commission is scheduled for

June 2009. The legislative framework for operation of the managing authority is in place and personnel, both at headquarters and at provincial level, are being appointed and trained.

No progress was observed on **quality policy** and **organic farming**. As regards **organic farming**, Turkey has continued its efforts to be included in the equivalency list of third countries for imports of organic products according to Article 11 of Council Regulation (EEC) 2092/91. Following the transmission of additional information regarding Turkish organic farming production rules and control system in the end of the year 2007, the Commission could close several points. The main areas of concern remain approval of inputs allowed in organic farming and supervision system

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

### *Conclusion*

Alignment with the *acquis* remains limited. Turkey has made substantial progress on building the capacity necessary to implement IPARD. However, further efforts must be made to complete establishment of the necessary administrative and control structures so that they will be able to operate in a fully decentralised management system. Progress as regards administrative structures related to the CAP was limited to the FADN system and fruit and vegetables. Current support and strategic policy planning in Turkey seem to be developing away from the principles of the reformed CAP by strengthening support instruments linked to production. Technical barriers to trade in bovine products in breach of bilateral commitments remain. Overall, preparations are still at an early stage in this chapter.

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

Transposition and implementation of EU **food safety** policy remain limited. The Framework Law on food, veterinary, feed, hygiene and official controls, which needs to provide for clear assignment of responsibilities, in particular for control bodies, has not yet been adopted.

With regard to general food safety policy, the national rapid alert system for food and feed has been improved. Local units have been directly linked to the Ministry of Agriculture and Rural Affairs to ensure effective follow-up of notifications. Monthly reports on the follow-up to RAFFS alerts are being sent to the Commission. However, the number of notifications received is still very high. Further efforts to follow up alerts and implement the necessary corrective measures are still needed.

Regarding **veterinary policy**, Turkey has made limited progress on both transposition and implementation of the *acquis*.

The first veterinary border inspection post (BIP) at Sabiha Gorken airport in Istanbul is not yet fully operational. The BIP receives a low number of consignments because most still arrive at Ataturk airport in Istanbul. Construction of three land and two seaport BIPs is under way. The system for identification and registration of bovines and their movements has been improved as regards registration of holdings (including animal markets), control of movements of animals and training of users of the database. Turkey has made further efforts

to bring the system into line with the *acquis*. However, supplementary efforts are necessary as regards registration of movements in the bovine database. Initial work on identification and registration of ovine and caprine animals is ongoing, with the aim of setting up an identification system covering sheep and goats in line with EU requirements. For the time being, only some voluntary identification and registration activities have been introduced for small ruminants in some provinces. No progress can be reported as regards non-commercial movements of pets.

Turkey has continued its efforts to combat animal diseases. Efforts have focused on avian influenza (AI) and foot-and-mouth disease (FMD), as in previous years. AI outbreaks were low in number in the reporting period and successfully contained with the cooperation of public health authorities. Intensive awareness-raising campaigns were implemented. The regulation concerning protection against AI has entered into force. Stricter measures on animal movements between Thrace and Anatolia have had a positive impact on the occurrence of FMD outbreaks in Thrace, where the number of outbreaks has considerably decreased. The last FMD outbreak in Thrace was in September 2007. Turkey has also started focusing on attaining brucellosis- and tuberculosis-free status in Thrace, although no significant progress has been observed on the ground. No progress can be reported with transmissible spongiform encephalopathy (TSE). Turkey has continued its voluntary participation in the EU animal disease notification system (ADNS). Relevant information on animal diseases was provided to the EU and to other international organisations.

Turkey has improved its procedures for implementing and following up the national residue monitoring plan and controls on veterinary medicinal products. However, additional progress is essential, mainly on the laboratory side and on inclusion of all substances on which controls are required by the EU legislation.

Turkey's current system for financing veterinary inspections and controls is not in line with EU practice. No progress has been observed regarding import requirements for live animals and animal products. The regime of individual licences for import of each consignment of live animals and animal products has not been modified. The *de facto* beef ban is still in place (See Chapter 11). Turkey has made no progress on animal welfare and zootechnical issues.

No progress can be reported as regards **placing on the market of food and feed**. Transposition of the hygiene package, which is a key component of the accession negotiations on this chapter, has not yet been completed. Unclear division of tasks between different departments and institutions is still leading to problems with official controls. Some improvements were observed in the administrative structures as a result of intensive training programmes. Work has started on accreditation of inspection services, but no substantial progress has been observed in this field. The legislative basis has been put in place for establishment of the national food reference laboratory in Ankara. Risk-based annual control programmes have been established for several products. The data network system, which will allow more efficient implementation of inspection and control programmes, has been improved. Preliminary preparations for classification of agri-food establishments as regards their compliance with EU structural requirements, which is a key component of the accession negotiations on this chapter, have started. However, no action has been taken to bring agri-food establishments into compliance with the EU hygiene requirements. No progress has been observed on **animal** by-products.

Alignment and implementation of the legislation on labelling, presentation and advertising, food additives and purity criteria, extraction solvents, quick frozen foodstuffs, food for particular nutritional uses and irradiated food has advanced.

Transposition in the areas of flavourings, food supplements, novel food and genetically modified organisms (GMOs) has yet to be completed. Alignment and implementation of the legislation on food contact materials has advanced; however, further adaptations are required to bring the system fully into line with the EU system.

Aflatoxin contamination remains a major problem. A communiqué on the methods of sampling, sample preparation and analysis for the official control of lead, cadmium, mercury, inorganic tin, 3-monochloropropane-1,2-diol and benzopyrene in foodstuffs and the communiqué on the maximum limits on contaminants have entered into force. Alignment is advanced in the case of mineral waters. No progress has been observed as regards specific rules for feed.

Progress on **phytosanitary policy** remains limited. Transposition of the legislation on plant protection products is advanced. Implementing regulations on seeds and propagating material have entered into force. The law on plant health and quarantine has not yet been adopted. No developments were reported on international phytosanitary agreements.

### *Conclusion*

Progress in the area of food safety, veterinary and phytosanitary policy has been limited and needs to be consolidated. Transposition and implementation of the *acquis* in this chapter requires considerable efforts. Strengthening administrative capacity at central and local levels is vital for proper implementation.

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

No significant progress has been made on alignment with the fisheries *acquis*. The revised law on fisheries has not yet been adopted. The central administration structures remain unsatisfactory. The spread of powers across different ministries and even different departments within the Ministry of Agriculture and Rural Affairs (MARA) persisted.

Some progress has been made as regards **resource and fleet management**. There has been improvement in the fisheries information system however it is not yet fully operational. Turkey's satellite-based system for monitoring (VMS) the 86 blue-fin tuna fishing vessels is in place. This monitoring system is currently used by 196 vessels, . Two additional fishery port offices have been established and been brought into operation. No progress can be reported as regards stock assessment.

Limited progress has been achieved on **inspection and control**. It is now compulsory to keep fishing records in logbooks for fishing vessels longer than 12 metres, which will allow registration and reporting of catches. Turkey has started work on introducing sales notes in 10 wholesale markets on a pilot basis.

No progress can be reported concerning **structural action, market policy** and **state aid**.

As regards **international agreements**, Turkey signed a fisheries agreement with Yemen and a fisheries cooperation protocol with Georgia.

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

### *Conclusion*

Limited progress has been made on resource and fleet management and on inspection and control. However, Turkey has made no progress on legislative alignment in this chapter. The administrative structures necessary to implement the Common Fisheries Policy have not been established.

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

Preparations in the area of **road transport** are advanced and some further progress has been made. Licensing of road transport operators and certification of professional competence are close to completion. Turkey has issued a decree setting out the principles of a fleet renewal scheme and for phasing out old vehicles.

Institutional capacity has been further strengthened. The Directorate-General for Highways has been transferred from the Ministry of Public Works and Settlement to the Ministry of Transport. This has improved coordination between transport authorities. Moreover the Directorate-General for Land Transport (DGLT) has established a new unit for implementation of the Regulation on dangerous goods. However, DGLT has not reached the necessary monitoring and control standards and a precondition for the Regulation implementation has not been fulfilled as Turkey has not yet become a party to the European agreement on the international carriage of dangerous goods by road (ADR). Financial and professional competence requirements are less stringent for domestic operators. Continued efforts are required in order to meet EU technical requirements, also in the field of road transport, in particular for the introduction of digital tachographs - where necessary preparatory work to meet international obligations and its implementation has not yet started - and for speed limitation devices' requirements for light buses and utility vehicles which are not in line with the *acquis*.

There has been some progress in preparations for a new railways law, which are at an advanced stage, but there is no progress with its adoption process. Attention must be paid so that any new legislation achieves effective alignment with the *acquis* in the sector of **rail transport**.

There is no **inland waterways transport** covered by the *acquis* in Turkey.

Limited progress can be reported in the area of **air transport**. Processes related to SHD-T-35 licences were aligned with the European Aviation Safety Agency (EASA) Regulations, Part 66 and Part 147. Preparation of regulations on slot allocation, groundhandling services, passenger rights and maintenance systems is advancing. The EASA accredited the Directorate-General for Civil Aviation (DGCA) in the field of aircraft maintenance. However, its implementation capacity in these technical areas is lagging behind. Preparations for a single European sky are at an early stage.

Air traffic management is suffering from a lack of regional cooperation. The lack of communications between air traffic control centres in Turkey and the Republic of Cyprus is seriously compromising air safety in the Nicosia flight information region.

As regards **maritime transport**, alignment in the area of safety is well advanced. Secondary legislation on roll-on/roll-off passenger ships and high-speed craft has been published. The regulation on seafarers has been amended on the 7<sup>th</sup> of July 2008 in accordance with the provisions of the I/8 and Code A-I/8 section of the STCW-95 Convention. Preparations for improvement of the institutional capacity to prevent pollution from ships, along with emergency response capacity, have not yet been launched.

The rules on cabotage and ship registration are not in line with the *acquis*. Turkey has not yet become a signatory to SOLAS-78, SOLAS-88 and Mar-Pol Annexes III and IV. Turkey is on the grey list of the Paris memorandum of understanding. The detention rate of Turkish vessels in 2007 improved to 6,12 %, compared with an EU average of 3,08 %.

No particular development in the area of **combined transport** and **satellite navigation** can be reported.

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

No progress has been made on **state aid**. There is no established institution or legal framework in Turkey to regulate State aid.

### *Conclusion*

Turkey has made limited progress on transport. In the area of road transport, alignment is advanced. However, the implementation capacity is lagging behind and continued efforts are required to ensure due enforcement of road safety. Little progress can be reported in the rail sector. Progress in the maritime sector is uneven. The institutional capacity for prevention of pollution and emergency response is insufficient. There has been limited progress on air transport. The lack of communications between air traffic control centres in Turkey and the Republic of Cyprus is seriously compromising air safety. In both the air and maritime sectors, no progress has been made on becoming a party to international conventions.

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

Regarding **security of supply**, limited progress has been made. A legislative package with the aim of strengthening security of supply and speeding up investment in energy infrastructure was adopted. Under the new law, the State may, when necessary, engage in electricity generation in addition to the private sector. No developments were reported regarding approximation of the methods of calculating oil stocks with the EU method. The natural gas pipeline between Turkey and Greece is now in operation.

Some progress can be reported on the **internal energy market**. The eligible consumers limit was lowered to 1.2 GWh which is equivalent to market opening of approximately 41%. A cost-based pricing mechanism came into force by July 2008. This mechanism enables State



economic enterprises (SEEs) operating in the field of energy to reflect changes in their production/input costs in their sales prices. The mechanism is expected to contribute to better and sustainable pricing on energy markets and to help to improve the financial position of the SEEs concerned. However, cross-subsidies persist in the electricity sector and non-cost items like TRT share remain part of electricity bills. The privatisation process of four electricity distribution regions has been completed. The privatisation high council and Energy Market Regulatory Authority have not yet approved the processes. The percentage of their annual electricity generation that auto-producers are allowed to sell on the electricity market has been increased to 50% from 30%. By the end of 2007, 48.3% of electricity was generated by SEEs. Electricity theft and loss was reduced to 15%, but remains almost twice the EU average.

There has been very limited progress as regards the natural gas market. By the end of May 2008, the distribution tender process was completed for 55 regions. A total of 40 cities have started to use natural gas. The Ankara natural gas distribution company has been privatised. An amendment to the natural gas market law allows the state pipeline operator BOTAS to import LNG from spot markets. Also, the natural gas licensing regulation was amended in a way to facilitate LNG imports. No developments have been observed in transfer of BOTAS's contracts to the private sector. BOTAS still imports 86.6% of the consumption in Turkey. The Natural Gas Market Law requires BOTAS to transfer purchase or sale contracts to the private sector until its aggregate annual imports fall to 20% of annual national consumption by 2009.

Competition remains limited on both the electricity and the natural gas markets. To improve operation of the markets and establish competition, the regulatory authority needs to exercise its powers in a more assertive manner.

No progress can be reported concerning **state aid**.

In the case of **energy efficiency**, some progress can be reported. Following adoption of the Framework Law last year, an implementing regulation covering the transport sector has now been adopted. A prime ministerial circular has declared 2008 the year of energy efficiency and the government has drawn up an action plan on "energy efficiency movement". The administrative capacity of the Directorate-General for Electrical Power Resources Survey and Development needs to be enhanced in order to make it more effective in this field. No national targets have been set for energy efficiency and **renewable energy**. The amendments to the Renewable Energy Law introduced additional incentives. The Energy Market Regulatory Authority issued the criteria to be applicable to renewable energy generation facilities for their connection to the grid. Following adoption of the Framework Law on geothermal energy, the implementing regulation on principles and procedures for exploration, operation and licensing of geothermal resources, natural mineral waters and geothermal-based gases was adopted.

As regards **nuclear energy and radiation protection**, a Framework Law on establishment and operation of nuclear power plants and energy sales has been adopted. This marks a major change in Turkey's energy policy. The Turkish Electricity Trade Company (TETAS) launched the tender for construction and operation of a nuclear power plant in Mersin Akkuyu and announced the call for proposals. For the tender of Turkey's first power plant only one bid was submitted and the evaluation process has started by end of September. The implementing regulation on competition and contracting principles and procedures within the scope of the Framework Law was also adopted. Turkey needs to fully implement the requirements of the Convention on nuclear safety, in particular those related to siting and to regulator's

independence, and that the existing legislative framework in the field of nuclear safety and radiation protection is completed, implemented and monitored. Management of institutional radioactive waste needs to be brought into line with international recommendations, basic safety standards and best EU practice. Turkey has not acceded to the Joint Convention on the safety of spent fuel management and radioactive waste management.

### *Conclusion*

There has been some, but uneven, progress in the area of energy. Several years after adoption of the Framework Laws on the electricity and natural gas markets, competition remains limited and transparent and cost-based pricing has yet to be achieved. National targets for energy efficiency and renewable energy have yet to be set.

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

There has been little progress on **indirect taxation**. Turkey's value-added tax legislation is partially aligned with the *acquis*. Further alignment of the structure, exemptions, special schemes and application of reduced rates is needed.

As regards *excise* duties, the minimum levels on tobacco products have been increased. However, discrepancies between the Turkish legislation and the *acquis* on the structure of excise duty on tobacco and tobacco products remain unchanged. Turkey applies *ad valorem* rates and has no element of specific excise duties. The Tobacco Fund remains discriminatory. It sets a special duty on imported tobacco and cigarettes only, which is not applied to domestic products. Turkey has not introduced any duty-suspension arrangement for domestic movements and fiscal warehouses.

Alcoholic beverages are taxed on the basis of an *ad valorem* duty, supplemented by a specific duty if the former is lower than the minimum amount. The specific duty levels are differentiated on the basis of the type of product, instead of alcohol content. The levels set are higher for imported products than for comparable domestic products. This discriminatory effect is not in line with the *acquis*, the Customs Union or WTO rules. The need to abolish discriminatory taxation practices is the key to further progress in the accession negotiations on this chapter.

There has been some progress on **direct taxation**. Turkey amended the Personal Income Tax Law to comply with the revised Corporate Tax Law. This amendment and adoption of the implementing legislation for domains such as transfer pricing are positive developments for addressing harmful tax practices and for respecting the principles of the code of conduct for business taxation. Turkey will need to avoid introducing any measures contradicting the principles of the Code of Conduct for business taxation.

Some progress can be reported in the field of **administrative cooperation and mutual assistance**. The semi-autonomous revenue administration and recently established Directorate-General for Revenue Policy continued improving their administrative capacity. The revenue administration published its second tri-annual strategic plan with performance indicators.

Turkey has made some progress as regards **operational capacity and computerisation**. All provincial tax offices have been computerised. The large taxpayer unit is fully operational. Taxpayers file 99% of their tax returns electronically. Improvements in taxpayer services to encourage voluntary compliance are continuing, with the establishment of the taxpayer

services unit, taxpayer call centre and taxpayer services centre. The revenue administration has developed an electronic tax database and risk-analysis system. The banderol tracking system on tobacco and alcoholic products is fully operational. Turkey's tax revenue has increased, but measures for reducing the informal economy still need to be reinforced.

#### *Conclusion*

There has been little progress towards improving Turkey's legislative alignment in this chapter. However, discriminatory taxation of alcoholic and tobacco products persists. Modernisation of the Tax Administration has continued, leading to improved service to the taxpayer and increase in revenue.

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

There has been little progress in the area of **monetary policy**. The Capital Markets Board abolished the requirement whereby private pension funds must invest a minimum percentage of the premiums they collect in Turkish government debt instruments. In the area of monetary policy, Turkey is not yet sufficiently aligned with the *acquis*. The government and the Central Bank of Turkey set the inflation target jointly. The Central Bank sets limits for credit card interest rates. The Central Bank started the process for the re-introduction of the Turkish Lira (TRL) leading to the replacement of the New Turkish Lira as of 1<sup>st</sup> January 2009. The Central Bank's statute has to be revised in order to ensure full independence of the Bank. The Banking Law allows for the disbursement of advance payments to the Savings Deposits Insurance Fund from the Central Bank. This provision is not in line with the prohibition of monetary financing of the public sector. As for the prohibition of privileged access by the public sector to financial markets, there are several provisions requiring the purchase of public securities.

Some progress has been made in the area of **economic policy**. The government adopted an action plan for 2008 – 2012. The authorities completed some key legislative steps, in particular by adopting the social security law, the law on incentives for research and development, and an employment package to improve labour market conditions. Turkey submitted a Pre-Accession Economic Programme (PEP) to the Commission. The authorities published a Medium-Term Fiscal Framework (MTFF) for 2008 – 2012, which sets medium-term public debt and budget deficit targets after the expiry of IMF stand-by arrangement in May.

Formulation and implementation of economic policy remained fragmented, despite efforts to improve co-ordination activities.

#### *Conclusion*

Some progress can be reported in the area of economic and monetary policy. Economic policy formulation and implementation remained fragmented. Little progress has been made in the field of monetary policy. Several shortcomings still exist, in particular regarding full independence of the central bank, the prohibition of monetary financing of the public sector and the prohibition of privileged access of the public sector to financial markets.

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

Some progress has been made in **statistical infrastructure**. The Official Statistics Programme for 2007-2011 was updated. The programme defines standards, data compilation

methodologies and publication schedules for all official statistics providers. The Turkish statistical institute (Turkstat) made some progress in strengthening its coordinating role. Cooperation with main data providers should be further improved. Main data providers should improve their administrative capacity, including language skills.

Some progress has been made in **classifications and registers**. Turkish translations of major EU statistical classifications are available for use by all official statistics providers. Progress in setting up the business register and farm register systems remained very limited. There is an urgent need to further improve the administrative registers held by the Ministry of Agriculture. Further efforts are needed to finalise the establishment of a business register system.

Significant progress has been made in **sector statistics**. In the area of *demographic and social statistics*, Turkey completed for the first time an address-based population registration system for the 2007 population census. In *macro-economic statistics*, which is a key area for the accession negotiations in this chapter, Turkey completed a major revision of its national accounts, which largely aligned them with the European System of Accounts, ESA 95. In *agriculture statistics*, another key element for the chapter on statistics, limited progress was made. Pilot surveys on vineyards, pesticide use and fruit were conducted. Preparations are underway to improve statistics on crop, livestock and meat production, as well as milk production and dairy statistics. Efforts need to be stepped up in both these areas. In *social protection statistics*, the survey on income and living conditions has been completed. As for *labour statistics*, progress has been made in structure of earnings and labour costs. In *education statistics*, the adult education survey has been completed. Progress can be noted on structural *business statistics* and *short-term statistics*. As regards *tourism statistics*, field studies for the household domestic tourism survey have been completed. As regards *environmental statistics*, progress has been made in statistics on municipal water, wastewater, and environmental expenditure.

### *Conclusion*

There has been good progress in the area of statistics. The administrative capacity improved. Turkey revised its national accounts and finalised the 2007 population census through the new address-based population registration system. Further progress is in particular needed in the key areas of agricultural and macroeconomic statistics as well as in the field of business registers. Cooperation with other data providers and the coordinating role of Turkstat have to be further strengthened.

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

There is no progress to report in the area of **labour law**. Shortcomings in the transposition of a number of directives remain; these include the limited scope of application of the labour law. Administrative capacity of the Ministry of Labour and Social Security and its affiliated institutions is not yet sufficiently developed. Child labour, including children working on the streets, remains a problem. Shortcomings in the legislation with regard to child labour still persist, as outlined in the Turkey 2007 Progress Report. Turkey needs to continue its efforts to combat child labour (*See also the section on Economic and Social Rights*). In the area of labour law, Turkey is not yet sufficiently prepared.

There has been some progress in the area of **health and safety at work**, where Turkey has attained a good degree of alignment with the *acquis*. The Labour Law was revised to prohibit

workers without the relevant vocational training qualifications from being employed in heavy and risky work. The implementing regulation on health and safety measures on risks related to chemical agents was amended and came into force in March 2008. The Labour Inspection Board started harmonising its inspection practices and further improved its capacity. However, major shortcomings remain. In particular, legislation to transpose the Framework Directive has not yet been adopted. Existing legislation does not cover all workers in the private sector and excludes workers in the public sector. Statistics reveal that there has been a significant increase in fatal occupational accidents and diseases in particular in the Tuzla shipyards. Further efforts to implement the legislation are needed including through awareness-raising, training and strengthening the capacity of the inspection bodies. Preparations in this field have started.

As regards **social dialogue**, there has been limited progress. Tripartite social dialogue meetings were more frequent in the reporting period; however, the Economic and Social Council does not meet regularly as required by the law. There has also been some progress regarding bipartite social dialogue in certain sectors; however, establishing autonomous and bipartite social dialogue structures at all levels is still outstanding, and the number of workers covered by collective agreements is still low. Full trade union rights have not yet been established in Turkey. The draft legislation aimed at bringing the currently applicable Trade Union and Collective Bargaining, Strike and Lockout Laws into line with ILO and EU standards is still pending (*see also the section on Economic and Social Rights*). In the area of social dialogue Turkey is not yet sufficiently prepared.

There has been progress in the area of **employment policy**. An Employment Package was adopted in May 2008 aiming to address unemployment challenges, with a specific focus on the promotion of job opportunities for women, young people and people with disabilities. For instance, the amendments stipulate, among other things, that the employers' share of social security premiums for newly hired women employees are to be covered by the Unemployment Insurance Fund for a five-year period, starting with 100% in the first year and ending with 20% in the fifth. Unemployed persons registered with the Turkish Employment Agency (İŞKUR) will benefit from job matching, guidance and vocational training, to be funded by the Unemployment Insurance Fund. İŞKUR continued its efforts to improve its institutional capacity and the services provided to job seekers. Turkey also declared 2008 as the year for combating undeclared work.

However, problems remain. In 2007, the unemployment rate remained stable at 9.9 %, but the overall employment rate – at 43.1% – again decreased slightly compared to 2006. The labour market is characterised by low labour force participation (47.8% in 2007) and low employment rates, in particular for women (22.2% in 2007), and high levels of youth unemployment (19.6% in 2007). The large size of the informal economy (a little under half of those in employment are not registered with any social security institution) and the marked rural/urban divide in the labour market remain the main challenges. No further progress was made in finalising the Joint Assessment Paper on Employment Policy Priorities (JAP): no agreement has yet been reached on how to address the employment issues affecting vulnerable groups. In the area of employment, Turkey is not yet sufficiently prepared.

Good progress can be reported on the preparations for the **European Social Fund** (ESF) through the implementation of the component on Human Resources Development of the Instrument for Pre-Accession Assistance (IPA). In December 2007, the Commission adopted the Human Resources Development Operational Programme. Its aim is to support activities in the areas of employment, education and training, and social inclusion. The Ministry of Labour

and Social Security has established the internal structures necessary for the management of the Operational Programme, staff have been assigned and staff training has been provided. The Turkish authorities have accredited the management and control system for implementing IPA on a decentralised basis and have requested the conferral of management powers. To mobilise stakeholders, awareness raising events were organised. However, administrative structures and legislation are not yet sufficiently adapted in order to build up adequate institutional capacity for the future management, implementation, monitoring, audit and control of ESF-type measures. Preparations in this area are starting.

There has been limited progress in the field of **social inclusion**. The Social Insurance and General Health Insurance Law entered into force in October 2008. It provides general health insurance coverage for everyone under 18 years of age. This includes foreign nationals who have resided in Turkey for more than a year and who do not have social insurance in their home countries. The health premiums of those who cannot afford to pay are to be covered by the State. As part of the Employment Package, social security premiums for the disabled will be covered by the State to promote the employment of people with disabilities. However, a high incidence of poverty persists in rural areas as well as among employed people (working poor) and children. No further progress was made in finalising the JIM (Joint Inclusion Memorandum): no agreement has yet been reached on how to address issues of social inclusion of vulnerable groups. Sound mechanisms are still outstanding for monitoring poverty and social inclusion, as well as the implementation of social inclusion policies, so as to measure progress. Preparations in this area are at an early stage.

In the field of **social protection**, some progress has been achieved. The most significant pillar of the social security reform, the Social Insurance and General Health Insurance Law, entered into force in October 2008. Its aim is to regulate, among others, the pension parameters and the general health insurance system with a view to ensuring adequate and sustainable pensions. The Social Security Institution has been strengthening its capacity to deliver decentralised one-stop services for disadvantaged people. However, there has been no development as regards new legislation on social assistance and services. Preparations in this area have started.

As regards **anti-discrimination** and **equal opportunities**, limited progress was achieved. Women's employment rates and access to education are the lowest among the EU Member States and the OECD countries. Important general principles and definitions, such as the definition of direct and indirect discrimination, are lacking in national law. The *acquis* concerning discrimination on grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation has not yet been transposed. An effective and independent "Equality Body" still needs to be established to promote non-discrimination and equal treatment (*see also Section on Economic and Social Rights*). Preparations in the field of anti-discrimination are at an early stage.

### *Conclusion*

Overall, Turkey has made some progress in the field of social policy and employment through the adoption of the Employment Package and the Law on Social Insurance and General Health Insurance. However, ensuring full trade union rights and combating undeclared work require particular attention. Further efforts are also needed in order to combat child labour as well as to update and finalise the JAP and JIM documents. Gender equality in economic and social life as well as policies to support social inclusion should be improved. In view of ESF preparations, there is a need to step up the preparations for effective implementation of the

Human Resources Development component of IPA. In general, there is a need to increase administrative capacity for the effective implementation of the *acquis*.

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

Turkey made further progress with regard to **enterprise and industrial policy principles**. The revised SME Strategy and SME Action Plan covering the period 2007-2009, which were published in November 2007, are largely in line with EU policy principles, including the Lisbon strategy. The Ministry of Industry and Trade published investment programmes for small industrial estates and organised industrial zones. Both programmes included, as criteria for the selection of projects, the ability to facilitate or contribute to the policies and priorities set for EU accession. The Coordination Council for the Improvement of Investment Environment (YOIKK) adopted a new action plan which consists of a long list of actions drawn up by 12 technical committees. Turkey has made preparations for the establishment of a revised industrial strategy; however, no industrial strategy document has yet been issued. Turkey does not have sufficient mechanisms for the monitoring and evaluation of existing policy strategies and action plans.

There was further progress in improving the business environment. Improvements include better systems for paying taxes and trading across borders; a cut in corporate income tax; introduction of electronic customs procedures; legislative amendments regarding the setting-up of business and working licences; a new Law on Research and Development which includes tax reductions on R&D and incentive schemes.

Some progress was made with respect to **enterprise and industrial policy instruments**. A new decision was issued on financial support extended by the Small and Medium-sized Industry Development Organisation (KOSGEB) by increasing the upper limit for loans, extending the maturity date and allowing all domestic and foreign banks to take part in KOSGEB's lending schemes, based on protocols to be signed with this institution. Turkey officially joined the Competitiveness and Innovation Programme CIP in 2008. The decision by the Turkish authorities on ratifying the Memorandum of Understanding is still pending. This is preventing the signing of project contracts and the start of operations. No further progress has been made with regard to completing alignment with EC Directive 2000/35 on combating late payment in commercial transactions.

Some progress has been made in **sector policies**. Turkey has reviewed the national restructuring programme concerning both the state aid aspects and the market analysis and forecast of the Turkish steel industry. The Ministry of Industry and Trade published a strategy for textile, clothing and leather sectors, which aims at improving the competitiveness of these sectors and managing their transformation process. Turkey continued its privatisation efforts in the reporting period. The total volume of privatisation revenue achieved between July 2007 and May 2008 was € 4.93 billion, which corresponds to 1% of GDP in 2007, as compared to 1.5% in 2006.

#### *Conclusion*

Turkey has made some further progress in this chapter. This relates to the adoption of a new SME Strategy and Action Plan, improvements in the business environment and continuing high foreign direct investment inflows in 2007. There is not a sufficient monitoring and evaluation mechanism in place to assess progress on various policy action plans and strategy

documents. Turkey has not adopted a revised comprehensive industrial strategy. Turkey has achieved a reasonable alignment with the *acquis* in this chapter.

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

Turkey is advancing in the area of **transport networks** and made further progress during the reporting period. The Transport Infrastructure Needs Assessment (TINA) has been finalised and will provide an agreed basis for the future definition and development of the TEN-T in Turkey. Projects preparation is ongoing. However, there is a need for a more reliable system of classified transport data.

In the area of **energy networks**, the European Community is supporting preparations for projects aimed to strengthen a competitive electricity and gas market in the EU, as well as to improve its security of supply. The Nabucco natural gas pipeline project from the Caspian and Central Asian region to Europe via Turkey is among the highest priority projects of the EU. The Turkish authorities have repeatedly confirmed their commitment to the realisation of the project. Relevant planning and design are being prepared and are expected to be finalised in early 2010. The partner countries in the project are working on an inter-governmental agreement with the aim of bringing the pipeline into operation as early as possible. The Turkey-Greece pipeline became operational, with a transport capacity of 750 million cubic metres annually. Technical preparations to bring the Turkey-Greece-Italy Interconnector natural gas pipeline into operation are continuing.

As regards electricity networks, links are in place with Bulgaria, Syria, Iraq, Iran and Azerbaijan, Iran and Georgia. Further interconnections with the European Power Network UCTE (Union for the Co-ordination of Transmission of Electricity) are encouraged. Turkey gives priority to a number of projects which contribute to the completion of priority axes No.4 (Greece-Balkan Countries UCTE system) and No.9 (Mediterranean Electricity Ring) of the "EU Projects of European Interest". In June 2008, the construction of the Babaeski (Turkey) – Filippi (Greece) line has been completed and will allow electricity transfer between both countries.

No progress can be reported in the area of **telecommunication networks**. Preparations in this area are at an early stage.

#### *Conclusion*

Turkey made some progress in the area of trans-European networks. Preparations for the Nabucco natural gas pipeline have started.

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

As regards the **legislative framework** Turkey made progress, with the law on Development Agencies (DA) coming into force in November 2007. This followed the publication of the decision and justification by the Constitutional Court on a lawsuit for the suspension of implementation and the cancellation of certain articles of the said Law. While annulling provisions of the DA law on staff appointment and tax exemption, the Constitutional Court decision does allow the full operation of two existing Development Agencies (in Izmir and Adana) and the establishment of new ones. The Constitutional Court ruling and its justification will be implemented by the Council of State. Regarding IPA, the Competent Accrediting Officer and the Audit Authority were designated in November 2007, and the IPA



Framework Agreement with Turkey was signed in July 2008 and remains to be ratified. Preparations in this area are advancing slowly.

As regards the **institutional framework**, some limited progress was made. The State Planning Organisation started to play a coordinating role in regional policy in the context of the new instrument for pre-accession (IPA), the pre-cursor of the Structural and Cohesion Funds. Operating Structures-OS (future managing authorities) have been designated for the three operational programmes (OP) of component III – Regional Development of IPA and for the Human Resources Development operational programme under component IV. During a transition period until 2010, the Central Financing and Contracts Unit (CFCU) will be used as the implementing agency for the tendering, contracting, payment, accounting and financial reporting aspects under components III and IV. A Cooperation Agreement was prepared in 2007 in order to set out the division of tasks between the OS and the CFCU. So far, no formal mechanism, such as an inter-ministerial committee for regional development, has been established for the coordination function. Preparations for decentralised management of IPA funds under the regional development and human resources development components have been significantly delayed. One year after the adoption of the programmes by the Turkish authorities their implementation has not started. Turkey has not yet initiated preparations for implementation systems for the future Structural and Cohesion Funds. Preparations in this area are slowly advancing.

There has been limited progress on **administrative capacity**. The training and technical assistance provided and on-going through EU assistance for the preparation of the implementation of operational programmes under IPA is essentially confined to the central level, where some capacity has been built up in the ministries that were designated as operating structures. Administrative capacity at regional level continues to be weak; reasons for this include the suspension of the DA law and the failure to establish regional structures. Involvement of local/regional administrations and stakeholders in programme implementation remains very limited. Preparations in this area are slowly advancing.

As regards **programming**, good progress was made. The State Planning Organisation has prepared the Strategic Coherence Framework (SCF) which sets out Turkey's strategy for implementing components III and IV of IPA over the period 2007-2013, in response to the Commission's multi-annual indicative programme (MIPD). The SCF has been submitted to the Commission and four operational programmes (OPs) to implement the strategy - which concern environment, transport and regional competitiveness for component III and human resources development for component IV - were prepared by the respective ministries (environment, transport and industry and trade for component III and labour for component IV). OPs were submitted to and approved by the Commission in November and December 2007. Necessary preparatory work on the project pipeline, in particular for the OP on regional competitiveness, remains limited. Preparations in this area are slowly advancing.

Progress was made in the **monitoring and evaluation** of the operational programmes. Operating structures have set up sectoral monitoring committees (SMC) to monitor the implementation of OPs. The first two SMC meetings for each OP were held in November 2007 and June 2008. The membership and rules of procedure of the SMCs have been agreed with the Commission. The first meeting of the (all components) joint IPA committee was held in July 2008. Each Operating Structure has set up "programme coordination and implementation centres" to carry out the actual implementation of each programme. These "centres" will also be responsible for evaluating the programmes. Preparations in this area are slowly advancing.

Some progress can be reported in the area of **financial management and control** (see chapter 32 – *Financial control*), with the establishment of relevant systems and procedures under IPA components III and IV. Turkey has not started preparations for financial management and control systems for the future Structural and Cohesion Funds. . Preparations in this area are slowly advancing.

### *Conclusion*

Progress can be reported in adapting the legal framework, in setting up implementation structures for implementing IPA components III and IV, and in adopting four operational programmes. Further improvement is needed as regards administrative capacity at central level in order for designated ministries to be able to take over all functions of the operating structures efficiently. At regional level, structures and administrative capacity need to be built up. Ownership and accountability need improvement, including examination of the distribution of responsibilities between ministries at both central and regional levels and stronger involvement of local/regional administrations and stakeholders. Overall, Turkey's alignment with the acquis in this chapter is not very advanced.

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

There has been some progress on the **judiciary**.

As regards the *independence* of the judiciary, the selection procedure laid down in the Law on judges and prosecutors was amended in December 2007. These amendments transferred into law the provisions of the relevant June 2007 regulation of the Ministry of Justice. They include specific selection criteria and a transparent scoring system and are, therefore, considered an improvement. However, criticism has been voiced by bar associations and academics that the new selection criteria are open to subjective interpretation. Two opposition parties applied to the Constitutional Court for annulment of certain provisions of the new legislation.

As a result of the November 2007 examinations, the Justice Academy recruited 387 candidate judges and prosecutors. Another 397 were recruited following the March 2008 examinations. Three more examinations were planned in 2008. However, in response to an appeal by YARSAV<sup>27</sup> in March 2008, the Council of State suspended the recruitment of a number of candidate judges and prosecutors. The Council of State decided that the assessment protocol signed between the Ministry of Justice and the Student Selection and Placement Centre outlining the procedure for the examination does not comply with the legislation in force. The Council of State is due to issue its final decision on the case.

There has been no progress on the composition of the High Council of Judges and Prosecutors<sup>28</sup> or on the reporting lines of judicial inspectors<sup>29</sup>.

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<sup>27</sup> YARSAV is an association of judges and prosecutors.

<sup>28</sup> The composition of the High Council is not representative of the judiciary as a whole; only senior members of the judiciary from the Court of Cassation and the Council of State are members of this Council.

<sup>29</sup> The judicial inspectors, who are responsible for evaluating the performance of judges and prosecutors, are attached to the ministry rather than to the High Council.

Concerns remain about the *impartiality* of the judiciary. On occasions, senior members of the judiciary or high courts made public comments which sparked a debate in the country that the judiciary was going beyond its remit and taking positions on political issues.

In relation to the *professionalism and competence* of the judiciary, the Ministry of Justice and the Judicial Academy continued to provide training for judges, prosecutors and prison staff. This covered issues such as the fight against organised crime, women's rights and, in general, the fundamental rights guaranteed by the ECHR and the case law of the ECtHR. However, the Justice Academy still has not developed into a strong and independent training provider for the entire magistracy, including at regional level. Representatives of civil society have pointed out the need to provide training not only on substantive legal issues but also on issues of procedural justice.

As regards the *efficiency* of the judiciary, judges and lawyers have reported positive results from the national judicial network project (UYAP) on court proceedings. Software has been developed for use by the provincial probation units in their daily work. UYAP has been made available to the national security police so that it can conduct research on persons for whom an arrest warrant has been issued. Lawyers are also reportedly using the system increasingly following integration of their portal into the network in March 2007.

In 2007 a total of 846 judges and prosecutors were appointed. The total number of judges and prosecutors on 1 May 2008 was 6 914 (6 785 on 1 May 2007) and 3 917 (3 744 on 1 May 2007) respectively. On the same date (1 May 2008) the total number of vacant posts for judges and prosecutors was 4 166. The funds available to the judiciary in 2007 totalled € 865 million. This covers salaries and social security payments for all members of the judiciary, plus services and real estate acquisition.

However, there have been no developments on establishment of the regional courts of appeal. This is a matter of concern. Under the law, these should have been operational by June 2007. In addition, provisions introduced under the Criminal Procedure Code, such as return of the indictment, mediation and cross-examination, have not been used sufficiently in practice.

There have been some developments in the area of *judicial reform*. In spring 2008, the Ministry of Justice put a draft strategy on its website. This comprehensive document covers issues related to the independence, impartiality, efficiency and effectiveness of the judiciary, enhancement of its professionalism, the management system and measures to enhance confidence in the judiciary, to facilitate access to justice and to improve the penitentiary system. A meeting took place in Antalya, from 20 to 25 May, with judges and prosecutors to discuss all aspects of the draft strategy. Further and wider consultations with all stakeholders, including civil society, and efforts to build the necessary confidence are needed for sustainable development and implementation of judicial reform.

Limited progress can be reported on **anti-corruption**. Turkey has implemented one third of the recommendations made in GRECO's 2005 joint first and second round evaluation report. The Ministerial Committee for enhancing transparency and improving good governance is continuing to monitor anti-corruption measures. Corruption incidents, involving in particular real estate agencies, local government and universities, were frequently reported by the media. As a result, law enforcement agencies have conducted a series of high-profile corruption investigations in various agencies.

As regards Members of Parliament and political parties, there is no legislation in place on election campaign financing. There has been no development on limiting the broad scope of parliamentary immunity. The European Court of Human Rights noted in a ruling that no objective criteria had been set to define the conditions under which immunity could be lifted. Financial relations between political parties and the media raise questions. The system of auditing political parties is not considered adequate.

Ethical principles for Members of Parliament and other groups of public officials, such as academics, the military or the judiciary, are lacking. Certain groups of public officials, such as academics, under-secretaries and governors, continue to benefit from a system of administrative authorisation for corruption prosecution.

Several of GRECO's most important recommendations have not been addressed, such as the recommendation to entrust a body involving civil society with the responsibility of overseeing implementation of national anti-corruption strategies and of proposing new strategies.

No progress has been made regarding new legislation on the Court of Auditors, nor on strengthening parliamentary oversight over public expenditure.

Concerning transparency in public administration, increasing use has been made of the right of access to information. According to official statistics, a total of 939 920 requests for information have been submitted by citizens. Public agencies responded positively to 93% of them. Both citizens' requests for information and the number of those requests public agencies responded to positively have increased since last year. However, in the assessment of the real impact of the relevant legislation account should be taken of the fact that the system is relatively new and that the board of access to information does not check the reliability of these statistics. Another 554 cases in which requests for information were denied have been referred to the judiciary.

Turkey has been criticised by the OECD for its record on implementation of the OECD anti-bribery convention concerning the liability of legal persons, its inadequate awareness-raising activities and its dismissal of investigation of foreign bribery cases allegedly involving Turkish companies.

Stronger coordination between the relevant government institutions is of key importance.

As regards **fundamental rights**, there has been some legislative progress (*See also under political criteria*).

There have been no developments on the *institutions* monitoring and promoting human rights, such as the Human Rights Presidency, which lack independence and resources. The Law on the establishment of the ombudsman is still before the Constitutional Court following the veto by the President of the Republic in November 2006. The Constitutional Court ordered a stay of execution of the Law, but has yet to give its verdict. Finally, Turkey has given no firm commitment on participation in the Fundamental Rights Agency.

As regards *prohibition of torture and inhuman or degrading treatment or punishment*, the downward trend in allegations of **torture and ill-treatment** in the anti-terror departments of police stations continued. The legal safeguards introduced by the government's zero tolerance policy on torture are having a positive effect. However, the number of appeals to NGOs concerning cases of torture and ill-treatment, in particular outside official places of detention, has increased. . Pending ratification of the Optional Protocol to the UN Convention against

torture, there is no independent national mechanism in place for monitoring places of detention. Furthermore, more efforts are needed to fight impunity.

With regard to *respect for private and family life* and, in particular, *the right to protection of personal data*, Turkey needs to align its legislation with the data protection *acquis*, in particular Directive 95/46/EC, and, in that context, to set up a fully independent data protection supervisory authority. Turkey also needs to ratify both the CoE Convention for the protection of individuals with regard to automatic processing of personal data (CETS No 108) and the additional protocol to it on supervisory authorities and trans-border data flow (CETS No 181).

Progress has been made on *freedom of thought, conscience and religion*, in particular in the form of adoption of the Law on foundations. Implementation of this law and resolution of the outstanding property-related issues regarding non-Muslim minorities, together with intensification of the efforts to address the concerns of the Alevis, remain a challenge. Despite the progress made, a legal framework in line with the ECHR has yet to be established, which would enable all religious communities to function without undue constraints. This needs to be accompanied by stronger efforts to implement the June 2007 circular from the Ministry of the Interior in order to create an environment conducive to full respect of this right in practice.

Regarding *freedom of expression, including freedom and pluralism of the media*, there has been some progress on strengthening the safeguards for freedom of expression in Turkey. In April, Parliament adopted amendments to Article 301 of the Criminal Code that, among other things, introduce a requirement for permission from the Ministry of Justice to launch a criminal investigation. However, the legal restrictions on freedom of expression remain a cause for concern. Efforts need to be enhanced and consolidated with a view to ensuring full respect of freedom of expression, in law and in practice, in line with the ECHR and the case law of the ECtHR.

As regards *freedom of assembly and association, including the right to form political parties and the right to establish trade unions*, the legal framework for freedom of assembly is broadly in line with European standards. However, banned demonstrations have sometimes resulted in use of excessive force against demonstrators. The legal framework for freedom of association improved with the adoption of the amendments to the Law on foundations in February 2008. However, the obligations imposed by the Law on associations to notify the authorities before receiving financial support from abroad and to provide detailed documents on such support continue to place a burden on associations. The Turkish Chief Public Prosecutor applied to the Constitutional Court to close the ruling AKP and to ban members of the party (including President Gül and Prime Minister Erdoğan) from membership of political parties for five years. The Constitutional Court dismissed the application for closure of the party on 30 July, as the necessary qualified majority for imposing a ban was not reached. However, the Court decided to impose a financial sanction on the party on the grounds that some of its activities were considered in contravention of secularism. In the light of this case, the legal provisions on political parties need to be amended and brought into line with the case law of the ECtHR and best practice in EU Member States, as outlined by the Council of Europe's Venice Commission.

As regards *treatment of socially vulnerable and disabled persons and the principle of non-discrimination*, the State will pay social security premiums to promote employment of people with disabilities. As regards mental health, progress has been made on implementation of electro-convulsive therapy in hospitals in line with human and patients' rights. However,

people with disabilities do not benefit from adequate public services. Lack of data and research are preventing informed policy-making. Community-based services are not sufficiently developed. Insufficient general medical care and treatment remains a problem in mental health hospitals and rehabilitation centres.

Anti-discrimination is enshrined in the constitution and upheld in several laws. However, there is no specific protection on grounds of sexual orientation in Turkish law and provisions of the Turkish Criminal Code on "public exhibitionism" and "offences against public morality" are sometimes used to discriminate against the lesbian, gay, bisexual, transvestite and transgender (LGBT) community. In May 2008, an Istanbul court decided to close down an LGBT organisation, as its statute was considered against general morality. An appeal has been lodged before the Council of State in this case. Transsexuals and transvestites are occasionally subjected to physical assaults, including by the police. Homophobia has also resulted in cases of physical and sexual violence. These allegations are not systematically followed up by prompt and effective investigation (*See also Chapter 19 – Social policy and employment*).

With regard to the *right to education*, net primary school enrolment increased from 90% in the 2006/2007 school year to 97% in 2007/2008. The gender gap in primary education was halved from 4.6% to 2.3% over the same period. The Ministry of National Education has established an e-school database containing information on school attendance. This enables the ministry to identify children out of school and to try to ensure that they are enrolled or to provide catch-up education. In May 2008, the Education Board approved the catch-up education programme, which is designed to give a second chance to children between 10 and 14 years of age who either never enrolled or who dropped out. This is targeted mainly on working and Roma children. In addition, mobile schools are trying to reach out to children working in agriculture. However, children out of school remain a problem: the e-school database has revealed that approximately 450 000 children between 6 and 14 years of age are out of school.

On *right to property*, adoption of the Law on foundations has been a welcome step forward. However, it does not address all the problems faced by the non-Muslim religious communities. Implementation of the law in line with the ECHR and the case law of the ECtHR will be crucial. The outstanding issues also need to be addressed. Finally, the quality of the dialogue between the authorities and the communities concerned will be instrumental in creating an environment conducive to achieving progress.

With regard to *gender equality and women's rights*, some progress has been made, in particular on combating honour killings and domestic violence. Although the overall legal framework guaranteeing gender equality is in place, further big efforts need to be made if the gap between men and women in economic participation and opportunity, educational attainment, access to healthcare, survival and political empowerment is to be closed.

As regards the *rights of the child*, there has been progress on access to social services and the juvenile justice system. However, efforts need to continue in all areas related to children's rights.

With regard to *liberty and security* and the *right to a fair trial*, reports indicate that in urban areas most detainees have access to a lawyer immediately after detention. In rural areas, however, in particular in the south-east of the country, there have been cases where defendants have not had access to a lawyer on terms equivalent to those in urban areas. In

courts, professional interpretation in languages other than Turkish remains an issue of concern.

As regards *minority rights and cultural rights*, Turkey has made limited progress on ensuring respect for and protection of minorities in accordance with European standards. Turkey has also made limited progress in the area of cultural rights. Significant further efforts are required, in particular on use of languages other than Turkish in broadcasting, in political life and when accessing public services.

There have been no developments as regards **EU citizens' rights**.

### *Conclusion*

As regards the *judiciary*, there has been some progress, in particular on establishment of a judicial reform strategy. However, concerns remain about the independence and impartiality of the judiciary. The reform strategy is expected to address these issues.

Limited progress can be reported on *anti-corruption*. The government has continued to implement its initiatives. However, there is no legislation in place that would guarantee transparency of election campaign financing. There has been no progress on the immunity of Members of Parliament. Codes of ethics and/or conduct for Members of Parliament and other groups of public officials are lacking and an anti-corruption strategy and action plan need to be developed and to receive the political support necessary for implementation.

As regards *fundamental rights*, there has been some legislative progress, but vigorous further efforts need to be made to ensure full respect of the fundamental rights guaranteed by the ECHR and the case law of the ECtHR.

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

Some progress can be reported on **migration**. The asylum and migration task force formed a high-level working group bringing together agencies responsible for border tasks connected with irregular migration. It aims for closer inter-agency cooperation by conducting common risk analyses.

A total of 64 290 illegal migrants were apprehended in 2007 and 33,143 in the first seven months of 2008. Capacity to accommodate illegal migrants has been increased from 1 512 to 1 793.

Turkey proposed a readmission agreement to Afghanistan. A first round of negotiations on a readmission agreement with Pakistan was held. However, Turkey has not pursued the negotiations on a readmission agreement with the European Community since December 2006.

Limited progress can be reported on management of irregular migrants in Turkey. However, the detention and deportation procedures need to be improved to ensure that the authorities systematically give written reasons for such decisions in a language the persons concerned can understand. It should be possible to submit detention and removal decisions to a senior administrative, and possibly also judicial, review. The duration of detention should be limited by law or – at least in cases of prolonged detention – regularly reviewed.

The material conditions of detention of apprehended irregular migrants during detention need to be improved. Facilities could be improved to ensure that detainees are segregated not only by gender but also by age and criminal record. Family members should have the possibility to stay together.

Access for detained irregular migrants to free legal aid, to asylum procedures, to interpretation services, to psychological and medical assistance and to educational and recreational activities, along with the possibility of accommodating unaccompanied minors in reception facilities outside detention centres, needs to be further developed, including by closer cooperation between the national and international organisations specialising in delivering these services and the authorities managing detention facilities.

No specific training or training curricula exist for staff working in the migration area. There is no compatible data system on migration.

Arbitrary cases of refoulement, although not numerous, remain a high concern.

In the area of **asylum**, limited progress has been made. Turkey continues to impose its geographical limitation on the 1951 Convention relating to the status of refugees and the related 1967 Protocol. The Ministry of Interior continued to work with the UNHCR to train officials in preparation for decentralisation of decision-making. The department for foreigners, borders and asylum in the Turkish National Police has started to prepare to take over the country of origin information system. Extensive work is underway to improve administrative capacity and streamline asylum procedures. The Ministry of Interior has also initiated the internal administrative procedures to set up an asylum management unit, as the first step towards a dedicated authority able to manage both reception and integration issues.

In 2007, 5 846 requests for asylum were made, a 65% increase compared to 2006 (3 541 applications). In the first eight months of 2008 another 2 364 applications were registered. The total number of applications being processed (investigation phase) increased to 15562 (6 622 Iraqis, 5 449 Iranians, 1 260 Somalis, 1 279 Afghans among others). So far, 44 applicants have been granted refugee status. The Turkish government spent the equivalent of USD 550 000 in 2007 (compared with USD 135 000 in 2006) to cover the basic needs of all asylum seekers – recognised refugees and “temporary asylum seekers” or “guests”.

Given the increase in the number of asylum applications to Turkey, the revision of the Asylum Law and the establishment of the new asylum unit are important. Pending these two structural reforms, fair, equal and consistent access for everyone to asylum procedures, to legal aid and, in particular, to UNHCR staff, especially at Turkey’s international airports and detention centers, is crucial. Another important task is to reduce the waiting time for asylum procedures and to eliminate disparities between cities’ mechanism for referral to the social solidarity foundation.

Training for Turkish officials on refugee status determination procedures needs to continue. Measures need to be taken to ensure that trained staff remains within the asylum and migration system. Mobilisation of and cooperation with NGOs and local authorities are the keys to integration of asylum seekers. Another important point is to facilitate the self-reliance of refugees by reducing the fees for the six-month temporary residence permit.

No progress can be reported on **visa policy**. Sticker- and stamp-type visas are still issued at borders, with different authorities responsible for the issuing procedures, and airport transit visas have not been introduced. Following the training received by 200 staff in 2007, there has



been a slight increase in the detection rate for forged documents. In 2007, 493 documents were identified as false and falsified, compared with 469 in 2006. No development can be reported on alignment with EU visa lists. There are several countries on the EU's negative list whose citizens can enter into Turkey without a visa. Citizens of 16 Member States are under a visa obligation when travelling to Turkey.

There has been limited progress on alignment with the *acquis* concerning **external borders and Schengen**. The number of border crossing points has been increased from 116 to 120. Modernisation of six border crossing points was completed in 2008; work is in progress on five more. A "Common Manual of Checks at the EU external borders" was published in 1500 copies and distributed for the use of the organisations performing border duties (General Staff, National Police, Customs Undersecretary, Gendarmerie and the Coast Guard). The manual will serve the purpose of being used as a practical tool to integrate EU requirements while carrying out their tasks. However, border staff shows very limited awareness of the Turkish national strategy on integrated border management or of the action plan to implement it. Efforts need to be stepped up and systemised with a view to implementing the national action plan on integrated border management. The inter-agency group put in place to discuss implementation of the action plan has met only occasionally. In the absence of the new border law enforcement authority, it is crucial further to enhance cooperation between all agencies working at borders by developing joint risk analyses, exchanges of information and cooperation on investigation and training. To provide specialised training, a new department on border security studies has been established within the police academy. Further emphasis needs to be placed on the training and professionalism of the border police, especially on development of language skills.

The data on EU citizens' entry documents raise concerns, as they are not in line with the EU *acquis*. Closer cross-border cooperation with neighbouring countries is a key component of well-functioning border management.

As regards **judicial cooperation in civil matters**, a new Law on international private and procedural law has been adopted. A Law implementing the 1980 Hague Convention on child abduction was also adopted.

No progress can be reported on **judicial cooperation in criminal matters**. Cooperation is ensured by means of international and bilateral agreements and, in the absence there, on the basis of reciprocity and international customary law. Key pending issues are related to effective implementation of relevant Council of Europe conventions, especially on mutual legal assistance and on extradition. Turkey has not signed key international conventions, such as the Second Additional Protocol to the Council of Europe Convention on mutual legal assistance or the Convention on cybercrime. Turkey needs to take the necessary steps to sign a cooperation agreement with Eurojust.

In the area of **police cooperation**, limited progress has been achieved. A code of ethics for law enforcement agents in line with international standards has been adopted. Turkey has signed a number of bilateral agreements on police cooperation. The lack of legislation on protection of personal data and the absence of an independent supervisory authority is obstructing the conclusion of an operational cooperation agreement with Europol (a strategic cooperation agreement has been in force since 2004). This also creates difficulties when it comes to cooperating at international level. Closer cooperation and communication between law enforcement agencies, and also with the judiciary, is of key importance.

Some progress has been observed in the **fight against organised crime**. A new Law on witness protection was adopted, with adequate provisions to guarantee the confidentiality of their identity and their security. This is expected to improve the chances of convictions in organised crime cases. The Regulation on the principles and procedures governing controlled delivery was extended to include the coast guard and the customs administration, in addition to the gendarmerie and the police. Following adoption of a Law on cybercrime, an internet department was established under the telecommunications authority to take charge of monitoring, supervision and coordination and some implementing legislation was adopted. Expertise in forensics is good. However, establishment of a national fingerprint and DNA database and adoption of harmonised crime scene investigation practices remain key issues. One important point is that the strategy against organised crime, in line with EU best practice, needs to be followed up by a specific action plan and implemented accordingly. Special investigative techniques need to be developed and relevant training provided.

Progress has continued on combating **trafficking in human beings**. The task force on combating human trafficking was systemised and expanded to include local administrations. Collection of statistics was standardised. Some 308 traffickers were arrested in 2007. As of September 2008, 212 traffickers were arrested. The free emergency helpline and the two centres for victims of trafficking continue to operate. Further efforts were made to promote the 157 helpline. By September 2008, 98 victims had been identified, 61 of whom were returned voluntarily to their countries of origin and six of whom remain in the centres, pending procedures for their return. The Witness Protection Law entered into force. It protects the identity of victims of human trafficking who agree to testify against the perpetrators and opens the way to include them in a witness protection programme. There are now court precedents on the application of a recent amendment of the Penal Code stipulating tougher penalties for human trafficking. Inter-agency cooperation could be improved with the aid of common operations and training activities. It is of key importance that Turkey signs the Council of Europe Convention on action against trafficking in human beings. Solutions allowing sustained funding are necessary for the free emergency helpline and for the centres.

*(For the fight against money laundering see Chapter 4).*

As regards the **fight against terrorism**, the Supreme Council on Counter-terrorism remains the leading authority. Following adoption of the Law on the prevention of laundering proceeds of crime, implementing legislation was adopted requiring the report of suspicious transactions connected with financing of terrorism to the Financial Crimes Investigation Board (MASAK). A special unit to fight financing of terrorism has been established under MASAK. MASAK received 144 reports of suspicious transactions connected with financing of terrorism in 2007, compared with 8 in 2006. Turkey has ratified neither the International Convention for the suppression of acts of nuclear terrorism nor the Council of Europe Convention on the prevention of terrorism. Compliance with nine special Financial Action Task Force recommendations on financing of terrorism needs to be pursued, particularly on freezing and confiscation of terrorist assets.

Some progress has been made in the **fight against drugs**. Following adoption of a national strategy in line with the EU drug strategy and the EU drug action plan for 2005-2012, an action plan (2007-2009) was brought into force. The national Reitox focal point is the coordinator of the action plan and chairs the coordination board meetings on a quarterly basis to monitor implementation. The agreement concerning the participation of Turkey in the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) has been signed. It is of key importance that Turkey takes the steps necessary to ratify the agreement so that it can

be implemented without delay. A parliamentary commission was established to examine the problems related to drug addiction and supply reduction. Successful operations resulting in sizeable seizures were mounted by the Turkish law enforcement bodies. Joint action on controlled deliveries was carried out. However, the mandate of the national Reitox focal point is limited, its human resources capacity is weak and it still lacks an autonomous budget. A more balanced approach to drugs supply and demand reduction needs to be backed up by strengthening cooperation between institutions, developing a network of treatment and rehabilitation facilities and enhancing the data collection system in Turkey. The question of drugs remains serious as the country is a major transiting country.

There has been some progress on **customs cooperation**. The administrative and operational capacity of the Under-secretariat of Customs was improved by increasing its scanning systems. The relevant implementing regulation was amended to authorise the customs administration to implement controlled delivery in addition to the police, gendarmerie and coast guard. However, it is important to make more efforts on inter-agency cooperation and implementation of risk management within the Under-secretariat of Customs. The lack of legislation on the protection of personal data and the absence of an independent supervisory authority remain a difficulty in cooperation at regional and international levels.

### *Conclusion*

Overall, some progress can be reported, particularly to prevent drugs and human trafficking. Alignment with the *acquis* in this chapter is underway, but sustained efforts are required in areas such as visa policy and judicial co-operation in criminal matters. The same applies to the fight against organised crime, which remains a serious concern. The capacity to manage asylum and migration needs to be improved. Efforts need to be stepped up to implement the national action plan on integrated border management. The negotiations for an EC-Turkey readmission agreement need to be re-launched.

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

Good progress can be reported in the area of science and **research policy**. A new law to encourage research and technological development activities was adopted in March 2008. (*See Chapter 20 – Enterprise and industrial policy*). A national human resources strategy and an accompanying action plan to increase the number of researchers and improve their distribution by professions and sectors were developed. A number of new programmes continued to support research, technology and innovation, with increased budgets and efficiency. Turkey's active cooperation with the Joint Research Centre continued, in accordance with the memorandum of understanding signed in July 2007.

Turkey continued to be associated with the 7th **Framework Programme** for research and technological development (FP7). Its participation in the first calls organised under FP7 in 2007 was greater than under FP6. A good number of projects were submitted and evaluated in the different thematic areas funded under FP7. However, in terms of success rate, there is room for improvement. Turkey's requested to be associated with the Seventh Euratom Research Framework Programme (2007-2013).

As regards Turkey's integration into the **European Research Area**, Turkey took several steps to improve the mobility of researchers, including by taking full part in EURAXESS (the European mobility portal), and to increase investment in research and international

cooperation. As a result, Turkey is further integrated into the European Research Area. This facilitates research cooperation at European level.

### *Conclusion*

Good progress has been achieved in the area of science and research. Overall, Turkey is well prepared in this chapter and is on track for integration into the European Research Area.

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

As regards **education, training and youth**, there has been good progress over the reporting period. The new Lifelong Learning and Youth in Action programmes attracted a growing number of applications and the National Agency responsible for these programmes continued to ensure sound and efficient management. Eighty out of the eighty-one provinces were covered by the Lifelong Learning programme in 2007 further to measures adopted by the Turkish authorities and the National Agency to encourage the programme's nation-wide coverage. However, implementation of these programmes in 2008 has been hindered by a lack of funds because Turkey did not pay its total contribution in time.

Turkey is at an advanced stage of implementation of the Bologna process reforms in higher education. It needs to continue its efforts towards implementation of a national qualifications framework improving recognition of prior learning and widening access to higher education.

Regarding the Education and Training 2010 Work Programme, Turkey continued to improve its performance on early school leavers, on completion of upper secondary education, and on maths, science and technology graduates but not on participation of adults in lifelong learning. A vocational qualifications authority was set up. Its task is to establish a national qualifications system, including licensing, accreditation, assessment and certification procedures, and to link this national system to the European qualifications framework.

Turkey continued to participate in the **Culture** Programme (2007–2013). The Law on Istanbul as the 2010 cultural capital of Europe was adopted. Turkey has signed, but not yet ratified, the UNESCO Convention on the protection and promotion of the diversity of cultural expressions.

### *Conclusion*

There has been good progress in the areas of education, training, youth and culture. However, Turkey needs to provide its total financial contribution to Community programmes in time in order to ensure their smooth implementation.

## **4.27. Chapter 27: Environment**

In the field of **horizontal legislation**, some progress can be reported. The Environmental Impact Assessment (EIA) directive has been transposed to a large degree. However procedures for consulting the public and trans-boundary consultations are not fully aligned. Turkey has not yet signed the Kyoto Protocol and Turkey is not a party to the Espoo and Aarhus Conventions. The Emissions Trading Directive has not been transposed. A greenhouse gas emission trading scheme has not yet been established. Transposition of the Strategic Environmental Assessment (SEA) Directive is at an early stage. There has been no progress on transposition of the *acquis* on environmental liability, public participation and public access to environmental information. Nor has Turkey yet started negotiations on the

memorandum of understanding with on its participation in the Community civil protection financial instrument.

In the case of **air quality**, Turkey has made good progress in alignment with the air quality framework legislation and daughter directives. Progress has also been made on the sulphur content of liquid fuels in domestic heating systems. The administrative capacity for regional air quality has been improved by establishing a clean air centre in Marmara. No progress has been made on legislation related to the *acquis* on emissions of volatile organic compounds, on the sulphur content of certain liquid fuels or on national emission ceilings.

Some progress can be reported on alignment with the **waste management** *acquis*. Implementing legislation on polychlorinated biphenyls (PCB & PCT) and on the control of waste oils has been adopted. Furthermore, restriction of use of certain hazardous substances in electrical and electronic equipment and on restoration and management of extractive industry sites has been adopted. Alignment in this area is well advanced. However, Turkey does not have a national waste management plan. Progress on end-of-life vehicles and waste electrical and electronic equipment has been very limited. No progress has been made regarding the directives on landfill.

There has been little progress in the area of **water quality**. An amendment was made to the legislation on prevention of water pollution. However, the overall level of alignment remains low. The institutional framework for water management is not organised on a river basin basis. Trans-boundary consultations on water issues are at an early stage.

Limited progress can be reported on **nature protection**. Turkey has aligned with the *acquis* regarding establishment and management of zoos. However, the level of harmonisation and implementation remains very low. The continuing loss of habitats is a cause for concern. The list of potential Natura 2000 sites has not yet been compiled. A framework law on nature protection and implementing legislation on birds and habitats have not yet been adopted. A national biodiversity strategy and action plan have been prepared, but not yet adopted by the government.

No progress can be reported regarding **industrial pollution control and risk management**. Turkey has aligned with some provisions of the Seveso II Directive and with the Large Combustion Plants and Waste Incineration Directives. However, overall transposition and implementation remain very low. Introduction of an integrated permit system is at an early stage.

There has been limited progress in the field of **chemicals**. The legislation on dangerous chemicals has been amended. Overall, the level of transposition remains low. The capacity for effective implementation is insufficient.

No progress can be reported on **genetically modified organisms**.

Progress has been made in the field of **noise**. Following adoption of the implementing legislation Turkey is approaching full alignment with the *acquis* in this area. However, preparation of noise maps and action plans is at an early stage.

Some further progress has been made in the area of **administrative capacity**. A substantial number of staff was recruited and trained by the Ministry of Environment and Forestry(MoEF). A new department for implementation of the environment programmes under IPA has been established in the Ministry. The Directorate-General for State Hydraulic

Works is now affiliated to the MoEF. However, no progress has been made on establishment of a national environment agency. Responsibilities, such as inspection activities and nature protection, are not clearly defined. Administrative capacity needs further strengthening, including coordination between the relevant authorities at all levels. Mainstreaming of environmental protection into other policy areas and ensuring that new investments comply with the environmental *acquis* are at an early stage. Some of the existing legislation, such as the Mining Law, which includes gold mining, and the tourism legislation, are causing major damage to natural areas.

### *Conclusion*

Turkey has made progress in the area of air quality and good progress on strengthening the administrative capacity at central level. Some progress can be reported on waste, water and nature protection. However, the overall level of alignment remains low. Turkey has made no progress in the areas of industrial pollution and risk management and GMOs. Limited progress can be reported on chemicals. Delays in establishment of the EIA are hampering further improvements in implementation and enforcement.

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

Turkey has made some progress in the field of **consumer protection**. As regards enforcement of market surveillance legislation, the skills of relevant personnel have been enhanced considerably. In addition, the amount of the fines has increased further. However, reliable data on the fines imposed are lacking. Considering the size of the country, the operational budget for market surveillance is small. Turkey is not applying a unified method for data gathering. The consumer movement is weak, cooperation and partnership between the existing NGOs are limited and NGOs suffer from lack of funds. Their relationship with State bodies is weak. Preparations in this field are underway.

Progress has been made on *product-safety related issues*. Awareness of consumer product safety amongst the relevant authorities has increased and coordination between the relevant market surveillance authorities has improved, although it still remains weak. Preparations in this area are on track.

In the area of *non-safety related issues*, Turkey is preparing to establish an internet consumer portal. However, the number of legally qualified staff in the Ministry of Industry and Trade continues to lag behind. There is very limited follow-up of decisions of the advisory Consumer Council. Consistent interpretation and comprehension of consumer legislation by the courts and arbitration committees is not always ensured. Preparations in this field are on track.

In the case of **public health**, Turkey has made some progress. With regard to *tobacco*, an important amendment of the Law on Prevention of damages of tobacco products was adopted in January. It aims to transpose the tobacco advertising directive and, beyond this, it bans internet sales of tobacco, and smoking scenes in films on screen. The law also extended the smoking ban to all indoor public areas and certain open-air areas as from July 2009. Administrative capacity has been improved, by introducing a clearer division of responsibilities between the Ministry of Health and the Tobacco and Alcohol Market Regulatory Authority. Tobacco control units have been established at provincial level to improve enforcement of the smoking ban. However, legal alignment with tobacco product

regulation *acquis*, especially as regards high tar yields and oral tobacco still remain to be done. Preparations in this field are well on track.

In the field of *communicable diseases*, Turkey has made good progress. A strategic plan (2008-2012) has set clear milestones for completion of alignment, enforcement and the necessary changes to the institutional framework. The Ministry of Health has strengthened the institutional capacity for investigation and management of possible epidemics. A needs analysis was carried out to identify the resources required for epidemiological surveillance. This is a key element next to the early warning and response system (EWRS) for the accession negotiations on this chapter. Throughout the country over 7 000 medical staff have been trained. However, notwithstanding the increasing numbers of reported HIV cases, HIV prevention policies are not seen as a priority by the Government. Access to information on HIV/AIDS is very limited. Preparations in this area are well on track.

As regards blood and blood components, Turkey has made progress. A strategic review of the blood transfusion system is underway. These are key elements for the accession negotiations on this chapter. Concerning tissue and cells, legal alignment remains outstanding. Administrative capacity is not sufficiently developed but the establishment of a National Cell Coordination Center in July 2008 is a right step to overcome this shortcoming. Preparations in these fields have started.

No progress can be reported on *mental health*. Community-based services are not sufficiently developed as an alternative to institutionalisation, and resources continue to be limited in relation to the needs. A problem of insufficient general medical care and treatment persists in mental health hospitals and rehabilitation centres for people with mental disabilities. Preparations in this area are at an early stage.

Some progress can be reported in the area of socio-economic determinants of health. In 2008, half of the population will be provided with family medicine and primary level healthcare services. Progress can be reported in the area of cancer control programmes. However, the implementation of the Council recommendation on cancer screening that recommends population-based, organised screening for breast, cervical, and colorectal cancer has not been achieved yet. Preparations in these fields have started.

### *Conclusion*

Overall, further progress has been made on consumer and health protection. A satisfactory level of legal alignment has been reached. However, in the area of consumer protection, more efforts remains necessary, in particular in the field of non-safety related issues and to ensure due enforcement of consumer protection in general. Preparations for completing legal alignment in the areas of blood and blood components, tissues and cells are underway.

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

Turkey has made further progress with **customs legislation**. The Under-secretariat of Customs adopted a communiqué on the rules and procedures for implementation of binding tariff information (BTI). The communiqué designated the regional customs directorates in six cities, which have customs laboratories, to issue BTIs upon request by traders. Implementing legislation on temporary importation of road vehicles has been published but the ongoing practice is not fully in line with the *acquis*. There has been no progress on the duty relief legislation, which is partly not in line with Turkey's Customs Union obligations. Abolition of

duty relief for goods covered by the Customs Union and sold in duty-free shops to travellers entering Turkey is a key component of the accession negotiations on this chapter.

Legislation on free-trade zones remains not in line with the *acquis*, as the zones are considered as areas outside the Turkish customs territory.

Good progress has been made by the Under-secretariat of Customs to strengthen its **administrative and operational capacity**. Five vehicle- and container- scanning systems were deployed at Gurbulak customs office and the ports of Istanbul Ambarli, Izmir, Alsancak, Mersin and Samsun. The Under-secretariat of Customs signed a protocol with the Energy Market Regulatory Authority with a view to exchanging information on activities to combat smuggling of fuel products. The Under-secretariat of Customs adopted its risk management strategy. However, an integrated IT-based risk management system has not yet been implemented in all customs offices. An overall IT strategy of the Under-secretariat of Customs has not been adopted. Activities on IT interconnectivity with the EU systems in the fields of transit (NCTS) and tariffs (TARIC, quota and surveillance) are underway.

The rate of import and export declarations that were processed electronically into the electronic data interchange system (EDIS) increased. At present, Turkish customs procedures are integrated into the system and virtually all declarations are processed electronically.

Further efforts were made to improve training. Intensive in-service training was provided on origin matters, outward processing and sniffer dogs. Enforcement of intellectual property rights (IPR) by the Under-secretariat of Customs is a cause for concern and needs to be improved substantially. The level of coordination between the Under-secretariat and other relevant IPR public authorities, including the Turkish national police, is low. The modernisation efforts need to be increased.

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

### *Conclusion*

Overall, some progress has been made in this chapter both as regards legislative alignment and administrative capacity. Turkey's customs legislation is highly aligned with the EU *acquis*, thanks to the Customs Union. Turkey needs to make further efforts to align its legislation and practices on duty-free shops, free-trade zones, customs duty relief, transit, fight against counterfeit goods and post-clearance. Additional efforts are needed to fight against counterfeit goods.

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

Turkey has made limited progress regarding the **common commercial policy**.

The level of alignment with the EC common commercial policy is high. Some longstanding infringements of the Customs Union remain unresolved and are continuing to distort bilateral trade relations. There has been no further progress on alignment of the Turkish general system



of preferences (GSP). The non-harmonised areas of the Turkish general system of preferences (GSP) remain unchanged, particularly its geographical and product coverage.

Extensive use of safeguard measures has a negative effect on EU commercial policy, as they affect EU exporters. In 2008, Turkey imposed two more safeguard measures on the importation of spectacles and handbags. In addition, it initiated two safeguard proceedings on electrical appliances and cotton yarns, the latter being the fourteenth proceeding opened by Turkey since 2004.

The level of coordination between Turkey and the EU within the *World Trade Organisation*, in particular as regards the Doha Development Agenda and the OECD, has improved. However, there is room for further improvements in this area.

No progress can be reported on medium- and long-term *export credits* to companies. There has been some progress on *dual-use goods*. Turkey amended rules for export-licensing of nuclear and nuclear dual-use goods and *inter alia* introduced catch-all controls through their Article 6.

Concerning **bilateral agreements with third countries**, Turkey granted unilateral preferential treatment to Kosovo. The Free Trade Agreement with Albania was ratified by Parliament and has entered into force. Turkey has maintained a satisfactory level of alignment with the EC's bilateral agreements.

In the field of **development policy** and **humanitarian aid**, some progress has been made. Turkey granted some 602 million USD of official development aid in 2007. Turkey's level of alignment remains satisfactory in this field.

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

### *Conclusion*

Turkey has achieved a high level of alignment in this area, but it is not complete, in particular in the WTO and OECD fora. The disproportionate use of safeguard measures and longstanding trade irritants has an impact on proper functioning of the Customs Union.

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

The regular **political dialogue** between the EU and Turkey has continued to cover international issues of common interest, including Iraq, Iran, the South Caucasus and the Middle East peace process. (*Concerning neighbourly relations with other enlargement countries and member states, see Political criteria*).

Turkey continued to support efforts to achieve stability, security and national reconciliation in *Iraq*. Turkey has been active in the "Iraq neighbour process" and hosted the November 2007 ministerial meeting in Istanbul. Cross-border terrorist activities of the PKK, listed on the EU list of terrorist organisations, pose a security challenge to Turkey. In this context, Turkey started air strikes in December 2007, and in February 2008 undertook a nine-day ground

operation in Northern Iraq. In parallel, Turkey intensified diplomatic exchanges with Iraqi authorities and, for the first time, engaged in official contacts with the Kurdish regional government. A Turkish delegation met in October with the President and the Prime Minister of the Kurdish Regional Government. In March the President of Iraq paid an official visit to Turkey. In July Turkey and Iraq signed an agreement on the establishment of a High Council for Strategic Relations.

As regards *Iran*, Turkey supports the EU position on Iran's nuclear programme and encouraged Iran to engage in a diplomatic solution of the crisis in line with the June 2008 offer of the E3+3. Turkey has engaged in negotiations with Iran on a comprehensive energy agreement. In August, the two countries signed a co-operation agreement to fight against terrorism, drug trafficking and organized crime. The President of Iran paid a working visit to Istanbul in August.

As for relations with the *Southern Caucasus*, Turkey maintains close relations with Azerbaijan and Georgia. Jointly with the Presidents of Georgia and Azerbaijan, Turkey inaugurated the construction of the Baku-Alkhalkalaki-Kars railway in November 2007. As concerns relations with Armenia, while Turkey kept its land border with this country closed, Turkey's President paid the first ever visit of the kind to Erevan, raising hopes for a new start in bilateral relations. Official discussions also took place between the Armenian and Turkish Foreign Ministers. Turkey maintained its offer to establish a joint commission of historians. In reaction to the August Russo-Georgian conflict, Turkey has underlined the importance of Georgian territorial integrity and sovereignty. At the same time, Turkey kept communication channels with Russia open. Following the conflict, Turkey played a conciliatory role and proposed to set up a "Caucasus Co-operation and Stability Platform" in which all countries of the region would be represented. Furthermore, Turkey has started efforts to facilitate the solution of the conflict in Nagorno-Karabakh. A first ever trilateral meeting took place between the Foreign Ministers of Turkey, Azerbaijan and Armenia in September.

Turkey has been playing an active and constructive role in the Middle East. In line with the EU position, Turkey continued to support the *Middle East peace process*, including the Annapolis process. Turkey expressed support for Palestinian unity and reconciliation. In November 2007, the Presidents of Israel and of the Palestinian Authority made speeches before the Turkish Parliament. Turkey brokered indirect talks between *Syria* and *Israel* with a view to preparing a peace agreement between the two countries. In May and in June 2008 two rounds of indirect talks took place in Istanbul. Turkey made efforts to contribute to the national reconciliation process in *Lebanon*, and welcomed the Doha Agreement under the auspices of the Arab League.

Turkey welcomed the Commission's 2007 Communication on the Black Sea Synergy and wishes to see a more active role of the EU in Black Sea regional cooperation. The Turkish Foreign Minister participated in the 14 February 2008 Meeting in Kyiv of the Foreign Ministers of the countries of the EU and of the wider Black Sea Area. In November 2007, Turkey handed over the rotating chairmanship of the BSEC organisation to Ukraine.

Turkey continued with efforts to bring together *Afghanistan* and *Pakistan*. The Turkish Foreign Ministry continued efforts to develop the April 2007 "Ankara Declaration", which provides both countries with a trilateral platform to discuss their problems. On the occasion of the International Conference in support to Afghanistan in June 2008 Turkey pledged to double its contribution for reconstruction. Furthermore, Turkey remains engaged with 800 troops it contributes to ISAF, and contributes to civil and military capacity building. Turkey has

intensified its relations with the *Gulf States*, particularly *Qatar*. A decision has been taken to open 10 new embassies in Africa.

Turkey's broad alignment with **common foreign and security policy** (CFSP) statements, declarations, and demarches continued. In 2008, Turkey aligned itself with 109 out of 124 CFSP declarations. Turkey did not follow the EU position expressed in statements concerning Iran (one case on freedom of expression), Russia, Pakistan, Sri Lanka, China, Sudan, Belarus and Mauritania.

No particular developments can be reported as regards *restrictive measures*.

As regards *non-proliferation* of weapons of mass destruction, Turkey is party to all the existing international arrangements. In December 2007, parliament adopted secondary legislation to implement the UN Chemical Weapons Convention.

Turkey has not aligned with the EU position on membership of certain suppliers' groups, such as the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. (*For dual-use goods, see chapter 30 – External relations*).

With regard to *cooperation with international organisations*, Turkey made no progress towards signing the Statute of the International Criminal Court. Turkey will be holding a non-permanent seat in the UN Security Council during the term 2009-2010.

There have been no particular developments with regard to *security measures*.

Within the framework of the **European security and defence policy** (ESDP), Turkey continues to contribute to the EU-led military mission EUFOR/ALTHEA in Bosnia and Herzegovina. Turkey is also supporting the EU-led police missions EUPM in Bosnia-Herzegovina. Turkey is one of five non-EU countries contributing to the EULEX mission in Kosovo. Turkey wishes to enhance cooperation on ESDP, while stressing its discontent with its status within ESDP, with the stalemate over the conclusion of a bilateral security agreement with the EU, as well as over the administrative arrangements with the European Defence Agency.

However, concerning EU-NATO relations beyond the “Berlin Plus” arrangements, Turkey continues to object to EU-NATO co-operation which would involve all EU Member States. This created problems for EU-NATO co-operation in the context of civilian ESDP missions, in particular in Kosovo and Afghanistan.

### *Conclusion*

Turkey's alignment with the EU's common foreign and security policy continued. Turkey has enhanced its positive role of regional stabilisation, in particular as regards the Caucasus and the Middle East. Turkey supports the EU efforts to ensure stability in Iraq and has maintained close diplomatic relations with this country, including contacts with the Kurdish regional government.

Turkey is contributing substantially to ESDP and seeking greater involvement in ESDP activities. However, Turkey objects to EU-NATO co-operation which would involve all EU Member States. Turkey has not aligned with the EU position on membership of the Wassenaar Arrangement.

#### 4.32. Chapter 32: Financial control

Progress has been made in the area of **Public Internal Financial Control (PIFC)**. The Internal Audit Coordination Board of the Ministry of Finance has approved the Turkish public internal audit strategy for 2008-2010 in November 2007. In July 2008, the Ministry of Finance has adopted amendments to the Public Financial Management and Control Law (PFMCL) relating to accounting and drafted amendments to further align public internal control with best practices. A number of pieces of secondary legislation and tertiary regulations were approved in the course of 2008, *inter alia* the internal control standards and the internal audit manual. Over 500 internal auditors have been trained and certified in accordance with the Public Financial Management and Control (PFMC) Law, while nearly 500 financial officers have been employed in budget spending centres. A first annual report on the status of PIFC (for 2007) was presented to the Court of Accounts.

As a result of full enactment of the PFMC Law, the 2002 PIFC policy paper and the related action plan should be updated. The PIFC strategy will have to focus on separation of the roles and responsibilities of internal audit and inspection boards, including description of the comprehensive control environment in the public sector to clarify the delineation of control, audit and inspection functions, the need to harmonise internal audit of the national budget and of EU financial assistance, the precise definition of *ex-ante* financial control, establishment of an operational central harmonisation unit (CHU) for internal audit and of the decentralised internal audit units and a CHU for FMC relations with the strategy development units. The issue of the location of the CHU has to be decided as soon as possible to ensure that the modern public internal audit profession can develop under optimum and non-political conditions.

The internal audit function has become operational in some government institutions following the appointment of internal auditors and the publication of public internal audit standards. Establishment of the strategy development units and their recruitment process are continuing. The internal audit coordination board issued key documents on internal audit. A permanent central harmonisation unit for internal audit should be established.

Preparations are fairly advanced in this area.

Some progress can be reported on **external audit**. The decision of the General Assembly of the Turkish Court of Accounts in July 2008 has taken important step by providing the Court of Accounts with the mandate to audit all but confidential expenditures of the Defence Industry Support Fund. The revised Law on the Turkish Court of Accounts has not yet been enacted, despite appearing on the government's priority list. This delay in adoption of the revised law is having a serious impact, especially on the external audit of local administrations.

Preparations are moderately advanced in this area.

There has been some progress on **protection of the EU's financial interests**. In August the Prime Ministerial Inspection Board (PMIB) was confirmed as the Anti-Fraud Cooperation Structure (AFCOS) contact point and as such continues to cooperate with OLAF. Its required operational independence for all legislative, administrative and operational aspects of protection of the Communities' financial interests has yet to be developed but is envisaged by the end of 2008.

There have been some developments with regard to the protection of the European Communities' financial interests (PIF Convention). The new Turkish penal code satisfies many of the requirements of the PIF Convention. However monitoring by the Turkish authorities of the actual application of the Convention is required.

Preparations are moderately advanced in this area.

Little progress can be reported on **protection of the euro against counterfeiting**. The 2007 amendment to the Law on the Turkish lira envisages removal of “new” from “new Turkish lira” with effect from 1 January 2009. As part of the reminting exercise, Turkey is expected to redesign Turkish coins to eliminate any similarities with euro coins. The Turkish authorities have the expertise required for analysis and classification of counterfeit notes and coins. The administrative capacity of the four enforcement bodies is sufficient. The counterfeit monitoring system is in operation under the auspices of the Turkish Central Bank. There are institutions serving *de facto* as the national analysis centre, national coin analysis centre and national central office. These structures need to be officially appointed to ensure institutionalisation and sustainable cooperation with the EU institutions. The Turkish legislation does not envisage any sanctions against credit institutions which fail to withdraw counterfeits from circulation and against medals and tokens similar to euro coins.

Preparations are moderately advanced in this area.

### *Conclusion*

Moderate progress can be reported in the area of financial control. Legislation implementing the PFMC Law is in place, but a number of amendments relating to internal control need to be approved. Internal auditors have started to take up office. Institutionalisation of the newly established administrative structures is continuing. Further efforts are needed to ensure full implementation of the PFMC Law. For this purpose, Turkey will need to update its 2002 PIFC policy paper and adopt the revised law of the Turkish Court of Accounts.

Permanent structures are needed for cooperation with the European Anti-Fraud Office on protection of the EU's financial interests and for contacts with the Commission departments responsible for protection of the euro against counterfeiting.

Overall, Turkey's level of alignment with the *acquis* in this chapter is moderately advanced.

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

There remain no significant divergences with the EU system concerning the basic principles and institutions in the underlying policy areas linked to the application of the EU **own resources system**. Efforts to align with the relevant *acquis* chapters (customs, taxation, statistics and financial control) have continued. In 2008, Turkstat submitted to Eurostat GDP estimates compiled in accordance with the European system of accounts (ESA95) However, further progress is needed towards full implementation of the ESA95 standards to ensure appropriate measurement of the resource based on gross national income.

Although the own resources *acquis* does not require transposition, it is important to establish coordination structures and implementing rules to ensure the correct calculation, collection, payment and control of own resources and reporting to the EU for implementation of the own resources rules. Stronger *administrative capacity* is also needed in the relevant policy areas, in particular agriculture, customs, taxation, statistics and financial control. This includes setting

up effective instruments to combat customs duty and VAT fraud so that the financial interests of the EU can be protected.

### *Conclusion*

The *acquis* in this area is directly applicable upon membership and does not require transposition. Sound coordination structures and implementing rules will need to be established in due course. Preparations in the area of financial and budgetary provisions are at an early stage.

## STATISTICAL ANNEX

### STATISTICAL DATA (as of 29 September 2008)

#### Turkey

<b>Basic data</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Population (thousand)	1)	64 642	65 787	66 889	67 896	68 838	69 770	70 692	71 610	72 520	69 689b
Total area of the country (km <sup>2</sup> )	2)	783 562	783 562	783 562	783 562	783 562	783 562	783 562	783 562	783 562	783 562

<b>National accounts</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Gross domestic product (GDP) (million national currency)		70 203	104 596	166 658	240 224	350 476	454 781	559 033	648 932	758 391	856 387
GDP (million euro)		242 787	233 424	289 446	219 816	243 570	269 322	314 304	387 655	419 013	480 281
GDP (euro per capita)		3 756	3 548	4 327	3 238	3 538	3 860	4 446	5 413	5 778	6 892b
GDP (in Purchasing Power Standards (PPS) per capita)		7200.0e	7 000.0	7 600.0	7 000.0	7 000.0	7 000.0	8 100.0	8 800.0	9 700.0e	10 300.0be
SI: GDP (in PPS per capita, EU-25=100)		42.7e	39.2	40.0	35.6	34.4	34.1	37.5	39.2	41.3e	41.8e
SI: Growth rate of GDP (national currency, at constant prices, % change on previous year)		:	-3.4	6.8	-5.7	6.2	5.3	9.4	8.4	6.9	4.5
SI: Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	:	:	:	:	:	:	:	:	:
SI: Unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:
SI: Labour productivity (GDP in PPS per person employed, EU-25=100)		53.2e	49.0	53.3e	49.1e	49.1e	49.8e	54.0e	56.2e	59.9e	61.3e
Gross value added by main sectors (%)											
Agriculture		12.9	10.7	10.8	9.4	11.4	11.1	10.7	10.6	9.4	8.7
Industry		27.7	25.4	24.6	23.8	23.2	23.5	23.0	23.0	22.9	22.2
Construction		6.0	5.6	5.4	4.7	4.6	4.5	5.0	5.0	5.4	5.6
Services		53.4	58.3	59.2	62.1	60.8	60.8	61.3	61.3	62.4	63.5
Final consumption expenditure, as a share of GDP (%)		76.7	80.7	82.2	80.8	80.8	83.5	83.2	83.5	82.9	83.5
Households and NPISH, as a share of GDP (%)		66.5	68.5	70.5	68.4	68.0	71.2	71.3	71.7	70.5	70.8
General government, as a share of GDP (%)		10.3	12.2	11.7	12.4	12.7	12.2	11.9	11.8	12.3	12.6
Gross fixed capital formation, as a share of GDP (%)		22.9	18.9	20.4	15.9	16.7	17.0	20.3	21.0	22.3	21.6
Changes in inventories, as a share of GDP (%)		-0.7	0.2	0.4	-0.9	0.9	0.6	-1.0	-1.0	-0.2	0.1
Exports of goods and services, relative to GDP (%)		21.3	19.4	20.1	27.4	25.2	23.0	23.6	21.9	22.7	22.0
Imports of goods and services, relative to GDP (%)		20.2	19.3	23.1	23.3	23.6	24.0	26.2	25.4	27.6	27.1

<b>Industry</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Industrial production volume index (2000=100)		:	:	100.0	91.3	99.9	108.7	119.3	128.7	136.3	143.6

<b>Inflation rate</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
SI: Consumer price index (CPI), (total, % change on previous year)		84.6	64.9	54.9	54.4	45.0	25.3	10.6	8.2	9.6	8.8

<b>Balance of payments</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Balance of payments: current account total (million euro)		1 784	-868	-10 741	4 198	-662	-6 643	-11 601	-17 794	-25 401	-27 547
Balance of payments current account: trade balance (million euro)		-12 522	-9 168	-23 882	-3 755	-6 758	-11 925	-18 278	-26 516	-32 607	-34 079
Balance of payments current account: exports of goods (million euro)		27 421	27 239	33 375	38 777	43 062	46 317	55 097	62 989	74 555	84 135

Balance of payments current account: imports of goods (million euro)		39 942	36 406	57 256	42 532	49 819	58 242	73 375	89 505	107 162	118 214
Balance of payments current account: net services (million euro)		12 058	7 039	12 316	10 201	8 339	9 292	10 288	12 276	11 015	10 112
Balance of payments current account: net income (million euro)		-2 663	-3 319	-4 333	-5 583	-4 816	-4 912	-4 509	-4 722	-5 329	-5 212
Balance of payments current account: net current transfers (million euro)		4 910	4 580	5 158	3 335	2 573	902	898	1 169	1 520	1 632
of which government transfers (million euro)		133	330	221	224	526	257	252	485	495	590
Foreign Direct Investment (FDI) in the reporting economy (million euro)		838	735	1 063	3 743	1 198	1 548	2 239	8 063	15 920	16 202

<b>Public finance</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
General government deficit/surplus, relative to GDP (%)		:	:	-10.9	-24.5	-10.2	-9.0	-4.5	-0.6	-0.1	-1.2
SI: General government debt, relative to GDP (%)		:	:	42.9	77.6	73.7	67.3	59.2	52.3	46.1	38.8

<b>Financial indicators</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Gross foreign debt of the whole economy, relative to GDP (%)		35.6	41.7	44.7	57.7	56.2	47.3	41.2	35.0	39.0	37.5
Gross foreign debt of the whole economy, relative to total exports (%)		200.8e	259.4e	255.1e	240.9e	243.2e	217.5e	183.8e	168.0e	174.9e	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	3)	7 000	8 635	12 205	8 965	9 291	13 188	15 762	38 978b	38 616	44 644
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	4)	31 206	41 324	51 591	37 253	36 325	47 398	59 415	150 152b	160 193	201 366
Money supply: M3 (M2 plus marketable instruments, million euro)	5)	32 878	42 950	54 207	38 973	38 041	50 488	63 411	164 302b	171 832	215 308
Total credit by monetary financial institutions to residents (consolidated) (million euro)		30 790	30 856	44 492	26 977	20 035	29 025	43 328	83 772	100 358	140 157
Interest rates: day-to-day money rate, per annum (%)		78.8	79.8	56.0	95.5	49.6	36.1	22.0	15.1	15.8	17.3
Lending interest rate (one year), per annum (%)	6)	79.5	86.1	51.2	78.8	53.7	42.8	29.1	23.8	19.0	20.1
Deposit interest rate (one year), per annum (%)	7)	93.3	85.5	38.2	62.2	53.9	40.3	23.6	19.9	21.5	22.3
euro exchange rates: average of period - 1 euro = ... national currency		0.293	0.447	0.575	1.102	1.440	1.695	1.777	1.677	1.809	1.789e
Effective exchange rate index (2000=100)		193.0e	121.4e	100.0e	46.8e	40.1e	40.4e	39.3e	43.6e	39.1e	44.5e
Value of reserve assets (including gold) (million euro)		17 751	24 253	25 331	22 660	26 949	28 134	27 654	44 277	48 116	52 058

<b>External trade</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Trade balance: all goods, all partners (million euro)		:	-13 387	-29 263	-11 194	-16 341	-18 620	-27 637	-34 560	:	:
Value of exports: all goods, all partners (million euro)		:	24 964	30 182	35 062	38 137	41 516	50 891	58 849	:	:
Value of imports: all goods, all partners (million euro)		:	38 351	59 444	46 256	54 478	60 136	78 528	93 410	:	:
Terms of trade (export price index / import price index, % change to previous year)	8)	:	-1.4	-8.5	-2.3	-0.6	-0.2	2.0	-2.6	-3.3	7.8
Share of exports to EU-27 countries in value of total exports (%)		:	58.0	56.4	56.0	56.6	58.3	57.9	56.4	:	:
Share of imports from EU-27 countries in value of total imports (%)		:	55.4	52.4	47.9	49.8	50.6	49.3	45.2	:	:
			#ARG!	514.8	-73.4	-75.4	-72.7	-1431.9	-231.3	25.5	-335.1

<b>Demography</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		16.0	15.4	14.1	13.7	13.5	13.2	12.9	12.6	12.4	:
Net migration rate: immigrants minus emigrants (per 1000 inhabitants)		:	:	:	:	:	:	:	:	:	:
Infant mortality rate: deaths of children under one year of age per 1000 live births		36.5	33.9	28.9	27.8	26.7	25.6	24.6	23.6	22.6	21.7
Life expectancy at birth: male (years)		66.7	67.1	68.1	68.2	68.4	68.6	68.8	68.9	69.1	69.3
Life expectancy at birth: female (years)		71.3	71.8	72.8	73.0	73.2	73.4	73.6	73.8	74.0	74.2



<b>Labour market</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Economic activity rate (15-64): share of population aged 15-64 that is economically active (%)		55.3	55.2	52.4	52.3	52.3	51.1	51.5	51.3	51.1	51.0
SI: Employment rate (15-64): share of population aged 15-64 that is in employment (%)		51.4	50.8	48.9	47.8	46.7	45.5	46.1	45.9	45.9	45.8
Share of male population aged 15-64 that is in employment (%)		74.3	72.7	71.7	69.3	66.9	65.9	67.9	68.2	68.0	67.9
Share of female population aged 15-64 that is in employment (%)		28.5	28.9	26.2	26.3	26.6	25.2	24.3	23.7	23.8	23.8
SI: Employment rate of older workers (55-64): share of population aged 55-64 that is in employment (%)		41.1	39.3	36.4	35.9	35.3	32.7	33.1	30.8	30.1	29.4
Employment by main sectors (%)											
Agriculture		41.5	40.2	36.0	37.6	34.9	33.9	34.0	29.5	27.3	26.4
Industry		17.1	17.2	17.7	17.5	18.5	18.2	18.3	19.4	19.7	19.8
Construction		6.1	6.2	6.3	5.2	4.5	4.6	4.7	5.3	5.7	5.8
Services		35.3	36.5	40.0	39.7	42.1	43.4	43.0	45.8	47.3	48.0
SI: Unemployment rate: share of labour force that is unemployed (%)		6.9	7.7	6.5	8.4	10.3	10.5	10.3	10.3	9.9	9.9
Share of male labour force that is unemployed (%)		6.9	7.7	6.6	8.7	10.7	10.7	10.5	10.3	9.7	9.8
Share of female labour force that is unemployed (%)		6.8	7.6	6.3	7.5	9.4	10.1	9.7	10.3	10.3	10.3
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		14.2	15.0	13.1	16.2	19.2	20.5	19.7	19.3	18.7	19.6
SI: Long-term unemployment rate: share of labour force that is long-term unemployed (%)		2.7	2.1	1.3	1.7	2.9	2.5	4.0	4.1	3.5	3.0

<b>Social cohesion</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Average nominal monthly wages and salaries (national currency)		:	:	:	:	372.1	492.0	529.4	595.4	:	:
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI) (2000=100)		:	:	:	:	:	:	:	:	:	:
SI: Early school-leavers: share of population aged 18-24 having not completed upper secondary education and not currently in education or training (%)		:	:	58.8	57.3	54.8	53.0	54.6	51.3	50.0	47.8

<b>Standard of living</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Number of passenger cars per 1000 population	9)	59.4	61.9	66.1	66.8	66.8	67.4	76.4b	80.6	84.7	91.7
Number of subscriptions to cellular mobile telephone services per 1000 population		54.3	116.8	225.2	269.5	338.8	399.7	491.0	609.0	726.2	878.0

<b>Infrastructure</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		11.0	11.1	11.1	11.1	11.0	11.1	11.1	11.1	11.1	11.1
Length of motorways (thousand km)		1.7	1.7	1.8	1.9	1.9	1.9	1.9	1.8	2.0	2.0

<b>Innovation and research</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
SI: Spending on human resources (public expenditure on education) relative to GDP (%)		3.3	3.1	3.5	3.7	3.6	3.7	4.1	:	:	:
SI: Gross domestic expenditure on research & development, relative to GDP (%)		0.5	0.6	0.6	0.7	0.7	0.6	0.7	0.8	0.8	:
SI: Percentage of households who have Internet access at home (%)		:	:	:	:	:	:	7.0	8.0	:	18.9

<b>Environment</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
SI: Total greenhouse gases emissions, CO2 equivalent (tons, 1990=100)		151.0	151.0	165.0	154.0	159.0	168.0	174.0	184.0	195.0	:
SI: Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP 2004)		273.6	278.2	283.8	277.6	275.9	275.7	260.2	249.7	273.3	277.7
SI: Share of renewable energy in electricity consumption (%)		37.3	29.5	24.3	19.1	25.6	25.2	30.9	24.7	25.5	18.9
SI: Road freight transport as a share of total inland freight transport (modal split of freight transport) (%)		94.8	94.8	94.3	95.3	95.5	94.6	94.4	94.4e	94.3	:

<b>Energy</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Primary production of all energy products (thousand TOE)		29 108	27 526	26 715	25 065	24 627	23 857	24 193	23 612	26 580	25 957p
Primary production of crude oil (thousand TOE)		3 219	2 937	2 746	2 508	2 414	2 349	2 245	2 259	2 284	1 975p
Primary production of hard coal and lignite (thousand TOE)		13 943	13 282	13 293	12 876	11 826	11 010	10 599	10 484	13 087	13 709p
Primary production of natural gas (thousand TOE)		465	602	526	257	311	461	566	738	839	774p
Net imports of all energy products (thousand TOE)		43 410	43 347	50 873	46 070	51 002	56 655	58 574	61 986	73 256	79 834p
Gross inland energy consumption (thousand TOE)		72 312	71 042	77 374	71 370	75 341	79 278	81 859	85 159	99 642	105 792p
Electricity generation (thousand GWh)		111.0	116.4	124.9	122.7	129.4	140.6	150.7	162.0	176.3	191.1p

<b>Agriculture</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Agricultural production volume index of goods and services (producer prices, previous year=100)		110.6	94.7	104.2	93.3	108.5	98.0	101.6	106.9	:	:
Total utilised agricultural area (thousand hectare)		39 344	39 180	38 757	40 967	41 196	40 645	41 210	41 223	40 496	39 503p
Livestock: cattle (thousand heads, end of period)	10)	11 031	11 054	10 761	10 548	9 803	9 788	10 069	10 526	10 871	11 037
Livestock: pigs (thousand heads, end of period)		5	3	3	3	4	7	4	2	1	2
Livestock: sheep and goats (thousand heads, end of period)		37 492	38 030	35 693	33 994	31 954	32 203	31 811	31 822	32 260	31 749
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)		:	:	:	:	:	:	:	:	:	:
Crop production: cereals (including rice) (thousand tonnes, harvested production)		33 060	28 749	32 108	29 426	30 686	30 658	33 957	36 231	34 365	29 645
Crop production: sugar beet (thousand tonnes, harvested production)		22 283	17 102	18 821	12 633	16 523	12 623	13 517	15 181	14 452	12 415
Crop production: vegetables (thousand tonnes, harvested production)		21 151	22 083	22 357	21 930	23 698	24 018	23 215	24 320	24 017	25 670

SI: Structural Indicator

e: estimate

f: forecast

p: provisional

b: break in serie

1. Source: Eurostat. Break in serie in 2006.
2. Including lakes.
3. Before December 2005, M1 included currency in circulation and demand desposits (TRY). From December 2005 onwards, M1 includes currency in circulation and demand desposits (TRY, FX).
4. Before December 2005, M2 included M1 and time deposits (TRY). From December 2005 onwards, M2 includes M1 and time deposits (TRY, FX).
5. Before December 2005, M3 included M2 and official deposits (time/demand). From December 2005 onwards, M3 includes M2, fund received from repo transactions and money market funds (B type liquid funds).
6. Averages of monthly data for lending to enterprises of more than one year.
7. Averages of monthly data, up to one year or longer.
8. Calculated on the basis of ISIC Rev.3, base year 2003
9. From 2004 onwards, data source is the General Directorate of Public Security.
10. Excluding the number of buffaloes.