

EN

EN

EN



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 08.11.2006
SEC (2006) 1390

COMMISSION STAFF WORKING DOCUMENT

Turkey 2006 Progress Report

EN

{COM (2006) 649 final}

TABLE OF CONTENTS

1.	Introduction.....	4
1.1.	Preface.....	4
1.2.	Relations between the EU and Turkey.....	4
2.	Enhanced political dialogue and political criteria.....	5
2.1.	Democracy and the rule of law.....	5
2.2.	Human rights and the protection of minorities.....	10
2.3.	Regional issues and international obligations.....	23
3.	Economic criteria.....	24
3.1.	Introduction.....	24
3.2.	Assessment in terms of the Copenhagen criteria.....	25
3.2.1.	The existence of a functioning market economy.....	25
3.2.2.	The capacity to cope with competitive pressure and market forces within the Union.....	28
4.	Ability to assume the obligations of membership.....	30
4.1.	Chapter 1: Free movement of goods.....	30
4.2.	Chapter 2: Freedom of movement for workers.....	32
4.3.	Chapter 3: Right of establishment and freedom to provide services.....	32
4.4.	Chapter 4: Free movement of capital.....	33
4.5.	Chapter 5: Public procurement.....	34
4.6.	Chapter 6: Company law.....	35
4.7.	Chapter 7: Intellectual property law.....	36
4.8.	Chapter 8: Competition Policy.....	37
4.9.	Chapter 9: Financial Services.....	38
4.10.	Chapter 10: Information society and media.....	39
4.11.	Chapter 11: Agriculture.....	41
4.12.	Chapter 12: Food safety, veterinary and phytosanitary policy.....	43
4.13.	Chapter 13: Fisheries.....	44
4.14.	Chapter 14: Transport policy.....	45
4.15.	Chapter 15: Energy.....	46
4.16.	Chapter 16: Taxation.....	47

4.17.	Chapter 17: Economic and Monetary Union	48
4.18.	Chapter 18: Statistics.....	49
4.19.	Chapter 19: Employment and Social Policy	50
4.20.	Chapter 20: Enterprise and Industrial Policy	51
4.21.	Chapter 21: Trans European Networks	53
4.22.	Chapter 22: Regional Policy and Coordination of Structural Instruments	53
4.23.	Chapter 23: Judiciary and fundamental rights	55
4.24.	Chapter 24: Justice, Freedom and Security.....	60
4.25.	Chapter 25: Science & Research.....	63
4.26.	Chapter 26: Education & Culture.....	63
4.27.	Chapter 27: Environment	64
4.28.	Chapter 28: Consumer and Health Protection.....	66
4.29.	Chapter 29: Customs Union.....	67
4.30.	Chapter 30: External Relations	68
4.31.	Chapter 31: Foreign, Security and Defence Policy	69
4.32.	Chapter 33: Financial and Budgetary Provisions.....	72
	STATISTICAL ANNEX.....	74

COMMISSION STAFF WORKING DOCUMENT

Turkey 2006 Progress Report

1. INTRODUCTION

1.1. Preface

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

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

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

The period covered by this report is 1 October 2005 to 30 September 2006. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a rule, legislation or measures which are under preparation or await Parliamentary approval have not been taken into account. This approach ensures equal treatment across all reports and permits an objective assessment.

The report is based on information gathered and analysed by the Commission. In addition, many sources have been used, including contributions from the government of Turkey, the Member States, European Parliament reports¹ and information from various international non-governmental organisations.

The Commission draws conclusions regarding Turkey in its separate communication on enlargement², based on the technical analysis contained in this report.

1.2. Relations between the EU and Turkey

Accession negotiations were opened with Turkey in October 2005. The first phase of the accession process, the analytical examination of the *acquis* (screening) was completed in October 2006. Negotiations on one chapter, science and research, were opened and provisionally closed in June.

¹ The *rapporteur* for Turkey was Mr C. Eurlings.

² Enlargement Strategy and Main Challenges 2006 – 2007.

The **enhanced political dialogue** has continued under the United Kingdom, Austrian and Finnish presidencies.

The **Association Agreement** has continued to work in a satisfactory manner.

EC-Turkey trade has continued to expand in the context of the **customs union**, reaching €75 billion in 2005. In all occasions, the EU urged Turkey to remove all restrictions on the free movement of goods, including restrictions on means of transport regarding to Cyprus. Other unfulfilled commitments by the Turkish side persist, relating to technical barriers to trade, import licences, state aids, enforcement of intellectual property rights, and other discriminatory provisions. The partial reduction of mandatory standards is however a positive step. The EU hopes that negotiations to extend the customs union to the area of public procurement and services can resume soon. Trade negotiations were completed in September on processed agricultural products. These aimed to improve market access and to adjust customs union provisions to the EU's 2004 enlargement. No progress can be reported concerning Turkey's long-standing ban on imports of live bovine animals, beef and other animal products.

The revised **Accession Partnership** was adopted in January 2006, setting out priorities that Turkey should address in the short- and medium-term in its preparations for accession.

The 2006 EC pre-accession **financial assistance** amounts to €500 million. EIB lending in Turkey stands at some €4.2 billion.

2. ENHANCED POLITICAL DIALOGUE AND POLITICAL CRITERIA

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

2.1. Democracy and the rule of law

Parliament

The Turkish Grand National Assembly, in which six parties are represented, has adopted 148 laws of a total 429 draft bills submitted since October 2005. The next elections are scheduled for November 2007.

Throughout the year, the EU Harmonisation Committee and the Human Rights Committee played an important role in addressing issues arising under the Copenhagen political criteria (*on the Human Rights Committee see section on human rights*).

A public debate has developed over the need to change the electoral system, which currently requires political parties to reach a 10% threshold at national level to achieve representation.

The government submitted a new reform package in June, covering a number of areas related to the Copenhagen political criteria. Parliament passed several laws in the area of the political criteria.

However, some legislative proposals included in the government's reform package were not adopted before the end of the reporting period.

Amendments to the anti-terror law were adopted in June 2006 as a response to the escalation of terrorism. Under the new law, the list of what constitutes a terrorist offence was extended and a wide definition of terrorism maintained. The law introduces legal restrictions on freedom of expression, the press and the media³. In August, President Sezer applied to the Constitutional Court for the cancellation of articles 5 and 6, providing for such restrictions. The new anti-terror law reduces procedural safeguards for suspects of terrorist offences. Access to a lawyer may be denied for a period of 24 hours, and under certain circumstances security officers may attend meetings between suspects and their lawyer. As regards the defence rights, officials and former officials are granted differentiated treatment. Furthermore they dispose of wider discretion with regard to the use of firearms.

Government

The government, in power since November 2002, has repeatedly confirmed its commitment to the EU accession process. As a result, it presented a new reform package in June (*see Parliament*).

In October 2005 the EU Chief Negotiator presented the structure of the negotiating team. The Head of the team is the Minister of Foreign Affairs. The EU Chief Negotiator is in charge of steering and implementing the accession work. A Monitoring and Steering Committee was established. The Committee comprises the Secretary General for EU Affairs, the Deputy Undersecretary of the Foreign Ministry, the Deputy Undersecretary of the State Planning Organisation, the Deputy Undersecretary of the Office of the Prime Minister and Turkey's Permanent representative to the EU.

The Secretariat General for EU Affairs (EUSG) has played a co-ordinating role, in particular regarding alignment under the political criteria, financial co-operation and, since 3 October 2005, the process of screening and negotiating *acquis* chapters.

However, given the significant increase of EUSG responsibilities, there is a need for a proportional strengthening of its staff and resources. Limited action has been taken in this respect.

Public administration

Parliament adopted a Law Establishing an Ombudsman. The Ombudsman will handle petitions from natural and legal persons in relation to administrative acts. This is a priority of the Accession Partnership and an important step forward, as it creates an institutional framework for the monitoring of public administration by the Turkish citizens.

The Constitution was amended in November 2005 in line with the Public Financial Management and Control (PFMC)'s broader definition of state budget. This includes general

³ The new law establishes aggravated penalties for "propaganda" and "praise" of terrorism. However, the definition of such crimes is not in line with the Council of Europe Convention for the Prevention of Terrorism (CETS 196). Freedom of the press and media could be undermined by provisions allowing the suspension of periodicals and introducing the liability of chief editors and of press and media owners for publishing terrorist propaganda or praise in press or media organs.

budget agencies, special budgets agencies, budgets of regulatory agencies as well as budgets of social security agencies.

Turkey has made some progress regarding better regulation. The government adopted a Regulation in February 2006 which introduces regulatory impact assessments (RIA) into the Turkish legal system. The use of RIA should, amongst other things, support Turkey in the conduct of EU accession negotiations.

However, a number of issues require attention. PFMC needs to be fully implemented and the institutional capacity for conducting regulatory impact assessment needs to be reinforced.

No progress has been made in adopting the Framework Law on Public Administration, which was vetoed by the President in 2004. As a result, the devolution of central government powers to local administrations was hampered. Moreover, fiscal decentralisation has not been achieved. No progress has been made to establish City Councils.

The Law on the Associations of Local Governments was amended in January 2006. This allows villages, municipalities and special provincial administration to undertake joint projects. The expenditure and budgets of the joint projects became exempt from the Court of Accounts audit. This is not in line with the principles of external audit.

No progress can be reported on the draft Civil Servant law. This aims to partially repeal the existing legal provisions and to adopt a more managerial legal instrument.

Overall, there has been some legislative progress in public administration reform. The implementation of reforms adopted in previous years has continued. Further efforts are needed in the area of decentralisations.

Civil-Military relations

There has been progress concerning the competence of military courts to try civilians. Under the law amending the relevant provisions of the Military Criminal Code as adopted in June 2006, no civilian will be tried in military courts in peacetime unless military personnel and civilians commit an offence together. The new law also introduces the right of retrial in military courts. Accordingly, if there is an ECtHR decision in favour of military or civilian persons who have been tried before military courts, they can ask for a retrial.

The National Security Council (NSC) has continued to meet on a bi-monthly basis in line with its revised role. It has discussed domestic and foreign policy issues such as counter-terrorism, internal security, energy security, migration, water policy and foreign aid policy. The NSC has submitted reports to the government, including recommendations.

One such document, the revised National Security Policy Document (NSPD), adopted by the government in November 2005, is a classified document and was not discussed by Parliament.

The Armed Forces have continued to exercise significant political influence. Senior members of the armed forces have expressed their opinion on domestic and foreign policy issues including Cyprus, secularism, the Kurdish issue, and on the indictment concerning the Semdinli bombing (*see sections on the judiciary and South East*).

The Turkish Armed Forces Internal Service Law remains unchanged. This defines the role and duties of the Turkish military and contains articles granting the military a wide margin of

manoeuvre. Similarly, as reported last year, article 2a of the NSC Law provides a broad definition of national security. No measures have been taken to enhance civilian control over the Gendarmerie. This is part of the army and operates under the General Staff as well as under the Ministry of Interior in terms of law-enforcement duties.

In March, a draft report of the Şemdinli Investigation Commission of Parliament revealed the existence of a secret protocol on Security, Public order and Assistance Units (commonly called EMASYA). Signed by the General Staff and the Ministry of Interior in 1997, this protocol allows for military operations to be carried out for internal security matters under certain conditions without request from the civilian authorities. Under the protocol, the military can gather intelligence against internal threats.

Reforms in defence expenditures, adopted in previous years have started to be implemented. The budgetary appropriations of the National Intelligence Service, the National Security Council as well as the administrative budget of the under-secretariat in charge of the Defence Industry were all included in the 2006 state budget. However, most procurement projects are funded separately from extra-budgetary funds.

No further progress has been achieved in terms of strengthening parliamentary overseeing of the military budget and expenditures. The Parliamentary Planning and Budget Committee reviews the military budget only in a general manner but does not examine programmes and projects. Furthermore, extra-budgetary funds are excluded from parliamentary scrutiny.

No internal audit of military property has yet taken place pending the adoption of secondary legislation to the Law on Public Financial and Management Control (PFMC). According to article 160 of the Constitution, the Court of Auditors can carry out ex-post audit of defence expenditures. However, the Court remains unable to carry out its tasks due to the lack of the relevant implementing legislation.

Overall, limited progress has been made in aligning civil-military relations with EU practices. Statements by the military should only concern military, defence and security matters and should only be made under the authority of the government, while the civilian authorities should fully exercise their supervisory functions in particular as regards the formulation of the national security strategy and its implementation, including with regard to relations with neighbouring countries.

Judicial system

The authorities have been focusing on the implementation of the new Penal Code, the Code of Criminal Procedure and the Law on Enforcement of Sentences following the entry into force of these laws in 2005.

In this respect, the Ministry of Justice updated all existing circulars by issuing some 100 new circulars mainly addressed to public prosecutors in January 2006. This action aimed to create a clearer and more concise framework for the implementation of the new Code of Criminal Procedure and the Law on Enforcement of Sentences. One circular of particular importance concerns the implementation of legislation on arrest, detention and statement taking and the prevention of human rights violations during these practices. This circular underlines the duty of prosecutors to monitor the situation of detainees through regular visits to places of detention. It also requires prosecutors to report periodically to the Ministry of Justice on implementation by law enforcement authorities.

Two circulars were issued by the Ministries of Interior and Justice in November 2005 and January 2006, respectively, to clarify the interaction between prosecutors and the judicial police.

Courts have continued to apply the European Convention on Human Rights (ECHR).

During the year 620 new judges were recruited. Training activities continued to ensure implementation of the reforms carried out in the last three years. The budget of the Ministry of Justice was increased and the programme of building Courts of First Instance continued. The establishment of Regional Courts of Appeal is proceeding.

However, a number of issues remain to be addressed. Certain provisions of the Penal Code, in particular Article 301, have been used to restrict the expression of non-violent opinions (*see section on freedom of expression*).

A number of cases have shown inconsistency in the judiciary approach to the interpretation of legislation.

As regards the implementation of the new Code of Criminal Procedure, the establishment of the judicial police has led to some tensions between the law enforcement bodies and prosecutors. Despite the Ministries of Interior and Justice issuing two circulars, prosecutors report difficulties in effective supervision of the judicial police.

With regard to the independence of the judiciary, various provisions of the Turkish Constitution and of domestic law guarantee this principle. However, a number of factors are perceived as undermining it. Judges and public prosecutors are attached to the Ministry of Justice as far as their administrative functions are concerned. The High Council of Judges and Prosecutors, the supreme governing body of the judiciary, does not have its own secretariat, separate premises and budget. The judicial inspectors, who are responsible for evaluating the performance of judges and prosecutors, are attached to the Ministry rather than to the High Council. The Minister and the Undersecretary of the Ministry of Justice are two of the seven members of the Council with voting rights. The remaining five are appointed among judges of the Court of Cassation and the Council of State. This composition does not seem to be representative of the judiciary as a whole and, together with the other issues listed above, may create the potential for the executive to influence decisions relating to the careers of judges in Turkey, provided that the executive is present⁴.

Questions were raised on the independence of the High Council of Judges and Prosecutors in the aftermath of the publication in March 2006 of the indictment on the Şemdinli bombing (*see Southeast section*), which included accusations against the Land Forces Commander and other high-ranking military commanders. The General Staff criticised the indictment in a press statement and urged those bearing constitutional responsibility to take action. In April the High Council of Judges and Prosecutors reviewed charges against the prosecutor and applied the highest disciplinary sanction, i.e. dismissal from office. The final review by the High Council on this matter is scheduled for November.

⁴ Despite being the Chairman of the HCJP, the Minister of Justice rarely attends the High Council's meetings. The number of meetings presided by the Minister of Justice in the last six years are as follows: 9 in 2001, 11 in 2002, 12 in 2003, 8 in 2004, 4 in 2005 and 2 (as of 26.09.2006) in 2006.

Overall, there was continued progress in the area of judicial reform. However, implementation of the new legislation by the judiciary presents a mixed picture so far and the independence of the judiciary still needs to be further established.

More details on the judicial system can be found under Chapter 23 – *Judiciary and fundamental rights*.

Anti-corruption measures

Concerning transparency in the public administration, the Law on Access to Information was amended in 2006 to enable citizens to dispute all decisions of state agencies regarding denials of requests for information.

The Parliamentary investigation commissions on the gasoline smuggling and on the illegal public offering completed their reports. Both reports show a wide range of corruption activities. The first case involved a former Minister of Finance and Minister of State, and has serious economic and financial implications. The reports include recommendations for measures to be taken by the public institutions.

However, a number of issues remain to be addressed. Corruption remains widespread in the Turkish public sector and judiciary, despite the efforts of recent years. Turkey needs to improve its legislation on financing and auditing of political parties.

The wide scope of parliamentary immunity remains a significant problem in the context of corruption in Turkey.

With regard to corruption investigations carried out by the Inspection Boards, the need for a prior authorisation from the hierarchy when investigating some categories of public officials hampers the investigation.

There is a need for better co-ordination of the system currently in place for combating corruption. The designation of a body with sufficient independence responsible for the conception and monitoring the implementation of anti-corruption measures could be helpful in this respect.

Overall, there has been some limited progress in the fight against corruption, notably on increasing transparency in the public administration. However, corruption remains widespread and anti-corruption authorities and policies are still weak.

2.2. Human rights and the protection of minorities

Observance of international human rights law

Concerning the *ratification of human rights instruments*, the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) on the abolishment of the death penalty was ratified in March 2006. Protocol No 13 of the ECHR, on the abolishment of the death penalty at all times was ratified in February 2006. Protocol No 14 of the ECHR, amending the control system of the Convention entered into force in May 2006. The UN Convention against corruption entered into force in June 2006.

Turkey ratified the revised European Social Charter on 27 September 2006. The European Social Charter was accepted with reservations on article 5 (right to organise) and article 6

(right to bargain collectively) as well as on paragraph 3 of article 2 (minimum annual holidays) and paragraph 1 of article 4 (remuneration and decent standard of living). Turkey has lifted previous reservations on the European Social Charter's provisions, namely the right of children and young persons to protection and the right of disabled persons.

Four Additional Protocols to the ECHR remain to be ratified, including Protocol No 12 on the general prohibition of discrimination by public authorities, signed in 2001. The First Optional Protocol to the ICCPR, signed in 2004, and the Optional Protocol to the UN Convention against Torture (OPCAT), signed in September 2005, also awaits ratification. Ratification of these protocols is a priority in the Accession Partnership.

During the first 8 months of the year 2006, the *European Court of Human Rights* (ECtHR) delivered 196 final judgements finding that Turkey had violated at least one article of the ECHR. In 5 cases the ECtHR ruled that there was no violation of the ECHR. Most of these judgements refer to cases lodged prior to 1999.

From 1st September 2005 until 31 August 2006 2100 new applications regarding Turkey were made to the ECtHR. More than 2/3 of the applications introduced to the ECtHR refer to the right to a fair trial (art 6) and protection of property rights (art 1 of Protocol No. 1). The right to life (art. 2) and the prohibition of torture (art. 3) are referred to in 78 and 142 cases respectively.

In relation to the situation in the Southeast, the ECtHR found in the *İçyer v. Turkey*⁵ case that the Law on Compensation and Losses Resulting from Terrorist Acts provides adequate redress to the extent that it is undisputed that the applicant could today return freely to his village (*see section on Southeast*). Approximately 1,500 cases relating to the possibility to return to villages have been declared inadmissible by the Court following this decision.

The reforms undertaken by Turkey in 2004 and 2005 have had positive consequences on the execution of judgments of the ECtHR. However, Turkish cases still represent 14.4% of the cases pending before the Committee of Ministers for execution control.

Restrictions in Turkish legislation prevent the re-opening of domestic proceedings following a violation found by the ECtHR under certain circumstances⁶. This prevents the execution of the ECtHR judgement in the *Hulki Güneş* case⁷, as well as in 113 cases related to fairness of proceedings before the former state security courts.

As regards the *Öcalan* case, the Court left the question of the reopening largely to the evaluation of domestic authorities under the Committee of Ministers' supervision. In July an Istanbul Court rejected the request for a retrial of Abdullah Öcalan. The Committee of Ministers will evaluate the reasons given by the Istanbul Court for rejecting the appeal at one of its upcoming meetings.

Other pending cases before the Committee of Ministers awaiting the adoption of necessary execution measures relate to the control of actions of security forces and effective remedies against abuses (93 pending cases). These cases refer mainly to violations that took place

⁵ Case of *Içyer v. Turkey* (Application no 18888/02).

⁶ The Code of Criminal Procedure only provides for the reopening of proceedings in respect of ECtHR judgements which became final before 4 February 2003 or judgements rendered in applications lodged with the Court after 4 February 2003.

⁷ Case of *Hulki Güneş v. Turkey* (Application no 28490/95).

against the background of the fight against terrorism in the first half of the 1990s, but some concern events in the course of normal police activity. A number of positive legal reforms have been adopted since the judgements were issued. The Committee is now closely monitoring their implementation.

Furthermore, 115 cases related to freedom of expression are pending before the Committee of Ministers for execution control. These cases mainly relate to articles of the old Turkish Penal Code which were amended in 2004. Some relate to the provisions of the Anti-terror law. Execution of these judgments will however be assessed by the Committee of Ministers in the light of case law of Turkish courts, as well as the practice of prosecutions (*see section on freedom of expression*).

Concerning the case of Cyprus, the Committee of Ministers has decided to examine measures taken with regard to education and freedom of religion with a view to closing these questions at its meeting of December 2006. The Committee on Missing Persons was reactivated in 2004. However, the Committee of Ministers considers that additional measures should be taken for the fate of missing persons to be determined⁸.

Finally, with regards to property rights⁹, the ECtHR ruled in the case of *Xenides-Arestis v. Turkey* that a remedy which secures effective redress for violations must be introduced, in relation to the applicant, as well as in respect of all similar applications pending before the Court. The ECtHR has not yet ruled on the question whether adequate redress was introduced in the meantime.

With regard to the *promotion and enforcement of human rights*, the Human Rights Presidency and the 931 District Human Right Boards continued to provide training on human rights and process applications on alleged human right violations. Between January and June 2006, 778 applications were received. The vast majority of applications related to health and patients' rights, non-discrimination, right to property, and social security rights.

However, the Human Rights Presidency lacks independence from the government, is understaffed and has a limited budget. Furthermore, a new president has not been appointed since the resignation of the previous one in September 2005. The Human Rights Advisory Board under the Office of the Prime Minister has not been operating since the publication of a report on minority rights in Turkey in October 2004. This is a body composed of NGOs, experts and representatives from ministries.

The Parliamentary Human Rights Committee continued to play an active role in collecting complaints on human rights violations and conducting fact-finding visits to the regions. The Committee received 864 applications between October 2005 and June 2006. It has conducted several investigations and finalised three reports since January 2006. The Committee has no legislative role, and is thus not consulted on legislation affecting human rights.

Overall, Turkey has made progress on the ratification of international human rights instruments and in the execution of ECtHR judgements. However, there is a need to further upgrade the human rights institutional framework.

⁸ Interim Resolution ResDH(2005)44 concerning the judgment of the European Court of Human Rights of 10 May 2001 in the case of Cyprus against Turkey.

⁹ Case of Cyprus v. Turkey, (Application no 25781/94), Case of *Loizidou v. Turkey* (Application no 15318/89), Case of *Xenides-Arestis v. Turkey* (Application no 46347/99).

Civil and Political Rights

With regard to **torture and ill-treatment**, a comprehensive legislative framework is in place. The downward trend has continued in the number of cases of torture and ill-treatment.

The reforms in detention procedures and detention periods have shown positive results on the ground. The regulation concerning the system for the medical examination of persons in police or gendarmerie custody complies with previous recommendations from the Committee on the Prevention of Torture.

However, implementing the legislative reforms undertaken in previous years remains a challenge. Cases of torture and ill-treatment are still being reported, in particular outside detention centres.

With respect to some provisions of the Code of Criminal Procedures and of the Law on execution of sentences, the notification of a relative of the detained person and the right to access a lawyer are not uniformly applied. Furthermore, while the Code introduced provisions against the use of statements obtained under torture, concerns remain on statements obtained prior to the enactment of the Code. (see also *access to justice*)

Concerns remain with regard to the confidentiality and quality of medical examinations. There is a need to further strengthen the independence of the Institute of Forensic Medicine Institute and to make further efforts to implement the Istanbul Protocol¹⁰ throughout the country. The Human Rights Boards have yet to assume a more prominent role in the on-site monitoring of law enforcement establishments. Since October 2005, the Boards carried out 992 visits to police stations and detention centres.

The human rights situation in the Southeast raises particular concerns following the violent disturbances that took place in several cities in March and April (*see section on the Southeast*). Over 550 people were detained as a result of these events, including over 200 children. The Diyarbakir Bar Association submitted more than 70 complaints of ill-treatment to the authorities. Subsequently, investigations were launched into 39 of these claims.

During the events in Diyarbakir, forensic examinations of detainees were carried out in places of detention. This contravenes the rules and the circulars issued by the Ministries of Justice and Health as well as the independence of the medical profession.

The new provisions introduced in June 2006 to amend the anti-terror law could undermine the fight against torture and ill-treatment (*see section on parliament*).

Despite an increase in the number of convictions since 2003, the fight against impunity remains an area of concern.

Overall, the Turkish legal framework includes a comprehensive set of safeguards against torture and ill-treatment. Cases of torture and ill-treatment declined over the reporting period. However, concerns remain regarding cases outside detention centres, human rights violations in the Southeast and the problem of impunity.

¹⁰ *Istanbul Protocol: Manual on the effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, submitted to the United National Human Rights Commissioner for Human Rights, 9 August 1999.

With regard to **access to justice** and right of defence, detainees enjoy the right to legal counsel, and statements made in the absence of lawyers are not admissible as evidence in court under the new Code of Criminal Procedure. However, concerns remain with regard to the lack of review of past statements (*see section on torture and ill-treatment*).

A considerable increase in the appointment of legal aid lawyers has been registered since the new Code of Criminal Procedure entered into force. With regard to the **prison system**, Turkey has adopted regulations to implement the 2004 legislative reforms in this area. Physical infrastructure has also continued to be improved and training is being strengthened.

Outstanding problems in prison facilities include a lack of communal activities, limited interaction between custodial staff and prisoners, inadequate health-care and psychiatric resources as well as cases of overcrowded prison cells.

Cases of ill-treatment by prison staff have been reported. Civil and military prisons are not open to independent monitoring, pending the ratification of the Optional Protocol to the UN Convention against Torture (OPCAT).

The application of a solitary confinement regime to prisoners sentenced to aggravated life imprisonment is too extensive. Such a regime needs to be applied for as short a time as possible and be based on an individual risk assessment of the prisoner concerned.

With regard to **freedom of expression (including the media)**, the Ministry of Justice issued a circular in January 2006, regarding cases of freedom of expression in written and visual media. It instructed prosecutors to take into consideration both Turkish legislation and the ECHR. The circular also established a monthly monitoring mechanism of criminal investigations and court cases against the press and media.

Some progress can be reported in the area of broadcasts in languages other than Turkish at local and regional level (*see section on cultural rights and chapter 10*)

However, the prosecutions and convictions for the expression of non-violent opinion under certain provisions of the new Penal Code are a cause for serious concern and may contribute to create a climate of self-censorship in the country. This is particularly the case for Article 301 which penalises insulting Turkishness, the Republic as well as the organs and institutions of the state. Although this article includes a provision that expression of thought intended to criticise should not constitute a crime, it has repeatedly been used to prosecute non violent opinions expressed by journalists, writers, publishers, academics and human rights activists

In July, the General Assemblies of the Civil and Penal Chambers of the Court of Cassation established restrictive jurisprudence on article 301. The Court confirmed a six-month suspended prison sentence for journalist Hrant Dink. This was on the basis of article 301 of the new Penal Code for insulting "Turkishness" in a series of articles he wrote on Armenian identity.

Against this background, article 301 needs to be brought into line with the relevant European standards. The same applies to other provisions of the Penal code which have been used to prosecute the non-violent expression of opinions and may limit freedom of expression. The potential impact of the anti-terror law on freedom of expression raises concerns (*see section on parliament*).

Recent decisions taken by the government in relation to the appointment procedure of the members of the High Audiovisual Board (RTÜK) are a cause for concern to the extent that they weaken the independence of the media regulatory body.

Overall, open debate has increased in recent years in Turkish society on a wide range of issues. Notwithstanding this trend, *freedom of expression* in line with European standards is not yet guaranteed by the present legal framework.

As regards **freedom of assembly**, public demonstrations are subject to fewer restrictions than in the past. However, in some cases security forces used excessive force, especially when the demonstrations were carried out without permission.

The administrative investigations have been finalised into the incidents during a demonstration promoting women's rights in March 2005. Three members of the Istanbul Directorate of Security have been punished with a reprimand due to "Failure in undertaking the duty of training and supervising members under their command." A further six staff members have been punished with a salary deduction due to "disproportionate use of force when dispersing the demonstrators and speaking to or treating the public in a degrading manner". The investigation launched by the Chief Public Prosecutor's Office of Istanbul against seven police officers is currently ongoing.

Concerning **freedom of association**, the legal framework is generally in line with international standards. The impact on the ground of the legislative reforms concerning associations has been positive, in particular the adoption of a Law on Associations in November 2004.

However, the requirement to notify the authorities in case of receipt of finances from abroad results in difficulties and cumbersome procedures for NGOs. Furthermore, unlike associations, foundations still need permission before applying for projects outside Turkey and funded by international organisations.

Some difficulties related to the registration of associations remain. The requests of the Diyarbakir Protestant church and of the Jehovah's Witnesses to establish associations were challenged in court. In both cases the court ruled in favour of the associations. In April 2006, a Kurdish association was ordered to close by a Court in Diyarbakir on the grounds that its statute included the objectives of setting up a Kurdish archive, museum and library and that its activities would be carried out also in the Kurdish language. Gay and lesbian associations have encountered fewer difficulties than in the past. However, they are also occasionally subject to court proceedings.

As regards political parties, court cases against several parties, including DEHAP and HAKPAR, are still ongoing. There has been no progress regarding aligning the Turkish Law on Political Parties with EU practice. Parties are not allowed to use languages other than Turkish. The Law on Political Parties needs to be amended to ensure that political parties are permitted to operate in line with the standards established by the ECHR and the case law of the ECtHR.

As concerns **civil society organisations**, the recent reform environment has led to positive developments. Civil society organisations have become relatively more vocal and better organised, especially since the adoption of the new Law on Associations. There is an increasing variety of organisations in Turkey including approximately 80,000 registered

associations, and several hundred unions and chambers (including vocational and professional associations).

As concerns **freedom of religion**, freedom of worship continues to be generally respected.

In April a delegation consisting of the Ministries of Interior, Education, Foreign Affairs, the EUSG and Istanbul governorate visited leaders of non-Muslim communities in Istanbul to discuss their problems and possible solutions.

Although the mandatory indication of religious affiliation in some personal documents, such as ID-cards, was abolished in April 2006, such documents still include information on religion, leaving open the potential for discriminatory practices. This is an area of concern.

Furthermore, a number of other problems remain. Non-Muslim religious communities have no access to legal personality

and continued to face restricted property rights. They encountered problems in the management of their foundations and in recovering property by judicial means. The June 2005 ruling by the Council of State narrowing the scope for the Directorate General for Foundations to take over the management of foundations was not applied during the reporting period. In this respect, no progress can be reported on the Büyükada Greek Girls' and Boys' Orphanage, whose management remains under the control of the DG foundations.

The impact of the new law on foundations on the issues above will have to be assessed once it has been adopted.

Furthermore, restrictions on the training of clergy and on foreign clergy to work in Turkey remain. Turkish legislation does not provide for private higher religious education for these communities. The Greek Orthodox Halki (Heybeliada) seminary remains closed. The public use of the ecclesiastical title of Ecumenical Patriarch is still banned.

Sermons and publications of the Religious Affairs Directorate (Diyanet) and of local religious authorities occasionally appear hostile towards proselytising activities. Attacks against clergy and places of worship of non-Muslim religious Communities have been reported. The court case concerning the murder of the Catholic Priest Andrea Santoro in a church in the Black Sea region province of Trabzon in February 2006 resulted in a heavy penalty for the perpetrator. Several incidents against Syrians also occurred.

There have been no developments in relation to the situation of the Alevi community. Alevis face difficulties for opening their places of worship (Cem houses). Cem houses are not recognised as places of worship and receive no funding from the authorities.

Alevi children are subject to compulsory religious instruction in schools, which fails to acknowledge their specificity. A case on compulsory religious education is pending before the ECtHR. References to Alevis are planned to be introduced in the secondary school curricula as from next year.

Overall, freedom of worship continues to be generally respected. However, no progress can be reported with regard to difficulties encountered by non-Muslim religious communities on the ground. Furthermore, the Alevis continue to face discriminatory practices.

Economic and Social Rights

As concerns **women's rights**, the report of the ad hoc Parliamentary Committee on “crimes in the name of honour, violence against women and children” has been finalised. The report puts forward practical recommendations, which received wide media coverage. A circular by the Prime Minister's Office in July follows up on these, by giving priority to the fight against violence, listing the activities to be undertaken and naming the state bodies responsible. The Directorate General for the Status of Women is given the task of overall co-ordination of activities.

The campaign “Stop domestic violence” entered its second phase, after being launched in October 2004 by the daily Hürriyet, in cooperation with the Foundation of Contemporary Education and the Istanbul Governor’s Office. Most daily newspapers and TV channels extended their support to a campaign targeting the education of girls.

The legal framework is overall satisfactory, but implementation remains a challenge. The Law on the Protection of the Family is only partially applied. Despite the provisions in the new Penal Code that lists moral killings as an aggravated circumstance for murder crimes, the sentences issued by courts reflect a mixed picture. While in some cases courts imposed maximum sentences (life imprisonment), in others they opted for lighter sentences, especially if a minor had committed the murder.

Crimes in the name of honour and suicides committed by women due to the influence of the family continue to occur, especially in the regions of the East and Southeast. Nonetheless, there is still a lack of reliable data on such events as well as on domestic violence more generally. According to the preliminary results of the UN Special Rapporteur on Violence against Women, causes of suicides are early and forced marriages, domestic violence and denial of reproductive rights. Poverty, urbanisation, displacement and internal migration, and thus changing socioeconomic situation of women are the contexts within which suicides occur. Women’s suicides are not always properly investigated, especially in the Southeast,

In parts of the South East it still occurs that girls are not registered at birth. This hampers the fight against forced marriage and crimes in the name of honour since these girls and women cannot be properly traced.

There is still a need to further increase the provision of shelters for women subjected to domestic violence¹¹. The provision in the Law on Municipalities, adopted by Parliament in July 2004 is not yet fully implemented. All municipalities with a population greater than 50,000 should provide a shelter.

Women remain vulnerable to discriminatory practices, due largely to a lack of education and a high illiteracy rate. The girls’ education campaign conducted by the Ministry of National Education and UNICEF ensured the enrolment in primary schools of 62,000 girls in 2005, which would otherwise have been out of school. In 2006 the campaign was extended to all 81 provinces. Private sector campaigns to increase school enrolment and to improve the physical condition of schools have continued.

The level of participation of women in the parliament and in local representative bodies remains very low and prevailing discrimination exists in the labour market. Participation by

¹¹ According to official sources there are 17 shelters for women established under the Social Services and Child Protection Institution (SHÇEK) growing to 30 if those established by other institutions are included. However, these figures are considered tentative.

women in the workforce is among the lowest in OECD countries (see *Chapter 19 employment and social policy*).

As regards institutional capacity, the Directorate General for the Status of Women still suffers from a lack of staff. The Advisory Board on the Status of Women has not been convened during the reporting period.

Overall, there has been growing public attention on the issue of women's rights in Turkey. However, full respect of women's rights remains a critical problem, particularly in the poorest areas of the country. While the legal framework is overall satisfactory, its implementation remains inadequate.

With respect to **children's rights**, the right to education for children, particularly girls, remains a problem in some areas. The newly initiated 'conditional cash transfer' programme implemented by the Social Support and Solidarity Fund provides incentives and compensation to targeted families by offering cash transfers on the condition that they send their children to school if they are of school age. Enrolment campaigns need to be sustained and consolidated to address the low level of school attendance, in particular in rural areas of the South East.

The incidence of street children, child poverty and child labour remains significant. The Turkish Labour Law prohibits the employment of children under the age of 15. However, there are shortcomings regarding the application of the law.

The Law on the Protection of Children, adopted in July 2005 establishes a legal framework aimed at safeguarding the rights and well-being of both children with particular problems and children under legal investigation or who have been convicted of crimes. Further implementation of the Law is needed, in line with the relevant ILO conventions.

In late 2005, ill-treatment of children in an orphanage of the Social Services and Child Protection Institution (SHÇEK) in Malatya revealed the shortcomings of the child protection system in Turkey.

As regards the rights of **disabled people**, several implementing legislation were issued following the entry into force of the Law on People with Disabilities in 2005. These cover areas such as workplaces and educational services for disabled people. More needs to be done to establish decentralised structures and services for disabled people and also to facilitate access to education of children with disabilities.

As regards mental health, there are significant discrepancies in the quality of services, which is particularly poor in some rural areas. The largest psychiatric hospital in Turkey abolished the use of unmodified electroconvulsive therapy (ECT). However, Turkey has yet to ban this practice throughout the country and establish written guidelines regarding the administration of modified ECT as part of an individualised treatment plan. Ongoing work, in co-operation with the World Bank, to establish a strategy in this area needs to be intensified, with a view in particular to establish a mental health law. Rehabilitation centres generally lack adequate infrastructure, resources and qualified personnel. Mentally disabled living with family members receive little assistance from the state.

There is no progress to be reported on **trade union's rights**.

The government submitted to social partners two legislative proposals aimed at amending the two currently applicable laws in this area. However, no further progress was made and no formal legislative initiative has been taken by the government.

As a result, the current significant shortcomings on the right to organise and the right to collective bargaining, including the right to strike remain in place. The thresholds at company and sector levels required for signing a collective agreement, and the cumbersome procedures to enrol in trade unions are still in force. Journalists continue to encounter specific problems in organising and collective bargaining.

Turkey still falls short of ILO standards, particularly in relation to conventions N° 87 (freedom of associations and protection of the right to organise) and N° 98 (right to organise and collective bargaining). Turkey ratified the revised European Social Charter in September 2006 but maintains reservations on article 5 (right to organise) and article 6 (right to bargain collectively) (see *Chapter 19 – Social policy and employment*).

In April 2006, the Ministry of Labour and Social Security sued the Gıda-İş Trade Union on the grounds that some of the elected representatives of the union do not have 10 years seniority, as required by the Law on Trade Unions. The labour court decided to close down the union but the Court of Cassation overturned this ruling on procedural grounds.

Minority Rights, Cultural Rights and Protection of Minorities

Turkey's approach to minority rights remains unchanged. According to the Turkish authorities, under the 1923 Treaty of Lausanne, minorities in Turkey consist exclusively of non-Muslim religious communities. The minorities associated in practice by the authorities with the Treaty of Lausanne are Jews, Armenians and Greeks. However, there are other communities in Turkey which, in the light of the relevant international and European standards, could qualify as minorities.

The February 2005 visit of the OSCE High Commissioner on National Minorities (HCNM) to Ankara has not been followed up and no progress has been made in starting a dialogue on the situation of national minorities in Turkey. The deepening of such a dialogue between Turkey and the HCNM is necessary. It needs to include relevant areas such as minority education, minority languages, the participation of minorities in public life and broadcasting in minority languages. This would facilitate Turkey's further alignment with international standards and best practice in EU Member States to ensure cultural diversity and to promote respect for and protection of minorities.

Turkey's reservation towards the UN Covenant on Civil and Political Rights (ICCPR), regarding the rights of minorities – to which a number of EU Member States objected as being incompatible with the object and purpose of this Covenant - and its reservation to the UN Covenant on Economic, Social and Cultural Rights (ICESCR), regarding the right to education¹², are of concern.

¹² Extract of reservation to ICCPR: "The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the International Covenant on Civil and Political Rights in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes." Extract of reservation to ICESCR: "The Republic of Turkey reserves the right to interpret and apply the provisions of the paragraph (3) and (4) of the Article

Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages.

There has been limited progress as concerns education. The 2005 recommendations of the European Commission against Racism and Intolerance (ECRI) on school curricula and textbooks as well as on the functioning of minority schools remain valid. Further efforts are needed to remove discriminatory language from textbooks. The management of the minority schools including the dual presidency remains an issue.

There has been no progress in relation to Syrians who continue to face difficulties in relation to property. Those who have lost their Turkish nationality are not able to register their property in the land registry. In this context, complaints about seizures of property have increased.

The Greek minority continues to encounter problems. These are particularly related to education and property rights. The Greek minority properties on the island of Gökçeada (Imvros) and Bozcaada (Tenedos) are under threat of confiscation and tender by the Turkish authorities.

As regards **cultural rights**, permission was granted to two local TV channels in Diyarbakır and to one radio in Şanlıurfa to broadcast in Kurdish. However, time restrictions apply, with the exception of films and music programmes. All broadcasts, except songs, must be subtitled or translated in Turkish, which makes live broadcasts technically cumbersome. Educational programmes teaching the Kurdish language are not allowed. (*see chapter 10*)

The Turkish Public Television (TRT) has continued broadcasting in five languages including Kurdish. However, the duration and scope of TRT's national broadcasts in five languages is very limited. No private broadcaster at national level has applied for broadcasting in languages other than Turkish since the enactment of the 2004 legislation.

Children whose mother tongue is not Turkish cannot learn their mother tongue in the Turkish public schooling system. Such education can only be made by private education institutions. As concerns Kurdish all such courses were closed down in 2004. Therefore, there are no possibilities to learn Kurdish today in the public or private schooling system. Furthermore, there are no measures taken to facilitate access to public services for those who do not speak Turkish.

As reported above, according to the Law on Political Parties, the use of languages other than Turkish is illegal in political life. The court case against the Rights and Freedoms Party (HAK-PAR) regarding a speech in Kurdish continues.

As regards the **situation in the East and Southeast**, progress has been made with regard to the compensation of losses resulting from terrorist acts. The ECtHR ruled that the compensation law allowed for the provision of adequate redress for persons who were denied access to their possessions in their place of residence.

13 of the Covenant on Economic, Social and Cultural Rights in accordance to the provisions under the Article 3, 14 and 42 of the Constitution of the Republic of Turkey.”

The process of compensation is ongoing. The Damage Assessment Commissions established to process the compensation claims have so far received around 215.981 applications. Approximately 33.299 have been processed as of September 2006.

The situation in the South-East has deteriorated since the resumption of violence by the PKK, which is on the EU list of terrorist organisations. During the period between November 2005 and June 2006, there were 774 terrorist attacks reported, which led to 44 military, 5 police and 13 civilian casualties.

In the aftermath of the funerals of some PKK terrorists at the end of March, riots took place in Diyarbakir and spread to other cities in the region. Demonstrators attacked the police, civilian residents and shops. Ten civilians were killed during clashes with the police and security forces, including three children. Many civilians suffered bullet wounds. There are widespread reports of excessive and arbitrary use of force by the security forces, even against ambulances. Investigations are ongoing to determine the causes of these deaths.

The violence triggered by the March riots had a negative impact on the human rights situation. Over 700 people were detained and cases of ill treatment were reported.

A number of security measures have been reinstated as a response to the escalation of terrorism, such as road blocks and checkpoints in some provinces of the Southeast. On the legislative side, amendments to the anti-terror law were adopted in June 2006. (*see section on parliament*)

The November 2005 Şemdinli bombing, which killed one person and injured others, also had a negative impact on the situation in the region. A court in Van imposed heavy prison sanctions on two gendarmerie officers and a former PKK member reported to work as a gendarmerie informer who were found responsible for the bombing. A Parliamentary Committee was established in November 2005 to investigate the Şemdinli events. The Committee has not published its report.

The overall socio-economic situation in the Southeast remains difficult and there is no comprehensive plan to address this issue. The positive statement of Prime Minister Erdogan in 2005 stressing the need to resolve through democratic means what he called "the Kurdish issue" was not followed up. There is almost no dialogue between the authorities and locally elected politicians. Furthermore, many locally elected politicians face court cases. Moreover, the 10% threshold under the electoral law makes it difficult for all but the nationwide largest parties to be represented in Parliament.

In spite of the ECtHR ruling in the *Icyer vs. Turkey* case of January 2006, the implementation of the Law on Compensation of Losses Resulting from Terrorist Acts raises several concerns. Overall, there seems to be divergences in the methods used by the compensation commissions. They have large discretionary powers and procedures are often cumbersome. As a result, the payment of the amounts due is slow. There are concerns about the level of compensation.

Furthermore, the conditions attached to the eligibility for compensation could leave a large number of potential beneficiaries outside the scope of the Law. There is also a heavy burden of proof on applicants to provide documentation, including property titles, which in many cases have never existed.

The issue of “reconciliation” is not addressed in the compensation approach in relation to past human rights violations committed against internally displaced persons – such as the burning and destruction of property, killings, disappearances and torture.

The situation of **internally displaced persons (IDPs)** remains an issue of concern. There has been no further progress on the establishment of a new governmental body responsible for implementing the “Return to Village and Rehabilitation Programme and to developing policy on IDP return. A study on IDPs carried out by the Hacettepe University should provide a thorough analysis and policy guidance, however its publication has been delayed.

Several factors affect negatively the return of IDPs: the absence of basic infrastructure, the lack of capital, limited employment opportunities and the security situation. In particular, large numbers of landmines¹³ constitute a strong disincentive to return. Moreover, the discretion of the governor plays a crucial role in the implementation of the legal and administrative provisions regulating return.

No progress has been made in addressing the problem of village guards¹⁴. No action was taken to phase them out.

A return to normality in the Southeast can only be achieved by opening a dialogue with local counterparts. A comprehensive strategy should be pursued, to achieve the socio-economic development of the region and the establishment of conditions for the Kurdish population to enjoy full rights and freedoms. Issues that need to be addressed include the return of internally displaced persons, compensation for losses incurred by victims of terrorism, landmines as well as the issue of village guards.

As concerns the **Roma**, amendments to the Law on Settlement adopted in September 2006 repealed discriminatory provisions against the Roma.

However, discriminatory provisions remain in the Law on Movements and residence of aliens.

Recent research by the Bilgi University suggests the Roma population in Turkey is around two million. Roma experience discriminatory treatment in access to adequate housing, education, health and employment. There are frequent forced evictions. Urban regeneration projects of historical districts have led to displacing Roma population residing in those districts (i.e. Ankara-Çinçin, Zonguldak-Ere, Istanbul-Sulukule).

During the reporting period more Roma-led advocacy organisations and two Roma Federations were established. Several NGO projects were carried out aimed at capacity building of Roma organisations and establishing a clearer picture of the problems they encounter.

Overall, Turkey made little progress on ensuring cultural diversity and promoting respect for and protection of minorities in accordance with international standards.

¹³ Although many landmines have already been removed, international NGOs estimate the total number to be 900 000 units.

¹⁴ According to official figures there are 57,601 village guards still on duty in 2006.

2.3. Regional issues and international obligations

Cyprus

Under the negotiating framework and the Accession Partnership, Turkey is expected to ensure continued support for efforts to find a comprehensive settlement of the Cyprus problem within the UN framework and in line with the principles on which the Union is founded, whilst contributing to a better climate for a comprehensive settlement; implement fully the Protocol adapting the Ankara Agreement to the accession of the 10 new EU Member States including Cyprus; and take concrete steps for the normalisation of bilateral relations with all Member States, including the Republic of Cyprus, as soon as possible.

Moreover, under its declaration of 21 September 2005, the EU expects full, non-discriminatory implementation of the Additional Protocol, and the removal of all obstacles to the free movement of goods, including restrictions on means of transport. The EU will monitor this closely and evaluate full implementation in 2006. The declaration also stressed that recognition of all Member States is a necessary component of the accession process and underlined the importance it attaches to the normalisation of relations between Turkey and all EU Member States, as soon as possible.

Turkey has stated on several occasions that it remains committed to support UN efforts to find a comprehensive settlement of the Cyprus problem. Turkey expressed support for the setting up of technical committees between the two Cypriot communities, as agreed during talks hosted by the UN in July, initiated after the February meeting in Paris between UN Secretary General Mr Annan and President Papadopoulos.

Turkey has not fully implemented the Additional Protocol extending the EC-Turkey Association Agreement to the ten Member States that acceded on 1 May 2004, which it had signed in July 2005 and which enabled the accession negotiations to start. Turkey has continued to deny access to its ports to vessels flying the Republic of Cyprus flag or where the last port of call is in Cyprus. Such restrictions on shipping often preclude the most economical way of transport and therefore result in a barrier to free movement of goods and to trade. They infringe the Customs Union agreement. Similar restrictions continued to apply in the field of air transport.

Turkey's Prime Minister, as well as the Foreign Minister, stated on several occasions that the Additional Protocol would not be implemented as long as the isolation of the Turkish Cypriot community continued. An "Action Plan on Cyprus" presented in January by Turkey's Foreign Minister followed the same approach. EU representatives have frequently reminded the Turkish government that implementing the Protocol is a legal obligation as such, which must not be linked to the situation of the Turkish Cypriot community.

No progress has been made on any aspects of normalising bilateral relations with the Republic of Cyprus. Turkey has continued to impose a veto on Cyprus' membership of certain international organizations such as the OECD as well as its participation in the Wassenaar Agreement on the Code of Conduct on Arms Exports and on Dual Use Goods.

In December, the European Court of Human Rights ruled in the case of Myra Xenides-Arestis vs Turkey that Turkey had violated the "protection of property" (Article 8) and the "right to respect for the applicant's home" (Article 1 of Protocol No. 1). The Court demanded that Turkey introduces a remedy which secures effective redress for violations, in relation to the application, as well as in respect of all similar applications pending before the Court in

accordance with the Convention and within the established deadlines. The ECtHR has not yet ruled on the question whether adequate redress was introduced in the meantime.

Peaceful settlement of border disputes

Turkey and Greece have continued to pursue the positive development of their bilateral relations. High-level contacts have continued, with the respective Prime Ministers meeting informally twice during the last year.

The 34th round of exploratory talks between foreign ministries initiated in 2002 was held in Athens in May. A new package of confidence building measures was agreed during the visit of the Greek Foreign Minister to Istanbul in June. The package includes the building of a new bridge over the border river Evros/Meriç and the establishment of a joint civilian task force on natural disaster prevention. A direct hotline between the Combined Air Operation Centers in the Turkish city of Eskişehir and the corresponding authorities in the Greek city of Larissa will soon become operational. In addition, it was agreed to establish a second hotline between the respective Chiefs of General Staff. The summer moratorium for suspending military exercises in the Aegean was extended for one month. In July, the Greek Chief of Staff visited his counterpart in Turkey.

Following the collision of Turkish and Greek military aircraft over the Aegean in May, which caused the death of a Greek pilot, the two Foreign ministers agreed that the incident would be investigated.

The Negotiating Framework includes the following requirement against which progress will be measured: "Turkey's unequivocal commitment to good neighbourly relations and its undertaking to resolve any outstanding border disputes in conformity with the principle of peaceful settlement of disputes in accordance with the United Nations Charter, including if necessary jurisdiction of the International Court of Justice". Furthermore, the Accession Partnership for Turkey has included as a short term priority to "unequivocally commit to good neighbourly relations; address any sources of friction with its neighbours; and refrain from any action which could negatively affect the process of peaceful settlement of border disputes". It should be noted in this context that the "casus belli" reference in relation to the possible extension of Greek territorial waters in the resolution adopted by the Turkish Grand National Assembly in 1995 remains unchanged.

See Chapter 31 – Foreign, Security and Defence policies for relations with other neighbouring countries.

3. ECONOMIC CRITERIA

3.1. Introduction

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

3.2. Assessment in terms of the Copenhagen criteria

3.2.1. The existence of a functioning market economy

Economic policy essentials

The authorities managed to bolster economic policy efforts through recent agreements with international financial institutions, in particular by the Stand-By Arrangement with the International Monetary Fund (IMF) and the Programmatic Public Sector Development Policy Loan with the World Bank. The Pre-Accession Economic Programme (PEP) submitted to the Commission in December 2005 reflects good progress in institutional capacity building and important commitments to further reform. The government steered a steady reform course, although political considerations occasionally slowed down this course. The methodology and co-ordination for budgeting and medium-term economic policy making is hampered by the fragmentation of responsibilities between government bodies. Decisions are sometimes taken on an ad hoc basis. Impact assessments are either lacking or based on partial information. In sum, the government largely maintained consensus on macroeconomic stabilisation and structural reforms.

Macroeconomic stability

Real annual GDP growth slowed down slightly from a high 7.4% in 2005 to 7.0% in the first half year of 2006. Private consumption and investment bolstered GDP from the expenditure side. In the first half of 2006, gross fixed capital formation growth slowed down to 19% from 24% in 2005. The external sector contributed negatively to GDP, as export growth slowed to 3.9% from 7.4% in the previous year. The rapidly growing Turkish economy ran into fast growing external imbalances. This was predominantly caused by too slow structural reforms and a sizeable increase in investment spending. The authorities reacted promptly by fiscal and monetary tightening. Recent high-frequency indicators suggest that the change in fiscal and monetary policy proved out effective. Besides, the restrictive effect on growth may be alleviated by strengthening external demand. Average per capita income amounted to just over 25% of the EU-25 average in 2005. In conclusion, economic growth has remained quite strong and has become more balanced.

The current account deficit increased sharply to 6.3 % of GDP in 2005. The deficit has risen further in the first half of 2006 to 7% of GDP, driven by strong domestic demand growth, higher oil prices and lower tourism earnings. Turkey can still easily finance its current account deficit. It has recently considerably increased its foreign currency reserves as a result of very high privatisation revenues, including from foreign investors. The current account deficit was also driven by higher investment, which should enhance the export capacity of the economy over the medium term, and help reducing the external vulnerability.

In spite of the high growth, few new jobs have been created. The unemployment rate ranges between 8% and 10%. The skill mismatch between labour demand and supply and some labour market rigidities continue to hamper job creation. Unemployment was much higher among the young (around 18%) and was of a long-term nature for more than half of job-seekers. The lower unemployment rate in the agricultural sector, which include unpaid family workers, suggests large pockets of underemployment in the economy. In addition, the employment rate fell slightly to 43% by mid-2006. In particular, female employment remains low at 23%. Overall, unemployment remains fairly high and constant, while participation in the labour market is low and falling.

Disinflationary policies succeeded in decreasing the inflation rate in December 2005 to 7.7%, even though tax on alcohol and tobacco increased and oil prices soared. This process was driven by a tight fiscal policy, major improvements in productivity, and the strength of the lira. However, a weaker lira and higher energy prices have recently reversed this process. Consumer price inflation rose to around 10% by August 2006. Additional pressures, particularly from the exchange rate make it very difficult to reach the official end-of-year target for consumer price inflation of 5%. After strong disinflation, inflation has recently increased.

In previous years, the Central Bank of Turkey (CBT) had been very successful in reducing inflationary pressures. The CBT implemented a new policy framework of inflation targeting as from 1 January 2006. This was to make its policy more transparent. It uses short-term interest rates as a main instrument. Most members of the monetary committee and the CBT board, including the governor, have been recently appointed. The new policy framework, together with the new board, shifted market perception of monetary risk. This change, in combination with the globally worsening perception of emerging markets, led to a sharp depreciation of the lira. The exchange rate against the euro fell by about 25% in May-June 2006, but significantly recovered in the following months. The CBT has increased overnight borrowing and lending rates by 425 and 625 basis points respectively. Financial markets have recently been very volatile.

Consolidation of public finances has been on track. The 2005 primary surplus target of 6,5% of GNP (IMF methodology) was roughly reached, and the general government budget deficit declined from 5.7% of GDP in 2004 to 1.2% of GDP in 2005 (according to EU standards). The increase in the fiscal consolidation in 2005 stems mainly from a faster decrease in real domestic interest rates. The budget for 2006 is designed to achieve a similar public sector primary surplus. Targets for the first half of 2006 have almost been reached, in spite of the significant rise in interest rates. The laws on the social security framework were approved in spring 2006. These are an important step forward in the consolidation process, provided they are implemented in full. Overall, fiscal consolidation has been strong.

General government gross debt fell markedly from 76.9% of GDP at the end of 2004 to 69.6% at the end of 2005 (ESA 95 methodology). The main factors have been a significant primary surplus, strong GDP growth and falling interest rates. Various rating agencies have upgraded the rating for Turkey. Turkey has subsequently launched various sovereign bonds on the international market. The average maturity of debt is therefore lengthening rapidly, including on domestic borrowing, to over 30 months by mid-2006. Almost 40% of public debt is denominated in foreign currency in mid-2006, compared to over 45% in 2003. This illustrates a further shift to domestic currency and decreasing vulnerabilities. The risk to macroeconomic and financial stability has been further reduced due to improvements in the public debt structure and maturities.

Measures to increase fiscal transparency have continued. Emphasis has been put on the implementation of legislation adopted, in particular the Public Financial Management and Financial Control Law. Several coordinating and controlling bodies have been created within the Ministry of Finance to enhance efficiencies and transparency. This has resulted in an improvement in budget preparation. Overall, fiscal transparency has improved.

Free interplay of market forces

The government has confirmed the independence of regulatory and surveillance agencies. Special privileges of state-owned banks are being phased out. State-owned enterprises account now for about 5% of GDP and about 15% of the value added in the manufacturing sector. State banks make up nearly one third of the value added in the banking sector. Staff in state enterprises and banks comprises only 2.5% of total employment. In sum, progress has been made with the free interplay of market forces.

The share of administrated prices in the Consumer Price Index (CPI) basket amounts presently to 10.2% of the total weight of the CPI basket. Price reform is not complete. For example, electricity prices are far below production costs and include cross-sector subsidies. Price liberalisation is fairly advanced, but has not made much further progress.

Free market entry and exit

Privatisation receipts amounted to about 2.8% of GDP in 2005. Largest privatizations included the Tüpraş oil refinery and the steel and iron producer Erdemir. The privatisation of Turk Telekom has been finalised. Delays in the privatisation of electricity distribution were incurred. Public ownership in the business sector downscaled to 5%, excluding agriculture. Overall, significant privatisation continued. In 2005, almost 100,000 enterprises were established. More than 26,000 firms went bankrupt. These numbers were about 5% higher than in 2004. Restrictions on foreign ownership still exist in the areas of civil aviation, maritime transport, road transport, ground-handling services, yachting, broadcasting, electricity, financial corporations, private employment offices, tourism, education and defence sectors. Barriers to market exit have not been significantly reduced.

Adequate legal system

The legal system, including the regulation of property rights, is in place. However, the time lag is sometimes long between the adoption of framework legislation and its implementation. Courts, in particular the commercial courts, work relatively slowly. The enforceability of the decisions of the authorities and of courts continues to prove difficult. This is the same for foreign investors. The expert witness system has evolved into a parallel semi-judicial structure. Training of judicial personnel is not always adequate. This hampers a swift settlement of commercial cases. The implementation of the legislation on property rights, including intellectual property rights, is not appropriate. Overall, the implementation of laws and contracts should be further improved.

Sufficiently developed financial sector

Banking credits rose to 110% of GDP in the first quarter of 2006 compared with 82% in the same period of last year. Efficiency of the financial intermediation has been increasing, as shown by the gradual decline in spreads between average lending and deposit rates from 6% in 2004 to 4.6% by end 2005. Increased foreign participation in the banking sector has enhanced competition. Majority-owned foreign banks accounted for about 15% of Turkish banking assets in mid-2006, compared with 5% in 2004. However, the return on assets and on equity declined. This indicates declining profit margins for the banks. The banking sector has strengthened considerably and financial intermediation substantially improved.

The stock market has grown in recent years, but it remains small with just 289 companies listed on the main board at the end of September 2006. The companies listed include leading conglomerates and banks and a few large state-controlled companies. Market capitalisation is relatively low with about 50% of GDP in 2006. This is in spite of the massive increases in the

main share price index in 2003-05. Banks and multinationals lead the small insurance sector. The insurance sector is currently regulated by the Treasury. The non-banking financial sector has further grown.

Supervision of the financial sector has benefited from a new Banking Law. This law was adopted by the Parliament in October 2005. Consequently, the requirements and supervision will be significantly enhanced as soon as the law is fully implemented. Most of the secondary regulations have been put in place in 2006. The regulations which establish that the regulatory and supervisory power on financial holding, leasing, factoring and consumer finance companies are to be transferred to the Banking Regulation and Supervisory Agency (BRSA) are in place. Overall, supervision of the financial sector has been further strengthened.

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

Existence of a functioning market economy

As a result of structural reforms and the process of macroeconomic stabilisation, the corporate and investment climate has been gradually improving. However, certain features which distort the functioning of markets, remained, such as low transparency regarding state aids. They constrain the competitiveness of the economy. Recent financial market fluctuations also added some uncertainty to the environment in which the private and public sector operates, but also in fact underlined the improved shock resilience of the economy. Overall, the functioning of market forces continued to improve.

Sufficient human and physical capital

Spending on education increased and some reforms were made. The government plans increased expenditure on education from 8.8% of total expenditure in 2004 to 12.4% in 2006. This increase not only reflects rising costs of a growing young population, but also started to enhance coverage and quality of education. Reforms include an increase of secondary education from three to four years. However, considerable income- gender- and regional differences in educational attainment and in the quality of education persist. The average knowledge level for pupils in secondary education is still low. Weaknesses in quality, transparency and accessibility of higher education remain significant. To summarize, reforms and increased spending on education are generating some positive impact on educational attainment, but significant problems remained.

Labour force participation rates are low, particularly for women and older people, and declined further in 2005 and 2006. In addition, the fast-growing working-age population and the move out of agriculture sector create a strong need for job creation. There has been little systematic effort to reduce the substantial employment in the informal economy. No significant changes has been made to the labour framework. The legal focus remains on protecting jobs and less than 4% of unemployed workers get unemployment benefits. The non-wage costs of hiring labour remain large. Active labour market policies are small in scope and have had limited success in reducing unemployment. To conclude, the situation in the labour market remains challenging and policy responses have been limited.

Investment continued to be strong in 2005. Gross fixed capital formation amounted to around 20% of nominal GDP. This reflected strong private capital formation which equalled 15.3% of nominal GDP. FDI inflows increased significantly in 2005, to 2.8% of GDP from a low 0.8% in 2004. The privatisation process proceeded in the first half of 2006 and supported continued strong inflows. The cumulative stock of FDI was around €1,300 per capita in 2005.

Foreign ownership was most prominent in the wholesale and retail sectors where 36% of the companies with foreign ownership operated. Overall, investment - both domestic and foreign financed - grew strongly.

Infrastructure investments have been suppressed to support the primary surplus target. No significant changes occurred concerning road and rail network. The Baku-Tbilisi-Ceyhan pipeline was finalised which was an important addition to the energy infrastructure. Mobile phone penetration continued to grow to 64% in March 2006. Internet subscribers increased from 1% to 2% of the population. Spending on R&D remained low. A strategy has been defined on how to strengthen efforts and outcomes in this area. Public spending on R&D is budgeted to increase by 20% in 2006. So far, improvements in infrastructure have been modest.

Adequate sectoral and enterprise structure

Progress was made with the structural transformation of the economy. The share of agriculture in employment decreased markedly during 2005, from 33% to 26% of total employment. This trend continued in 2006. Jobs were created in the industrial sector (including construction) and its share in the total labour force rose from 18% to 26% in 2005. However, job creation in industry and services was not strong enough to fully compensate for the reduction in agricultural employment. The share of agriculture in GDP decreased from 11.7% to 10.7%. Industry gained in importance, increasing from 29.7% of GDP to 31.2%. Services remained stable at around 58% of GDP. In summary, the process of structural transformation of the economy accelerated.

Small and medium-size enterprises (SMEs) accounted for over 75% of employment but only 27% of value added¹⁵ Many SMEs operate in the informal economy, which restrains their ability to improve productivity. Access to finance for SMEs improved as the banking sector expanded its lending activities. However, bank loans still only cover about 10% of SME's financing needs. Owner's capital remains the major source of financing. Collateral requirements and high interest rates are the most important factors which hamper borrowing. Overall, small and medium-size enterprises (SME) remained an important cornerstone of the economy, but their efficiency was often low and informality widespread.

Enterprise restructuring advanced and was supported by privatisation in some areas, such as the telecom sector. Some progress was achieved in restructuring and preparing privatisation of the state owned banks, but the process was delayed compared to the planned schedule. Efforts to restructure and liberalise the energy sector also fell behind schedule. Some of the main outstanding problems in the sector concerns cross-subsidies and large distribution losses. In the private sector, strong productivity gains indicated that restructuring of companies made progress. Overall, the restructuring process continued.

State influence on competitiveness

The work of the Competition Authority continued to be satisfactory and its role in the market was further supported by the privatisation process. Transparency in the corporate sector improved and accounting standards were upgraded although not yet fully implemented. No improvements were made concerning monitoring of state aids. The absence of transparent monitoring and policies to decrease distortions negatively affects the competitive climate.

¹⁵ Figures for 2004, no later data available.

Public procurement policies continued to be undermined by further exceptions made to the regulatory framework. To conclude, some improvements in competition policy took place, but in certain areas deficiencies remained or worsened.

Trade integration with the EU

Exports and imports of goods equalled around 54% of GDP in 2005, up by about 3%. The share of exports destined for the EU declined from 54.5% in 2004 to 52.4% in 2005 as exports to some other markets rose more rapidly. Imports from the EU as a share of total imports also declined, from 46.6% to 42.2%. The EU remained Turkey's largest trading partner, but other markets are gaining in importance. Overall, trade openness continued to increase and the trade partners were diversified.

Labour productivity improved and rose by 8% in the manufacturing sector during the year. Productivity in the public sector also continued to improve, where the number of employees decreased by 7% while productivity increased by 10%. The real effective exchange rate (REER) based on Unit Labour Cost rose considerably until February 2006. Due to sharp exchange rate depreciation, which started in May, this trend was then strongly reversed. Some strength was regained in July and August, but the REER was still at levels similar to end 2004. In summary, labour productivity continued to rise and the trend of increasing real effective exchange rate was strongly reversed.

4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

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

4.1. Chapter 1: Free movement of goods

Limited progress can be reported in area of **general principles** applying to free movement of goods.

The new regime of technical regulations and standardisation aims at alignment with EU safety rules for products imported from third countries (Regulation 339/93), as well as with general principles. As a consequence, the number of products subject to mandatory standards or technical specifications upon import, and all sectors included, has been reduced by more than a half.

In principle, products which are in free circulation in the EU, bearing “e”, “E” or “CE” marking are exempted from conformity assessment procedures. However, implementing provisions and administrative requirements introduce limitations to the free circulation of these products.

Good progress was made on **horizontal measures**. In the area of *standardisation*, the number of mandatory standards declined significantly, in particular in the area of New Approach, where they decreased from 300 in 2005 to 29 in 2006. The remaining mandatory standards are mainly in the area of construction products. Turkish Standards Institute (TSE) further adopted EN standards of the European Committee for Standardisation (CEN), the European Committee for Electro technical Standardisation (CENELEC) and the European Telecommunications Standards Institute (ETSI). About 90 % of CEN and 88% of CENELEC standards are now adopted.

In terms of *conformity assessment*, substantial progress was achieved, albeit for a limited number of activities and sectors. Turkey can now notify conformity assessment bodies to the European Commission.

Regarding *accreditation*, some progress can be noted. TURKAK, the national accreditation agency, signed the multilateral agreements (MLA) of the European Accreditation Cooperation (EA) on calibration laboratories, testing laboratories, quality systems certification bodies and inspection bodies.

Limited progress took place in the area of *metrology*, and related administrative capacity. Some progress can be reported regarding *market surveillance*. The Ministry of Industry and Trade, through its network of provincial offices, carried out market surveillance activities. The Ministry of Health started implementing its market surveillance strategy in the area of toys and medical devices, and the Telecommunication Authority continued its comprehensive market surveillance activities. Very limited progress took place concerning market surveillance for construction and for personal protective equipment. Numerous organisations are involved in market surveillance. Administrative capacity of the Ministries concerned is sufficient. However, their organisation and coordination is lagging behind to perform effective market surveillance duties.

Some progress took place in the area of **new approach product legislation**. Provisions entered into force for marine equipment, toys and childcare articles made of soft PVC. Harmonised standards on toys, pressure vessels, pressure equipment and gas appliances gas meters, as well as weights further clarifying the legislation, were published in the Official Gazette for information to the industry. However, practices constituting technical barriers to trade continued. These include verification fees on measuring instruments. The regulations on pre-packaged products are implemented.

Limited progress can be reported in the area of pharmaceuticals. The legislation for medicinal products for human use is well advanced. However, the uncertainty linked to the authorisation regime applied to a number of generics, for which a market authorisation was requested before 1 January 2005, continues to constitute a source of concern and disagreement. No development can be reported in other areas, especially on medicinal products for veterinary use, chemicals, cosmetics and veterinary pharmaceuticals.

There was additional progress concerning sectoral regulations in new approach area. Alignment is generally advanced, and completed in some sectors.

The alignment of **old approach product legislation** is advanced. Limited further progress took place. Some progress was achieved regarding motor vehicles. However, the requirements of control certificates in various sectors are partially not in line with the *acquis* and constitutes a technical barrier to trade which is not in line with Turkey's Customs Union obligations.

As regards **procedural measures**, and in particular the *notification procedure*, the alignment with provisions on information in the field of technical standards and regulations progressed. An increase in notifications was registered.

In the **non harmonised area**, no progress has taken place and provisions on mutual recognition and notification remain to be adopted.

There was no progress regarding *cultural goods* and *firearms*.

Turkey continued to deny vessels and aircraft flying the Cyprus flag, or whose last port of call was in Cyprus, access to its ports. Such restrictions on shipping often preclude the most economical way of transport and therefore result in a barrier to the free movement of goods and to trade. They infringe the Customs Union Decision.

Conclusion

Progress has been uneven. There were improvements in areas such as accreditation, standardisation and conformity assessment, as well as areas under the new approach directives where the number of compulsory standards reduced drastically. However, the identification and the removal of provisions contrary to the general principles of free circulation of products and mutual recognition has not been completed. Remaining import licensing requirements are contrary to articles 28 to 30 of the EC Treaty. Technical barriers to trade continue.

The conformity assessment structures have been developed, and allow the designation of the Turkish notified bodies in some areas, for a limited number of activities.

The relevant ministries, especially the Ministry of Industry and Trade, intensified their efforts towards the implementation of market surveillance. Nevertheless, an effective market surveillance system in conformity with the new approach principles is not yet in place throughout the country.

4.2. Chapter 2: Freedom of movement for workers

There are no developments on **access to labour market**. Several laws, as well as the role of professional organisations, contain restrictions on the free movement of foreign workers.

Modernisation of the Public Employment Services continued. Staff training for future participation in the *EURES* (European Employment Services) network requires attention.

As regards **co-ordination of social security systems**, the new social security reform laws contain elements regulating the conditions of work and social security rights of foreign nationals. Foreign nationals residing in Turkey for more than a year will be covered under the Universal Health Insurance Law.

Conclusion

Limited progress has been achieved on this chapter. Progress was mainly realised in the area of co-ordination of social security systems. Alignment is at an early stage. The administrative capacity needs to be strengthened.

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

No new developments can be reported in the area of **right of establishment**. The Law on Work Permits of Foreigners in principle exempts self-employed EU nationals from the requirement to obtain a work permit. However, such exemptions are, according to the interpretation of the Turkish administration, subject to reciprocity requirements. The Ministry of Labour and Social Security is the responsible body for foreigners' work permits.

As regards company registration requirements, restrictions continued limiting the right of establishment for foreigners. Sectoral legislation requires economic operators to obtain a licence or an authorisation, including mandatory membership in a chamber of commerce, trade association or in another professional organisation. In some sectors, foreign nationals

cannot provide services even if their company is established in Turkey. Certain professions are closed to foreign nationals. In this area, overall alignment with the *acquis* is limited.

No particular developments took place concerning the **freedom to provide cross-border services**. Service providers are generally required to obtain a licence or authorisation, also for temporary provision of services. This is mostly linked to mandatory membership in a professional organisation. Foreign companies providing services on a temporary basis are also required to register with the relevant association, i.e. the Union of Chamber and Commodity Exchanges of Turkey (TOBB). The Law on Craftsmen and Artisans was amended. Craftsmen and tradesmen registered with a given Chamber are now free to exercise their activities in the whole country. However, authorisation procedures are cumbersome. Overall, alignment with the *acquis* is limited in this area.

In the area of **postal services**, there was no particular development. Turkey has not started aligning its legislation. A legal monopoly (without weight limit) continued in the postal sector. The Directorate General of PTT is the only universal service provider. However, in practice there is *de facto* private sector activity in express mail and private parcel delivery. Turkey has no independent regulatory authority to ensure compliance with the Postal Directive and guarantee fair competition. A lack of transparency in the accounting system prevents tracing potential distortions resulting from abuses of a dominant market position, or from cross-subsidisation. Overall, the *acquis* is not aligned in this area.

Turkey has not developed a roadmap for the implementation of the postal services *acquis* as indicated in the accession partnership.

Limited progress was made in the area of **regulated professions**. Turkey's legal framework does not incorporate an overall framework concerning the recognition of foreign professional, as opposed to educational, qualifications. A law, entrusting the administration of occupational standards to a new independent authority, was adopted in September 2006. However, the sectoral directives for regulated professions were not transposed, and the minimal training requirements for health sector professions are not aligned with the *acquis*. Administrative structures for recognition of foreign qualifications are limited to academic recognition, the structure to certify the professional qualifications and to handle recognition requests submitted by non-nationals are not in place. Nationality requirements for professions such as lawyers, medical doctors, dentists and midwives, as well as for air traffic controllers and private security services are not in line with the *acquis*. Overall alignment in this area is limited.

Conclusion

Overall alignment with the *acquis* is limited. Alignment with the EC principles on the right of establishment and the freedom to provide services remains incomplete. There has been no progress in liberalising the postal services and the establishment of an independent regulatory authority. In the area of regulated professions limited progress was made, however, Turkish legislation takes a different approach to the *acquis*.

4.4. Chapter 4: Free movement of capital

In the field of **capital movements and payments**, no progress can be reported. Turkey has important restrictions in areas such as outward capital movements, credit and cash transactions, foreign direct investment in a number of sectors, special government rights in privatised companies and real estate acquisition by foreigners.

In the area of real estate, recently adopted legislation was a step backwards. The amended Land Registry Law introduces the principle of reciprocity for acquisition of real estate in Turkey by foreigners and it brings stricter limitations to this right, concerning, inter alia, the maximum size of land that can be owned by foreigners, and the location of the property. For foreign commercial companies, in addition to the restrictions stated in the Land Registry Law, acquisition of real estate should also comply with the provisions stated in sectoral legislation. These include the Petroleum Law, the Law for the Support of Tourism, and the Law on Industrial Zones. The Council of Ministers, with an aim to protect public interest and national security, can restrict the sale of a specific piece of land.

Preparations for alignment in the area of capital movements and payments are underway. In the area of **payment systems** and cross-border transfers, limited progress can be reported. The new Banking Law authorises the Turkish Banking Association to establish an out-of-court dispute settlement body for customer complaints on cross-border credit transfers. However, this body has not been established yet.

In the field of **fight against money laundering** no progress was made in alignment of legislation, which remains partial. Lack of effective enforcement mechanisms is the major problem in the area of money laundering in Turkey. Some progress was registered in reporting of suspicious transactions (352 reports notified to the Financial Crimes Investigation Board –MASAK–, compared to 290 in 2004). However, this reporting activity is modest and limited to the banking sector. Prosecutions were brought in 33 cases, compared to 41 cases in 2004. Convictions, confiscations, seizures and freezing of assets, also remain limited.

Conclusion

Very limited progress has taken place. Important restrictions exist in the area of movement of capital, including on acquisition of real estate by foreigners. Alignment with respect to payment systems is limited. Alignment of legislation against money laundering is incomplete. The investigation capacity of law enforcement bodies, as well as inter-agency and international cooperation is weak. Overall alignment is limited. Preparations for alignment in the area of capital movements and payments require further attention.

4.5. Chapter 5: Public procurement

No progress can be reported on **general principles**. A number of derogations from the *acquis* were introduced to the Turkish Public Procurement Law through various sectoral laws. Among these, a law amending the Public Financial Management and Control Law exempted certain contract award procedures by the Turkish Petroleum Corporation. The Law Establishing the Regional Development Agencies (for the co-ordination of the development activities across Turkey) exempts any acquisition of goods and services of the agencies from the scope of the Public Procurement Law. The Law establishing an Investment Support and Promotion Agency similarly exempts this agency. Moreover, the Public Procurement Law still includes discriminatory elements for foreign bidders

No progress can be noted with regard to the **award of public contracts**. The Public Procurement Agency updated thresholds and financial limits for procurement, which remained above EC levels. This reduces the opportunities for foreign bidders to apply. Furthermore, complicated and expensive qualification procedures continued to constitute a bureaucratic obstacle to wider competition in public tenders.

Discrepancies between the Turkish public procurement legislation and the *acquis* exist in various aspects. Some of the basic definitions, such as that of contracting entity and procurement contracts, are not in line with EU Directives. There is no clear legislative framework for concessions in general nor for utilities. A reference to the public works concessions in the Public Procurement Law is absent.

Regarding administrative capacity, the effectiveness of the Public Procurement Authority (PPA) is undermined by weak co-ordination at the policy-making level. The PPA and the TOBB Education and Technology University manage a certificate programme for the potential bidders on public procurement practices.

There is no new development to be reported in the area of **remedies**. Review procedures are not in line with the *acquis*. Complaints submitted to the Public Procurement Board amounted to 2.135 out of 115,639 tenders announced in 2005. In comparison to the previous year, the number of complaints increased by 47%.

Conclusion

Very limited progress can be reported in this chapter. Aspects of the procurement system in Turkey were weakened, in particular due to a narrower scope of application of the Turkish public procurement legislation stemming from the introduction of sectoral exemptions.

The capacity of the administrative structures established by the Public Procurement Law is lagging behind. The PPA is not in a position to ensure a consistent policy in all areas related to public procurement, nor does it effectively steer the implementation of the procurement legislation. Progress is needed in setting up an organisation for procurement to ensure a coherent policy in all areas related to public procurement, establishing a comprehensive strategy as well as amending the scope of legislation to ensure that all relevant areas are covered.

4.6. Chapter 6: Company law

In the field of **company law**, there has been no progress in aligning Turkey's legal framework pending the adoption of the new Turkish Commercial Code. Company registers (operated by Chambers of Commerce) do not have the technical infrastructure to fulfil *acquis* requirements in this field.

Some progress can be reported in the area of **accounting**. The Turkish Accounting Standards Board (TASB) has so far adopted almost all International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS). However, these are not legally binding nor generally applied by Turkish Companies. Moreover, Turkish accounting and auditing professions are unable to apply the *acquis* due to gaps in education and training programmes.

Turkey does not have a general purpose accounting framework that corresponds to internationally accepted accounting principles. Most companies report on the basis of tax-based requirements. Publicly held companies prepare reports in accordance with requirements set by the Capital Markets Board (CMB). Accounting requirements for banks are set by the Banking Regulatory and Supervisory Authority (BRSA). Both are largely in compliance with IAS/IFRS. However, the legislation contains some divergences, in particular as regards the consolidation perimeter for banks, which excludes non-financial group companies.

Some progress can be reported regarding the administrative capacity of TASB. It moved to permanent premises and the number of staff increased, and further recruitment is continuing. Disclosure requirements will need to be enhanced

Limited progress was made in the area of **auditing**. In June 2006, the CMB issued the Communiqué on Independent Auditing Standards in the capital market, introducing the International Standards of Audit (ISAs) set by the International Federation of Accountants. The BRSA adopted implementing legislation on audit principles. CMB and BRSA require the accounts of, respectively, listed companies and banks to be audited. However, there is no general purpose framework consistent with internationally accepted auditing practices and the regulatory framework for the auditing profession remains to be significantly upgraded.

Independent audit companies are subject to quality control inspections of the CMB regarding their reports on publicly held joint stock corporations. Inspections are conducted on a random basis or upon concerns on the quality of reports. These inspections are held by the Accounting and Auditing Standards Department of the CMB, which had a total staff of 7 in 2005 (9 in 2004). However, only 614 (2005) of around 2,048,059 (2005) companies are publicly held joint stock corporations. (*See also Chapter 9 Financial Services*).

Conclusion

Limited progress can be reported for this chapter, and concentrated in the area of accounting.

International accounting standards of IFRS and ISA were adopted. However, they are not legally binding for the majority of Turkish companies and enforcement was not consistent. The awareness of the business community, investors and of the general public is modest. The overall level of alignment is limited, both for company law and corporate financial reporting.

4.7. Chapter 7: Intellectual property law

Limited further progress was made in legislative alignment with provisions concerning **copyright and related rights**. As regards implementation, the Regulation on Procedures and Principles for Banderol Applications was amended, easing the conditions necessary for affixing banderols. A regulation on Record and Registration of Intellectual and Artistic Works was published. Now certain works must be registered in order to be protected, which is in contradiction with the Rome Convention.

Frequent changes in the legislation reduced its predictability and enforceability. The regulatory framework of collecting societies is not sufficient, nor precise. The surveillance over collecting societies is insufficient. Conflicts about representation of right owners by collecting societies continued.

Overall, Turkey has aligned its legislation concerning copyright and neighbouring rights to a large extent. Weak administrative capacity, frequent and inconsistent changes of legislation, as well as conflicts over collective management of rights remained as problematic issues.

Little progress can be reported concerning **industrial property rights** (IPR). Awareness raising seminars for SMEs, right holders, and the general public, continued taking place. As regards administrative capacity, the Turkish Patent Institute (TPI) improved its IT structure and online services. The databases of registered industrial designs, trade marks and patents have been opened to the public for preliminary search of earlier rights and the state of play of the rights. This facility reduces the costs of the applicants remarkably and shortens the

application process. However, some shortcomings exist concerning TPI functioning, in particular concerning appeal and opposition procedures for trade mark applications. These are lengthy, and the justification of decisions is insufficient. Moreover, a number of bad faith and/or non-distinctive design applications were registered that can only be cancelled by court decisions.

Concerning **enforcement**, provincial anti-piracy commissions are not functioning effectively. The third IPR civil court was established as such, but the number of these courts and their logistical infrastructures is insufficient. Difficulties remain in obtaining search and seizure warrants from non-specialised lower courts. Training of judges needs to be strengthened.

The national police continued its raids in enforcing intellectual and industrial property rights and in training its staff. However, piracy and counterfeiting are not addressed in the context of the fight against organised crime and overall capacity of law enforcement agencies remains inadequate. As a result a substantial share of the Turkish market for books and music belongs to pirate traders.

Conclusion

The legislative alignment in this chapter is already well advanced. No further progress was made to increase the level of alignment in the area of copyright and industrial property rights. Administrative capacity improved, but remains insufficient in particular for copyright and related rights. Effective enforcement of legislation is overall insufficient. Gaps remain as regards proper implementation of the legislation by non-specialised lower courts, and recourse to expert witnesses is abused. Coordination and cooperation should be further strengthened between relevant bodies i.e. the Ministry of Justice and the judiciary, the police, the Ministry of Finance, the Under-secretariat for Customs, municipalities and right owners.

4.8. Chapter 8: Competition Policy

Progress in the field of competition policy since last year's report presents a mixed picture.

In the field of **anti-trust, including mergers**, progress can be reported with regard to legislative alignment. The Competition Authority aligned its block exemption legislation on motor vehicle distribution with the *acquis*. The Competition Authority also revised its communiqué on administrative fines to increase their levels as from end 2006. However, legislative alignment is needed on sector specific block exemption rules in insurance, telecommunications and postal services, as well as the incorporation of rules on horizontal cooperation agreements and de minimis. As regards enforcement activities, the Competition Authority continued to impose fines for the infringement of competition rules, e.g. in the steel sector. The level of alignment in the field of anti-trust is high.

The Competition Authority continued to play an active role in merger control; especially important were privatisation cases which made its presence more visible among market actors. With regard to legislative alignment, the Competition Authority amended the merger control regulation in order to allow for fines regarding mergers not notified to the Competition Authority. Furthermore, if it is detected that merger approval is based on misinformation by applicants, the Competition Authority may re-launch merger investigation and prohibit the merger.

The Competition Authority has administrative and operational independence. It has a sufficient *administrative capacity* to ensure antitrust enforcement and merger control. The

authority places high emphasis on continuous training of its staff. The commitment by all public and legislative authorities to remove and avoid legal barriers to competition will be better ensured if the Authority's opinions concerning drafts of all types of legislation, which may have an impact on competition, are taken into account in a consistent way.

The administrative capacity of the Supreme Administrative Court continued to be a matter of concern. Handling of appealed competition cases is slow.

No development can be recorded with regard to the alignment of rules concerning public undertakings and undertakings having exclusive and special rights. Turkey needs to ensure transparency of financial relations between public authorities and public undertakings.

As regards the *enforcement record*, in 2005 the Competition Authority adopted a total of 317 decisions, including competition infringements (97), negative clearances (50) and decisions on mergers and acquisitions (170). The Competition Authority imposed fines in 12 cases amounting to a total of 25,040,479 Turkish Lira (around 12.5 million Euros).

No developments can be reported with regard to the adoption of **state aid** legislation or the establishment of an operationally independent state aid monitoring authority. Their absence delays the adoption of implementing rules for competition under the Customs Union Decision 1/95, and results in serious distortions of competition.

Legislation was modified to suspend the possibility of giving new investment encouragement certificates to the steel industry. However, companies continued to benefit from the effects of old certificates. Turkey has not ensured a satisfactory level of transparency on state aid granted to the sector which it committed to in the 1996 ECSC-Turkey Free Trade Agreement. On 31 August 2006, Turkey sent to the Commission a National Restructuring Programme for the Turkish steel industry. The Programme is being analysed by the Commission services.

Conclusion

Harmonisation with the anti-trust *acquis* is well advanced. The Law on Protection of Competition and the regulation on mergers and acquisitions reflect the main principles of Community rules. The level of enforcement by the Competition Authority continued to be satisfactory. As regards State aid, there has been no progress since the last report. Turkey has not set up the necessary legislative framework and administrative structures to ensure transparency and implement Community state aid rules.

4.9. Chapter 9: Financial Services

Some progress can be reported in the area of **banking**. A new Banking Law entered into force which reduced the maximum credit limit for parent undertakings to EU standards. In addition, the new law introduced risk based supervision, the end of the sworn-bank auditors' monopoly in on-site supervision, and the establishment of a financial sector commission to improve co-operation among financial sector supervisory authorities. Some progress was made with regard to the adoption of new implementing regulations through the Banking Regulatory and Supervisory Authority (BRSA), including secondary legislation on systems audit principles. The exclusion of non-financial group companies from the perimeter of banks' consolidated accounts undermines the effective supervision of banks that form part of mixed-holding groups (*see also Chapter 6 – Company law*). The BRSA increased its staff and published a Strategic Plan for 2006-09 setting out broad strategic goals. The entry into force of a new statute for the Turkish Banking Association is a positive development since it intends to end

discrimination against foreign owned banks. Supervisory practices, in particular concerning consolidated supervision are at an early stage. Overall alignment with the *acquis* is partial in the area of banking.

Some progress can be reported in the area of **insurance and supplementary pensions**. A new solvency regime was adopted for insurance, reinsurance, and occupational pension companies. It resembles the EU Solvency-I framework that is currently in force, but it is also inspired by the ongoing Solvency-II study. The current Insurance Supervision Law is outdated; several provisions have been annulled by court decisions. Turkey has no specific legislation on the supervision of insurance groups, consolidated insurance accounting and reinsurance. The latter is currently regulated as non-life insurance. As far as specific non-life insurance *acquis* is concerned, Turkey has no provisions on co-insurance, credit insurance, legal expense insurance and tourist assistance. The Undersecretariat of the Treasury regulates and supervises the insurance sector, including supplementary pensions. Within the Treasury, the General Directorate of Insurance (GDI) is responsible for regulatory activities and off-site supervision, whereas the Insurance Auditory Board (IAB) conducts on-site monitoring activities. Their enforcement capacity, independence and co-ordination are at an early stage. Even though there has been some progress, alignment with the *acquis* is limited in the area of insurance.

Some progress can be reported in the area of **securities market and investment services**. The issuance of the first private sector corporate bond in the last ten years is a welcome development. The adoption of provisions that offer more information to customers, and eliminations of restrictions on participation limits for brokerage houses, were other positive steps. However, progress is at an early stage, in particular regarding investor compensation scheme, cross border provision of services, disclosure requirements, and prospectuses. The alignment with the market abuse directive is limited. The administrative and judicial capacity to enforce capital market legislation is not fully sufficient.

The Capital Markets Board (CMB) regulates and supervises investment services and securities markets in Turkey. The administrative capacity of the CMB as supervisory authority is reasonably developed, but will require attention as further progress is made to align Turkish legislation with the *acquis*. The co-operation between the various supervisory authorities is underdeveloped.

The area of investment services and securities markets is partially aligned with the *acquis*.

Conclusion

Turkey has made some progress in this chapter. A new banking law was adopted. In the insurance and supplementary pension sector the adoption of relevant solvency legislation is also an improvement. However, overall the alignment of insurance legislation is limited. In the area of investment services and securities markets the investor compensation scheme, cross border provision of services, disclosure requirements, and prospectuses need further adaptation. Supervisory capacity is at an early stage, in particular in the insurance sector and as regards securities markets.

4.10. Chapter 10: Information society and media

Some progress was made as regards **electronic communications and information technologies**. Turkey continued its alignment efforts with the introduction of new implementing legislation. An implementing regulation on 'rights of way' was published in

May 2006. It also granted a large number of relevant licences, including infrastructure licences. Furthermore, carrier selection and carrier pre-selection is included in some of the recently concluded interconnection offers. However, only a small number of new market entrants have yet become operational. This means effective competition on the fixed telephony market is at an early stage. In addition, the implementation of competitive safeguards, such as local loop unbundling, number portability and cost accounting is still pending. In this area Turkish legislation is based on the 1998 EU regulatory framework. The Telecommunications Authority has adopted market analysis decisions based on this framework. However, these were carried out within the scope of the 2002 regulatory framework. Turkey has not adopted new legislation that would align it with the 2002 framework.

New decisions extending the scope of the universal service to include a national policy addressing computer illiteracy (including providing an exclusive right to one operator to deliver these services), as well as to include the development of digital broadcasting throughout Turkey, are not in line with the applicable EU provisions.

The single European emergency call number '112' has been assigned as the single emergency call number, in addition to other emergency numbers, and can be reached free of charge.

A majority of shares of Turk Telecom was sold to the private sector. In May 2006, mobile operator Telsim was acquired by Vodafone. While there is competition in the mobile market with three operators and a 63.7% penetration rate as of May 2006, there is less competition in the fixed-line market, mostly due to the fact that relevant competitive safeguards have not yet been introduced. The penetration rate for internet services has reached 15.5% as of May. Mainly due to a lack of competition broadband coverage is low, facing persistent quality problems and high pricing.

The Telecommunications Authority increased its staff and now has 128 persons directly involved in regulatory work. With the expected entry of more market players, and with further alignment with the EU regulatory framework, its administrative capacity will require further monitoring. No progress can be reported on the administrative capacity of the Ministry of Transport. Alignment in this area is overall satisfactory at this stage.

Market development continued to suffer from very high tax rates on communications, namely a 15% fixed telephony tax and a 25% mobile telephony tax on top of 18% VAT. In addition, different further taxes are levied, especially from mobile operators.

As regards **information society services**, Turkey adopted an Information Society Strategy and Action Plan in June 2006. Turkey is not aligned with EU standards on electronic commerce and conditional services. Legislation on cyber crime is not adopted. Overall alignment in this area remains limited.

In the area of **media and audiovisual policy**, Turkey's level of alignment with European standards and the EC audiovisual *acquis* is limited. Progress on most of the related priorities of the Accession Partnership is lagging behind considerably.

Despite progress made in terms of legislation and the entry into force of the new Penal code, freedom of expression is not yet guaranteed by the current legal framework. Defamation is a criminal offence carrying prison sentences. In addition, the new Anti-Terror Law, recently adopted by the Parliament, expands the scope of crimes punishable as terrorist acts and includes restrictions on the news media. So far, the circulars issued by the Minister of Justice

to the judiciary failed to ensure application of the provisions of the Penal Code in accordance with European standards (*see also section on human rights and the protection of minorities*). Alignment with such standards in the media area is very limited.

Turkey's level of alignment with the audiovisual *acquis* remains limited to some provisions concerning advertising and the protection of minors. The Law on the Establishment of Radio and Television broadcast also poses problems in terms of definitions, jurisdiction, freedom of reception, major events, promotion of independent works and restrictions on the share of foreign capital in television enterprises. With regard to the administration of the broadcasting sector, the Radio and Television Higher Council (RTÜK) has so far not been able to re-allocate frequencies and review the temporary licences effectively.

As regards access to radio/TV broadcasting, progress was achieved on broadcasts in languages other than Turkish at local and regional level. However, in accordance with the regulation on TV and radio broadcasting in other languages and dialects used by Turkish citizens (2004), TV broadcasts remain limited to 45 minutes per day, 4 hours a week. Radio broadcasts are limited to 60 minutes per day, 5 hours per week. The Radio and Television Higher Council (RTÜK) decided in May 2006 to lift these restrictions as far as music and cinematographic works are concerned. However, as this decision was not officially communicated to broadcasters, they refrained from exceeding the previous limitations for fear of sanctions. News and current events continue to be subject to time limitations. Live broadcasts are not banned, but rendered very difficult in practice by the requirement for subtitles or consecutive translation of all programmes. Broadcasts cannot be educational programmes teaching the Kurdish language or directed at children, and have to be accompanied by Turkish subtitles. An appeal against this regulation is pending. Out of twelve applications, three media outlets received authorisations and started broadcasting in Kurdish dialects (*see also section on human rights and the protection of minorities*).

On the national level, the Public Turkish Radio and Television Corporation (TRT) is broadcasting in Bosnian, Arabic, Circassian, Kirmanji and Zaza. However, these emissions are limited to five days a week, 30-35 minutes daily and only cover news, sports, music and documentaries, and not, for example, children's programmes.

The issue of the independence, including adequate funding, of the Public Service Broadcaster TRT, and the Radio and Television Higher Council (RTÜK) remains a matter of concern.

Conclusion

Progress was made in this area. Turkey achieved a good basis for further alignment in electronic communications and information technologies. However, alignment in media and audiovisual policy remain very limited.

4.11. Chapter 11: Agriculture

As regards legislative alignment, progress is uneven. Turkey adopted a new Agriculture Law to implement its "Agricultural Strategy Paper 2006-2010". The Law put emphasis on increasing productivity and ensuring food supply and gives lower priority to food safety and consumer related matters. It also moves Turkey further away from the principles of the reformed CAP by defining support linked to production as a key instrument of agriculture policy. On the positive side, it makes the competitiveness and modernisation of agricultural sector and rural areas a priority. It also creates the legal basis for certain management systems

(Integrated Administrative Control System, Farm Accountancy Data Network) necessary for implementation of the *acquis*.

The administrative capacity of the Ministry of Agriculture and Rural Affairs (MARA) has not improved affecting the implementation of a number of EU-financed projects. The restructuring of the Ministry has been delayed. Unclear division of responsibilities, as well as conflicts of competencies between services, persist. Concerning **horizontal issues**, Turkey has made limited progress in aligning its legislation. Initial steps were taken to prepare the implementation of the Integrated Administration and Control System (IACS). The National Farmers Register System is not compliant with EU regulations. No progress can be reported on the setting up of the Farm Accountancy Data Network (FADN).

Concerning bilateral trade relations, the main problem remains the Turkish technical barriers to trade on beef meat and live bovine animals that are not in line with bilateral obligations. In addition, special attention is needed on the mechanism operated by TMO to support exports of wheat flour. The difference between the domestic market price and the price at which exporters acquire the wheat is considered constituting a prohibited export subsidy. In addition, special attention is needed on the mechanism to support exports of wheat flour and its consistence with Turkey's commitments under the WTO.

Limited progress was observed on the alignment with the **common market organisations**, which is understandable at this stage of the enlargement process. However, more transparency is required as regards existing intervention systems; special attention is needed in the area of public support to state economic enterprises such as the Turkish Grain Board (TMO). Bilateral assistance has started on the implementation of marketing standards for olives and olive oil. For fruit and vegetables, the conformity checks carried out by Turkey at export stage to the EU are in the process of being approved by the EU. This will facilitate the administrative customs procedures.

Limited progress can be reported on **rural development**. A National Strategy was adopted on which an Action Plan and the financial Pre-Accession Assistance (IPARD) need to be built. The IPARD programming exercise started. Involvement of relevant stakeholders is at an early stage. As regards administrative structures, MARA has been designated as the Managing Authority for IPARD programme. Its staff has been appointed and needs to be further trained and assigned specific responsibilities. However, legislative work on the operating structures is not completed, including the necessary legal basis for the IPARD Agency. This could seriously delay the start of the accreditation process and consequently the use of IPARD funds in Turkey.

No development can be reported in the field of **quality policy**. There was some progress on **organic farming**. Training programmes have started. The ongoing discussions for the future inclusion of Turkey in the third countries list of the EU have advanced. The final inclusion will allow the recognition of the Turkish certification system in the export of Turkish organic products to the EU.

Conclusion

The alignment with the *acquis* remains limited. Some limited progress has been achieved in the rural development field, but delays on the adoption of the necessary legislation and administrative structures put the timely implementation of IPARD seriously at risk. Most administrative structures related to the CAP have not yet been established. The trend towards

increasing support linked to production goes against the direction of the 2003 CAP reform. Overall, preparations are at an early stage in this chapter.

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

In the legislative field, the "food, feed and veterinary package", foundation for future alignment with EU rules, has still not been adopted.

Concerning **general** foodstuffs policy, progress remained limited in transposition and implementation. As regards participation in the Rapid Alert System for Food and Feed, the lack of proper monitoring of alerts, and an insufficient network for information between the central and local units, remain.

Regarding **veterinary** policy, no progress in alignment has been made. Turkey has concentrated on fighting disease outbreaks, such as Avian Influenza. No progress was noted in the area of transmissible spongiform encephalopathy (TSE) and animal by-products. Turkey has been increasingly challenged on animal disease control measures. The first avian influenza (AI) outbreaks in October 2005 were handled efficiently with the help of a contingency plan. However, further outbreaks confirmed shortcomings. Coordination between the Ministry of Agriculture and Rural Affairs and the Ministry of Health showed imperfections. More positively, information to the EU and other international organisations on AI was provided in a transparent manner. Also, the technical capacity of the AI reference laboratories increased. Vaccination campaigns against new strains of Food and Mouth Disease have been implemented. However new outbreaks put the foot-and-mouth disease (FMD) free status of Thrace in danger. For other diseases, such as brucellosis, sheep and goat plague, anthrax, sheep and goat pox, bluetongue, Newcastle disease and rabies, vaccination campaigns continued to be implemented.

The identification and registration of bovines and the registration of their movements are in progress, however compliance with the *acquis* needs to be assessed. Furthermore, the control of movements of live animals, requires attention. No progress was observed regarding the registration of ovine and caprine animals even through preparatory work started. Regarding the financing of veterinary inspection and controls, no progress can be reported. Turkey's current system is not in line with EU practises. Implementation concerning the veterinary checks on third country imports and rules for imports is not in line with EU rules. Alignment in this area remained limited.

Turkey, as a third country, has shown significant improvement on the preparation of national residue monitoring plan. All active substances required by EU legislation have been included in the annual plans. The residue plan has been approved by the EU for milk and milk products and poultry. No progress on animal welfare can be reported.

No substantial progress can be reported concerning the rules for **placing on the market of food and feed**. A vast majority of agri-food establishments need upgrading to meet EU hygiene requirements. Revisions of the food law as well as the clear definition of competences between the central authorities and municipalities are necessary to prevent gaps in hygiene and food controls and to ensure implementation of the *acquis*.

On **specific rules for food**, legislation in the areas of labelling, presentation and advertising, additives and purity criteria, extraction solvents, quick frozen foodstuffs and irradiated food, is mostly in line with the *acquis* and implemented. Alignment in the area of mineral waters is quite advanced. Turkey has harmonised the legislation relating to food for particular

nutritional uses. As regards flavourings and implementing legislation regarding food contact materials, the transposition of the *acquis* remains to be completed. Transposition of the *acquis* on food supplements has not yet started. Implementation of the *acquis* in the area of hygiene and official control has been limited. The regulation on market control of foodstuffs and packaging material is not fully aligned. On contaminants, the regulation on setting up the maximum limits for certain contaminants is in place. However further amendments are needed to follow EU practise. The legislation on official controls of contaminants is in line with the *acquis*. The plan on prevention of aflatoxin contamination continued to be implemented. However, problems remain on the ground. On genetically modified organisms (GMO) and novel foods, no progress can be reported regarding the transposition of the *acquis*.

Some progress has been achieved in the area of **specific rules for feed**. Some progress has been achieved in the area of animal nutrition. Legislative alignment is further advanced concerning the additives for use in animal nutrition.

Concerning **phytosanitary** issues limited progress has been made. Turkey has not aligned its legislation on quality of seeds and propagating materials, plant health, and plant protection and agricultural quarantine. An inspection manual was prepared and inspections at the borders were unified. The diagnostic capacity of plant health institutes was increased and brought in line with EU standards. Pest risk analysis started to be implemented. Training for the Ministry staff, for farmers and other private sector actors were organised. No developments can be reported regarding international agreements.

As regards administrative capacity, the Ministry of Agriculture and Rural Affairs has to be strengthened at central and local level. Reinforcement is particularly essential for implementing the general control tasks and achieving the EU requirements related to animal identification and animal diseases.

Conclusion

Limited progress has been made in the alignment of the veterinary, phytosanitary and food sectors. Neither the legislative framework nor the administrative structures are in place to allow full implementation of the *acquis*. The control systems remain weak. The main difficulties are in the veterinary sector, in particular as regards eradication and control of animal disease.

4.13. Chapter 13: Fisheries

Turkey made no substantial progress on the alignment of its legislation with the *acquis* in fisheries. A new delay in modifying the Fisheries Law also affects announced implementing legislation and administrative changes.

The administrative structures of the fisheries sector remain unsatisfactory due to limited capacity and the spread of competences between different ministries. The enforcement surveillance, inspection and control activities are entrusted to both Ministry of Agriculture and Rural Affairs (MARA) and the Coast Guard (under the Ministry of Internal Affairs). The Undersecretary of Maritime Affairs (Prime Ministry) deals with vessels registration. The planned reorganisation of MARA with a view to establishing a central Directorate General for Fishery Products has not taken place. Some reinforcement of the administrative capacity is taking place at local level with the construction of 30 fisheries port-offices for monitoring and recording of landings and recruitment of extra staff for these new port offices.

There are no developments concerning **resource and fleet management** as well as **inspection and control**. Generally, Turkey has a lack of adequate scientific research on assessing the stocks and managing resources especially for the key targeted species. Implementation of the *acquis* is at an early stage.

No progress has been recorded concerning **structural actions**. Implementation of the *acquis* has not started yet. On **market policy**, there is no market intervention system in line with the *acquis*. Five fisheries and aquaculture producer unions were set up which however only partially comply with the *acquis* on producers' organisations. With regards to **state aid**, no progress can be reported on related legislation in fisheries. Turkey has not concluded new **international agreements**.

Conclusion

Turkey made no progress concerning fisheries. Important gaps remain in its legislation as compared to the *acquis* and the administrative structures are not yet sufficient for the future implementation of the Common Fisheries Policy.

4.14. Chapter 14: Transport policy

Progress can be reported in the field of **road transport**, notably in terms of legislative developments. The international fleet has been licensed mostly in line with *acquis* requirements. However, licensing of the national fleet is not complete. Significant differences between national and international transport persist. These mainly concern the criteria for professional competence and financial standing. Legislation on taxes and tolls requires further alignment. Social rules and their enforcement legislation need to be aligned with latest *acquis*. The implementation of the digital tachograph has not yet started in practice. The requirements on speed limitation devices are not applied to lighter buses and utility vehicles. No progress can be reported regarding privatised vehicle road worthiness stations, on which the Council of State ordered a stay of execution. Their number is very limited. Strengthening of the administrative capacity is required as well as improvement of the cooperation between all relevant authorities. Preparations in this area are advanced.

There has been no progress on **railway transport**. Legislative alignment and administrative capacity are limited and there is no regulatory body in place. TCDD, the state railway company, has a monopoly and depends heavily on public subsidies. The infrastructure needs to be substantially modernised to ensure interoperability with the European rail network. Alignment with the *acquis* in this area is lagging behind, and shows major shortcomings concerning the required separation of essential functions, safety certification, management independence of the incumbent operator and the administrative and institutional set-up necessary to allow a rail market to emerge.

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

Regarding **air transport** some progress can be reported. By law the General Directorate of Civil Aviation (GDCA) was granted financial and technical autonomy. Related restructuring and recruitments are outstanding. A GDCA branch was established in Istanbul, with another one foreseen in Antalya. Some implementing regulations have been issued. An autonomous accident investigation board, attached to the Minister, has been established. An instruction on slot allocation principles has been issued. Furthermore, a slot coordinator post, as well as evaluation and technical committees, was established. Alignment with the *acquis* in this field is underway. Turkey has not yet engaged with the Commission in negotiations on a

“horizontal aviation agreement”, and does not accept Community designation, a fundamental requirement under Community law.

In the area of **maritime transport**, good progress can be reported in legislative alignment and strengthening of administrative capacity, particularly in the field of safety. Regulations were issued on the safety of fishing vessels, investigation of marine incidents, monitoring and quality of seafarer’s training, safe loading and unloading of bulk carriers, marine equipment, and port state control. A marine accident investigation board was established with 49 staff. 200 experts were recruited as flag state and port state inspectors.

No progress can be reported on the procedures to become a signatory party to certain international conventions (SOLAS-78, SOLAS-88, Load Line 88 and Mar-Pol annexes III and IV). The detention rate of Turkish vessels in 2005 decreased to 7.5 %. However, the country is still on the medium to high risk category of the black list of the Paris Memorandum of Understanding. As regards maritime security, no steps beyond launching studies have been taken in order to align to the legislation on enhancing port security. Regarding market access, the rules on both cabotage and ship registration are in conflict with the Community rules. Preparations for further improvement in this area are underway.

No progress can be reported concerning the access to Turkish ports of Cyprus-flagged and/ or managed vessels, and of vessels whose last port of call was Cyprus. Neither was progress made on the lifting of restrictions applied to Cypriot aircraft which aim to use the Turkish national airspace, nor on the restrictions on communications between Turkish and Cypriot civil aviation authorities and air navigation service providers.

No progress has taken place concerning **state aid**. There is no established institution or legal framework in Turkey to regulate state aid.

Conclusion

Some progress has been made. Legislative alignment is fairly advanced in the area of road transport, but uneven in the other sectors. Implementation and enforcement capacity require further attention. Decisions on the structure of the railway sector are outstanding. In the areas of maritime and air transport, the adoption of international agreements is not complemented by the transposition of the relevant *acquis*. Turkey has not removed all restrictions on free movement of goods, including restrictions on the means of transport.

4.15. Chapter 15: Energy

Preparations are fairly advanced with regard to **security of supply**. Turkey's oil stocks, however, are not calculated according to EU methodology. The Baku-Tbilisi-Ceyhan oil pipeline became operational.

Some progress has been made as regards the **internal energy market**. The privatisation process of distribution assets has started for three regions. Implementing regulations were enacted on electricity demand forecasting, and cross-border electricity trade. The threshold for eligible consumers has been reduced to 6 GWh. A new amendment, however, allows cross-subsidies and vertical integration. High electricity losses, including theft, persisted. Two six-hour blackouts occurred in July affecting 13 cities, mainly due to generation capacity constraints. Unchanged electricity tariffs in the context of rising gas import prices may in the short term result in real capacity reductions. Turkey is not yet a member of the Union for the

Coordination of Transmission of Energy. Turkey has not signed the Energy Community Treaty establishing a regional energy market in southeast Europe.

Regarding the internal gas market, no new implementing legislation has been issued. Some liberalisation took place: in-city natural gas distribution tenders were undertaken for 54 cities. The market share of any importer or wholesaler is limited by law to 20%. The state-owned company BOTAS has not transferred existing contracts and maintains its monopolistic position. Overall alignment in these areas is well underway, however implementation is lagging behind.

Concerning **state aids** to the coal industry, no progress can be reported. Alignment in this area is low.

No progress can be reported on **energy efficiency**. Turkey does not have a framework law for its promotion. Some progress has been made on **renewable energy** sources. However, Turkey has not set itself an ambitious target yet for their increase. An implementing regulation on the guarantee of origin has been issued. Turkey is partially aligned in this area.

Regarding **nuclear energy**, Turkey's capacity to fulfil *acquis* requirements is fairly advanced. Turkey has no nuclear power generation plants yet, but has announced plans to promote the construction of a capacity of 5000 MW by 2020. The independence of the Turkish Atomic Energy Authority (TAEK) needs attention. Supervisory responsibilities are not separated from research and the promotion of nuclear energy. Turkey has reached a considerable degree of alignment as regards **nuclear safety and radiation protection**. No new implementing regulation has been enacted. Substantial upgrading of existing facilities will be needed, including radioactive waste management and storage facilities. Turkey has not acceded to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, to which Euratom became a contracting party in January 2006.

Conclusion

Some progress has been achieved in the field of energy. Overall, alignment is uneven. A framework law for energy efficiency remains to be developed. Administrative capacity and the independence of regulatory bodies need strengthening.

4.16. Chapter 16: Taxation

In the area of **indirect taxation**, there has been very limited progress. Turkey has partially aligned its legislation. Concerning *VAT* discrepancies from the *acquis* are of a structural nature and include, amongst others, exemptions, special schemes, and the application of reduced rates. By introducing a reduced rate of 8% for textile products, Turkey moved further away from the *acquis*.

On *excise* duties, no progress can be reported. A new tax law eliminated the specific duty on tobacco products by determining only ad valorem rates and minimum excise levels. This structure is not in line with the *acquis*. Moreover, the law did not eliminate levying a duty on imported tobacco and cigarettes. This discriminatory practice is not in line with the *acquis* and represents a breach under the Customs Union and WTO rules. Turkey has not yet introduced a duty-suspension regime for domestic movements and fiscal warehouses.

With regard to alcoholic beverages, Turkey applies an ad valorem duty, supplemented by a specific one when lower than a certain amount. Again, this system is not in line with the

acquis since it uses differentiated duty based on the type of product, instead of the alcoholic content. The result is higher rates for imported products than for comparable domestic ones. Turkey has lowered the leeway at which the Council of Ministers can increase tax rates, thus ensuring a higher predictability of future rates.

In **direct taxation** there is limited progress. The Corporate Tax Law was slightly aligned to addresses issues such as split-off and split-up. Turkey needs to avoid introducing measures that would be against the principles of the code of conduct for business taxation. Overall, alignment remains limited.

In the area of **administrative cooperation** and mutual assistance, little progress is noted.

The new Revenue Administration became operational, a semi-autonomous institution attached to the Ministry of Finance. The intention is to reduce hierarchical layers and improve accountability of the local tax offices to headquarters. In addition, policy making at the ministry of Finance passed to a newly created directorate general for tax policy. The impact cannot be assessed yet.

Computerisation of tax offices and the distribution of tax identification numbers to taxpayers continued. So far, 41 million taxpayers have received tax identification numbers; almost 75% of the tax returns were filed electronically. Planning of further alignment within the framework of a time-bound and result-oriented tax strategy, including the preparation of IT for interconnection with the Community systems, is at an early stage.

Conclusion

Limited progress has been made. The Turkish fiscal regime is partially in line with the *acquis*. Alignment is incomplete, particularly as regards the scope and rates of VAT, the structure and rates of excise duties, as well as direct taxation in general. All discriminatory elements on the taxation of alcoholic and tobacco products have to be abolished urgently.

4.17. Chapter 17: Economic and Monetary Union

In the area of **monetary policy**, Turkey made limited progress. It adopted new legislation that prohibits certain privileged access of public sector authorities to financial institutions. Turkey will need to continue to implement the necessary changes to its institutional and legal framework. In particular, the Central Bank (CBT) has not adopted a secondary objective that allows for general economic objectives of the European Community to take precedence over domestic objectives. In addition, it has not yet adopted the relevant rules and structures related to the integration of the CBT into the European System of Central Banks by the time of EU-accession. Some progress can be reported as regards central bank independence and the prohibition of public sector financing, and prohibition of privileged access of the public sector to financial institutions. The CBT changed its profit and loss calculation method related to foreign exchange purchase and sale transactions to “average cost method”, in accordance with the “Guideline of the European Central Bank on the Legal Framework for Accounting and Financial Reporting in the European System of Central Banks” Banks are no longer required to keep a certain amount of compulsory reserves in the form of Turkish Treasury bonds. However, the Investor Protection Fund, a guarantee system for investments in securities, is obliged to invest its assets in government bonds or deposits, which in addition must be kept at state owned banks. Finally, all public institutions, excluding the central Government, must deposit their funds either in state banks or buy government securities. Overall, in the area of monetary policy Turkey is advanced.

Certain progress can be reported concerning **economic policy**. The establishment of a Revenue Administration and the adoption of the Public Financial Management and Control Law contribute to enhancing the administrative capacity in the area of fiscal policy. However, several ministries and under-secretariats have varying degrees of responsibilities on main interrelated economic activity areas. Such fragmentation of responsibilities reduces the efficiency and effectiveness of economic policy formulation at all stages, in particular as regards decision making, co-ordination, and implementation. Partly due to this situation major economic decisions are taken on an ad hoc basis and the economic impact of key legislation is only partially assessed.

Conclusion

Turkey has made progress on the field of economic and monetary union. However, the independence of the central bank is not complete and legislation to prevent monetary financing of the public sector, as well as the prohibition of privileged access of public authorities to financial institutions is not aligned with the *acquis*. The absence of economic impact assessments and of efficient coordination and cooperation reduce the effectiveness of economic policy.

4.18. Chapter 18: Statistics

With regards to **statistical infrastructure**, Turkey made considerable progress in transposing the *acquis* with the adoption of a new statistical law. The law strengthens the coordinating role of the Turkish Statistical Institute (Turkstat). Establishing its enhanced role in practice is at an early stage. The administrative capacity needs further strengthening. To cope with the *acquis*, serious attention needs to be given to streamlining the decision making process. Training staff on methodological and operational changes remains necessary.

In the field of **classifications** notable progress was achieved. The Institute's classifications, following the European practice, are now available on a server and are more widely used. Several classifications, such as for economic activities, products by activity, construction, occupations, and education, have been translated and implemented. The use of these classifications by other government bodies is increasing.

As regards the availability of **sector statistics**, progress was made in a number of areas. In *demographic and social statistics*, the legal act to establish a population registrations system based on the place of residence was adopted. An income and living conditions survey (EU-SILC) has been conducted. As regards business statistics, *structural business statistics* (SBS) surveys have been introduced. In the area of *household budget surveys*, the monthly survey has continued. In the area of *purchasing power parities*, several studies were conducted in line with EU standards. Concerning *external trade statistics* and the *harmonised indices of consumer prices* (HICP) a high degree of compliance has been reached and data are sent to Eurostat. In *agricultural statistics*, work on setting up a farm register is continuing. Finally, public accessibility to statistical information improved.

Development regarding the business register, and statistics on business, public finance, and agriculture, as well as the national accounts, is at an early stage. Challenge of the latter is a major revision and re-benchmarking while moving to ESA 95.

Conclusion

Turkey has made some progress as regards the usage of classifications and the availability of sector statistics. The new statistical law constitutes an important step towards harmonisation. However, overall alignment is not completed.

4.19. Chapter 19: Employment and Social Policy

No progress can be reported in the area of **labour law**. Shortcomings in the transposition of some directives remain. These include the limited scope of application of the Labour Law. On administrative capacity, some additional qualified personnel were recruited to the Ministry of Labour and Social Security.

Turkey needs to continue efforts to reduce child labour with the support of the International Labour Organisation (ILO).

In the field of **health and safety at work**, Turkey has reached a good degree of alignment with the *acquis*, but outstanding shortcomings reported last year remain. In particular, the regulation transposing the Framework Directive is still suspended, although other regulations in this area remain in force. Legislation does not cover all workers in the private sector nor the public sector. The National Occupational Health and Safety Council, an advisory body composed of public institutions, social partners and relevant stakeholders, has adopted a national policy in the field of health and safety at work. Activities relating to the enforcement and implementation of health and safety at work legislation have been undertaken throughout the reporting period. However, further efforts in this respect are needed, including through awareness-raising, training and strengthening the capacity of the inspection bodies (both labour and social security inspection).

As regards **social dialogue**, no progress can be reported on the pending draft laws aimed at bringing the currently applicable Trade Union and Collective Bargaining, Strike and Lockout Laws in line with ILO and EU standards. Full trade union rights remain to be established in Turkey. Social dialogue is weak; the performance of the Economic and Social Council needs improvement. (*see also Section Economic and social rights*).

As regards **employment policy**, little progress can be reported. Low labour force participation and employment rates, in particular of women, high levels of youth unemployment, the large size of the informal economy and the strong rural/urban labour market divide remain the main challenges. The overall employment rate in 2005 decreased to 43.4%, whereas unemployment rate remained at 10.3%. The scale of unregistered employment continues to be of concern. It constitutes 50.1% of overall employment, and 88.2% of employment in the agriculture sector. The Turkish employment agency (IŞKUR) continued efforts to improve its institutional capacity. Progress was made in preparing the Joint Assessment Paper of Employment Policy Priorities (JAP) between the European Commission and the Turkish authorities.

In the field of **European Social Fund**, legal alignment has been limited. Administrative structures and legislation will need to be adapted in order to create the adequate institutional capacity for the future management, implementation, monitoring, audit and control of ESF-type measures at national and, where appropriate, regional and local levels. In this respect, Turkey will have first to adapt its structure and legislation for the implementation of the component on Human Resources Development of the Instrument for Pre-accession (IPA).

Concerning **social inclusion**, work under the Joint Inclusion Memorandum (JIM) process has continued. However, there is no progress on a national integrated strategy. According to the results of a poverty study conducted by TURKSTAT, 1.29% of the population live below the

hunger line, while 25.6% live below the poverty line. The percentage of the latter increased to 40% in the rural areas. According to the same study, the child poverty rate (below 6 years of age) is 34%, while this rate reaches almost 40% in rural areas. There has been no progress on upgrading and increasing co-ordination of the administrative structures.

An action plan for employment of people with disabilities has been prepared, and several implementing regulations were issued related to the Law on People with Disabilities. These cover areas such as workplaces and educational services for disabled people.

In the field of **social protection**, Parliament adopted legislation on social security reform in May and June 2006, providing for a complete overhaul of the Turkish social security system. This will be simplified and bureaucracy reduced, benefits-liabilities will be equal for everybody, free healthcare will be provided to all children under 18. The reform aims to ensure the long-term financial stability of the social security system and to regulate assistance to the poorest. Upgrading of the administrative capacity of the newly established Social Security Institution is ongoing. The inspection capacity of the social security system requires strengthening.

No developments can be reported in the field of **anti-discrimination**. Transposition of the EC directives concerning discrimination on grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation is incomplete. In particular transposition of the non-employment aspects of the Racial Equality Directive needs to be addressed. An effective and independent "Equality Body" needs to be established to promote non-discrimination and equal treatment. Significant challenges remain with regard to the situation of minorities (see also Section– Human rights and the protection of minorities).

As regards **equal opportunities**, further alignment is required in particular concerning parental leave, equal pay, equal access to employment, burden of proof, as well as statutory and occupational social security. Furthermore, the Equality Body required by the *acquis* remains to be established. Participation of women in the labour force is at a very low level (under 25%), and the female employment rate has dropped to around 20%. (see also Section Economic and social rights). The administrative capacity of the Directorate General for the Status of Women needs to be strengthened.

Conclusion

Turkey has made limited progress on alignment with the *acquis*. Some progress can be reported on social protection and on the implementation of the new Law on People with Disabilities. Further efforts are needed to complete the JAP and JIM documents. Particular attention should be paid to ensuring respect of full trade union rights, as well as to tackling undeclared work. Combating unregistered employment requires attention. The administrative capacity needs to be improved to ensure an effective implementation in most areas.

4.20. Chapter 20: Enterprise and Industrial Policy

Turkey has made some progress with regard to **enterprise and industrial policy principles**. With policy documents such as the 9th Development Plan (2007-2013), the medium-term programme (2006-2008) and the annual programme (2006), Turkey largely follows EU enterprise and industrial policy principles.

The Investment Advisory Council (IAC), composed of chief executive officers (CEOs) from important foreign investors and from industry associations, chaired by the Prime Minister,

made a number of policy recommendations. The Treasury established an investment portal to provide information for international investors. Net foreign direct investment inflows into Turkey more than doubled in 2005, and reached € 7.8 billion. The Law establishing an Investment Support and Promotion Agency has entered into force. The Agency will be established in Ankara and be attached to Prime Ministry with administrative and financial independence. The time required to establish a company was shortened to one day. However, further improvement is necessary regarding the business environment, in particular as regards reducing "*red tape*". Corporate governance principles are not fully implemented.

Turkey has a SME strategy in line with the European Charter for Small Enterprises. A common SME definition for all Turkish institutions was introduced. It is in line with the *acquis*, except for lower limits on turnover and asset size. Application procedures have been simplified.

A Supreme Council for Science and research has been established and a National Strategy for Science and Research (2005-2010) adopted (*see also chapter 25 – Science and Research*). The credit guarantee schemes for tradesmen and craftsmen, as well as micro-finance have not produced concrete results yet. State banks provide subsidised loans to SMEs.

In the area of **enterprise and industrial policy instruments** Turkey has made good progress. It has taken part in the Multi-Annual programme for SMEs (MAP), establishing 9 Euro-info-centres, setting up a credit guarantee fund and participating in 22 BEST projects. Turkey also participated in the LIFE, the e-CONTENT, and will participate in the e-TEN programmes. Financial incentive schemes are implemented for enterprises, notably through loan and credit schemes as well as a credit guarantee fund run by KOSGEB.

Turkey's current legislation (including the 'Law on Obligations', the 'Commercial Code', the 'Law on Legal Interest and Default Interest' and the 'Enforcement and Bankruptcy Law') contains provisions in conformity with the EP and Council Directive 2000/35/EC on combating late payment in commercial transactions. However, there are gaps, as well as a lack of clarity, in particular with regard to the scope, definitions and the payment period. Preparations in this area are well on track.

Some progress was made with respect to **sector policies**. Turkey has introduced sector-specific priorities in its recent key planning and programming documents (see enterprise and industrial policy principles). In certain areas laws have been adopted to establish a sector-specific policy framework and relevant consultation mechanisms. However, no sector-specific strategies exist. While in 2004 privatisation receipts amounted to € 1 billion, they exceeded € 10 billion in 2005. Regarding tenders, public disclosure requirements have not always been fulfilled appropriately. On 31 August 2006, Turkey presented to the Commission a National Restructuring Programme for the Turkish steel industry. This Programme is being analysed by the Commission services. (*See also Chapter 8 – Competition policy*).

Preparations in this area are moderately advanced. Turkey has a satisfactory capacity to formulate adequate sector policy measures. However, its capacity to assess competitiveness and the impact of policy measures needs to be improved.

Conclusion

Overall Turkey's has made good progress in this chapter, notably with regard to legal steps for establishment of an Investment Support and Promotion Agency, as well as privatisation,

alignment of the SME definition with the *acquis* and policy programming. The country has achieved a reasonable alignment to the *acquis* in this chapter.

4.21. Chapter 21: Trans European Networks

Some limited progress has been made regarding Trans European Networks. On **transport networks**, a transport infrastructure needs assessment (TINA) study has not yet been completed. Turkey needs to supply reliable and high quality traffic forecasts, which will be essential for defining a possible transport network having the same characteristics as the TEN-T. There is a shortage of classified transport data. Turkey participated in the High Level Group on the extension of the major trans-European transport axes to neighbouring countries, and is expected to implement the Group's recommendations.

Under the **energy networks** programme, the Community supports transmission infrastructure feasibility projects to increase competitiveness in the EU electricity and gas markets while reinforcing security of supply. The construction of the Turkey-Greece gas interconnector is delayed. The Nabucco natural gas pipeline project from the Caspian and Central Asian region to Europe via Turkey is among the priority projects of the EU, and Turkey should pursue efforts to support this project.

Conclusion

Limited progress has been made, and Turkey's alignment in this area is at a relatively early stage.

4.22. Chapter 22: Regional Policy and Coordination of Structural Instruments

No particular progress can be noted in respect of **territorial organisation**. In view of the requirements of the regulation on territorial units for statistics (NUTS) and for an effective implementation of regional policy, the current provisional classification for statistical regions (corresponding to NUTS level II) may require further improvement. In parallel with the NUTS II organisation, most institutions in Turkey continue to use the traditional geographical regions as the main reference. Progress has taken place in the field of regional statistics. Preparations in this area are moderately advanced.

There was some progress in the development of the **legislative framework**. The Law on the Establishment, Coordination and Duties of Development Agencies" (DAs) was ratified and came into force in February 2006. This includes principles and procedures related to the establishment, duties, and coordination of development agencies, as well as their employment policy, budget and audit procedures. Implementing legislation needs to be adopted for the establishment of individual agencies.

The Law establishes that the State Planning Organisation (SPO) will be responsible for the coordination of DAs at national level. The aim is to set up an agency in each of the 26 NUTS II regions, but their establishment, by government decree, will be staggered over a period of several years. Their main purpose is to accelerate regional development, promote cooperation between the public and private sectors and contribute to the reduction of inter-regional disparities. The DAs will be funded in part from transfers from the national budget and in part by the special provincial administrations (local authorities) and municipalities. The DAs will also be expected to generate operating revenues, although this is not realistic in the poorer regions. The role and functions of the DA's raise some concern.

The legislative framework for financial control and compliance with other Community policies is addressed in other chapters. Preparations in this area are at an early stage.

There has been no major change in the **institutional framework**. The main progress consisted of strengthening collaboration between sectoral and regional departments of the SPO. Two development agencies were established in the regions of Adana and İzmir. However, there are as yet no structures, such as an inter-ministerial coordination body, for coordination with other line ministries and interaction with these in relation to regional development has generally been confined to consultation on documents in an advanced stage of preparation rather than involvement from inception. Managing Authorities for the implementation of the regional development component of IPA have not yet been established in the relevant line ministries. It is foreseen to mandate the Central Finance and Contracts Unit (CFCU), the only body currently accredited for the implementation of pre-accession assistance to Turkey, for these tasks during a transition period. Preparations in this area are at an early stage.

Limited progress can be noted with regard to the **administrative capacity**. The CFCU has been recruiting staff vigorously and, to ensure sustainability, these recruitments must now be supported by secondments from the line ministries that will host the future Managing Authorities. Within the SPO, administrative capacity is adequate in terms of staff, but decision making is still concentrated in the hands of a small number of officials. There has been very limited devolution of responsibility towards technical ministries and regional structures. The new DAs should, within the next few years, provide the necessary administrative capacity at regional level, taking over from Service Unions that have been established in all regions in which EU supported regional development programmes have been initiated. Preparations in this area are at an early stage.

Some progress can be reported with regard to **programming**. The 9th seven (formerly five) year development plan was published by the SPO in early 2006 and reflects the increasing importance attached to the regional perspective in the developmental context. The SPO and line ministries are engaged in the preparation of programming documents, namely the Strategic Coherence Framework and Operational Programmes.

Programming under IPA will be more focused as, under the regional component, it has been agreed with the Commission services that a maximum of three Operational Programmes will be presented, covering the themes of environment, transport and regional competitiveness. Although the State Planning Organisation has extensive planning experience, significant weaknesses remain in bridging the divide between strategic plans and operational programmes. Preparations in this area are moderately advanced.

Good progress can be noted with regard to **monitoring and evaluation**. After creating a department for monitoring and evaluation in 2004, the SPO adopted a monitoring and evaluation framework in 2006, determining the responsibilities of the actors in the process. A monitoring manual has been drafted and a common web-based Monitoring Information System (MIS) has been designed and put into use. Preparations in this area are starting.

For developments on **financial management and control** see [Chapter 32](#).

Conclusion

Progress has been made in adapting the legal framework and in the definition of regional structures for the implementation of regional policy. However, the role and functioning of

these agencies require attention. Ownership and accountability need improvement, including considering repartition of competences between ministries at both central and regional level. Preparation of programming documents for the implementation of IPA should be accelerated. Overall, Turkey's alignment with the *acquis* in this chapter is modest

4.23. Chapter 23: Judiciary and fundamental rights

With regard to the **independence of the judiciary**, various provisions of the Turkish Constitution and of domestic law guarantee this principle. However, a number of factors are perceived as undermining it. Judges and public prosecutors are attached to the Ministry of Justice as far as their administrative functions are concerned. The High Council of Judges and Prosecutors, the supreme governing body of the judiciary, does not have its own secretariat and budget. Its premises are still inside the Ministry of Justice building. The judicial inspectors, who are responsible for evaluating the performance of judges and prosecutors, are attached to the Ministry rather than to the High Council. The Minister and the Undersecretary of the Ministry of Justice are two of the seven members of the Council with voting rights. The remaining five are appointed among judges of the Court of Cassation and the Council of State. This composition does not seem to be representative of the judiciary as a whole and, together with the other issues listed above, may create the potential for the executive to influence decisions relating to the careers of judges in Turkey, provided that the executive is present¹⁶. The judicial inspectors, who are responsible for evaluating the performance of judges and prosecutors, are attached to the Ministry rather than to the High Council.

On 26 June 2006, 501 judges and prosecutors established an *association* called the “Union of Judges and Prosecutors” (YARSAV). The founding members of YARSAV are mostly from the Court of Cassation, the Council of State and judges and prosecutors from Ankara and Istanbul. YARSAV's main objectives are to safeguard judicial independence, impartiality and security of tenure as well as professional rules and ethics.

Judges and prosecutors can now access their appraisal files.

Some progress has been achieved with regard to the **impartiality of the judiciary**. Changes introduced to the Law on Judges and Prosecutors in December 2005 provide that judges and public prosecutors who leave the profession to become candidates in general or local elections shall not be allowed to return to their profession should they fail to be elected.

Following a decision by the Ministry of Justice, candidate judges and prosecutors now fall under the scope of the Law on the *Ethical Board* for Public Servants. The Bangalore Principles of Judicial Conduct being part of the curriculum of the Justice Academy, a four-hour judicial ethics seminar is provided to all candidate judges and prosecutors.

According to Decision N. 424 dated 10 October 2006, the High Council of Judges and Prosecutors recognised the Budapest Principles adopted by the Conference of Prosecutors General of Europe, which it will disseminate to all judicial branches.

¹⁶ Despite being the Chairman of the HCJP, the Minister of Justice rarely attends its meetings. The number of meetings presided by the Minister of Justice in the last six years are as follows: 9 in 2001, 11 in 2002, 12 in 2003, 8 in 2004, 4 in 2005 and 2 (as of 26.09.2006) in 2006.

Further to the adoption in June 2006 of a law on the payment of judges and prosecutors, salaries were increased by approximately 40%. In particular, the salaries of the Presidents of the high courts were raised, in line with requests by the judiciary, to the level of that of the Under-secretary of the Prime Ministry.

In relation to the **professionalism and competence of the judiciary**, the Ministry of Justice and the Justice Academy continued to provide extensive *training* on the new Penal Code and the Code of Criminal Procedure, on prevention of torture and ill-treatment, freedom of expression and effectiveness of the judicial process. Training continued to be provided on foreign languages and on EU and Human Rights law. In this respect, opportunities were given to a number of judges and prosecutors to benefit from periods of training abroad. However, the Judicial Academy should further develop into a strong and independent training provider for the entire magistracy, including at regional level.

Continued progress can be reported on the **efficiency of the judiciary**. As regards implementing measures, in January 2006 the Ministry of Justice updated all existing circulars through the issuing of some 100 new ones mainly targeting public prosecutors. The move aimed at creating a clearer and more concise framework for the implementation in particular of the New Code of Criminal Procedure and the Law on the Enforcement of Sentences.

A law allowing for practicing lawyers to become judges or prosecutors was rejected. The 4.000 available posts will therefore be filled through the standard recruitment procedures. In this respect, the pre-service training has been temporarily shortened from two to one year. Attention would need to be paid to taking away administrative functions from magistrates by attributing these to sufficiently trained court staff. The *budget* of the Ministry of Justice was substantially increased and currently represents over 1% of the overall state budget. As far as *computerisation* is concerned, the National Judicial Network Project continued to progress and became operational in more courts and prisons. The major court houses and all judges and prosecutors now dispose of laptops and Internet access. Trials will be run on the National Judicial Network and case-law will also be available on line. The network will connect electronically the judiciary with all government institutions. Since the entering into force of the new Code of Criminal Procedure, prosecutors have started to use greater discretion to discontinue unmeritorious cases, while many cases are reported where judges returned indictments which were not based on sufficient evidence.

The system of *plea bargaining* was recently introduced by the new Code of Criminal Procedure. A commission has been set up by the Ministry of Justice in an attempt to improve the system.

Progress can be reported in the area of the **judicial reform**.

Overall some progress can be reported on the fight against **corruption**. The Law on *Access to Information* was amended in 2006 to enable citizens to dispute all decisions of state agencies regarding denials of requests for information. Public organisations are making use of the new legislation. According to official statistics, a total of 626.789 requests for information were submitted and public agencies responded positively to 86,5% of requests. The UN Convention on Fight against Corruption was adopted by Parliament and entered into force in May 2006.

There is still no overall strategy and action plan to prevent and fight corruption.

However, corruption continues to be a widespread problem in Turkey. The efficiency and effectiveness of the various governmental, parliamentary and other bodies established to combat corruption remains weak and the degree of *co-ordination* and *co-operation* amongst these structures is inadequate. Interaction between the public sector, private sector and civil society needs to be improved. Stronger action is required to raise *public awareness* of corruption as a serious criminal offence. Continuous support at the highest political level for the fight against corruption needs to be ensured.

The Ethical Board for Public Servants established in 2004 is *not operating* efficiently due to the lack of human and financial resources. The Board needs to be strengthened in order to be able to carry out its tasks of monitoring respect of ethical principles and investigating complaints.

The Law on Public Financial Management and Control (PFMC), adopted in 2003, is *not implemented* properly, in particular as regards internal audit and performance measures. Another area that needs to be addressed is the lack of audit power of the Turkish Court of Auditors on military expenditures. (*See Chapter 28: Financial Control for further details.*)

Despite the fact that the application of *parliamentary immunity* has been identified as a significant problem in the context of corruption in Turkish public life, no development can be reported in this area. Also, no progress can be reported either on *financing of political parties*.

As regards **fundamental rights**, legislative progress is limited. However, implementation of reforms continued. The adoption of the law for the establishment of an *Ombudsman* is a welcome development, in so far as this new institution is expected to contribute to the transparency and accountability of public sector activities.

There were no developments as regards the *institutions* in charge of monitoring and promoting human rights, such as the Human Rights Presidency.

With respect to the *right to life* and, in particular, *the abolition of the death penalty*, Turkey ratified, in March 2006, the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), which aims to abolish the death penalty. Protocol 13 to the ECHR, which abolishes the death penalty at all times, was ratified in February 2006. Turkey abolished the death penalty in its national legislation, in all circumstances, in 2004.

As regards *torture and inhuman or degrading treatment or punishment*, the implementation of the legislative framework has continued. Reports of torture and ill-treatment have diminished compared to the previous year. However, cases are still reported outside detention centres. Further, human rights violations in the Southeast and the problem of impunity remain of concern. The First Optional Protocol to the ICCPR, signed in 2004, and the Optional Protocol to the UN Convention against Torture (OPCAT), signed in September 2005, still await ratification.

As regards *protection of personal data*, there have been no developments.

As regards *freedom of thought, conscience and religion*, the freedom of worship is generally respected. However, there was no progress in addressing the problems encountered by

non-Muslim religious communities, some of which are not officially recognised, and by the large Muslim Alevi community which is also not recognised. There was no progress in relation to the right of *conscientious objection to military service*, which Turkey still does not recognise.

In general, open debate has increased in Turkish society. However, certain provisions of the new Penal Code leave a significant margin of interpretation for the judiciary. In particular, the restrictive interpretation of article 301 led to prosecutions and convictions of people for the expression of non-violent opinion.

Regarding the *freedom of assembly and association*, the trend of diminishing restrictions on civil society has continued. However, there have been reports that security forces have made excessive use of force during demonstrations. Furthermore, there are still some obstacles as regards the establishment of associations representing particular religious or cultural interests.

On *right to education*, efforts need to be continued in order to improve further the social perception and role of women in society; also, the participation of girls in the education system, in particular in the Southeast.

As regards *right to property*, there were no developments to improve the situation of non-Muslim communities. There were no developments on the in relation to problems encountered by Greek nationals and Syriacs in inheriting and registering property.

No legislative developments can be reported in the field of *anti-discrimination* (see also chapter 19 for the employment aspects). Protocol N° 12 to the ECHR on the general prohibition of discrimination by public authorities, signed in 2001, still awaits ratification.

Issue related to *gender equality and women's rights* receive growing public attention in Turkey. The legal framework is broadly satisfactory. However, in practice women's rights are not always protected, in particular in the poorest areas of the country. 'Honour crimes' need to be investigated more systematically and where appropriate followed-up with prosecution and convictions.

There has been little change in the situation as regards *the rights of the child*. The implementation of legal provisions on education and employment under the age of fifteen needs to be improved.

As regards *the right to an effective remedy and to a fair trial*, the average criminal trial period increased from 210 days in 2004 to 234 days in 2005, and so did the average duration of civil proceedings, from 177 days in 2004 to 184 days in 2005. The *pending cases* before the criminal courts remained stable: 1 050 754 criminal cases were carried over from 2004 to 2005, while 1 050 250 criminal cases were carried over from 2005 to 2006.

The pending cases before the civil courts slightly increased: 757 560 cases were carried over from 2005 to 2006, compared to 717 960 cases carried over from 2004 to 2005.

Detainees enjoy the right to *legal aid* and statements made in the absence of lawyers are not admissible as evidence in court under the new Code of Criminal Procedure. However, restrictions have been introduced through the new anti-terror law with regard to access to legal aid: access to a lawyer may be denied during the first 24 hours of detention. Concerns remain, also, with regard to the lack of review of past cases, where statements were originally made without the presence of legal counsel and where defendants alleged that their testimony had been extracted through torture.

With regard to the right of *defence*, a considerable increase was registered in the appointment of lawyers for free legal aid since the entry into force of the new Code of Criminal Procedure. However, the state fees to lawyers are low. This raises concerns on the quality of legal aid provided. In addition, the Union of Bars and the Ministry of Justice agreed on introducing legislative amendments to limit the scope of legal aid. This would reduce the number of suspects and detainees automatically qualifying for legal aid.

Following the strengthened provisions in the new Code of Criminal Procedure regarding *interpreters* free of charge for legal interpretation between Turkish and languages used by non-Turkish speaking citizens, courts are now required to establish lists of expert witnesses, including interpreters.

Difficulties are reported in the implementation of the principle of *cross-examination*. Efforts are required to provide specific training to both lawyers and judges and to allocate sufficient time to hearings. The capacity to handle the workload of the courts is stretched.

Turkey's approach towards *minority rights* has remained unchanged. There was no progress to further align Turkish practices with international and EU standards.

As regards *EU citizens' rights* there have been no developments.

Conclusion

As regards the *judiciary*, progress has continued in the implementation of the legislation adopted previously. However, there remain challenges to ensure that the judicial system function in an independent, impartial and effective manner. Concerns remain regarding the perception of the independence of the judiciary, in particular the influence exerted by state bodies. Efforts are also needed to ensure equality of arms between prosecution and defence before courts.

There has been some progress in the fight against *-corruption*, notably on increasing transparency in the public administration. However, corruption remains widespread and anti-corruption authorities and policies are still weak. The scope of parliamentary immunity needs to be restricted as a matter of priority and the financing of political parties has to be dealt with.

As regards *fundamental rights*, limited legislative progress was made, while implementation of reforms of previous years continued. Turkey needs to significantly improve the situation of fundamental rights in a number of areas and address the problems that minorities are facing.

4.24. Chapter 24: Justice, Freedom and Security

As regards the **external borders and Schengen** some progress has been made. A National Action Plan towards the implementation of Turkey's Integrated Border Management Strategy was adopted in March 2006. The plan represents a step forward towards alignment with EU standards, as the development of an integrated approach to border management is a key element for accession negotiations in this chapter.

However, a number of serious shortcomings remain.

At present, the land forces, the police, and the gendarmerie as well as the coast guard are each responsible for parts of the borders. In addition, the Customs Administration, under the authority of the Prime Ministry, is responsible for checks on goods and persons. Overall, inter-agency cooperation is at a very early stage and information exchange between the various authorities as well as delimitation of responsibilities remains subject to substantial improvements.

Training and professionalism of border staff need to be enhanced, in particular in view of the deployment of conscripts. Risk analysis capacity needs to be further developed as a matter of priority. Procedures for checking vehicles and goods need to be reviewed. Infrastructure at some border crossing points needs considerable upgrading. Second line equipment is missing or underdeveloped, as well as first line document checking equipment. Surveillance equipment at border crossing points and along the green borders needs to be better adapted to Turkey's specific circumstances.

As concerns **visa policy**, limited progress can be reported. With regard to alignment with the positive visa list, visa exemption agreements with Venezuela and Paraguay entered into force; one was signed with Colombia and visa-free regime for Andorra was introduced. No progress on alignment with the negative list can be reported.

Although harmonisation with the uniform EU visa sticker has started, at present, Turkey allows nationals of 35 countries to apply for a visa at the borders, including citizens of 17 Member States. This practice needs to be progressively replaced and visas should be issued by diplomatic/consular authorities. As far as the capacity of Turkish consulates is concerned, equipment to detect false documents has been distributed, but further training is needed. Alignment with the EU security features and standards for visas requires urgent attention.

With regard to **migration**, only limited progress has been made. The National Action Plan on Asylum and Migration is being implemented. However, it does not provide details on deadlines for transposition of the *acquis* or improve administrative capacity, in particular setting up a specialised body.

Negotiations to conclude a readmission agreement with the EC continued at a slow pace. For a timely and successful conclusion of the negotiations, Turkey's efforts need to be considerably increased.

With regard to apprehension of illegal migrants, in 2005, 57,428 illegal migrants were apprehended in Turkey compared to 61,228 in 2004, where in the first six months of 2006, 18,441 were apprehended.

Considerable efforts are still required to align with the *acquis* and to strengthen the required administrative capacity for implementation.

Some progress has been achieved in the area of **asylum**, with the introduction of amendments to the main legislation. The 10-days time limit for lodging an asylum claim was lifted. The possibility to empower selected Governorates to decide on asylum application was introduced, whereas before only the Ministry of Interior held this authority.

However, no ad hoc forum was set up gathering all relevant stakeholders for an effective implementation of the Action Plan on Migration and Asylum and to clarify the future institutional structures. In order to ensure that all asylum seekers have access to a fair procedure and to ensure uniform implementation, new legislation is required, in particular, on procedures at international airports.

The capacity at the reception centres for asylum seekers needs increasing and facilities need upgrading. Institutional responsibility for the management of these centres is not clear.

The full implementation of the 1951 Geneva Convention and its 1967 Protocol is under preparation, with the intention to lift the geographic limitation by 2012.

Preparations for alignment and the required administrative capacity is at a very early stage.

Some progress has been registered in the field of **police co-operation** and limited progress was achieved in the **fight against organised crime**.

Turkey is a party to all main international conventions on police co-operation. International police co-operation and co-operation with the EU Member States is mostly good. However, it is hampered by the lack of data protection legislation. Forensic capacity is good in terms of expertise but establishing modern infrastructure and better equipment, in particular for the police, is at an early stage. A more integrated approach for training of staff, in particular as regards criminal analysis, is required. An ethical code for law enforcement agents remains to be developed in line with international best practice. A national strategy against organised crime in line with EU best practice is not yet adopted. Enhancing co-operation, communication and co-ordination between the various law enforcement authorities, as well as with the prosecutors, is at an early stage.

Progress has continued in the field of **trafficking in human beings**. The Government maintained co-operation with the International Organisation for Migration (IOM) in this field. The Counter-Trafficking Programme continued. The free emergency helpline for trafficking victims rescued in total 98 individuals as of August 2006. There was a sharp increase in the number of the individuals assisted for their return to their countries of origin. In 2005, out of 256 persons identified as victims of trafficking, 220 received direct assistance for return. 125 traffickers were arrested in 2005 and 330 were arrested as of September 2006. In addition to the Istanbul shelter opened in 2004, an Ankara-based shelter for victims of trafficking was set up. In February, a co-operation and information exchange protocol was signed with Moldova. Turkey's legislation is well aligned with EU legislation on fighting trafficking in human beings; however, increased efforts are needed to enhance the administrative capacity to deal with prevention and repression of trafficking as the problem in the region is on the rise.

Limited progress can be reported with regard to the fight against **money laundering**. The amended Anti-Terror Law classifies "financing of terrorism" as a separate offence. A draft law bringing legislation closer to the *acquis* is pending in Parliament.

Alignment with international instruments remains limited. Turkey has not signed the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

In the area of **fight against terrorism** Turkey has signed the International Convention for the Suppression of Acts of Nuclear Terrorism and the Council of Europe Convention on the Prevention of Terrorism. A Supreme Council on Counter Terrorism made up of all the relevant institutions was established. The Council is responsible for taking the necessary measures on anti-terrorism and preparing the recommendations to be issued by the Council of Ministers. An Anti-Terror law was adopted in July 2006 providing for a much wider definition of terrorist activities and terrorists. The Law increases penalties for offences committed for terrorist purposes and introduces financing of terrorism as an offence, while restricting the rights of defence. (see also Political Criteria).

In the area of the **fight against drugs** limited progress can be reported. A national strategy in line with the EU Drug Strategy 2005-2012 and the EU Drug Action Plan 2005-2012 is not yet in place. Drug trafficking remains an area of concern. However, some seizures have occurred resulting from international co-operation with police forces in the Member States and controlled deliveries. No progress has been made with regard to the establishment of a mini Dublin group in Ankara. A network for information collection along the standards of the EMCDDA needs to be further developed. The Reitox Focal Point was established, but resources for its functioning need to be enhanced. Inter-agency cooperation of the many government bodies involved in the fight against drugs should be firmly enhanced, by ensuring the necessary financial and staff resources. Alignment remains limited in this area.

Some progress has been made in the field of **customs co-operation**. Good progress has been made on staff training and staff ethics. However, further efforts are required to establish a closer working relationship between police and customs services for the prevention and the fight against crime. Preparation for implementation of the Convention on mutual assistance and cooperation between customs administration (Naples II) needs to be enhanced. In terms of alignment with the *acquis*, the lack of specific legislation on data protection hampers a smooth functioning of law enforcement aspects of customs co-operation.

Limited progress has been made in the field of **judicial cooperation in criminal and civil matters**. The legal system does not allow for direct involvement between judicial authorities, direct execution of foreign decisions, abolishment of dual criminality and restricting the scope of refusal grounds. Gradual alignment with private international law, legislation on access to justice and on insolvency proceedings needs to be ensured. Legislation regarding judicial co-operation in criminal matters is not in line with EU standards, in particular extradition of both Turkish and foreign citizens, the application of the *ne bis in idem* principle, environmental crime, provisions on victims' rights in the framework of criminal proceedings and the implementation of the European Arrest Warrant. Turkey is a member of the European Convention on Mutual Assistance in Criminal Matters (1959) and its Protocol (1978). However, it has not signed the second additional protocol to the Convention (2001). Ratification of the Additional Protocol would bring Turkey closer to alignment with the *acquis* regarding provisions on joint investigation teams. Turkey is preparing for its participation in Eurojust. Legislative alignment both in civil and criminal judicial cooperation remains limited, in particular the lack of specific legislation dealing with Mutual Legal Assistance (MLA).

Overall, some progress can be reported, particularly in the areas of asylum, border management, fight against trafficking in human beings, customs and police cooperation. Alignment with the *acquis* in this chapter is underway but considerable and sustained efforts are required in areas such as migration, the fight against organised crime, money laundering and judicial cooperation in civil and criminal matters.

4.25. Chapter 25: Science & Research

Further good progress was achieved in science and research, both with respect to actions rendering the environment towards research more favourable and with respect to research collaboration with the EU. Turkey continued to be associated with the 6th **Framework Programme** for Research and Technological Development (FP6), but is not yet associated with the Euratom Framework Programme. Turkey also cooperates actively with the Joint Research Centre (direct actions).

Turkey's **research policy** resulted in significantly increased budgets for research and development: nearly fivefold compared to 2002 levels. New universities have been opened in 15 cities. Improvements were also achieved in Turkey's science and research capacities including its gradually more successful participation in FP6. Turkey's success rate under FP6 improved and is now about 17%. However, it is below the EU averages of about 20%. In terms of funding, Turkey was mostly successful in obtaining small projects. However, EU funding is not achieving its potential.

Taking into account actions that Turkey has taken with respect to mobility of researchers, science and society and 3% of GDP for Science and Technology Action Plan measures, Turkey is already well integrated into the European Research Area.

Involvement of the private sector and SME in research, and under FP6, is very low. The number of scientists is below the EU average. Research is not sufficiently integrated in the education curricula. The Turkish Scientific and Technological Research Council (TÜBİTAK) initiated new support programmes and recruited 50 young experts. The lack of legal clarity regarding the constitutionality of recent amendments in the laws regulating the appointment of the 14 Science Council members and its president, as well as university rectors, persists.

Conclusion

Some further progress was made, notably in the participation in EU research programmes, and regarding national budget allocations. Overall, Turkey is well prepared for accession in the area of science and research, and is fairly advanced in designing and applying an integrated research strategy.

4.26. Chapter 26: Education & Culture

Good progress has been made in the area of **education, training and youth**. Turkey has been participating successfully in the Community Programmes Leonardo da Vinci, Socrates, and Youth, and measures have been taken to encourage a nation-wide coverage of the programmes. In view of the considerable past increase in the number of applications, and Turkey's intention to substantially enhance participation in the future Lifelong Learning and Youth in Action programmes, the responsible National Agency would benefit from further consolidation and easing of certain procedural requirements. Turkey has started to participate actively in the Education and Training 2010 Work Programme Coordination Group and in several clusters. Progress has been made in increasing enrolment ratios at all educational

levels, although they remain significantly below OECD averages. A well-publicised girls' education campaign has had success. Revised curricula for primary as well as vocational education are being implemented or piloted. Turkey participates in the development of a European Qualifications Framework, but a national qualifications system has not been established yet. Participation rates in lifelong learning are very low but have increased to 2% in 2005, compared to 1.1% in 2000. Progress has continued in the implementation of the Bologna process in higher education with the European Credit Transfer System having become mandatory in Turkey in June.

Turkey has started to participate in the Community programme **Culture 2000**. Turkey has supported the adoption of the UNESCO Convention on the Protection and Promotion of Diversity of Cultural Expression, and has launched internal procedures for ratification. Istanbul has applied to become European Capital of Culture for 2010.

Conclusion

Further good progress has been achieved. Alignment is nearly complete and overall Turkey is well prepared for accession in this area. Efforts in line with the Lisbon strategy need to continue, in particular on lifelong learning.

4.27. Chapter 27: Environment

No substantial progress can be reported in the field of **horizontal legislation**. The overall level of alignment in this area is limited. Turkey has not ratified the Kyoto Protocol, nor has it transposed the Emissions Trading Directive and related decisions. Though some elements are present in the current Turkish legislation, no progress can be reported on the transposition and implementation of the environment liability and reporting directives. No progress has been made as regards further transposition of the directive related to public access to environment information. Some elements of the directive on public participation have been transposed through a new Law on Environment adopted in May 2006. Turkish legislation on the Environment Impact Assessment continues to exclude trans-boundary consultation requirements. Some activities, such as mining, are not included and public consultation needs improvement. Turkey has not yet become a party to the Espoo nor the Aarhus Conventions. No timetable is available with respect to future membership status of these conventions. The strategic environmental assessment directive remains to be transposed. Preparations in this area are limited.

As regards **air quality** legislation, some progress can be reported. There has been no progress as regards alignment to the Air Framework Directive and related directives. However, a twinning project is under way. The network of monitoring stations in line with *acquis* requirements was established in 36 cities. Good progress has been made as regards the transposition of the directives relating to quality of petrol and diesel fuels and reduction of sulphur content of certain liquid fuels. No further progress has been made as regards alignment of the directive on Volatile Organic Compound (VOC) emissions. The National Emission Ceilings directive has not yet been transposed. Preparations in this area require substantial efforts.

Transposition of the *acquis* on **waste management** is already well advanced. Alignment with the Waste Framework Directive is high and the Hazardous Waste Directive has been transposed. Further alignment is needed, for example on legislation regarding polychlorinated biphenyls, end-of-life vehicles, waste from electrical/electronic equipment, restriction of

certain hazardous substances in electrical and electronic equipment, landfills and waste incineration. With the support of a twinning project, technical studies are underway as regards further transposition and implementation of a number of waste streams directives as well as the Landfill directive. A national plan on waste management is expected to address remaining shortcomings. A financing plan needs to be further developed. Preparations in this area are under way.

Progress can be reported in the field of **water quality acquis**. Good progress was made by transposing legislation on urban waste treatment and quality of bathing water. However, financing plans remain to be established. No steps were undertaken to align with the Water Framework Directive to allow new relevant investments to comply with the *acquis*. Nor has Turkey initiated steps to develop trans-boundary water cooperation, in particular with Member States. No progress has been made as regards alignment, or further alignment, concerning other directives in the water quality field. The level of transposition is low, particularly as regards nitrates, ground water and drinking water. Overall, the institutional capacity remains weakened by an unclear division of responsibilities.

With the adoption of the regulation on the protection of wildlife habitats, some progress was made in aligning with the *acquis* on **nature protection**. However, transposition, implementation and enforcement, remain very low. The continuing rapid loss of habitats causes concern. Legislation in policy areas linked to nature protection requires attention. The institutional capacity is weakened by insufficiently clear definition of responsibilities amongst the authorities concerned.

No progress can be reported in the area of **industrial pollution control and risk management**. Alignment with the *acquis* remains very low. Some technical studies are under way. The Seveso, Large Combustion Plants, IPPC and Solvents directives remain to be transposed. Alignment, implementation and enforcement require significant efforts including the deployment of considerable financial resources.

The level of alignment on **noise** remains advanced. Implementation is lagging behind, for example in providing financial resources and strengthening the administrative capacity of competent authorities related to the preparation of strategic noise maps and action plans. A timetable for preparations of plans was defined. Preparations in this area are on track.

No progress can be reported in the **chemicals** sector. The overall level of harmonisation on chemicals remains very low. Administrative capacity is insufficient for effective transposition and implementation.

No progress can be reported on **genetically modified organisms**. No progress was made aligning the *acquis* in the area of **forestry**. Turkey has a well developed administrative capacity, though implementation requires attention.

Progress was made as regards **administrative capacity**. The amended Environmental Law defines a clearer role for the Ministry of Environment and Forestry, allows for recruitment of additional staff, as well as for additional financial resources in the environment sector. The introduction of higher fines and entry into force of the penal code's provisions envisaging sanctions for environmental crimes are expected to improve inspection and enforcement. Sustainable development needs to be introduced as a cross-cutting policy, in particular in energy, transport and agriculture policies. The amended Law also provides for enhancement of public access to environmental information and liability. Turkey has however, as yet, not

fulfilled the short term priority to adopt a revised programme for transposition and implementation of the *acquis*. The institutional capacity of the regional environmental authorities needs strengthening. The management of human resources needs attention.

Conclusion

With the exception of waste management and noise, the overall level of transposition of the environmental *acquis* remains low. The lack of progress on horizontal legislation is of increasing concern, in particular on trans-boundary issues and on public consultation. Limited progress in transposing the *acquis* was achieved in the field of air quality, nature protection, and water quality. When implemented, the amended Environmental Law will strengthen the institutional capacity. The track record on enforcement remains weak.

4.28. Chapter 28: Consumer and Health Protection

On **safety related measures** no further progress was made in legislative alignment. Specific product safety standards are lacking an appropriate legal basis. The former general product safety directive is transposed, but not the new directive. Strengthening co-ordination between ministries, as well as customs, is needed.

Some progress can be reported regarding **market surveillance** of product safety. Several ministries, with improved availability of resources and trained personnel, carried out market surveillances in accordance with the so-called new approach directives. In line with the Accession Partnership priorities, institutional structures were improved. Coordination amongst the relevant authorities increased moderately. Also, the advisory Market Surveillance Coordination Board developed guidance. The Ministry of Trade and Industry consulted stakeholders to improve the quality of the legislative process.

However, guidelines on internal procedures for inspectors are insufficiently clear. Many products are without the CE marking. Developing a collective system for notification of dangerous products, as well as investigating possibilities to internationally exchange findings of non-compliant products, are both short term priorities under the Accession Partnership which were not met.

In the area of **protection of the economic interest of consumers**, there was limited progress, but the level of alignment remained high. A new Law on the Use of Credit Cards entered into force. The administrative capacity improved via training and recruitment. However, a high turn-over of members of district consumer arbitration committees indicates that increased efforts are needed to safeguard the level of knowledge. The approach of ministries, judiciary, arbitration committees and consumer organisations lacks consistency.

Consumer organisations are represented in the consultative consumer council that meets annually. The consumer movement remains weak nonetheless.

Some progress was made in the area of **public health**. Legislation on tobacco control was adopted. However, further alignment is needed related to the maximum tar yield of cigarettes. An unclear division of responsibilities between the Ministry of Health and the Tobacco Products and Alcoholic Beverages Market Regulation Board affects the administrative capacity.

Turkey has partially aligned its existing surveillance system of communicable diseases with the Union's lists. Good progress was made in setting up a network for epidemiological

surveillance and control. Furthermore, Turkey continued to update its national plan for influenza preparedness in good cooperation with EU institutions and agencies. However, alignment of case definitions of diseases is at an early stage. Modernizing testing laboratories is lagging behind. . The Ministry of Health is preparing a National Plan of Action that is to set a timetable and allocate responsibilities address shortcomings.

Progress was made on early warning of outbreaks by introducing real time data collection by family physicians into a central electronic database at the Ministry of Health. However, implementation needs to be ensured to avoid fragmentation of information.

The Ministry of Health continues to closely follow up WHO strategies for the vaccine preventable diseases. With respect to the fight against HIV/AIDS, Turkey continues to be a low prevalence country on the basis of the available data. As regards blood, tissues, cells and organs as life savers and substances of human origins, Turkey has not aligned its legislation.

Conclusion

On consumer protection, progress was made, notably on a market surveillance system. However, implementation remains weak. Turkey made progress in the area of public health, in particular by setting up a network for the epidemiological surveillance and control of communicable diseases.

4.29. Chapter 29: Customs Union

With regard to **customs rules** limited progress can be reported. Turkey started to enforce the International Convention on the Harmonisation of Frontier Controls of Goods as of June 2006. Turkey amended its duty relief legislation but did not align it with the *acquis*. The establishment of tax free shops at arrivals is still allowed; the maximum amount of goods, bought in tax free shops, per traveller is higher than permitted in the EU.

As regards free trade zones no progress has been made, although this is a short term priority in the Accession Partnership. The free trade zones are not part of the Turkish customs territory, which is not in line with the *acquis*. In addition, the application of customs valuation rules is not entirely in line with internationally accepted rules.

The customs union between the EU and Turkey has led to an advanced level of alignment in the field of customs. However, in some areas such as free trade zones, customs duty relief, transit, fight against counterfeit goods, and post-clearance Turkey still needs to align its legislation with that of the EU. As far as the functioning of the EC-Turkey Customs Union is concerned see also *Chapter 1 – Free movement of goods and Chapter 30 – External relations*. Furthermore, Turkey does not fully apply the provisions of the customs union vis-à-vis the Republic of Cyprus.

During the reporting period the Undersecretariat of Customs continued to strengthen its **administrative and operational capacity** in line with accession partnership indications.

The enforcement records increased significantly due to the efficiency of the GÜMSİS Customs Security System, risk analysis process and expertise on anti-smuggling activities. The total number of automated customs offices and the number of customs offices using the Electronic Data Interchange System (EDIS) increased further. As of December 2005, nearly 100% of all transactions made were processed electronically. In 2005, 71% of import and export declarations have been made through EDIS.

The recent modernisation efforts in Turkish customs have continued to improve its enforcement record. However, Turkey should undertake a comprehensive effort to improve overall training quality of customs officers.

Coordination between customs and other relevant public authorities such as the Ministry of Culture, Turkish Patent Institute, Turkish police force and IPR courts needs to be considerably improved.

Concerning mutual administrative assistance agreements, an agreement was signed with Bahrain.

Conclusion

The customs union has prepared Turkey for a high level of alignment. However, in some areas such as free trade zones, customs duty relief, fight against counterfeit goods, and post-clearance, legislation is not yet aligned. Turkey has to abolish duty-free shops at incoming points. Further efforts are needed to strengthen administrative capacity, including the timely preparation for IT-interconnectivity and operating with the Community IT systems.

4.30. Chapter 30: External Relations

Turkey has made some progress with regard to the **common commercial policy**. Turkey amended its General System of Preferences (GSP) as indicated by the accession partnership. It now covers to a large extent the EC-incentive arrangements. However, graduation is not fully aligned, Turkey has not included Armenia and Myanmar in its GSP regime and its sector definition excludes agriculture and steel products.

Turkey made an increased use of the safeguard instrument, imposing measures on several products such as salt, steam irons, vacuum cleaners, footwear and motor cycles. The choice of safeguard measures which also affects EU exports (even if they are not the main source of the problem) is not in line with Customs Union requirements to opt for measures which least distort mutual trade. Furthermore, Turkey has introduced supplementary origin certificates for certain goods.

The level of coordination of Turkey with the EU within World Trade Organisation, in particular as regards GATS and the Doha Development Agenda and the OECD needs attention. Turkey often does not align its position with EU. Overall Turkey's level of alignment with the EC's common commercial policy is advanced and in line with Turkey's Customs Union obligations. However, it should be noted that a number of infringements of the EU-Turkey Customs Union remain, (*see chapter 1 free movement of goods, chapter 29 customs union*) which are distorting bi-lateral trade relations with Turkey.

No developments can be reported regarding medium-and long-term export credits to companies and dual-use goods. Overall Turkey's level of alignment with the EC's bilateral agreements is reasonably satisfactory.

Concerning **bilateral agreements with third countries**, some progress has been made. Turkey signed a free trade agreement (FTA) with Egypt. The FTA with Morocco entered into force. Negotiations with Albania have been materially concluded. Turkey has continued free trade negotiations with the Gulf Cooperation Council (GCC), Jordan, and Lebanon.

In the field of **development policy** and **humanitarian aid**, some progress was made. Turkey granted € 500 million official development aid in 2005. The primary beneficiaries of Turkish official development aid were Kyrgyzstan, Kazakhstan, Azerbaijan, Turkmenistan and Kosovo. Turkey offered € 37.4 million emergency aid, mainly allocated to natural disaster relief in Asia. Overall, Turkey's level of alignment with the EC's development and humanitarian aid policy improved considerably.

Conclusion

Overall Turkey made progress in alignment in this area. However, a number of open issues remain.

4.31. Chapter 31: Foreign, Security and Defence Policy

Turkey has broadly continued to align its foreign and security policy with that of the European Union. The regular enhanced political dialogue established as part of the accession strategy with Turkey has continued.

Turkey has displayed its strong interest in the development of the **European Security and Defence Policy (ESDP)**. Turkey has been participating in the EU-led police missions in Bosnia – Herzegovina (EUPM), in the former Yugoslav Republic of Macedonia (Proxima) and in the Democratic Republic of Congo (EUROPOL KINSHASA). Turkey's participation in several UN and NATO peace missions in the Balkans continues. After participating in UNPROFOR, IFOR, KFOR and SFOR missions, Turkey is contributing to the EUFOR-ALTHEA mission since December 2004.

Despite Turkey's active contribution to the ESDP certain difficulties have prevailed. Turkey has been resisting the inclusion of the Republic of Cyprus and Malta in the EU-NATO strategic cooperation based on the "Berlin Plus" agreement. As regards Cyprus, Turkey has continued, for political reasons, to block Cyprus' membership in certain suppliers' groups, such as the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.

Turkey is party to most of the existing international regimes for non-proliferation of weapons of mass destruction, including in particular the treaty on the non-proliferation of nuclear weapons and its additional protocol, and has stated that it has aligned itself with the EU Code of Conduct on Arms Exports, though no formal notification of a Government decision in this respect has been made. Work is in progress for Turkey's full alignment with the EU system. Compliance, through effective enforcement, with both the Code of Conduct and the Joint Action on Small Arms and Light Weapons should allow Turkey to achieve effective control of the production, trade, transfers and detention of small arms, light weapons and their ammunitions. Turkey has ratified the UN Protocol on Fire Arms.

Concerning the **Common Foreign and Security Policy**, Turkey's broad alignment with EU sanctions and restrictive measures, statements, declarations, and demarches has continued.

Turkey has continued to support the **Middle East Peace Process**. Turkey declared in February 2006 to share the objectives EU Common Position on the application of specific measures to combat terrorism and ensure that its national policies would conform to that Common Position. Hamas is on the list included in this Common Position. Turkey has expressed its interest in participating in European Union Police Mission for the Palestinian

Territories. Turkey has expressed its interest in participating in police and other ESDP operations in the Palestinian Territories

Relations with **Syria** continued to develop positively. Turkey has exerted efforts to convince the Syrian leadership to comply with international requests, in particular as concerns UN Decision 1636 in relation with the UN Commission's investigation into the assassination of the former Lebanese Prime Minister Hariri. In September, the Parliament adopted the government motion on contributing Turkish troops to the UNIFIL mission to **Lebanon**.

Turkey has taken concrete initiatives to promote stability in **Iraq** by facilitating dialogue between US authorities and Sunni Arabs. Turkey argues that there is a direct link between the recent escalation of violence in the Southeast of Turkey and increased clashes between Turkish Armed Forces and the PKK and "infiltration of PKK members" from the Iraqi border. A significant number of troops were deployed along the Iraqi border in order to prevent infiltration by PKK terrorist from Northern Iraq.

Turkish officials have encouraged **Iran** to comply with the demands of the international community. Turkey has supported EU efforts to obtain long-term guarantees for the implementation of the Nuclear Non-Proliferation Treaty and its Nuclear Safeguards Agreement with the IAEA by Iran.

Turkey's strong support for the "Bonn process" concerning the reconstruction of **Afghanistan** continues. Turkey assumed, on a rotational basis with France and Italy, the joint leadership of the Regional Command in Kabul as of August 2006.

Since the official exchange of letters between the Turkish Prime Minister and the Armenian President in April 2005, there have been no significant developments in relations with **Armenia**. Turkey has not opened its border with this country. This would be an important step forward in the establishment of good neighbourly relations. It would be beneficial to both sides, in particular with respect to trade.

A closer alignment of Turkey's official position with EU positions in relation with **Southern Caucasus** and Central Asia has been observed. Turkey has reiterated its support for the European Neighbourhood Policy. Turkey participates in the regional initiative GUAM (Georgia, Ukraine, Azerbaijan and Moldova) with observer status. Turkey followed closely the elections in **Azerbaijan**. It aligned itself with the EU Presidency statement on the elections in Azerbaijan on 10 November 2005.

There was no progress regarding Turkey's signature of the Statute of the **International Criminal Court**.

Turkey continues to play an active role in the international campaign to combat **terrorism**. It signed the International Convention for the Suppression of Acts of Nuclear Terrorism in September 2005 as well as the Council of Europe Convention on the Prevention of Terrorism in January 2006. Turkey needs to continue aligning with EU positions. Its counter-terrorism legislation and policies also need to be aligned with with EU practices.

In terms of **administrative capacity**, the organisation of the Turkish Foreign Ministry is compatible with EU CFSP structures. The Deputy Undersecretary for European Affairs fulfils the post of political director. There are also the posts of European correspondent and deputy European correspondent. EU communication within the CFSP takes place via the ACN

information to which the Turkish foreign ministry is linked. EU communication within the CFSP takes place via the ACN network, to which the Turkish foreign ministry is linked.

Conclusion

Turkey's overall alignment with EU Common Foreign and Security Policy has continued. In order to promote regional stability, Turkey has intensified its foreign policy activity in the Middle East, in Iran and in Iraq. Turkey maintains its border with Armenia closed. Turkish authorities have expressed keen interest in ESDP missions as well as in the European Defence Agency. However, Turkey's participation in the ESDP continues to present certain difficulties. Turkey continues to block the participation of Cyprus and Malta in EU-NATO strategic cooperation. Similarly, Turkey is still opposing Cyprus' accession to the Wassenaar Arrangement. Turkey has yet to sign the International Criminal Court statute. As regards Greece, relations have continued to develop positively. Turkey should however address any sources of friction with its neighbours and refrain from any action which could negatively affect the peaceful settlement of border disputes. Turkey should be unequivocally committed to good neighbourly relations, and to the other requirements against which progress will be measured, in accordance with paragraph 6 of the negotiating framework. Chapter 32: Financial control

There has been some progress in the area of **public internal financial control**. The Public Financial Management and Control Law as well as the relevant article of the Constitution on budget were amended in December 2005 and all the provisions of the Public Financial Management and Control Law, including those on budget execution, entered into force on 1 January 2006.

The amendment introduces both positive and negative developments. The revision of the terminology utilised in the Law, with the exception of the definition of "ex ante control", brings it in line with internationally agreed definitions. The Law also introduces a tri-annual budget for the period of 2006-2008. However, the restructuring of revolving funds rather than their elimination as envisaged in the original Law and the exclusion of a considerable number of public institutions from the scope of the Law represent significant deviations from sound financial control principles. The Law establishing Development Agencies (see chapter 22), enacted in January 2006, also exempts the new Development Agencies from the scope of the Public Financial Management and Control Law.

Turkey enacted some of the implementing legislation of the Public Financial Management and Control Law, that is to be fully operational by the end of 2007. The process of establishing the strategy development units as well as the appointment of personnel have started. Most secondary legislation has been adopted, but its implementation is incomplete. Internal audit, which is one of the main pillars of the reform, has not yet become operational.

The Internal Audit Coordination Board, which was established in 2004, is operational. However, this Board should be considered an advisory body and its present harmonisation and coordination tasks need to be transferred to a permanent central harmonisation unit to ensure that these responsibilities are carried out adequately. The Board of State Accounting Standards was established in 2005, with a mandate to determine and publish accounting and reporting standards applicable to public bodies falling under the category of general government. Necessary structures were established with the circular of the Prime Ministry in 2005.

In the area of **external audit**, there is no development to be reported since the last Regular Report. The Public Financial Management and Control Law extended the external audit mandate of the Turkish Court of Accounts, both in terms of scope and type. To address these requirements, and to become aligned with the *acquis*, Turkey now needs to adopt a revised TCA charter, based on INTOSAI standards, that is currently before parliament.

There has been some progress in the field of **protection of EU financial interests**. Turkey has still not enacted the implementing legislation to the Public Financial Management and Financial Control Law that is required for the protection of EC financial interests. However, a mechanism for the auditing of EU funds has been established within the office of the National Authorising Officer and operates in accordance with relevant EU-Turkey agreements. It will be necessary, however, to establish unequivocal links with the PIFC system. This mechanism needs to be reinforced with an operationally independent anti-fraud co-ordinating structure (AFCOS), which would co-ordinate all legislative, administrative and operational aspects of the protection of the Communities' financial interests and notify the Commission Services of suspected fraud and irregularities. The Commission therefore welcomes the nomination of the Prime Ministry Inspection Board as a contact point for OLAF, pending the establishment of an AFCOS. Turkey still needs to fully align its legislation under the PIF-Convention and its protocols. Preparations in this area are underway. Turkish administrative structures have been accredited to manage pre-accession funds under the Decentralised Implementation System (DIS), but severe shortcomings in its functioning have occurred in the reporting period. These are being addressed by the Turkish Government.

In the field of the **protection of the euro against counterfeiting**, Turkey has sufficient expertise in relation to analysis and classification of counterfeited notes and coins. There is also an adequate level of police capacity across the four law enforcement bodies. Turkey has established the Counterfeit Monitoring System under the mandate of the Central Bank of Turkey in August 2005. This initiative needs to be complemented by the establishment of a national analysis centre, a national coin analysis centre and a national central office. Sanctions for credit institutions failing to withdraw counterfeits from circulation need to be established. A provision is also needed for sanctions against medals and tokens similar to Euro coins. Preparations in this area are on track.

Conclusion

Overall, there was some progress in this chapter. Although some of the relevant administrative structures as well as the implementing legislation are in place, Turkey needs to update its 2002 PIFC policy paper and increase efforts to render the Public Financial Management and Control Law fully operational.

Turkey still needs to establish the necessary authorities to ensure cooperation with the European Anti-Fraud Office, as well as with the relevant Commission services for the protection of the euro against counterfeiting.

4.32. Chapter 33: Financial and Budgetary Provisions

With regard to the application of the **EU own resources system**, some progress can be reported.

Concerning traditional own resources, customs legislation in Turkey is largely in line with the *acquis*. While Turkey enacted a new Law on Statistics in November 2005, which improves alignment in this area, implementing legislation still needs to be adopted. Further alignment is

particularly needed with respect to implementation of the ESA95 standards to ensure the appropriate measurement of Gross National Income.

Measures for combating fraud in VAT and customs duties are needed. Turkey enacted the law establishing the Presidency of Revenue Administration in May 2005 with the objective of enhancing tax revenue collection and voluntary taxpayer compliance. As the implementing legislation has not been fully enacted, its impact remains to be determined. A single unit will need to be designated for central coordination of the proper collection, monitoring, payment and control of funds to and from the EC budget. Turkey will also need to strengthen its administrative capacity further in the relevant policy areas mentioned elsewhere in this Report, such as agriculture, customs, taxation, statistics and financial control.

Conclusion

Although the *acquis* in this area does not require transposition, Turkey will need to establish in due course the coordination structures and implementing rules to ensure the correct calculation, collection, payment and control of own resources as well as reporting to the EU for implementation of the own resources rules.

STATISTICAL ANNEX