



EUROPEAN  
COMMISSION

Brussels, 9.11.2016  
SWD(2016) 366 final

**COMMISSION STAFF WORKING DOCUMENT**

**Turkey 2016 Report**

*Accompanying the document*

**Communication from the Commission to the European Parliament, the Council, the  
European Economic and Social Committee and the Committee of the Regions**

**2016 Communication on EU Enlargement Policy**

{COM(2016) 715 final}

## Table of Contents

|       |                                                                                                |           |
|-------|------------------------------------------------------------------------------------------------|-----------|
| 1.    | INTRODUCTION.....                                                                              | 5         |
| 1.1.  | Context .....                                                                                  | 5         |
| 1.2.  | Summary of the report .....                                                                    | 6         |
| 2.    | POLITICAL CRITERIA AND ENHANCED POLITICAL DIALOGUE.....                                        | 9         |
| 2.1.  | Democracy .....                                                                                | 9         |
| 2.2.  | Public administration reform.....                                                              | 15        |
| 2.3.  | Rule of law .....                                                                              | 18        |
| 2.4.  | Human rights and the protection of minorities .....                                            | 25        |
| 2.5.  | Regional issues and international obligations .....                                            | 31        |
| 3.    | ECONOMIC CRITERIA .....                                                                        | 32        |
| 3.1.  | The existence of a functioning market economy .....                                            | 33        |
| 3.2.  | <b>The capacity to cope with competitive pressure and market forces within the Union .....</b> | <b>39</b> |
| 4.    | Ability to assume the obligations of membership.....                                           | 41        |
| 4.1.  | <b>Chapter 1: Free movement of goods.....</b>                                                  | <b>41</b> |
| 4.2.  | Chapter 2: Freedom of movement for workers .....                                               | 43        |
| 4.3.  | Chapter 3: Right of establishment and freedom to provide services .....                        | 43        |
| 4.4.  | Chapter 4: Free movement of capital .....                                                      | 44        |
| 4.5.  | Chapter 5: Public Procurement .....                                                            | 44        |
| 4.6.  | Chapter 6: Company law.....                                                                    | 46        |
| 4.7.  | Chapter 7: Intellectual property law.....                                                      | 47        |
| 4.8.  | Chapter 8: Competition policy .....                                                            | 47        |
| 4.9.  | Chapter 9: Financial services .....                                                            | 49        |
| 4.10. | Chapter 10: Information society and media .....                                                | 50        |
| 4.11. | Chapter 11: Agriculture and rural development.....                                             | 51        |
| 4.12. | Chapter 12: Food safety, veterinary and phytosanitary policy .....                             | 51        |
| 4.13. | Chapter 13: Fisheries.....                                                                     | 52        |
| 4.14. | Chapter 14: Transport policy .....                                                             | 53        |
| 4.15. | Chapter 15: Energy .....                                                                       | 55        |
| 4.16. | Chapter 16: Taxation.....                                                                      | 57        |
| 4.17. | Chapter 17: Economic and monetary policy .....                                                 | 57        |
| 4.18. | Chapter 18: Statistics.....                                                                    | 58        |
| 4.19. | Chapter 19: Social policy and employment .....                                                 | 59        |
| 4.20. | Chapter 20: Enterprise and industrial policy.....                                              | 61        |
| 4.21. | Chapter 21: Trans-European networks.....                                                       | 62        |
| 4.22. | Chapter 22: Regional policy and the coordination of structural instruments .....               | 63        |

|       |                                                                                                                                                                                                                                                         |           |
|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| 4.23. | Chapter 23: Judiciary and fundamental rights .....                                                                                                                                                                                                      | 63        |
| 4.24. | Chapter 24: Justice, freedom and security .....                                                                                                                                                                                                         | 78        |
| 4.25. | Chapter 25: Science and research .....                                                                                                                                                                                                                  | 86        |
| 4.26. | Chapter 26: Education and culture .....                                                                                                                                                                                                                 | 87        |
|       | <i>The EU supports cooperation in education and culture through funding programmes and through the open method of coordination. Member States must also prevent discrimination and facilitate the education of children of EU migrant workers. ....</i> | <i>87</i> |
| 4.27. | Chapter 27: Environment and climate change .....                                                                                                                                                                                                        | 87        |
| 4.28. | Chapter 28: Health and consumer protection.....                                                                                                                                                                                                         | 90        |
| 4.29. | Chapter 29: Customs union .....                                                                                                                                                                                                                         | 91        |
| 4.30. | Chapter 30: External relations.....                                                                                                                                                                                                                     | 91        |
| 4.31. | Chapter 31: Foreign, security and defence policy.....                                                                                                                                                                                                   | 92        |
| 4.32. | Chapter 32: Financial control.....                                                                                                                                                                                                                      | 94        |
| 4.33. | Chapter 33: Financial and budgetary provisions .....                                                                                                                                                                                                    | 96        |
|       | Annex I – Relations between the EU and Turkey .....                                                                                                                                                                                                     | 97        |
|       | Annex II – Statistical Annex .....                                                                                                                                                                                                                      | 99        |



## **1. INTRODUCTION<sup>1</sup>**

### **1.1. Context**

Turkey remains a key partner for the European Union. Turkey has been linked to the EU by an Association Agreement since 1964 and a customs union was established in 1995. The European Council granted the status of candidate country to Turkey in December 1999 and accession negotiations were opened in October 2005. At the EU-Turkey Summit of 29 November 2015, the EU and Turkey decided to reinvigorate and deepen their relations in all key areas of joint interest.

The EU strongly and immediately condemned the attempted coup of 15 July 2016, which represented a direct attack on democracy in Turkey, and expressed its solidarity to the Turkish democratic institutions.

Given the subsequent scale and collective nature of measures taken since the coup attempt, the EU called on the authorities to observe the highest standards in respecting the rule of law and fundamental rights, in line with Turkey's international commitments and status as a candidate country.

Within the framework of accession negotiations, 16 chapters have been opened so far and one of these was provisionally closed. The preparatory documents were submitted to the Council for chapters 15, 26 and 31, without prejudice to Member States' positions in accordance with the existing rules. Preparatory documents for chapters 23 on judiciary and fundamental rights and 24 on justice, freedom and security are in the process of being finalised. Turkey can accelerate the pace of negotiations by advancing in the fulfilment of the benchmarks, meeting the requirements of the negotiating framework and by respecting its contractual obligations towards the EU.

The EU and Turkey continued to enhance dialogue and cooperation in the areas of joint interest, which support and complement the accession negotiations, including with a number of mutual visits at the highest level. Turkey and the EU enhanced their dialogue on foreign and security policy, including counter-terrorism, Syria, Libya and Iraq, notably on the occasion of two High Level Political Dialogues in January and September 2016. The fight against terrorism was recognised as a priority at the EU-Turkey Summit of 29 November 2015 and was also addressed at the EU-Turkey Counter-Terrorism Dialogue in June 2016, against the background of several large-scale deadly terrorist attacks by PKK and Da'esh and Turkey stepping up its involvement in the Global Coalition to Counter ISIL/Da'esh.

In this context, the cooperation on migration was stepped up on the basis of a Joint Action Plan activated at the EU-Turkey Summit of 29 November 2015 and following the EU-Turkey Statement of 18 March 2016, with the aim to end the irregular migration from Turkey to the EU, in full compliance with EU and international standards. The handling of the massive influx of mostly Syrian refugees has continued to be a priority issue for the Turkish authorities, with outstanding efforts to provide shelter to about 3 million refugees from Syria, Iraq and other countries, by dedicating significant financial resources and by broadening the legislation on temporary protection and enabling access to the labour market. Significant steps have been taken to decrease deaths at sea and reduce the numbers of migrants leaving Turkey for Greece. Turkey accelerated work on fulfilling the benchmarks of the visa liberalisation roadmap. Visa requirements will be lifted once Turkey meets all benchmarks. The EU's Facility for Refugees in Turkey became operational in February 2016. Out of EUR 3 billion of the total funding for

---

<sup>1</sup> This report covers the period from October 2015 to September 2016. It is based on input from a variety of sources, including contributions from the government of Turkey, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. As a rule, legislation or measures which are under preparation or awaiting parliamentary approval have not been taken into account.

2016 and 2017, EUR 2.2 billion have already been allocated for actions in support of refugees and host communities in Turkey, of which 1.2 billion have been contracted and 677 million have been disbursed.

Turkey and the EU further developed their cooperation in the areas of energy and economy and trade, supported by high level dialogues. Both sides advanced their preparations for negotiation on the modernisation and extension of the Customs Union.

## **1.2. Summary of the report**

A military coup attempt on the night of 15 July left 241 casualties and 2 196 people wounded. The Turkish government with the support of the entire Turkish political spectrum and society, succeeded in overcoming the coup attempt. The Turkish Grand National Assembly symbolically held a special session already on 16 July and adopted a declaration approved by all parties represented in Parliament. The government attributed the organisation of the coup attempt to the Gülen movement.

The EU strongly and immediately condemned the attempted coup, which represented a direct attack on democracy in Turkey as such, and reiterated its full support to the democratic institutions of the country.

On 20 July a state of emergency was declared across Turkey for three months, further extended for another three months on 3 October. Significant legislative amendments were introduced by decree. Turkey notified the Council of Europe of a derogation from its obligation to secure a number of fundamental rights protected by the European Convention on Human Rights. Following the coup attempt, very extensive suspensions, dismissals, arrests and detentions took place over alleged links to the Gülen movement and involvement in the attempted coup. The measures affected the whole spectrum of society with particular impact on the judiciary, police, gendarmerie, military, civil service, local authorities, academia, teachers, lawyers, the media and the business community. Multiple institutions and private companies were shut down, their assets seized or transferred to public institutions.

In the wake of the post-coup measures, the EU called on the authorities to observe the highest standards in the rule of law and fundamental rights. While a relationship of trust and loyalty should exist between civil servants and the state and measures can be taken to ensure that, any allegation of wrongdoing should be established via transparent procedures in all individual cases. Individual criminal liability can only be established with full respect for the separation of powers, the full independence of the judiciary and the right of every individual to a fair trial, including through effective access to a lawyer. Turkey should ensure that any measure is taken only to the extent strictly required to the exigencies of the situation and in all cases stands the test of necessity and proportionality. The measures taken under the state of emergency are undergoing scrutiny by the Council of Europe. Turkey should urgently address the recommendations of the Commissioner for Human Rights of the Council of Europe of October 2016.

With regard to the **political criteria**, prior to the coup attempt the Parliament engaged in a heavy legislative agenda in order to implement the ambitious government reform action plan for 2016 and the legislative requirements of the visa liberalisation roadmap. However, several key pieces of legislation adopted regarding the rule of law and fundamental rights were not in line with European standards, such as the law on data protection. Political confrontation continued to beset the work of the legislative. The adoption in May of a law allowing the immunity of a large number of deputies to be lifted and the ensuing detentions and arrests of several HDP Members of Parliament, including the two Co-Chairs, in November is a matter of grave concern.

The situation in the south-east remained one of the most critical challenges for the country. Turkey saw a continued very serious deterioration in the security situation, leading to heavy

casualties following the collapse of the Kurdish settlement process in July 2015 and was struck by several large-scale deadly terrorist attacks by PKK and Da'esh. The authorities pursued their extensive anti-terror military and security campaign against the Kurdistan Workers' Party (PKK), which remains on the EU list of terrorist organisations. Serious allegations of human rights violations and disproportionate use of force by the security forces in the south-east were increasingly reported. Many elected representatives and municipal executives in the south-east were suspended, removed from their duties, or arrested under terrorism-related charges, some of them on the basis of decrees under the state of emergency following the coup attempt. However, anti-terror measures need to be proportionate and must respect human rights. The settlement of the Kurdish issue through a political process is the only way forward; reconciliation and reconstruction are also becoming key issues for the authorities to address.

Civil society made what efforts it could to remain active and involved in public life. Independent civil society organisations are rarely involved in law- and policy-making processes. Some of their representatives, including human rights defenders, have been detained and there were credible claims of intimidation. A large number of organisations were closed as part of the post-coup measures taken by the government for alleged links to the Gülen movement.

Turkey is moderately prepared in the area of public administration reform with a strong commitment to an open, responsive administration. However, there has been backsliding in the area of public service and human resources management in particular in the aftermath of the coup attempt. The structural impact on the functioning of the civil service of the measures taken after the coup attempt remains to be assessed.

Turkey's judicial system is at an early stage/has some level of preparation. There has been backsliding in the past year, in particular with regard to the independence of the judiciary. The extensive changes to the structures and composition of high courts are of serious concern and are not in line with European standards. Judges and prosecutors continued to be removed from their profession and in some cases were arrested, on allegations of conspiring with the Gülen movement. This situation worsened further after the July coup attempt, following which one fifth of the judges and prosecutors were dismissed and saw their assets frozen. The judiciary must work in an environment allowing it to perform its duties in an independent and impartial manner, with the executive and legislature fully respecting the separation of powers. Under the state of emergency, Turkey has further extended for certain offences the pre-trial detention to 30 days without access to a judge against ECtHR case law and an important part of the judiciary is subject to these measures.

The country has some level of preparation for the fight against corruption. Corruption remains prevalent in many areas and continues to be a serious problem. The adoption of a new strategy and anti-corruption action plan is a step forward even if it remains rather limited in scope. The legal framework continues to suffer from important gaps and the executive's influence on the investigation and prosecution of high-profile corruption cases remains a major source of concern. Corruption perception remains high.

Turkey has achieved some level of preparation in the fight against organised crime. Institutional capacity was increased and new strategies and action plans were adopted. However, statistics on the number of final convictions and other important indicators are not available. Financial investigations remain underused. Precautionary freezing of assets is rarely applied and the level of assets confiscated is low. In the fight against terrorism, a comprehensive legal framework on terrorism financing is in place. The anti-terror law is not in line with the *acquis* with regard to its scope and definitions and its application raises serious fundamental rights concerns. Both the criminal and anti-terror legislation should be aligned with ECtHR case-law, without reducing the capacity of Turkey to fight terrorism. The proportionality principle must be observed in practice.

The Turkish legal framework includes general guarantees of respect for human and fundamental rights, which need to be further improved. The enforcement of rights stemming from the European Convention on Human Rights (ECHR) and the case-law of the European Court of Human Rights (ECtHR) is not yet ensured. Many allegations of serious violations of the prohibition of torture and ill-treatment and of procedural rights were reported in the immediate aftermath of the coup attempt. Yet, all measures taken must be in line with the principles of proportionality and respect for human rights. The new Law on the Human Rights and Equality Institution of Turkey is a step in the right direction. It contains provisions on prohibiting discrimination on a large number of grounds, but does not explicitly cover sexual orientation. There is still a need to adopt a fully comprehensive dedicated law on combating discrimination. A legal vacuum exists on human rights cases as the new National Human Rights and Equality institution has not yet been established. The rights of the most vulnerable groups and of persons belonging to minorities should be sufficiently protected. Gender-based violence, discrimination, hate speech against minorities, hate crime and violations of human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons continue to be a source of a serious concern.

There has been serious backsliding in the past year in the area of freedom of expression. Selective and arbitrary application of the law, especially of the provisions on national security and the fight against terrorism, is having a negative impact on freedom of expression. Ongoing and new criminal cases against journalists, writers or social media users, withdrawal of accreditations, high numbers of arrests of journalists as well as closure of numerous media outlets in the aftermath of the July attempted coup are of serious concern. Freedom of assembly continues to be overly restricted, in law and practice.

Turkey continued to express support for the talks on the Cyprus settlement between the leaders of the two communities, and for the efforts of the UN Secretary-General's Special Adviser. Turkey's commitment and contribution in concrete terms to this comprehensive settlement remains crucial. However, Turkey has still not fulfilled its obligation to ensure full and non-discriminatory implementation of the Additional Protocol to the Association Agreement and has not removed all obstacles to the free movement of goods, including restrictions on direct transport links with Cyprus. There was no progress on normalising bilateral relations with the Republic of Cyprus. The conclusions on Turkey that were adopted by the Council (General Affairs and External Relations) on 11 December 2006 and endorsed by the European Council in December 2006 remain in force. They stipulate that negotiations will not be opened on eight chapters<sup>2</sup> relating to Turkey's restrictions regarding the Republic of Cyprus and no chapter will be provisionally closed until the Commission confirms that Turkey has fully implemented the Additional Protocol to the Association Agreement.

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

Regarding the **economic criteria**, the Turkish economy is well advanced and can be considered a functioning market economy. Still, the large external deficit makes the Turkish economy vulnerable to financial uncertainty, changes in global investors' sentiment and political risks. The central bank cut interest rates even though inflation remained well above the official target. The business environment continued to deteriorate due to targeted actions against critical media and business people and political opponents through the active use of the tax authority, the

---

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

financial crimes unit and courts. The implementation of structural reforms to improve the functioning of the markets for goods, services and labour has stalled. Overall, there was backsliding.

Turkey has a good level of preparation in achieving the capacity to cope with the competitive pressure and market forces within the EU. Some progress was made in a number of areas, most notably through further liberalising the energy sector. Significant problems remain as regards the quality of education. There are also problems of access to education for girls. The lira's real appreciation has reduced the economy's price competitiveness.

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

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

### **2.1. Democracy**

#### **Attempted coup of 15 July**

A military coup attempt began on the evening of 15 July and was aborted the following day, leaving 241 casualties and 2 196 people wounded. There were heavy clashes in Ankara and Istanbul with several locations hit by airstrikes, including a direct attack on the Turkish Grand National Assembly. The coup failed thanks to large parts of the security forces and the army that remained loyal to the government, backed by hundreds of thousands of civilians who opposed the rebel soldiers in the streets and squares across the country, following calls from President Recep Tayyip Erdoğan. The Turkish Grand National Assembly symbolically convened a special session already in the night from 15 to 16 July and adopted a declaration approved by all parties represented in Parliament. The government attributed the organisation of the attempted coup to the Gülen movement.

The EU strongly and immediately condemned the attempted coup, which represented a direct attack on democracy in Turkey as such, and reiterated its full support to the democratic institutions of the country.

On 20 July a state of emergency was declared across Turkey for three months, further extended for another three months on 3 October. On 21 July, Turkey notified the Council of Europe of a derogation from its obligation to secure a number of fundamental rights protected by the European Convention on Human Rights (ECHR), in line with the provisions of Article 15. The Turkish Constitution however lists inviolable rights that cannot be suspended under the state of emergency, including the right to life, integrity of corporal and spiritual existence, protection from retroactive criminal laws, and the presumption of innocence. The state of emergency allows the Council of Ministers under the chairmanship of the President to govern by legislative decree. Ten decrees have been issued so far. They introduced a wide range of

measures including extending the pre-trial detention period to 30 days for a number of offences, closure and seizure of institutions and media outlets, dismissals in the military and the civil service for suspected links to the Gülen movement, substantive reorganisation of the Turkish armed forces, the police, the gendarmerie and the military academies, changes to the appointment procedure of university rectors, as well as important restrictions to the right of defence. They introduced amendments to key pieces of legislation which will continue to produce effects beyond the state of emergency.

In the wake of the post-coup measures, the EU called on the authorities to observe the highest standards in the rule of law and fundamental rights. While a swift reaction to that imminent threat against the Turkish state and its democracy was legitimate, the decrees raise questions as to the proportionality of the measures taken and the access to and effectiveness of judicial remedies. They also affect key rights under the ECHR, in particular the right to a fair trial, the right to an effective remedy and the right to protection of property.

Following the attempted coup, very extensive suspensions, dismissals and arrests took place over alleged links to the Gülen movement and involvement in the attempted coup. There were reports of serious human rights violations, including alleged widespread ill-treatment and torture of detainees. The crackdown has continued since and has been broadened to pro-Kurdish and other opposition voices. The measures affected the whole spectrum of society, with a particular impact on the judiciary, police, gendarmerie, military, civil service, local authorities, academia, teachers, lawyers, the media and the business community. Overall, as of the end of September 2016, some 40 000 people had been detained and more than 31 000 remain under arrest, including 81 journalists. 129 000 public employees remain either suspended (66 000) or have been dismissed (63 000). Over 4 000 institutions and private companies were shut down, their assets seized or transferred to public institutions. Additional 10 000 civil servants were dismissed by decrees under the state of emergency at the end of October and further media outlets closed and journalists detained. Turkey also reached out to a number EU Member States concerning, for example the closing of schools and other institutions allegedly linked to the Gülen movement. In this context, there are reports of members of the Turkish diaspora living in these Member States being under pressure to report on other members of these communities.

The broad scale and collective nature of these measures raised a number of very serious questions. There are serious concerns with regard to the vagueness of the criteria applied and evidence used for determining alleged links to the Gülen movement and establishing individual liability, applied in a non-transparent and indiscriminate manner, leading to a perception of 'guilt by association'. While a relationship of trust and loyalty should exist between civil servants and the state and measures can be taken to ensure that, any allegation of wrongdoing should be established via transparent procedures in all individual cases and ensure the right to respect for private and family life. It is important that the recently created ad hoc appeal commission becomes an effective administrative review mechanism for suspended or dismissed civil servants. Furthermore, any individual criminal liability must be examined with due process, full respect for the separation of powers and the full independence of the judiciary. The right of every individual to a fair trial, including through effective access to a lawyer, is a central element of the rule of law.

The measures taken under the state of emergency are undergoing scrutiny by the Council of Europe. Turkey should urgently address the recommendations of the Commissioner for Human Rights of the Council of Europe of October 2016. Turkey should ensure that any measure is taken only to the extent strictly required to the exigencies of the situation and in all cases stands the test of necessity and proportionality. Turkey should pay particular attention so as to ensure in all cases that basic principles governing the rule of law are not set aside, including the full respect of the presumption of innocence, the individual criminal responsibility, legal certainty, the right to defence and equality of arms.

## Parliament

Prior to 15 July, the Parliament, elected through repeat elections on 1 November 2015, had worked on a busy legislative agenda stimulated by an ambitious government reform programme and the visa liberalisation dialogue. Political confrontation, however, continued to beset the work of the Parliament. Some key legislation was adopted without proper consultation. Significant legislative amendments were introduced by decree under the state of emergency, without prior consultation of Parliament, although some limited form of consultation of opposition parties was organised. In line with Article 120 of the Constitution, decrees taken under the state of emergency are sent to Parliament for approval within 30 days. The establishment of a parliamentary commission that will include representatives of all four parties and will receive opinions on the decree laws issued during the state of emergency is being considered. The adoption in May of a law allowing the immunity of a large number of deputies to be lifted and the ensuing detentions and arrests of several HDP Members of Parliament, including the two Co-Chairs, in November is a matter of grave concern. There was no progress in aligning the legal framework on elections and political parties with European standards. A code of ethics for members of Parliament should be adopted. Comprehensive reform of Parliament's rules and procedures needs to be prioritised to improve the inclusiveness, transparency and quality of law-making and effective oversight of the executive.

In the face of the attempted coup, all parties stood united in its condemnation. More consensual cross-party work was initiated on that occasion between AKP and opposition parties, except HDP, which led to a consensus, in the framework of a dedicated commission, on a number of constitutional changes, particularly on restructuring judicial bodies.

The Parliament elected on 1 November 2015 engaged in a **heavy legislative agenda** in order to implement the ambitious government reform action plan for 2016 and the legislative requirements of the visa liberalisation roadmap, re-energised following the EU-Turkey summit on 29 November 2015. However, several key pieces of legislation which were adopted regarding the rule of law and fundamental rights were not in line with European standards, e.g. the law on data protection.

The **constitutional reform process** put on hold in December 2013 was revived in February 2016. However, the discussions in Parliament's Conciliation Committee, established with the participation of the four political groups represented in Parliament, soon collapsed due to a stalemate on a possible shift to a presidential system of governance proposed by the ruling party. In the aftermath of the attempted coup, a commission set up by AKP and opposition parties CHP and MHP, with the exception of HDP, came to a consensus on a number of constitutional changes, particularly on restructuring judicial bodies. These changes are yet to be adopted.

Parliament's ability to perform its key functions of **law-making and oversight of the executive** continued until 15 July to be affected by political confrontation. Legislation was often prepared and adopted without sufficient debate in Parliament and without consultation with stakeholders. Following the declaration of the state of emergency and its extension, Parliament's role in the law-making process was limited. The influence of the Committees on Human Rights Inquiry and on EU Harmonisation remained limited even on draft laws with a significant impact on fundamental freedoms. There was no progress on reforming parliamentary rules and procedures. Media accreditation and the rules for inviting stakeholders to committee meetings continue to be applied selectively.

Parliamentary oversight of the executive remained weak. There was insufficient follow-up by the executive whenever Parliament uses instruments such as parliamentary questions and committees of inquiry. The work and reports of committees of inquiry received good media coverage; however, Parliament failed to set up committees of inquiry on some critical developments, including the rapid deterioration of the security situation. In the absence of

a specialised committee with sufficient technical expertise to deal with reports from the Court of Accounts there was no improvement in parliamentary oversight of public spending.

The Turkish Grand National Assembly was severely damaged by airstrikes during the attempted coup on the night of 15 July. On 16 July all political parties represented in Parliament issued a joint declaration, unanimously condemning the attempt to overthrow the democratically elected institutions. The setting-up of a special parliamentary commission, agreed by all parties, to probe the coup attempt of 15 July is an important step towards thorough investigation of these tragic events. Meetings between the President, Prime Minister and opposition party leaders, with the noticeable exception of HDP, initially raised hopes that party politics could become more consensual. Cross-party dialogue should include all parties represented in Parliament. The 20 July declaration of the state of emergency led to significant legislative amendments being adopted by decree without prior consultation of Parliament, although some limited form of consultation of opposition parties was organised. In line with Article 120 of the Constitution, decrees taken under the state of emergency are sent to Parliament for approval within 30 days. The establishment of a parliamentary commission that will include representatives of all four parties and will receive opinions on the decree laws to be issued during the state of emergency is being considered. The main opposition party CHP has appealed to the Constitutional Court concerning the relevance of some of the issued decree laws to the necessities of the state of emergency.

There was no progress in aligning the **legal framework on elections and political parties** with European standards. The 10 % threshold for parties to be represented in Parliament is still in place. There were no further improvements to the rules on the closure of political parties following the 2010 constitutional amendments. Funding for political parties and election campaigns remains to be addressed in line with the recommendations of the Council of Europe's Group of States against Corruption (GRECO). Following the general elections in November 2015, four parties obtained a representation in parliament. 82 women members were elected in the 550-seat Parliament. A law aiming at comprehensive ethical regulations for members of Parliament, such as declarations of assets and rules on conflict of interest, has yet to be adopted. Measures are required to ensure that **parliamentary immunity** is not used as a means to hinder criminal investigations against members of Parliament suspected of corruption or other misconduct. The system of parliamentary immunity should specify objective criteria for taking decisions on lifting immunity. On 20 May, Parliament adopted an amendment to the Constitution providing for a one-off lifting of the immunity of a large number of members of Parliament who had requests for prosecution pending against them. This piece of legislation, introduced by the ruling AKP, affected MPs from all parties but was widely seen as directed more particularly against the HDP as more than 350 cases were brought against 50 of its MPs. Individual members of Parliament unsuccessfully challenged the amendment in the Constitutional Court. Its implementation was put on hold after the attempted coup, except for cases involving the HDP. On 4 November, several Members of Parliament from the HDP, including the party's two Co-Chairs, were detained and/or arrested on charges alleging support for terrorist activities.

A restrictive interpretation of guarantees provided for by the Constitution and shortcomings in the anti-terror legislation continue to pose a direct risk to the freedom of expression of members of Parliament. Freedom of expression of members of Parliament is an essential part of democracy and should be protected also when they speak outside Parliament.

## Governance

The President continued to be actively engaged in key domestic and foreign policy issues. In May, a new government was appointed. The debate on a possible shift to a presidential system of governance increased and had an impact on the political agenda. The deteriorating security

situation in the south-east and the continued fight against the Gülen movement, particularly after 15 July, dominated the work of the government.

**President** Erdoğan continued to be actively engaged in key domestic and foreign policy issues. He frequently convened the Council of Ministers to map out the government's line, most notably on a new Constitution, the fight against terror and the alleged influence of the Gülen movement over the state structures. The President's central role was further reinforced in the aftermath of the attempted coup of 15 July, as the power to govern by decree was given under the state of emergency to the Council of Ministers under the chairmanship of the President. In addition, he convened several meetings of the National Security Council.

In May, following the resignation of Prime Minister Ahmet Davutoğlu, a new **government** under the leadership of Mr Binali Yıldırım was appointed. The government maintained continuity in key policy areas, including on the EU accession process. The security situation remained the principal challenge for the two successive governments. Turkey was severely hit by several terrorist attacks with numerous casualties among civilians and security forces. The security situation in the south-east gravely deteriorated. Both governments announced special plans for improving the socioeconomic situation of the south-east. A sustained political solution to the Kurdish issue is urgently needed (see *Situation in the east and south-east*).

Both the Davutoğlu and Yıldırım governments continued to tackle the alleged influence of the Gülen movement over the state structures and society. Judicial investigations targeting alleged members of this organisation expanded significantly even before 15 July and peaked exponentially following the attempted coup attributed to the Gülen movement. In May, the President and the government announced that the Gülen movement was formally included in the list of terrorist organisations kept but not disclosed by the National Security Council. The events of 15 July led to the arrest, suspension or dismissal of tens of thousands of individuals allegedly linked to the Gülen movement. Any allegation of wrongdoing needs to be examined with due process, transparent procedures, and the right of every individual to a fair trial or equitable administrative process should be safeguarded.

With regard to **local government**, many elected representatives and municipal executives in the south-east were detained or arrested under terrorism-related charges, some of them following the coup attempt. It will be crucial that citizens of the municipalities concerned will be represented again by local officials elected in accordance with Turkish law. Fiscal decentralisation remained limited despite the 2012 amendment to the Law on Metropolitan Municipalities, which redrew municipal boundaries and extended the scope of the municipalities' responsibilities. Municipalities need the necessary financial resources to carry out the responsibilities transferred to them.

The track record of the activities of the **Ombudsman** is positive with a total case-load of 22 648 applications until end August 2016, for which 21 546 decisions were taken. The public administration's follow-up to his recommendations increased steadily. However, in the absence of powers to initiate investigations and to intervene in cases with legal remedies, the Ombudsman remained silent on certain human rights concerns, most notably on human rights violations in the east and south-east. The limited powers of the Ombudsman reduce the effectiveness of his potential contribution to the fields of human rights and good governance.

The legal framework insufficiently protects Turkey's eight independent **regulatory authorities** from undue political interference. Their work needs to become more transparent.

### **Civil society**

Civil society remained active and involved in public life under difficult circumstances. Human rights defenders were subject to intimidation and detentions. A large number of organisations were closed as part of the post-coup measures taken by the government. Systematic and inclusive mechanisms for consulting civil society, notably on new legislation, need to be put in

place and consistently used. The legal, financial and administrative environment needs to be more conducive to the development of civil society.

An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by the state institutions. Civil society organisations (CSOs) made what efforts they could to remain active and involved in public life. The EU-Turkey civil society dialogue programmes have now involved 1 774 Turkish CSOs together with their counterparts in the EU. These programmes contribute to the development of civil society and enable greater recognition of CSOs at local level. However, there is no overall government strategy in place for cooperation with civil society. In the absence of formal arrangements for their participation, independent civil society organisations are rarely involved in law- and policy-making processes.

Human rights defenders were subject to several ongoing court cases, new investigations and intimidation through public statements of high-level officials. The investigation into the killing in November 2015 of human rights defender and chairperson of the Diyarbakır Bar Association, Mr Tahir Elçi, has not progressed. On 21 July a large number of CSOs were closed following the attempted coup. Restrictions on freedom of assembly remained a problem. Systemic difficulties, such as restrictions on registration and procedures for the authorisation and functioning of associations, have continued. A number of CSOs have seen their regular operations challenged through closure cases, penalties, restrictions or discriminatory practices. Current legislation, including taxation law, is not conducive to encouraging private donations to non-governmental organisations (NGOs). Civil society remains financially vulnerable and dependent on public project grants. At the same time, public funding has not been sufficiently transparent.

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

The Turkish government with the support of the entire Turkish political spectrum and society, succeeded in overcoming a military coup in July. In addition to measures taken in the aftermath of the attempted coup against those suspected of participation to the coup, including high numbers of dismissals and arrests, the legal framework for civilian-military relations underwent significant changes. In a positive development, the powers of civilian institutions over the military expanded decisively, thereby strengthening civilian oversight over the military. However, the amendments to the law on the personnel of the Turkish armed forces raise concern as they give extensive legal protection to the personnel with counter-terrorism duties. The military and intelligence services continue to lack sufficient accountability in Parliament.

A part of the military, including a number of high ranking officers, engaged in the 15 July coup attempt which was eventually defeated, after one night of heavy fighting, thanks to a majority of security and armed forces that had remained loyal to the government. The huge mobilisation of civilians across the country to resist the coup attempt and act as civilian guardians was proof of a major shift across Turkish society which massively rejected this attempt by parts of the military to seize power.

The legal framework for civilian-military relations underwent significant changes in the aftermath of the attempted coup. The third decree of 31 July following the declaration of the state of emergency introduced considerable changes to the organisational and educational structure of the Turkish armed forces. The force commanders were attached to the Ministry of National Defence and the civilian executive was granted the power to give orders to top commanders without observing the chain of command. In addition, the decree also introduced changes to the composition of the Higher Military Council (YAS). The Prime Minister's deputies and the ministers of justice, foreign affairs and interior were made members of the YAS. This increased the number of civilian members to ten, while the number of military members fell from 12 to four.

Serious allegations of human rights violations and disproportionate use of force by the security forces in the south-east were increasingly and credibly reported. The track record of judicial and administrative examination in these cases remains poor. The Law on Provincial Administrations was referred to as the basis for imposing long-lasting, open-ended curfews and involving the armed forces in domestic security operations with limited civilian oversight. A law-enforcement oversight commission was set up in May but lacks independence from the executive and powers to launch its own investigations.

Parliamentary, administrative and judicial oversight and accountability of security and intelligence forces remains inadequate. The requirement that the Prime Minister and Minister of Interior authorise any prosecution of the Chief of the General Staff or force commanders for offences committed while on duty remains in effect. The amendments to the law on the personnel of the Turkish armed forces adopted in June expand the armed forces' legal and operational responsibility for command of domestic security operations and provide shelter from prosecution for armed forces personnel involved in counter-terrorism operations. This raises concerns about the reduced judicial and administrative oversight of military personnel. The parliamentary security and intelligence committee continued to have a very limited oversight mandate. The legal framework for overseeing military expenditure has yet to be improved. Access to audit reports by the Turkish Court of Accounts on the security, defence and intelligence agencies remains restricted. Parliament was not involved in the adoption under the state of emergency of decrees that introduced significant changes to the military.

## 2.2. Public administration reform

Turkey is **moderately prepared** with the reform of its public administration. There has been **backsliding** in the area of public service, and human resources management in particular, in the aftermath of the coup attempt. The use of regulatory impact assessments is now better regulated following the adoption of a new regulation. However, implementation still needs to be improved. Otherwise there has been little follow-up to the Commission's recommendations of 2015. There is still no comprehensive reform strategy and political ownership. The continued politicisation of the administration and the low level of female representation in the higher echelons of bureaucracy, despite a slight increase in 2016, continue to be of serious concern. The structural impact of the measures taken in the aftermath of the attempted coup attempt of 15 July on the functioning of the civil service remains to be assessed; as of end of October, 139 000 public employees had been either suspended (76 000) or dismissed (63 000), including in the education sector and academia. In the coming year, Turkey should in particular:

- ensure that any allegation of wrongdoing is examined with due process, transparent procedures and safeguard the right of every individual to a fair trial or equitable administrative process;
- prepare changes to its legislation to introduce merit-based, competitive recruitment for the senior managerial positions of the civil service;
- start to systematically conduct impact assessments for planning documents and legislative proposals, in line with the revised legal framework.

### Policy development and coordination

Turkey has a coherent **policy-making system**. Policy coordination among central government institutions is generally strong, whereas annual planning and monitoring of whole-of-government performance has been lacking so far. Limited progress was made on reform, as the government only developed its first annual reform action plan in December 2015. A monitoring mechanism headed by a deputy prime minister was established and quarterly implementation reports were published. A website ([www.reformlar.gov.tr](http://www.reformlar.gov.tr)) was launched to enable the public to monitor progress on reform. However, the planning process can be further improved, with more participation of stakeholders, to ensure that objectives are better formulated and targets are

properly quantified. Lack of systematic link between policy and fiscal planning jeopardises the implementation of strategies, reform programmes and legislation.

Concerning European integration-related issues, the Ministry for EU Affairs, together with EU departments in relevant ministries, has set up a well-functioning system to steer alignment with the *acquis*. However, legislation and policy formulation do not systematically result from **inclusive and evidence-based policy development process**, even for *acquis* alignment. Despite legal requirements, draft policies and laws are often not subject to **public consultations**. The legal requirement to produce medium-term cost estimates and fiscal impact assessments for draft policies and laws is not systematically respected. Regulatory impact assessments are often not sent to Parliament or published. A new by-law was adopted in March to ensure that regulatory impact assessments are carried out systematically by all public institutions. Its implementation remains to be assessed.

In the absence of effective parliamentary scrutiny by specialised legislative committees, the recent steps taken by the government to improve policy planning and monitoring of the government's performance should be complemented with *ex post* results-oriented reports enabling better **public scrutiny of government work**.

#### Public financial management

Turkey is continuing with reforms in various public finance areas, but there is no overarching **public financial management reform programme** that would ensure a holistic approach. The medium-term programme for 2016-2018 includes provisions to improve public finances, but it does not provide any baselines, targets or indicators to measure progress. The annual budget is prepared as part of the medium-term budget framework. Overall, fiscal discipline is ensured despite the absence of an independent fiscal council.

**Budget transparency** needs to be further addressed at various levels. While annual budgets are published and annual reports on budget implementation are produced, their structure does not allow comparison with or analysis against the original budget. In-year reporting is insufficient and needs to be improved. Transparency of public investment programmes and state assets is weak. Participation by civil society in the budgetary process is poor. Revolving funds have been a specific cause of concern, as they are not included in the annual budget or in the Treasury single account. The medium-term programme 2016-2018 includes provisions to ensure an open, transparent and accountable administrative and fiscal environment.

#### Public service and human resources management

The Law on Civil Servants defines public service in a way that is extremely broad, including different categories of public servants such as contractual civil servants, temporary staff and other workers who do not fall under the same legislation. Women are slightly better represented in the public service than before, at 37.1 % in 2016 compared with 36.5 % in 2015. However, the percentage of women in senior managerial positions was only 10.4 % in July 2016 compared with 9.7 % in 2015. Progress has been made in employing disabled staff (rising from 40 655 in 2015 to 43 151 in 2016), but is still short of the 3 % quota.

The civil service legal framework does not fully guarantee neutrality, continuity or **merit-based recruitment and promotion** procedures, although the law requires a centralised examination. The first phase of external recruitment for entry-level positions is based on merit, whereas the oral interview phase remains poorly regulated and thus is open to political patronage. In addition, the large scale conversion of temporary contracts into permanent civil servants positions circumvents the merit principle. Access to top civil service positions is not always merit-based, and appointments are not subject to competition.

Whereas the legal framework guarantees uniform criteria for demotion, **dismissals** and disciplinary measures, with provision for appeal, there has been a continuously high annual

turnover in managerial positions with 28.6 % in 2015, 52.7 % in 2014 and 8.2 % in 2013. The conditions and structural impact of the large-scale dismissals and suspensions that followed the 15 July coup attempt are a source of serious concern. By end-October, over 76 000 public employees remained suspended and about 63 000 had been dismissed, including in the education and health sectors. Turkey has a total number of 3.4 million public employees. In September, an administrative review mechanism was set up under the Prime Ministry to review the applications of the dismissed and suspended civil servants; it already received 70 000 individual claims. Its functioning remains to be evaluated. Transparent procedures and due process need to be applied and any allegation of wrongdoing needs to be evidenced on an individual basis. Turnover of staff in the administration will also need to follow transparent procedures in order to safeguard the principle of neutrality of the state apparatus. Allegations of entry exams having been rigged by the Gülen movement to secure an increased presence of staff under its influence in the civil service should also be investigated.

The State Personnel Presidency, reporting to the Ministry of Labour and Social Security, has the central coordination responsibility for **human resources management (HRM)**. Human Resources units are in place in various services, but apply different policies and approaches. The State Personnel Presidency lacks the necessary coordination and monitoring capacity to ensure implementation of modern HRM policy and standards. The lack of a modern HRM information system, which would provide real-time data for the entire public service, is another obstacle to an efficient HRM system. The civil service **remuneration system** is not fully transparent. Training strategies and plans are in place to ensure **professional development**. **Integrity in public service** is boosted by ethics committees and an ethics board, set up in the Prime Ministry, but there are no integrity plans in place.

#### Accountability of the administration

The state administration is organised in a hierarchical and rational way, ensuring appropriate **lines of accountability**. Public administration agencies are supervised by parent ministries, which in turn report to the Council of Ministers. State institutions are required to submit annual accountability reports on the use of resources to achieve targets, but the Council of Ministers does not ensure systematic follow-up to these reports. Some institutions have a culture of managerial accountability and delegation of responsibilities (*see chapter 32*).

The **citizens' right to good administration** is ensured through relevant internal and external oversight arrangements, but they need to be better protected. The role of oversight institutions such as the Ombudsman remained limited in the absence of *ex officio* powers (*see Governance*). **Right to access public information** is regulated by the law on the right to information. The law allows for broad exemptions on grounds of protecting state secrets, commercial secrets and personal data. No centralised independent body oversees implementation. Easy online access led to more than 2 million applications a year for access to information both in 2015 and 2016. The percentage of requests refused remained small, approximately 3.7 % up to June 2016 compared with 3 % in 2015. In line with provisions in the Constitution, the **right to administrative justice** and the **right to seek compensation** in cases of wrongdoing are protected. Implementation is ensured by administrative, tax and regional administrative courts and the Council of State. The courts are considered to be efficient, but there is no evidence of how these rights are upheld in practice, as there is no institution responsible for collecting the relevant data.

#### Service delivery to citizens and businesses

Strong commitment to a **user-oriented administration** has led to the expansion of e-government services and provision of smart identity documents. Significant progress has been achieved in e-government. The number of registered users exceeded 27.5 million (up from 25.2 million in 2015). The number of services provided through the e-government gateway has almost doubled in the last two years. Public services are accessible to a great extent. Ambitious

e-government strategy and action plan for 2016-2019 were adopted in July 2016 aiming at further developing such e-services across Turkey. However, access for disabled citizens to services including public buildings remained low. Further expansion of one-stop-shops and points of single contact for citizens, particularly at local level, is needed.

Uniform public services are being delivered to a great extent, and the institutions publicise the standards of public services within their own legal remit. User satisfaction surveys, however, are not regularly used, and there is no institution responsible for overall promotion or measurement of the quality of public services. Work on **simplifying administrative procedures** and cutting red tape is hindered by the lack of a law on general administrative procedures to give citizens and businesses greater legal certainty. The legal framework is fragmented, as administrative procedures are covered in a variety of sectorial laws.

#### Strategic framework for public administration reform

Turkey has no overarching **strategy** or planning document dedicated exclusively to public administration reform. Although there are various planning documents and sub-strategies relating to some aspects of Public Administration Reform, the lack of **political support** and of administrative ownership hinders a comprehensive approach. There is no cross-cutting system for monitoring and reporting on the various related planning documents, which are not centralised. The department for strengthening the administration, in the Prime Ministry, has a legal mandate but lacks the necessary capacity to coordinate design, implementation and monitoring. The **financial sustainability** of overall public administration reform is not guaranteed, as the key planning documents do not specify the expected costs.

### **2.3. Rule of law**

#### **Functioning of the judiciary**

Turkey's judicial system has reached an **early stage/some level of preparation**. There has been **backsliding** in the past year, in particular with regard to the independence of the judiciary which represents a significant challenge to the overall functioning of the judiciary. The extensive changes to the structures and composition of high courts are of serious concern as they threaten the independence of the judiciary and are not in line with European standards. Judges and prosecutors continued to be removed from their profession and in some cases were arrested, on allegations of conspiring with the Gülen movement. The situation worsened further after the July coup attempt, following which one fifth of the judges and prosecutors were dismissed and saw their assets frozen. There was no progress on the outstanding issues identified in previous reports and the recommendations made last year can therefore largely be restated:

- create a political and legal environment that allows the judiciary to perform its duties in an independent and impartial manner, strengthen its responsibilities, with the executive and legislature fully respecting the separation of powers;
- limit the role and influence of executive power within the High Council of Judges and Prosecutors and provide sufficient guarantees against transfers of judges against their will;
- introduce further safeguards against any interference by the High Council of Judges and Prosecutors in judicial proceedings.

In addition:

- limit any suspension of a judge, as a major infringement of guaranteed judicial independence under the Constitution, to cases of well-founded suspicion of serious misbehaviours; ensure that the system of disciplinary proceedings is guided by objective criteria without undue influence from the executive power;

→ with regard particularly to the measures taken against suspected persons following the attempted coup, ensure that any allegation of wrongdoing or crime is subject to due process based on evidence and fully transparent procedures under the authority of an independent judiciary and in full respect of fundamental rights, including procedural rights, notably as regards the respect of the presumption of innocence, individual criminal responsibility, legal certainty, the right to defence, the right to a fair trial, equality of arms and right to an appeal.

### Strategic documents

Turkey is implementing a Judicial Reform Strategy covering the period 2015-2019. The Strategy Development Department of the Ministry of Justice acts as the central monitoring body and secretariat for implementation of the judicial reform strategy in close cooperation with the High Council of Judges and Prosecutors (HSYK) and the Judicial Academy.

### Management bodies

The HSYK is the key institution managing the judiciary. The Council is independent in managing a budget of EUR 18.5 million. There was no progress in solving the persistent problem of the influence of the executive over the HSYK, in particular following the legislative changes of 2014 strengthening the powers of the Minister of Justice within the HSYK and the subsequent staff changes in the HSYK. As *ex officio* members, the Minister of Justice, acting as President of the Council, and his undersecretary continue to have substantial influence over the work of the HSYK. The HSYK is therefore widely perceived to be the executive's main means of controlling the judiciary. More transparency in the HSYK's work and strict adherence to procedures are needed to strengthen not only the Council's credibility but also public trust in the judiciary.

Following the coup attempt, the general assembly of the HSYK excluded five of its judge members (out of 22 members), who then faced prosecution.

### Independence and impartiality

Judicial independence and impartiality are enshrined both in the Constitution and in legislation. Nevertheless, in practice, there are numerous reports on selective justice and political interference in court cases. There are serious concerns about direct interference by the executive in cases (e.g. through public comments) which continue to undermine the credibility of the judiciary as a whole. The application of the principle of **immovability** of judges remains highly problematic. **Transfers** of judges and prosecutors against their will were frequent and were not open to judicial review. A number of disciplinary and criminal cases against judges and prosecutors have not seen due process, being sometimes solely based on the indictments and rulings pronounced by these same judges and prosecutors in the exercise of their functions. This contradicts basic principles of the rule of law and considerably undermines trust in the judiciary and its independence.

The law changing the structure and composition of the Court of Cassation (CoC) and the Council of State (CoS) as adopted in July also raised serious concerns as to its impact on the independence of the judiciary. Frequent changes to the internal organisation of judicial bodies and to the court network, in particular the criminal court system, are creating legal uncertainty.

Comments by representatives of the executive and the legislative branches on ongoing judicial cases, challenging among others decisions taken by the Constitutional Court, have continued as a regular practice. In the days and weeks following the attempted coup, 3 508, i.e. one fifth of the total number of judges and prosecutors were suspended by HSYK and 3 390 subsequently dismissed. 2 386 judges and prosecutors have been detained: 2 229 of first instance, 109 from Court of Cassation, 41 from Council of State, two members of the Constitutional Court, and five members of the HSYK. Following the coup attempt, a large number of new judges were appointed only within two weeks. The magnitude and rapidity of the measures taken raise

questions on criteria applied. These large-scale dismissals as well as large-scale recruitments of new judges and prosecutors raise a serious challenge to the performance and independence of the judiciary.

### Accountability

While all lawyers have to abide by the rules set by the Union of Turkish Bar Associations, there is no **code of ethics** for judges and prosecutors. **Integrity training** is part of the curriculum for initial training but neither a criterion in the initial selection and nomination process, nor for appointments to senior positions. **Disciplinary proceedings** are initiated and decisions on **disciplinary and ethical matters** are taken by the HSYK Inspection Board. Official statistics put the number of judges and prosecutors dismissed following the above procedure at 12 in 2013, 4 in 2014, 9 in 2015 and 13 in 2016, prior to the July coup attempt. The disciplinary system is perceived as a tool to exclude certain judges and prosecutors for political reasons. The declaration of assets is obligatory for all high court judges, including members of the HSYK, but not for prosecutors.

### Professionalism and competence

Candidate judges and prosecutors are **recruited** for pre-service training by means of a written examination and an oral interview. The HSYK does not play any role in this process. The interview is conducted by a board of seven members: five senior officials from the Ministry of Justice and two from the Justice Academy. The formal **appointment** and transfer of judges and prosecutors are exercised by the HSYK. The HSYK is also responsible for **evaluating the performance** and for **promoting** judges and prosecutors. Assessment criteria for promotion are published in the Official Gazette. The **dismissal** of a judge or prosecutor requires a decision by the HSYK, which is subject to judicial review. In the reporting period, the HSYK has been criticised for a lack of consistency in applying the dismissal procedure.

The authority leading and taking decisions on the **recruitment and careers of judges** should be independent from the executive and the legislative powers. Such decisions should always be grounded on objective, merit-based, uniform and pre-established criteria.

Following the mass dismissals of judges and prosecutors in the aftermath of the attempted coup, the appointment of new recruits in large numbers within two weeks has raised concerns about the selection procedure and their professional quality.

### Quality of justice

The Justice Academy is responsible for pre-service and in-service training of candidate judges and prosecutors. Since the February 2014 legislative changes, the President of the Academy and deputies have been appointed by the executive, which is threatening the independence of the Judicial Academy. The human and financial resources of the judiciary seem proportionate to the challenges it faces.

While mediation and various other alternative dispute resolution mechanisms are in place, they are scarcely used. Overall, the quality of judicial decisions has improved in recent years. However, the weak reasoning and poor quality of some indictments — without appropriate selection and assessment of supporting evidence — remain a serious problem for the criminal justice system, in particular in terrorism-related cases.

Courts all over the country normally have modern information and communication technology equipment. In all courts, an electronic case allocation system is in place as part of the national judicial network project, UYAP. This system offers lawyers and parties protected access to important information about judicial proceedings, and is used for statistical reporting. However, courts do not publish regular activity reports.

## Efficiency

In general, the Turkish judicial system has enough capacity to handle its caseload. The establishment of the Court of Appeals from 20 July 2016 will contribute to ensuring the consistency of case-law and help reduce the backlog of the Court of Cassation. The length of proceedings has been a long-standing issue. The backlog of civil, criminal and administrative cases, which had been reduced in 2012, increased again markedly in the following years and more particularly in 2016. The judicial network is complex and, while there are enough support staff, there is no human resources management strategy.

## **Fight against corruption**

The country has **some level of preparation** for the fight against corruption. **Some progress** has been achieved in the past year. Corruption remains prevalent in many areas and continues to be a serious problem. The adoption of a new strategy and anti-corruption action plan is a step forward even if it remains rather limited in scope. The legal framework continues to suffer from important gaps and the executive's influence on the investigation and prosecution of high-profile corruption cases remained a major source of concern.

Corruption perception remains high. A broad political consensus, strong political will and a long-term strategic vision are required to start tackling corruption properly. In addition to addressing the shortcomings outlined below, in the coming year the country should in particular:

- establish a functionally independent anti-corruption body, in line with the United Nation's Anti-Corruption Convention;
- ensure an effective follow-up to the recommendations issued by the Council of Europe's Group of States against Corruption (GRECO), including by adopting the necessary legislation;
- ensure full independence of prosecution and law enforcement bodies, particularly those in charge of high-level corruption investigations.

## Track record

Turkey's track record of **investigation, prosecution and conviction** in high-level corruption cases remained poor. A number of investigations of cases of corruption involving public officials, e.g. in local administration, public construction, health and the higher education sectors, resulted in their conviction. Control and inspection units continue to send small numbers of potential corruption cases to the prosecution service. Public procurement, land administration, energy, construction and transportation, including when implemented via public-private partnerships, remain particularly vulnerable to corruption.

**Political influence** on judges and prosecutors and law enforcement officers continued to raise serious concerns. This was demonstrated on a number of occasions by the removal and suspension or subsequent prosecution of judges, prosecutors and law enforcement officers who had led high-profile corruption cases implicating political figures.

**Financial investigations** are not required in cases of corruption and organised crime. A new regulation adopted in April further strengthened the legal framework for freezing and confiscating alleged criminal assets providing for a precautionary freezing mechanism under certain conditions. The level of detection and investigation of foreign bribery offences remained limited. With few exceptions, such as in the case of tender-rigging often handled with deferred pronouncement of sentences, the sentences handed down are a deterrent.

The track record of control of the financing of political parties and electoral campaigns demonstrates very low system effectiveness. Constitutional Court decisions on external financial audits are seriously delayed. During the last five years, no major political party has

been referred to the Public Prosecutor on grounds of breaching the party financing provisions of the Law on Political Parties.

Despite repeated political commitments, no new legislation revising the system of asset declaration and disclosure has been adopted. The existing system has been ineffective due to its limited scope, control mechanisms and measures preventing disclosure. As regards conflicts of interest, the most common breaches include misuse of discretionary powers, favouritism in personnel recruitment, extravagance in spending public funds, financing gifts and reimbursing personal expenses from public funds. Whistle-blowing remained rare given the inadequate protection offered by the current legislation.

#### Institutional framework

For the **prevention of corruption**, there is still no permanent, functionally independent anti-corruption body. The lack of a body in charge of fighting corruption, and inadequate coordination of the various institutions, are major impediments to policy effectiveness. The Prime Ministry Inspection Board coordinates preventive anti-corruption measures, but it is not independent and has no independent investigation powers. The Prime Ministry Communications Centre (BIMER) is the main body in charge of reporting on corruption and maladministration. Anti-corruption awareness-raising campaigns have not been conducted on a regular basis. There is no comprehensive policy in place to prevent corruption in the private sector.

As regards **law enforcement and prosecution**, the country still lacks a specialised prosecution service to lead anti-corruption investigations. There are also few specialist courts. The current legal framework compromises the independence of the HSYK and officers acting as judicial police and prevents them from carrying out effective investigations. An information-sharing system between the police and the Financial Intelligence Unit exists and electronic access to databases for the relevant agencies is at a moderately prepared level.

#### Legal framework

Although passive and active bribery are defined in the criminal code, the definition of active bribery is still not in line with the international conventions to which Turkey has acceded or with GRECO recommendations. With few exceptions, sentences do have a deterrent effect.

The legislation on the financing of political parties is weak as Turkey has not yet implemented all GRECO's recommendations on the transparency of party funding, a benchmark of the visa liberalisation roadmap. The 2015 elections took place in a legal and institutional context in which individual party and independent candidates' campaigns were not subject to any **transparency regulations**

The many exceptions inserted in the initial public procurement law have left public tenders extremely vulnerable and prone to corruption. Amendments to the Turkish criminal code in 2013 reduced the penalties imposed on tender-rigging to a level that is no longer proportionate to the potential damage to the public interest. Currently, suspects convicted of tender-rigging charges can take advantage of deferred judgments.

The anti-corruption legislation contains largely inadequate provisions on prevention, prosecution and sanctioning of conflicts of interest as well as the declaration, verification and disclosure of assets. Existing penalties are not deterrent for these offences and enforcement remains weak. The country has no legislation governing lobbying. Turkey's anti-corruption legislation would benefit from comprehensive and in depth scrutiny to identify and address loopholes.

## Strategic framework

Most of the measures enshrined in the anti-corruption strategy and action plan for 2010-2014 were not implemented. An updated action plan for increasing transparency and strengthening the fight against corruption was adopted in April but is limited in scope.

### **Fight against organised crime**

Turkey has achieved **some level of preparation** in the fight against organised crime. **Some progress** has been made over the past year to increase institutional capacity and adopt new strategies and action plans in the field.

However, statistics on the number of final convictions and other important indicators are not available. Financial investigations remain underused. Precautionary freezing of assets is rarely applied and the level of assets confiscated is low. In the coming year, Turkey should in particular:

- revise and implement data protection legislation in line with European standards to create the conditions for efficient and effective international police and judicial cooperation, including with Europol and Eurojust;
- take measures to improve its track record, in particular by dismantling criminal networks and confiscating criminal assets;
- collect and use appropriate aggregate statistics to facilitate threat assessment, policy development and implementation.

### Track record

Turkey further developed its track record of final convictions in cases related to organised crime. However, the track record on anti-money laundering measures remained insufficient. Financial investigations are still only conducted at the discretion of the prosecution service; there is no policy of systematically running financial investigations, only provision for specific cases in the criminal procedure law. The prosecution service is requesting more financial investigations in money laundering and terrorism financing cases. Precautionary seizure of assets in the initial phase of the investigation is being used.

### Institutional and operational capacity

Prior to the July attempted coup Turkey had 271 564 police and 166 002 gendarmerie officers (including conscripts). In the aftermath of the attempted coup, more than 18 000 police and gendarmerie officers have been suspended and more than 11 500 have been dismissed, while over 9 000 remain detained. Initial and in-service training is provided by the police academy. However, the academy's capacity to provide specialised training is limited.

There is a move towards further specialisation in law enforcement agencies. For example, new departments for the fight against drugs, migrant smuggling and human trafficking have been set up. Specialisation and effectiveness need to be further developed through training and staff retention in the relevant units. In terms of equipment, law enforcement bodies generally have appropriate modern vehicles, radio communication systems, software, hardware, and premises. Most databases are in place, though they are not always interconnected.

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

There is no operational cooperation **agreement with Europol** as the data protection legislation is not yet in line with European standards. However, Turkey has a strategic agreement with Europol, in force since July 2004. In March 2016, Turkey signed an agreement with Europol on the appointment of a Turkish liaison officer in The Hague, who was subsequently seconded to

Europol from May until September 2016. A new Liaison Officer has been selected and will start in November 2016 (see also *chapter 24 - Justice, freedom and security*).

Turkey has a Law on **Witness Protection**, and witness protection units have been established in 81 provinces under the national police and the gendarmerie's General Command. The legislation contains some important flaws that still need to be addressed to ensure a more effective witness protection policy.

In the **fight against cybercrime**, Turkey set up a 24/7 contact point under the national police. The Internet Law, which allows the Telecommunications Presidency to remove or block access to content without a court order, remains a matter of concern (see also *chapter 23 — Judiciary and fundamental rights*).

A financial intelligence unit is in place under the Financial Crimes Investigation Board (MASAK). The number of suspicious transactions analysed by the board has been rising every year. MASAK and law enforcement services continued to work in coordination with access to certain databases. Information on suspicious transactions is used to help improve threat assessments and the development of national policies and strategies. The board has increased the number of investigation staff and is upgrading its IT infrastructure.

### Legal framework

The criminal code is to a large extent in line with the *acquis* and covers a range of specific types of crimes. However, some arrangements are necessary in relation to special investigation methods, including the timeline and detailed arrangements for their use. The investigative powers of the border police and customs remain very limited and highly dependent on the police. Some improvements need to be made to the legislation on cybercrime and witness protection. Rules on third-party confiscation, on extended confiscation and on precautionary freezing of assets need to be aligned.

The legislation to combat money laundering and financing of terrorism is largely in line with the recommendations of the Financial Action Task Force. The law on the confiscation of criminal assets is partially aligned with the *acquis*. Alignment with the *acquis* is still required as regards criminal law directives covering various forms of serious and organised crime, including on the confiscation of criminal assets and asset management.

### Strategic framework

Turkey is providing input to the serious and organised crime threat assessment (SOCTA), although it has not yet adopted Europol's reporting methodology. It also has a new strategy for combating organised crime (2016-2021) and an action plan (2016-2018).

Turkey is implementing a number of sectoral strategies and action plans, such as the drugs national strategy and action plan for 2016-2018, which entered into force in April. A national cybersecurity strategy and action plan (2016-2019) were adopted in February. A comprehensive multidisciplinary and victim-oriented approach to human trafficking remains to be developed.

### **Fight against terrorism**

Turkey was struck by several large-scale deadly terrorist attacks attributed to PKK and Da'esh in the reporting period. The EU condemns all acts of terrorist violence and deplores the casualties that these attacks have caused. Turkey has a legitimate right to defend itself against such terrorist violence, but the measures taken need to be proportionate (see *Situation in the east and south-east*). In its efforts to fight terrorism, Turkey has been giving priority to the PKK, particularly following a severe surge of violence in the country since July 2015. The PKK remains on the EU's list of terrorist organisations. Turkey has addressed the terrorist threat from Da'esh more vigorously. It joined the Global Coalition to Counter ISIL/Da'esh in September 2014. Following the terrorist attacks by Da'esh, Turkey strengthened its

engagement with the coalition and launched several air strikes and ground operation "Euphrates Shield" against Da'esh positions in Syria. It also maintained an agreement with the United States of America on the use of the Incirlik base for the coalition forces. Turkey has been seriously affected by the phenomenon of foreign terrorist fighters transiting through the country and is a source of terrorist fighters. It has improved its means of combating the financing of terrorism. Turkey's active counter-terrorism cooperation with the EU has continued with the latest counter-terrorism dialogue being held in June, where particular attention was paid to the issue of foreign terrorist fighters. The phenomenon of foreign terrorist fighters needs a dedicated approach by the intelligence and law enforcement community and a consistent judicial policy. Turkey should pursue its efforts to effectively prevent and counter radicalisation. This needs to be done in close cooperation with religious leaders and communities, social workers, the education system and youth organisations.

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

### **Overall situation**

The Turkish legal framework includes general guarantees of respect for human and fundamental rights, which need to be further improved. The enforcement of rights stemming from the European Convention on Human Rights (ECHR) and the case-law of the European Court of Human Rights (ECtHR) is not yet fully ensured. Turkey has taken some positive steps to address systemic problems by adopting an action plan on prevention of ECHR violations in 2014. However, its general approach and lack of any robust monitoring mechanism seriously hinder its implementation and impact. The legislative scope of the action plan needs to be widened to cover all rights and relevant ECtHR case-law. Monitoring of its implementation should be also improved.

Last year's recommendations still need to be addressed. There has been serious backsliding in the past year in the area of freedom of expression. Respect for human rights also deteriorated in the east and south-east in the context of the fight against terrorism and this continues to be a matter of serious concern. Turkey has a legitimate right to fight terrorism but it needs to ensure that anti-terror measures are proportionate, that it respects all human rights and that it fulfils its international obligations. Enforcement of rights is hindered by the fragmentation, limited independence and limited human and financial resources of public institutions responsible for human rights and by limited awareness among their staff of some fundamental rights and freedoms. Independent civil society organisations are rarely involved in law- and policy-making processes.

Following the coup attempt of 15 July, a state of emergency was declared on 20 July across Turkey for three months and extended for another three months on 3 October under which measures curtailing fundamental rights were taken, including in regards to pre-trial detention and freedom of expression. Turkey notified the Council of Europe of its temporary suspension of the ECHR, in line with its Article 15 derogation provision. The Turkish Constitution however lists inviolable rights that cannot be suspended under the state of emergency, including the right to life, integrity of corporal and spiritual existence, protection from retroactive criminal laws, and the presumption of innocence. Many allegations of serious violations of the prohibition of torture and ill-treatment and of procedural rights were reported in the immediate aftermath of the attempted coup of 15 July. The prohibition of torture and ill-treatment and procedural rights of suspected and accused persons need to be fully observed in law and in practice, in line with the country's international obligations, in particular the European Convention of Human Rights.

Turkey should urgently address the recommendations of the Commissioner for Human Rights of the Council of Europe of October 2016 and ensure that any measure is taken only to the extent strictly required to the exigencies of the situation and in all cases stands the test of necessity and proportionality.

Shortcomings particularly affect the following areas:

- In addition to issues in the area of freedom of expression exposed further below, concerns remain regarding the full respect for fundamental rights and freedoms. There are also insufficient measures to fight against impunity.
- Freedom of assembly continues to be overly restricted, in law and practice, in particular through disproportionate use of force in policing demonstrations and a lack of sanctions and investigations of law enforcement officers.
- Non-discrimination is still not sufficiently enforced, in law or in practice. The rights of the most vulnerable groups and of persons belonging to minorities should be sufficiently protected. Gender-based violence, discrimination, hate speech against minorities, hate crime and violations of human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons continue to be a source of a serious concern.
- The anti-terror law and its implementation are not in line with the *acquis*. The criminal and anti-terror legislation and their interpretation should be aligned with ECtHR case-law, without reducing the capacity of Turkey to fight terrorism. The proportionality principle must be observed in practice.

In addition:

- There are strong concerns about the suspension of key procedural rights under the state of emergency. It is essential that any allegation of wrongdoing or crime is subject to due process based on evidence and fully transparent procedures under the authority of an independent judiciary and in full respect of fundamental rights, including procedural rights, notably as regards the respect of the presumption of innocence, individual criminal responsibility, legal certainty, the right to defence, the right to a fair trial, equality of arms and right to an appeal.

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

## Freedom of expression

The country is at an **early stage** in the area of freedom of expression, the media and the internet. In the past year, serious **backsliding** continued and gave rise to growing concern. Last year's recommendations were not followed and can therefore be restated. Legislation and practice do not comply with ECtHR case-law. Freedom of expression has come under serious strain. Ongoing and new criminal cases against journalists, writers or social media users, withdrawal of accreditations as well as closure of or appointment of trustees to numerous media outlets are of serious concern. Selective and arbitrary application of the law, especially provisions on national security and the fight against terrorism, is having a negative impact on freedom of expression. The Internet Law and the general legal framework continue to enable the executive to block content without a court order on an unduly wide range of grounds.

The high number of arrests of journalists in the aftermath of the July attempted coup is of serious concern. Any alleged wrongdoing or crime should be subject to due process, and respect of the principle of presumption of innocence should be guaranteed.

In the coming year, Turkey should in particular:

→ refrain from undue restrictions on freedom of expression, including in relation to anti-terrorism operations, in line with the Guidelines of the Committee of Ministers of the Council of Europe on protecting freedom of expression and information in times of crisis;

→ act against and refrain from the practice exercised in various forms by both state and non-state agents of intimidating, interfering with and putting pressure on the media;

→ ensure that criminal law provisions, in particular articles on defamation and other similar offences, are not used as a means of putting pressure on critical voices, by ensuring that courts apply ECtHR case-law;

→ ensure that existing legislation, especially the anti-terror law, criminal code, the Internet Law are revised to comply with European standards and are implemented in a manner which does not curtail freedom of expression and ensures proportionality and equality before the law.

### Intimidation of journalists

A high number of arrests, hearings, detentions, prosecutions, censorship cases and layoffs occurred, as the Government kept the media under heavy pressure. An increasing number of international journalists were deported or refused entry to the country. Frequent threats and various types of intimidation from state and non-state agents against journalists and media outlets continue to be a serious concern. Investigative journalists face charges for reporting on the activities of law enforcement agencies or intelligence services. A number of physical attacks on media outlets and journalists took place and no major progress was made on identifying perpetrators related to old cases of killings and assaults on journalists, including from the 1990s. The closure of media outlets and the appointment of trustees to control media groups, leading to a change in editorial policy, restrict pluralism and the right of citizens to be informed and intimidate other media outlets. Prior to the 15 July coup attempt, there were 36 journalists in prison, many of whom were charged with crimes under the anti-terrorism law. In the aftermath of the coup attempt, by the end of October, some 90 journalists were arrested bringing the total to more than 130. Decrees taken under the state of emergency also brought the closure of some 170 media outlets.

The trend of prosecutions of journalists, writers, social media users and other citizens, even juveniles, for insulting the President of Republic continued. Such cases often end with prison sentences, suspended sentences or punitive fines. This restrictive and intimidating environment leads to increased self-censorship and is not in line with the emerging European consensus on decriminalising defamation of heads of state or limiting this offence to the most serious forms of verbal attacks while restricting the range of sanctions to exclude imprisonment. On a positive note, in the aftermath of the coup attempt, the President and the Prime Minister have announced that they dropped a large number of cases brought for insulting them, but not those brought against HDP members.

### Legislative environment

The current legal framework and practice do not guarantee the exercise of freedom of expression, of the media and the internet. The Constitution permits restrictions to freedom of expression and a number of laws are not in line with European standards.

The legislative provisions on anti-terrorism, the Internet Law and the Law on the National Intelligence Agency severely impede freedom of expression. Provisions in these laws that run counter to European standards, ECtHR case-law and the recommendations of relevant international institutions should be revoked. The recommendations of the Venice Commission should be implemented.

The wide powers granted to the Telecommunications Communication Presidency (TIB) to block or remove internet content, upon the request by the government, continue to raise concerns. The judicial control for requests relating to content takedowns or blocking content is within the remit of the individual decision of Criminal Judges of Peace. Political influence on the judiciary and communication authorities to implement restrictive blocking of websites or take down content should be prevented in practice.

The lack of clear procedures for accreditation and their uneven application continued to be a problem. Under the criminal code, prosecution for **insulting high-level politicians**, including the President, and **insulting religion and blasphemy** are criminal offences carrying prison sentences. In addition to prison terms, high fines have a deterrent effect on media reporting. The legislation on hate speech is not in line with ECtHR case-law. Neither the law on the registration and accreditation of journalists nor the law on access to information are fully in line with international standards.

#### Implementation/institutions

Media blackouts of information considered sensitive, including reporting on terrorist attacks, are a recurrent trend. Criminal legislation on defamation against the state, its institutions, employees or other symbols of statehood is extensively used against journalists, lawyers and users of social media critical of the government. Application of this provision should be limited to statements inciting violence and hatred. The recurring practice of taking down content and blocking links to social media sites has increased exponentially in recent years and should be curtailed. Monitoring by civil society organisations indicate that as of June close to 111 786 websites have been banned, of which only 2.6 % following a court decision. Twitter also lists Turkey as the by far leading country in the world in terms of request for removal of accounts or content, with more than 3 200 requests received in 2015.

#### Public service broadcasters

Regarding the regulatory framework, while the work of the Radio and Television Supreme Council (RTÜK) is fairly transparent, with decisions being published together with the supporting expert reports, there are concerns about its independence and neutrality. Members are elected by Parliament without the involvement of civil society or professional organisations. Regulation of the public service broadcaster is not in line with European standards. The editorial policy of the public service broadcaster, the Turkish Radio and Television Corporation (TRT), displays a significant pro-government line. Changes to the election procedure for members of the RTÜK and Telecommunications Communication Presidency would minimise the risk of political pressure and improve the perception of independence.

#### Economic factors

The lack of transparency of media ownership casts doubt on the independence of editorial policies. A small number of media groups dominate the media market. They often belong or remain affiliated to businesses with interests in energy, construction, real estate, trade, finance and tourism. Media outlets are vulnerable to economic pressure from major customers, including the state.

The takeover of media outlets and the appointment of trustees to control media groups has a negative economic impact with loss of hundreds of jobs. A decree taken under the state of emergency also brought the closure of a large number of media outlets.

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

#### Professional organisations, professional conditions

The representation of journalists continues to be divided between the professional journalists' associations and the pro-government union. Journalism is an increasingly precarious profession with low wages, the risk of judicial harassment and lack of job security. Working conditions, insufficient trade union rights and application of labour legislation, the difficulty of obtaining a

press card and arbitrary accreditation decisions remain major concerns. Some foreign news correspondents have not been granted an extension of their press accreditation.

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

The situation in the south-east remained one of the most critical challenges for the country. Following the collapse of the Kurdish settlement process in July 2015, the south-east saw a further serious deterioration of the security situation, leading to heavy casualties, large-scale internal displacement and extensive material devastation. Government anti-terror operations, reinforced by extended blanket curfews, were conducted across urban centres against an insurgency led by the PKK and PKK-affiliated groups. War-like conditions prevailed in some provinces. Systematic serious violations of human rights were extensively reported. The scale of internal displacement from curfew zones and lack of access to basic services in those areas are also sources of major concern. The rapid deterioration in the security environment has taken its toll on the local economy. The government also used post-coup measures to suspend many municipal counsellors and mayors and teachers and to close a number of Kurdish-language media outlets. In November, several HDP Members of Parliament, including the two Co-Chairs, were detained and/or arrested on charges alleging support for terrorist activities. The settlement of the Kurdish issue through a political process is the only way forward; reconciliation and reconstruction are also becoming key issues for the authorities to address.

The situation in the region in the reporting period was marked by further escalation of violence by the terrorist Kurdistan Workers' Party (PKK) and PKK-affiliated groups. The PKK remains on the EU list of terrorist organisations. The government continued extensive security and military operations against the PKK, including air strikes on their bases in both Turkey and Iraq. The PKK responded partly by expanding the conflict to the cities of western Turkey, committing large-scale deadly terrorist acts in Ankara and Istanbul. The EU firmly condemned these terrorist acts. The government has a legitimate right to act against terrorism but is responsible for ensuring that this fight fully respects human rights, fundamental freedoms and obligations under international law.

The Government pledged to continue security operations, dismissing any prospect of a resumption of the talks with the PKK, unless the terrorists surrendered arms and pulled the militants out of Turkey's territory. Long-lasting, round-the-clock curfews were imposed in several cities; these severely disrupted citizens' daily lives and impeded access to healthcare and education. Most of these curfews have now been lifted, but they were followed by others. Between July 2015 and September 2016, over 1 500 people – of which 320 civilians, including 75 children and over 600 security force members – have been killed and 1 600 were injured in clashes between the security forces and the PKK.

There were many credible reports of alleged severe human rights violations committed by the security forces, including torture, ill-treatment, arbitrary arrests and breaches of procedural rights. Legislation regulating the burial of dead bodies of unidentified persons, which was amended twice in the reporting period, reportedly prevented proper forensic examinations needed for thorough judicial investigations. There were alarming reports of damage to cultural, historical and religious heritage sites during the curfews, including in the Sur district in Diyarbakır. Disproportionate destruction of private and communal property and infrastructure by heavy military artillery, as in Cizre, is a cause for serious concern. An estimated 355 000 people have been internally displaced. The expropriation of Sur District in March for the purpose of reconstruction further raised tensions in the city. Lack of official information or follow-up on all allegations of human rights violations is extremely worrying (*See also chapter 23*). All allegations of human rights violations need to be duly investigated, their perpetrators brought to justice and redress made available to victims.

The effect of the curfews and alleged severe human rights violations were denounced by UN Committee Against Torture (CAT) and the Commissioner for Human Rights of the Council of Europe following his visit to the region. Unimpeded access to the region by independent investigators is urgently needed. The Venice Commission found that the declarations of curfew were not in line with the Constitution or with Turkey's international commitments and recommended review of the relevant legislation. A petition for a temporary injunction on frequent days-long curfews was rejected by the ECtHR due to insufficient data. The Constitutional Court rejected an application for a similar injunction. The judgement by ECtHR on the substantive application regarding curfews is pending. Many civil society initiatives and petitions called for a resumption of the Kurdish settlement process. A declaration of protest signed by more than a thousand academics was severely suppressed by the authorities and led to numerous arrests, dismissals and trials. In the aftermath of the attempted coup, a large number of Kurdish teachers have been suspended over alleged links to terrorism. 33 mayors were suspended over alleged terrorist ties or links to the Gülen movement, including the co-mayors of Diyarbakır who were subsequently arrested. Trustees were assigned to these municipalities by decree issued under the state of emergency. The Democratic Regions Party DBP, party governing in most of these municipalities, applied to the Constitutional Court to annul the appointment of trustees in 24 cases. Out of 39 Kurdish-language television and radio stations, 23 were closed on charges of spreading terrorist propaganda.

No comprehensive plan was developed to address the issue of missing persons, including thorough and independent investigations into alleged past cases of extrajudicial killing by security and law enforcement officers or by the PKK. The recommendations of the UN Special Rapporteur about lack of prosecutions over extrajudicial, summary or arbitrary executions were not addressed. Mass graves were not adequately investigated. In February, the Constitutional Court concluded the case on the 2011 killing of 34 civilians by the military at Uludere/Roboski and rejected the application of families of victims on grounds that the missing documents were not submitted in time. Victims' families subsequently sent an application to the ECtHR. The statute of limitations for cases of missing persons and extrajudicial killings dating from the 1990s remained in force.

A 10-point action plan for the south-east announced in February by the then Prime Minister has not been implemented. In September Prime Minister Yildirim announced an investment package to reconstruct the provinces damaged by the fights, and to reduce the growing disparities with the rest of the country. Comprehensive rehabilitation of the region is urgently needed. In addition to the huge influx of refugees from Syria and Iraq, the newly displaced population has put local communities under tremendous strain.

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

The handling of the massive influx of mostly Syrian **refugees** has become a priority issue for the Turkish authorities. Turkey continued to make outstanding efforts to provide shelter to about 3 million refugees from Syria and Iraq and other countries. Around 10 % of the refugees are living in camps with all necessary services provided.

In January, the Turkish authorities adopted a regulation on **work permits for foreigners** under temporary protection, allowing Syrians to be employed legally in Turkey under certain conditions. Turkey has also adopted a regulation on work permits for people applying for international protection and those in receipt of international protection. It paves the way to improving the livelihoods of the Syrian refugees and their prospects of integration. Syrian refugees are reported to be often employed informally without social rights and under harsh working conditions. There have been unconfirmed reports of alleged expulsion, return and deportation of Syrian nationals contrary to the *non-refoulement* principle.

There were formerly around one million **internally displaced persons** (IDPs), most of whom fled their homes between 1986 and 1995 due to the armed conflict in the south-east. The

process of compensating IDPs continued but there is a need for an overall assessment of the process. In addition, the number of new IDPs as a result of the ongoing security operations in the south-east is officially estimated at 355 000. There is an urgent need to fully compensate the affected IDPs. The situation of persons who became IDPs in Diyarbakır's Sur district, after several neighbourhoods were demolished and expropriated by the government, needs to be addressed urgently. There is an urgent need for a comprehensive national action plan and strategy to address all the challenges faced by IDPs, such as security zones, village guards and a lack of infrastructure. The presence of landmines in some areas hampers the return of IDPs to their villages.

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

### **Cyprus**

Turkey continued to express support for the talks on a comprehensive settlement between the leaders of the two communities, and for the efforts of the UN Secretary-General's Special Adviser.

However, in March and August Turkey made statements challenging the right of the Republic of Cyprus to exploit hydrocarbon resources in the Cyprus Exclusive Economic Zone for the benefit of all Cypriots. The EU has repeatedly stressed the sovereign rights of EU Member States, which include *inter alia* entering into bilateral agreements and exploring and exploiting their natural resources in accordance with the EU *acquis* and international law, including the UN Convention on the Law of the Sea. The EU has also stressed the need to respect the sovereignty of Member States over their territorial sea and airspace.

As emphasised in the Negotiating Framework and Council declarations, Turkey is expected to actively support the negotiations on a fair, comprehensive and viable settlement of the Cyprus issue within the UN framework, in accordance with the relevant UN Security Council resolutions and in line with the principles on which the EU is founded. Turkey's commitment and contribution in concrete terms to this comprehensive settlement remains crucial. The process of granting the Committee on Missing Persons full access to all relevant archives and military areas has seen welcome developments but needs to be further expedited. Despite repeated calls by the Council and the Commission, Turkey has still not complied with its obligations as outlined in the declaration of the European Community and its Member States of 21 September 2005 and in Council conclusions, including those of December 2006 and December 2015. Turkey has not fulfilled its obligation to ensure full and non-discriminatory implementation of the Additional Protocol to the Association Agreement and has not removed all obstacles to the free movement of goods, including restrictions on direct transport links with the Republic of Cyprus. There was no progress on normalising bilateral relations with the Republic of Cyprus.

Turkey continued to veto applications by the Republic of Cyprus to join several international organisations such as the OECD.

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

Bilateral exploratory talks were held between Greece and Turkey to find common ground for the start of negotiations on the delimitation of the continental shelf.

Greece continued to object to Turkey's launch of a tender for offshore oil and gas exploration including part of the continental shelf off the Greek island of Castellorizo.

The threat of *casus belli* in relation to the possible extension of Greek territorial waters, as made in a Turkish Grand National Assembly resolution in 1995, still stands. In line with the Negotiating Framework and previous European Council and Council conclusions, the Council has reiterated that Turkey needs to commit itself unequivocally to good neighbourly relations and to the peaceful settlement of disputes in accordance with the United Nations Charter,

having recourse, if necessary, to the International Court of Justice. In this context, the EU has again expressed serious concern, and urged Turkey to avoid any kind of threat or action directed against a Member State, or source of friction or actions that damage good neighbourly relations and the peaceful settlement of disputes. Greece and Cyprus made formal complaints about repeated and increased violations of their territorial waters and airspace by Turkey, including flights over Greek islands.

### Regional cooperation

Good neighbourly relations form an essential part of Turkey's process of moving towards the EU. **Bilateral relations with other enlargement countries and neighbouring EU Member States** have been good. Cooperation with Greece and with Bulgaria in the area of migration intensified. The fourth Turkey-Greece High Level Cooperation Council was held in Turkey in March 2016. Turkey has continued its policy of engagement in the Western Balkans. Turkey maintained strong ties with countries in the region and supported their respective efforts to join NATO and the EU. Relations continued positively with Albania and a readmission agreement was signed with Kosovo\* in December 2015. Contacts with Bosnia and Herzegovina and Serbia developed positively, including in the framework of the trilateral cooperation between Turkey, Serbia and Bosnia and Herzegovina. Under the common security and defence policy, Turkey is continuing to contribute to the EU-led military mission in Bosnia and Herzegovina and to the EULEX rule of law mission in Kosovo.

### 3. ECONOMIC CRITERIA

| Key economic figures                                                                                                   | 2014            | 2015             |
|------------------------------------------------------------------------------------------------------------------------|-----------------|------------------|
| Gross domestic product per capita (% of EU28 in PPS)                                                                   | 53              | 53               |
| GDP growth (%)                                                                                                         | 3.0             | 4.0              |
| Unemployment rate for persons aged 15 years and older (female; male) (%)                                               | 9.9 (11.9; 9.0) | 10.4 (12.6; 9.2) |
| Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%) | 58.9            | 59.9             |
| Current account balance (% of GDP)                                                                                     | -5.5            | -4.5             |
| Net foreign direct investment (FDI) (% of GDP)                                                                         | 1.6             | 2.4              |

Source: Eurostat, National Statistics Agency

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

The monitoring of these economic criteria should also be seen in the context of the central importance of economic governance in the enlargement process. Each enlargement country prepares an Economic Reform Programme (ERP) annually, which sets out a medium-term macro-fiscal policy framework and a structural reform agenda aimed at ensuring competitiveness and inclusive growth. The ERPs are the basis for country-specific policy

---

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

guidance jointly prepared by the EU and the Western Balkans and Turkey at ministerial level in May each year.

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

The Turkish economy is **well advanced** and can be considered a functioning market economy. Public finances are on a sustainable course. Economic growth strengthened last year, but is slowing again in 2016 while unemployment remains relatively high. The current account deficit has narrowed mainly as a result of the lower oil price. Nevertheless, the external deficit remains large and makes the Turkish economy vulnerable to financial uncertainty, changes in global investors' sentiment and political risks. The central bank cut interest rates even though inflation remained well above the official target. The business environment continued to deteriorate due to targeted actions against critical media, business people and political opponents through the active use of the tax authority, the financial crimes unit and courts. The implementation of structural reforms to improve the functioning of the markets for goods, services and labour has stalled. Overall, there was **backsliding**.

In line with the ERP recommendations and in order to support long-term growth, in the coming years Turkey should pay particular attention to:

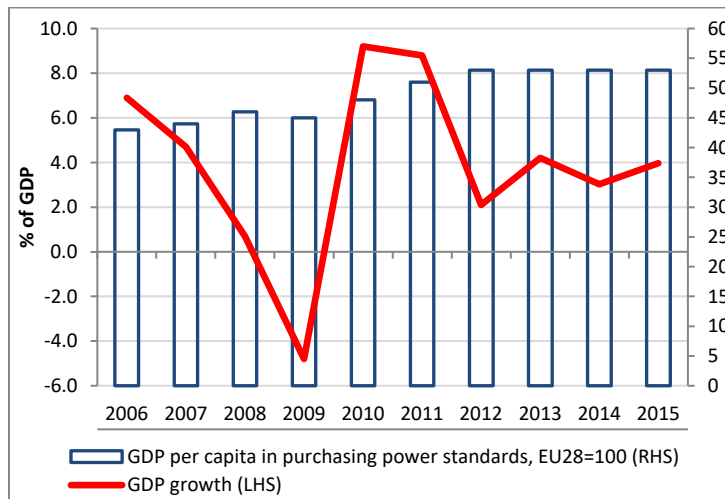
- promoting domestic saving, including through a sufficiently restrictive fiscal policy, in view of the persistently large current account deficit;
- making monetary policy more focused on the pursuit of price stability;
- improving the business environment by strengthening the rule of law, making it easier to start a business and strengthening competition.

#### Economic governance

**Turkey has a functioning market economy, but the resolve to address underlying macroeconomic imbalances has been uneven.** The recommendations from 12 May 2015 were only partially implemented. The government's Economic Reform Programme for 2016-2018 projects an overly optimistic macroeconomic scenario in which GDP growth strengthens while unemployment, inflation and the current account deficit decrease. The establishment of a Deputy PM post to oversee structural reforms was a positive development as it has the potential to improve the coordination of economic policy-making between government bodies. At the same time, targeted government actions against critical media, business people and political opponents through the active use of the tax authority, the financial crimes unit and courts, have had negative effects on the business climate. Uncertainty over the central bank's independence in carrying out monetary policy continued to the detriment of macroeconomic stability.

#### Macroeconomic stability

Figure 1 Turkey GDP growth



**The Turkish economy has grown at an average annual rate of 3.7 % over the past three years.** GDP growth increased gradually in 2015, with growth rates moving up from 2.5 % year-on-year in the first quarter to 5.7 % in the last quarter of the year. The annual GDP growth of 4.0 % was solely driven by domestic demand, particularly based on accelerating household consumption and public spending. Private investments remained relatively weak, while the contribution of net exports was

negative. In 2016, GDP growth has slowed to 3.1 % year-on-year in the second quarter as net exports continued to deteriorate and private investment activity weakened. The decline in foreign tourist visits (32 % year-on-year in the first eight months) has weighed heavily on economic activity in the third quarter. GDP per capita based on purchasing power parity remained unchanged in 2015 at 53 % of the EU average.

Effects of the failed coup attempt on the overall economic situation are still difficult to assess. After an initial sell-off, Turkish financial markets recovered, although not quite to the levels before 15 July. Industrial production and retail sales dropped sharply in July and some survey indicators declined. Restoring and maintaining investor confidence will in any case require the rule of law and independence of the judiciary to be respected.

**Turkey's current account deficit has narrowed significantly, but remains relatively high.** The deficit has declined from 7.7 % of GDP in 2013 to 4.5 % in 2015 as the lower oil price has reduced the energy import bill and the notoriously volatile gold trade has swung from deficit to surplus. The underlying deficit, however, has not improved. Excluding energy and gold, the current account actually deteriorated by 1.5 percentage points of GDP between 2014 and 2015.

**The external deficit reflects a persistent shortfall of domestic saving requiring compensating inflows of foreign capital.** Most capital inflows tend to be portfolio investments by foreign investors and foreign borrowing by Turkish banks. Foreign direct investment (FDI) has represented a relatively small proportion of the required capital inflow since the global financial crisis. In 2015, however, FDI covered 36.5 % of the current account deficit as a result of a number of large foreign investments in the financial sector. The dependence on volatile types of capital inflows makes the Turkish currency and economy vulnerable to a sudden loss of investor confidence. Gross external debt as a percentage of GDP has edged higher, reaching 58.0 % of GDP at the end of March 2016, most of which is owed by the private business sector. A particular concern relates to the foreign currency debt of private companies that receive most of their revenues in domestic currency: when the lira depreciates, their ability to service their foreign debt deteriorates.

**Inflation has remained in high single digits. This has significant costs in terms of macroeconomic stability, resource allocation and redistributive effects.** In spite of the oil price decline, consumer price inflation increased from 8.2 % to 8.8 % year-on-year during 2015. Over the first nine months of 2016, inflation fell in the context of only modestly rising food prices and a relatively stable exchange rate. Headline inflation stood at 7.3 % in September which is still clearly above the official target of 5 %. The Turkish lira's bilateral exchange value against the euro increased marginally (1.0 %) between the end of September 2015 and the end of September 2016.

**The central bank has eased monetary policy and continued to pursue multiple objectives as part of an overly complex monetary policy framework.** Although price stability is the

primary objective, the central bank is also pursuing macro-financial stability and trying to dampen exchange rate fluctuations. The central bank has kept the main policy rate (the one-week repo rate) unchanged at 7.5 % since February 2015, but has gradually lowered the overnight lending rate from 10.75 % to 8.25 % between March and September 2016. As a result, the average cost of funding has declined significantly in the reporting period. This easing of monetary policy is inconsistent with the inflation target.

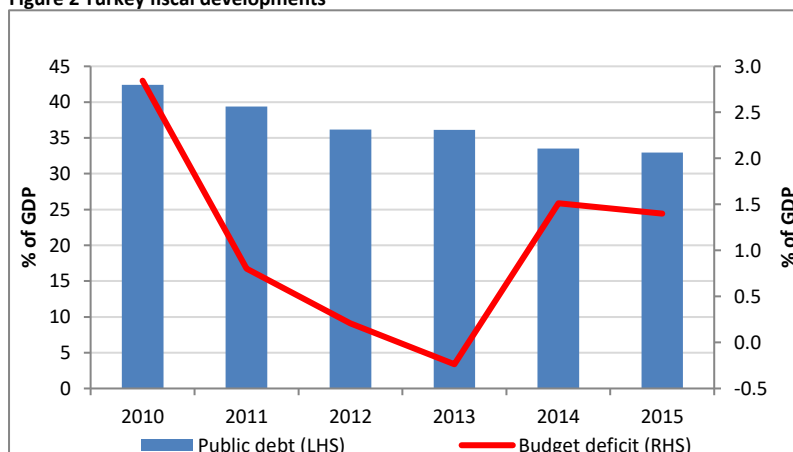
It has taken place against the background of repeated strong calls for lower interest rates from the President and parts of the government. Monetary policy should focus more on its primary

objective of price stability in order to attain the official inflation target. Furthermore, a simplification of the monetary policy framework would improve its transparency and predictability and strengthen the central bank's credibility.

**On public finances, the budget deficit remained moderate and public debt continued on a sustainable path.** The 2015 central government budget deficit is estimated at 1.2 % of GDP, which is marginally lower than in the preceding year (1.3 %) but slightly higher than originally planned (1.1 %). Revenues increased by 13.6 % year-on-year while expenditures rose by 12.8 %, both exceeding nominal GDP growth (11.7 %). General government debt increased by 9.8 % in absolute terms in 2015, but declined by 0.6 percentage points as a percentage of GDP to 32.9 %, i.e. it is clearly at a sustainable level. In a wider macroeconomic perspective, however, the fiscal policy stance has not appropriately addressed Turkey's persistent external imbalance in recent years. Public finances have an important role to play in raising overall

**ERP policy guidance:** Reinforce the central bank's focus on price stability in monetary policy by further tightening the policy stance against the backdrop of high (above-target) inflation rates and increasingly unanchored inflation expectations. A simplification of the monetary policy framework in line with the central bank's own forward guidance, published in August 2015, would help to buttress the credibility of the inflation targeting framework in place. Using the main policy rate, rather than a range of other instruments, in the conduct of monetary policy would be more transparent and strengthen the central bank's credibility in fighting inflation in the medium term.

Figure 2 Turkey fiscal developments



domestic saving and reducing the need for capital inflows through an appropriately tight fiscal policy stance.

**There was no progress on increasing the transparency of the fiscal framework,** which continued to suffer from the lack of timely information in accordance with international standards. Adopting a fiscal rule would increase credibility and support the envisaged reduction of the structural fiscal deficit.

**ERP policy guidance:** Promote domestic saving in view of the persistently large current account deficit. Fiscal policy has an important role to play in this regard by following a sufficiently restrictive stance. Reducing the rigidity of public expenditures would help to make the fiscal policy stance more responsive to macroeconomic needs. The adoption of a fiscal rule would enhance budget transparency, provide an important fiscal anchor and enhance credibility.

**Overall, the Turkish economy remains vulnerable to bouts of financial uncertainty and changes in global risk sentiment and there is scope for adjusting monetary and fiscal policy to lower the macroeconomic imbalances.**

The persistence of a large current account deficit and the associated dependence on capital inflows makes Turkey prone to boom-bust cycles. The recent easing of monetary policy has been inconsistent with the official inflation target. Considering the continued overshooting of the inflation target and the chronically low private saving rate, monetary policy is too accommodative. Furthermore, fiscal policy should help to increase domestic saving by pursuing a sufficiently restrictive course.

#### Functioning of product markets

##### *Business environment*

**Starting a business has become more cumbersome and remains expensive.** It now required 8 separate procedures and took 7.5 days on average, up from 7 procedures and 6.5 days in 2014. The average cost of starting a business remained virtually unchanged in 2015 at 16.6 % of per capita income. On the positive side, obtaining a construction permit became significantly faster in 2015, but is still very burdensome. In 2015, the number of newly established businesses increased by 15.2 %.

**Market exit also remained costly and has become even longer while insolvency proceedings were still heavy and inefficient.** Closing a business has become significantly more time-consuming and has remained expensive. Insolvency procedures lasted an average of 4.5 years and recovery rates fell further to the very low level of 18.7 % on average. The number of businesses closing down or being liquidated fell by 13.4 % in 2015 compared with 2014.

**The overall business environment continued to deteriorate due to targeted actions against critical media, business people and political opponents through the active use of the tax authority, the financial crimes unit and courts.** In actions largely perceived to be politically motivated, the government has acquired active control of several media assets (Bugün, Kanaltürk, Zaman), companies (Koza-İpek group), private university preparation courses and universities (Haliç) by appointing trustees in their management. It also seized one bank (Bank Asya).

Following the failed coup attempt of 15 July and under the state of emergency rule, this type of state intervention has become more widespread. Several private companies, private foundations and universities were seized on the basis of alleged links with the Gülen movement. Allegations of wrongdoings by individual companies need to be subject to due process with respect for the separation of powers and the independence of the judiciary. Abstaining from politically motivated

**ERP policy guidance:** Strengthen the rule of law and the judiciary with a view to restoring investors' confidence.

expropriation of private assets by court decisions, including independent media, would help restore investors' confidence.

A reasonably well-functioning legal system has been in place for several years in the area of property rights. Enforcement of commercial contracts was still a rather lengthy process, but the introduction of an electronic filing system for court users made enforcing contracts easier. Out-of-court dispute settlement systems have been operational already in banking, insurance and customs. Additional arbitration mechanisms have spread to other areas rapidly, particularly on employee-employer disputes. The number of cases referred to arbitration bureaus increased from 200 in 2014 to 1,160 in 2015 and reached 1,040 in the first quarter of 2016. The judicial system and its administrative capacity could be further improved.

#### *State influence on product markets*

**The government continued to intervene in the price-setting mechanism in key sectors.** The proportion of directly administered prices in the consumer price index (CPI) basket has remained below 5%. However, food and alcohol prices, which together make up more than 25% of the consumer basket, continued to be highly sensitive to policy decisions. For energy (natural gas and electricity), automatic pricing mechanisms were applied in principle. In practice, however, the government continued to set end-user prices, effectively suspending the automatic pricing mechanisms. There was no progress on eliminating the charging of higher prices to one group of consumers in order to subsidise lower prices for another group in the wholesale and retail electricity markets.

**There was no progress in improving the transparency of state aid.** Legislation to implement the State Aid Law, originally scheduled to be passed into law by September 2011, has been postponed for yet another year until the end of 2016. The State Aid Authority has still not formally set up a comprehensive state aid inventory or adopted an action plan to align all state aid schemes, including the 2012 incentives package, with the *acquis*. (See also *chapter 8*.)

#### *Privatisation and restructuring*

**Privatisation slowed down again.** Following the surge in 2013, privatisation activity continued to decelerate in 2015, with the total volume of completed deals decreasing from EUR 4.8 billion (0.8 % of GDP) in 2014 to EUR 1.8 billion (0.3 % of GDP) in 2015. The share of the energy sector in privatisation tenders remained high. Competition could benefit from continued liberalisation in the markets for goods and services.

#### Functioning of the financial market

##### *Financial stability*

**Despite declining profitability in banking, the financial sector generally performed well and continued to demonstrate resilience.** The banking sector's loans-to-deposits ratio rose to 119 % in 2015, implying an increasing reliance on wholesale financing from abroad to sustain credit growth. The banking sector's profitability declined in 2015, both in relation to total assets and to total equity. The sector's capital adequacy ratio remained significantly above the regulatory target of 12 %, albeit declining from 16.3 % in 2014 to 15.6 % in 2015. The proportion of non-performing loans in total banking sector loans slightly increased, from 2.9 % in 2014 to 3.1 % in 2015.

##### *Access to finance*

**Banks continued to dominate the financial sector.** Their rapid credit expansion continued in 2015, with total bank lending increasing by 19.7 %. The value of banking sector assets as a ratio of GDP continued to increase, rising from 114 % in 2014 to 121 % in 2015. The size of the much smaller insurance sector (including private pensions) increased from 3 % of GDP to 3.1 %. State-owned banks' share of total banking sector assets slightly increased to 31.3 % as

of September 2015 (30.7 % in September 2014), while the share of foreign banks remained stable at 16.4 %.

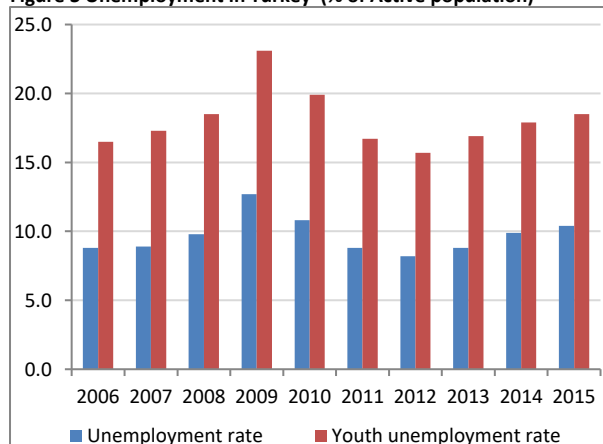
### Functioning of the labour market

**The number of jobs increased at a rate commensurate with output growth, but still below the growth rate of the labour force.** In 2015, employment increased by 2.7 % which was less than the 3 % growth rate of the labour force. As a consequence, the unemployment rate increased by 0.5 percentage points to an annual average of 10.3 %. Labour force growth is mainly driven by a growing number of people of working age, but also by some rise in the labour force participation rate.

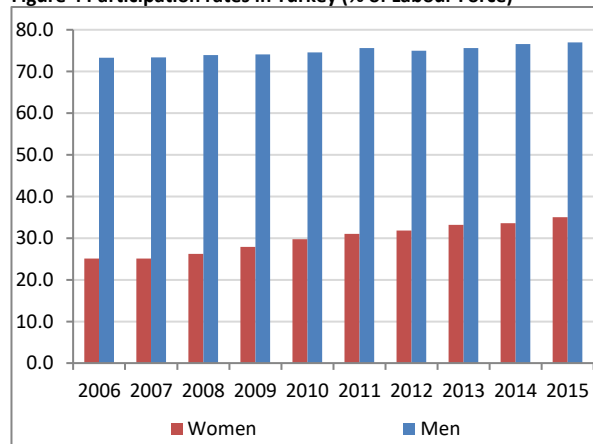
**The employment rate of women has remained at a very low level.** The overall employment rate increased to 53.9 % in 2015, with a large difference between men (75.3 %) and women (32.5 %). Despite the low proportion of women actively looking for work, their unemployment rate remains significantly higher than the unemployment rate for men. In addition, about one third of women who are considered to be employed are in fact unpaid family workers in the agricultural sector. Almost a third of young people are not in employment, education or training.

**ERP policy guidance:** Enhance further the control capacity of the labour inspectorate and enable tax authorities and the social security institution to ensure a correct declaration of wages in order to reduce informality.

**Figure 3 Unemployment in Turkey (% of Active population)**



**Figure 4 Participation rates in Turkey (% of Labour Force)**



The efficient functioning of the labour market continued to be impeded by a lack of flexibility, for example on labour contracts, while undeclared work remained widespread. This calls for a deepening and widening of labour market reforms, which also need to be more inclusive.

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

Turkey has a **good level of preparation** in achieving the capacity to cope with the competitive pressure and market forces within the EU. Sufficient human capital exists and a relatively modern sectoral structure. Turkey is well-integrated with the EU market in terms of both trade and investment. **Some progress** was made in a number of areas, most notably through further liberalising the energy sector. Significant problems remained as regards the quality of education. There are also problems of access to education for girls. The lira's real appreciation has reduced the economy's price competitiveness.

In line with the ERP recommendations and in order to support long-term growth, in the coming year Turkey should pay particular attention to:

- enhancing the comprehensive strategy in support of research and development;
- pursuing the education agenda and improving the qualifications of low-skilled workers.

#### Education and innovation

**Although previous reforms and increased spending on education have generated a positive impact on educational attainment and enrolment rates, progress seems to have stalled recently.** Significant problems remain over gender equality and the quality of education. Enrolment rates for pre-schooling (until the age of 6) increased to 55.48 % while they declined to 94.87 % for primary education and 94.39 % for lower secondary education. The reason for the decrease in primary education is that for children at the age of five, parents have a choice between pre-school or primary school.

For upper secondary education, the enrolment rate is close to 80 %, while for higher education, it is close to 40 %.

**ERP policy guidance:** Pursue the education agenda and improve the qualifications of low-skilled workers in order to make better use of human capital, in particular of young people.

#### **Primary school results are lagging behind**

**the EU average.** According to the most recent PISA<sup>3</sup> study on the educational performance of 15-year-old students, Turkish students improved in all three subjects tested (science, mathematics and reading) between 2009 and 2012. However, the improvement was less pronounced than in the preceding three-year period and Turkey remained 48 points below the OECD average. The measures taken by the Government following the coup attempt of 15 July resulted in considerable staff dismissals and changes in education institutions, posing risks to the stability of Turkey's education sector. Regarding vocational education and training, the share of vocational and technical education in secondary education increased from 35.8 % in 2003 to 51 % in 2013. About 34 % of enterprises provide vocational and on-the-job training to their employees. However, a mismatch continues to exist between requirements of the labour market and skills produced by the educational system. Turkey needs to make better use of its human capital in order to stimulate sustainable and inclusive growth and competitiveness.

R&D expenditure (both public and private) increased from 0.95 % of GDP in 2013 to 1.01 % of GDP in 2014, though remaining well below the government's current target of 1.8 % of GDP by 2018. About half of this investment came from the private sector. Turkey needs to develop a comprehensive strategy in

**ERP policy guidance:** Enhance the comprehensive strategy in support of research and development; this should target an increase of total spending on research and development and build closer cooperation between research institutions and economic operators.

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

support of research and development, while building closer cooperation between research institutions and economic operators.

#### Physical capital and quality of infrastructure

**Improvements in the country's physical capital were modest.** Total investment increased by 0.2 percentage points to 20.3 % of GDP in 2015, while the share of private investment remained stable at 15.9 % of GDP. Public investment increased slightly with a share of 4.4 % of GDP in 2015. Concentrating in financial services (banking and insurance), gross foreign direct investment (FDI) inflows as a percentage of GDP increased from 1.6 % in 2014 to 2.4 % in 2015.

Some progress was made in the energy sector, particularly in the electricity market. Market liberalisation and privatisation deals in generation and distribution activities encouraged new private investments, particularly in renewable energies. The Turkish electricity grid is formally synchronised and interconnected with the ENTSO-E Continental European system since January 2016, allowing market players to freely import and export electricity between the EU and Turkey and thus improving the security of supply. Turkish Energy Stock Company (EPIAS) has become fully operational, contributing to the development of a competitive and transparent energy platform. Further progress is needed to open the natural gas market, so that there is competition for the state-owned corporation BOTAŞ. A transparent and cost-based pricing mechanism for electricity and gas remains to be properly implemented.

The transport infrastructure was enhanced by lengthening the railway and road networks by 3.8 % and 0.4 % respectively in 2014. In telecommunications, the number of internet subscribers increased by 13.3 % and the internet penetration rate for households increased from 54 % in 2014 to 59.6 % in November 2015. No progress was made on aligning telecommunications legislation with the EU framework, but the regulator completed the tender over the operating rights for 4.5G licenses.

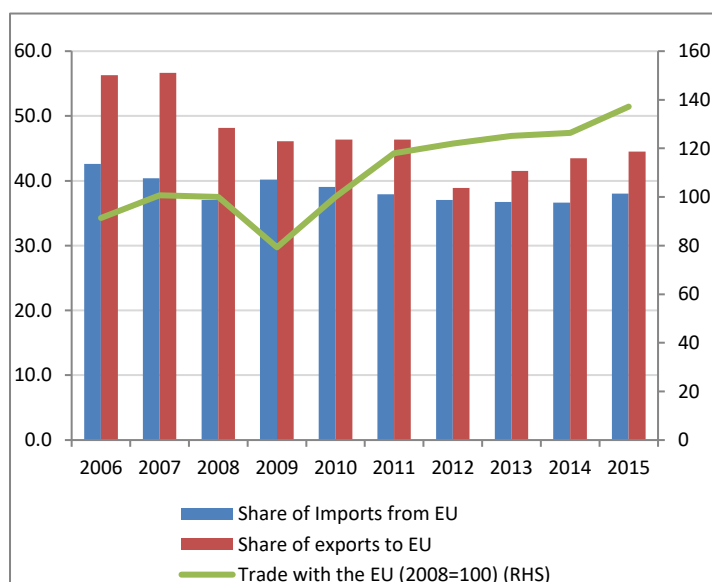
#### Sectoral and enterprise structures

In 2015, GDP grew by 4.0 %, while employment increased only by 2.7 %, indicating an increase in labour productivity in the overall economy. The sectoral breakdown of employment growth shows a continued shift towards the services sector, which accounted for 52.5 % of total employment (and 57.7 % of GDP) in 2015. Industry (including construction) accounted for 27.2 % of employment (and 24.1 % of GDP). Agriculture employed 20.6 % of the workforce and its share of GDP increased from 7.1 % in 2014 to 7.6 % in 2015, contrary to its long-term downward trend. The private sector's share of GDP continued to decline, falling by 0.4 percentage points to 84.3 % in 2015, but it is still quite large by EU standards. Small and Medium Sized Enterprises (SMEs) employ around three quarters of Turkey's work force and generate more than half of the economy's total value added. The capacity of financial institutions should be widened to provide also to SMEs the type of long-term funding options which are currently only available to large corporations.

#### Economic integration with the EU and price competitiveness

**Turkey's trade and economic integration with the EU is high and increased further in 2015.** The share of Turkish exports going to the EU increased from 43.5 % to 44.5 % while the share of Turkish imports coming from the EU increased from 36.7 % to 38.0 %. For the EU, Turkey has become the 5<sup>th</sup> largest trade partner, moving up one rank compared to 2014.

Figure 5 Turkey trade integration with the EU



Turkey was the EU's 4<sup>th</sup> main export market and number 6 in terms of imports. The openness of the Turkish economy, measured by the value of exports and imports of goods and services as a percentage of GDP, decreased from 60.8 % in 2014 to 59.6 % in 2015.

The EU remained the largest source of FDI flows into Turkey, although its share of total inflows decreased from 61.5 % to 57.6 % in 2015. Further trade integration with the EU would be stimulated by Turkey's elimination of impediments to

the functioning of the EU-Turkey customs union (see *acquis chapter 1 - Free movement of goods*). Close to three quarters of the FDI stock in Turkey originates in the EU.

Turkey's international price competitiveness has deteriorated as a result of the 10.2 % appreciation of the lira in real effective terms between September 2015 and September 2016.

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

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

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

Turkey is at a **good level of preparation** for the free movement of goods. It made **some progress** over the past year, mainly in terms of alignment with the New and Global Approach *acquis*. However, some technical barriers to trade delay or prevent the free movement of goods in violation of Turkey's obligations under the Customs Union.

In the coming year, Turkey should in particular:

- eliminate measures which create impediments to the free movement of goods and which are in breach of the Customs Union, such as export restrictions and requirements related to registration, prior approval, licensing and surveillance;
- continue the pace of alignment of sectoral technical legislation, including in the area of pharmaceuticals, as well as horizontal legislation establishing the New Legislative Framework.

##### General principles

With regard to **general principles**, the framework for the free movement of goods is largely in place in Turkey in principle; however, in practice there are several issues. There is a risk-based electronic import control system, TAREKS, to enable free circulation of goods coming from the EU, unless a specific risk profile is attributed to them. However, last year the implementation of TAREKS led to an increasing number of EU products being held back for documentation and physical checks after risk assessment. Technical barriers to the free movement of goods persist in the harmonised area on products such as textiles, footwear, and

clothing, where registration requirements apply, and prior approval and licensing is required for chemicals and textiles. Surveillance measures for imports under a certain price per unit also hamper trade flows. Such barriers also exist on goods in the non-harmonised area, affecting some foodstuffs and alcoholic beverages. Exports of certain products such as aluminium, copper and leather are also subject to restrictions which in practice amount to a ban, contrary to Customs Union rules.

#### Non-harmonised area

Turkey has a regulation on **mutual recognition in the non-harmonised area** in force since July 2013. The mutual recognition principle has been introduced to certain areas where national rules apply. The Ministry of Economy is the focal point for notifying the EU of technical regulations. However, the number of notifications has not kept up with Turkey's legislative activity.

#### Harmonised area: quality infrastructure:

There is a legal basis and administrative structure in place for technical regulations, standards, conformity assessment, accreditation, metrology, and market surveillance. Alignment with regulations (EC) 765/2008, (EC) 764/2008 and (EC) 768/2008 has been ensured via various pieces of legislation, but the relevant framework law needs to be updated. The Turkish Standards Institute is independent, able to implement European and international standards and has adequate staff resources and financing. At the end of May 2016, it adopted a total of 20 617 national standards aligned with European standards. It has been a full member of CEN and Cenelec since 2012. Five Turkish economic operators are full members of the European Telecommunications Standards Institute, ETSI.

There are 30 **notified bodies** in Turkey and one technical approval body. The Turkish Accreditation Agency, TÜRKAK, is a signatory of multilateral agreements under European Cooperation for Accreditation. The National **Metrology** Institute, TÜBİTAK-UME, ensures traceability of international measurement standards in the fields of scientific, chemical and industrial metrology, which started producing certified reference materials for proficiency testing and interlaboratory comparisons. It is a member of the European Association of National Metrology Institutes. Legal metrology is the responsibility of the Ministry of Science, Industry and Technology, an associate member of European Cooperation in Legal Metrology. A three-year national metrology strategy was adopted in 2015.

Turkey carries out a regular **market surveillance** programme in accordance with EU legislation and submits its annual market surveillance programme to the Commission. An electronic information system enables the 10 market surveillance authorities to report their observations. A national market surveillance strategy for 2015 to 2017 is in place. However, market surveillance in Turkey needs further strengthening in terms of resources and personnel and increased visibility for consumers and the private sector.

#### Harmonised area: sectoral legislation

For the '**New and Global Approach**' **product legislation**, Turkey adopted legislation to align with the *acquis* on non-automatic weighing instruments, measuring instruments, lifts, equipment for use in potentially explosive atmospheres pyrotechnic articles, low voltage equipment, simple pressure vessels, electromagnetic compatibility and eco-design requirements for water pumps. Preparations are advanced for aligning Turkish law with the *acquis* on civil explosives, radio & telecommunication terminal equipment and in-vitro medical devices.

On '**Old Approach**' **product legislation**, Turkey adopted legislation on fertilisers, pharmaceuticals, motor vehicles and cosmetics. Some of the provisions of the legislation on cosmetics are however not consistent with EU legislation and sectoral technical legislation on pharmaceuticals needs to be further aligned. Contrary to Customs Union rules, Turkey does not

accept EU Good Manufacturing Practices certificates. The national legislation on **chemicals classification, labelling and packaging** is aligned with the *acquis* and the United Nations Globally Harmonised System of Classification and Labelling of Chemicals. Turkey has continued preparations on aligning its law with the REACH legislation and with the *acquis* on pharmaceuticals for human use.

There is a specific licensing and regulation system for economic operators dealing with **drug precursors**, with a strict follow-up and monitoring system in cooperation with the police and customs authorities. Legislation on **Good laboratory practices** is fully aligned. The Turkish Accreditation Agency is the relevant national monitoring authority.

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

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

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

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

There has been no progress on **access to the labour market** or **coordination of social security systems**. So far, Turkey has concluded 14 bilateral social security agreements with EU Member States, but no new bilateral social security agreements were signed during the reporting period. There have been no developments on future participation in the **EURES** (European Employment Services) network.

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

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

Preparations are at an **early stage** on the right of establishment and freedom to provide services. Turkey made **some progress** in the past year, particularly in the area of postal services. Substantial efforts are still needed to align further with the *acquis*. In the coming year, Turkey should in particular:

→ align with the Services Directive on the provision of cross-border services and set up a Point of Single Contact.

As regards **the right of establishment**, Turkey amended in June the regulation concerning the employment of foreign health professionals in private establishments enabling *inter alia* foreign national midwives to work in the private establishments. A new law adopted in August simplified the procedures regarding work permits for foreign nationals. However, the requirement to obtain a work permit - on top of the procedures regarding the establishment and registration of their company - remains in place for self-employed EU nationals.

Regarding the **freedom to provide cross-border services**, service providers registered in the EU are still subject to registration, licensing and authorisation requirements in Turkey. The nationality requirement for professional tourist guides is not in line with the *acquis*. Turkey still needs to align its law with the Services Directive and to set up a Point of Single Contact.

Some progress was made on **postal services**. Turkey adopted a regulation on universal postal services defining the scope of and principles for providing services.

On the **mutual recognition of professional qualifications**, the Vocational Qualifications Authority published a regulation on national professional standards and national qualifications, and continued to issue occupational standards. Some regulated professions are still subject to reciprocal recognition. Nationality and language requirements remain. Turkey needs to further align with the *acquis* in this area.

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

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

Turkey is **moderately prepared** in the area of free movement of capital. The legislation on real estate acquisition is not aligned with the *acquis*; it lacks transparency and restricts the rights of a number of Member States' nationals. Turkey has made **some progress** in payment systems, the fight against money laundering and terrorism financing. In the coming year, Turkey should in particular:

- draft and adopt an action plan for liberalising the purchase of real estate by foreigners;
- step up cooperation between prosecution, law enforcement and financial intelligence units;
- further reinforce its preventive measures against the misuse of its financial system for the purpose of money laundering and terrorism financing.

On **capital movements and payments**, Turkish law on real estate acquisition by foreigners remains opaque and does not apply to all EU citizens in a non-discriminatory way. Turkey needs to adopt and implement an action plan for gradually liberalising the purchase of real estate by foreigners, bringing its laws into line with the *acquis*. Foreign ownership is subject to restrictions in radio and TV broadcasting, transport, education and the electricity market.

Turkey has already reached a good standard in **payment systems**. In January, it adopted implementing legislation on payments and securities systems aiming at further alignment with the *acquis*.

Turkey has made progress in the **fight against money laundering and terrorism financing**. In February, the country ratified the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. The legislation on terrorism financing has been strengthened in compliance with the recommendations of the Financial Action Task Force. Turkey needs to further align with the *acquis* by reinforcing its preventive measures against the misuse of its financial system for the purpose of money laundering and terrorism financing. The law on the confiscation of criminal assets is partly in line with the *acquis*. Turkey's track record on anti-money laundering needs to be strengthened. In particular, the number of convictions, confiscations, seizures and freezing of assets remains limited for case of money laundering and terrorism financing as a stand-alone crime.

#### 4.5. Chapter 5: Public Procurement

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

Turkey is **moderately prepared** in the area of public procurement, as important gaps remain in its alignment with the *acquis*. Public procurement remains an area particularly vulnerable to corruption. **Some progress** was achieved in the past year, especially with regard to Turkey's implementation and enforcement capacity. Further efforts are needed in public procurement, an area for potential inclusion in a modernised and extended Customs Union. In the coming year, Turkey should in particular:

→ revise public procurement law to address utilities, concessions and public-private-partnerships, in line with the 2014 EU public procurement directives, and to increase transparency;

→ start repealing exceptions that conflict with the *acquis*, as envisaged in the harmonisation schedule under the national action plan for EU accession, and eliminating restrictive measures such as domestic price advantages and civilian offsets.

### Institutional set-up and legal alignment

Turkey's **legal framework** for public procurement broadly reflects the principles of the Treaty on the Functioning of the European Union (TFEU). However, for certain goods Turkey applies a compulsory domestic price advantage.

The Public Procurement Law, which is broadly in line with the 2004 EU public procurement directives, is applicable to tenders both above and below the thresholds. The legislation is harmonised with and supported by budget and expenditure regulations, so that public contracts can be prepared, awarded, and managed in line with sound project management principles. However, the legislation has a number of inconsistencies with the *acquis* and needs to be aligned. Its scope is reduced by a range of sector-specific laws which limit transparency for businesses and establish different means of legal remedy (administrative or judicial), depending on the sector. The legislation on the utilities sector is more restrictive than allowed under the EU Utilities Directive. Regulations governing defence and security procurement are largely in line with the *acquis*. The thresholds for all types of procurement remain higher than those in the EU. Turkey does not have a comprehensive legislative framework for concessions and public-private partnerships.

A domestic price advantage of up to 15 % continues to be compulsory for 'medium and high-technology industrial products' and is often applied at the maximum rate of 15 %. On the basis of 2015 statistics, use of the domestic price advantage has almost tripled. It was applied in 24.90 % of the number of contracts above the minimum threshold (9.22 % in 2014) and in 36.51 % of the overall contract value (29.11 % in 2014). The civilian offset option in public tenders began to be applied after implementing legislation was published in 2015 and in 2016. The third economic transformation plan under Turkey's tenth development plan (2014-2018) aims at developing local manufacturing capacity via public procurement and extends the use of offset agreements to other sectors. Turkey should eliminate restrictive measures which contradict the *acquis* and consider applying the new means provided for under the 2014 EU Directives for promoting innovation, domestic production and technology transfer.

Turkey does not have a specific public procurement **strategy**. The 64th government programme and the national action plan for EU accession of January 2016 include a harmonisation schedule aimed at revising legislation in line with the 2014 EU public procurement directives, as well as amending legislation on utilities and public-private partnerships.

The **Public Procurement Authority (PPA)** is responsible for implementing public procurement law and monitoring the public procurement system. The Ministry of Finance is in charge of coordinating policy formulation and implementation.

### Implementation and enforcement capacity

Turkey's **public procurement market** represented 7.1 % of the country's GDP in 2015 (6.4 % in 2014). Procedures generally comply with transparency and efficiency principles. There is a well-functioning central public procurement portal (EKAP). The Ministry of Finance, the PPA and the Ministry of Development have sufficient operational capacity. The market and competition work satisfactorily in most sectors. The average number of bidders in public tenders was 3.86 as compared with 4.49 in the previous period. Framework agreements are

effectively used in accordance with EU requirements. Centralised purchasing is used effectively, in a limited number of areas, such as the health sector. However, Turkey does not have a single authority in charge of coordinating, supervising and monitoring public-private partnership (PPP) operations, despite their significant increase in volume. The PPP unit in the Ministry of Development provides an early-stage review of some projects, together with the Treasury and the Ministry of Finance. Allegations of political interference in some public tenders have been made, in particular regarding large private-public partnerships which are exempt from the Public Procurement Law.

**Monitoring** of contract award and implementation is satisfactory. The PPA issues half-yearly statistics which provide the basis for measuring performance and outcomes and for improving the public procurement system.

Contracting authorities' **capacity to manage public procurement processes** continues to improve. Turkey uses e-procurement effectively. The PPA provides sufficient regulatory, advisory and operational support to the contracting authorities.

Mechanisms to identify and address corrupt and fraudulent practices are in place, including rules on **integrity and conflicts of interest**. However, Turkey should develop a risk indicator system that signals potential integrity problems in the procurement process.

#### Efficient remedies system

The **right to legal remedy** is stipulated in the Constitution and in the Public Procurement Law. Any decision on complaints by a contracting authority can be appealed before the Public Procurement Board within the PPA. New Board members were appointed for four years in April 2016. The PPA's review remit does not include areas exempted from public procurement law, such as utilities or concessions.

With regard to **implementation capacity**, the PPA review and remedies system provides for speedy, effective and competent handling and resolution of complaints and sanctions. In 2015, the Public Procurement Board examined 3 720 complaints, accounting for 3.7 % of all tenders (3 942 and 4 % in 2014). To avoid possible conflicts of interest, the Board's integration within the PPA requires to be reassessed.

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

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

Turkey is **well advanced** in the area of company law legislation. **Good progress** was made in the areas of mergers and divisions — a key recommendation from 2015 — and by strengthening the Public Oversight, Accounting and Auditing Standards Authority.

In the coming year, Turkey should in particular:

→ finalise technical alignment of legislative amendments in preparation and continue efforts to align with the latest accounting and statutory audit *acquis*.

On **company law**, Turkey's level of alignment is already high. The progress made on alignment in the area of mergers and divisions means that a very small number of issues remain to be addressed. Regarding takeover bids, there are also only a few issues outstanding. Online electronic registration of companies has been further improved. Disclosure of and public access to financial documents of companies required to be published in accordance with EU accounting rules need to be ensured.

Concerning **corporate accounting** and statutory **audit**, Turkey continued to adopt new financial reporting and auditing standards, and amendments to existing ones, based on International Financial Reporting Standards and standards published by the International

Federation of Accountants. The Turkish Public Oversight, Accounting and Auditing Standards Authority and the Capital Markets Board further improved their administrative capacity through recruitment and training.

The scope of statutory **audit** has been further broadened by reducing the total assets and net turnover thresholds, and the number of approved statutory auditors and audit firms further increased. Alignment with the latest *acquis* on accounting and statutory audit needs to be ensured.

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

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

Turkey has a **good level of preparation** in this area. There was **some progress** in the past year in improving administrative capacity and coordination but enforcement remained problematic. In the coming year, Turkey should in particular:

- adopt pending industrial property and copyright legislation in line with the *acquis*;
- improve enforcement measures in fighting against piracy and counterfeiting;
- ensure rights are enforced and pursue awareness initiatives on intellectual property protection beyond current efforts.

Turkish public bodies in charge of intellectual property (IP) generally improved their coordination arrangements. In **copyright and neighbouring rights**, management of collective rights is still problematic, particularly with regard to the treatment of foreign producers, to public performance rights and to reproduction rights. The draft copyright law is still pending.

The draft law on **industrial property rights**, published in March 2016 for public consultation, is an opportunity to progress towards alignment with the IP *acquis*. A few crucial issues remain, including the introduction of a regime of international exhaustion of trademark rights. Turkish patent law is still not fully in line with the EU *acquis* or with the European Patent Office's standards on pharmaceutical inventions. The Turkish Patent Institute has improved its sectoral and administrative capacity, including capacity for geographical indications, through recruitment and training. Turkey also improved its capacity with regard to plant variety breeders' rights. Dialogue with IPR holders on systemic IPR problems has yet to be established and additional work is needed on geographical indications, on plant variety and on regulatory data protection for pharmaceuticals.

On judicial **enforcement**, the Court of Cassation IPR Criminal Chamber became more specialised. Alignment with the EU Enforcement Directive is still needed, in particular on returning counterfeit goods to offenders, storage by rights holders of confiscated goods and inconsistencies in obtaining preliminary injunctions. Since 2014, the number of complaints about search and seizure warrants has increased markedly. Customs enforcement against counterfeit goods further improved, with an increase in the number of seizures. However, despite continuous efforts, counterfeiting and piracy still remain widespread, posing risks to public health and consumer protection. Turkey's legislation on customs enforcement needs to be further aligned with the *acquis*. More assertive political will on IPR enforcement is needed.

#### 4.8. Chapter 8: Competition policy

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

Turkey has **some level of preparation** in the area of competition policy. **No progress** was achieved in this field in the past year. Legislation on antitrust rules is largely aligned with the *acquis*. However, the gap in the alignment between Turkey's State aid policy and EU State aid rules remains. In the coming year, Turkey should in particular:

→ implement the State aid law without further delay to ensure effective monitoring of aid measures and proper alignment with the *acquis*, including finalisation of an updated inventory of aid schemes.

### Antitrust and merger

The **legislative framework** is broadly aligned with the *acquis*. The Law on the Protection of Competition reflects the substance of Article 101 of the Treaty on the Functioning of the European Union (TFEU) on restrictive agreements and Article 102 of TFEU on antitrust rules. Competition law has also established ex ante control of mergers above certain turnover thresholds, in line with the EU Merger Regulation. Secondary legislation in this field is largely in place. A draft law on amendments to the Law on the Protection of Competition is pending. This draft law includes provisions in line with the *acquis*, particularly concerning the introduction of the *de minimis* rule.

Regarding the **institutional framework**, the Competition Authority (CA) is responsible for implementing the Law on the Protection of Competition. Attached to the Ministry of Customs and Trade, it is operationally a largely independent body. It is governed by seven board members. The CA's remit is very similar to that of the European Commission. It has the authority to prohibit mergers, to grant and refuse individual exemptions from the application of competition rules and to undertake on-site investigations. It can launch investigations upon complaints and notifications as well as on its own initiative. It is obliged to complete its investigations within six months as a rule. A leniency policy on fines for companies that provide information in cartel cases is in place. The CA issues opinions on draft laws that may have an effect on competition, either on request or on its own initiative. Parties may appeal against its decisions before the administrative courts.

The CA's **enforcement capacity** is adequate. **Implementation** is overall effective, but it shows a downward trend over the period 2013-2015. There is a marked decline in the number of decisions, in particular in the area of antitrust (from 191 to 89) and in the fines imposed (from EUR 280 million in 2013 to zero in 2015). In May 2016, the CA imposed a fine of EUR 2 258 443 on Turk Telekomunikasyon, the telecommunications company, on procedural grounds. The CA conducted a significant average of 75 raids annually between 2013 and 2015. The number of complaints that resulted in an investigation declined from 20 in 2013 to 5 in 2015. The number of appeals against CA decisions was relatively stable (with an average of 155 cases per year between 2013 and 2015) and the vast majority of these decisions were upheld by the national courts. The CA also carried out activities to keep sector representatives and public institutions updated on antitrust rules.

### State aid

The **legislative framework** is partially in line with the *acquis*. State aid regulations do not cover agriculture, fisheries, or the services sectors, which are not part of the EU-Turkey Customs Union. Turkey's Law on the Monitoring and Supervision of State Aid is broadly in line with Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU). However, the secondary legislation, which is required to implement the law in question, is not in place yet. It is currently due to enter into force on 31 December 2016, according to a deadline already postponed four times.

Regarding the **institutional framework**, the State Aid Monitoring and Supervision Board is responsible for implementing the law. Some Board members are nominated by aid granting ministries. The General Director for State Aid chairs the Board. The General Directorate for

State Aid, Turkey's State aid authority, is attached to the Prime Ministry's Undersecretariat of Treasury. Therefore, it is not considered to be operationally independent.

Turkish law requires State aid measures to be notified to the Board, and gives it the authority to accept an aid measure, to ensure its compatibility and to carry out checks on its own initiative or on the basis of a complaint. However, these provisions have yet to enter into force, due to repeated postponement of the adoption of the necessary secondary legislation. It is therefore not yet possible to assess the **enforcement capacity** of the Board and the General Directorate for State Aid. A comprehensive State aid inventory has yet to be set up and an action plan for alignment has yet to be adopted. Turkey submitted a plan to restructure its steel sector to the European Commission in 2009.

#### Liberalisation

Competition and State aid rules apply to state-owned enterprises. Turk Telekomunikasyon and TUPRAS, Turkey's sole oil refiner, have legal monopolies in the fixed telecommunications and refined oil products markets, respectively. In 2014, the CA fined TUPRAS for abuse of a dominant position in the market.

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

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

Turkey has a **good level of preparation** in the area of financial services. **Some progress** was made, as some decisions were taken to improve market governance. In the coming year, Turkey should in particular:

→ re-establish trust in the independence of supervisory agencies, in particular the Banking Regulatory and Supervisory Agency, through a track record of well founded, independent decisions.

There was some progress in the areas of **banks and financial conglomerates**. The Banking Regulatory and Supervisory Agency introduced additional capital requirements for systemically important banks as of 31 March 2016. Meanwhile, the regulator eased the restrictions on credit card instalments, consumer and housing loans and issued a third participation bank licence benefiting state-owned banks. The authorities initiated the liquidation process for the Asya Bank, whose takeover by the state created perceptions of a politically motivated decision. The Banking Regulatory and Supervisory Agency itself was subject to investigation following the coup attempt and some of its staff was laid off.

There was no progress on **insurance and occupational pensions**. On financial market infrastructure, the Istanbul Arbitration Centre has become operational, publishing its arbitration and mediation rules and tariffs.

There was no further progress on **financial markets infrastructure** but good progress on **securities markets and investment services**. Following a review of the Turkish legal framework, the European Securities and Markets Authority concluded that a prospectus drawn up in Turkey constitutes a valid prospectus under the Prospectus Directive. The Capital Markets Board of Turkey amended the implementing regulation on securities services, introducing prudential measures on the conduct of leveraged foreign exchange and over-the-counter derivative transactions. The regulator signed a memorandum of understanding (MoU) with the Brunei Monetary Authority for information exchange, increasing the number of such MoUs to 35.

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

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

Turkey is **moderately prepared** in the areas of information society and regarding the legislation on audiovisual media services. **Some progress** was achieved in the past year in the area of electronic communications and information society. Market access problems, insufficient competition in fixed markets, the overregulation of the sector, high taxation and questionable cost burdens on operators and consumers remain important issues of concern. Though the broadcasting law is to a large extent in line with the EU *acquis*, the insufficient protection of freedom of expression and overregulation in the sector remain issues of concern. In the coming year Turkey should in particular:

- strengthen the independence of the regulatory authorities and their members;
- revise the law on the internet in line with the Venice Commission's recommendations of March 2016 to support an environment conducive to freedom of speech on the internet;
- further align the authorisation regime, market access, rights of way and universal service in electronic communication with the EU *acquis*;
- take the necessary steps to complete the digital switchover as soon as possible.

On **electronic communications and information and communication technologies**, there was limited progress in aligning Turkish legislation with the EU on the authorisation regime, market analysis, market access and the universal service regime. In the fixed voice and broadband market, competition is not effective and the market share of alternative operators remains at 6 %. A more proactive Competition Authority with regard to retail internet and mobile communication services would be advisable. Effective competition in fixed markets would require access to the physical network and increased fibre penetration. The minimum capital requirement for fixed phone operators presents a barrier to market entry. Authorities should ensure consultation procedures with stakeholders. Municipalities regularly charge operators additional fees for rights of way and the installation of base stations. The taxation regime remains complex and taxes are disproportionately high without clear justification and twice as expensive for mobile virtual network operators. Operators were enabled to use multiband spectrum more efficiently. The mobile broadband penetration rate significantly increased from 41.7 % to 49.6 % in 2015, while fixed broadband rose only slightly from 11.5 % to 12.1 %. 4G services were launched in April 2016. Full independence of the Information and Communication Technologies Authority (ICTA) needs to be ensured. The law on the internet has not been amended and concerns remain. (See chapter 23 – Judiciary and fundamental rights)

In the field of **information society**, an ambitious e-government strategy for 2016-2019 was adopted in July 2016 laying down a comprehensive set of policy objectives.

In the area of **audiovisual policy**, it remains uncertain when the digital switchover process will be completed due to a new ongoing tendering process. In terms of transparency, the decisions of the Radio and Television Supreme Council (RTÜK) are publicly available online, together with the internal experts' reports on which they are based. The number of sanctions imposed on broadcasters on the grounds of praising terrorism, disturbing the public order and violating the integrity of the state increased, affecting particularly Kurdish language and independent channels, through fines and suspensions. More than 30 TV and radio stations known for being critical towards the government were dropped from the state-owned satellite distribution platform TÜRKSAT. In the aftermath of the coup attempt, the government issued decrees-laws ordering the closure of 46 TV channels and radio stations, predominantly for alleged links to

the Gülen movement. 23 out of 39 TV channels and radio channels broadcasting in Kurdish language have been closed. (See chapter 23 – Judiciary and fundamental rights)

The independence and neutrality of the RTÜK members, has to be strengthened. The editorial autonomy of the public broadcaster TRT is in question, as its 13 domestic and international channels follow largely a pro-government line.

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

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

There is **some level of preparation** in the area of agriculture and rural development. **Some progress** was made in the past year. Preparations have advanced on general agricultural issues and alignment with the common agricultural policy. Turkey's capacity to absorb funding has increased with the implementation of the pre-accession rural development programme, IPARD. In the coming year, Turkey should in particular:

- eliminate the remaining restrictions on imports of live cattle and beef;
- adopt a strategy for agricultural statistics.

Regarding **general agricultural issues**, the agricultural census is not yet complete and the strategy for agricultural statistics has not yet been adopted. The farm accountancy data network covers all 81 provinces and has now been integrated with the agricultural production and registration system. Development of a land parcel identification system has continued with EU support.

Unjustified restrictions on **imports of live cattle, beef and derivative products** from the EU continued. Although Turkey has made constructive progress to solve the issue, it has yet to fully implement its obligations under the EU-Turkey trade agreement for agricultural products, i.e. by opening quotas for beef and live animals on a lasting basis.

In **rural development**, the first EU pre-accession programme for agriculture and rural development (IPARD I) has created more than 50 000 jobs through the implementation of nearly 11 000 projects following 15 calls for applications. More efforts beyond ongoing initiatives are needed to increase awareness of the programme's impact. The IPARD-II sectoral agreement has been ratified and a first call for applications launched. The regulation on the IPARD-II Monitoring Committee was published and a request for the entrustment of budget implementation tasks for the IPARD II programme was submitted to the Commission. The agricultural and rural development support institution has reached a mature stage and its staff continues to receive training in specific areas for further improvement. The institutional capacity of the managing authority needs to be strengthened in line with the IPA II Regulations. Some additional steps have been taken to introduce the agri-environment and LEADER approach on a pilot scale.

The preparation of implementing legislation on the principles and implementation of **organic agriculture** is at a final stage.

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

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

There is **some level of preparation** in the area of food safety, veterinary and phytosanitary policy. There has been **no progress** in the past year. Full implementation of the *acquis* in this area will require significant further efforts, particularly in areas such as animal by-products,

animal welfare, the identification and registration of animals and control of their movements. In the coming year, Turkey should in particular:

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

There has been limited progress in aligning and implementing the *acquis* on **general food safety**. Efforts should be intensified to fully align **veterinary policy** with the EU *acquis*. The identification and registration of bovines and small ruminants has continued. Border inspection posts at land and sea borders and at Sabiha Gökçen Airport in Istanbul are still not fully functioning. Implementing legislation was adopted on transshipment of product consignments at the border inspection post of entry, as were animal health rules for imports and transit of certain ungulate animals and on standard models for veterinary health certificates for imported live animals.

Turkey has continued its fight against animal diseases. There were increased numbers of foot and mouth disease outbreaks due to a change in the strain circulating; foot and mouth disease had been under control as a result of mass vaccination. The disease-free zone with vaccination of the Thrace region has been maintained through strict movement controls. Significant efforts are still needed to fully align with and implement the *acquis* on transmissible spongiform encephalopathies and surveillance systems, including full compliance with Decision 1/98 (See chapter 11 — Agriculture and Rural Development). Further structural and administrative efforts are required to fully implement the *acquis* on animal welfare. There has been no progress on zoonoses.

Turkey continued to run training, inspection and monitoring programmes for the **placing on the market of food, feed and animal by-products**, and administrative capacity for official controls has been improved. No progress has been noted on developing the national plan for upgrading agri-food establishments. Significant efforts are still needed to apply the new rules on registering and approving food establishments. Work on animal by-products has continued but adapting the new rules to this sector still requires substantial efforts. Provision for funding inspections has still not been aligned with the EU system.

Alignment with **food safety legislation** on issues such as labelling, additives and purity criteria, flavourings and food supplements has advanced but has yet to be completed for food enzymes and novel foods. Progress on **specific rules for feed and phytosanitary policy** remained limited.

#### 4.13. Chapter 13: Fisheries

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

Preparations in this area remain at an **early stage**. In the past year, **some progress** was made on resources and fleet management, inspection and control, and on international agreements. More efforts are needed to align the legislation on structural actions, State aid and market policy and to strengthen institutional capacity. In the coming year, Turkey should in particular:

- adopt the draft fisheries law.

No particular progress was made on **administrative and organisational capacity**. The draft fisheries law still has not been adopted. Regarding **resources and fleet management**, the total number of decommissioned vessels has reached 1 011 under the ongoing subsidy scheme. This has further contributed to progress in fleet management. A data collection programme for

marine fisheries has been run jointly by the Ministry of Food, Agriculture and Livestock and the Turkish Statistical Institute. The Fisheries Information System has been included in the ministry's internal information system.

On **inspection and control**, some progress was made in legislative alignment and on implementation of the International Commission for the Conservation of Atlantic Tuna (ICCAT) recommendations on bluefin tuna, although some divergences remain on the recovery plan. Implementing legislation was adopted setting up a system of fisheries vessel monitoring, potentially an important step towards sustainable fisheries management. No progress was made on **structural action**, **State aid** or **market policy**. Regarding **international agreements**, cooperation between Turkey and the EU continued in ICCAT and the General Fisheries Commission for the Mediterranean. As the EU implements provisions of the United Nations Convention on the Law of the Sea, *inter alia* in the common fisheries policy, Turkey's ratification of the Convention would improve cooperation with the EU on fisheries and maritime policy.

#### 4.14. Chapter 14: Transport policy

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

Turkey is **moderately prepared** in the area of transport policy. **Some progress** has been achieved in the reporting period, mainly in the areas of rail and aviation. However, more work is needed to strengthen rail authorities' financial and technical capacity as well as the administrative capacity for all modes of transport, particularly civil aviation.

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

- focus on implementing the action plan for the liberalisation of the railway sector;
- improve road safety conditions and reduce road traffic accident fatalities;
- adopt the legislation on intelligent transport systems, and improve capacity and resources for its implementation.

As regards the **general transport *acquis***, key strategic documents such as the national transport strategy reflect earlier EU policy priorities, but these strategies will have to be revised to take into account the latest EU priorities in sustainable urban mobility and in combating climate change. A transport master plan covering all modes of transport needs to be approved. Further efforts should be made to complete alignment with the *acquis* on public service obligations, including transposing the *acquis* on the procedure and criteria for the award of public service contracts in the field of railway and road transport. A significant number of staff and sector professionals have been trained, particularly in the area of handling dangerous goods and road safety. Strengthening administrative capacity in all transport modes remains a priority, especially in aviation and railways. The accident investigation body covering all transport modes does not have sufficient independence from the regulator, the Ministry of Transport, as required by the *acquis*.

On **road transport**, the legal framework is at a good level of alignment. The regulation on technical inspections of road infrastructure and vehicles carrying dangerous goods entered into force in April. Conformity assessments are performed by the Turkish Standards Institution and Turkish Lloyd is licensed for testing, certification and periodic inspection of containers and transportable pressure equipment. Turkey has to continue alignment with road safety policies under the *acquis* and to develop administrative structures and strategies to reduce road traffic accident fatalities. Turkey needs to align with the **intelligent transport systems** legislation, the

‘clean power for transport’ package on clean and energy-efficient road transport vehicles and the introduction of infrastructure for alternative fuels.

Progress has been made in the **rail transport sector**. Secondary legislation was published on the approval of railway stock and on railway safety, on authorisation of railway undertakings, establishing their services, entry conditions and obligations, and on the public service obligation for passenger transport. These regulations mostly foster the opening up of the railway market in Turkey, however, the alignment with the *acquis* of these by-laws has not been ascertained yet. In June, the incumbent state-owned railway company, Turkish State Railways (TCDD), split rail operation into infrastructure (to TCDD as Infrastructure Manager) and operations (to TCDD Transportation Joint Stock Company), in order to align with the *acquis*. The network statement and the track access charges which would ensure open access to the railway market are still pending. The rail regulator should also tackle cross-subsidisation of rail services and set up a holding structure that ensures the neutrality of the infrastructure manager *vis-à-vis* all market operators, including TCDD Transportation Company. The rail regulatory body’s lack of own resources undermines its independence from the Ministry of Transport, Maritime Affairs and Communication. The Directorate-General for Rail Regulation still acts as both the regulatory authority and the safety authority and it does not enjoy sufficient independence from the Ministry of Transport. Further alignment efforts are required. In addition, the ministry should not carry out the functions of economic regulator after liberalisation, as it would not be compatible with Directive 2012/34 establishing a single European railway area.

In **maritime transport**, the Ministry of Transport, Maritime Affairs and Communication started a training programme on oil pollution preparedness and emergency response. Turkey became party to the Convention on Facilitation of International Maritime Traffic (FAL) in February. It has yet to ratify the 2006 Maritime Labour Convention. Turkey should continue its efforts to become party to all basic conventions of the International Maritime Organization, including membership of the Paris Memorandum of Understanding. Turkey is encouraged to complete its legislative and technological framework for maritime transport monitoring, ensuring alignment with the *acquis* on the Community vessel traffic monitoring and information system.

In the area of **inland waterway transport**, the relevant EU legislation will have to be transposed, and a new authority responsible for inland waterways will have to be established. Turkey does not participate in the EU strategy for the development of the Danube Region (EUSDR) and did not sign the main international agreements on inland waterways.

In **aviation**, Turkey is making progress in aligning with the *acquis*. It has expressed interest in a comprehensive aviation agreement including safety issues. It adopted implementing legislation on safety assessment of national and foreign aircraft, on passengers with reduced mobility, and on flight and duty time limitations and rest requirements. No significant progress was made in air operations or aircrew domains. The capacity of the Directorate-General for Civil Aviation is not keeping pace with the size and growth of the Turkish civil aviation sector. The revised working arrangement with the European Aviation Safety Agency (EASA), extended to all areas of aviation safety, should be concluded as a matter of priority. Turkey is encouraged to become a full part of the EU aviation system, with special attention to safety, including participation in the management board of EASA and joining the Single European Sky initiative. Until then EASA cannot perform safety inspections on air traffic management and air navigation services and therefore Turkey’s level of progress in these areas cannot be ascertained. The lack of communication between air traffic control centres in Turkey and Cyprus continues to seriously compromise air safety in the Nicosia flight information region. An operational solution needs to be found urgently to resolve this safety issue.

As regards **combined transport**, the country adopted a combined transport strategy back in 2014, but there has not been any progress since then in terms of new legislation. Opportunities for developing combined transport will have to be further enhanced.

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

#### 4.15. Chapter 15: Energy

*EU energy policy covers security of supply, the internal energy market, energy efficiency, renewable energy sources, nuclear energy, nuclear safety and radiation protection.*

Turkey is **moderately prepared** in this chapter. **Good progress** continued in the area of security of supply, electricity and the renewable energy sector. Turkey is at an advanced stage of alignment in the electricity sector. In the coming year, Turkey should in particular:

→ complete the gas market reform in line with the *acquis* in the gas sector, by setting out a legally binding plan and a timetable, including third party access to the transit network and the unbundling of activities;

→ adopt its nuclear energy law in line with the Euratom *acquis*, including restructuring of the nuclear energy regulator (TAEK) to separate its operating functions and guarantee its full independence from any entity concerned with the development of nuclear energy;

→ make progress on transparent, cost-reflective and non-discriminatory tariffs for electricity and gas.

There has been significant progress regarding **security of supply**. Turkey continues to comply with the oil stocks *acquis*. A draft fuel market law regulating emergency oil stocks and oil security remains pending. Progress continues on the Trans-Anatolian Pipeline project (TANAP): all major procurement contracts have already been awarded with a view to finalising the project in 2018, well ahead of the original schedule. Efforts towards expanding TANAP to bring new gas sources from the Caspian and/or the Middle East to Turkey and Europe continued. The feasibility and technical studies are ongoing for the project of a bidirectional interconnector between Turkey and Bulgaria. On the other hand, stalled negotiations on the 'Turkish Stream' were re-launched in August 2016 following the normalisation of bilateral relations between Turkey and Russia. An intergovernmental agreement on 'Turkish Stream' was signed on 10 October 2016 in the presence of the Turkish and Russian Presidents in the margins of the 23<sup>rd</sup> World Energy Congress in Istanbul. No progress was made on a transparent gas transit regime.

Good progress continued on **electricity networks**. The Turkish Electricity Transmission Company (TEİAŞ) became an observer member of the European Network of Transmission System Operators for Electricity (ENTSO-E) in January 2016 following the 2015 agreement on commercial electricity exchanges between Turkey and the European Union. This is an important step towards full integration with the EU's electricity market. Efforts to build electricity interconnections with other neighbouring countries continued.

As regards the **internal energy market**, in *electricity* Turkey has continued to adopt new implementing legislation in line with the EU's Third Energy Package. Two new regulations regarding the merging and acquisition of electricity distribution companies and demand forecasting were issued in May 2016 with a view to improving efficiency, competition, transparency and accountability. Several amendments were also made to implementing regulations with a view to ensuring full functioning of day-ahead and intra-day markets; these market operations were transferred to the Energy Markets Operation Joint Stock Company (EPIAŞ) in September 2015. Distribution companies were legally unbundled from their supply activities by January 2016, in line with the *acquis*. The eligibility threshold for electricity

consumers to change supplier was further reduced from 4 000 kWh to 3 600 kWh for 2016, which corresponds to a theoretical market opening of almost 86 %. No timetable has been set for full market opening. Customer requests to switch suppliers have to be granted within three weeks. The proportion of consumers switching suppliers remained below 5 % in 2016. The deadline set for eliminating cross-subsidies, which are mainly between regions rather than between categories of customers in the electricity market (there is a single national tariff), was extended from December 2015 to January 2021, considerably postponing the advent of a fully functioning cost-based electricity market. A transparent and cost-based pricing mechanism for electricity has not yet been properly implemented.

There has been uneven progress in the *gas market*. The Turkish Energy Market Regulatory Authority issued a decision on floating storage and regasification units with a view to strengthening security of supply and ensuring diversification of sources. The tendering process for gas distribution continued, and the network was extended to 76 provinces out of 81. Customer requests to switch suppliers have to be granted within two weeks. The eligibility threshold for natural gas was kept unchanged at 75 000 m<sup>3</sup> for 2016 with no timetable to achieve full market opening to all gas customers. There were further developments on the unbundling of the Petroleum Pipeline Corporation (BOTAŞ) and the legal unbundling of its distribution activities. Fully cost-reflective pricing has yet to be properly implemented. A draft law to amend the Natural Gas Market Law, which is expected to address many shortcomings regarding *acquis* alignment, has been pending in Parliament since August 2014.

Turkey's legislation on **hydrocarbons** is at an advanced stage of alignment with the *acquis*. Turkey already implements the Hydrocarbons Authorisation Directive, but will need to align with Directive 2013/30/EU on the Safety of Offshore Oil and Gas Operations, also as regards transit of hydrocarbons.

Positive developments continued in the **renewable energy** sector, where Turkey is largely in line with the *acquis*. It has already taken significant steps to promote renewable energy, targeting at least 30 % of electricity, to be generated from renewable resources by 2023. A renewable energy action plan, in line with the requirements of Directive 2009/28/EC, has been in force since February 2015. The goal is total capacity of 61 GW by 2023, which would represent an increase in the share of renewable energy sources from the present 15 % to 20.5 %. A new regulation was issued in June 2016 on incentivising and supervising domestically manufactured equipment to be used in generating electricity from renewable energy sources. Development of renewable energy, including hydropower, must abide with *acquis* requirements on State Aid and on environment. The regulatory regime should be streamlined. Renewable energy accounted for 32 % energy generation in 2015, up from 21 % in 2014 due to higher hydropower output.

No progress was made on **energy efficiency**. Turkey has set ambitious energy efficiency targets under its energy efficiency strategy paper, aimed at reducing the country's energy intensity by at least 20 % by 2023, compared with the base year 2011. However, a national energy efficiency action plan, setting out clear priorities with sectoral targets and milestones in line with the requirements of Directive 2012/27/EU, has not been adopted. There is no timetable for achieving full alignment with the Energy Performance of Buildings Directive, or with the Energy Efficiency Directive. There is an urgent need to strengthen the institutional structure to improve coordination between the different ministries for the implementation of energy efficiency policies, possibly by establishing an effective dedicated agency (as in many EU Member States).

No progress was made on **nuclear energy, nuclear safety and radiation protection**. There has been limited development in the Akkuyu nuclear power plant project; feasibility studies are ongoing for the Sinop nuclear power plant. Turkey's efforts on its planned third nuclear power plant have continued. Turkey's existing legislation is only partially aligned with the Euratom

*acquis*, specifically the Nuclear Safety Directive and the Spent Fuel and Radioactive Waste Directive. The draft framework law on nuclear energy, providing inter alia for the establishment of an independent regulatory authority is pending. To comply with the *acquis*, it would be essential that the law properly addresses the safety objective to prevent and mitigate nuclear accidents. This objective needs to be applied to new nuclear installations from the design phase. The stress test report on the preliminary design of the Akkuyu power plant needs to be completed. Turkey has not yet acceded to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. Turkey is not yet a member of the European Community Urgent Radiological Information Exchange (ECURIE) system.

#### 4.16. Chapter 16: Taxation

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

Turkey is **moderately prepared** in the area of taxation. **No progress** was made on this area except for the 2009 action plan on tobacco. In the coming year, Turkey should in particular:

- Take decisive steps to ensure compliance with the 2009 action plan regarding excise duties on alcoholic beverages;
- Align the range of excisable energy products with the *acquis*.

As regards **indirect taxation**, Turkey's legislation on *value added tax* widened the range of products subject to a 1 % rate, which is not in line with the *acquis*, to fertiliser and animal feed. Turkish legislation on structure, exemptions, special schemes and the scope of reduced rates needs to be further aligned with the *acquis*. On *excise duties*, the specific duty on imported and blended tobacco that financed the Tobacco Fund was reduced in December from USD 900 to USD 600 per tonne, in line with the 2009 action plan which includes full elimination of the duty financing the Fund by 2018. Discrepancies continue between Turkey's legislation on cigarette excise duties and the *acquis* regarding the specific and *ad valorem* elements of the tax. However, the overall level of excise duty on cigarettes is close to EU levels. Regarding alcoholic beverages, in December Turkey increased the excise duty on all alcoholic beverages by 15 %, thereby increasing the discriminatory differentials between domestic and imported products. Consequently, the excise duty gap between raki and equivalent spirits increased from TRY 17.41 to TRY 20.03 in absolute terms, whereas the 2009 action plan forecast a gap of just TRY 6. This contradicts the 2009 action plan on reduction of discriminatory taxation. Excise duties on energy products are generally well above the EU minima rates, but kerosene, coal and electricity are not subject to excise duties as required in the *acquis*.

In the area of **direct taxation**, no progress was made. There is no development to be reported in the field of **administrative cooperation and mutual assistance**.

Regarding **operational capacity and computerisation**, the Tax Inspectors Board continued to carry out activities to tackle the informal economy and improve administrative capacity.

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

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

Turkey is **moderately prepared** in the area of economic and monetary policy. There was **no progress** in the past year. The chapter was opened for negotiations in December 2015. Turkey again submitted its economic reform programme (ERP) with a considerable delay. Strong

political pressures on the central bank persisted, undermining its independence and credibility. In the coming year, Turkey should in particular:

- avoid any political interference in the independence of the Central Bank;
- submit fiscal notifications and the ERP by the set deadlines.

On monetary policy, further progress is needed regarding central bank independence which is limited in several ways: an inflation target is set jointly with the government, the prime minister holds the right to mediate in case of conflicts between the central bank's board and its governor, and the grounds for dismissal of members of the central bank's decision making bodies are not entirely in line with the *acquis*. Apart from the necessary legal alignment of the central bank law, the central bank's independence has to be respected in practice as well by avoiding political interference in the conduct of monetary policy. Full alignment with the *acquis* requires also that the public sector has no privileged access to financial institutions and the prohibition of monetary financing of the public sector.

On **economic policy**, further alignment with the Directive on requirements for budgetary frameworks is needed. Turkey prepares three-yearly fiscal programmes, though not respecting budget calendars. National accounts are not yet prepared in line with the ESA 2010 methodology. Turkey's budget transparency index score further decreased in 2015, as the country provides the public with limited budget information. Further improvements are also needed on the credibility of macroeconomic forecasts; there is a need to strengthen public sector fiscal risk assessment, given the increasing use of public-private partnerships and state guarantees for investment financing. Turkey does not have numerical fiscal rules or a fiscal council that monitors fiscal policy independently as required by the Directive. Turkey does not submit fiscal notifications as required.

Turkey submitted its 2016-2018 ERP in mid-April with considerable delay. Further efforts are needed to ensure timely submission of the ERP. The High Level Economic Dialogue provides a good tool for economic policy coordination with the European Union.

#### 4.18. Chapter 18: Statistics

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

Turkey is **moderately prepared** in the area of statistics. There was **some progress** in this area during the reporting period. Further efforts are needed across the board, especially in aligning macroeconomic and agricultural statistics with the EU *acquis*. In the coming year, Turkey should in particular:

- strengthen cooperation between the National Statistics Office and some other data providers, while improving the quality and use of administrative records;
- submit key national accounts data to Eurostat;
- improve statistics on agriculture, migration and asylum.

As regards **statistical infrastructure**, the law on statistics follows the principles of the European Statistics Code of Practice and ensures the professional independence of the National Statistical Office (NSO), although greater transparency should apply in the appointment of the President of the NSO. Statistical data are available following a public release calendar that gives all users access at the same time. Most recent classifications are in place. A Memorandum of Understanding signed during the past year with the Social Security Institution will make the access to social security data for statistical purposes easier. However, the cooperation between the NSO and some of the other main data providers needs to be improved, particularly with the Ministry of Food, Agriculture and Livestock.. Access to administrative

records is difficult and the often poor quality of administrative data held by different institutions results in increased reliance on costly surveys. The priority in the short term is to improve cooperation between the NSO and the main data providers, improve the quality of registers and increase the use of administrative data.

For **macroeconomic statistics**, quarterly national accounts and balance of payments data are in place but annual national accounts are not yet produced in accordance with the *acquis*. Turkey produces external trade statistics in line with the EU *acquis*. Tables for the excessive deficit procedure have not yet been submitted. Further progress is needed in foreign affiliate trade statistics and in the publication of government finance statistics on accrual basis. Supply and use tables have not been submitted to Eurostat in recent years. Regional accounts are not yet available at level 3 of the nomenclature for statistical regions. The harmonised index of consumer prices is produced in line with the *acquis*. Submitting key national account indicators according to ESA 2010 and the methodology used is essential for further progress on the statistics chapter.

In **business statistics**, the full implementation of the regulation on structural business statistics is ongoing, but compliance is still low and data quality not sufficient. The availability and use of good quality administrative records would render the process more efficient. Turkey is implementing the latest version of industrial production statistics according to EU standards. PRODCOM (list of products of the European Community) is aligned. Short-term statistics are largely aligned, with the exception of services. Transport statistics are produced according to the EU *acquis*, but a few road transport data issues remain. Tourism statistics are available except for data on spending by Turkish tourists abroad. R&D and ICT statistics are well aligned with the EU *acquis*. Statistics on science and technology are highly compliant.

As for **social statistics**, data from the survey on income and living conditions is available and labour market statistics are fully aligned with the EU *acquis*, with a continuous labour force survey introduced in 2014. Since 2014 the methodology for employment data follows EU standards. Alignment in public health statistics is very high for data relating to causes of death and health surveys, whereas further progress is needed for data on health expenditure and non-monetary healthcare. Social protection statistics are partially aligned. Crime statistics are available, as well as education and vocational training data. Data on residence permits, asylum seekers and refugees is not yet sufficient to produce reliable migration flow tables.

In **agriculture statistics**, no agricultural census has been carried out since 2001. Animal production, milk and dairy statistics are available, whereas data on wine and olive oil are incomplete. Supply balance sheets are not yet available and the economic accounts for agriculture are outdated. The farm registry has now been integrated with the agricultural production and registration system, but coverage and availability of the agricultural labour index and agricultural production data are in need of considerable improvement. Further work is needed to strengthen the coordination between the NSO and the Ministry of Food, Agriculture and Livestock and to revise the strategy for improving agricultural statistics to allow for progress in setting up a farm register.

As for **environment statistics**, further progress is needed, in particular in agricultural and construction waste and data on environment-related taxes by economic activity. Environmental accounts are at an early stage of introduction. Energy statistics are in line with the EU *acquis*. Annual energy statistics and energy prices are available in good quality and are sent to Eurostat.

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

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

Turkey remains **moderately prepared** in this chapter. There was **some progress** during the past year. In the coming year, Turkey should in particular:

→ remove obstacles limiting the full enjoyment of trade union rights and the functioning of the bilateral and tripartite social dialogue;

→ oversee and monitor implementation of the labour law.

In the field of **labour law**, in May Turkey adopted legislation on temporary work, on-call and distance work. Restrictions and prohibitions on the use of temporary agency work will have to be justified on grounds of general interest to comply with *acquis*. A regulatory framework on sub-contracting in the private sector in order to address the risk of poor working conditions, unjustified dismissals and denial of trade union rights has still not been set up. The percentage of unregistered workers was almost unchanged at 33.8 % in May 2016. Child labour persists, including in its worst forms.

On **health and safety at work**, the full entry into force of the law to align Turkey with the *acquis* in health and safety at work has been postponed once more, this time to July 2017. In the mining sector, preventive measures need to be strengthened to reduce accident risks. Occupational accidents continue to be a serious concern and claimed 1 626 lives in 2014. Child workers continued to be victims of fatal accidents.

**Social dialogue**, both tripartite and bipartite, remains limited. The economic and social council has been inactive since 2009. The percentage of unionised workers in the private sector, while having marginally increased to 11.5 % in 2016, is still very low. In 2015 collective agreements cover only 7.5 % of private sector employees, well below Member States' figures. Legislative shortcomings such as double thresholds for collective bargaining and the lack of a right to strike for public servants are contrary to European standards and ILO conventions. Informal workers, retired and unemployed persons, and an overly wide range of categories of public servants remain excluded from the right to organise. Many union protests and demonstrations were prevented in the reporting period, disproportionately restricting trade union rights. Trade union confederations have reported serious allegations about numerous dismissals, harassment, retaliatory action, arrests and police assaults against trade union officials for legitimate trade union activity. In the aftermath of the 15 July coup attempt, two trade union confederations and their 19 member trade unions, totalling almost 50 000 affiliated workers, were closed by decree under the state of emergency over alleged links to the Gülen movement. No information was available on the precise charges laid against the confederations and the trade unions.

**Employment** rates were 75.3 % for men (aged 20 to 64) and 32.5 % for women (20-64) in 2015, having increased slightly from 75 % and 31,6 respectively, but women's rates remain far below the national target. The unemployment rate in 2015 increased further to 10.3 % (for those aged 15 and over) and remains significantly higher for women. Youth (15-24) unemployment rose to 18.3 % in 2015, and almost a third of all young people are not in employment, education or training. Strong regional disparities persist in employment. State subsidies (reduction in social security contributions and tax exemptions) to employers for hiring additional young or women employees were extended to December 2020. The work on the first employment and social reform programme has still not been completed.

As regards preparations for the **European Social Fund**, the Ministry of Labour and Social Security is managing both the Human Resources Development Operational Programme under the Instrument for Pre-Accession Assistance (IPA) and the corresponding IPA II programme. (*Concerning the effectiveness of the management of IPA funds and the risk of de-commitment, refer to chapter 22 — Regional Policy and Structural Instruments*).

In the field of **social inclusion and protection**, Turkey is making commendable efforts to address the additional strain on social infrastructure exerted by high numbers of refugees in some provinces. A recently adopted national strategy and action plan on Roma citizens aim to

address the problem of low-skilled and low-status work and child labour. Contrary to recent years, poverty indicators show no improvement in reduction of social inequalities. Severe material deprivation persists, especially for Roma children, and it is higher in the eastern regions. People with disabilities are at high risk of social exclusion and poverty; measures to increase their employment have been ineffective. The public sector's employment rate for people with disabilities is around 2 %, well below its commitments. Turkey has taken important steps to promote community living, but an integrated and comprehensive policy framework still needs to be developed for social policies, services and assistance. Social protection expenditure represents 14.3 % of the GDP, with almost half of it allocated to old age pensions. High inactivity rates for women and high levels of undeclared labour pose a risk to the sustainability of the pension system. Home-based carers have become a major component of Turkey's care system, but they lack professional training and incentives to pay social security premiums.

In **non-discrimination in employment and social policy**, the law on the human rights and equality institution adopted in April grants the institution a mandate to identify and prevent discrimination in access to employment, social assistance and social services. The institution is however not yet operational. In addition, grounds for prohibited discrimination do not include sexual orientation. (*See chapter 23– Judiciary and fundamental rights*).

In the field of **equality between women and men in employment and social policy**, women continue to be predominantly employed in low-skilled jobs and their representation at management levels is extremely low. The gender pay-gap remains problematic. Legislation on part-time work for working parents has been adopted. The lack of institutions and services to care for children, the elderly and sick people, including for long-term care, continue to hinder women's employment due to the gender bias for caring responsibilities (*See also chapter 23*).

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

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

Turkey has a **good level of preparation** in the area of enterprise and industrial policy. There was **some progress** in access to finance, innovation strategy and entrepreneurial learning, whereas the business environment, including tackling the informal economy, long-term financing of SMEs and the legal framework for microfinance, need further improvement. In the coming year, Turkey should in particular:

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

On **enterprise and industrial policy principles**, there was limited progress following the adoption the previous year of a number of strategies. A monitoring and evaluation report on industrial strategy showed progress mainly on policy instruments, i.e. the extension of support services and funding to businesses, while action to improve the business environment and better regulation has yet to be implemented. The SME Policy Index 2016 noted progress in access to finance, innovation strategy and promotion of lifelong entrepreneurial learning. Shortcomings were noted in the registration procedures for businesses, long-term financing of SMEs and the legal framework for microfinance. The large informal economy remains a concern for the overall business environment. Turkish legislation is not yet fully harmonised with the late payment Directive. A sectoral strategy was adopted on the automotive sector and seven innovation strategies were issued by different regional development agencies.

Regarding **enterprise and industrial policy instruments**, a specific industry cooperation programme for healthcare services was published by the Ministry of Health under the general 'industry cooperation programme', providing for the option of offset agreements in public procurement and a requirement for foreign bidders to work with Turkish companies. Although

efforts on delocalisation and the use of public procurement as an industrial policy tool continued in general, no offset agreements were imposed in practice. The profile of the Coordination Board for the Improvement of Investment Environment, the YOIKK, was enhanced and its work methodology was streamlined. Turkey continued to support industrial and technology development zones. There were 64 of these by December 2015 (up from 59 the previous year) and 627 patents had been obtained from 19 322 completed projects (compared with 384 patents from 14 194 projects in the previous period).

The performance in terms of international patent applications remains far below EU average. Turkey continues to operate several public funding schemes for industrial development, including extensive schemes run by the SME support administration, KOSGEB. The impact of these schemes and their complementarity requires evaluation. The situation regarding access to finance has improved. An industry web portal was set up covering manufacturing businesses in 29 subsectors. Turkey remains active in the Enterprise Europe Network.

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

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

Turkey is **well advanced** in the area of Trans-European networks. There has been **good progress** during the reporting period on transport and energy networks. Still, further efforts are needed especially in developing bidirectional gas interconnections. In the coming year, Turkey should work on the legal framework for operating its networks, in particular:

- complete the establishment of the national transport master plan and transport information management system;
- fully align its electricity and gas network codes, including the existing provisions for transit, with the *acquis*, and implement them;
- increase institutional and human resource capacity.

As regards **transport networks**, agreement was reached in June to update the scope of Turkey's comprehensive transport network in accordance with the revised TEN-T guidelines. There was also agreement with the EU on the scope of the core transport network. Turkey is taking steps to draft a national transport master plan and set up a transport information management system. The system will produce transport statistics to support decision making.

Regarding **energy networks**, good progress continued on electricity. The Turkish Electricity Transmission Company (TEİAŞ) signed an agreement in January to become an observer member of the European Network of Transmission System Operators for Electricity (ENTSO-E). This is an important step towards full integration with the EU's electricity market. Efforts on electricity interconnections with other neighbouring countries continued. There was good progress in the field of gas networks, especially on the Trans-Anatolian Pipeline project (TANAP): efforts are being made to finalise the project ahead of schedule. All major procurement contracts have already been awarded, and negotiations on additional financing are ongoing with international financial institutions. The Petroleum Pipeline Corporation (BOTAŞ) tendered the construction of a gas interconnector between Turkey and Iraq in April. Feasibility and technical studies are ongoing for a project on a bidirectional interconnector between Turkey and Bulgaria. The stalled negotiations on the Russian-backed Turkish Stream project have been reinitiated in August 2016. No progress was made on a fair and transparent gas transit regime.

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

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

Turkey is **moderately prepared** in the area of regional policy and coordination of structural instruments. **Some progress** was made in using IPA funds and in strengthening capacity for programme implementation. In the coming year, Turkey should in particular:

→ focus on monitoring and supervision of ongoing operations in order to ensure implementation of financial assistance by the set deadlines and deliver high quality results;

→ strengthen the national IPA coordinator's and national authorising officer's capacity to coordinate operating structures and ensure effective strategic planning and risk management at programme level;

→ reflect in an update to the action plan the changes brought by the reformed EU cohesion policy legislative framework.

There is some progress in the **legislative framework**. The General Declaration on the Framework Agreement on IPA II and the Law on the Human Rights and Equality Institution of Turkey were adopted between February and April 2016.

There is some progress on the **institutional framework**, with adoption of the set-up for IPA II in December 2015. Three out of four operating structures (for environment and climate action; competitiveness and innovation; and education, employment and social policies) have been entrusted budget implementation tasks for IPA funds' management. The Commission has not yet been able to obtain the assurance needed for a favourable opinion on transport.

There is some progress in **administrative capacity**, with 26 development agencies currently fully operational.

In **programming**, progress is slow, with the preparation of a project pipeline still ongoing.

On **monitoring and evaluation**, there has been little progress regarding effective use of the integrated monitoring information system that has been developed.

Concerning **financial management, control and audit**, the risk of de-commitment has been significantly reduced, mainly because funds have been reallocated to the EU Regional Trust Fund in response to the Syrian crisis. The risk of not using IPA funds before closure persists. The operating structures continued to increase their capacity, but special attention should be paid to the quality of tender documents.

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

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

Turkey reached **some level of preparation** to implement the *acquis* and the European standards in this area. However, there has been **backsliding** in the past year in particular in the judiciary. Throughout the reporting period judges and prosecutors continued to be under strong political pressure. Many were dismissed and in some cases arrested, on allegations of conspiring with the Gülen movement. This situation worsened further after the July coup attempt, with the dismissal of one fifth of the judges and prosecutors, which represents a significant challenge to the overall functioning of the judiciary. The recent legal changes to the structure and composition of high courts are a source of serious concern and undermine the independence of the judiciary and the principle of the separation of powers. The track record on anti-corruption remained insufficient, most notably in high-level cases. Corruption remains

prevalent in many areas and continues to be a serious problem. On fundamental rights, implementation of the action plan on preventing violations of the European Convention on Human Rights (ECHR) remained limited. There has been serious backsliding in the area of freedom of expression. There were renewed serious concerns particularly in relation to the anti-terror operations in the east and south east. Following the attempted coup of 15 July, a state of emergency was declared under which measures curtailing fundamental rights were taken, including in regards to pre-trial detention and freedom of expression. Developments in the area of prevention of torture and ill-treatment, in particular after 15 July, are of serious concern. There was no progress on the outstanding issues identified in previous reports. In the coming year, Turkey should in particular:

→ restore and implement all legal guarantees to ensure full respect for the independence of the judiciary including amending the law on the High Council of Judges and Prosecutors (HSYK) in order to reduce the executive's influence within the Council;

→ take strong measures to ensure that the HSYK follows legal procedures guided by objective criteria without undue influence from the executive powers with regard to the disciplinary proceedings, dismissals and prosecutions of judges and prosecutors;

→ establish a track record of investigations, prosecution and final convictions in corruption cases, in particular for high-level cases;

→ ensure in practice the full respect for fundamental rights and freedoms, in particular freedom of expression, freedom of association and assembly, and implement measures to fight against impunity and improve protection of minorities;

→ urgently ensure that any allegation of wrongdoing or crime is subject to due process based on evidence and fully transparent procedures under the authority of an independent judiciary and in full respect of fundamental rights, including procedural rights, notably as regards the respect of the presumption of innocence, individual criminal responsibility, legal certainty, the right to defence, the right to a fair trial, equality of arms and right to an appeal;

→ urgently address the recommendations of the Commissioner for Human Rights of the Council of Europe of October 2016.

## **Functioning of the judiciary**

### Strategic documents

The 2015-2019 Judicial Reform Strategy continued to be implemented. However, no measures were taken to tackle key shortcomings on independence and impartiality. It is crucial that the strategy be revised to address key outstanding problems and be implemented with the involvement of all relevant stakeholders, including civil society.

### Management bodies

No improvements can be reported on strengthening the independence of the High Council of Judges and Prosecutors (HSYK). The Justice Minister's right of veto, as *ex officio* President of the HSYK continued to be a source of major concern. HSYK's official record of decisions on investigations against judges and prosecutors is still not public.

Following the attempted coup of 15 July, five members of the HSYK were suspended and arrested.

### Independence and impartiality

Throughout the reporting period, judges and prosecutors remained under strong political pressure. Comments by representatives of the executive and the legislative branches on ongoing judicial cases, challenging among others decisions taken by the Constitutional Court, have continued as a regular practice. The HSYK continued to engage in large scale suspensions

and transfers of judges and prosecutors against their will, and had dismissed 13 of them by early July. In the context of direct public criticism from the executive, the HSYK launched several cases against prosecutors and judges dealing with high-profile cases. Such decisions, especially on judges and prosecutors involved in high-profile cases, create a suspicion of interference by the HSYK in their judicial tasks. Self-censorship appears to be spreading among judges and prosecutors who are wary that any decision undermining the interests of the executive may affect negatively their careers. Further safeguards still need to be introduced to avoid any interference by the HSYK in judicial proceedings. Legal and constitutional guarantees continue to be needed to prevent judges and prosecutors from being transferred against their will, except where the courts are being reorganised.

Following the coup attempt of 15 July, the HSYK took large-scale decisions against judges and prosecutors with alleged links to the Gülen movement. Within a week of the attempted coup, 3 508 judges and prosecutors were suspended, 2 386 judges and prosecutors were detained: 2 229 of first instance, 109 from Court of Cassation, 41 from Council of State, two members of the Constitutional Court and five members of the HSYK. In August, the HSYK pronounced the dismissals of 3 390 judges and prosecutors, representing one fifth of the total number (18 134). Decisions were taken without an individual assessment being provided in all cases. One professional association of judges established in 2005 was closed and its President dismissed from the judiciary and detained on claims that the association, well-known for its independent views, had links with the Gülen movement. HSYK took decisions at the beginning of October to reinstate 198 judges and prosecutors who had lodged an objection to their dismissal. Turkey should ensure that all allegations against judges and prosecutors are duly investigated and that these cases are treated individually, in accordance with the law and in full respect of fundamental rights.

A law changing the structure and composition of the Court of Cassation (CoC) and the Council of State (CoS) was adopted in July, after having been rushed through without sufficient scrutiny in Parliament or proper consultation of national or international stakeholders such as the Venice Commission. The law provides for a complete overhaul of the two institutions, with the term of office of all sitting CoC and CoS members expiring automatically and the number of chambers and their members decreased. The law limits the tenure of judges to 12 years. The appointment of the 324 new members by secret vote was completed on 25 July. These changes undermined the independence of the judiciary and legal certainty as well as the principle of immovability. They are not in line with European standards in particular in regards to the fate of outgoing CoC and CoS members, the timing of the selection of new members of both bodies and the role of the President of the Republic in their selection. The extensive changes to the CoC and CoS are of serious concern as they strengthen the perception of high courts becoming instruments of the executive.

The ‘criminal judges of peace’ increasingly created an environment conducive to external influence by the executive over the judiciary. These court institutions operate as a single judge, who has powers to issue search warrants, detain individuals and seize property. Objections to their decisions are not reviewed by a higher judicial body but by their peers i.e. by another single-judge institution. Their rulings and decisions point to increasing divergence from ECtHR case-law.

On 1 September 2016, the new Judicial year was opened with a ceremony in the Presidential Palace, which was perceived as putting into question the separation of powers and led to the non-participation of the main opposition party and of the Union of Bar Associations.

### Accountability

Nearly all judges had declared their assets as required by law. Between October 2014 and July 2015, out of 256 complaints to the HSYK over lack of independence and impartiality, investigations were initiated against 28 judges and prosecutors. Prior to the attempted coup, the

HSYK had approved the launching of criminal investigations against 54 judges and prosecutors indicted on charges related to their alleged links to the Gülen movement. After the coup attempt, the HSYK pronounced the dismissals of 3 390 judges and prosecutors. Due process and procedural standards need to be applied objectively, independently and on an individual basis, to both disciplinary and criminal cases against judges and prosecutors.

Basic provisions on conflict of interest do not apply to prosecutors. This should be remedied as a matter of urgency. There is no dedicated **code of ethics** for Turkish judges and prosecutors.

#### Professionalism and competence

The Ministry of Justice continued to play a decisive role in the selection of candidates to become judges and public prosecutors, even if officially the HSYK is the authority responsible for processing appointments. The influence of the Ministry of Justice needs to be considerably reduced.

Following the large-scale dismissals of judges and prosecutors after 15 July, the appointment of new recruits in large numbers – over 2 600 so far – has raised concerns about their professional competence. Shortened pre-service training for newly appointed judges and prosecutors raises some concerns about their capability to fulfil their new duties. Adequate training will need to be provided as a matter of priority.

#### Quality of justice

In the reporting period, the Justice Academy continued to provide pre-service **training** of candidate judges and prosecutors as well as on-the-job training. The capacity of the Academy should be improved, taking into account the planned increases in the number of candidate judges and prosecutors. Its capacity to deliver high-quality training also needs to be improved and common training courses for judges, prosecutors and lawyers need to be developed.

A general derogation to the requirement of pre-service trainings in the Justice Academy was applied to the large-scale recruitments that followed the coup attempt.

The **budget** of the judiciary is EUR 3.5 billion in 2015, representing 0.5 % of GDP and EUR 44.5 per inhabitant. According to comparative data of 2014 (CEPEJ 2016), Turkey belongs to a group of seven European countries which dedicate less than EUR 25 per capita to their judicial system when the average for Council of Europe states is at EUR 60 per capita.

**Alternative dispute resolution** continued to be seldom used. Further steps are required to extend and promote alternative dispute resolution methods to help unburden the courts.

The quality of judicial decisions had improved in recent years but this positive development risks being reversed following the significant dismissals and hasty recruitment of a large number of judges. The regional courts of appeal established on 22 July, once fully operational, should contribute to better consistency in case-law. However, the poor quality of indictments has been a recurrent source of serious concern. Decisions on detention frequently lack proper reasoning based on specific facts, evidence and grounds to justify the deprivation of liberty, as required by law. The number of high-profile criminal cases referred from a city court to another remote court increased in the past years. Such referrals complicate the exercise of the right to defence. The extensive use of protected anonymous witnesses, particularly in cases related to state security, continues to be a problem.

#### Efficiency

The Turkish judiciary is currently under severe pressure to handle the influx of cases in a timely manner.

The ability of the judiciary to effectively perform its tasks in the aftermath of the coup attempt can be put into question as a result of the large-scale dismissals. Close to 5 000 positions remain to be filled.

The number of pending criminal, civil and administrative cases increased over the past three years. For criminal cases the backlog increased from 144 678 in 2013 to 273 291 in 2015, for civil cases from 115 340 in 2013 to 427 966 in 2015 and for administrative cases from 670 in 2013 to 29 435. There is a trend of a further sharp increase of the backlog in 2016. In 2015, the clearance rate stood at 61 for civil and criminal cases at first instance and 64 for administrative cases. The disposition time was 231 days for criminal cases, 218 days for civil cases and 182 days for administrative cases.

The number of individual applications submitted to the Constitutional Court in 2015 was 20 376. The number of individual applications pending for more than two years is 2 273, and the number of closed files is 43 712. Since the procedure was set up in 2014, the court took decisions on the merits of some 1 417 cases, rejected 19 582 cases and declared 22 713 cases inadmissible. More than 47 000 new applications were introduced following the coup attempt, including some 40 000 from individuals suspected of links to the Gülen movement.

Some steps were taken to introduce a reliable registration system and draw up indicators to measure the justice system's efficiency. Lengthy trials, especially those lasting more than five years, often result in suspects being released without conviction, even in serious crimes cases. Systemic solutions are needed to further address the excessive length of trials. Regarding complaints on the length of judicial proceedings lodged with the Justice Ministry's Human Rights Compensation Commission, decisions were taken on 6 940 files out of 7 714 since October 2015.

The court experts system should be revised. Excessive recourse to court experts by judges, the low quality of expert reports and low fees remained problematic. A draft law to overcome these issues is yet to be adopted. Court experts should be subject to cross-examination in practice. Frequent changes to the internal organisation of judicial bodies and to the court network, criminal courts in particular, risk impeding their efficiency.

## **Anti-corruption policy**

### Track record

The track record on anti-corruption remains poor, most notably in high-level cases. Prosecution of high-level corruption cases, including corruption allegations against ministers and their relatives from 2013 and the Deniz Feneri case did not produce any convictions. Corruption-related convictions tried before the courts dropped from 4 612 in 2014 to 3 972 in 2015. In 2015, out of a total of 9 273 alleged criminal corruption cases, 3 972 resulted in convictions (corresponding figures for 2014 were 18 065 and 4 612 respectively). Legal privileges granted to public officials such as the requirement for prior authorisation from their administrative hierarchy before starting an investigation, continued to provide a legal shelter for public officials in anti-corruption criminal and administrative investigations. The perceived interference by the executive in high-level corruption investigations significantly increased the perception of corruption. Turkey registered a drop in Transparency International's Annual Corruption Perception Index by two points, moving from 64 to 66 least corrupt country in 2015.

As regards checks on **asset declarations** of public officials, in 2016 there have been 22 convictions from the prosecution of 113 alleged crimes as compared with 17 convictions from the prosecution of 114 alleged crimes the year before. In 2015, the Council of Ethics for the Public Service ruled on a violation of ethics in just seven cases out of 113 applications.

Political parties and independent candidates continued to be exempt from any financial transparency regulation or oversight as Turkey has not yet implemented all GRECO's recommendations on the transparency of party funding. Consequently, the 2015 and 2016 elections took place in a legal and institutional context in which individual party and independent candidates' campaigns were not subject to any transparency regulations. Most parties do not publish their accounts on their websites. The enforcement of ethics regulations

has been ineffective. In the case of investigations for corruption in public procurement, 3 051 criminal cases were opened in 2015 down from 9 007 in 2014. The number of convictions in these cases was respectively 922 and 1 100.

### Institutional framework

#### *Prevention measures*

The Prime Ministerial Inspection Board acts as a central inspection and supervisory body for the inspection bodies in the public administration. The Prime Ministerial Communications Centre (BIMER) continued to act as the main body in charge of reporting on corruption and maladministration. In 2015 alone, the Centre received about 600 000 complaints, 95 % of which were submitted online or through a hotline. In the absence of a functionally independent anti-corruption body, the cooperation between the inspection boards, the Turkish Court of Accounts (TCA) and the public prosecution office needs to be strengthened. In 2015, the TCA referred only six cases implicating corruption (17 in 2014) to the prosecution office.

On **political party financing**, the Constitutional Court supervision warrants further improvements, in line with previous GRECO recommendations. Further legal and administrative regulations are needed to ensure transparency and timely review and disclosure of audit reports.

On **prevention of conflicts of interest**, the enforcement of ethics regulations continued to be ineffective. Ethics boards have been established in all ministries but the Council of Ethics for Public Service continued to lack the capacity to coordinate and monitor their work. Turkey recently adopted common ethical rules for border management authorities. The existing system of assets declarations continued to be ineffective due to the limited scope of such declarations, the arrangements for checking them and transparency measures preventing their disclosure. Protection of whistle-blowers needs to be strengthened in law and in practice to facilitate reporting of corruption.

On the public's right to **free access to information**, the Board of Review of Access to Information continued to review applicants' appeals in an effective way and to publish decisions online. However, there is no quality assurance in the responses provided to applicants. The failure to adopt pending legislation on state and trade secrets is preventing the right balance from being struck between confidentiality and transparency in the work of public institutions and officials.

#### *Law enforcement*

The lack of specialisation within the judiciary to investigate corruption cases limits their ability to prosecute them effectively. This was exacerbated by frequent moves of staff between departments at prosecution and law enforcement agencies. Frequent changes to the legal basis of protective measures in the criminal procedure code (i.e. interception of communications, seizures, technical surveillance, etc.) continued to prevent an effective standard procedure in corruption investigations from being established. Political interference in the work of investigative and judicial bodies affects the delivery of justice, in particular in high-level corruption cases.

The Special Prosecutor's Office still lacks a **multi-disciplinary team** with financial and economic experts. Further legal empowerment and specialised training is needed so that the office can carry out systematic and effective financial and legal investigations in corruption cases. Publicly available judicial statistics on corruption are limited and there are no regular corruption perception and detection surveys.

**Inter-agency cooperation** needs to be further developed. Cooperation between prosecutors and police over pre-trial investigations, which is not yet working effectively, in particular due to the absence of an independent judicial police, also needs to develop further.

## Legal framework

The legislative amendments foreseen in the anti-corruption strategy, i.e. the **Law on general administrative procedure**, the **Law on public procurement**, the **code of ethics** for members of parliament and the **Law on whistle-blower protection**, are still pending.

Turkey has not yet fully aligned its legislation with the GRECO recommendations on transparency in political party financing, incriminations and corruption prevention in respect of parliamentarians, judges and prosecutors. Shortcomings remained in the corruption-related provisions of the criminal code, which do not meet the standards put in place by the Criminal Law Convention on Corruption. The shortcomings concern in particular the provisions on bribery in the private sector; the criminalisation of unilateral acts of bribery and the special defence of effective regret.

On the **transparency of political financing**, the legal framework should be amended to guarantee that independent candidates and elected representatives are subject to the financial checks and transparency regulations that apply to political parties during their campaigns in line with the visa liberalisation roadmap.

Public procurement legislation is not in line with the EU *acquis* in a number of respects. Public tenders remained corruption-prone largely due to various exemptions inserted into the framework law, particularly for tenders at municipal level and for public private partnerships for large infrastructure investments.

The regulations on conflict of interest for public officials remained fragmented over different pieces of legislation. Whistle-blowers are obliged to rely on ad hoc provisions in the witness protection law as there is no comprehensive law in either the public or private sector.

Turkey does not yet have a single Asset Recovery Office.

## Strategic framework

The 2010-2014 anti-corruption strategy and action plan failed to meet most of their initial objectives. In April 2016, Turkey adopted a new ‘action plan for increasing transparency and strengthening the fight against corruption’. The action plan is a step forward but remains limited in scope as it focuses mainly on preventive and awareness-raising measures. Measures include *inter alia* overhauling the rules on the financing of political parties, political ethics and asset declaration; boosting the capacity of public financial control units; revising the system of authorisation for investigations of officials.

The implementation of the action plan needs to combine transparency and inclusiveness with civil society participation. There was no transparent and inclusive consultation process with civil society or specialised organisations before the action plan was adopted. The document does not contain impact indicators, nor are its costs calculated or a budget allocated. The newly adopted 2016-2019 action plan needs to be implemented in an inclusive and participatory fashion to address the outstanding challenges. Given the many preventive institutions and law enforcement agencies involved in anti-corruption in Turkey, the country needs to strengthen its overall capacity to coordinate, implement and monitor all anti-corruption action.

## **Fundamental rights**

Turkey is party to most **international human rights instruments**. Following the attempted coup of 15 July and the declaration of the state of emergency on 20 July, Turkey announced that it was invoking Article 15 of the ECHR, which gives governments the possibility to derogate in a temporary, limited and supervised manner from their obligation to secure certain rights and freedoms under the Convention in times of emergency.

In the reporting period Turkey ratified protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms, the Convention for the Protection of Individuals

with regard to Automatic Processing of Personal Data and its Additional Protocol, the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children; the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.

The Optional Protocol to the Convention on the Rights of the Child and Additional Protocols 4, 12 and 16 to the ECHR are yet to be ratified. In March Turkey signed the three Additional Protocols to the CoE Convention on Extradition, and the 2001 Additional Protocol to the CoE Convention on Mutual Assistance in Criminal Matters. The Protocol to the Convention on the Transfer of Sentenced Persons was adopted and published in the Official Journal in February. The instrument of ratification was deposited to the Secretariat of the CoE in April.

Since September 2015, the **European Court of Human Rights** (ECtHR) has found one or more violations of the European Convention on Human Rights (ECHR) in 75 cases relating mainly to the right to life, prohibition of torture, right to liberty and security, right to a fair trial, right to respect for private and family life, freedom of thought conscience and religion, freedom of peaceful assembly, prohibition of discrimination and protection of property. A total of 2 075 new applications were allocated to a decision-making body, bringing the number of pending applications to 7 982. The EU has called on Turkey to intensify its efforts to implement all ECtHR judgments. Turkey has 938 cases under the enhanced supervision procedure.

In the *Cyprus v. Turkey* case, the issues of missing persons and restrictions on the property rights of Greek Cypriots displaced or living permanently in the northern part of Cyprus are still pending, as is the question of ‘just satisfaction’ (Grand Chamber decision of 12 May 2014). Since the *Demopoulos v. Turkey* decision of 5 March 2010, 6 300 applications from Greek Cypriot owners have been lodged with the Immovable Property Commission (IPC), 92 of them between September 2015 and September 2016. In the same period, the IPC ruled to award compensation in 140 cases. As of 29 September 2016, 772 applications have been concluded through amicable settlements and 25 through formal hearings. The IPC has so far paid out the equivalent of EUR 263 million in compensation. In a number of other cases, including *Xenides-Arestis v. Turkey*, *Demades v. Turkey*, and *Varnava and others v. Turkey*, Turkey has yet to fully execute the decisions.

On the **promotion and enforcement of human rights**, the National Human Rights Institution was replaced by a National Human Rights and Equality Institution established in April 2016. As its board members are not yet elected, cases of alleged violations are currently not being followed up. This vacuum causes particular concern in light of the high number of alleged violations in the aftermath of the attempted coup. While the new human rights institution has the power to launch investigations of its own initiative into potential human rights violations, it can no longer accept applications over human rights violations that are in the remit of the Ombudsman. This has clarified the division of tasks between the two institutions but the continued weakness of the Ombudsman’s office and the limited follow-up to its recommendations in this field raise questions about the effectiveness of redress for potential victims of human rights violations. The National Human Rights and Equality Institution is responsible for non-discrimination policy. The new institution’s functional, structural and financial independence has not been ensured in line with the Paris Principles and the EU *acquis*.

The Constitutional Court and other higher courts generally continued to follow ECtHR case-law in their rulings. However, there was limited implementation and no revision of the 2014 action plan on preventing violations of the ECHR. The second implementation report has been prepared but the absence of public reporting undermines the accountability of institutions responsible for implementation. The Venice Commission published three Opinions on Turkish

legislation concerning the criminal code, the internet law and the legal framework governing curfews, which included recommendations for revising legislation.

The conditions for the activities of the human rights defenders have deteriorated throughout the reporting period. They worsened further after the coup attempt and the declaration of the state of emergency. There have been reports on cases of intimidation of individuals who tried to alert on allegations of torture and ill-treatment.

Concerning the **right to life**, Turkey is a party to Protocol 13 of the ECHR abolishing the death penalty in all circumstances. Public officials' repeated declarations, including by the President, following the attempted coup considering the possibility to reinstate the death penalty raised concern. There is no comprehensive approach over missing persons, exhumation of mass graves and independent investigation of all alleged cases of extrajudicial killing by security and law enforcement officers. The statute of limitations on these cases is an impediment to justice.

There was backsliding on the **prevention of torture and ill-treatment**, especially in the context of counter-terrorism operations in the south-east. Allegations of torture and ill-treatment are not properly investigated or punished, with few, usually overly lenient, sanctions given. There continues to be a need to ensure prompt impartial and effective investigation of all cases of alleged extrajudicial killings by security and law enforcement officers, including in the context of counter-terrorism operations in the south-east. Impunity remains one of the core problems. Turkey needs to align its legislation on the prevention of torture and ill-treatment with the ECHR and with ECtHR case-law. The National Human Rights and Equality Institution has taken over the role of national preventive mechanism, however, the institution has yet to become operational. Concerns that the institution is not sufficiently independent bring into question its ability to perform this duty effectively in line with requirements under the Optional Protocol to the Convention against Torture. Given that torture is prohibited according to Turkish legislation, it is all the more important that allegations are swiftly investigated and that existing legal structures in Turkey that prohibit torture and ill-treatment are able to perform their mandate. The fact that the existing prison monitoring boards have been disbanded and reappointed during this period increases the risks inherent in this situation. Controversial amendments to the Law on the personnel of the Turkish armed forces were adopted in June. The amendments, which grant judicial privileges to military personnel and expand the armed forces' legal powers in domestic security operations, raise concerns as they may lead to impunity.

In May, the UN Committee against Torture (CAT) found in its fourth periodic review on Turkey that it had not received sufficient information on prosecutions for torture, including in the context of ECtHR decisions and that despite ongoing investigations into torture and excessive use of force by security officials, relatively few cases of sanctions and fines were recorded. The CAT also expressed concerns about numerous credible reports of torture and ill-treatment of detainees in the south-east and demanded prompt, thorough and impartial investigations into all such allegations. Turkey should urgently implement the CAT's recommendations and work constructively with the UN Special Rapporteur on torture.

There were also allegations of widespread cases of torture and ill-treatment in the immediate aftermath of the coup attempt. The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out an ad hoc visit to Turkey from 29 August to 6 September 2016. The purpose of the visit was to examine the treatment and conditions of detention of persons who have been detained in connection with the coup attempt. In line with best practices and transparency requirements and in order to build confidence in this sensitive area, the Turkish authorities are encouraged to authorise the publication of such reports shortly after their inception. Cases of death in detention of arrested persons following the attempted coup need to be thoroughly investigated. The prohibition of torture and ill-treatment and procedural rights of suspected and accused persons need to be

fully observed in law and in practice, in line with the country's international obligations, in particular the European Convention of Human Rights.

As regards the **prison system**, prison staff members continued to receive training on Council of Europe standards and human rights. The shortage of psychologists, social workers and sociologists negatively affects the rehabilitation of inmates. Civil society and professional organisations are not allowed to be involved in rehabilitation and probation. Solitary confinement and arbitrary practices are often used as disciplinary sanctions.

Following the July coup attempt, a large number of suspects were detained in irregular locations without appropriate detention conditions and serious impediments to their procedural rights according to European standards were reported. There was a sharp rise in the prison population and prison overcrowding reached very worrying limits. A Law Decree amending the Law on Enforcement of Sentences in August resulted in the release on probation of around 40 000 inmates in order to create room in prison facilities to deal with detained and sentenced persons suspect of implication in the coup attempt. Following their release, there were 192 181 people for some 180 000 places in the penal institutions, of which 59 819 are detained and 132 362 convicted as of 9 September 2016. The prison population rate has grown to over 200 per 100 000 inhabitants which is a high figure among Council of Europe states.

The **data protection** law adopted in March is Turkey's first specific piece of legislation in this area. It provides for the establishment of a Data Protection Agency, with a nine-member board. Of its members, five are to be selected by Parliament, two by the President and two by the Council of Ministers. The Personal Data Protection Agency will be affiliated to the office of the Prime Minister. The newly adopted law contains an extensive list of exceptions in particular the exclusion of national defence, national security, public security, public order and economic security as well as processing of personal data by judicial and law enforcement authorities from its scope of application. Further exclusions apply to investigations and prosecutions, as well as criminal and execution proceedings. The law represents progress, compared with the previous situation in which no legislation existed on this matter. However, it is not in line with current EU *acquis* in particular as the provisions on the composition and the functioning of the authority in charge of supervising the use of personal data do not provide assurances for it to act in a completely independent manner, and because the activities of the law enforcement agencies and judicial authorities are not entirely covered by the obligation to respect the personal data protection rules. Turkey should align the legislation on personal data protection to EU *acquis* notably to ensure that the data protection authority can act in an independent manner and that the activities of law enforcement agencies fall within the scope of the law. The Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data was ratified in May. Turkey ratified in July the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS 181) which concerns supervisory authorities and trans-border data flows.

On freedom of **thought, conscience and religion**, freedom of worship continued to be generally respected. Insulting religion and blasphemy are criminal offences. In January, the government submitted two action plans to the Council of Europe Committee of Ministers on the implementation of ECtHR decisions on *Cem* Houses and two decisions on compulsory religion classes. A comprehensive legal framework in line with ECtHR rulings, CoE recommendations and EU standards needs to be put in place and consistently implemented. Particular attention should be given to implementing the ECtHR judgments on the exemption from compulsory religion and ethics classes, indication of religious affiliation on identity cards and Alevi worship places. Other pending issues are: legal personality of religious bodies and institutions; rules on participation in religious elections, and work and residence permits for foreign clergy. Turkey is the only member of the Council of Europe that does not recognise the right to conscientious objection for conscripts. Outstanding issues concerning the Alevi community need to be tackled, including the implementation of several ECtHR judgments.

The Ecumenical Patriarchate received no indication from the authorities that it may use the 'ecumenical' title freely. Venice Commission recommendations on this issue are yet to be implemented. No steps were taken to open the Halki (Heybeliada) Greek Orthodox Seminary. There were reactions triggered by the controversial use of the Hagia Sophia, which is a museum situated within a listed UNESCO world heritage site, for marking religious celebrations. The Armenian Patriarchate's proposal to open a university department for Armenian language and clergy has been pending for several years. Similar demands have been made by different Christian communities who sought to train clergy. Similar problems exist over the construction of places of worship. Hate speech and hate crimes against Christians and Jews continued to be repeatedly reported (*see below — minorities*). Inter-religious dialogue remains an important element in this area.

### **Freedom of expression**

There was serious backsliding on the freedom of expression. The authorities took further action to curtail freedom of expression. Measures taken against media representatives, in particular in relation to the coup attempt have increased concerns. In addition, the scope of actions taken by decree-laws under the state of emergency has been broadened to pro-Kurdish and opposition voices.

The high number of arrests of journalists after 15 July is a serious concern. Due process, the right to fair trial and the respect of the principle of the presumption of innocence should be guaranteed. Prior to the 15 July coup attempt, there were 36 journalists in prison, many of whom were charged with crimes under the anti-terrorism law. In the aftermath of the coup attempt, by the end of October, some 90 journalists were arrested bringing the total to more than 130, many of whom face charges under Art. 6 of the anti-terror law. The number of detentions, judicial prosecutions, censorship cases and layoffs soared. Since July 15, more than 2,500 journalists have lost their jobs. The criminal investigation launched in June 2015 against a critical newspaper and its editor-in-chief over publication of documents on arms deliveries allegedly conducted by the National Intelligence Service to Syria resulted in prison sentences of five years (under appeal). The undue pressures and at times openly hostile climate in the area of freedom of expression became evident in the public assassination attempt on the said editor-in-chief during his trial. In October, the new editor in chief and several writers of the same newspaper were also detained for alleged links to terrorist organisations.

Takeovers of media groups by the Government continued. Trustees modified the editorial policy, while numerous journalists were laid off. One such media group was closed down five months after a board of trustees was appointed. In the aftermath of the coup attempt, the government issued decrees-laws ordering the closure of TV channels and radio stations, predominantly for alleged links to the Gülen movement. However the closures and suspensions extended to a number of channels broadcasting in Kurdish language, one Alevi channel and some opposition channels. By the end of October, 46 TV channels and radios stations, five news agencies, 55 papers and 18 magazines were closed, while arrest warrants were issued against some 90 journalists, access to more than 20 news websites was blocked and the licences of 29 publishing houses were revoked. Among these, 23 out of 39 TV channels and radio channels broadcasting in Kurdish language, as well as several newspapers in Kurdish language, have been closed. The proportionality and alignment with international standards of those restrictive measures, including in times of emergency, is questionable.

Politicians continued to publicly condemn and intimidate journalists, editors, academics and human rights defenders for their critical views. The increased use of hate speech by officials including senior representatives of the state is a major concern. Several papers faced repeated refusals of accreditation for government events. There were cases of foreign journalists facing difficulties in exercising their profession in Turkey, such as through deportation, being refused entry and being refused renewal of accreditation.

Requests to the Ministry of Justice for permission to launch investigations over insults to the President under Article 299 of the criminal code increased from 56 cases in 2014 and 1 653 cases in 2015, to 1 867 cases in 2016. As of 1 September 2016, 59 persons were detained on the basis of this article, of which a (17-year-old) juvenile. The exponential increase in this practice has been criticised by international institutions and recommendations have been made to curtail the use of this article in line with the European consensus. As a gesture of goodwill in the aftermath of the coup attempt, both the President and the Prime Minister have dropped a number of compensation civil cases, but not for cases involving HDP politicians.

There was no revision of the provisions in the anti-terror law or the criminal code. Selective and arbitrary application of the law, especially of the provisions on national security and the fight against terrorism, is seriously limiting freedom of expression. Four members of the ‘Academics for Peace’, who in January 2016 signed a declaration condemning the security operations in the south-east and calling for resumption of the peace talks, while falling short of condemning the terrorist acts from the PKK, were arrested on charges of disseminating terrorist propaganda. Many others have been subjected to both disciplinary and criminal proceedings. The Internet Law and the general legal framework continue to enable the executive to block content without a court order on an unduly wide range of grounds. The internet law as well as the provisions on insulting the President, on defamation and Article 314 of the criminal code on membership of armed organisations should be amended in line with the Venice Commission's recommendations of March 2016.

Media blackouts were imposed in several cases. The ECtHR ruled in December 2015 that Turkey violated the ECHR when the Telecommunications Communication Presidency (TIB) banned Twitter and YouTube in 2015 on grounds of terrorist propaganda. In the absence of official statistics, civil society indicated that 110 846 websites had been banned, of which 2.6 % on the basis of a court decision. In August, a decree taken under the state of emergency replaced TIB with a new body, the Information and Communication Technologies Authority (BTK), with wider powers to enforce restrictions on freedom of communications.

The Board of directors of the Turkish Radio and Television Corporation (TRT) is appointed by the government which induces a risk of politicisation. Its independence needs to be protected by law. Even though the Radio and TV Supreme Council (RTÜK) submitted reports on detected violations to the Supreme Board of Elections, no comprehensive reports on its media monitoring findings were published.

RTÜK continued to suspend and fine channels for broadcasting content that is ‘contrary to the national and moral values of society, general morality and the principle of family protection’ and decided to take a number of channels off the air within the framework of the state of emergency. These measures particularly affected independent channels and channels broadcasting in the Kurdish language.

The state-owned Turkish Satellite Communications Company (TÜRKSAT) excluded more than 30 TV and radio channels for spreading alleged terrorist propaganda. TÜRKSAT's decisions lacked solid legal grounds, with neither a court decision nor a licence cancellation by RTÜK.

There was backsliding on the **freedom of assembly and association**. While the Constitution provides for freedom of assembly in general terms, other pieces of legislation continue to pose serious limitations on the effective implementation of this right, including provisions under the April 2015 internal security package. A number of demonstrations were seen as security threats, many of which on the Kurdish issue, as well as on environmental protection or which were considered to be critical of government policies. There was widespread use of excessive force by the authorities against peaceful demonstrators in the reporting period. LGBTI marches in Ankara and in Istanbul were again banned in 2016. The relevant ECtHR case-law on the

freedom of assembly needs to be implemented and the Law on meetings and demonstrations urgently needs to be revised accordingly.

In the aftermath of the coup attempt, daily peaceful gatherings in support of the government took place with logistical support from the authorities. In August, close to three million citizens, including representatives of major political parties gathered in Yenikapi in a display of unity against the attempted coup, while HDP was excluded. Several demonstrations critical towards the government policy were banned in different provinces in the post-coup period.

The Constitution provides for freedom of association. However, in practice this is restricted. There have been complaints from LGBTI, women's and other rights-based associations that excessive administrative burdens are imposed on them by the authorities. The legislation on the freedom of association for national and foreign organisations and its implementation should be brought in line with European standards. Provisions restricting registrations, procedures for permissions and the functioning of associations need to be revised using clear implementation criteria and applied in a consistent and non-discriminatory manner.

After 15 July, two trade union confederations and their 19 member trade unions, with almost 50 000 workers affiliated, were closed by a decree taken under the state of emergency over alleged links to the Gülen movement. The decree also closed 1 229 foundations and associations.

On **property rights**, the implementation of the revised Law on Foundations for restitution of properties was finalised. Overall, 1206 property claims were rejected, of which some are pending either before local courts or at the ECtHR. Implementation problems were reported at the offices of title deeds and local registry offices despite appropriate implementation circulars issued by the government. The decisions on restitution of properties of non-Muslim minority foundations taken in previous years were challenged by the Treasury through court cases. The scope of the current legal framework needs to be broadened notably to cover foundations currently managed by the state and properties of foundations transferred to third persons. There were concerns over the government's decision in March on expropriations and the destruction of large parts of the Sur District in Diyarbakır.

Court cases on property restitution continued, including on ownership of the land on which the Syriac Orthodox Mor Gabriel Monastery is built. Syriacs and Yazidis still faced difficulties to register property. Latin Catholic churches still have neither legal personality nor foundation status, making it impossible for them to register property or seek restitution. Problems were reported for Greek nationals in inheriting and registering property, in particular following the Turkish authorities' implementation of the amended land registry law of 2012, which included a measure to limit the acquisition of property by Greek nationals. The 2010 recommendations of the Venice Commission on protecting property rights and education rights still need to be fully implemented. The Council of Europe Resolution 1625 (2008) regarding property rights on the islands of islands of Gökçeada (Imbros) and Bozcaada (Tenedos), needs to be fully implemented.

On **non-discrimination**, the new Law on the Human Rights and Equality Institution of Turkey contains provisions prohibiting discrimination on a large number of grounds and is a step in the right direction. There is still a need to adopt a fully comprehensive dedicated law on combating discrimination in line with the European Charter of Fundamental Rights, including with regards to sexual orientation. Turkey is encouraged to swiftly ratify Protocol 12 ECHR providing a general prohibition of discrimination. This would strengthen legal certainty. The National Human Rights and Equality Institution needs to be rapidly established and start processing cases of discrimination.

The criminal code is incomplete concerning hate crime and is not fully in line with best practices at international level. Turkey should take account of the recommendations of the European Commission against Racism and Intolerance of the Council of Europe in this field.

Moreover, the provisions do not cover hate offences based on ethnic origin or sexual orientation. Non-discrimination is not sufficiently enforced either in law or in practice and the rights of minorities are not sufficiently upheld. Ethnic and religious groups and groups promoting gender diversity continued to report cases of discrimination in society and employment.

The legislative and institutional framework on **equality between women and men** is in place. Some institutions continued to build up their capacity to combat violence and discrimination against women through training. The private sector also stepped up efforts to address the issue. Tax incentives supporting the creation of private nurseries and day-care establishments were adopted in August. However, discrimination against women and gender-based violence were not sufficiently addressed owing to weak implementation of the legislation, low quality of services available and the weak political commitment to gender equality, exemplified by frequent public statements emphasising gender stereotypes and promoting the traditional role of women. Since Turkey's ratification in 2014 of the Council of Europe Istanbul Convention on preventing and combating violence against women and domestic violence, the country has not taken any concrete steps to harmonise its domestic legislation with the Convention and to raise awareness. Further efforts to implement the existing law and national action plan on the protection of family and prevention of violence against women are needed. Domestic violence led to the death of 413 women in 2015. Female refugees, single women and pregnant women remained vulnerable. Early and forced marriage continued to be a major concern, including among the Syrian refugee population. Protection of women from violence and legal redress in cases where victims pursue judicial proceedings remained insufficient. The number of women who seek formal help or report to the justice system is still very low. Milder sentences for sex crimes are justified by 'consent', 'undue provocation' and 'appearing older'. No system for collecting comprehensive data on gender-based violence exists. Shelters for victims of domestic violence increased their capacity, but they still need to be developed further. There is very limited administrative follow-up to cases of domestic violence and no link with social services.

There was limited progress in overall policy, legislation, coordination and monitoring on the **rights of the child**. Due to the introduction of child-specific procedures and outreach efforts, the special Ombudsperson received more complaints directly from children. There was a high-level commitment to education for Syrian refugee children which should be extended to other refugees and vulnerable groups. However, the implementation of the 2013 national children's rights strategy and action plan remained poor. No national strategy is in place to prevent violence against children nor is an effective system of monitoring rehabilitation centres and institutions in place. Research on sexual abuse and ill-treatment of children is insufficient. A parliamentary committee to examine child sexual abuse was established but more efforts are needed to effectively prevent and punish child abuse. In July, the Constitutional Court's ruling to annul a provision that punishes all sexual acts against children under the age of 15 as "sexual abuse", caused outrage from academics and human rights activists who warned that the decision would lead to cases of child abuse going unpunished. The court set a 6-months deadline for the legislation to be clarified in this regard and the government is advancing preparations.

On juvenile justice, the average duration of trials in the juvenile courts decreased. However, juvenile courts have not been established in all provinces and more than half of juvenile offenders continue to be tried in non-specialised courts. Juveniles continued to face arrest and detention on charges of membership of terrorist organisations. The number of children in pre-trial detention increased. As of 9 September, there were 2 419 juveniles in penal institutions of which 12 were held for terror-related crimes. The quality of legal aid for juveniles and rehabilitation activities is a matter of concern. There were reports of torture, ill-treatment and sexual abuse of juveniles in detention. On occasions juveniles were kept in wards for adult

inmates, contravening international standards. Further efforts are needed to ensure that justice for children is effectively implemented and that no derogations from international standards are accepted.

On the **rights of persons with disabilities**, the new law establishing the Human Rights and Equality Institution confirms the prohibition of direct or indirect discrimination on the basis of disability. However, certain laws in place still work against the principles enshrined in the UN Convention on the rights of persons with disabilities. The number of disabled pupils in primary and secondary education continued to increase but access to higher education remained a problem and ‘lifelong learning’ opportunities were limited. The illiteracy rate among disabled persons is high. Accessibility of public services and buildings for persons with disabilities remained a widespread problem. Existing fines and the 2018 deadline in the transport sector for fulfilling accessibility criteria need to be complemented by public awareness-raising campaigns and appropriate incentives. There is a lack of quantitative and aggregated data on participation by persons with disabilities in economic and social life. Significant shortcomings persist over the integration and empowerment of persons with disabilities with respect to their environment, social attitudes and quality of services. Lack of early and suitable diagnosis limits early access to appropriate services for many children with disabilities or developmental delays. Turkey still has no mental health law and no independent body to monitor mental health institutions.

There are serious concerns with regard to fundamental rights of **lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons. The new Law on the National Human Rights and Equality Institution does not explicitly include sexual identity and sexual orientation among grounds for discrimination. In the military disciplinary system, homosexuality is still defined as a ‘psychosexual disorder’ and in the military’s medical regulation as an illness. An anti-homophobia march was banned in Ankara in May. The June LGBTI movement pride parade in Istanbul was not allowed to go ahead for the second consecutive year. Intimidation and violence against the LGBTI community increased including the killing of at least two persons. LGBTI organisations who came under threat from fundamentalist terrorist groups did not receive protection from the government. Hate crimes, attacks and murders as well as police violence against transgender people and activists are a source of serious concern. There is no specific legislation against these crimes. Some media outlets promote hate speech against LGBTI persons. The law suits filed by LGBTI persons in such cases usually do not result in effective investigations or sanctions by the judiciary. Discrimination over the right to employment on the basis of sexual orientation remains widespread.

Issues of **labour and trade union** rights are covered in chapter 19.

Some aspects of **procedural rights** are guaranteed by law, including legal aid and the right to translation and interpretation in criminal matters, but the legislation needs to be aligned with European standards. Furthermore, these rights have been severely violated in practice, in particular in the context of anti-terrorism operations and in the wake of the attempted coup, when access to a lawyer was in many cases not guaranteed and information on charges not always communicated in due time. It is a concern that the decrees adopted under the state of emergency provide for important restrictions to the right of defence, such as limitations to confidential communication between pre-trial detainees and lawyers through recording of the meetings, as this presents risks for the right to a fair trial and leaves detainees vulnerable to ill-treatment. There are reports that lawyers are, due to perceived personal risks, refusing to take up or adequately pursue the cases of alleged coup plotters which results in further practical impediments to fair trials. Legal aid is provided by law in listed cases and access to it needs to be broadened. Turkey should consider adopting specific legislation on the victims' rights.

The dialogue between the government and representatives of **minorities** continued. A positive judgment was issued in a lawsuit against the Grey Wolves Organisation in Kars on charges of hate speech against Armenians. However, hate speech and threats directed against minorities

remained a serious problem and long delays in cases where religious representatives or their property were attacked amount to impunity. School textbooks need to be revised to delete remnants of discriminatory rhetoric. There is still no regulation on election procedures for non-Muslim foundations after the previous regulation was annulled in 2013. This continued to prevent minority foundations from electing board members.

The increased representation of smaller ethnic and faith minority groups in Parliament in the June 2015 elections, although still symbolic in numbers, was confirmed at the November 2015 elections. The positive steps of the previous education year regarding teacher recruitment and state subsidies for minority schools were not duly implemented in the reporting period. The second church in Istanbul has not been opened yet despite requests by the Syriac Orthodox community. The main case launched in connection with the assassination of Armenian journalist Hrant Dink in 2007 was combined with new indictments against 27 public officials. Several people including law enforcement officials were also arrested in connection with this case; their indictment is pending. The penal case related to the killings of three Protestants in 2007 has ended in September with life time convictions for the five accused persons pending appeal. The Turkish authorities continued to respond strongly and systematically whenever the 1915 events were recognised as genocide abroad.

In April the government adopted a 2016-2021 national strategy and 2016-2018 action plan for **Roma** which is a positive step forward. The strategy addresses key obstacles to the social inclusion of Roma and lays down measures in various fields, including housing, education, employment and health. Turkey needs to start implementing the strategy and set up a monitoring and evaluation mechanism. Preliminary work started on a comprehensive survey on the situation of the Roma in Turkey but overall there is a lack of quantitative, qualitative and comparable data on Roma. Turkey appointed its contact point for the Roma Integration 2020 Initiative and needs now to step up its engagement.

Access to health services continued to improve, while medical services were largely accessible for Roma families. Procedures for the Roma to obtain civil documentation are cumbersome and should be made easier. Roma groups continued to face discrimination in social and economic life and in accessing employment and quality education. Absenteeism in school remained high, including in compulsory primary education, and child labour is a major problem in the Roma community. Urban development projects continued to disadvantage the Roma by depriving them of traditional job opportunities and solidarity networks. A significant court case was brought over the 2010 campaign to lynch and evict Roma.

On **cultural rights**, the Government still did not legalise the provision of public services in languages other than Turkish. The teaching of optional courses in Kurdish in public state schools was maintained. University programmes in Kurdish, Arabic, Syriac and Zaza continued. The Mesopotamia Foundation established in Diyarbakır started preparations to open a Kurdish language university. However, legal restrictions on possibilities for mother tongue education in primary and secondary schools remained in place. Education in mother tongues other than Turkish is not allowed apart from in minority schools recognised under the Lausanne Treaty. Kurdish-teaching schools in Diyarbakır and Nusaybin were closed down as they could not be formally registered. The Turkish authorities' decision to close a number of media outlets publishing or broadcasting in Kurdish language and on Alevi culture is a source of concern.

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

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

**Turkey is moderately prepared** in the area of justice, freedom and security. There was **good progress** in the past year, in a difficult environment. Turkey continued making considerable

efforts to provide massive and unprecedented humanitarian aid and support to a continuously increasing influx of about 3 million refugees from Syria, Iraq and other countries, including by broadening the legislation on temporary protection and enabling access to the labour market. Turkey adopted reforms aimed at meeting all the requirements of the visa liberalisation roadmap. This led the Commission to propose putting Turkey on the list of countries with no visa requirements on the understanding that Turkey meets the seven remaining benchmarks of the visa liberalisation roadmap.

In their joint statement in March, the EU and Turkey reconfirmed their shared commitment to end irregular migration from Turkey to the EU, to break the business model of smugglers and offer migrants an alternative to putting their lives at risk. Implementation of the March statement delivered many of its expected results but success remains fragile so far.

For the coming year, Turkey should in particular:

→ continue implementing the EU-Turkey Statement of 18 March;

→ implement the EU-Turkey readmission agreement in all its provisions;

→ align the legislation on personal data protection with European standards and accordingly negotiate an operational cooperation agreement with Europol;

→ revise its legislation and practices on terrorism in line with the ECHR, the ECtHR case-law and the EU *acquis* and practices, without reducing the capacity of Turkey to fight terrorism. The proportionality principle must be observed in practice (*See also specific recommendations on the fight against organised crime in section 2.3*)

## **Legal and irregular migration**

### Institutional set-up and legal alignment

Following the entry into force in 2013 of the Law on foreigners and international protection, the General Directorate for Migration Management (DGMM) continued to increase its capacity and consolidate further its presence in the provinces of Turkey. Currently, the DGMM has 365 staff centrally and 2 540 in the provinces. In addition, 100 people will be posted overseas. Recruitment and training processes continued throughout the reporting period. In March 2016, the by-law implementing the Law on foreigners and international protection entered into force. The DGMM continued to expand its capacity to accommodate irregular migrants. Currently Turkey has 18 removal centres with a total capacity of 6 670 while the DGMM is planning to construct 12 more removal centres which would increase the existing capacity by 4 820. Another six removal centres are to be constructed with EU funding. DGMM has initiated work on a national monitoring system to ensure regular oversight of conditions and access to protection measures for migrants in the removal centres. Turkey needs to establish sufficient capacity including staff and procedures to identify and treat vulnerable asylum seekers including those with special needs.

The Strategy Document and the National Action Plan on irregular migration approved in March 2015 was launched in November 2015. A bilateral readmission agreement with Pakistan entered into force in April 2016. Bilateral readmission agreements were signed with Nigeria, Bosnia-Herzegovina, Yemen, Montenegro, Kosovo and Norway but entry into force is pending. Negotiations for a readmission agreement are ongoing with Switzerland and Afghanistan.

### Implementation and enforcement capacity

Turkey continued to be a major first reception and transit country for irregular migrants from Asia and Africa heading to Europe. Over the reporting period, a large number of refugees and irregular migrants mostly (but not only) fleeing the conflict in Syria have been transiting through Turkey on their way towards the European Union. Illegal border crossings reached unprecedented numbers in 2015. In 2013 and 2014, the numbers of people who arrived in the

EU directly from Turkey were 25 121 and 52 994 respectively. In 2015 this number increased to 888 457, an almost 16-fold increase. Around 98 % of irregular entries occurred via the Greek islands from the nearby Turkish Aegean coast, often facilitated by smugglers. The remaining 2 % were people crossing Turkey's land border with Greece and Bulgaria. According to the Turkish authorities, more than 146 485 people were intercepted in 2015 while crossing the border illegally, an increase of 150 % from 2014. At least 806 irregular migrants died or went missing between Greece and Turkey in 2015, according to the International Organization for Migration. This number was 413 in 2016 until the end of September. Human losses at sea decreased sharply from 366 in the three months before the activation of the Statement (January to March) to 47 in the six months following its activation (April to September). Most of those who crossed the borders illegally continued their journey within the EU, eventually applying for asylum in an EU Member State.

Irregular arrivals from Turkey to Greece fell sharply after the activation of the Statement. After an extraordinary increase in 2015 – according to Frontex figures, the number of irregular crossings from Turkey to the EU rose from 52 994 in 2014 to 888 457 in 2015 – the trend was reversed after the activation of the EU-Turkey Statement in March 2016. Of 164 389 irregular crossings in 2016 until the end of September, 141 753 took place in the period preceding the activation of the Statement (January to March), and only 22 636 occurred following the activation of the Statement (April to September). The daily average of irregular crossings fell from 1 794 in the period from January to the activation of the Statement to 116 from its activation to the end of September. The decrease was partly due to the intensified work by Turkey's law enforcement agencies to prevent irregular departures from coastal areas and measures restricting the free movement of people seeking international protection and people under temporary protection to the provinces to which they had been assigned, in combination with the implementation of a return scheme from the Greek islands that contributed to break the business model of smugglers.

Turkey continued to develop its administrative capacity to implement the EU-Turkey readmission agreement, which entered into force in October 2014 for Turkish nationals. Implementation of the agreement for Turkish nationals remained nevertheless unsatisfactory as the provisions of the agreement were not observed in a systematic and coherent manner by all Turkish diplomatic missions in the EU. Turkey ratified the advanced entry into force of the third-country provisions of the EU-Turkey readmission agreement as of 1 June 2016. However, Turkey stated that it will not implement the third-country provisions of the agreement until the EU confirms that the remaining visa liberalisation benchmarks have been fulfilled. The Turkish Council of Ministers decision allowing for the application of the EU-Turkey provisions for third-country nationals is still pending and more than 1 000 readmission applications from Bulgaria, Greece, France and Germany remain unanswered so far. Full and effective implementation of the readmission agreement towards all Member States is crucial and one of the benchmarks in the visa liberalisation roadmap.

The implementation of Turkey's existing bilateral readmission obligations towards Greece improved as the acceptance rate of readmission requests sent by Greece in the framework of its bilateral agreement with Turkey increased substantially during the first half of 2016. However, as of June 2016, Turkey stopped responding to readmission applications for irregular migrants on the Greek mainland. Turkey then responded positively in October to 32 readmission requests submitted by the Greek authorities in the framework of their bilateral agreement, but 96 cases submitted since 1 June remain unanswered.

Since the activation of the EU-Turkey Statement of 18 March, return operations from Greek islands to Turkey are carried out on the basis of commonly agreed readmission lists. Turkey considers these returns to occur strictly under the political commitments of the EU-Turkey Statement and not under its obligations deriving either from the EU or its bilateral readmission agreement with Greece. Cooperation has been smooth, facilitated by liaison officers deployed

by each party to their counterpart authority. Following the coup attempt of July, Turkey withdrew its liaison officers from the islands. New liaison officers were appointed in October 2016.

Turkey does not readmit third-country nationals from Bulgaria as, on the one hand, in 2012 Turkey unilaterally stopped implementing its bilateral border agreement of 1967 with Bulgaria, and on the other it is not implementing yet the third-country provisions of the EU-Turkey readmission agreement, pending a decision of the Turkish Council of Ministers. Since June, Bulgaria submitted more than 800 readmission applications for third-country nationals. However, Turkey has not processed these applications under either the bilateral or the EU agreement. Pending the full implementation of the EU-Turkey readmission agreement, Turkey and Bulgaria agreed in September on a practical way to deal with third-country nationals requests for return to Turkey on the basis of commonly agreed lists; according to this arrangement the deadline for reply is 14 days. Procedures are still ongoing.

Turkey has at the same time become a major destination country for regular migration. At the end of 2015, 422 895 non-Turkish nationals held a temporary residence permit in Turkey, up from 379 804 in 2014. The Law on International Labour Force adopted by the Turkish Parliament in July 2016 introduced simplified procedures for work permits. A new work permit system called 'Turquoise Card' has been introduced aiming to attract qualified labour force into Turkey.

## **Asylum**

### Institutional set-up and legal alignment

Under the Law on foreigners and international protection, the DGMM is responsible for all refugee status determination procedures (including registration and documentation) and related decisions. While Turkey retains the geographical limitation to the 1951 Geneva Convention, the DGMM performs its tasks for all asylum applicants, regardless of their country of origin. The DGMM is bound to carry out international protection status determination and administrative procedures within specific timeframes. Its provincial branches started to register asylum seekers and to process their applications. Local branches of the Turkish national police continued to assist the DGMM with the registration. There are currently 62 'satellite' cities in Turkey where asylum seekers, conditional refugees as defined by the Turkish legislation and Syrians under temporary protection are assigned to reside.

In January 2016, Turkey adopted a regulation giving Syrians under temporary protection access to the labour market, although under some conditions and limitations. In particular, the law gives Syrian refugees unrestricted access to seasonal work and jobs in rural areas. The Regulation on temporary protection was amended in April 2016 to ensure that Syrians returned from Greece to Turkey who were not previously registered as beneficiaries of temporary protection or had lost their status due to their irregular departure from Turkey could be granted temporary protection status upon their return from Greece. In April 2016, Turkey issued a regulation expanding access to the labour market to all applicants and beneficiaries of international protection in Turkey. This was confirmed in the Law on International Labour Force adopted by the Parliament in July 2016. Accordingly, all applicants for international protection including applicants for conditional refugee status and persons under temporary protection as well as victims of human trafficking can apply for a work permit. International protection applicants can enrol in the general health insurance scheme, register at public schools and apply for social assistance.

### Implementation and enforcement capacity

Turkey is hosting about 3 million refugees, the highest number in the world. Turkey is making commendable efforts to provide massive humanitarian aid and support to an unprecedented and continuously increasing influx of people seeking refuge from Syria and the neighbouring

countries. Among the 60 different nationalities which have sought asylum in Turkey over the years, Syrian refugees are by far the most numerous, followed by Iraqis, Afghans, Iranians and Somalis. Around 2.7 million Syrians have been registered and granted temporary protection in line with the regulation on temporary protection. Around 270 000 of them live in 26 camps managed by the Disaster and Emergency Management Agency in ten Turkish provinces, while more than 2.4 million live in host communities across the country. Only a limited number of civil society organisations have access to provide services in the camps. As regards non-Syrians, the latest available figures from UNHCR concerning the registered active caseload (which includes registered refugees and asylum seekers) indicate that at the end of September 2016, Turkey ‘hosted’ 113 758 Afghans, 28 534 Iranians, 125 879 Iraqis, 3 905 Somalis and 8 290 classified as ‘others’. Out of these, UNHCR specifies that the persons having received the status of conditional refugees in accordance with the Turkish Law on Foreigners and International Protection were as follows: 3 472 Afghans, 5 994 Iranians, 25 295 Iraqis, 2 339 Somalis and 2 201 classified as ‘others’. In April, Turkey committed to reduce the backlog of existing asylum applications by about 12 000 per month on average and to process them all by the end of 2016. As of 21 September, Turkey had issued 66 746 positive decisions, 12 418 negative ones while 106 685 cases remained under review. Turkish legislation foresees that all new asylum applications should be processed within six months from the date of registration.

Non-Syrian migrants are subject to a dual asylum system. Newcomers must apply for asylum at a DGMM Provincial Directorate of Migration Management (PDMM). They are also registered by the Association for Solidarity with Asylum Seekers and Migrants on behalf of UNHCR. Subsequently, the migrants are referred to a ‘satellite’ city and registered at the local PDMM. Once registered, they receive the status of ‘international protection applicant’ (term used by Turkish law to refer to asylum seekers). PDMMs issue an ID card for each applicant, which legalises the person’s stay in Turkey. The ID number printed on the card grants access to a number of rights such as access to a health insurance scheme, public schools and social assistance. In October, about 630 000 Syrian children aged between six and 17 years remained out of the national education system despite efforts to counter this phenomenon.

### **Visa policy**

Turkey needs to further harmonise its visa policy with the EU common visa policy. Further efforts are needed to align its legislation with the Visa Regulation, Visa Code and other relevant EU legislation. This would include aligning Turkish visa requirements with the EU lists of visa-free and visa-required countries, phasing out of the issuing of visas at the borders and of e-visas and ensuring that the issuing of visas at consulates is carried out in line with the conditions and procedures set out in the Visa Code. The practice of issuing visas at borders was not yet fully discontinued. As of January 2016, Syrians travelling to a Turkish airport or seaport coming from a third country are required to have a visa. This does not apply to Syrians entering via land borders. In September 2015, Turkey re-introduced visa requirements for Libyan citizens. In February 2016, the possibility for Iraqi citizens to obtain a visa at the borders was abolished. Turkey continues to apply a discriminatory visa regime towards 11 Member States including the Republic of Cyprus for which the e-visa system refers to the country option Greek Cypriot Administration of Southern Cyprus. In May, Turkey adopted a decree stating that the citizens of all Member States will be able to enter Turkey as of the date of the lifting of the visa requirement for Turkish citizens, thus ensuring the end of the discriminatory regime. The Polnet integrated police database and the Konsolosluknet Ministry of Foreign Affairs database have been connected with the DGMM’s Göçnet database.

The EU-Turkey visa liberalisation dialogue continued. The Commission issued its second and third visa implementation reports in March and May 2016. Turkey made commendable efforts to fulfil the benchmarks of the visa liberalisation roadmap. However, to date Turkey has not yet fulfilled seven out of 72 benchmarks, some of which are of particular importance.

## **Schengen and external borders**

### Institutional set-up and legal alignment

Some progress was achieved in the area of external borders and Schengen. The adoption in March 2016 of the Regulation on inter-institutional cooperation and coordination in the field of border management was a step forward and applies both to border checks conducted at designated border-crossing points and to border surveillance at land and sea borders. The Border Management Implementation Board started functioning and adopted ethical rules for border management authorities. The regulation also established the National Coordination and Joint Risk Analysis Centre (NACORAC) with the aim to collect, to exchange and process data on border security and to carry out joint risk analysis; NACORAC became operational at central level. A similar set-up is needed at local level in the border provinces.

The agreement on a trilateral Common Contact Centre for Police and Customs Cooperation between Turkey, Greece and Bulgaria was ratified by Turkey on 10 March 2016; it was also ratified by Greece in April 2016 and Bulgaria in February 2016. It should enter into force as soon as possible.

### Implementation and enforcement capacity

As required by the new border management regulation, some 80 local sub-governors and deputy governors designated to work on the coordination of border-crossing points started receiving in-service training on integrated border management. The monitoring functions of the Border Management Implementation Board should be activated to identify needs for improvement at borders. Intense inter-agency cooperation based on risk analyses is necessary to improve effectiveness against cross-border crimes and smuggling networks.

The legislation on establishing a single organisation in charge of border security has been kept on hold, mainly due to the instability in bordering regions.

The Ministry of Customs and Trade completed work on obtaining pre-arrival information and conducting risk analysis. It also started the test phase by integrating 172 airline companies (from among the 307 which conduct airline transportation to Turkey) and by receiving passenger information from 214 airlines abroad. Data on more than 85 % of all international incoming and outgoing passengers is shared with the DGMM. Nearly 300 officers were trained to use this system. The customs administration conducts the risk analysis just for anti-smuggling purposes. API/PNR (Advance Passenger Information/Passenger Name Record) data should also be shared and analysed by the Turkish national police to efficiently identify risky passengers and take measures accordingly. A ministerial directive defining airlines' responsibilities was issued in November.

Both fixed and mobile border surveillance capacity was increased in the reporting period at green (land) and blue (sea) borders, with new technology supplied and infrastructure modernised. Demining of the eastern borders started in spring 2016. The capacity of the Turkish national police to identify forged and falsified documents both at first and second line checks needs to be further strengthened. The police needs to increase its checks in the transit zone to detect attempts at irregular border crossings. The authorities in charge of border management, in particular the Land Forces Command and Turkish national police, need to deploy professional staff specialised in their respective domains in line with the new law on border management.

On cooperation with neighbouring countries, Turkey advanced border cooperation with Greece and Bulgaria with the ratification of a tripartite agreement on customs and police cooperation which is expected to enter into force shortly. The Coastguard's 'Operation Safe-Med' at the eastern Mediterranean coasts and 'Operation Aegean Hope' continued during the reporting period. Under the action plan for cooperation with Frontex, training is being delivered on data

collection and joint risk analyses. Cooperation intensified after the deployment of a Frontex liaison officer in Turkey in April.

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

The Law on international **judicial cooperation in criminal matters** was adopted in April 2016 and entered into force in May 2016. The Law covers mutual legal assistance, extradition, transfer of proceedings, execution of sentences and transfer of sentenced persons, consolidating international laws and regulations. It also sets out the duties and powers of both the national judicial authorities and the Ministry of Justice as the central authority for execution. Between February and April, the Parliament ratified: the second additional protocol to the European Convention on Mutual Assistance in Criminal Matters in April; three additional protocols to the European Convention on Extradition; and the Additional Protocol to the European Convention on Transfer of Sentenced Persons.

In 2015, EU Member States accepted 56 extradition requests from Turkey while Turkey accepted five requests from EU Member States. EU Member States accepted nine transfers of convicts to Turkey and Turkey accepted six transfers to an EU Member State. Turkey participated in regular meetings of Eurojust and shared information and documents. However, the personal data protection law is not yet in line with European standards, which prevented the start of negotiations for a cooperation agreement with Eurojust.

On **judicial cooperation in civil matters**, Turkey is now party to most international conventions in this area and ratified in October the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children and the 2007 Hague Convention on the International Recovery on Child Support and Other Forms of Family Maintenance; both will enter into force in February 2017. Turkey has not yet ratified the European Convention on the Compensation of Victims.

### **Fight against organised crime**

#### Institutional set-up and legal alignment

The regulation on prevention, identification, fight, coordination and cooperation against human trafficking entered into force in March 2016. It established an Anti-trafficking Commission with a mandate to: prevent human trafficking; design policies and strategies concerning the fight against this crime; prepare action plans; ensure coordination between public institutions and organisations, international organisations and civil society organisations. However, much remains to be done for full alignment with the *acquis*. In addition, the newly established Anti-Trafficking Commission has not defined yet its priority areas.

Turkey needs to improve its legislation on cybercrime and witness protection. Turkey is party to the main international conventions in the field. Data protection legislation was adopted in March but the legislation is not yet in line with European standards, as there are concerns over the effective independence of the Personal Data Protection Agency and because it contains an extensive list of exceptions on particular issues for processing personal data by judicial and law enforcement authorities. As a result, Turkey cannot conclude an operational agreement with Europol. A Turkish liaison officer has been stationed with Europol between May and September 2016 when he was recalled following the coup attempt of 15 July. A new Liaison Officer has been selected and will start in November 2016 (*See also under political criteria*).

The scope of the witness protection law continued to limit the application of witness protection measures in some types of serious crimes. The respective roles of judicial and law enforcement actors need to be set out more clearly to improve cooperation. Witness protection measures can only be implemented after the witness testimony in the main hearing takes place. Legal amendments need to be made to the law to address these shortcomings.

A new 2016-2021 strategy for combating organised crime and 2016-2018 action plan were adopted in March 2016. The Ministry of the Interior will coordinate implementation of the strategy and action plan.

#### Implementation and enforcement capacity

Turkey has signed cooperation agreements for the fight against terrorism and crime with most Member States with a view to share information and conduct joint operations.

The substantial number of suspicious transaction reports (STRs) submitted to the Financial Crimes Investigation Board in 2014 doubled in 2015. The number of requests from prosecutors increased from 145 in 2014 to 239 in 2015. Despite the increase in the number of STRs and requests from prosecutors, the number of convictions dropped from 172 in 2014 to 65 convictions for money laundering as a stand-alone crime in 2015. In 2015, Turkish law enforcement authorities detained 108 003 suspects in connection with 73 017 drug-related crimes and courts pronounced 95 505 convictions.

The new 2016-2021 strategy plan for combating organised crime and a 2016-2018 action plan entered into force in March 2016. The Ministry of the Interior will coordinate implementation of the strategy and the action plan.

According to DGMM, 122 victims of human trafficking were detected in 2016 compared with 108 in 2015. The number of victims staying in special shelters went up from nine in 2013 to 107 in September 2016. The 157 helpline for victims of trafficking operates on a 24/7 basis and is available in different languages, including for international calls.

The National Cyber Security Council adopted a 2016-2019 strategy and action plan in February 2016. The Cyber Security Council is composed of undersecretaries from different ministries and other relevant institutions. In addition, a more specific strategy and action plan are currently being prepared by the Turkish national police and the Ministry of Development. 185 people were enrolled in the witness protection scheme, a stable number since 2015.

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

### **Fight against terrorism**

#### Institutional set-up and legal alignment

Turkey improved its rules on countering the financing of terrorism in line with Financial Action Task Force (FATF) recommendations. However, further alignment of the legal framework and enforcement of the rules are needed to comply with the revised FATF standards. The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism was ratified in February and transposed in the existing legislation on money laundering and financing of terrorism in April, which should facilitate cooperation at international level. The legal framework on money laundering, financing of terrorism, freezing and confiscation of criminal proceedings is largely in line with the standards set by the Convention. Nevertheless, Turkey still needs to make significant steps forward, so that its framework is upgraded and implemented up to EU standards and fully comply with the recommendations issued by FATF. Turkey's legislation on terrorism and corresponding implementation should be aligned with the ECHR, the ECtHR case-law and the EU *acquis* and practices, without reducing the capacity of Turkey to fight terrorism. The proportionality principle must be observed in practice.

#### Implementation and enforcement capacity

Turkey's counter-terrorism dialogue with the EU continued actively, with specific attention paid to foreign terrorist fighters. Turkey developed cooperation with Member States on detecting foreign fighters wanting to cross Turkey to reach Syria or Iraq. There was a

substantial increase of suspicious transaction reports on terrorist financing in 2015 compared with 2014, a trend which continued in 2016. However, police and judicial cooperation with EU Member States and EU agencies in combating terrorism is limited due to the absence of a personal data protection law in line with European standards and differences over the definition of, and penalties for, terrorism.

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

Turkey lies on the main transit route for drugs between Asia and Europe. Turkish law-enforcement bodies conducted successful operations during the reporting period, which resulted in the seizure of 53 682 kg of cannabis, 556 kg of cocaine, 8 294 kg of heroin, 5 673 901 ecstasy tablets and 15 083 735 captagon tablets. Seven operations were carried out with five countries (United States, Germany, the Netherlands, the United Arab Emirates and Italy). A total of 383 new psychoactive substances were included in the scope of the Law on supervision of drugs as a result of the activities of the early warning system working group. The Turkish national police substantially increased the number of sniffer dogs to 324 from 159 in 2015.

Narco-teams established in December 2014 to support the fight against drugs in high-risk areas such as schools have been set up in 29 provinces (they were 11 in 2015). Turkey aims to have such teams in place in all provinces by the end of 2016. The country reports annually to the European Monitoring Centre for Drugs and Drug Addiction. There were 56 treatment centres in 2015. However, rehabilitation and treatment capacity needs to be further increased. A nationwide survey of the population and schools needs to be carried out and capacity for data collection and analysis needs to be strengthened.

Turkey adopted a new policy framework on drugs. The 2016-2018 national drugs strategy and action plan entered into force in April 2016. Implementation is being coordinated by the Ministry of Health.

**For more information on customs cooperation, see also chapter 29 — Customs Union.**

**Counterfeiting of the euro, see chapter 32- Financial control.**

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

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

Turkey's preparations in the area of science and research are **well advanced. Some progress** was made in the past year on its integration into the European Research Area (ERA). In the coming year, Turkey should in particular:

- prepare a National ERA Roadmap and a National Research Infrastructure Roadmap;
- strengthen the role of universities in the organisation of research and innovation, in particular by stepping up cooperation with industry and SMEs.

Turkey participates in the EU research and innovation programme Horizon 2020, as an associated country. It has appointed an effective network of contact points and has representatives in all Horizon 2020 programme committees. Based on recent statistics, Turkey's participation in Horizon 2020 has achieved good results but there is room for further improvement, notably to increase participation in work on societal challenges, and to be successful in the first pillar of Horizon 2020, scientific excellence.

Some progress has been made on strengthening research and innovation capacity at national level and further integration into the European Research Area. Turkey has taken action to encourage technology transfer (ERA action 4) but, overall, this policy action is not sufficiently in line with ERA principles.

The level of investment in research has increased and stands at 1.01 % of GDP, which is below the EU average.

Turkey has taken several measures to encourage innovation and cooperation between academia and industry. According to the Innovation Union Scoreboard for 2016, Turkey is a ‘moderate innovator’, below the EU average in almost all indicators.

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

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

Turkey is **moderately prepared** on education and culture. There was **some progress** in this chapter. Turkey notified its decision to withdraw from the Creative Europe programme. In the coming year, Turkey should in particular:

- further increase participation in education at all levels, especially for girls and children from disadvantaged groups, and draw up effective strategies to reduce school drop-out rates;
- improve the education and training of teachers;
- ratify the UNESCO Convention, the main legal reference in the area of culture.

In the area of **education**, the measures taken by the government following the coup attempt of 15 July resulted in considerable staff dismissals and changes in many education institutions, which will have long-term impacts. Some schools, youth organisations and higher education institutions were officially closed. Turkey is at an advanced stage of implementing the Bologna process, although significant quality differences persist among Turkey’s higher education institutions. An independent and fully functioning Quality Assurance and Accreditation Agency remains to be established in conformity with European standards and guidelines. The Turkish Qualifications Framework was adopted in January 2016. Introducing modular curricula and a credited module system, instead of the current class passing system, remains an important issue for vocational education and training.

There has been some progress in the enrolment rate of children, particularly on pre-school education, which however still remains well below the EU average. In the 2015/2016 academic year, the schooling rate of children was 95 % for primary education, 94 % for lower secondary education and 80 % for upper secondary education. Enrolment of girls increased to 80 %. Turkey needs to develop a system to closely monitor and reduce early school leaving. Progress is still needed to make education more inclusive, especially for Roma children and children with disabilities. Education remains a high risk sector for political influence, especially higher education.

Turkey continues to successfully participate in the Erasmus+ programme

In the area of **culture**, Turkey decided to withdraw from the Creative Europe programme as of 1 January 2017. Turkey has not yet ratified the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which is the EU’s main legal reference in the area of culture and remains a longstanding requirement in this area.

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

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

Turkey is at **some level of preparation** in this chapter. In the past year, there was **some progress**, mainly in increasing capacity in waste management and waste-water treatment,

whereas enforcement and implementation still remains weak, especially on waste management and industrial pollution. Efforts are being done in river basin management plans. More ambitious and better coordinated environment and climate policies still need to be established and implemented. Strategic planning, substantial investment and stronger administrative capacity are required as well. In the coming year, Turkey should in particular:

→ complete alignment with the directives on waste management, industrial pollution and water and ensure correct implementation of the environmental impact assessment legislation;

→ ensure alignment with the *acquis* on public participation and the public's right to environmental information, as well as on transparency on climate action;

→ ratify the Paris Agreement on climate change, and start implementing its contribution to it.

## Environment

Turkey has some level of preparation in the area of **horizontal legislation**. Implementation of the Directive on Infrastructure for Spatial Information in the European Community is still at an early stage. Civil society remains critical of the implementation of the Environmental Impact Assessment Directive. There are complaints with respect to application of the rule of law in terms of court decisions given on environmental issues and with respect to public participation and the right to environmental information. Legislation is not yet aligned with the Aarhus Convention. Procedures for transboundary consultations have not yet been aligned with the *acquis*. Alignment with the Strategic Environmental Assessments Directive is still pending. In September 2016 a law allowed for the waiving of licencing and other restrictions for strategically important investment projects. This may have a significant negative impact on *acquis* implementation. There was no progress in this area during the reporting period.

On **air quality**, national legislation still needs to be adopted in line with the current directives on ambient air quality, national emissions ceilings and volatile organic compounds. Severe air pollution in some cities has been reported in the last year. Local clean air action plans to fight air pollution have to be prepared. A national strategy for air quality monitoring is in place and out of eight planned regional networks, one is already in place; the implementation of the remaining seven networks is under way.

Regarding **waste management**, the legal framework is mostly aligned. Work has continued to bring waste treatment facilities up to *acquis* standards. Sorting, recycling and medical waste treatment capacity has increased. Further work is needed on the separate collection of different types of waste, reducing biodegradables going into landfills and on hazardous waste. The preparation and implementation of waste management plans on local and regional level, as required by the Waste Framework Directive, has not yet started. Economic instruments to promote recycling and the prevention of waste generation remain limited.

In the area of **water quality**, the level of alignment is moderate. Sensitive areas were identified to be protected from urban waste water discharges. Alignment to the water framework Directive is still not complete. The preparation of five river basin management plans is ongoing. Water monitoring in line with EU directives is ongoing for four out of 27 basins. Transboundary consultations on water issues with neighbouring countries have been initiated by Turkey but are still at an early stage. Wastewater treatment capacity has increased as a result of continuous investments. Regarding the directives on marine strategy, quality control and bathing water alignment is pending. Partial alignment was achieved in recent changes in secondary legislation on water quality standards, nitrates pollution and flood management plans; generally transboundary issues are not aligned.

The framework legislation on **nature protection**, the national biodiversity strategy and the action plan have not yet been adopted. The regulations allowing development in wetlands, forests and natural site areas are still not in line with the *acquis*. The draft nature protection law

needs to be made compliant with the *acquis*. Potential Natura 2000 sites have not yet been identified. The institutional framework for designating and managing future Natura 2000 sites needs to be streamlined and adequately resourced. Investments, particularly in hydropower and mining, need to be made in compliance with nature protection obligations are respected, especially for national protected areas and areas of high natural value that could potentially become protected Natura 2000 sites.

In the area of **industrial pollution and risk management**, alignment with most of the European Union directives and regulations is at an early stage. Alignment with Seveso II Directive is high, but it is at a low level with the industrial emissions and Seveso III Directives. Alignment with the eco-management and audit scheme, the ecolabel Regulations, the volatile organic compounds and the volatile organic compounds in paints Directives is pending.

On **chemicals**, alignment is pending on the registration, evaluation, authorisation and restriction of chemicals, on import and export of dangerous chemicals, and on persistent organic pollutants. The regulation on classification, labelling and packaging of substances and mixtures is in place, but implementation is not complete. Biocides legislation is in place but its implementation postponed to 2020. The adoption of a regulatory framework has advanced the animal's experiments directive implementation. The Rotterdam Convention is not ratified.

Legislative alignment in the field of **noise** is well advanced. Preparation of noise mapping and local noise action plans has started.

Turkey has joined the European Union **Civil Protection** Mechanism in April 2016. However, it has not yet connected to the EU Civil Protection Mechanism's common emergency communication and information system.

### **Climate change**

Regarding strategic planning, a national strategy consistent with the European Union 2030 framework on climate and energy policies has not yet been adopted. The existing national climate change strategy and national climate change action plan address climate change mitigation actions in some sectors but are inconsistent with other strategies, such as those for energy. A climate change adaptation strategy has been drafted, but it lacks a legal basis and enforcement. Mainstreaming of climate change into different sector policies is still weak. Turkey needs to build climate action know-how into different government agencies so as to further develop and implement national mitigation policies and measures. Regarding commitments under the UN Framework Convention on Climate Change, Turkey submitted its First and Second Biennial Update Report on greenhouse gases in March, and its Sixth National Communication and its National Inventory in April. Turkey needs to ratify the Paris Agreement on climate change and start implementing its contributions to it. In the area of transparency of climate action, alignment with the EU's economy-wide greenhouse gas monitoring mechanism is under preparation. Turkey needs to align with the Decision on accounting rules on greenhouse gas emissions and removals resulting from activities relating to land use, land-use change and forestry. A regulatory framework specific to the monitoring and reporting of emissions from industrial installations is already in place, but full alignment with the Emission Trading Directive is planned only for 2019. Regarding emission reductions from transport, further efforts should be made to fully implement the legislation already aligned with the Fuel Quality Directive, while the alignment with the EU Regulation on emissions standards for new cars should be initiated. Alignment regarding ozone depleting substances is not yet complete. Further efforts are required to align with the regulation on fluorinated greenhouse gases. Turkey also needs to establish a precise transposition plan for the Directive on geological storage of CO<sub>2</sub>.

#### 4.28. Chapter 28: Health and consumer protection

*EU rules protect consumers' economic interests, their rights regarding unfair commercial practices, and consumer products safety. The EU also works for citizens' health through tobacco control, safer blood, tissues, cells and organs, medicinal products, cross-border healthcare and protection against health threats.*

Turkey has achieved a **good level** of preparation in the area of health and consumer protection. There has been **some progress** on legislative alignment and the establishment of structures needed to implement the EU *acquis* in both areas. In the coming year, Turkey should in particular:

- ensure better functioning of arbitration committees on consumer complaints;
- ensure the confidentiality and security of health data in the national information system;
- increase the institutional/administrative capacity, inter-sectoral cooperation and adequate diagnostic facilities to address health threats particularly at provincial level.

In the area of **consumer protection**, all secondary legislation necessary to implement the new consumer protection law has now been adopted. Although Turkey continued to improve its **product safety** and market surveillance regime, it needs to ensure effective enforcement of measures regarding unsafe products. Also, Turkey needs to fully align its legislation with Directive 2001/95/EC on general product safety. Consumers can hardly obtain access to justice, in particular for complaints on defective goods, electricity bills and financial services. The appeal deadline for the execution of debts arising from consumer transactions is too short and the right of withdrawal from package tours is not guaranteed. Sanctions against infringements of consumer rights are not sufficiently deterrent. There has been further improvement in the online services of the Directorate General for Consumer Protection. The quality of arbitration committees' decisions needs to be improved by the legal deadline. Inconsistency between different arbitration committees and consumer courts' decisions remains an issue. Awareness and participation of consumer organisations in decision-making mechanisms is to be improved.

On **public health**, the increasing number of refugees is putting a heavy burden on the healthcare system. Regarding **serious cross-border health threats**, no progress was made in increasing the sensitivity of surveillance in detecting threats. Training and strengthening the system for the recognition, reporting and control of communicable diseases, especially outbreaks at provincial level, remains a challenge. The confidentiality and security of health data in the national information system should be ensured. **Non-communicable diseases** cause 86 % of all deaths in Turkey (1 in 5 of the population under 70); intensive awareness-raising efforts have continued on the dangers of **tobacco use**, physical inactivity, and unbalanced diets.

Capacity building and awareness-raising has continued in the field of **blood, tissues, cells and organs**. Turkey has partly aligned with the EU *acquis* on blood. However, EU safety and quality standards have not been fully implemented and a bigger budget is needed to improve blood supply management and ensure the availability of safe blood to all. As regards **human tissues and cells**, the professional and administrative procurement capacity has been improved and deontological standards of cadaveric donation have been developed but need implementation. **Organ** donation rates have increased and may reach 6 per million of the population by the end of 2016, yet legislative alignment needs to be completed. There has been good progress in the fight against **cancer** through improved infrastructure. Cancer screening coverage reached 35 % for breast and 80 % for cervical cancer. The cancer control programme has been integrated into primary healthcare and active cancer registration expanded to every province. The national cancer institute is still to be established. In the field of **mental health**, community-based mental health centres have been established across the country with training of new staff.

#### 4.29. Chapter 29: Customs union

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

Turkey has a **good level of preparation** in the area of the Customs Union, though **no progress** was made in the reporting period. Duty relief, free zones, surveillance measures and management of tariff quotas are not fully in line with the *acquis* and/or with Turkey's obligations under the Customs Union. Additional duties and designation of specialised customs offices for goods in free circulation in the EU breach the Customs Union rules. In the coming year, Turkey should in particular:

→ make additional efforts to improve risk-based controls and simplified procedures to facilitate legitimate trade, while ensuring security and safety;

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

No progress was made in the area of **customs legislation**. Customs law has yet to be harmonised with the EU Customs Code. Only limited efforts were made to improve risk-based controls and simplified procedures. In particular, the mandatory laboratory analysis required for a large group of products and the resulting delays in customs clearance are not in line with the objectives of conducting risk-based controls and facilitating trade.

Turkey maintained rules on surveillance and management of tariff quotas, free zones and duty relief that are not fully in line with the *acquis*. Additional customs duties on imports of a wide range of goods including footwear, carpets, rugs, various hand tools, some household appliances, lamps and some furniture, bags and similar containers, as well as certain steel products, are also not harmonised with EU customs duties. Even though the measures are limited to goods originating from third countries, they also apply to goods in free circulation in the EU and are thus contrary to the CU provisions.

Turkey disproportionally increased the agricultural component for sweet corn, which should be determined in line with Customs Union rules.

On **administrative and operational capacity**, efforts to strengthen Turkey's customs enforcement capacity continued particularly on anti-smuggling and security-related operations. In the area of intellectual property rights (see *chapter 7*) further alignment with the *acquis* is needed. Unlike the new computerised transit system in the framework of Turkey's membership of the Convention on a common transit procedure, tariff IT systems (TARIC, Quota and Surveillance) are not yet in place. A strategy for converging IT activities with business initiatives has yet to be developed.

#### 4.30. Chapter 30: External relations

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

Turkey maintains a **good level of preparation** in the area of external relations thanks in particular to the Customs Union. There was **some progress** in the reporting period. Turkey ratified the World Trade Organisation (WTO) Trade Facilitation Agreement. However, Turkish customs duties for a large number of products deviate from the Common Customs Tariff (CCT), infringing the Customs Union. In the coming year, Turkey should in particular:

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

→ align its customs tariff with the CCT.

Some progress was made in the area of the **common commercial policy**, as Turkey notified the WTO of implementation of the Trade Facilitation Agreement. However, within the **WTO**, in particular on the Doha Development Agenda, the OECD and in the G-20, the level of coordination between the EU and Turkey should be enhanced. Further alignment with EU GSP rules is needed regarding product and geographical coverage.

Turkey formally adopted new safeguard measures but investigations on imports of mobile phones, ceramic and porcelain tableware and kitchenware were terminated without imposing measures. Turkey has been a very active user of the WTO safeguard instrument, systematically extending measures in force, opening new investigations based on weak evidence and using safeguards where use of more targeted trade defence measures, such as the anti-dumping instrument, would be more appropriate.

Thanks to the Customs Union, Turkey's alignment with the EU common commercial policy continues to be high. However, Turkey does not respect the CCT, as it applies additional duties to a large number of products imported. On dual-use goods export controls, Turkey has not updated its control legislation in line with the EU *acquis* and does not align with the EU position on membership of certain multilateral export control arrangements, such as the Wassenaar Agreement. Turkey has also not aligned with the EU position on medium and long-term export credits.

Regarding **bilateral agreements with third countries**, Turkey signed a free trade agreement with Singapore. Turkey continued to unilaterally implement its free trade agreement with Malaysia although the EU has not concluded a similar agreement with Malaysia.

As for development policy and humanitarian aid, official development aid granted by Turkey stood at EUR 2.8 billion or 0.46 % of ODA/GNI in 2015, mostly on Syria-related activities. Turkey's assistance to Syrian refugees on its own territory makes it the donor contributing the second largest amount in 2015. It is host to the largest refugee population in the world, with about 3 million refugees from Syria, Iraq and other countries. In April, Turkey joined the EU Civil Protection Mechanism.

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

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

Turkey is **moderately prepared** as regards the alignment with the EU in the area of foreign, security and defence policy. **Good progress** was made in broadening and deepening the regular political dialogue on foreign and security policy, including at ministerial level. On Syria, Turkey continued to support the Syrian Opposition Coalition and to provide substantial humanitarian assistance to Syrian refugees and contributed to laying the groundwork for the International Syria Support Group. Dialogue on counter-terrorism continued. In the coming year, Turkey should in particular:

→ align itself more closely with EU declarations and Council decisions.

The **political dialogue** between the EU and Turkey was further enhanced with the 29 November meeting of EU and Turkish leaders, which led to the adoption of the EU-Turkey Statement and was followed by two prior EU-Turkey summits. A High Level Political Dialogues took place on 25 January and 9 September where foreign policy issues were discussed at length. Political Directors meetings took place in November 2015 and April 2016. Discussions continued mainly on the developments in Syria, Iraq, Libya, Afghanistan, Iran, Saudi Arabia, Israel, Russia, and Ukraine. Specialised consultations covered fight against terrorism and foreign terrorist fighters as well as Syria, Russia, Ukraine, South Caucasus and Central Asia. An EU-Turkey Dialogue on Counter Terrorism was held in June 2016.

Regarding the **common foreign and security policy**, Turkey aligned itself, when invited, with 18 out of 41 EU declarations and Council decisions (44 % alignment for the period 1 September 2015 to 1 September 2016, against 40 % during the reference period of the 2015 Report on Turkey). Turkey has not yet signed the statute of the International Criminal Court. Turkey participated in a number of high profile summits and conferences. It hosted notably the OIC summit in April 2016.

Turkey remained a key player in the crisis in **Syria**, continuing its support to the National Coalition for Syrian Revolutionary and Opposition Forces based in Istanbul. It contributed to lay the groundwork for the International Syria Support Group (ISSG) and supported the run-up to the UN-sponsored talks in Geneva. Turkey continued to provide extensive humanitarian assistance to over 2.7 million of Syrian refugees. Turkey stepped up its involvement in the coalition against Da'esh, continued air strikes against Da'esh positions, joined coalition airstrikes and measures to prevent cross-border activities by Da'esh fighters. On 24 August Turkey launched the cross-border military ground operation Euphrates Shield in northern Syria, aiming at clearing the border areas from Da'esh presence in cooperation with the Free Syrian Army. Relations between Turkey and **Iraq** deteriorated in the reporting period when Bagdad criticised Ankara for reinforcing its camp at Bashiqa. Tensions between Turkey and Iraq rose further in the context of the military campaign to liberate Mosul. Turkey's relations with the Kurdistan Regional Government remained stable. Turkey continued to conduct air strikes against PKK camps in Iraqi Kurdistan. Regarding the relations with the **United States**, Turkey allowed the US access to the Incirlik airbase used by the coalition forces, which remains crucial. The US support to PYD/YPG within the framework of the fight against Da'esh remained controversial in Turkey.

A rapprochement between Turkey and **Russia** was initiated in June, after a sharp deterioration of bilateral relations following the downing of a Russian jet, which had violated Turkish airspace, on 24 November 2015. Russia started to gradually phase out wide-ranging economic and diplomatic sanctions affecting the Turkish economy. Among other decisions, Turkey and Russia established a Joint Syria Mechanism in an attempt to narrow the positions on the principles for a solution to the Syria conflict. A meeting between Presidents Erdogan and Putin took place in Istanbul on 10 October, in the margins of the 23<sup>rd</sup> World Energy Congress. Relations with **Ukraine** culminated with the conclusion of a bilateral free trade agreement and enhanced cooperation in defence, industry and tourism in March 2016. While reiterating its condemnation of the annexation of Crimea by Russia and concerns over the Tatar community, Turkey did not align with Council decisions, including EU restrictive measures related to Russia and Ukraine.

Relations with **Saudi Arabia** intensified with the establishment of a bilateral Strategic Cooperation Council. With respect to **Yemen**, Turkey continued to encourage UN initiatives to re-establish a legitimate government. Turkey considers the Gulf Cooperation Council states as important partners in efforts to stabilise the region. Regarding **Qatar**, Turkey announced plans to establish a military base. Turkey and **Iran** continued to develop their relationship, preventing foreign policy divergences, notably on Syria, from interfering with economic cooperation. Turkey increased its engagement in **Libya**, supporting Prime Minister Fayeze Al-Sarraj and an inclusive political process. In June Turkey and **Israel** formally normalised relations. Relations with **Egypt** did not improve. Turkey and **Jordan** signed ten bilateral agreements, mainly in the economic field, in March 2016.

Regarding **South Caucasus and Central Asia**, Turkey was vocal in its support for Azerbaijan during clashes in April 2016 in Nagorno-Karabakh. Turkey, Georgia and Azerbaijan agreed to sign a trilateral military cooperation agreement in May 2016. The 2009 protocols on normalisation of relations with **Armenia** are not yet ratified. Turkey continued to maintain close relations with the countries of the **Western Balkans**. Turkey continued to provide humanitarian and development assistance to **Afghanistan** and co-chaired the 5th Ministerial

Meeting of the ‘Heart of Asia-Istanbul Process’ in Islamabad in December 2015. Turkey pledged of USD 150 million of development assistance to Afghanistan for the period of 2018-2020 at the Brussels Conference of 4-5 October. Turkey continued to strengthen its relations with **Latin America, Africa and Asia**. It hosted the 6<sup>th</sup> meeting of the High Level Partnership Forum on **Somalia** in February, a focal point of its diplomacy in Africa.

Turkey is party to all international arrangements on the **non-proliferation** of weapons of mass destruction. It has not yet aligned itself with the EU position on membership of the Wassenaar Arrangement (*see chapter 30 — External relations*) and the Missile Technology Control Regime.

Turkey continued to participate in civilian and military crisis management operations under the **common security and defence policy**, in particular EUFOR ALTHEA in Bosnia-Herzegovina, and EULEX Kosovo. Turkey briefly participated in the EUAM in Ukraine and the EUPOL COPPS in the Palestinian Territories. The issue of EU-NATO cooperation, going beyond the ‘Berlin plus’ arrangements, involving all EU Member States, continues to be unresolved.

#### 4.32. Chapter 32: Financial control

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

Turkey has achieved a **good level of preparation** in the area of financial control. **Some progress** was achieved with the updating of the national action plan for EU accession with commitments on financial control, improved methodological guidance by the central harmonisation units and an increase in the number of international audit certifications. However, neither of the Commission’s recommendations on public internal financial control in the 2015 report have been implemented. Further significant efforts are needed to implement PIFC at all levels of the administration and in state-owned companies. In the coming year, Turkey should in particular:

- update its overdue PIFC policy paper
- ensure a formal monitoring and reporting mechanism for an updated PIFC action plan;
- implement the planned changes to the Law on Public Financial Management and Control in line with the national action plan for EU accession.

#### Public internal financial control (PIFC)

Turkey adopted its PIFC **strategy and an action plan** in 2002. The government has committed to updating them, yet there has been no tangible progress for a number of years. No mechanism is in place to ensure regular monitoring and reporting on implementation. The Ministry of EU Affairs issued the national action plan for EU accession 2016-2019 in January 2016. The action plan envisages a revision of the Law on Public Financial Management and Control to improve its implementation in 2016. The medium-term programme from January 2016 makes a number of commitments for improving internal control over the period 2016-2018, but it does not provide clear targets and indicators to measure performance.

Two **central harmonisation units** (CHU) in the Ministry of Finance supervise the implementation of PIFC. The CHU for financial management and control provides methodological guidance and coordinates implementation in line ministries. It prepares an annual general accountability report for the government, based on an annual survey of budget users. The government does not, however, adopt conclusions on the basis of the report. The CHU for internal audit coordinates the implementation of internal audit in line ministries. During the reporting period it published handbooks on quality assurance and development, as

well as on value-for-money audit for internal auditors in public administrations. It also issues an annual general government internal audit report. The administrative capacity of the CHUs needs to be strengthened gradually.

The PIFC law regulates **financial management and control** mostly in line with the internal control framework of the Committee of Sponsoring Organisations (COSO) and the guidelines of the International Organisation of Supreme Audit Institutions (INTOSAI). Central government institutions broadly follow the PIFC manual. However, there is a need to refocus internal control as a management system rather than as a purely financial one. Ensuring a systematic approach to risk management in Turkey is a key challenge. The medium-term programme from January 2016 announces a public risk management guide. Turkey has an extensive **financial inspection** function in individual ministries. There are potential overlaps with internal audit, as both functions are focused on legal compliance.

**Internal audit** is regulated in the PIFC law, generally in line with international standards. An internal audit manual and a code of ethics are in place, as are manuals drafted by the CHU. 252 out of 383 institutions have set up internal audit units as requested. To date, 46 % of internal audit posts in the general government institutions have been filled. Some key institutions such as the Prime Minister's Office have yet to appoint internal auditors. 957 internal auditors have been certified by the CHU. 19 % of the auditors hold an international certification. Most institutions have an audit charter and perform audits according to audit plans. The internal audit software which was introduced in 2014 is widely used in all public institutions. In 2016, the Internal Audit Coordination Board introduced a mobile application for internal auditors. Ownership of internal audit at managerial level remains weak.

#### External audit

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

The TCA, which has also judicial functions, has a well-established structure with a presidency and governing boards. TCA board members are elected by Parliament. TCA increased its staff capacity considerably in the past year. Of its 1580 staff, 922 are auditors. Following the coup attempt of 15 July, 5.3 % of the TCA staff, mostly (senior) auditors were dismissed. This may lead to a weakening of the external audit capacity of the TCA as it will require a long time to train the new recruited staff as external auditors. To develop its institutional capacity, the TCA has adopted a strategic development plan for 2014-2018, including a training strategy. The TCA is carrying out an action plan to align with international internal control standards. Its impact will have to be assessed.

The TCA seeks to improve the **quality of audit work** by adopting assessment manuals for performance audit and activity reports and by strengthening the external audit training centre. Planning of audit work is mostly risk-based. The TCA submits annually four audit reports to Parliament (on general evaluation, accountability, financial statistics and state enterprises) in addition to the statement of general conformity. The TCA has a dedicated quality control unit to ensure auditors' adherence to professional and ethical standards and quality of reporting. However, the TCA should ensure that performance audits are not only audits about performance indicators but would also focus on economy, efficiency and effectiveness of public institutions. Omnibus law no.6661 adopted in January curtailed the scope of the TCA audit of companies listed on the Stock Exchange with less than 50 % of public shares. Given the high number of budget users at the local level, the capacity of the TCA to audit local administrations, municipal companies and associations needs to be strengthened.

Regarding the **impact of audit work**, the TCA assesses the internal control environment of audited entities as part of its audit work. The TCA submits its annual general conformity

assessment audit report to the general assembly of the Parliament which is analysed in the Plan and Budget Committee and discussed in the plenary. However, this process is neither systematic nor effective. A joint working group of the TCA and the Ministry of Finance is operational. A similar working group is needed with Parliament. The TCA frequently updates its website and communicates well with the media. However, audit reports on state-owned enterprises for 2014 were not posted on the TCA's website and those for previous years were removed. This has reduced the accessibility and transparency of external audit.

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

As regards **acquis alignment**, the national legislation incorporates the main components of the convention on the protection of the EU's financial interests and imposes an obligation to safeguard evidence. The **national anti-fraud coordination service (AFCOS)** is an independent unit under the Prime Minister's Office. An anti-fraud network, involving other relevant authorities, is in place. The 2010-2014 anti-corruption strategy and action plan failed to meet most of the objectives initially set. The new action plan for 2016-2019 needs to be implemented in an inclusive and participatory fashion to address outstanding issues.

Turkey **cooperated with the European Commission** investigators in various cases in 2015, but AFCOS will need to improve its cooperation with the Commission. Turkey has established the main procedures for reporting irregularities and suspected fraud cases. Access to the Irregularity Management System has been obtained with a network of 43 Turkish users. During the period 2006-2016, Turkey has reported 259 cases of irregularities to the Commission through the system, including 45 cases over the past year. A solid track record on investigation activities and reporting still needs to be established.

#### Protection of the euro against counterfeiting

Turkey has reached a high level of **acquis alignment** in this area. Turkey is also a party to the 1929 International Convention for the Suppression of Counterfeiting Currency. **Technical analysis** of counterfeit money, including euro banknotes and coins, is performed by a dedicated department in the central bank. The police serves as the national central office for ensuring cooperation with EU institutions as part of the counterfeit tracking system. Turkish legislation imposes financial penalties on credit institutions which do not withdraw counterfeits from circulation. Turkey has not signed formal **cooperation agreements** with the Commission and the European Central Bank, but in practice there is close cooperation. In addition, Turkey is implementing the roadmap for strengthening cooperation with Europol. Turkey participates actively in the Pericles 2020 programme.

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

*Rules for funding the EU budget provide for contributions based mainly on the gross national income of each Member State as well as from value added tax and customs duties.*

Turkey has reached **some level of preparation** in the area of financial and budgetary provisions. **Some progress** was made in the past year, as this chapter was opened for negotiations on 30 June 2016. Solid coordination structures, administrative capacity and implementing rules will need to be established in due course.

Basic principles and institutions in the underlying policy areas (chapters 16 — Taxation, 18 — Statistics, 29 — Customs Union and 32 — Financial Control) linked to the application of the own resources system are already in place. Due to the Customs Union with the EU on processed agricultural goods and industrial goods (with the exception of coal and steel products) Turkey's customs legislation is largely in line with the *acquis* in chapter 29. This will facilitate preparations in the field of **traditional own resources**.

Preparations are needed in the field of the **value added tax-based resource** so as to calculate the statistical VAT base. Turkey will need to take sound measures for combating fraud in VAT

and customs duties and tackle the informal economy in order to ensure an appropriate contribution to the EU own resources system upon membership.

Concerning the **gross national income-based resource**, efforts to compile financial and statistical data in line with the European System of Accounts are ongoing. Turkey will need to make considerable efforts to ensure that national accounts and GNI calculations are exhaustive by taking the informal economy into account and to create an inventory of sources and methods used for the compilation of GNI.

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

## ANNEX I – RELATIONS BETWEEN THE EU AND TURKEY

Within the framework of **accession negotiations**, 16 chapters have been opened so far and one of these was provisionally closed. Chapter 17 - economic and monetary affairs and chapter 33 – financial and budgetary provisions – were opened respectively on 14 December 2015 and 30 June 2016, in line with the EU and Turkey's commitment to re-energise the accession process as set out in their joint statement of 29 November 2015. The Commission has undertaken to advance the preparatory work on five other chapters without prejudice to Member States' positions in accordance with the existing rules. Opening benchmarks for chapters 23 and 24 on the rule of law still need to be defined so as to provide Turkey with a roadmap for reforms in this essential area. Progress on the priorities for reform is encouraged and monitored by the bodies set up under the **Association Agreement**. The Association Committee met in May 2016, while sub-committees kept being held throughout the reporting period. Subcommittees play a useful role in supporting Turkey's efforts of alignment with the *acquis* and of compliance with the opening and closing benchmarks of the negotiation chapters, without prejudice to the Council Conclusions of 11 December 2006.

As agreed at the first EU-Turkey Summit of 29 November 2015, the Commission, jointly with the European External Action Service, has stepped up EU-Turkey relations in all key areas of joint interest based on a **broad strategic engagement**. First Vice President Timmermans, High Representative/Vice President Mogherini and Commissioner Hahn made a number of visits to Turkey during the reporting period. Turkey itself continued to express its commitment to EU accession: then Prime Minister Davutoglu visited Brussels on several occasions and met with the Presidents of the European Council, of the European Parliament and of the European Commission. The President of the European Parliament visited Turkey in September 2016 and the President of the European Council in April 2016. The enhanced political dialogue between the EU and Turkey was brought to a new level. Within the framework of a new **High Level Political Dialogue**, High Representative/Vice President and Commissioner Hahn held meetings with their Turkish counterparts on 25 January and 9 September 2016. A political dialogue at directors' level took place in April 2016. Regular discussions on foreign and security policy were held, including on counter-terrorism, against the background of Turkey stepping up its involvement in the Global Coalition to Counter ISIL/Da'esh. Discussions were held on a wide range of topics and regions, *inter alia*, Syria, Iraq, Iran, Saudi Arabia, the Middle East and the Gulf, Afghanistan, Libya, Russia, Ukraine, the Western Balkans, the South Caucasus, Central Asia.

In the area of **visa migration and asylum**, a Joint Action Plan on migration was activated at the EU-Turkey Summit of 29 November 2015. Further to the EU-Turkey Statement of 18 March 2016, this close cooperation was stepped up aiming at putting an end to the irregular migration from Turkey to the EU, breaking the business model of the smugglers and developing legal pathways to Europe for those entitled to international protection in line with EU and international law. Implementation reports have been issued in February, March, April, June and September 2016. Regarding the Visa Liberalisation Dialogue launched in December 2013, the second and third implementation reports on the visa roadmap were issued in March and May 2016. The report of May acknowledged the good progress made and tabled a proposal to lift the visa requirement for Turkish citizens on the understanding that Turkey would urgently step up its efforts to meet the seven outstanding requirements, out of 72, in order to obtain visa liberalisation. The EU and Turkey continue their close cooperation on this issue.

Developing further close economic ties was another shared priority. The first **High Level Economic Dialogue** was held on 25-26 April in Istanbul and Ankara, where both parties discussed macroeconomic and investment developments and engaged with the business community. Turkey continues to participate in the multilateral economic dialogue with the Commission and Member States to prepare the country for participation in multilateral surveillance and economic policy coordination as part of the EU's Economic and Monetary Union. The most recent meeting was held on 25 May 2016, where joint recommendations were adopted. The EU and Turkey also continue to coordinate in the framework of the G-20. Turkey and the EU continued to improve their cooperation on energy, and a **High Level Energy Dialogue** meeting was held in January 2016. The dialogue covered developments and policy priorities in the gas sector and security of supplies, including the Southern Gas Corridor; the electricity sector; the nuclear sector; energy efficiency and renewable energy sources. Following agreement by the Commission and the Turkish government in May 2015 to initiate procedures in view of the modernisation and extension of the **Customs Union**, an Impact Assessment study has been carried out by external consultants, which will feed into the Commission's own assessment which will accompany a possible recommendation for a Council decision authorising the opening of negotiations to be presented by the Commission by the end of 2016. Turkey is the EU's fifth largest trading partner, while the EU is Turkey's largest. Two out of five goods traded by Turkey come from or go to the EU and over 70 % of foreign direct investment in Turkey originates in the EU.

Regarding **financial assistance**, the Financing Agreement for the IPA II 2014 annual programme entered into force, with a budget of EUR 366 million, and the 2015 annual programme was adopted, with a budget of EUR 255 million. Both programmes have a strong focus on the rule of law and fundamental rights and on the building up of capacities in the field of migration and asylum, in relation to the Visa Liberalisation Roadmap and the commitments under the Joint Action Plan on migration and the 18 March EU-Turkey Statement. The Financing Agreements for the Sector Operational Programmes on Environment and climate action, Education, employment and social policies and Competitiveness and innovation entered into force in April and May 2016, for a total budget of EUR 478 million. IPA support of Turkey's efforts to host refugees has expanded significantly. In December 2015, EUR 139.6 million from IPA I programmes have been transferred to the EU Regional Trust Fund in Response to the Syrian Crisis to finance environmental and social infrastructures, support to entrepreneurship, education and access to labour market.

Furthermore, in line with the commitment taken by the EU at the 29 November 2015 Summit with Turkey, and following final agreement by the Member States in February 2016, a **Facility for Refugees in Turkey** was set up, with a budget of EUR 3 billion over the period 2016-2017 (EUR 1 billion from the EU budget and EUR 2 billion from Member States contributions as externally assigned revenues). The Facility is a coordination mechanism, designed to ensure that the needs of refugees and host communities in Turkey are addressed in a comprehensive

and coordinated manner. The Facility became immediately operational and as of the end of September some EUR 2.2 billion have been allocated, EUR 1.2 billion contracted and EUR 677 million disbursed.

Turkey participates in the following **EU programmes**: Erasmus+, Horizon 2020, Customs 2020, Fiscalis 2020, COSME, (Competitiveness of Enterprises and Small and Medium-sized Enterprises) and EASI (Employment and Social Innovation). Turkey decided to withdraw from the Creative Europe programme as of 1 January 2017 after three years of participation. Turkey participates in the European Environmental Agency, in the European Monitoring Centre for Drugs and Drug Addiction and since 2015 in the Civil Protection Mechanism.

## ANNEX II – STATISTICAL ANNEX

### STATISTICAL DATA (as of 5.10.2016) Turkey

| Basic data                                   | Note | 2003    | 2011    | 2012    | 2013    | 2014    | 2015    |
|----------------------------------------------|------|---------|---------|---------|---------|---------|---------|
| Population (thousand)                        | 1)   | 66 402e | 73 723b | 74 724  | 75 627  | 76 668  | 77 696  |
| Total area of the country (km <sup>2</sup> ) |      | 783 562 | 783 562 | 783 562 | 783 562 | 783 562 | 783 562 |

| National accounts                                                                                                  | Note | 2003    | 2011      | 2012      | 2013      | 2014      | 2015      |
|--------------------------------------------------------------------------------------------------------------------|------|---------|-----------|-----------|-----------|-----------|-----------|
| Gross domestic product (GDP) (million national currency)                                                           |      | 454 781 | 1 297 713 | 1 416 799 | 1 567 289 | 1 748 168 | 1 952 638 |
| Gross domestic product (GDP) (million euro)                                                                        |      | 268 323 | 555 100   | 612 405   | 618 626   | 601 468   | 645 394   |
| GDP (euro per capita)                                                                                              |      | 4 000   | 7 500     | 8 200     | 8 200     | 7 800     | 8 300     |
| GDP (in Purchasing Power Standards (PPS) per capita)                                                               |      | 7 500   | 13 400b   | 14 000    | 14 200    | 14 600    | 15 100    |
| GDP (in Purchasing Power Standards (PPS) per capita), relative to the EU average (EU-28 = 100)                     |      | 35      | 51b       | 53        | 53        | 53        | 53        |
| Real GDP growth rate: change on previous year of GDP volume (%)                                                    |      | 5.3     | 8.4       | 1.9       | 4.8       | 3.0       | 4.0       |
| Employment growth (national accounts data), relative to the previous year (%)                                      |      | :       | :         | :         | :         | :         | :         |
| Labour productivity growth: growth in GDP (constant prices) per person employed, relative to the previous year (%) |      | :       | :         | :         | :         | :         | :         |
| Unit labour cost growth, relative to the previous year (%)                                                         |      | :       | :         | :         | :         | :         | :         |
| **3 year change (T/T-3) in the nominal unit labour cost growth index (2005 = 100)                                  |      | :       | :         | :         | :         | :         | :         |
| Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)     |      | :       | :         | :         | :         | :         | :         |
| Gross value added by main sectors                                                                                  |      |         |           |           |           |           |           |
| Agriculture, forestry and fisheries (%)                                                                            |      | 11.1    | 9.0       | 8.8       | 8.3       | 8.0       | 8.5       |
| Industry (%)                                                                                                       |      | 23.4    | 22.5      | 21.7      | 21.6      | 22.0      | 21.5      |
| Construction (%)                                                                                                   |      | 4.5     | 5.0       | 4.9       | 5.0       | 5.1       | 5.0       |
| Services (%)                                                                                                       |      | 61.0    | 63.5      | 64.6      | 65.1      | 64.9      | 65.0      |
| Final consumption expenditure, as a share of GDP (%)                                                               |      | 83.4    | 85.1      | 85.0      | 85.9      | 84.2      | 84.8      |
| Gross fixed capital formation, as a share of GDP (%)                                                               |      | 17.0    | 21.8      | 20.3      | 20.3      | 20.1      | 20.4      |
| Changes in inventories, as a share of GDP (%)                                                                      |      | 0.6     | 1.7       | -0.1      | 0.3       | -0.1      | -2.3      |
| Exports of goods and services, relative to GDP (%)                                                                 |      | 23.0    | 24.0      | 26.3      | 25.6      | 27.9      | 28.0      |
| Imports of goods and services, relative to GDP (%)                                                                 |      | 24.0    | 32.6      | 31.5      | 32.2      | 32.1      | 30.8      |
| Gross fixed capital formation by the general government sector, as a percentage of GDP (%)                         |      | :       | :         | :         | :         | :         | :         |

| <b>Business</b>                                                                                                          | Note | 2003   | 2011      | 2012      | 2013      | 2014      | 2015      |
|--------------------------------------------------------------------------------------------------------------------------|------|--------|-----------|-----------|-----------|-----------|-----------|
| Industrial production volume index (2010 = 100)                                                                          |      | 69.0   | 109.9     | 112.6     | 116.5     | 120.5     | 124.3     |
| Number of active enterprises (number)                                                                                    |      | :      | 3 422 163 | 3 474 992 | 3 529 541 | 3 525 431 | 3 584 832 |
| Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%) |      | :      | 23.2      | 12.8      | 12.4      | 12.2      | 12.1      |
| Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%) |      | :      | 12.0      | 12.1      | 12.4      | :         | :         |
| People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)               |      | :      | 76.0      | 75.8      | 74.2      | :         | :         |
| Value added by SMEs (in the non-financial business economy) (EUR million)                                                |      | :      | 81 593    | 91 208    | 97 407    | :         | :         |
| Total value added (in the non-financial business economy) (EUR million)                                                  |      | 84 559 | 153 201   | 170 420   | 184 526   | 178 630   | :         |

| <b>Inflation rate and house prices</b>                                           | Note | 2003 | 2011 | 2012 | 2013 | 2014 | 2015 |
|----------------------------------------------------------------------------------|------|------|------|------|------|------|------|
| Harmonised consumer price index (HICP), change relative to the previous year (%) |      | 25.3 | 6.5  | 8.9  | 7.5  | 8.9  | 7.7  |
| **Annual change in the deflated house price index (2010 = 100)                   |      | :    | :    | :    | :    | :    | :    |

| <b>Balance of payments</b>                                                                                 | Note | 2003    | 2011    | 2012     | 2013    | 2014    | 2015     |
|------------------------------------------------------------------------------------------------------------|------|---------|---------|----------|---------|---------|----------|
| Balance of payments: current account total (million euro)                                                  |      | -6 678  | -53 450 | -37 330  | -47 894 | -32 783 | -29 059  |
| Balance of payments current account: trade balance (million euro)                                          |      | -11 856 | -64 052 | -50 877  | -60 174 | -47 871 | -43 404  |
| Balance of payments current account: net services (million euro)                                           |      | 9 188   | 14 575  | 17 581   | 17 830  | 20 149  | 21 738   |
| Balance of payments current account: net income (million euro)                                             |      | -4 912  | -5 208  | -5 128   | -6 458  | -6 120  | -8 584   |
| Balance of payments current account: net current transfers (million euro)                                  |      | 902     | 1 235   | 1 094    | 908     | 1 059   | 1 192    |
| of which government transfers (million euro)                                                               |      | 257     | 450     | 308      | 344     | 358     | 465      |
| **3 year backward moving average of the current account balance relative to GDP (%)                        |      | -0.3    | -5.9    | -7.3     | -7.8    | -6.4    | -5.9     |
| **Five year change in share of world exports of goods and services (%)                                     |      | :       | :       | :        | :       | :       | :        |
| Net inward foreign direct investment (FDI) (million euro)                                                  |      | 1 080.3 | 9 922.4 | 7 144.3  | 6 593.6 | 4 121.9 | 10 641.7 |
| Foreign direct investment (FDI) abroad (million euro)                                                      |      | 424.3   | 1 702.6 | 3 195.0  | 2 731.0 | 5 304.5 | 4 591.3  |
| of which FDI of the reporting economy in the EU-28 countries (million euro)                                |      | 138.8   | 1 050.4 | 2 354.4  | 1 526.4 | 2 645.5 | 2 480.5  |
| Foreign direct investment (FDI) in the reporting economy (million euro)                                    |      | 1 504.6 | 11 625  | 10 339.4 | 9 324.6 | 9 426.4 | 15 233   |
| of which FDI of the EU-28 countries in the reporting economy (million euro)                                |      | 536.6   | 6 859.4 | 6 349.2  | 3 950.8 | 4 155.1 | 7 289.8  |
| **Net international investment position, relative to GDP (%)                                               |      | -34.6   | -40.7   | -53.9    | -48.1   | -55.1   | -51.1    |
| Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%) |      | -68.5   | 5.0     | 1.1      | -12.9   | -4.6    | 2.0      |

| <b>Public finance</b>                                        | Note | 2003 | 2011  | 2012 | 2013 | 2014 | 2015 |
|--------------------------------------------------------------|------|------|-------|------|------|------|------|
| ***General government deficit / surplus, relative to GDP (%) |      | -8.9 | -0.8f | -0.2 | 0.2  | 0.4  | 1.7  |
| ***General government gross debt relative to GDP (%)         |      | 65.2 | 37f   | 35.4 | 31.1 | 34.5 | 31.3 |
| Total government revenues, as a percentage of GDP (%)        |      | :    | 35.0  | 36.5 | 37.8 | 39.3 | 28.7 |
| Total government expenditure, as a percentage of GDP (%)     |      | :    | 35.8  | 36.7 | 37.6 | 38.8 | 28.4 |

| <b>Financial indicators</b>                                            | Note | 2003   | 2011    | 2012   | 2013   | 2014   | 2015   |
|------------------------------------------------------------------------|------|--------|---------|--------|--------|--------|--------|
| Gross foreign debt of the whole economy, relative to GDP (%)           |      | 42.7   | 42.0    | 42.0   | 45.8   | 55.0   | 56.4   |
| Gross foreign debt of the whole economy, relative to total exports (%) |      | 305.1  | 225.3   | 222.8  | 257.0  | 255.3  | 276.6  |
| Money supply: M1 (banknotes, coins, overnight deposits, million euro)  | 2)   | 13 188 | 65 555b | 76 513 | 78 110 | 91 571 | 97 885 |

|                                                                                                        |    |        |          |         |         |         |         |
|--------------------------------------------------------------------------------------------------------|----|--------|----------|---------|---------|---------|---------|
| Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)                        | 3) | 47 398 | 274 239b | 315 960 | 309 213 | 360 158 | 373 608 |
| Money supply: M3 (M2 plus marketable instruments, million euro)                                        | 4) | 50 488 | 288 210b | 333 144 | 323 062 | 375 844 | 387 048 |
| Total credit by monetary financial institutions to residents (consolidated) (million euro)             |    | 29 025 | 255 706  | 318 918 | 341 791 | 418 789 | 443 147 |
| **Annual change in financial sector liabilities (%)                                                    |    | :      | :        | :       | :       | :       | :       |
| **Private credit flow, consolidated, relative to GDP (%)                                               |    | :      | :        | :       | :       | :       | :       |
| **Private debt, consolidated, relative to GDP (%)                                                      |    | :      | :        | :       | :       | :       | :       |
| Interest rates: day-to-day money rate, per annum (%)                                                   | 5) | 40.50  | 10.20    | 11.20   | 10.05   | 10.94   | 11.02   |
| Lending interest rate (one year), per annum (%)                                                        |    | 41.50  | 9.95     | 10.87   | 7.56    | 11.68   | 10.79   |
| Deposit interest rate (one year), per annum (%)                                                        | 6) | 35.50  | 3.83     | 5.00    | 3.81    | 7.75    | 7.27    |
| Euro exchange rates: average of period (1 euro = ... national currency)                                |    | 1.685  | 2.322    | 2.314   | 2.534   | 2.906   | 3.026   |
| Trade-weighted effective exchange rate index (2005 = 100)                                              |    | 99.4   | 74.4     | 74.5    | 68.6    | 59.5    | 56.6    |
| **3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2005 = 100) |    | :      | :        | :       | :       | :       | :       |
| Value of reserve assets (including gold) (million euro)                                                |    | 31 084 | 63 467   | 92 748  | 98 640  | 95 824  | 99 620  |

| External trade in goods                                                 | Note | 2003    | 2011    | 2012    | 2013    | 2014    | 2015    |
|-------------------------------------------------------------------------|------|---------|---------|---------|---------|---------|---------|
| Value of imports: all goods, all partners (million euro)                |      | 61 248  | 173 099 | 184 087 | 189 783 | 182 338 | 186 532 |
| Value of exports: all goods, all partners (million euro)                |      | 41 761  | 96 973  | 118 644 | 114 533 | 118 653 | 129 555 |
| Trade balance: all goods, all partners (million euro)                   |      | -19 487 | -76 126 | -65 443 | -75 250 | -63 685 | -56 977 |
| Terms of trade (export price index / import price index * 100) (number) | 7)   | 100     | 93      | 96      | 98      | 98      | 103     |
| Share of exports to EU-28 countries in value of total exports (%)       |      | 58.1    | 46.4    | 38.9    | 41.5    | 43.5    | 44.5    |
| Share of imports from EU-28 countries in value of total imports (%)     |      | 50.6    | 37.9    | 37.0    | 36.7    | 36.7    | 38.0    |

| Demography                                                                                                                 | Note | 2003 | 2011 | 2012 | 2013 | 2014 | 2015 |
|----------------------------------------------------------------------------------------------------------------------------|------|------|------|------|------|------|------|
| Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants) |      | 11.7 | 11.4 | 11.7 | 12.0 | 12.3 | 11.8 |
| Infant mortality rate deaths of children under one year of age (per thousand live births)                                  |      | 29.1 | 11.7 | 11.6 | 10.8 | 11.1 | :    |
| Life expectancy at birth: male (years)                                                                                     |      | :    | 74.4 | 74.8 | 75.4 | 75.4 | :    |
| Life expectancy at birth: female (years)                                                                                   |      | :    | 79.8 | 80.5 | 81.1 | 80.9 | :    |

| Labour market                                                                                                          | Note | 2003 | 2011 | 2012 | 2013 | 2014  | 2015 |
|------------------------------------------------------------------------------------------------------------------------|------|------|------|------|------|-------|------|
| Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%) |      | :    | 57.2 | 57.4 | 58.4 | 58.9  | 59.9 |
| *Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)            |      | 49.2 | 52.2 | 52.8 | 53.4 | 53.2  | 53.9 |
| Male employment rate for persons aged 20–64 (%)                                                                        |      | 72.2 | 75.1 | 75.0 | 75.3 | 75.0  | 75.3 |
| Female employment rate for persons aged 20–64 (%)                                                                      |      | 26.4 | 29.8 | 30.9 | 31.8 | 31.6  | 32.6 |
| Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)             |      | 32.7 | 31.4 | 31.9 | 31.5 | 31.4  | 31.9 |
| Employment by main sectors                                                                                             |      |      |      |      |      |       |      |
| Agriculture, forestry and fisheries (%)                                                                                | 8)   | :    | 25.5 | 24.6 | 23.6 | 21.1b | 20.6 |
| Industry (%)                                                                                                           |      | :    | 19.5 | 19.1 | 19.4 | 20.5b | 20.0 |
| Construction (%)                                                                                                       |      | :    | 7.0  | 6.9  | 7.0  | 7.4b  | 7.2  |
| Services (%)                                                                                                           |      | :    | 48.1 | 49.4 | 50.0 | 51.0b | 52.2 |
| People employed in the public sector as a share of total employment, persons aged 20–64 (%)                            |      | 16.8 | 13.3 | 13.8 | 13.5 | 13.1b | 13.5 |
| People employed in the private sector as a share of total employment, persons aged 20–64 (%)                           |      | 83.2 | 86.7 | 86.2 | 86.5 | 86.9b | 86.5 |
| Unemployment rate: proportion of the labour force that is unemployed (%)                                               | 9)   | :    | 8.8  | 8.2  | 8.8  | 9.9   | 10.3 |
| Male unemployment rate (%)                                                                                             | 9)   | :    | 8.3  | 7.7  | 8.0  | 9.1   | 9.3  |
| Female unemployment rate (%)                                                                                           | 9)   | :    | 10.1 | 9.4  | 10.6 | 11.9  | 12.6 |
| Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)                              | 9)   | :    | 16.7 | 15.7 | 16.9 | 17.8  | 18.4 |

|                                                                                                                |    |   |     |     |     |      |     |
|----------------------------------------------------------------------------------------------------------------|----|---|-----|-----|-----|------|-----|
| Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%) | 9) | : | 2.3 | 2.0 | 2.1 | 2.0  | 2.2 |
| Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED 0–2) (%)  | 9) | : | 7.4 | 6.7 | 7.3 | 8.4b | 8.9 |
| Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED 5 & 6) (%)               | 9) | : | 6.8 | 6.7 | 6.9 | 8.1b | 8.4 |

|                                                                                                                                                                             |      |      |       |       |       |      |      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|------|-------|-------|-------|------|------|
| <b>Social cohesion</b>                                                                                                                                                      | Note | 2003 | 2011  | 2012  | 2013  | 2014 | 2015 |
| Average nominal monthly wages and salaries (national currency)                                                                                                              | 10)  | 543  | 1 242 | 1 327 | 1 509 | :    | :    |
| Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2000 = 100)                                                          |      | :    | :     | :     | :     | :    | :    |
| GINI coefficient                                                                                                                                                            |      | 45.0 | 43.3  | 42.8  | :     | :    | :    |
| Poverty gap (%)                                                                                                                                                             |      | 31.0 | 31.9  | 30.3  | :     | :    | :    |
| *Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%) | 11)  | 52.9 | 41.9b | 39.6  | 37.6p | 38.3 | 36.7 |

|                                                                                                   |      |      |       |       |       |       |       |
|---------------------------------------------------------------------------------------------------|------|------|-------|-------|-------|-------|-------|
| <b>Standard of living</b>                                                                         | Note | 2003 | 2011  | 2012  | 2013  | 2014  | 2015  |
| Number of passenger cars relative to population size (number per thousand population)             |      | 70.8 | 110.0 | 115.7 | 122.8 | 128.6 | 136.3 |
| Number of mobile phone subscriptions relative to population size (number per thousand population) |      | 420e | 874b  | 895   | 909   | 925   | 935   |
| Mobile broadband penetration (per 100 inhabitants)                                                |      | :    | :     | :     | :     | :     | :     |
| Fixed broadband penetration (per 100 inhabitants)                                                 |      | :    | :     | :     | :     | :     | :     |

|                                                                               |      |       |       |       |       |       |       |
|-------------------------------------------------------------------------------|------|-------|-------|-------|-------|-------|-------|
| <b>Infrastructure</b>                                                         | Note | 2003  | 2011  | 2012  | 2013  | 2014  | 2015  |
| Density of railway network (lines in operation per thousand km <sup>2</sup> ) |      | 11.1  | 12.3  | 12.3  | 12.4  | 12.9  | 12.9  |
| Length of motorways (kilometres)                                              |      | 1 753 | 2 119 | 2 127 | 2 127 | 2 155 | 2 159 |

|                                                                                         |      |      |       |      |      |      |      |
|-----------------------------------------------------------------------------------------|------|------|-------|------|------|------|------|
| <b>Innovation and research</b>                                                          | Note | 2003 | 2011  | 2012 | 2013 | 2014 | 2015 |
| Public expenditure on education relative to GDP (%)                                     |      | 3.0  | 4.5   | 4.8  | 5.0  | 5.1  | :    |
| *Gross domestic expenditure on R&D relative to GDP (%)                                  | 12)  | 0.48 | 0.86b | 0.92 | 0.95 | 0.96 | :    |
| Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%) |      |      | 0.34  | 0.32 | 0.37 | 0.32 | :    |
| Percentage of households who have internet access at home (%)                           |      |      | 42.9  | 47.2 | 49.1 | 60.2 | 69.5 |

|                                                                                                   |      |       |       |       |       |       |      |
|---------------------------------------------------------------------------------------------------|------|-------|-------|-------|-------|-------|------|
| <b>Environment</b>                                                                                | Note | 2003  | 2011  | 2012  | 2013  | 2014  | 2015 |
| *Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)                       |      | 139.6 | 172.4 | 180.0 | 178.0 | 184.6 | :    |
| Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2005 constant prices) |      | 239.1 | 221.5 | 227.5 | 218.7 | 219.1 | :    |
| Electricity generated from renewable sources relative to gross electricity consumption (%)        |      | 25.3  | 25.4  | 27.3  | 28.9  | 21.1  | :    |
| Road share of inland freight transport (based on tonne-km) (%)                                    |      | 94.6  | 94.3  | 94.5  | 95.4s | 94.9  | 95.8 |

|                                                            |      |        |         |         |         |         |      |
|------------------------------------------------------------|------|--------|---------|---------|---------|---------|------|
| <b>Energy</b>                                              | Note | 2003   | 2011    | 2012    | 2013    | 2014    | 2015 |
| Primary production of all energy products (thousand TOE)   |      | 23 783 | 32 229  | 31 964  | 31 944  | 31 049  | :    |
| Primary production of crude oil (thousand TOE)             |      | 2 494  | 2 555   | 2 440   | 2 485   | 2 471   | :    |
| Primary production of hard coal and lignite (thousand TOE) |      | 10 777 | 17 869  | 17 018  | 15 451  | 16 359  | :    |
| Primary production of natural gas (thousand TOE)           |      | 510    | 652     | 533     | 443     | 414     | :    |
| Net imports of all energy products (thousand TOE)          |      | 61 150 | 84 087  | 91 827  | 90 784  | 97 041  | :    |
| Gross inland energy consumption (thousand TOE)             |      | 83 826 | 114 480 | 120 093 | 120 290 | 123 937 | :    |
| Electricity generation (thousand GWh)                      |      | 140.6  | 229.4   | 239.5   | 240.2   | 252.0   | :    |

|                                                                                                       |      |        |        |        |        |        |         |
|-------------------------------------------------------------------------------------------------------|------|--------|--------|--------|--------|--------|---------|
| <b>Agriculture</b>                                                                                    | Note | 2003   | 2011   | 2012   | 2013   | 2014   | 2015    |
| Agricultural production volume index of goods and services (at producer prices) (previous year = 100) |      | 98     | :      | :      | :      | :      | :       |
| Utilised agricultural area (thousand hectares)                                                        |      | 40 644 | 38 231 | 38 399 | 38 423 | 38 558 | 38 551p |

|                                                                                     |     |        |        |        |        |        |        |
|-------------------------------------------------------------------------------------|-----|--------|--------|--------|--------|--------|--------|
| Livestock numbers: live bovine animals (thousand heads, end of period)              | 13) | 9 788  | 12 386 | 13 915 | 14 415 | 14 223 | 13 994 |
| Livestock numbers: live swine (thousand heads, end of period)                       |     | 7      | 2      | 3      | 3      | 3      | 2      |
| Livestock numbers: live sheep and live goats (thousand heads, end of period)        |     | 32 203 | 32 310 | 35 783 | 38 510 | 41 485 | 41 924 |
| Production and utilisation of milk on the farm (total whole milk) (thousand tonnes) |     | 10 611 | 15 056 | 17 401 | 18 224 | 18 631 | 18 655 |
| Harvested crop production: cereals (including rice) (thousand tonnes)               |     | 30 807 | 35 202 | 33 377 | 37 489 | 32 714 | 38 637 |
| Harvested crop production: sugar beet (thousand tonnes)                             |     | 12 623 | 16 126 | 14 920 | 16 489 | 16 743 | 16 023 |
| Harvested crop production: vegetables (thousand tonnes)                             |     | 25 870 | 27 547 | 27 820 | 28 448 | 28 487 | 29 552 |

: = not available

b = break in series

e = estimate

f = forecast

p = provisional

s = Eurostat estimate

\* = Europe 2020 indicator

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

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

#### Footnotes

- 1) Values are derived from 2000–06 population estimates and 2007–15 results of address based population registration system.
- 2) Break in series. From December 2005 onwards, M1 also includes currency in circulation and demand deposits in foreign currencies, not just in national currency. Furthermore, from December 2005 monetary liabilities of Participation Banks, Investment and Development Banks and the amount of Money Market Funds were added to money supply data.
- 3) Break in series. From December 2005 onwards, M2 includes M1 and time deposits in foreign currencies, not just in national currency. See also break in series for M1.
- 4) Break in series. From December 2005 onwards, M3 includes (in addition to M2 and official deposits (time/demand) which were already included previously) funds received from repo transactions and money market funds (B type liquid funds). See also break in series for M1 and M2.
- 5) Average of monthly data. Lending to enterprises more than one year.
- 6) Average of monthly data. Overnight deposit facility.
- 7) Expressed as an index with 2000 = 100. Time series were originally based on different reference years (2009–09, 2003 = 100; since 2010, 2010 = 100).
- 8) 2011–13: includes NACE Rev. 2 Group 98.1 (undifferentiated goods-producing activities of private households for own use).
- 9) 2011–15: unemployment based on 4 weeks criterion + using only active jobs search methods.
- 10) 2003: data have been converted (rescaled) to the current national currency. Data are based on the Income and Living Conditions Survey (ILC).
- 11) Break in series caused by the addition of 'participation in non formal education or training' from 2004.
- 12) Break in series due to the use of revised GDP series since 2007.
- 13) Excluding buffaloes.