



EUROPEAN COMMISSION

Brussels, 9 November 2005
SEC (2005) 1426

Turkey

2005 Progress Report

{COM (2005) 561 final}

A. INTRODUCTION	3
1. PREFACE.....	3
2. RELATIONS BETWEEN THE EU AND TURKEY	4
B. CRITERIA FOR MEMBERSHIP	9
1. ENHANCED POLITICAL DIALOGUE AND POLITICAL CRITERIA	9
1.1 <i>Democracy and the rule of law</i>	10
1.2 <i>Human rights and the protection of minorities</i>	18
1.3 <i>Regional issues</i>	40
1.4 <i>General evaluation</i>	41
2. ECONOMIC CRITERIA	43
2.1 <i>Recent economic developments</i>	43
2.2 <i>Assessment in terms of the Copenhagen criteria</i>	45
2.3 <i>General evaluation</i>	54
3. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP	55
3.1 <i>Chapters of the acquis</i>	55
Chapter 1: Free movement of goods	55
Chapter 2: Freedom of movement for workers	59
Chapter 3: Right of establishment and freedom to provide services	60
Chapter 4: Free movement of capital	61
Chapter 5: Public procurement.....	63
Chapter 6: Company law.....	64
Chapter 7: Intellectual property law	66
Chapter 8: Competition Policy.....	68
Chapter 9: Financial Services.....	70
Chapter 10: Information society and media	74
Chapter 11: Agriculture and rural development	77
Chapter 12: Food safety, veterinary and phytosanitary policy	79
Chapter 13: Fisheries	82
Chapter 14: Transport policy	83
Chapter 15: Energy	85
Chapter 16: Taxation.....	89
Chapter 17: Economic and monetary policy	90
Chapter 18: Statistics	92
Chapter 19: Social policy and employment.....	94
Chapter 20: Enterprise and industrial policy	97
Chapter 21: Trans-European networks	100
Chapter 22: Regional policy and coordination of structural instruments	101
Chapter 23: Judiciary and fundamental rights	103
Chapter 24: Justice, freedom and security.....	110
Chapter 25: Science and research.....	114
Chapter 26: Education and culture	116
Chapter 27: Environment	118
Chapter 28: Consumer and health protection	121
Chapter 29: Customs union.....	124
Chapter 30: External relations.....	126
Chapter 31: Foreign, security and defence policy	127
Chapter 32: Financial control.....	131
Chapter 33: Financial and budgetary provisions	133
3.2 <i>General evaluation</i>	134
C. ACCESSION PARTNERSHIP: OVERALL ASSESSMENT	137
STATISTICAL ANNEX.....	141

A. INTRODUCTION

1. Preface

Following the conclusions of the Luxembourg European Council in December 1997, the Commission has reported regularly to the Council and the Parliament on progress made by the candidate states in preparing for membership. This Progress Report succeeds the reports that the Commission has published on Turkey during the years 1998 to 2004.

In December 2004, the European Council stated that:

“The European Council welcomes the decisive progress made by Turkey in its far-reaching reform process and expressed its confidence that Turkey will sustain that process of reform[...]. Turkey sufficiently fulfils the Copenhagen criteria to open accession negotiations [...]. The European Council invites the Commission to present to the Council a proposal for a framework for negotiations with Turkey with a view to opening negotiations on 3 October 2005.”

The European Council in June 2005 referred to its conclusions on enlargement of December 2004 and highlighted the need to implement them fully.

On 3 October 2005 accession negotiations were opened with Turkey. When opening the negotiations the EU asserted that:

“The advancement of the negotiations will be guided by Turkey’s progress in preparing for accession, within a framework of economic and social convergence. [...]Progress will continue to be closely monitored by the Commission, which is invited to continue to report regularly on it to the Council.”

The Commission has drafted the report in the light of this most recent confirmation of its reporting mandate

The structure of the report is largely the same as that used in previous years. The report:

- describes the relations between Turkey and the Union;
- analyses the situation in respect of the political criteria for membership;
- assesses Turkey’s situation and prospects in respect of the economic criteria for membership;
- reviews Turkey’s capacity to assume the obligations of membership, that is, the *acquis* as expressed in the Treaties, the secondary legislation, and the policies of the Union;
- briefly examines the extent to which Turkey has addressed the Accession Partnership priorities.

This report takes into consideration progress since the 2004 report. It covers the period to 30 September 2005. It looks at whether planned reforms referred to in the 2004 report have been carried out and examines new initiatives, and assesses the overall level of alignment in each of the areas under consideration.

As in previous reports, “progress” has been measured on the basis of decisions *actually* taken, legislation *actually* adopted and measures *actually* implemented. As a rule, legislation or measures which are in various stages of either preparation or Parliamentary approval have not been taken into account. This approach ensures equal treatment for all countries and permits an objective assessment of each country in terms of their concrete progress in preparing for accession.

The report draws on numerous sources of information. Turkey has been invited to provide information on progress made in preparations for membership since the publication of the last report. Additional sources have been: the information Turkey has provided within the framework of the Association Agreement, the national programme for the adoption of the *acquis*, and various peer reviews that have taken place to assess its administrative capacity in a number of areas. Council deliberations and European Parliament reports and resolutions have been taken into account in drafting the report.¹ The Commission has also drawn on assessments made by various international organisations, in particular the contributions of the Council of Europe, the OSCE, the international financial institutions, and non-governmental organisations.

2. Relations between the EU and Turkey

Recent developments in bilateral relations

The European Council in December 2004 decided to open accession negotiations with Turkey on 3 October 2005 and set out the framework and the requirements for starting accession negotiations with Turkey. Firstly, Turkey was to bring into force six pieces of legislation enhancing human rights and the functioning of the judiciary and secondly, Turkey was expected to sign the Adaptation Protocol extending its existing Association Agreement with the EU to all new Member States, including the Republic of Cyprus.

Fulfilment of these requirements by Turkey resulted in the opening of accession negotiations on 3 October 2005 as planned - EU-Turkey relations entered a new phase.

In addition to the accession negotiations, two other pillars are designed to provide assistance for Turkey in the pre-accession phase: Reinforce and support the reform process in Turkey and strengthen the political and cultural dialogue.

Therefore, the Commission has provided support and cooperation in order to **underpin the political reform process** in Turkey. The Commission has continued its regular monitoring of the Copenhagen political criteria - with frequent meetings in Ankara and Brussels. With this Report, the Commission also proposed to update the **Accession Partnership**. These revised partnerships provide updated priorities for the preparations of Turkey for accession and can be used as a yardstick to measure progress in the reforms. Turkey has developed a National Programme for the adoption of the *acquis*.

The enhanced political dialogue has continued under the Dutch, Luxembourg and United Kingdom presidencies. Among the items discussed were the political reforms in Turkey, human rights, Cyprus and the peaceful settlement of disputes. Views were also exchanged on wider international issues (*see Chapter 31 – Foreign, security and defence policy*).

In June 2005, the Commission adopted a communication on the **civil society dialogue** between the EU and Candidate Countries. This should help to promote dialogue between civil society, in a broad sense, in the EU and Turkey, in order to address issues and concerns relating to enlargement. This communication sets out a general framework on how to create and reinforce links between civil society in the EU and candidate countries. The civil society dialogue should contribute to encourage a societal debate around accession, with a view to allowing a wide participation and information of civil society during the enlargement process. The long-term objective of the dialogue is to prepare civil society from the EU and candidate countries for future enlargement. The dialogue will have a special focus on Turkey, as the state

¹ For the European Parliament the rapporteur during the reporting period was Mr C. Eurlings.

of mutual knowledge is particularly weak with that country and misconceptions and concerns more widespread.

The communication focuses on the broadest and the most inclusive definition of civil society, i.e. all society structures outside of government and public administration (but including local communities). Bilateral exchange projects, aimed at improving mutual knowledge and ensuring collaboration and exchange of expertise, will be a common pattern of projects to be funded. Targets will include NGOs - including women's rights and equal opportunities organisations - professional organisations and business associations, youth, university, culture and the media. About EUR 40 million will be earmarked for civil society dialogue projects and Community programmes in 2006 for Turkey. The Commission also expects that the communication will encourage public and private institutions and civil society organisations both in the EU and in candidate countries to contribute to the dialogue and increase mutual links in the future

The **Association Agreement** has continued to work in a satisfactory manner. The Association Council met in April and an Association Committee meeting was held in March. The Joint Parliamentary Committee comprising representatives of Turkey and European Parliament met in February and in June. The Joint Consultative Committee with the Economic and Social Committee met in November 2004 and in June 2005. Eight subcommittees are operational.

The process of legislative scrutiny carried out in the framework of the sub-committees of the Association Agreement has continued. An enhanced programme of working groups, TAIEX seminars and technical meetings on specific subjects supplemented the work of the sub-committees.

The European Council in December 2004 welcomed Turkey's decision to sign the Protocol regarding the **adaptation of the Ankara Agreement**, taking account of the accession of the ten new Member States. In this light, it welcomed the declaration of Turkey that "the Turkish Government confirms that it is ready to sign the Protocol on the adaptation of the Ankara Agreement prior to the actual start of accession negotiations and after reaching agreement on and finalising the adaptations which are necessary in view of the current membership of the European Union." The Commission presented the draft Protocol in May 2005. After agreement in the Council on the text the Protocol was signed in July. The Turkish authorities attached a declaration concerning relations with Cyprus. The European Union adopted a declaration on 21 September. The European Parliament decided to postpone the vote concerning its assent to the protocol in September 2005.

Despite the overall success of the **Customs Union**, there are a number of unfulfilled commitments by the Turkish side (*see also chapters 1 - free movement of goods, 7 - intellectual property law, 8 - Competition Policy, 30 - external relations etc.*). This applies in particular to technical barriers to trade, state aids, to the enforcement of intellectual property rights and to provisions which discriminate between EU and Turkish operators. Market access for foreign producers in several sectors, including alcoholic beverages is prevented through non tariff barriers and discriminatory treatment. Maintaining import licences is not compatible with the Customs Union, and these should be removed without delay. Turkey should resolve the existing disputes, either bilaterally, or by agreeing to refer the matter to the competent judicial institutions. Turkey has still not taken meaningful steps concerning the Customs Union obligations with regard to state aid. Finally, Turkey has not completed its alignment to the common external tariff. On a number of occasions, the EU urged Turkey remove all restrictions on the free movement of goods, including restrictions on means of transport.

Actions in these areas - combined with greater macro-economic stability - would enable a better exploitation of the potential of the Customs Union and would also contribute to the

improvement of the investment climate, fostering foreign direct investment. The negotiations to extend the Customs Union in the area of public procurement and services seem to have lost their momentum, and no negotiations have taken place since 2003. In view of the importance of this issue for both parties, the EU hopes that negotiations can resume soon as soon as possible. Turkey's public procurement law should be aligned with the *acquis* with a view to ensuring non discriminatory treatment of EU bidders. Some of the required legislative changes include extending its scope of application, removing a large number of exemptions, avoiding discrimination against EC goods and suppliers and lifting the restrictions in competition and full transparency. On services, the main unsolved issues are the scope of the agreement, the type of service providers to be included and the timetable for liberalisation.

Concerning **trade**, the trade in agricultural products, following a series of consultations on adaptations to be made to the bilateral agricultural trade preferences (under Decision 1/98 of the EC-Turkey Association Council) to take account of EU enlargement in 2004, agreed minutes were signed by negotiators in April 2005. These changes will be implemented in 2006 by means of a new Association Council Decision.

Turkey continued to operate its long-standing ban on imports of live bovine animals, beef and other animal products, which in the view of the Community is not in line with Turkey's international obligations and which deprives EU exporters of important trade concessions granted under Decision No 1/98 of the EC-Turkey Association Council. In April 2005, Turkey accepted to offer compensations to the EU for the market disruptions caused by the Turkish beef ban, while it remains in place. These compensations are currently being discussed in the way of a set of alternative concessions.

The share of the European Community (EU-25) in Turkey's foreign trade has continued to increase in 2004, for a third consecutive year. Total trade in goods with the EU-25 in 2004 was 22 % up on 2003 and accounted for 50% of Turkey's overall trade. In 2004, exports to the EU-25 were 21% up on 2003, accounting for 55% (EUR 27.6 billion) of Turkey's total export sales. Its main industrial exports to the EU-25 were apparel, textiles, vehicles and automotive parts. Turkey's main agricultural exports to the EU-25 were fruits, vegetables and nuts, which allowed Turkey to have surplus in trade of agricultural products. In 2004, imports from the EU-25 were up by 23% on 2003, accounting for 47% (EUR 36.5 billion) of Turkey's total imports. Its main industrial imports were machinery, chemicals, iron and steel.

Currently there are two anti-dumping measures in place against products originating in Turkey on imports of respectively, steel ropes and cables, and of welded tubes and pipes. No new anti-dumping or anti-subsidy measures against Turkey have been imposed or new investigations initiated since 2004. Regarding safeguard measures (*erga omnes*), the proceeding on imports of farmed salmon (initiated in March 2004) was terminated in April 2005. A safeguard investigation on imports of frozen strawberries was opened in July 2005.

Community assistance

As regards grant assistance, the 2005 pre-accession financial assistance programme consists of a country programme and associated expenditure on multi-country programmes such as TAIEX or SIGMA, communication and management bringing the overall total to EUR 300 million. The key priorities for the 2005 programme, reflecting the Commission recommendation of October 2004 and the conclusions of the Brussels European Council meeting in December 2004, are: the political criteria, including some closely-related subjects in the sector of justice, liberty and security; economic and social cohesion, targeted on the poorest regions in Turkey, and focussing on strategic planning, support for the establishment of Regional Development Agencies in the priority NUTS II regions, and project preparation;

implementation of the *acquis*, with projects being developed in the following sectors: Internal Market; Agriculture (veterinary controls); Environment; the 'network' sectors (Energy, Transport and Telecommunications); Social Policy; Statistics; EU-Turkey Political and Social Dialogue.

The 2005 programme has also addressed a number of cross cutting themes such as gender issues and strategic planning and project preparation, in order to ensure adequate absorption in future programmes; civil society development.

Turkey participates actively in the following **Community programmes**: Enterprise & SMEs, the 6th Framework Programme on Research, Combating Discrimination, Combating Social Exclusion, Gender Equality, Incentive Measures in the field of Employment, Community Action in the field of Public Health, eContent, Fiscalis 2007, Customs 2007 and IDA (Interchange of Data between Administrations). Turkey continues its participation in the European Environment Agency (EEA) as well as in the education programmes Socrates, Leonardo da Vinci and Youth and made preparations for its participation in Culture 2000 next year. Cooperation with the European Monitoring Centre for Drugs and Drug Addiction is continuing, while preparation of the relevant agreement for full participation is in its final stage. Discussions are under way on possible ways to establish cooperation between Turkey and the new European Aviation Safety Agency (EASA).

In light of the increased assistance budget, Turkey needs to further improve its capacity to manage and use these funds effectively. It is encouraged to establish the necessary institutions needed for the implementation of the IPA (Instrument for Pre-Accession Assistance), which is scheduled to come into force in 2007. Turkey should also make further progress towards extended decentralisation: this will necessitate paying close attention to good governance, and the introduction of an adequate system of Public Internal Financial Control. In order to avoid absorption capacity limitations in the coming years, an improvement in strategic planning is needed. Turkey should also improve the staffing and the institutional anchoring of the Turkish implementing agency (CFCU), as well as the coordination among the ministries involved in programming and implementation. The Union recalls the linkage between project financing and progress made in the harmonisation with the corresponding elements of the *acquis*. The EU welcomes the fact that the new Framework Agreement has been ratified recently, and urges Turkey to bring into force all the necessary secondary legislation needed for its implementation.

The Joint Monitoring Committee, in its meeting in January 2005, reviewed the status of the implementation of the Community assistance in Turkey on the basis of an independent evaluation report. This report concluded with an average rating ("barely satisfactory"). The report highlighted the general relevance of Community assistance and the expected positive impact of the programmes. It nevertheless also underlined shortcomings in relation to the efficiency and effectiveness of programme implementation, due to delays and contracting backlogs.

As regards **lending**, the Commission also continues to seek a high degree of complementarity between the pre-accession financial assistance programme and the on-going reform programmes supported by the international financial institutions, particularly the World Bank, in areas such as education, environment, health, agriculture, transport, regulatory reform and public procurement.

Total EIB lending in Turkey stands at EUR 3.6 bn, confirming the Bank's commitment to support the country's economic development and European integration through suitable long-term finance. For the period from 2004, and following the enlargement in May, the EIB's external lending mandate has been reviewed. Turkey is no longer included in the EuroMed II

Lending Mandate but in a new geographical mandate – the South-eastern Neighbours mandate. Turkey is a full participant in the EIB's Facility for Euro-Mediterranean Investment and Partnership which provides technical assistance for the design of projects and reforms in different economic sectors.

Overall lending to Turkey is projected to increase significantly over the forthcoming period. The EU calls upon to Turkey to assist in the identification and development of viable project proposals, to enhance the planned increase in resources. The FEMIP support fund can assist in this process.

Twinning

One of the main challenges facing the candidate countries is the need to strengthen their administrative and judicial capacity to implement and enforce the *acquis*. As of 1998, the European Commission began to mobilise significant human and financial resources to help them with this process, using the mechanism of twinning administrations and agencies.

The twinning process makes the vast body of Member States' public sector expertise available to the candidate countries through the long-term secondment of civil servants and accompanying short-term expert missions and training.

Furthermore, the candidate countries can draw on Member States' expertise through "Twinning light", an exchange of expertise mechanism to support projects of limited scope.

Twinning is an important element under the 2004 programme, contributing to the results of 22 projects involving 12 Member States (France, Germany, UK, Spain, Austria, Greece, Finland, Netherlands, Sweden, Hungary, Slovakia and Lithuania). These span a broad range of sectors, the most numerous being in the area of Justice, Liberty and Security. In addition, twinning projects are planned in the fields of the internal market, agriculture, environment, transport, the financial sector (including financial control) and customs.

Negotiations and screening

In June 2005 the Commission presented a draft framework for accession negotiations, setting out the method and the guiding principles of the negotiations, in line with the December 2004 European Council conclusions. The framework was adopted by the Council of Ministers on 3 October 2005. The EU-Turkey Intergovernmental Conference met for the first time on 3 October 2005. In parallel, the Commission has launched the analytical examination of the *acquis* (screening) which forms the first phase of accession negotiations. This process allows candidate countries to familiarise themselves with the *acquis* and allows the Commission and the Member States to evaluate the degree of preparedness of candidate countries before deciding whether a chapter can be opened for negotiations.

B. CRITERIA FOR MEMBERSHIP

1. Enhanced political dialogue and political criteria

The political criteria for accession to be met by the candidate countries, as laid down by the Copenhagen European Council in June 1993, stipulate that these countries must have achieved “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.”² In this section, the Commission also monitors regional issues, including the requirements of Turkey’s commitment to good neighbourly relations and its undertaking to resolve outstanding border disputes; its support for efforts to achieve a comprehensive settlement of the Cyprus problem and progress in the normalisation of bilateral relations with Cyprus.

In its 2004 report, the Commission found that:

“Turkey has achieved significant legislative progress in many areas, through further reform packages, constitutional changes and the adoption of a new Penal Code, and in particular in those identified as priorities in last year’s report and in the Accession Partnership. Important progress was made in the implementation of political reforms, but these need to be further consolidated and broadened. This applies to the strengthening and full implementation of provisions related to the respect of fundamental freedoms and protection of human rights, including women’s rights, trade union rights, minority rights and problems faced by non-Muslim religious communities. Civilian control over the military needs to be asserted, and law enforcement and judicial practice aligned with the spirit of the reforms. The fight against corruption should be pursued. The policy of zero tolerance towards torture should be reinforced through determined efforts at all levels of the Turkish state. The normalisation of the situation in the Southeast should be pursued through the return of displaced persons, a strategy for socio-economic development and the establishment of conditions for the full enjoyment of rights and freedoms by the Kurds.

The changes to the Turkish political and legal system over the past years are part of a longer process and it will take time before the spirit of the reforms is fully reflected in the attitudes of executive and judicial bodies, at all levels and throughout the country. A steady determination will be required in order to tackle outstanding challenges and overcome bureaucratic hurdles. Political reform will continue to be closely monitored.

As regards the enhanced political dialogue, relations with Greece developed positively. A series of bilateral agreements were signed and several confidence building measures adopted. A process of exploratory talks has continued. On Cyprus, over the last year Turkey has supported and continues to support the efforts of the UN Secretary General to achieve a comprehensive settlement of the Cyprus problem. The European Council of June 2004 invited Turkey to conclude negotiations with the Commission on behalf of the Community and its 25 Member States on the adaptation of the Ankara Agreement to take

² In the meantime, through the entry into force of the Treaty of Amsterdam in May 1999, the political criteria defined at Copenhagen have been for the most part enshrined as a constitutional principle in the Treaty on European Union. Article 6(1) of the consolidated Treaty on European Union reads: “The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law.” Accordingly, Article 49 of the consolidated Treaty stipulates that “Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union.” These principles were emphasised in the Charter of Fundamental Rights of the European Union, that was proclaimed at the Nice European Council in December 2000.

account of the accession of the new Member States. The Commission expects a positive reply to the draft protocol on the necessary adaptations transmitted to Turkey in July 2004.”

The section below provides an assessment of developments in Turkey, seen from the perspective of the Copenhagen political criteria, including the overall functioning of the country’s executive and its judicial system. Such developments are in many ways closely linked to developments regarding Turkey’s ability to implement the *acquis*, in particular in the domains of anti-discrimination and equal opportunities, judiciary and fundamental rights as well as justice, freedom and security. Specific information on progress in implementing the *acquis* in these fields can be found in Chapter 19 (Social policy and employment), Chapter 23 (Judiciary and fundamental rights) and Chapter 24 (Justice, freedom and security) of the section dealing with the ability of Turkey to assume the obligations of membership (*see below B. 3.*).

1.1 Democracy and the rule of law

Parliament

Since the last national elections in November 2002 the Justice and Development Party (AKP) has held a comfortable majority in the Turkish Grand National Assembly. As of October 2005, the AKP has 355 seats in Parliament. The main opposition party the Republican People’s Party (CHP) is represented with 155 deputies.

Several deputies from AKP as well as CHP have changed their party affiliation and in some cases established new parties. As a result, the number of political parties currently represented in Parliament has increased to six. Therefore, some of the parties that did not pass the election threshold of 10% in the November 2002 elections gained seats in Parliament: the True Path Party (DYP) 4, the Social Democrat People’s Party (SHP) 4, the Motherland Party (ANAP) 21 and the People’s Ascension Party (HYP) 1 seat. Six members of Parliament are independent and 4 seats are vacant.

There has been no change to the electoral system, which requires political parties to reach a 10% threshold to achieve representation in Parliament.

After the intensive reforms of the previous two years, Parliament continued its regular legislative work. A total of 184 draft laws have been submitted to Parliament since October 2004. Between October 2004 and June 2005 Parliament adopted 166 new laws.

Since the previous Regular Report, Parliament has adopted several laws which build on the political reform process. The most important are: the Law on the Establishment of Duties and Powers of the Ordinary Courts of First Instance and Regional Courts of Appeal and the Law amending the Code of Civil Procedures (October 2004), the Law on Associations (23 November 2004), the Law on the Enforcement of Sentences and Security Measures (29 December 2004), the Law amending some of the articles of the New Turkish Penal Code (31 March 2005), the Law on the Implementation of the Code of Criminal Procedure and the Law on Misdemeanours (31 March 2005), the Law Amending the Law on the Enforcement and Implementation Procedure of the Code of Criminal Procedure, the Law amending the Law on the Enforcement and Implementation Procedure of the Turkish Penal Code (18 May 2005), the Law amending the Law on Enforcement of Sentences, the Law amending the Law on Judicial Records, the Law amending the Code of Criminal Procedure (1 June 2005).

Since the beginning of the third legislative period in October 2004, the President of the Republic has used his right to return laws to Parliament to be reviewed on thirteen occasions.

He has applied eight times to the Constitutional Court for the annulment of certain provisions of laws adopted by Parliament in the second round after the presidential veto.

The EU Harmonisation Committee continued its work, giving its opinion on various EU-related draft laws. There were however complaints that some important EU related legislation was not submitted for the Committee's opinion, e.g. revisions made in the Penal Code.

A new Committee on Violence Against Women and Children has been established. The Parliamentary Human Rights Investigation Committee has continued its work conducting investigations in cases involving human rights abuses. However, its overall impact is constrained by limited resources and the fact that it currently plays no role in scrutinising legislation.

Government

Since November 2002 the government has been formed by the Justice and Development Party AKP. It has reiterated its commitment to the reform process on several occasions. The main opposition party, CHP, has generally extended its support to this process. Relations with the EU have for the most part remained at the forefront of the political agenda.

The government has reviewed the reform process regularly, assisted by the Reform Monitoring Group, a body responsible for supervising the implementation of the reforms. The Secretariat General for EU Affairs continues to play an important coordinating role as regards the alignment with and implementation of EC norms and standards as well as on the programming of financial cooperation in support of these objectives.

A small cabinet reshuffle took place in June 2005 when the State Minister for Women, the Minister for Public Works and Housing and the Agriculture Minister were replaced. The Minister for Culture and Tourism resigned from his post and his party, taking over the leadership of the ANAP party. The post of Prime Ministry spokesman was established.

A number of senior appointments to the public administration did not receive the approval of the President of the Republic. Of the 2 340 appointments made since the beginning of the current government, 306 were not approved by the President. The government has increasingly made use of temporary appointments to fill administrative posts, including for appointments that had not been vetoed by the President.

Public administration

As regards public administration, there has been some progress in terms of reforms at provincial and local level. However, there have been certain difficulties in pursuing a comprehensive process of reform, especially concerning the central administration, thus leading to a fragmented approach.

The Framework Law on Public Administration adopted in 2004 was vetoed by the President in July 2004 on the grounds that it conflicted with constitutional provisions related to the unitary character of the State. This Law was intended to be the centrepiece of the reform process. In particular, it provided for a new distribution of duties and powers between local and central government, for rationalizing administrative bodies and for an increased responsiveness and transparency vis a vis the citizen. Currently the Parliament is still in the process of reviewing the legislation.

A number of laws were nonetheless adopted as regards local government. The Law on Municipalities was first adopted in 2004 and then vetoed by the President. Subsequently it entered into force in July 2005 with minor amendments. The Law on Special Provincial

Administrations was first adopted in 2004 and then vetoed by the President. It subsequently entered into force in March 2005 with some minor amendments. However, the President applied to the Constitutional Court on the basis of possible conflicts with constitutional provisions related to the unitary character of the State.

The Law on Association of Local Governments was adopted in June 2005. Thus, together with the Law on Metropolitan Municipalities which was adopted in 2004, four basic local government reform laws are now in force.

The Law on Municipalities and the Law on Special Provincial Administrations aim at strengthening the capacity of local government to deal with the challenges of rapid urbanization and mass immigration from rural areas. To this end these laws introduce modern public management concepts in order to create efficient, result oriented and transparent local government.

The reforms have introduced, in particular, strategic planning requirements, emergency planning, debt and borrowing limits, performance based budgeting, annual activity reports and the creation of audit commissions. Provisions have also been introduced allowing voluntary participation of local residents in service delivery. Moreover, City councils have been created, with members drawn from civil society, in order to promote participation and consultation.

The Law on Association of Local Governments allows villages, municipalities and special provincial administrations which share common problems to associate themselves to undertake joint projects.

The fact that all these laws have been rewritten at the same time presents significant challenges for the government. In order for the intended objectives to be met, the implementation of these laws will have to be planned and executed effectively. In particular, the necessary secondary legislation will need to be adopted. Issues to be tackled include: enabling full consultation of interested parties through stronger access to information; financial and fiscal implications; human resource requirements; strengthening of financial control and auditing systems.

There has been no progress in establishing an Ombudsman. This office would be a key institution in improving the efficiency of public administration and in detecting corruption.

On 25 May the Prime Minister appointed the State Minister for the Economy Ali Babacan as EU Chief Negotiator. Reporting directly to the Prime Minister, he is also responsible for the Secretariat General for EU Affairs. Further structural changes to the institution and an increase in human resources have been announced by the Prime Minister. In September, the Prime Minister and the Chief Negotiator met a group of 85 NGOs to discuss ways of improving the dialogue with civil society in relation to the accession negotiation process.

Civil-military relations

Further changes have been introduced over the last year in order to align civilian control of the military with practice in EU Member States.

As regards the duties, functioning and composition of the National Security Council (NSC), implementation of reforms adopted in previous years has begun.

In October 2004 the NSC convened for the first time under the chairmanship of the new civilian Secretary General. This institution is currently composed of 7 civilian members and 5 military members. The Secretary General does not have the right to vote. The staff of the NSC Secretariat General decreased from 408 to 305 persons.

As provided for under the reforms, the NSC meets every two months. The minutes of such meetings are not made public. However in practice, a brief press release has generally been given after each meeting. During the last year, subjects discussed included international and security issues such as Iraq and terrorism, Cyprus, energy issues and EU-Turkey relations.

In a press release of 30 December 2004, the NSC, while “welcoming the decision to give a date to Turkey for the opening of accession talks”, emphasised the “importance of eliminating some of the negative elements in the Conclusions of the Summit of December 2004 and of conducting the negotiation process aimed at membership on a sustainable basis, without conditions and discrimination against Turkey”.

With a view to increased transparency, on 30 November 2004 a press briefing was organised for the first time at the NSC headquarters, attended by some 200 Turkish and foreign journalists. A presentation of the NSC’s tasks and organisational structure was followed by a question-and-answer session, which covered a range of issues, including the National Security Document, relations with Greece, Cyprus, Iraq and the fight against terrorism, and domestic security. Since then, press briefings have been taking place at the initiative of the General Staff.

Defence expenditure increased from EUR 6 985 billion to EUR 8 198 billion, raising the share of defence spending in the budget from 6.7% in 2004 to 7.2% in 2005. However, with a share of 9.7% in the state budget, education spending is higher than defence expenditure for the second successive year.

As regards parliamentary oversight of defence expenditures, the amendments to the Law on Public Financial Management and Control (PFMC), which was adopted in December 2003 and entered into force in January 2005, have the potential to improve budgetary transparency concerning military and defence expenditures. Extra-budgetary funds have been included in the general defence budget and will be dissolved by 31 December 2007. The adoption and implementation of appropriate secondary legislation should allow full ex-ante parliamentary oversight over military expenditures.

Legal regulations adopted in May 2004, including a constitutional amendment, have enhanced the ex-post audit of defence expenditure. The Court of Auditors has been authorised to audit defence expenditures on behalf of Parliament. With the amendment to Article 160 of the Constitution the exemption of state property owned by the Turkish armed forces from auditing has been removed. However, since the appropriate enabling legislation has not yet been adopted, the Turkish Court of Auditors is not yet in a position to carry out this task as provided for by Article 160 of the Constitution.

In addition to the reforms to the legal and institutional framework, it is important that the civilian authorities fully exercise their supervisory functions in practice. Further efforts are needed to raise awareness among elected members of Parliament and to continue to build up the relevant expertise among civilians. The question of strengthening parliamentary oversight of defence expenditure has increasingly become a subject of interest for the media and civil society.

As regards the formulation of security and defence policy, work has begun to prepare a new National Security Policy Document (NSPD). The purpose of the document is to identify threats to national security, to determine the priority of threats and to define strategies. The NSPD is drafted by the Secretariat General of the National Security Council with contributions from the Presidency, the Ministry of Interior, the Ministry of Foreign Affairs and the National Intelligence Service. The NSPD is subject to the approval of the Council of Ministers.

In January 2005, the Prime Minister sent a letter to the NSC Secretariat General stressing the responsibility of the government for Turkish national security before Parliament. The Prime Minister asked that the NSPD be restricted to essentials. Members of the General Staff have made statements on their perception of national security. Meanwhile, the definition of national security and defence strategy is increasingly becoming an item for open debate as reflected in the media.

The Turkish Armed Forces Internal Service Law, which defines the role and duties of the Turkish military and which contains articles granting the military a wide margin of manoeuvre, is unchanged.

Article 2a of the National Security Council Law provides a broad definition of national security, which, depending on interpretation, could cover almost any policy field: “*National Security means the protection of the constitutional order of the State, its nation and integrity, all of its interests in the international sphere including political, social, cultural and economic interests, as well as the protection of its constitutional law against all internal and external threats*”.

The General Staff Military Court has launched proceedings against former high-ranking generals in relation to allegations of corruption. After the General Staff Military Prosecutor’s investigation the case was submitted to the High Military Court on 8 November 2004.

There has been no further progress with regard to the provisions of the Military Criminal Code permitting the trial of civilians before military courts. However, a reduction in the number of civilians tried before military courts can be observed between 2004 and the first five months of 2005.

The Gendarmerie is connected to the General Staff in terms of its military functions, but affiliated to the Ministry of Interior in terms of its law enforcement functions. The control of the Ministry of Interior, of governors and district governors over the Gendarmerie should be strengthened in order to allow full civilian oversight on internal security policy.

The armed forces continue to exercise significant political influence. Individual military members of the NSC as well as other senior members of the armed forces have continued to regularly express their opinion on domestic and foreign policy issues via public speeches and press briefings. These statements concerned in particular Iraq, Cyprus, terrorism, the principle of secularism and EU-Turkey relations. In November 2004, the Deputy Chief of Staff made extensive comments on aspects of last year’s Regular Report. In March 2005, the General Staff issued an official statement reacting to incidents which took place at the occasion of the celebration of the Newroz (marking the beginning of the spring). In April 2005 at the headquarters of the Military Academies Command, the Chief of General Staff delivered a speech consisting of a comprehensive tour d’horizon on foreign policy and domestic issues.

The case against the teachers’ union, Eđitim Sen (*see 1.3 Human rights and the protection of minorities, section on freedom of association*) was launched under pressure from the General Staff in 2003 which asked the competent authorities to take measures with a view to enforcing Article 42 of the Constitution concerning mother tongue education.

Since 2002, Turkey has made good progress in reforming civil-military relations. It is essential that Turkey consolidates reforms adopted in previous years and remains committed to further reforms in this area. Turkey should work towards greater accountability and transparency in the conduct of security affairs in line with Member States’ best practice. In particular, 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.

Initiatives such as the Task Force on Governance and the Military, jointly sponsored by the Center of European Security Studies and the Istanbul Policy Center, or the project on Democratic Oversight of the Security Sector promoted by TESEV and the Geneva Center for the Democratic Control of Armed Forces (DCAF) could make an important contribution. It is also important to promote better public understanding of reforms in civil-military relations, both at home and abroad.

Judicial system

The judicial system has been further strengthened via the adoption of structural reforms. Important progress was made with the entry into force on 1 June 2005 of the Penal Code, the Code of Criminal Procedure, the Law on Enforcement of Sentences and the Law on the Establishment of the regional Courts of Appeal.

The entry into force of the Penal Code (as well as the other laws mentioned above), adopted in December 2004, was postponed until 1 June 2005 due to concerns about the provisions concerning both organised crime and freedom of expression. In general, the Code adopts modern European standards in line with criminal law in many European countries. However, despite the introduction of a number of amendments by Parliament, concerns remain regarding articles which may be used to restrict freedom of expression (*see 1.3 Human rights and the protection of minorities, section on freedom of expression*).

The adoption of a new Code of Criminal Procedure represents a major step forward. It introduces the concept of cross examination of witnesses during trials, which did not previously exist in the Turkish legal system. The Code establishes the concept of plea bargaining. In order to reduce the number of unmeritorious prosecutions, the Code increases the discretion of prosecutors, who are now able to assess the strength of the evidence before preparing an indictment. Moreover, judges are given the power to return incomplete indictments. Under the new Code, criminal investigations must be carried out by a judicial police force under the authority of the public prosecutor. The Chief Public Prosecutor will be responsible for preparing annual evaluation reports on the judicial police under his command. The Code introduces the requirement that certain trials are to be recorded on audio and video tape. Judges and prosecutors throughout Turkey have received training on the Code. However, implementation of the powers to discontinue unmeritorious cases and the operation of the judicial police will need to be assessed.

The new Code of Criminal Procedure provides that defendants and witnesses who cannot speak the Turkish language are to be provided with an interpreter free of charge. However, concerns have been expressed that as there are currently no interpreters trained in legal interpretation between Turkish and other languages used in Turkey, there may be difficulties in ensuring adequate standards of accuracy. Measures should be adopted to address this problem.

There are some concerns related to the provisions concerning the rights of defence and the rights of detainees in the new Code. Of particular concern is a provision restricting lawyers who are being prosecuted for, inter alia, charges related to terrorism, from representing individuals facing prosecution for similar crimes. In practice such a provision could have an impact on the ability of human rights lawyers, themselves often the subject of judicial harassment, to defend their clients (*see 1.3 Human rights and the protection of minorities, freedom of association*)

Implementing legislation, namely a revised Regulation on Apprehension, Detention and Statement Taking, a Regulation on Judicial and Preventive Search and a Regulation on the Judicial Police, also entered into force on 1 June 2005.

The Law on Enforcement of Sentences, which also entered into force on 1 June 2005, brings clarity to this area by replacing numerous regulations which previously governed the enforcement of sentences. The Law is generally in line with EU best practice and addresses issues such as prisoners' rights and obligations, order and discipline within prisons, and rehabilitation and reintegration of offenders. The Law establishes the concepts of community service and probation. However, there is a need for further training of prison officers on the content of this Law.

Moreover, it is of concern that this Law provides that, at the request of the public prosecutor, and with the authorisation of an enforcement judge, a law enforcement officer may be present during meetings between prisoners and lawyers. This officer may also examine defence documents where there is a suspicion that the meetings are being used to enable communication with terrorist or criminal organisations. The provision has been criticised for being in contravention of Article 10 of the Turkish Constitution, which concerns equality before the law, and also raises questions in the light of certain international conventions to which Turkey is party. Concern has also been expressed that the provisions regarding juveniles are not fully in line with international standards and that juveniles may be imprisoned in adult prisons. The application of these provisions will need to be assessed.

The Law Establishing the Intermediate Courts of Appeal came into force on 1 June 2005. The establishment of the Courts of Appeal will substantially reduce the case load of the Court of Cassation and enable it to concentrate on its function of providing guidance to lower courts on points of law of general public importance. The Law provides that the Courts are to be established within two years of its entry into force.

Legal amendments adopted in July 2005 provide that juveniles accused of minor offences are to be tried before a single judge instead of before a panel of three judges. This constitutes a welcome development, as it should reduce the current backlog of cases before the juvenile courts. 27 New family courts were established.

The principle of the independence of the judiciary is enshrined in the Turkish constitution but is undermined by several other constitutional provisions. The Constitution provides that judges and prosecutors are attached to the Ministry of Justice in so far as their administrative functions are concerned. The Minister of Justice and the Undersecretary of the Ministry of Justice are members of the High Council of Judges and Prosecutors, which is responsible for the appointment, promotion, transfer, discipline and, broadly speaking, the careers of all judges and prosecutors. Furthermore, the High Council does not have its own secretariat and budget and its premises are inside the Ministry of Justice building. The judicial inspectors, who are responsible for regularly assessing the performance of all judges and prosecutors, are attached to the Ministry of Justice rather than to the High Council. Turkey should ensure the independence of the judiciary, in particular as regards the High Council of Judges and Prosecutors and the appointment of new judges and prosecutors. In the light of the impending recruitment of some 4,000 additional judges and prosecutors, the senior judiciary in Turkey have expressed concern that the influence of the Ministry of Justice in the appointment procedure may undermine the independence of the judiciary.

There is a close relationship between judges and prosecutors; the public prosecutor's office is not clearly separated from the judge's, which could create the impression that the prosecutor is able to exert undue influence. A clear institutional and functional separation of the professional rights and duties of judges and prosecutors needs to be established.

A third expert advisory mission on the functioning of the judicial system took place in June 2005 and concluded that further progress had been made since the second visit.

The new Code of Criminal Procedure and the Regulation on Apprehension, Detention and Statement Taking provide for arrested persons to be informed of their rights, including their right to free legal counsel. Legal representation was already compulsory for juveniles accused of criminal offences. The new Code widens the scope of compulsory legal representation by providing that representation by legal counsel is to be mandatory for all offences punishable by more than five years' imprisonment. Of those accused of serious criminal offences, the number asking for a lawyer increased substantially between 2003 and 2005. However, there are reports that the police and gendarmerie continue to discourage detainees from requesting legal assistance.

Judges and prosecutors have a considerable role to play in the implementation of reforms. Courts have in general continued to apply the European Convention on Human Rights (ECHR). The courts are reported to have referred to the Convention in 224 judgments since 2004. In general, however, it is difficult to discern a clear positive pattern, as provisions of Turkish law and even articles of the ECHR are not interpreted consistently. On the one hand, there are signs that the judiciary is increasingly integrating the new provisions. Several court judgements have been issued suggesting a positive development in areas such as freedom of expression, freedom of religion, and the fight against torture and ill-treatment and honour crimes. This trend also applies to the decisions of the Council of State. On the other hand, courts have issued judgments in the opposite direction in the area of freedom of expression, including against journalists. In the context of the Eđitim Sen case, the Court of Cassation issued a judgment ordering the closure of the trade union unless it made changes to its statute and in so doing, reversed the lower court's judgements which had made explicit reference to the relevant provisions of the ECHR (*see 1.3 Human rights and the protection of minorities, section on freedom of association*).

It is of crucial importance that sustained efforts continue with respect to training judges, prosecutors and lawyers and where necessary, that they are reminded by the responsible authorities about their duties and obligations to respect the relevant provisions stemming from International and European conventions in the area of human rights and fundamental freedoms, as required under Article 90 of the Turkish Constitution.

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

Anti-corruption policy

In the last year, some progress has been achieved in adopting anti-corruption measures. However, surveys continue to indicate that corruption remains a serious problem in Turkey.

The new Penal Code punishes corruption-related crimes more seriously and the statute of limitations for such offences has been extended. The Code also introduces the concept of liability of legal persons in cases of corruption and contains provisions concerning corruption in public procurement.

In 2005 two corruption-related commissions were established in parliament to investigate the gasoline smuggling, and illegal public offering (money collection) and misuse of depositors.

The Law on Access to Information which was adopted in 2003 was an important step in enhancing transparency. However, this law needs to be broadened in scope and classified and

unclassified public records need to be clearly defined in order to ensure effective implementation.

Turkey has no specific law on financing and auditing of political parties. Although public officials are required to submit asset declarations, there is a need to ensure their proper verification. Currently, many public bodies are exempt from auditing requirements. This should be rectified through extending the mandate of the Court of Auditors.

The Ethical Board for Public Servants has started to operate. A circular was issued in 2004 instructing public bodies to co-operate fully with the Board. A regulation on the code of ethics for public employees entered into force in April 2005. The regulation sets out a detailed code of behaviour for senior public officials and grants members of the public the right to petition the Ethical Board concerning contraventions of the code. It does not apply to other categories such as elected officials, academics, military personnel or the judiciary.

One former Prime Minister and seven former ministers were tried before the High Tribunal on charges of corruption.

The scope of parliamentary immunity has been identified as a significant problem in the context of corruption in Turkish public life. In spite of intensive debate, no development can be reported concerning Parliamentary immunity. No progress has been made concerning the transparency of the financing of political parties. The auditing of political parties remains weak. Although public officials are required to submit asset declarations, there is a need to extend the scope and frequency of declarations.

The efficiency and effectiveness of governmental, parliamentary and other bodies established to combat corruption remains a matter of concern. The consistency of policies and the degree of co-ordination and co-operation is weak. Institutions relevant to the fight against corruption should be strengthened and in particular an overhaul of the inspection system is necessary to increase efficiency in the fight against corruption. In this context an effective leadership and coordination function should be established. Furthermore, dialogue between the government, public administration and civil society needs also to be strengthened. In addition, more action should be taken to raise public awareness of corruption as a serious criminal offence. Continuous support at the highest political level for the fight against corruption would be welcome.

More details on anti-corruption policy can also be found under *Chapter 23 – Judiciary and fundamental rights*.

1.2 Human rights and the protection of minorities

Observance of international human rights law

Turkey has made further progress with regard to international human rights instruments. In October 2004, the European Agreement relating to Persons Participating in Proceedings of the European Court of Human Rights (ECtHR) was ratified and Protocol No14 to the European Convention on Human Rights (ECHR) (amending the control system of the Convention) and the Revised 1996 European Social Charter were signed. The International Convention on the Protection of the Rights of All Migrant Workers entered into force in January 2005. The First Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), which was signed in February 2004, has not yet been ratified. Turkey signed the Optional Protocol to the UN Convention against Torture (OPCAT) in September 2005 and ratified Protocol No 13 to the ECHR concerning the abolition of the death penalty in all circumstances in October

2005. Turkey has not signed the Framework Convention for the Protection of National Minorities and has not acceded to the Statute of the International Criminal Court.

Turkey has not submitted its first reports under the ICCPR or the International Covenant on Economic, Social and Cultural Rights (ICESCR) to the relevant UN Committees. Consequently, the validity of Turkey's declarations on and reservations to these covenants has not yet been assessed by these bodies, although their possible practical implications, particularly as they relate to the protection of minorities in Turkey, are of concern (*see section on minority rights, cultural rights and the protection of minorities*).

Turkey has made progress in relation to the execution of judgments of the European Court of Human Rights (ECtHR). This has been highlighted notably in several resolutions by the Council of Europe's Committee of Ministers and several other sources, including the Parliamentary Assembly of the Council of Europe rapporteur on the implementation of judgements of the ECtHR in June 2005. Both the Committee and the rapporteur have, however, noted that a number of issues are outstanding. In general, it is important that the Turkish authorities ensure that direct effect is given to the case-law of the ECtHR in the Turkish legal order so as to implement the constitutional, legislative and regulatory framework created by Turkey in response to the Court's judgments. New Article 90 of the Constitution should encourage domestic authorities to act accordingly.

Since October 2004, the ECtHR has delivered 129 final judgements concerning Turkey. On 120 occasions the Court found that Turkey had violated the ECHR, and 7 friendly settlements were concluded. In 2 cases, it was found that Turkey was not in violation of the ECHR. During this period, 1 812 new applications regarding Turkey were made to the ECtHR.³

The two main problems highlighted in recent judgments relate to a lack of government cooperation with the ECtHR in the investigation of cases and the right of return to the villages in the South East. Under Article 38 of the ECHR states have a duty to "furnish all necessary facilities" when the Court conducts an investigation and this is considered to be "of fundamental importance for the proper and effective functioning of the Convention system".⁴ In 2005 the ECtHR found violations of Article 38 of the ECHR in at least one case.⁵ In another case, *Mamatkulov and Askarov v. Turkey*,⁶ an unjustified interference with the right of individual petition (violation of Article 34 of the ECHR) was established as Turkey did not respect an indication from the Court that the applicants should not be extradited pending the outcome of the proceedings before it.

In 2005 the Council of Europe also began to consider the case of *Dogan and Others v. Turkey*,⁷ which concerns the issue of the return to villages in the Southeast. In June 2004 the ECtHR ruled in favour of the applicants, who had been expelled from villages in the Southeast in the mid-1990s. The ruling established possession of land and property in the absence of title deeds, which many displaced individuals from the Southeast do not have. A large number of similar applications against Turkey are currently pending before the Court (*see section on East and Southeast*).

³ During the same period the number of judgements for larger member states of the European Union ranged from 8 to 65, and the number of violations ranged from 6 to 59.

⁴ Resolution ResDH (2001)66 States' obligation to co-operate with the European Court of Human Rights.

⁵ *Akkum and Others v. Turkey* (Application no. 21894/93).

⁶ *Mamatkulov and Askarov v. Turkey* (Applications nos. 46827/99 and 46951/99).

⁷ *Dogan v. Turkey* (Application nos. 8803-8811/02, 8813/02 and 8815-8819/02).

The main developments in the execution situation in respect of problems pending before the Committee of Ministers since before 2005 are the following.

Provisions enabling retrial still do not apply to cases that were pending before the ECtHR prior to 4 February 2003, including the case of Öcalan.⁸ The urgency of reopening these cases has been emphasised, in particular, in relation to the Hulki Günes case.⁹ As regards the Öcalan case, the Grand Chamber of the European Court of Human Rights delivered a judgement in May 2005¹⁰ concluding that Turkey was responsible for violating provisions concerning the right to a fair trial. The judgement indicated that the remedial measures might include retrial or the reopening of the case, but left the issue largely to be decided by the Turkish authorities. To date it is not clear what measures the Turkish authorities will take to ensure compliance with the judgement.

As regards the case of Sadak, Zana, Dicle and Dogan,¹¹ in December 2004 the Committee of Ministers closed its examination of the execution of the Court's judgment noting the positive developments in the new retrial ordered, including the applicants' release. The retrial is ongoing.

In June 2005 the Council of Europe's Committee of Ministers adopted an interim resolution on the group of 74 pending cases relating to the actions of the Turkish security forces. The Resolution notes with satisfaction the important reforms that have been adopted in order to address the different problem areas (unlawful detention, extra-judicial killings; torture and ill-treatment and the destruction of property) identified in the Court's judgments. The resolution highlights that attention should now focus on implementation of these reforms (*see section on torture and ill-treatment*).

As regards the group of cases concerning freedom of expression in Turkey the Committee of Ministers has noted the abolition of the old Article 8 of the Anti-terror law and decided to close the cases concerned as soon as all applicants have had their convictions erased. Other cases have not been closed, pending an assessment of the impact of the recent legislative changes, such as the adoption of the new Penal Code, on the development of the relevant case-law (*see section on freedom of expression*).

As to the case of Cyprus against Turkey¹², in June 2005 the Committee of Ministers adopted an interim resolution, noting that progress has been made in relation to education, military tribunals, freedom of religion and missing persons. The Committee closed its examination of issues pertaining to military tribunals. Still unresolved are issues relating to the restoration of rights and property to displaced Greek Cypriots.

With regard to the **promotion and enforcement of human rights**, the institutional framework has not been modified. While institutions such as the Reform Monitoring Group, the Human Rights Presidency and the Parliamentary Human Rights Investigation Committee continue to carry out important work, there is an urgent need to consolidate and strengthen the capacity of these institutions.

⁸ Case of Öcalan v. Turkey (Application no 46221/99).

⁹ Case of Hulki Günes v. Turkey (Application no. 28490/95).

¹⁰ Case of Öcalan v. Turkey (Application no. 46221/99).

¹¹ Case of Sadak, Zana, Dicle, Dogan vs. Turkey (Applications no 29900/96 to 29903/96).

¹² Case of Cyprus v. Turkey (Application no 25781/94).

The Human Rights Presidency has continued to intensify its work to provide training on human rights, process complaints and address specific cases. Efforts have focused, in particular, on increasing awareness of the existence of the Presidency and the provincial Human Rights Boards. Nevertheless, the impact of the Presidency remains low as it has a limited budget, its role in relation to line ministries is poorly defined and it is not consulted on legislative proposals (*see also Section B.1.1 Democracy and the rule of law: Parliament*). In September 2005, the President of the Human Rights Presidency resigned.

The Human Rights Presidency has held contacts with international partners aimed at inter alia improving the functioning of the Presidency and local boards and creating an independent, adequately resourced national human rights institution which complies with the UN Paris principles¹³. To date these projects have not produced concrete results.

From October 2004 to March 2005, the Human Rights Boards and the Presidency received complaints of human rights abuses from 565 individuals. This figure represents less than one complainant per board, suggesting limited awareness of the existence of the boards and/or low levels of trust. In practice, the boards are under-resourced and their effectiveness varies depending on the approach of the deputy governor chairing them. Two important Turkish human rights NGOs, the Human Rights Association and Mazlum Der have maintained their policy of not participating in these Boards, although in a handful of cases individuals from these NGOs have participated in a personal capacity.

Since the publication of a report on minority rights in Turkey in October 2004, the Human Rights Advisory Board under the Office of the Prime Minister - a body composed of NGOs, experts and representatives from ministries – has not been operating. (*see section on minority rights, cultural rights and the protection of minorities*).

The Parliamentary Human Rights Investigation Committee continued to collect complaints on human rights violations and, in relation to some high-profile cases, requested that the relevant authorities follow up and redress the situation when necessary. It received 1 307 complaints between October 2004 and June 2005. The Committee conducted an investigation into the alleged extra judicial killing of a 12-year-old boy and his father in Kilzitepe province in November 2004 (*see section on torture and ill-treatment*).

Since its establishment in 2003, the gendarmerie's Human Rights Violations Investigation and Assessment Centre has received 162 direct complaints, the majority of which relate to allegations of ill-treatment or unjust detention. To date, disciplinary measures have been taken in 3 cases.

The Ministry of Interior's Investigation Office, which was established in February 2004, has received 1 003 complaints of human rights abuses from the public. These complaints are assessed by inspectors, who follow them up with the relevant authorities within the ministry at local or central level. Most complaints received have been made against the police. To date, on only one occasion has a complaint led to disciplinary action being taken against a public official. This Office has also carried out inspections of a number of the provincial police disciplinary boards and has inspected detention procedures and places of detention in 26 provinces.

With regard to training on human rights, the Turkish authorities continue to pursue a number of programmes targeting relevant personnel in the Ministries of Interior and Justice, the gendarmerie and the police.

¹³ Principles relating to the status of national institutions ("Paris Principles"), UN Commission on Human Rights Resolution 1992/54 of 3 March 1992.

As regards the **fight against discrimination**, the new Penal Code criminalises discrimination on various grounds. However, no progress has been made on the adoption of further legislation aimed at guaranteeing the effective prohibition of discrimination in employment, as provided for by the EU acquis (*see also section on economic and social rights and Chapter 19 - Social policy and employment*).

Civil and political rights

With regard to the **prevention of torture and ill-treatment**, although reports of torture and ill-treatment are still frequent, the broad assessment of international and Turkish NGOs, as well as experts on the ground, such as lawyers and forensic doctors, is that incidence is diminishing. The President of the Council of Europe's Committee for the Prevention of Torture (CPT) stated in October 2004 that "it would be difficult to find a Council of Europe Member State with a more advanced set of provisions in this area" while adding that, it is nevertheless "right to underline that Turkey needs to pursue vigorously its efforts to combat torture and other forms of ill-treatment". In particular, further efforts are required to ensure full implementation of existing legislation and to reinforce the fight against impunity.

The new Penal Code, the new Code of Criminal Procedure and their implementing regulations contain provisions which strengthen the fight against torture and ill-treatment. The new Regulation on Apprehension, Detention and Statement Taking, issued in June 2005, introduces additional safeguards, in particular in the context of medical examinations and the right of defence. Furthermore, the Penal Code increases the term of imprisonment for those convicted of torture or ill-treatment and the statute of limitations, which in the past has allowed cases against alleged perpetrators of torture or ill-treatment to be dropped, is increased from ten to fifteen years. However, it is regrettable that the statute of limitations is not repealed for such crimes, as recommended by the UN Committee Against Torture (CAT) in 2003.

Certain recent legislative changes have provoked concerns. This is particularly the case as regards provisions in the new Code of Criminal Procedure and the Law on the Execution of Sentences, which allow for individuals to be transferred from their place of detention or prison to other places for a certain period of time, in the context of aiding onsite investigations. Furthermore, a provision in the Law on the Execution of Sentences permits the presence of a security official during meetings between prisoners and their lawyers in certain circumstances (*see section on the justice system*). It is also of concern that certain past positive amendments have not been maintained in the context of the Code on Criminal Procedures; most notably, an article limiting the postponement of trials in torture cases does not appear in it and it is not clear whether a regulation stipulating that sentences for crimes of torture/ill-treatment cannot be converted into a fine or suspended sentence is maintained in the context of the new legislation.

In March 2005, the new management board of Izmir's Bar Association decided to abolish the EU-financed Torture Prevention Group (TPG), which had been carrying out valuable work in this area. Over 1 000 lawyers requested a general assembly to discuss the board's decision, which was refused by the board, but in July an administrative Court declared this refusal illegal.

As regards implementation, practice varies considerably throughout Turkey, although overall the situation continues to improve and both Bar Associations and NGOs confirm that reports of torture and ill-treatment are diminishing. According to these sources, severe forms of torture and ill-treatment are now rarely used and reports of ill-treatment in places of detention are less frequent than in the past. However, reports of ill-treatment outside of detention

centres are still common, in particular, during the transportation of detainees, or in the context of demonstrations. Moreover, the situation in Turkey's mental health facilities should be urgently examined (*see section on rights of the disabled*). Of the total complaints received by the Human Rights Presidency between October 2004 and March 2005 a significant proportion continue to relate to "torture and ill-treatment".

As regards the **fight against impunity**, a number of cases have been brought against the security forces and trials are ongoing. In June 2005 the Court of Cassation overturned the verdict of a lower court in a murder case on the grounds that *inter alia*, torture had been used to extract evidence.

Nevertheless, numerous challenges remain in this area. According to official statistics, of the 1 239 cases that were filed against law enforcement officials in the first quarter of 2005, only 447 prosecutions were pursued. Moreover, there are concerns that when cases are pursued, prosecutors still do not conduct timely and effective investigations against those accused of torture. Often such investigations are limited only to an examination of the medical report, despite the necessity – stated in the CPT report on the September 2003 visit – to look beyond the medical reports in the context of such investigations.

Convictions are rare and the courts appear to be unable or unwilling to impose appropriate sanctions on those committing these crimes. In 2004, of the 1 831 cases concluded, 99 led to imprisonment, 85 to fines and 1 631 to acquittals. Notwithstanding efforts to assure the attendance of the accused at trials and recent changes to the penal code, cases against alleged perpetrators of torture and ill-treatment continue to exceed the statute of limitations. Moreover, courts are often reluctant to accept evidence from sources other than the Forensic Medical Institute. Police officers facing trial for such crimes are frequently not removed from duty pending the outcome of the trial.

All detainees are entitled to *access to justice* (i.e a lawyer) and for juveniles the presence of a lawyer during interrogation is obligatory. Moreover, the new Regulation on Apprehension, Detention and Statement Taking makes the appointment of a defence lawyer obligatory in cases where the alleged crime carries a sentence of more than 5 years' imprisonment. The percentage of individuals taken into custody for crimes related to smuggling and terrorism who requested a lawyer increased from 52% in 2004 to 64% in the first 5 months of 2005 according to official statistics. However, there are great regional variations in terms of the numbers taking advantage of this right: Bar Associations' estimates vary from 70% (Diyarbakir) to 5 % (Agri). Moreover, it is not clear that detainees are always made aware of their rights, despite the measures requiring the police to inform detainees. The problem is more acute for persons whose first language is not Turkish.

As regards medical examinations, training in accordance with the Istanbul Protocol for physicians and judicial staff is ongoing and further such training is planned. Currently examinations are routinely conducted, but their quality is not guaranteed throughout the country and full implementation of the Istanbul Protocol is rare. –There is a limited capacity as far as forensic medicine is concerned and most doctors linked to the Forensic Medical Institute are concentrated in Istanbul and other major cities. Although examinations are increasingly conducted outside courthouses, there is a need to speed up the process of transferring them to hospitals and clinics. The fact that these still take place in several different types of location - including forensic clinics, state or university hospitals and local clinics - hampers the achievement of uniform standards. Moreover, it is of concern that the Forensic Medical Institute is not fully independent because of its reporting line direct to the Ministry of Justice.

A number of provincial Human Rights Boards have begun to carry out unannounced visits to places of detention in a number of provinces. Although a positive development, NGOs have raised doubts about the independence of such monitoring and of the Human Rights Boards in general (*see section on enforcement of human rights*). Nevertheless, it is to be hoped that this monitoring will represent a first step towards establishing fully independent monitoring as recommended by the CPT and the UN. Turkey signed the Optional Protocol to the UN Convention against Torture (OPCAT) in September 2005. This protocol provides for a system of regular visits to places of detention by complementary international and national independent expert bodies.

Allegations of extra-judicial killings have increased, particularly in the context of the deteriorating security situation in the Southeast (*see section on East and Southeast*). In November 2004, a father and his 12-year-old son were killed by Special Forces during operations in the Kızıltepe district of Mardin. The Parliamentary Human Rights Investigation Committee sent a delegation to Kızıltepe and concluded that the security forces had used excessive force. Following the incident the Deputy Security Director and 3 members of the specialforces were suspended from duty. However, since the start of their trial these individuals have been returned to duty in different provinces. Regional Bar Associations and human rights NGOs have questioned the transparency and fairness of the ongoing trial. Moreover, members of the Human Rights Association are currently standing trial in relation to a report they prepared regarding this incident.

The CPT report on its March 2004 visit to Turkey has not yet been authorised for publication.

With regard to the **prison system** the major development was the adoption of the new Law on the Execution of Sentences in December 2004. Despite some shortcomings, the Law and its secondary legislation – notably the Law on the Establishment of Probation Centres, adopted in July 2005 - introduces modern concepts such as community service and probation into Turkish law. A regulation on the rules and procedures for visiting convicts and detainees was published in June 2005 (*see also section on the justice system*). A number of rehabilitation, cultural and social and educational activities are ongoing in prisons.

According to official sources, in May 2005 there were 58 670 persons in prisons and detention houses. Of these, 31 812 were convicted prisoners and 26 858 were prisoners detained on remand. By May 2005, 14 431 prisoners had been released as a result of changes to the law brought about by the adoption of the new Penal Code.

Regarding prison conditions in Turkey, there has been significant progress in recent years, but there is a need to continue expanding best practice to all prisons throughout the country as some remain overcrowded and under-resourced. The Parliamentary Human Rights Investigation Committee published a report on Tekirdag F-type prison in March 2005 and concluded that there were problems with the structure and administration of the prison.

The 131 Monitoring Boards, whose work focuses on living conditions, health, food, education and the rehabilitation of prisoners, continued to carry out inspections. By June 2005, these boards had made 1 247 recommendations, of which 532 had been acted upon. The Boards paid visits to 419 prisons between October 2004 and May 2005. Their composition still does not include a significant representation from civil society and their reports remain confidential.

In the last quarter of 2004, the 141 Enforcement Judges received 830 complaints on actions involving prisoners and detainees. Of these applications, 83 have been accepted and acted upon, 4 have been partially accepted and acted upon, 679 have been rejected and 64 have

resulted in other decisions, such as non-jurisdiction of the Enforcement Judges. Training of Enforcement Judges is ongoing.

With regard to **freedom of expression**, the situation of people sentenced for the expression of non-violent opinion continues to be addressed. The Turkish authorities have reported that a significant number of persons serving prison sentences under articles of the old Penal Code have been set free. Both the authorities and a number of NGOs report that there has been a continued reduction in the number of prosecutions and particularly convictions in cases related to freedom of expression. Nevertheless, there are a number of new cases where individuals expressing non-violent opinions have been prosecuted and convicted, including under provisions of the new Penal Code.

In May 2005 several amendments to the new Penal Code were adopted, which improved certain provisions related to freedom of expression. The aggravated sentences envisaged for a number of offences committed through the media were removed from many, but not all, of the articles including such provisions. Moreover, according to the amendments, acts of expression which have the purpose of providing information and/or which aim at criticism should not be criminalised. The scope of Article 125 on defamation was narrowed slightly. The reasoning associated with Article 305 (offences against fundamental national interests) was deleted. However, a number of articles which have been used to restrict freedom of expression in the past, and remained virtually unchanged in the new Code, were not addressed in the context of the May 2005 amendments. These and other articles still constitute a potential threat to freedom of expression given their broad margin of appreciation.

This is particularly the case with regard to a number of vaguely worded articles which refer to offences against symbols of state sovereignty, the reputation of state organs and national security. In practice, Article 301 of the new Penal Code (formerly Article 159, “insulting the State and State institutions”), has been used by some in the judiciary to prosecute and, in some cases, convict, individuals. This is despite the fact that the article has been amended in such a way as to permit criticism.

In August 2005 a public prosecutor in Istanbul brought a case against the novelist Orhan Pamuk under Article 301 in relation to remarks he had made to a Swiss newspaper regarding the killings of Armenians and Kurds in Turkey. The prosecution was initiated despite the fact that an earlier investigation by another prosecutor had been dropped following a different interpretation of the same article. In April 2005 a sub-governor of Sutçuler (province of Isparta) had ordered the destruction of all Pamuk’s books, but the order was not carried out and the official in question was reprimanded. In October 2005, Hrant Dink, the editor of the bilingual Armenian/Turkish weekly newspaper, Agos, was convicted under Article 301 and given a suspended six month prison sentence in relation to an article he had written on the Armenian diaspora. Dink, who faces a further trial in relation to a speech he gave at a conference in 2002, intends to appeal the court’s decision. In September 2005, Emin Karaca was convicted under Article 301 in relation to an article he wrote which criticised the past actions of the Turkish military. His five month prison sentence was commuted to a fine. Ragip Zarakolu, a prominent writer and publisher, still has a number of outstanding cases against him in connection with his publications on the Kurdish and Armenian issues; two cases relating to publications on the Armenian issue have been brought on the basis of Article 301.

In assessing whether to bring cases which impinge on the right to freedom of expression, the judiciary should consider whether the expression incites violence, armed rebellion or enmity, what the capacity of the individual or group is to influence the public and what kind of

opportunity the target of the expression has to respond. There are examples of the judiciary exercising such reasoning: for example, the Court of Cassation overturned the prison sentence of columnist Selahattin Aydarin in October 2004, stating in its decision that it is not an offence to describe people who defend secularism as ‘atheists’.

However, the abovementioned Article 301 cases raise serious concerns about the capacity of certain judges and prosecutors to make decisions in accordance with Article 10 ECHR and the relevant case law of the ECtHR. If the code continues to be interpreted in a restrictive manner, then it may need to be amended in order to safeguard freedom of expression in Turkey. In this context court proceedings based on Article 301 will be closely monitored.

There has been some progress on open and free debate in general. A conference entitled ‘Ottoman Armenians during the collapse of the Empire: Scientific Responsibility and Issues of Democracy’ took place at Bilgi University in late September 2005. The conference, which had initially been due to take place in May 2005 at Bosphorus University, had been postponed by the organisers following a critical speech by the Minister of Justice in the Turkish parliament. Moreover, the location of the delayed conference was changed at a late stage following a decision by an Istanbul administrative court to prevent it from taking place at Bosphorus University. Notwithstanding these obstacles, the fact that this conference was held, with the participation of different viewpoints and the public support of the Prime Minister and government, was an important step.

According to the Turkish Publishers Association, the publication of books related to sensitive issues, such as the Kurdish and Armenian questions, is reportedly easier than in the past and when cases are brought against authors or publishers acquittals are more common. However, books focusing on these issues are in some cases still banned and individuals are occasionally convicted.

Recourse to legal action against cartoonists and satirists, including by the Prime Minister, is of concern. In June 2005, in such case, a journalist was sentenced to 3 months imprisonment.

As regards freedom of **the press**, there have been some positive developments, such as acquittals and a number of releases, as a result of the adoption of the new Press Law and the new Penal Code, although, as indicated above, journalists continue to face prosecution and are sometimes convicted for the expression of non-violent opinion. According to the Turkish Press Council there are no journalists currently imprisoned in relation to their work.

In addition to the abovementioned problematic articles in the new Penal Code, a number of other articles are retained which are of specific concern to journalists and which could, in particular, create a climate of self-censorship damaging to freedom of the press, information and expression. Several of these articles seem to contradict the new Press Law, which had aimed at “avoiding prison sentences in cases of offences committed through the press.” Article 285 foresees a sentence of four and a half years imprisonment in the case of a “violation of the confidentiality of an investigation”, while Article 277 envisages two to four years in prison for those convicted of attempting to “sway the justice system.” Both articles could be used against journalists covering court proceedings. Under Article 216, defamation through the press with the aim of exposing someone to a judicial investigation is punishable by a one to four-year prison sentence.

In response to fears about restrictions on freedom of the press in the new Penal Code, the Press Council established a new Legal Assistance and Support Service in June 2005. This Service will reportedly provide a lawyer free of charge to journalists facing charges brought against them under provisions of the new Code. The Service will also designate an observer to

follow court cases involving journalists. According to International PEN, there are currently an estimated 60 writers, publishers and journalists under judicial process in Turkey.

Journalists still encounter difficulties in their efforts to form a trade union.

With regard to **broadcasting**, limited progress has been made during the past year. There are still strict time limits for broadcasts in languages and dialects other than Turkish, although programmes continue to be broadcast by the national state broadcasting corporation, TRT. Eleven applications have been made by local broadcasters to broadcast in languages and dialects other than Turkish, but none have received a response from the High Audio Visual Board (RTÜK), which claims that it has not received the necessary documentation to process the applications. Some of these applications have been pending since July 2004.

The Broadcasting Law (RTÜK Law) is still frequently invoked by RTÜK to impose heavy penalties, including fines and the suspension or cancellation of programmes or broadcasting licenses. In May 2005, RTÜK ordered the suspension of various programmes on private TV channels, while a number of others have faced sanctions or warnings. The monitoring of local broadcasts by the police on behalf of RTÜK has continued.

In some cases the courts have overruled RTÜK decisions. For example, in March 2005, RTÜK ordered the closure for 30 days of Radio Dünya (Adana), which had broadcast Kurdish music. However, in April 2005, the Council of State overruled a previous decision by RTÜK against the same station, ruling that it should not face sanctions for broadcasting Kurdish music.

An amendment to Article 133 of the Constitution was adopted in June 2005 by Parliament, with a view to changing the law such that members of RTÜK are elected by the political parties represented in Parliament. In July a new RTÜK board was elected (*see Chapter 20: Culture and audiovisual policy*).

As regards **freedom of association**, the new Law on Associations entered into force in November 2004. As outlined in last year's report, the Law is important in reducing the possibility for state interference in the activities of associations and has already begun to bring a number of practical benefits for associations, thus facilitating the further development of civil society in Turkey.

However, the March 2005 regulation, detailing the implementing rules for this Law, imposes restrictions on the registration of associations whose name and/or objectives are considered to be contrary to the Turkish Constitution. This is of particular concern in relation to constitutional articles referring to the integrity of the state or the interpretation of the principle of secularism. In practice, this means that, in contravention of Article 11 ECHR (freedom of assembly and association), associations whose objective includes promoting a certain cultural identity or a particular religion will still not be able to register. Indeed, there have already been reports of such associations encountering difficulties when seeking to register officially.

The regulation also contains various notification procedures, particularly in relation to the receipt of finances from abroad. In practice, such requirements have created difficulties for some associations, which have encountered significant delays in the receipt of funds. The implementation of such procedures will have to continue to be closely followed in order to assess their compatibility with Article 11 ECHR.

Under the Law on Associations, foundations are subject to the same procedures regarding funding from abroad, meaning that they should no longer require permission to receive such funds. However, according to a January 2005 circular from the Ministry of Interior, their statute must contain a clause granting them permission to receive these funds.

The Department of Associations has now taken over responsibility for associations from the Directorate General of Security in all 81 provinces. While the local associations desks are now located within the governors' offices, the personnel working for these desks are often the same as those who had previously worked for the Directorate General for Security.

Notwithstanding the remaining restrictions on the registration of associations under the new regulation, some associations established on the basis of race, ethnicity, religion, sect, region, and other minority groups have been able to register. For example, in December 2004 the Ankara Kurdish Democracy, Culture and Solidarity Association was finally registered following an amendment to its statute.

The Kurdish Writer's association, which faced charges on the grounds that it held a meeting with representatives of the European Commission in May 2004 without seeking prior permission, was acquitted by a court in Diyarbakir in October 2004.

However, the new legislation is not yet being consistently and uniformly implemented. For example, in some regions NGOs complain that they are still required to notify association desks in order to conduct cultural activities, panels or meetings even though this is no longer a legal requirement.

In September 2005, the registration of Kaos GL Gay and Lesbian Cultural Research and Solidarity Organisation was temporarily blocked by Ankara's Deputy Governor. In a letter to the association and to the local prosecutor, he noted that the Civil Code proscribes the establishment of an association which is "contrary to law and morality". However, the prosecutor decided not to pursue the case, concluding that homosexuality cannot be equated with immorality.

Human rights defenders continue to encounter significant judicial harassment in practice, as illustrated by the number of open investigations and prosecutions. For example, since August 2004, 50 court cases and 3 investigations have been launched against the Human Rights Association. In the report on her October 2004 visit to Turkey, published in January 2005, the UN Special Representative for Human Rights Defenders "expresses grave concern with the large number of prosecutions filed against human rights defenders and their organizations". A new article in the Code of Criminal Procedure, preventing human rights lawyers from representing defendants accused of certain crimes if they are themselves being investigated under particular articles of the Turkish Penal Code, is of particular concern in this regard (*see section on the judicial system*). In April 2005 a number of members of the Human Rights Association received death threats, which are being investigated by the authorities.

Both associations and foundations continue to encounter difficulties if they conduct work that is not considered to be in conformity with their statute, or if their statute is considered to be in contravention of the Constitution. In July 2005, the Kurdish Democracy, Culture and Solidarity Association in Diyarbakir was closed pending the outcome of a trial launched in connection with a statement in its statute relating to education and broadcasting in Kurdish. Moreover, certain foundations have been prevented from using European Commission grants because the project proposal was considered to go beyond the parameters of their statutes.

In May 2005, the Court of Cassation ruled to close the teachers' union Eğitim Sen, on the grounds that a clause in its statute calling for education in mother tongue languages was in contravention of the Turkish Constitution. The legal action against the union was initiated by the Ministry of Labour and Social Security, under pressure from the General Staff, in June 2003. In September 2004 and February 2005 the Ankara Labour Court ruled in favour of Eğitim Sen, arguing that the Turkish Constitution should be interpreted in accordance with the

ECHR, and that a decision to close down the union was not in compliance with Articles 10 (freedom of expression) and 11 (freedom of association) of the Convention. The May 2005 decision of the Court of Cassation reversed this ruling, stipulating that “freedom of association can be limited for the protection of national security, integrity of the country and public order” and that “Turkish citizens cannot be provided education in a language other than Turkish”. The union has withdrawn the clause on mother tongue education pending the outcome of an application to the ECtHRs for an interim measure to block the union’s closure (*see also sections on the judicial system and trade unions*).

As regards the right to **peaceful assembly**, while public demonstrations are subject to fewer restrictions than in the past, a number of incidents have raised concerns. In several regions brutality by the security forces has been alleged in the context of demonstrations and outdoor NGO press statements.

During a demonstration marking international Women’s Day in Istanbul on 6 March 2005, police intervened with disproportionate force, using tear gas and truncheons and injuring a number of participants. The government quickly conveyed the message that such behaviour on the part of the police is unacceptable. Following the incident, the Ministry of Interior demoted and fined 6 policemen and reprimanded 3 senior officials. A judicial investigation, launched by the Istanbul Public Prosecutor, is ongoing.

Following this incident, in April 2005 the Ministry of Interior issued a circular, reminding governors of the importance of implementing the August 2004 circular, which sought to prevent the use of disproportionate force by members of the security forces and ensure appropriate sanctions when excessive force is used. The new circular emphasises the need for the inspection body within the Ministry of Interior to exercise more vigilance in ensuring consistent implementation. In practice the implementation of such circulars varies considerably from province to province. A meeting was convened in Ankara in March by the authorities with the governors of all Turkish provinces with a view to raising awareness regarding the implementation of reforms in the area of peaceful assembly.

In apparent contravention of the June 2004 circular regarding demonstrations, marches and press conferences, NGOs continue to report that the police video-tape their outdoor, and occasionally indoor, meetings.

As regards **political parties**, in February 2005 the Court of Cassation rejected a case, brought in March 2003 by the General Prosecutor, requesting the closure of seven political parties. However, closure cases relating to the Turkish Communist Party (TKP), the Rights and Freedoms Party (HAK-PAR) and the Democratic People’s Party (DEHAP) are ongoing. 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. Political parties are still restricted from using languages other than Turkish (*see section on cultural rights*).

With respect to **freedom of religion** only very limited progress has been made since October 2004 in terms of both legislation and practice. Despite improvements in the legislation governing associations, the current legal framework still does not recognise the right of religious communities to establish associations with legal personality in order to promote and protect their religions. In practice non-Muslim religious communities continue to encounter significant problems: they lack legal personality, face restricted property rights and interference in the management of their foundations, and are not allowed to train clergy. The non-Sunni Muslim Alevi community continues to experience difficulties in terms of recognition of places of worship, representation in relevant state bodies as well as in relation to compulsory religious education.

Work is ongoing on a Law on Foundations, which is currently before the Turkish Parliament. Although such a law has the potential to deliver improvements for those non-Muslim communities with foundations, in its current form, it falls short of European standards. Religious pluralism more generally will only be guaranteed through the creation of a clear and comprehensive legal framework which establishes the conditions for the functioning of all religious communities.

The Council of State has made some positive decisions in relation to freedom of religion. Most importantly, in June 2005, it issued a ruling which should significantly narrow the scope for the Directorate General for Foundations (DG Foundations) to take over the management of a foundation and thereby effectively confiscate its property. The decision overturned the decision of the DG Foundations to assume the management of the Büyükada Greek Girls' and Boys' Orphanage Foundation in 1997 on the grounds that it no longer fulfilled its charitable services. In September 2005, the DG Foundations appealed against this decision. To date, the foundation remains 'fused' (management assumed by the DG Foundations). In the same month, the Council of State also issued a ruling in favour of a radio station broadcasting programmes on Christianity and established equal treatment for Mosques and Christian churches as regards free access to water.

Further efforts have been made to ensure that places of worship other than mosques can open and function. In October 2004 Istanbul's main synagogue was reopened following last year's bombing, with an official ceremony attended by the Prime Minister. In June 2005 the Protestant church in Diyarbakir was finally able to register as a place of worship and in March 2005 a Protestant church was established as an association in Ankara. In May 2005 the Bahai community's request to renovate its garden was approved and in December 2004 a complex comprising a mosque, church and synagogue – "the garden of religions" – was opened in Belek.

Religious foundations continue to be subject to the interference of the Directorate General for Foundations, which is able to dissolve the foundations, seize their properties, dismiss their trustees without a judicial decision and intervene in the management of their assets and accountancy.

A Regulation on the Methods and Principles of the Boards of Non-Muslim Religious Foundations, adopted in June 2004 has reportedly not been implemented in response to requests by the Armenian community to conduct elections in accordance with the new rules.

As regards property rights, of the 2 285 applications for registration of property in line with the January 2003 Regulation, 341 have been accepted. Applications could only be made by the 161 minority foundations listed in the Regulation. Given the religious communities' lack of legal status, their existing properties are permanently at risk of being confiscated and attempts to recover property by judicial means encounter numerous obstacles. A number of non-Muslim religious communities are still not entitled to establish foundations, including the Catholic and Protestant communities, and are thus deprived of the right to register, acquire and dispose of property.

Recent developments suggest that there has been increased pressure from the State authorities, including from the Directorate General for Foundations and the Treasury. Tenders have been organised with a view to selling to third parties property which had been confiscated from non-Muslim religious foundations. For example, a number of tenders were launched in July 2005 in relation to property belonging to Greek Orthodox foundations in Istanbul which were 'fused' or transferred to the Treasury in the past. Although these tenders did not result in sales, they are of particular concern because they coincide with the Parliament's consideration of the draft Law on Foundations, which foresees the return of such

properties to the communities concerned, but does not, in its current form, envisage compensation for properties sold to third parties.

The friendly settlement in the case of the Institut de Prêtres français¹⁴ dating from 2000 has yet to be executed. It has not yet been possible to establish an association in whose name the right to usufruct may be registered on behalf of the Institut.

The continued ban on the training of clergy means that non-Muslim religious minorities are likely to encounter difficulties in sustaining their communities beyond the current generation. Although in October 2005 the Minister for Education noted that he was opposed to the continued closure of the Greek Orthodox Halki (Heybeliada) seminary, which has been closed since 1971, no steps have yet been taken to facilitate its reopening. Nationality criteria restrict the ability of non-Turkish clergy, such as the Syriacs and Chaldeans, to work for certain churches. Public use of the ecclesiastical title of Ecumenical Patriarch is still banned and the election of the heads of some religious minority churches is still subject to strict conditions. Non-Turkish Christian clergy continue to experience difficulties with respect to the granting and renewal of visas and residence and work permits.

Religious textbooks have been redrafted in order to address the concerns of Christian minorities. However, it is still not possible for clergymen and graduates from theological colleges to teach religion in existing schools run by minorities.

Some non-Muslim religious communities have been subject to violent or threatening harassment since last year, particularly from extremist groups. For example, in October 2004, the Patriarchate in Istanbul was subject to a bomb attack, which fortunately did not result in casualties. Since January 2005 there have been several attacks on Protestant churches. In March 2005 the Presidency of Religious Affairs (Diyanet) approved a sermon which was hostile towards missionary activities.

As far as the situation of non-Sunni Muslim communities is concerned, there has been no change. In particular, Alevi¹⁵ continue not to be officially recognised as a religious community and they are not officially represented in the Diyanet. They still experience difficulties in opening places of worship - their places of worship, 'Cem' houses, have no legal status - and they receive no funding from the authorities. In January 2005 the Alevi community was refused permission to build a 'Cem' house in Ankara on the grounds that it could not be considered as a place of worship. Although Alevi have been increasingly vocal in their demands, the authorities, in particular the Diyanet, have not accepted the need to change current practice.

Alevi children are subject to compulsory Sunni religious instruction in schools, which fails to acknowledge their specificity. The parents of an Alevi child currently have a case regarding compulsory Sunni religious education pending before the ECtHR. In February 2005, the Ministry of Education indicated that Alevism and other faiths such as Christianity and Judaism would be included in compulsory religious education from next year.

The Council of Europe's European Commission against Racism and Intolerance (ECRI) third report on Turkey, which was published in February 2005, recommends that religious instruction should be optional or encompass all religious cultures. It also recommends the abolition of the requirement to indicate religion on ID cards. The recommendations of the

¹⁴ Case of Institut de Prêtres français vs. Turkey (Application no 26308/95).

¹⁵ Estimated population of 12-20 million.

ECRI report were officially presented in Istanbul at a roundtable with civil society in June 2005.

Economic and social rights

There has been little progress regarding *women's rights*, although the entry into force of the new Penal Code delivers some important improvements, as reported last year. The main areas of concern for women in Turkey continue to be domestic violence, "honour killings," a high illiteracy rate, and low participation in Parliament, local representative bodies and the labour market. This was also the conclusion of the recent European Parliament Report on Women's Rights and Gender Equality¹⁶, which formulates a number of concrete proposals for improving the situation. Implementation of existing legal reforms, including the Law on the Protection of the Family, remains inadequate.

In a positive development, the Law establishing the Directorate General for the Status and Problems of Women entered into force in November 2004, although further efforts will be required to strengthen its institutional capacity. In 2005, in cooperation with the United Nations Population Fund (UNFPA), it launched a nationwide awareness campaign regarding violence against women.

In August 2005 a regulation was issued on the establishment of an Advisory Board on the Status of Women. The Board, which comprises representatives from all Turkish ministries as well as individuals from relevant academic institutions and NGOs, will provide advice on the planning and implementation of state policies related to the status of women and the functioning of the Directorate General for the Status and Problems of Women.

A Parliamentary Committee on Women's Rights and Gender Equality and a Committee on Violence against Women and Children were established. The latter will focus, inter alia, on the causes of, and means of preventing, "honour killings" (*see section on the promotion and enforcement of human rights section*).

In Turkey there is still a high incidence of physical and psychological abuse within the family; sexual abuse, forced and often early marriages, unofficial religious marriages, polygamy, trafficking and "honour killings" continue to be reported. An absence of statistical data on such violence, coupled with a lack of effective monitoring for victims, obstructs efforts to tackle the issue.

The courts are starting to apply relevant provisions of the new penal code. In August 2005, the Court of Cassation overturned the decision of a lower court, which had reduced a prison sentence in relation to an honour crime because the perpetrator was inter alia 'provoked' by the victim. The decision made reference to the fact that the new penal code does not foresee reduced sentences for such crimes. In October 2005, courts imposed maximum sentences (life imprisonment) in relation to two separate "honour killing" cases.

There is an urgent need to ensure implementation of the Law on the Protection of the Family as the security forces still often fail to investigate women's complaints of violence. In particular, further training for staff dealing with the victims of domestic violence - such as social workers, law enforcement officers, health care providers and the judiciary - is required and resources offering advice for those falling victim to such abuse should be made more widely available.

¹⁶ Report on the role of women in Turkey in social, economic and political life, Committee on Women's Rights and Gender Equality A6-0175/2005, 10 June 2005.

While the number of women's shelters in Turkey has increased since last year, there remains an urgent need to further increase the provision of such shelters. In this regard, it is to be hoped that the provision in the Law on Municipalities, adopted by Parliament in July 2004, obliging all municipalities with a population greater than 50 000 to provide a shelter, will be fully implemented with adequate financial and technical support from the central authorities. In April 2005, the Minister of State for Women's Affairs issued a circular aimed at improving security for the residents of women's shelters by guaranteeing confidentiality. The 13 shelters currently operating should ensure that their functioning is in line with this circular and, more generally, with international standards.

In spite of various legal and practical initiatives, the problem of discrimination on the basis of gender remains a cause for concern. Women remain vulnerable to discriminatory practices, due largely to a lack of education and a high illiteracy rate (about 20% of women in Turkey are illiterate and in the Southeast this figure is considerably higher). Although eight years of education is mandatory, more than half a million girls do not attend school each year. In the Southeast, only 75.2% of girls are enrolled in primary education, while this figure is 91.8% for the whole country¹⁷. However, further to a 2003 UNICEF campaign aimed at promoting education for girls, mentioned in last year's Regular Report, approximately 113 000 girls have returned to primary education. The private sector, including some national newspapers, has started to organise similar campaigns.

The widespread practice of the non-registration of girls in population records in some parts of the Southeast contributes to this situation. In the classroom, the portrayal of women in school text books often reinforces discriminatory attitudes against women. According to the authorities, the 'Human Rights in Textbooks' project, which aims to remove discriminatory and patriarchal references from school textbooks, has been completed. However, the revised textbooks are not yet in use.

Participation by women in the workforce is still among the lowest in OECD countries, at 25.4%. Many women still work in the informal sector and are therefore not covered by social security. However, women's participation in certain professions is relatively strong; approximately 30% of lawyers, academics and doctors are women. In July 2005 a woman was, for the first time, elected President of the Constitutional Court. Turkey has not yet accepted Article 8 of the European Social Charter on the right of employed women to the protection of maternity.

With respect to **children's rights**, the right to education of children, in particular of girls, is not respected in some regions, and school attendance is particularly low in rural areas in the Southeast.

Although the Turkish Labour Law prohibits the employment of children under the age of 15, there are still several shortcomings as regards the scope of application of the law (*see Chapter 19 - Social policy and employment*).

A new Law on the Protection of Children, adopted in July 2005, established for the first time 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. While the Law is a welcome development, it does not fully comply with international standards as concerns child specific legislation, in that the provisions related to juvenile offenders (aged 12 to 18) still fall under the ordinary penal framework (*see section on the judicial system*)

¹⁷ UNICEF Gender Review in Education – Turkey 2003.

Turkey has still not accepted Article 7 (“the right of children and young persons to protection”) and Article 17 (“the right of mothers and children to social and economic protection”) of the European Social Charter. Furthermore, the periodic report on the implementation of the UN Convention on the Rights of the Child, due in May 2002, has still not yet been received by the UN.

Some steps were taken to address the persistent problem of street children. A Parliamentary Committee for Street Children was established in November 2004 and issued several reports with policy recommendations. An inter-ministerial committee composed of representatives from the Ministries of Interior, Justice, Education, and Health as well as the State Ministry for Women and Family Affairs was established to tackle the issue of children working and/or living on the streets. Following the establishment of this Committee, a circular was issued by the Prime Minister’s Office in March 2005 introducing a pilot scheme for such children in eight provinces. The model aims at providing medical care, rehabilitation and education for these children and at their re-integration into society.

Regarding juvenile justice, the three specialised reformatories and sixteen juvenile courts in Turkey are insufficient to deal with current needs. The above mentioned Law on the Protection of Children adopted in July requires the establishment of juvenile courts in every province.

As regards the **rights of disabled people**, a new Law on Disabled People was adopted in July 2005. The Law stresses inter alia the need to combat discrimination against the disabled and, referring to the new Turkish Penal Code, notes that discrimination based on disability is a crime (*see chapter 19 –employment and social affairs*).

Turkey has no mental health law and community care for the mentally disabled is scarce, with the result that individuals are often unnecessarily institutionalised. The use of electroconvulsive or “shock” therapy (ECT) without anaesthesia has been reported. There are also reports of a lack of rehabilitation treatment, the unnecessary use of physical restraints and the inadequate feeding of persons in rehabilitation centres and orphanages. Turkey has still not accepted Article 15 of the European Social Charter on the rights of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement.

With respect to **trade unions**, significant constraints remain on the right to organise and the right to collective bargaining, including the right to strike. Turkey still falls short of ILO standards.

In the private sector the issue of collective bargaining and strikes is regulated by two laws, slightly amended in 2001, which date back to the early 1980s. These laws require the existence of two basic conditions for allowing a trade union to sign a collective agreement at enterprise level: it must represent at least 50% of workers within a company and 10% of workers within the relevant sector nationwide. The current legislation also provides for particularly cumbersome procedures for workers and employees to enrol in trade unions (for example, the obligation to register via a notary).

In the public sector, the Public Employee Trade Union Law of 2001, amended in 2004 contains major shortcomings, as it prevents some groups of public employees from joining trade unions, and maintains significant restrictions on the right to strike and to collective bargaining. A circular issued by the Prime Minister’s Office in June 2005 with the aim of facilitating the activities of public sector trade unions does not address these shortcomings. However, the collective negotiations of August 2005, which resulted in an agreement between the government and the confederations of public employees unions and the state contributions

to the trade union membership fees can be regarded as positive developments in this field (*see also Chapter 19 - Social policy and employment*).

The new Penal Code provides for imprisonment for those who use force and threaten others regarding membership of, or participation in, trade union activities. It also envisages imprisonment where trade union activities have been hindered illegally. However, there have been reports of workers being fired, or public sector employees moved to different jobs, because of their trade union activities.

A serious violation of trade union rights occurred in 2005, in relation to the largest teachers' trade union in Turkey, Eğitim Sen, when in May the Court of Cassation found an article of its statute supporting the right to be educated in one's mother tongue to be in breach of the Constitution and ruled that the union should be closed down (*see section on freedom of association*).

Turkey falls short of certain International Labour Organisation (ILO) standards. Although it has signed and ratified the ILO Conventions in this field - No87 (Freedom of Association and Protection of the Right to Organise), and No98 (Right to Organise and Collective Bargaining) - domestic legislation has not been adapted accordingly, as described above. Turkey has not yet accepted Article 5 ("right to organise") and Article 6 ("right to bargain collectively" including the right to strike) of the European Social Charter. Turkey signed the Revised European Social Charter in October 2004, but has not yet ratified this.

As a result of legal restrictions, a very limited number of collective agreements have been signed in enterprises, leaving most of the labour force unprotected by collective agreements. Limited or no social dialogue exists in most private enterprises.

Minority rights, cultural rights and the protection of minorities

Turkey's approach to minority rights remains unchanged since last year's report. According to the Turkish authorities, under the 1923 Treaty of Lausanne, minorities in Turkey consist exclusively of non-Muslim communities. The minorities usually associated 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.

In October 2004 a report released under the auspices of the Human Rights Advisory Board – a state body which reports to the Office of the Prime Minister - questioned the policy on minorities and communities, highlighting in particular the restrictive interpretation of the 1923 Treaty of Lausanne and encouraging Turkey to align its policy with international standards. The report also called for a review of the Turkish Constitution and all related laws to give them a liberal, pluralistic and democratic content with a view to guaranteeing the rights of people with different identities and cultures to protect and develop these based on equal citizenship.

The report provoked a lively debate within Turkey. However, it was of concern that an investigation was subsequently launched against the author of the report and the chairman of the Board and that those directly responsible for the report resigned, claiming that their positions were untenable. The Board has not been operating since this time.

In this context, Turkey's reservation to 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 education¹⁸, are of concern. These could be used to prevent further progress on the protection of minority rights. In particular, it is to be hoped that Turkey's reservations to the Covenants will not mean that the rights guaranteed under these articles are limited only to those communities mentioned in the provisions and rules referred to in the reservations.

In February 2005 the OSCE High Commissioner on National Minorities (HCNM) visited Ankara on Turkey's invitation in order to follow up on his 2003 visit. However, little progress was made in expanding the dialogue beyond the abovementioned traditional approach and that the HCNM's proposal to visit the Southeast of Turkey was not accommodated. The resumption of talks with the HCNM on a broader basis would help to facilitate Turkey's further alignment with best practice in EU Member States.

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. It has not yet ratified Additional Protocol No 12 to the ECHR on the general prohibition of discrimination by public authorities. This is particularly important given that minorities are often subject to *de facto* discrimination, and encounter difficulties in acceding to administrative and military positions.

In January 2005, Governors' Offices under the Ministry of Interior assumed responsibility for a number of issues related to non-Muslim minorities – including their health, social, cultural and educational institutions – which had previously fallen under the responsibility of the Provincial Security Directorates. The transfer of relevant documents to the Governors' offices is reportedly ongoing.

Despite the work on the review of discriminatory language in schoolbooks, which has been ongoing for the past two years through the work of the National Committee of Education, the history textbooks for the 2005/06 school year still portrayed minorities as untrustworthy, traitorous and harmful to the state. In February 2005 the History Foundation, which is assisting this Committee, issued a number of recommendations, which, inter alia, call on the Ministry of Education to amend textbooks such that they promote an image of a pluralist society in which diversity is perceived as an asset, not a threat. In its recent report on Turkey, the European Commission against Racism and Intolerance (ECRI) encourages the authorities to “revise school curricula and textbooks... in order to heighten pupils' awareness of the advantages of multicultural society”.

As regards the dialogue with the authorities on the issue of dual presidency in the Jewish, Greek and Armenian schools (the deputy head of these schools is a Muslim representing the Ministry of Education and has more powers than the head) no progress has been made. The Greek minority continues to encounter problems obtaining approval for new teaching materials and the recognition of teachers trained abroad. The ECRI report encourages the authorities to take the necessary steps to ensure the proper functioning of minority schools.

¹⁸ 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 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.”

Moreover, in contravention of the 2003 Labour Law and in contrast with the situation of their colleagues of Turkish origin, Greek minority teachers are still only permitted to teach in one school. The training of Armenian language teachers is still not possible pending acceptance by the Turkish authorities of an Armenian department within an Istanbul university for the study of the Armenian language. Non-Muslim minorities not usually associated by the authorities with the Treaty of Lausanne, such as Syriacs, are still not permitted to establish schools.

In practice Greek citizens have problems inheriting property, despite the existence of a decree which appears to grant them such rights. At least one case has been lodged with the ECtHR in relation to this issue.

The Greek minority on the island of Gökçeada (Imvros) continues to encounter a number of difficulties. These relate, in particular, to the land registry and the designation of land and buildings as “monuments of nature or culture”, which has led to the confiscation of property. Moreover, there are reports of tenders being launched for land which was expropriated in the past and a former Greek minority school started operating as a hotel in June 2005 against the wishes of this minority. In April 2005 Prime Minister Erdogan visited the island for the first time and listened to the concerns of this community. In June 2005 a Turkish and a Greek member of the Council of Europe’s Parliamentary Assembly also visited the island and concluded that the Greek minority encounters a number of difficulties. The Turkish member expressed his intention to propose legislative changes to address these issues.

Legislation preventing Roma¹⁹ from entering Turkey as immigrants is still in force. Roma reportedly experience difficulties in accessing adequate housing, education, health and employment. During the past two years Roma-led advocacy organisations have been established in five Turkish cities. In cooperation with these organisations Istanbul’s Bilgi University has begun to conduct research aimed at mapping the exact number and location of Roma in Turkey and at establishing a clearer picture of the problems that they encounter. As regards the protection of **cultural rights**, there has been only limited progress since the last Regular Report. Broadcasting in languages other than Turkish, including Kurdish is ongoing, but significant restrictions remain (*see also section on broadcasting above*).

The teaching of Kurdish suffered a serious setback in August 2005 when the owners of all existing courses decided to close the 5 remaining schools, despite the fact that one of these – the school in Mardin - had opened as recently as April 2005. Two schools - in Adana and in Batman - had closed down earlier in the year due to financial difficulties.

The decision to close down these courses was motivated by several factors, including a lack of financial resources and restrictions concerning, in particular, the curriculum, the appointment of teachers, the timetable and the attendees. More generally, the course owners claimed that the demand for such courses is limited, particularly as it is necessary to pay for them.

The ECRI report encourages the Turkish authorities to revise Article 42 of the Constitution, which prohibits the teaching of any language other than Turkish as a mother tongue in state schools. The report at the same time highlights the importance of ensuring that sufficient provision is made for children whose mother tongue is not Turkish to learn the language. Moreover, the report emphasises the need to take comprehensive measures aimed at overcoming barriers to access to public services for those who do not speak Turkish.

¹⁹ The Roma population is estimated at between 500 000 and 2 000 000.

Despite a greater tolerance towards the use of the Kurdish language and the expression of Kurdish culture in its different forms during the past few years, tension rose in early 2005, due in part to continued violence in the Southeast (*see section on Southeast*). While this year's Newroz celebrations in March were authorised and peaceful in most provinces, an incident in Mersin related to the tearing of the Turkish flag by two children ignited certain nationalist reactions.

The judiciary's role in guaranteeing the right to use Kurdish is mixed. In May 2005 the Court of Cassation revoked a decision which had banned the use of Kurdish music during an election campaign. However, a Criminal Court in Diyarbakir ordered the confiscation of a number of music albums in January and February 2005 on the basis of Article 312 of the former Penal Code, claiming that the Kurdish language lyrics constituted propaganda in support of an illegal organisation. Moreover, problems continue to be reported concerning the registration of certain Kurdish names, and practice varies throughout the country.

There are still restrictions on the use of languages other than Turkish by political parties. In October 2005 a court sentenced DEHAP deputy leader Resit Yardimci to six months imprisonment for greeting a DEHAP conference in Kurdish in 2003. In May 2005 the trial of Abdulmelik Firat, Chairman of the Rights and Freedoms party (HAKPAR), began. He is accused of reading statements in Kurdish during a party meeting in January 2004. A number of similar cases, brought on the basis of the Law on Political Parties, are ongoing.

Concerning the **situation in the East and Southeast** of the country, where most people are of Kurdish origin, progress has been slow and uneven. In some cases, the situation has even deteriorated. While no comprehensive policy has yet been established to address the socio-economic and political problems in this region, it is notable that in August 2005 Prime Minister Erdogan met with several Kurdish intellectuals, visited Diyarbakir and emphasised the need to resolve through democratic means, what he described as "the Kurdish issue".

The *security situation*, which had gradually improved since 1999 has become more precarious since the resumption of violence by the PKK, an organisation which appears on the EU list of terrorist organisations. The level of violence has increased and armed clashes between the security forces and armed groups occur frequently leading to casualties including mortalities on the both sides.

Although the state of emergency rule has been lifted, a number of security measures, such as road blocks and checkpoints, have been reinstated in some provinces of the Southeast. This situation has had an impact on the lives of the population. In this difficult context there are concerns that the security forces sometimes respond inappropriately (*see section on torture and ill-treatment*).

The *Law on Compensation of Losses Resulting from Terrorist Acts* adopted in 2004 has started to be implemented although with considerable delay and uncertainty. The law expired on 27 July 2005, although the authorities are working to establish an extension. As of August 2005, the Turkish authorities reported that 173 208 applications had been lodged. So far, 2 200 decisions providing for compensation of losses have been made. As of March 2005, 212 000 YTL had been paid to 22 people whose applications were considered eligible by the evaluation commissions. In May the Ministry of Foreign Affairs issued a circular to the Governorates urging them to rigorously implement the Law on Compensation.

According to some sources, implementation of the Law has been slow. International NGOs as well as potential beneficiaries have highlighted that the system established by the Law has several shortcomings. Firstly, there is concern that the commissions responsible for assessing the damage include officials from the Interior Ministry who were responsible for the security

forces which inflicted the damage. Secondly, the conditions attached to eligibility for compensation are too strict and could leave a large number of potential beneficiaries outside the scope of the Law. This applies in particular to persons who were forced to destroy their own properties or sign a form attesting that they were leaving voluntarily. There is also a heavy burden of proof on applicants to provide documentation, including property titles, that in many cases never existed. Thirdly, the lack of legal support for applicants, coupled with the limited capacity of the commissions to process claims, undermines the overall efficiency of the system. Fourthly, the maximum threshold for compensation is too low and there is no time limit for the government to settle agreed claims. Finally, the absence of an appeal mechanism is also of concern.

The situation of *internally displaced persons (IDPs)* remains critical, with many living in precarious conditions. With a view to complementing the “Return to Village and Rehabilitation Programme”, the Turkish government proposed recently the establishment of a new governmental body, co-ordinated through a new unit in the Ministry of Interior, to develop policy on IDP return and coordinate implementation of the existing Programme, in accordance with the United Nations Guiding Principles on Internal Displacement. In July 2005 the authorities issued a circular encouraging the relevant Governors’ offices to continue to ensure the return of IDPs, raise public awareness of the return scheme and collaborate effectively with NGOs.

A survey to establish the scale of the original displacement and the current needs of the displaced is currently being conducted by the Hacettepe University’s Institute of Population Studies (HUIPS) and is expected to be published by February 2006.

There are approximately 1 500 applications pending to the ECtHR regarding displaced persons, which account for approximately 25% of all cases pending against Turkey. In June 2004 the Court ruled in favour of one group of applicants in a case concerning the denial of access to property in the Southeast, and in 2005 the Council of Europe began to consider Turkey’s compliance with the judgement²⁰ (*see section on execution of decisions of the ECtHR*).

Several factors hamper the return of IDPs: the continued relative economic underdevelopment of the East and Southeast, the absence of basic infrastructure, the lack of capital, limited employment opportunities and the security situation. In particular, the existence of a large number of landmines²¹ constitutes a strong disincentive to return. Reports suggest that landmines killed 20 people and injured 20 in the first seven months of 2005. 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 guards*. Reports indicate that village guards have on occasion attacked returning IDPs. Official figures state that 57 601 village guards are still on duty (as opposed to 58 551 last year). Moreover, although the Turkish authorities state that no village guards have been appointed since 2000, NGOs suggest that new village guards have been recruited in response to the increasing number of clashes between security forces and illegal armed groups. Reportedly, authorisation to return to villages is sometimes only granted if returnees are willing to serve as village guards.

²⁰ Case of Dogan and Others v. Turkey (Applications nos. 8803-8811/02, 8813/02 and 8815-8819/02).

²¹ Although many landmines have already been removed, international NGOs estimate the total number to be 900 000 units.

Very few individuals of Syriac-origin have been able to return from abroad. Those that have lost their Turkish nationality are not able to register their property in the framework of the ongoing land registry in the Southeast. In this context, there has been a worrying increase in the number of complaints from Syriacs in Turkey and abroad regarding the seizure of their uninhabited property by both citizens in the region and the land registry authorities. Moreover, those that do return continue to face harassment from the village guards.

1.3 Regional issues

Cyprus

The Turkish government has stated on several occasions that it remains committed to a comprehensive settlement in line with the plan presented by the UN Secretary General.

On 29 July 2005, Turkey signed the Additional Protocol adapting the EC Turkey Association Agreement to the accession of 10 new countries on 1 May 2004. At the same time, Turkey issued a declaration stating that signature of the Additional Protocol did not amount to recognition of the Republic of Cyprus. On 21 September, the EU adopted a counter-declaration indicating that Turkey's declaration was unilateral, did not form part of the Protocol and had no legal effect on Turkey's obligations under the Protocol. The EU declaration stressed that recognition of all Member States was a necessary component of the accession process. It also underlined the need for supporting the efforts of the Secretary General of the UN to bring about a comprehensive settlement of the Cyprus problem which would contribute to peace, stability and harmonious relations in the region.

Turkey has continued to impose its veto on Cyprus' membership of certain international organizations as well as its participation in the Wassenaar Agreement on the Code of Conduct on Arms Exports and on Dual Use Goods.

The ECHR case *Cyprus v. Turkey* is referred to in section 1.3 Human rights and protection of minorities.

Peaceful settlement of border disputes

Relations between Greece and Turkey have continued to develop positively.

There have been several high-level visits including that of the Greek Foreign Minister to Turkey in April 2005. New mechanisms have been established to defuse tension between the two countries including the establishment of a direct phone line between the Combined Air operation Centres in the Turkish city of Eskişehir and the corresponding authorities in the Greek city of Larissa. Additional confidence building measures have been taken, such as co-operation between military disaster response units, the organization of joint exercises, the participation of both countries' personnel in language courses of military institutions and the organisation of military sport competitions. The Chief Admiral of the Greek Naval Forces paid a 5-day visit to Turkey in January. The Turkish Land Forces Commander paid a visit to his Greek counterpart in June.

By August 2005, 31 rounds of meetings had been held at the level of MFA Undersecretaries in the context of the exploratory talks initiated in 2002.

A Protocol of Judicial Co-operation was signed by the Justice Ministers of both countries during a visit by the Turkish Minister of Justice and government spokesman to Athens in June 2005.

The Turkish and Greek Prime Ministers inaugurated jointly the start of the construction of the natural gas-pipeline between Karacabey (Turkey) and Komotini (Greece).

In April 2005, the President of Parliament expressed the view that Turkey could drop the reference to the “casus belli” versus Greece in relation to the possible extension of territorial waters, as stated in the resolution adopted by the Turkish Parliament in 1995. Foreign Minister Gül mentioned that he had no objections to erasing this reference. However, since then, there has been no follow up .

1.4 General evaluation

Political transition is ongoing in Turkey and the country continues to sufficiently fulfil the Copenhagen **political criteria**. Important legislative reforms have now entered into force and should lead to structural changes in the legal system, particularly in the judiciary. However, the pace of change has slowed in 2005 and implementation of the reforms remains uneven. Although human rights violations are diminishing, they continue to occur and there is an urgent need both to implement legislation already in force and, with respect to certain areas, to take further legislative initiatives. Significant further efforts are required as regards fundamental freedoms and human rights, particularly freedom of expression, women’s rights, religious freedoms, trade union rights, cultural rights and the further strengthening of the fight against torture and ill-treatment. In particular, Turkey should integrate better the reform process into the work of all public authorities. Turkey’s commitment to further political reforms should be translated into more concrete achievements for the benefit of all Turkish citizens regardless of their origin.

As regards *democracy and the rule of law*, important structural reforms have been put in place, particularly in the area of the functioning of the judiciary. The six pieces of legislation mentioned in the Commission’s 2004 recommendation entered into force. However, implementation on the ground remains uneven. On the one hand, several judgements suggest that the judiciary is increasingly acting in accordance with the case law of the European Court of Human Rights. On the other hand, there have been a number of decisions, in particular in relation to the expression of opinions on traditionally sensitive subjects, which have led to both prosecutions and convictions. Reforms concerning civil-military relations have continued, but the armed forces still exert significant influence by issuing public statements on political developments and government policies.

Concerning the *protection of human rights and minorities*, despite some progress, the picture remains mixed. As regards the fight against torture and ill-treatment further provisions have entered into force, adding to the comprehensive legislative framework already in place, and the incidence of such practice is diminishing. Nevertheless, reports of torture and ill-treatment remain frequent and those perpetrating such crimes still often enjoy impunity.

Legislative progress has been achieved with regard to the exercise of fundamental freedoms, notably through the entry into force of a new Penal Code and a new Law on Associations, and in practice both individuals and civil society organisations enjoy greater freedom than in the past. Nevertheless, individuals continue to be prosecuted and convicted for the expression of non-violent opinion and certain associations continue to face constraints on their activities. In this context court proceedings based on Article 301 will be closely monitored.

There are still reports of the security forces using disproportionate force in the context of demonstrations. As regards freedom of religion, despite some ad hoc measures, religious minorities and communities still lack legal personality. There is an urgent need to address their problems through the adoption of a comprehensive legislative framework in line with

European standards. Greater attention is being paid to women's rights, but violence against women remains a matter of serious concern.

Notwithstanding a greater tolerance for the use of languages other than Turkish, the exercise of cultural rights is still precarious. No local broadcasting in Kurdish has yet been authorised, Kurdish language courses have closed down and politicians continue to be convicted for using the Kurdish language in certain contexts. Turkey continues to adopt a restrictive approach to minorities and cultural rights.

Although there is a growing consensus on the need to address the economic, cultural and social development of the Southeast, little concrete progress has been made and the security situation has worsened since the resumption of PKK violence. Internally displaced persons continue to face a number of difficulties.

As regards *regional issues*, the Turkish government has stated on several occasions that it remains committed to a comprehensive settlement of the Cyprus problem in line with the plan presented by the UN Secretary General. Turkey signed the Additional Protocol adapting the EC Turkey Association Agreement to the accession of 10 new Member States on 29 July. At the same time, Turkey issued a unilateral declaration stating that this signature did not amount to formal recognition of the Republic of Cyprus. The EU adopted a declaration on 21 September indicating that Turkey's declaration does not affect Turkey's obligations under the Additional Protocol. The EU declaration stressed that recognition of all Member States was a necessary component of the accession process. It also underlined the need for supporting the efforts of the Secretary General of the UN to bring about a comprehensive settlement of the Cyprus problem which would contribute to peace, stability and harmonious relations in the region. Turkey has continued to impose its veto on Cyprus' membership to certain international organisations as well as to the Wassenaar Agreement on the Code of Conduct on Arms Exports and on Dual Use Goods. Relations between Greece and Turkey have continued to develop positively. However, despite 31 rounds of meetings since 2002, the parties have not yet been able to reach a comprehensive settlement of the outstanding border dispute.

2. Economic criteria

In its 2004 Regular Report, the Commission concluded that:

“Turkey has made further considerable progress towards being a functioning market economy, in particular by reducing its macroeconomic imbalances. Turkey should also be able to cope with competitive pressure and market forces within the Union, provided that it firmly maintains its stabilisation policy and takes further decisive steps towards structural reforms.”

In examining economic developments in Turkey since the first Regular Report, the Commission’s approach was guided by the June 1993 conclusions of the Copenhagen European Council, which stated that membership of the Union requires:

- the existence of a functioning market economy;
- the capacity to cope with competitive pressure and market forces within the Union.

In the analysis below, the Commission has followed the methodology applied in the previous annual Regular Reports.

2.1 Recent economic developments

Robust economic performance was underpinned by strong fiscal consolidation and rigorous monetary policies. Since mid-2004, macroeconomic trends have further improved, building upon the cumulative impact of successive rounds of structural reforms and crucially, the adoption of a responsive fiscal and monetary policy mix. Real GDP growth accelerated from 5.8% in 2003 to 8.9% year-on-year in 2004, helped by strong private consumption growth, which was driven by lower interest rates, increased consumer lending and a surge in private-sector investment in machinery and equipment. In the first half of 2005, growth slowed down to 4.5%, close to potential growth estimates, and was broadly equally distributed amongst expenditure components.

The slowing in growth of domestic demand occurred against the background of a temporary blip in private consumption in 2004, following pent-up demand, which had built up after the 2001-crisis. After a significant fall in consumer price inflation, from 21.6% in 2003 to 8.6% in 2004, the disinflation process continued. Consequently, annual inflation in September 2005 amounted to 8%. Fiscal discipline continued to be strong. On the back of primary budget surpluses of over 7.5% of GDP (based on EU accounting standards, ESA 95), the general government deficit fell from 9.7% in 2003 to 3.9% in 2004. General government debt fell from 87.2% in 2003 to just over 80% in 2004. Cash-based numbers suggest that similar trends sustained in the first half year of 2005. Vigorous economic growth, low inflation, a strong lira and falling interest rates caused imports to grow very strongly for over a year. In spite of merchandise exports growing at over 30% annually, external balances continued to widen. The trade balance widened in 2004 by EUR 6.8 billion to 19.2 billion or around 8% of GDP. In the first five months of 2005, the trade deficit (BOP) rose by another 27.3% in EUR terms. The 2004 current account deficit reached just over 5% of GDP, compared to 3.3% of GDP in 2003. In the first half of 2005, the current account gap widened to 6% of GDP. In 2004 and the first 5 months of 2005, large part of the deficit continued to be financed by short-term investment, mainly portfolio and short-term banking credits. Inflows of foreign direct investment (FDI) continue to be modest, with around 0.8% of GDP in 2004 (Treasury figures).

Turkey - Main economic trends (as of 7 October 2005)

		2000	2001	2002	2003	2004	2005	
Gross domestic product	ann. % ch	7.3	-7.5	7.9	5.8	9.0	4.5	1st half
Private consumption	ann. % ch	6.2	-9.2	2.1	6.6	10.1	4.2	1st half
Gross fixed capital formation	ann. % ch	16.9	-31.5	-1.1	10.0	32.4	12.4	1st half
Unemployment ¹	%	6.6	8.5	10.4	10.5	10.3	10.5	1st half
Employment ¹	ann. % ch	:	0.0	-0.3	-0.8	2.0	3.6	1st half
Wages	ann. % ch	55.8	31.8	37.2	23.0	13.4	12.5	1st half
Current account balance	% of GDP	-5.0	2.4	-0.8	-3.3	-5.2	-5.7	1st half
Direct investment (FDI, net)	% of GDP	0.1	1.9	0.5	0.5	0.7	0.7	1st half
CPI	ann. % ch	54.9	54.4	45.0	21.6	8.6	8.0	Jan-Sep
Interest rate (3 months)	% p.a.	47.2	74.7	50.5	37.7	24.3	20.4	Jan-Aug
Bond yield	% p.a.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	
Stock markets	Index	14458	10127	11013	12312	19899	27366	Jan-Sep
Exchange rate TRY/EUR	Value	0.58	1.09	1.43	1.69	1.77	1.69	Jan-Sep
Nominal eff. exchange rate	Index	74.2	41.5	31.1	27.5	26.8	28.0	Jan-July
General government balance ²	% of GDP	-6.1	-29.8	-12.3	-9.7	-3.9	:	
General government debt ²	% of GDP	57.4	105.2	94.3	87.2	80.1	:	

1: LFS data; 2: ESA 95 data.

Source: Eurostat, ECOWIN, national sources

In 2005, somewhat higher privatisation receipts, new real estate sales to foreigners and the sale of Tupras (15%), Eti Aluminium and PETKIM contributed to a moderate increase in net FDI. This might dramatically increase if the Turkish Telekom, Tupras (51%) and Galata Port privatizations are successfully completed and agreed upon by all relevant government bodies. In March 2005, the Constitutional Court's decided to annul provisions authorising real estate purchases to foreigners. So far, however, it remains unclear how this ruling would affect on capital inflows. In spite of some volatility linked to critical political events and decisions, the Turkish Lira remained particularly strong in recent quarters and appreciated by over 10% in real effective terms since mid-2004. *Despite some recent initiatives, in particular in the banking and tax sectors, a long agenda of reforms still needs to be completed.* Limited progress has been achieved in the structural reforms area. In the banking sector, a new banking law is likely to be adopted in October 2005 which enhances prudential regulations and supervision. Privatization intentions with the three State Banks (Ziraat, Halk and Vakif) have not led to any concrete results yet. Until this year, HSBC and Unicredito were the only foreign banks with an important presence. However, in the first half of 2005, BNP-Paribas, Fortis and ING purchased shares in major Turkish Banks. If all recent merger and acquisitions will be reflected in official statistics, the foreign stake in the total assets of the Turkish banking sector is now

**Turkey - Main indicators
of economic structure (2004)**

Population (average)	Million	71,152e
GDP per head	€ PPS	6500 f
	% of EU-25 average	29.0f
Share of agriculture in:		
- gross value added	% of total	11.1
- employment	% of total	34.0f
Gross fixed capital formation	% of GDP	18.0f
Gross foreign debt of the whole economy ¹	% of GDP	56.1
Exports of goods and services	% of GDP	29.1f
Stock of foreign direct investment ¹	Million €	17862
	€ per head	257.7
Employment rate	% of 15-64 age group	
Long-term unemployment rate	% of labour force	4

1: 2002; e: estimate; f: forecast; Source: Eurostat

reckoned to be over 12%. In June 2005, the government has adopted a new Tax law, which restructures the tax administration, and is part of a larger tax reform initiative aiming at widening the tax base, reducing the informal economy and improving the business and investment climate. The corporate tax rate was reduced from 33% to 30% at the beginning of 2005. At the same time, the highest tariff rate on income tax has been reduced by 5 percentage points and VAT rates on some specific goods and services were reduced. In spite of the fact that the legal framework liberalizing backbone infrastructure services has been in place since some years, such services are provided at relatively high cost, due to obstacles to free and fair competition which have so far been blocking the outright privatisation of power plants and distribution networks.

In 2004, some progress in real convergence with EU per capita income levels has been made, but the agenda remains long. Turkey is characterized by significant inequalities in terms of income, health, access to education, labour market and other living conditions, as well as marked regional and rural/urban disparities. Turkey's GDP per capita in purchasing power parity was only 29% of the EU-25 average in 2004. Regional income disparities are very significant. At 37% of the EU average, per-capita income in the Istanbul region was some 43% higher than the national average and about 4 times per capita income in the poorest region. The labour force participation rate amounts to 48.7% and the employment rate stands at just 41%. Female employment remains particularly low, at about 25% of the respective working-age population. In general, labour market trends have remained remarkably stable over the last 2½ years. Since the beginning of 2002, the official unemployment rate has fluctuated around 10.0%, with ebbs and flows depending on seasonal factors. However, the unemployment rate was considerably higher amongst young people at 20.5%. Although rural unemployment is relatively low, unpaid family workers and inefficient agricultural activities account for a significant share of employment in certain areas.

2.2 Assessment in terms of the Copenhagen criteria

The existence of a functioning market economy

The existence of a functioning market economy requires that prices, as well as trade, are liberalised and that an enforceable legal system, including property rights, is in place. Macroeconomic stability and consensus about economic policy enhance the performance of a market economy. A well-developed financial sector and the absence of any significant barriers to market entry and exit improve the efficiency of the economy.

The consensus about the fundamental goals of economic policy appears to remain firm but concerns of high political and social costs and more benefits could hinder a more resolute implementation of structural reforms. After the 2002-2004 Stand-By Agreement (SBA) between Turkey and the IMF expired, the current government had, for the first time, to present its own in-depth economic programme. The agreement on the main objectives and priorities went quite smoothly. However, it took almost five months to implement the prior actions requested by the IMF. A postponement of bills to reform the social security sector led to significant delays of the first and second reviews under the SBA. In addition, the government recently tried to adopt some ad hoc policy changes (for example the changes to the regional tax incentive schemes). Such measures risk undermining fiscal sustainability and could erode the overall credibility of the reform programme. The process of economic policy-making and implementation in Turkey is rather fragmented and uncoordinated. Recognizing this weakness, the government has undertaken a functional review of the Government, focusing on duplication of duties and power among public institutions, and announced its intention to review the laws on their establishment and organizations on the basis of the

review's findings. Greater clarity in competences would certainly contribute to the quality of policy-making and implementation, but not necessarily to policy coordination. In December 2004, the government also submitted its annual Pre-accession Economic Programme (PEP), which provides for a consistent policy framework for fiscal policy and structural reforms in the period 2005 - 2007.

The economy expanded rapidly in 2004 and the first half of 2005, on the back of strong domestic demand. Real GDP grew by a very robust 8.9% in 2004. In 2004, growth was, on the demand side, mainly driven by gross fixed capital formation, which expanded by 45.5%. Strong growth was also recorded in private consumption, which was up by over 10% in 2004, but in part due to fiscal measures introduced in summer 2004 which phased out tax incentives for car purchases, growth rates have fallen back to around 4%. Also for this reason, growth was significantly stronger in the first half of 2004 than in the second half. In particular industry (+9.4%) and trade (+12.8%) expanded significantly faster than the average, whereas agriculture and, less so, construction expanded relatively slowly. The economic recovery, however, has remained resilient so far. In the first half of 2005, GDP increased by 4.5% as import growth decelerated while exports rebounded somewhat and domestic demand continued to expand, albeit at a slower pace. Industry and trade continued to drive expansion, supported by sharply accelerated output of the construction sector.

In tandem with rising imports due to domestic demand, trade and current account deficits have been rising and external vulnerability has, despite some improvements, remained significant. The current account deficit has risen rapidly from roughly 3% of GDP in 2003 to just over 5% in 2004. Merchandise exports performed well and grew by 33% in the year to 2004, while imports increased by over 40%. Large part of imports' expansion was due to a tax incentive on scrapping old cars, which led to a boom in car imports. After this measure was phased out, motor vehicles' imports fell back significantly so that the current account deficit amounted to about 6% of GDP in the first half of 2005. On the financing side, maturities have risen somewhat in 2004, but short-term inflows remain high. Net foreign direct investment (FDI) inflows were still modest at just over EUR 1.3 billion or 0.8% of GDP. Larger net inflows of portfolio investment, in particular by foreigners' purchases of Turkish government bonds, more than compensated declining net lending to the Turkish economy and reflected increased confidence in the Turkish economy and strong international demand for emerging-market assets in general. For similar reasons -and in parallel with economic growth - Turkey received substantial net inflows under "other investments". Banks and companies obtained more foreign credit, particularly short-term credit, and non-resident deposits with Turkish banks rose. In 2004 net repayments to the IMF amounted to about EUR 2.6 billion. Government bond issuance on the international capital markets became an increasingly significant source of capital inflows. The Treasury took every opportunity to raise funds in this way and tapped the international capital markets with relative ease in 2004 and the first half of 2005, helped by very low interest rates in most industrialized countries. As a result, foreign reserves increased by about 30% in the year to September 2005, more or less in line with a similar rise in imports .

Employment growth allowed for a small decrease in unemployment, which, however, remains relatively high. Only few new jobs have been created, in spite of the economic expansion. According to Labour Force Survey statistics, the unemployment rate fell by 0.2% in 2004 to on average 10.3%. In the second quarter of 2005, the jobless rate stood at 10%, down by roughly 1% from one year earlier. Thus, unemployment remains fairly high and relatively constant owing to a skill-mismatch between labour demand and supply and some labour market rigidities. Unemployment was much higher among the young (20.5% in the first quarter of 2005) and of a long-term nature for more than half of job-seekers. The lower

unemployment rate in the agricultural sector, where unpaid family workers are incorporated, suggests the existence of large pockets of underemployment in the economy. The employment rate increased slightly to 41.3% (for workers of 15 years and above) in the first quarter of 2005, up from 40.2% in the first quarter of 2004. However, female employment is still low at just under 25%, while male employment picked up slightly from 62.9% in 2003 to 64.7% in 2004.

Inflation has continued to decline on the back of a coherent policy stance. In the past, inflation had been the most visible symptom of the economy's macroeconomic imbalances and structural weaknesses. In recent years, however, it has been on a steadily declining path. Unlike in the past, in 2004 and 2005 disinflation had to be achieved despite significant increases in energy prices. Consumer price inflation fell from 21.6% in 2003 to 8.6% in 2004 (annual averages). The main factors for the continued decline in inflationary pressures have been a strict fiscal and monetary policy, the strength of the Turkish currency and wage agreements linked to ambitious year-end inflation targets. Mainly as a consequence of oil and higher prices in some services, namely education, hotels and restaurants, inflation stabilized in the first half year of 2005 at around 8%. Rising energy prices have contributed around a ½ percentage point to inflation in this period. Despite risks stemming from energy prices and some wage pressures, reaching the official end-year target for consumer price inflation of 8% appears realistic.

Due to more supportive conditions, the present monetary policy framework has led to increased macroeconomic stability. The Central Bank of Turkey (CBRT) has been very successful in reducing inflationary pressures, thereby allowing for lower interest rates. Since the CBRT judged that inflationary pressures have sufficiently declined and inflationary expectations have stabilised, it is currently moving to explicit inflation targeting. 2005 is a year of transition, and as from 1 January 2006 the new framework will be fully operational. The CBRT will thus make its framework more transparent and continue to use short-term interest rates as a main policy instrument and simultaneously monitor monetary performance criteria and indicative targets. So far, the independence of the Central Bank has helped to regain credibility, which is illustrated in the form of an increasing convergence of inflationary expectations with year-end targets.

In 2004, the Turkish Lira (TRL) depreciated by about 5% vis-à-vis the euro before appreciating by 8% in the first half year of 2005. In real effective terms, the TRL appreciated by about 13% in the year to 1 July 2005. Real interest rates (adjusted by CPI inflation) have come down substantially to nearly 8% in mid-2005, reflecting political stability, and gradually deepening domestic capital markets. Since December 2004, the CBRT cut rates seven times by a cumulative 400 basis points to 14% (compound overnight central lending rate). Various prudential measures were also introduced recently in an attempt to slow down an on-going rapid expansion, in particular in consumer credit, which had more than doubled in 2004. Consumer loans expansion has halved in 2005 compared to the same period of last year, but continues to rise relatively rapidly. As of 1 January 2005, Turkey introduced the "New Lira" (TRY). The TRL is converted to the TRY as 1,000,000 = 1. The operation went smoothly. Both currencies will remain in circulation at least until the end of 2005. Available indicators point at some small upward pressures on inflation, probably due to the rounding of prices (mainly in services).

Fiscal consolidation has been strengthening further. Fiscal discipline is the cornerstone of the current economic reform programme. It plays a key role in reducing inflationary pressures, but also acts as an important signal to financial markets for Turkey's determination in maintaining the reform process. Consolidation of public finances has been on track in 2004

and the first half of 2005. The 2004 primary surplus target of 6½ of GDP (IMF methodology) was reached, and the general government budget deficit (according to EU standards) had declined from 9.7% of GDP in 2003 to 3.9% of GDP in 2004. The acceleration in the fiscal consolidation experienced in 2004 stems chiefly from a faster fall in real domestic interest rates. Consequently, the debt servicing costs have fallen from over 17% of GDP in 2003 to less than 12% of GDP in 2004. On the income side, tax revenues benefited from the economic expansion and increased by over 20% in 2004. The budget for 2005 is designed to reach a similar a public sector primary surplus of 6½% (IMF methodology) of GDP and the monthly consolidated budget statistics show targets for the first half of 2005 have been reached. Consolidation has been largely supported by falling interest expenditure serving the debt and some better tax and non-tax revenue collection. Contrary to that, non-interest expenditure has been rising quite rapidly, at close to 20% in EUR terms. Furthermore, the draft law on the social security framework is an important step forward in the consolidation process if implemented in full.

Debt ratios have come down considerably, but the structure of the debt still remains a risk to macroeconomic and financial stability. General government gross debt has fallen rapidly from 87.2% of GDP at the end of 2003 (ESA 95 methodology) to 80.1% at the end of 2004. The main factors behind this relative decline have been a significant primary surplus, strong GDP growth and falling interest rates. Turkey has also launched various sovereign bonds on the international market, reaping the benefits of various upgrades granted by rating agencies and of its improving vulnerability indicators. New Turkish Lira-denominated Eurobond issuance by the government amounted to almost EUR 3 billion between January and April 2005. The debt service dynamics is closely related to market confidence, with a short-term debt structure –albeit lengthening rapidly- and 40% of public debt in foreign currency in May 2005 compared to 42% and 46% respectively in 2004 and 2003, thus illustrating a further shift to domestic currency. In addition, about 5% of total debt has been converted from carrying floating to fixed interest rate in 2004. Indeed, debt maturities have been lengthened significantly, in particular on domestic borrowing, from an average of 11.5 months in 2003 to 14.7 months in 2004 and 25.9 months in June 2005.

Measures to increase fiscal transparency have continued. During the previous year, emphasis has been on the implementation of legislation adopted earlier, in particular the Public Financial Management and Financial Control Law, which has been enacted in December 2003 and tentatively implemented in January 2008. Within the ministry of finance, several coordinating and controlling bodies have been created in order to enhance efficiencies and transparency. The 2006 budget preparation has, for example, been benefiting from it. Since 2004, budget methodology has been adapted by the introduction of accrual-based accounting and a more analytical budget code structure.

The free interplay of market forces has continued to improve. The government has confirmed the independence of sector regulatory and surveillance agencies. Preparation for phasing out special privileges of state banks is underway. State owned enterprises (SOEs) account for about 5% of GDP and about 18% of the value added in the manufacturing sector. State banks account for about 1% of GDP, but make up nearly one third of the value added in the banking sector alone. In terms of employment, staff in state enterprises and state banks accounts for about 450 000 persons (2,5% of total employment). The number of staff in those enterprises has declined by just 5% during the last year.

Price liberalisation seems fairly advanced, but has not made much further progress. The share of administrated prices in the CPI basket amounts presently to 10.15% of the total weight of the CPI basket. These represent 111 individual items in the basket which are

administered, out of a total of 711. Petroleum prices have been liberalised in early 2005. However, Turkey must continue with price reform, in particular in electricity, where prices are far from reflecting costs and include cross-sector subsidies. Transport prices are liberalised for passengers road and air transport. Rail transport remains largely a public monopoly and public ownership in maritime transport is negligible.

Progress in privatization appears to be underway. As in previous years, privatization receipts have been modest in 2004 and amounted to about 0.8% of GDP. Largest privatisations included the block sale of Tekel's alcohol production facilities and the public offerings of Turkish airlines. Privatization proceeds in the first nine months of 2005 amount to a cumulative EUR 1.1 billion. In addition, the sale of 55% of Turkish Telekom, 51% of Tupras and Galata and Mersin Port, besides some smaller operations would add about EUR 15 billion to the overall privatisation receipts (although some are spread over several years or are even subject to Court cases). The completion of all operations depends on the approval by the government and the Competition Authority. Although public ownership in the business sector has been greatly downscaled since 1985, State Owned Enterprises still represent 5% of the non agricultural sector.

Barriers to market exit have not been significantly reduced. Turkey has established most of the legal framework for a market economy, but must ensure further implementation. In 2004, 84,459 new firms have been established - or 4% of the total - while 24,881 companies went bankrupt. These numbers were very much in line with 2003 statistics. Specific sector legislations in mining and telecommunication sectors have been removed in 2004. Barriers for market entry have been significantly reduced earlier in 2004 by the creation of a one-stop shop, whereas market exit remains particularly difficult.

The legal system, including the regulation of property rights, is in place. However, the implementation of laws and contracts should be further improved. Courts, in particular the commercial judiciary, work relatively slow and the time lag between the adoption of framework legislation and of the actual implementation of regulations is sometimes very long. Moreover, the enforceability of the decisions of the autonomous authorities and of courts has proved difficult, including with foreign investors. The expert witness system has evolved into a parallel judicial structure which chiefly provides a legal opinion. Staffing and training of judicial personnel is not always sufficient which has a negative impact on the swift settlement of commercial cases. The implementation of the legislation on intellectual property rights is not adequate.

The banking sector has strengthened considerably but still cannot provide sufficient intermediation between savers and investors. Its continued development depends on the completion of privatisation and the sustained implementation of an improved supervisory and regulatory framework. The financial sector remained to be largely dominated by the banking sector. In April 2005, total banking assets accounted for 71.1% of GNP. State-owned banks accounted for around one third of total assets. However, these banks have a significantly different portfolios compared to private banks, with over 40% of total deposits and just 20% of total loans. Banks under administration (SDIF) accounted in mid-2005 for just 0.6% of total assets. In spite of some earlier announced operations, foreign banks remained small with 3.6% of total assets. Overall, financial intermediation has increased in 2004 and in the first half of 2005. Bank lending to the private sector grew by about 6 percentage points from just over 18.6% of GDP in 2003 to 24.4% in May 2005. With the further strengthening of the banking sector, consolidation in the sector has slowed down significantly. In April 2005, 48 banks were operating, compared to 50 in 2003. The largest five banks' share amounts to just over 60%. The spread between average deposit and lending rates has come down from 18% in

2003 to around 8% in 2004. This may point to increased competition in the Turkish banking sector and smaller risk premiums. It was also enhanced by some new tax legislation, whereby a special transaction tax will be phased out gradually by 2007 and the deposit insurance premium will be reduced in parallel. The share of non-performing loans continued to decline and stood at respectively 6.0% in 2004 and 5.7% in April 2005. Capital adequacy ratios for the main banks continued to be relatively high, ranging from around 20% for private banks to just under 30% for state banks.

The non-banking financial sector has further grown. The non-banking financial sector has profited from economic expansion. Trading volume of bonds-markets increased by nearly 50 % in 2004 to EUR 1088 billion. In the first six months of 2005, the trading volume was EUR 700 billion. The chief part consists of repo transactions. This indicates that transactions on bonds-markets remain attractive in spite of falling interest rates. A corporate bond market has still not developed in Turkey. The ISE-stock market capitalization rose from 26.5% of GDP in 2003 to 30.6% of GDP in 2004. In February 2005, the Turkish Derivatives Exchange (TurkDex) was opened. Turkey has 255 mutual funds with a total portfolio value of EUR 15 billion, or around 6 % of GDP in early 2005. At the end of 2004, total value of 81 pension funds reached to EUR 162 million or just under 0.6% of GDP. As of the first quarter of the 2005, the number of pension funds reached to the 84 and total value of them became EUR 258 million. The share of equities in the portfolio of pension funds is around 13% contrary to 2% share in mutual funds. It indicates vital role of these funds for the development of equities market. The insurance sector remains small. In 2004, 48 companies totaled direct premiums amounting to just 1.5% of GDP. A new insurance accounting system has been put in place on 1 January 2005. Development of venture capital remains weak despite economic dynamism and existing market opportunities. This reduces the growth potential of innovative start-ups, hampers entrepreneurship, and may also impede the emergence of the knowledge-based economy.

Supervision of the financial sector needs to be further strengthened. A new Banking Law is likely to be adopted by the Parliament in October 2005. Consequently, the requirements and supervision will be significantly enhanced as soon as all individual measures underpinning this Law will be implemented. Amongst other issues, the regulatory and supervisory power on financial holding companies, leasing companies, factoring companies and consumer finance companies are to be transferred to the Banking Regulation and Supervisory Agency (BRSA). Minimum capital requirements for banks were increased by 50%. Corporate governance requirements for banks have been strengthened, including by establishing “fit and proper” criteria for bank owners. The intervention process for troubled banks was redefined more systematically, so that on-site inspections can be carried out by also other BRSA professionals and independent agencies besides the BRSA auditors, if needed. The BRSA and the Central Bank have started to prepare with the implementation of a new capital requirements framework based on Basel II.

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

The ability to fulfil this criterion depends on the existence of a market economy and a stable macroeconomic framework, allowing economic agents to make decisions in a climate of predictability. It also requires a sufficient amount of human and physical capital, including infrastructure. State enterprises need to be restructured and all enterprises need to invest to improve their efficiency. Furthermore, the more access enterprises have to outside finance and the more successful they are at restructuring and innovating, the greater will be their capacity to adapt. Overall, an economy will be better able to take on the obligations of membership the

higher the degree of economic integration it achieves with the Union before accession. Both the volume and the range of products traded with EU Member States provide evidence of such integration. This concept is thereby equivalent to the goals and benchmarks defined for the economies of Member States of the European Union in the Lisbon agenda.

Increasingly stable macroeconomic conditions have had a positive impact on the economic climate and on the business environment. Performed changes in regulatory environments and market structures contributed to changing the economic environment but state interference remains in place in particular in certain sectors. The large labour market imbalances have only improved marginally and constitute a serious misallocation of resources. In addition, although economic fundamentals has improved the economy remains to a certain degree vulnerable to global financial volatility.

Educational levels have continued to increase, but gender and quality differences remain large. Strong population growth and the economic transformation require increasing resources to be able to cover the needs in education and to upgrade quality to match demand. Efforts to improve education were prioritised in 2004 despite tight budget constraints and educational expenditures were exempted from linear spending cuts which resulted in the share of the budget allocated to education increasing from 6.9% in 2003 to 8.8% in 2004. However, educational spending as a share of GDP remained around 4% of GDP as in 1999-2003. Net enrolment rates in primary education have been rather stable around 95% during the last years while net enrolment in secondary education as well as higher education has shown an upward trend since 2000 which continued in the educational year of 2003/2004. However, the enrolment rate for in particular secondary education is still comparatively low. In addition, despite the overall expansion and positive trend, significant gender and poverty gaps remain in the education system, with for example low female enrolment rates in secondary education and substantial regional and income-level differences in education. Moreover the overall quality, in particular for basic and secondary education, is less advanced and needs to be enhanced and the access to higher education to be improved. Efforts have been made to develop the content of basic education and a new curriculum for key subjects has been produced. Secondary education will also be prolonged in 2005-2006 to 4 years and the reform should facilitate the transition between general and vocational trainings.

Attempts have been made to address labour market rigidities, but labour market imbalances have remained. Flexibility of labour markets has improved to some degree, with increased possibilities of part-time work and fixed-time contracts, but markets remain relatively rigid. Despite high economic growth rates imbalances, such as high unemployment for the better educated part of the work force, high youth unemployment and low female employment, remain a problem. Active labour market policies are limited in scope and have had limited success in correcting imbalances. Despite current efforts in education, gaps still remain between the content of education, especially for vocational education, and skills demand which contribute to a miss-match in the labour market. Minimum wages, both in absolute terms and as a share of average private sector wages, have continued to increase and rose from 15% of the average wage in 2000 to 25% of the average wage in 2004, resulting in decreasing incentives to hire lower-skilled workers and potentially increasing informal employment.

Growth in the capital stock accelerated and annual FDI inflows increased from a low level. After a decline in gross fixed capital formation from 2001 and onwards, capital formation rebounded in 2004 and grew by 2.5% of GDP, to 18% of GDP. Gross fixed investment grew rapidly in the first half of 2004 while thereafter expanding more slowly but still rose by 26% of GDP for the year as a whole, the highest level registered during the past decade.

Investment in machinery and equipment grew by over 60% and contributed significantly to the overall increase. Investment continued to grow in the first half of 2005, although at a slightly slower pace and with construction being an increasingly important component. The rebound in investment has been driven by increased macroeconomic stability, improved investment climate and somewhat improved access to finance. FDI inflows also increased but from low levels. FDI grew by over 50% in 2004 and FDI as a share of GDP rose from 0.5% in 2003 to 0.8% in 2004. The still relatively low FDI levels reflect difficulties in the privatisation process as well as weaknesses in the business climate linked to for example the judiciary and production cost structures. However, FDI inflows continued to increase during the first 8 months of 2005 amounting to EUR 1.1 billion, largely driven by inflows from privatisations. The structure of FDI changed in 2004 as 69% of inflows were directed towards the service sector while the manufacturing sector received only 25%, a clear difference to previous years' sectoral distribution when manufacturing was the dominant sector of FDI. However, in terms of stock of foreign direct investment manufacturing still accounted for around $\frac{2}{3}$ of total FDI at the end of 2004. The total stock of FDI amounts to around EUR 10 billion. Investments in infrastructure have been limited over recent years. Some parts of infrastructure are rather developed but high costs and poor quality prevail in some areas, in particular concerning network industries. Public fixed capital investment was reduced by 5% in 2004 and due to tight budget constraints infrastructure, in terms of quantity of roads and railways, has not increased during the last years. Resources channelled into research and development remained around 0.6% of GDP as in previous years. However, the share of public expenditures in R&D to total public investment expenditures was increased in the 2005 budget, although from a low level. Universities account for around two thirds of Turkish research and development whereas the share of R&D in the business sector is comparably low.

After an initial wave of enterprise restructuring in the aftermath of the 2001 financial crisis, progress has been more limited. Efforts to restructure state banks slowed down, although some measures were taken in the context of the enclosure of Pamuk bank into state-owned Halk bank. The overall quality of operations and organisation of state banks also continued to improve to some extent. However, the state banks' special privileges, for example in the area of deposits, remained in place. Restructuring of the energy sector has proceeded slowly. The current legal framework is advanced but not adapted to the present situation and state interference, through for example guaranteed prices and cross subsidies, remains substantial. Some achievements have been made in the further restructuring state-owned companies in the preparations for privatisation. State-owned enterprises continued to be profitable in 2004. Their aggregate operating profit reached 1.3% of total revenues or 1.1% of GDP, slightly down from the 1.3% of GDP achieved in 2003.

The transformation from an agricultural to a service-oriented economy proceeded. During the last decade Turkey has experienced a reduction of the share of agriculture in the economy while the service sector gained ground. The share of agriculture in gross value added decreased by another 0.5% to 11% in 2004 while the service sector grew and in total contributed 62% to gross value added. The share of industry remained stable. However, the sectoral structure of the labour market did not change significantly and the downward trend in agricultural sector employment seen in previous years levelled off in 2004. The agricultural sector remains an important source of employment, accounting for 34% of total employment, while the service sector contributed by 43% of total employment.

Small and very small enterprises constitute the stabilising core of the Turkish economy although their economic contribution is more limited. Around 95% of all Turkish companies have less than 10 employees and a large share of SMEs operates in the trade crafts and

industry sectors. While SMEs account for around 77% of total employment and 38% of capital investment, their contribution to value added is only 27% and their share of total exports 10%. This shows their important role for job creation but smaller role in the overall economy. The productivity levels and the level of technology used by smaller companies are low and they often operate on the border to the informal economy. The possibilities to expand and modernise are negatively affected by limited access to capital, in particular for small enterprises. SMEs receive around 5% of total bank credit, although several banks initiated new credit schemes for SMEs in 2004 and began to increase their exposure. Without an increase in productivity, many SMEs will have difficulties to survive in an increasingly competitive environment.

Progress in the area of competition policy has been limited. The lack of regulations and monitoring concerning state aid is affecting transparency and the overall competitive environment negatively. Monopoly concessions and anticompetitive privileges for state-owned enterprises still distort competition in some sectors although some improvements have been made in the context of preparations for privatisations and new regulatory institutions. The Competition Authority continues to work for fair competition in an efficient manner but its overall power is limited by slow judicial processes and legislation with distorting effects which it can not influence.

Turkey is becoming an increasingly open economy. Turkey's openness in terms of trade continued to increase, reflecting high growth rates in both exports and imports, and trade in goods and services to GDP rose from 58% in 2003 to 64% in 2004. The Turkish export portfolio is dominated by manufactured goods. Exports of machinery and transport equipment have become increasingly important, amounting to 30% of total exports and rising exports of automobiles and parts have in particular contributed to export growth. Removal of international clothing and textile quotas has increased the competitive pressure from low-cost producers on Turkey's textile industry which contributed to slower growth in exports of textile and clothing during the first 8 months of 2005. On the import side, after the end of the tax-incentive driven boom of imports of motor vehicles in the first half of 2004, imports of capital goods slowed down and imports of intermediary goods rose strongly, by 25%, in the first 8 months of 2005 compared to the same period the previous year. The share of capital goods in imports was therefore during this period reduced to 17% while consumption goods fell to 11.4% and imports of intermediate goods rose to 71% of total exports.

The EU has for long been Turkey's largest trading partner. However, trade with the EU developed less strongly than with some other countries with recently strong economic growth, mostly Middle Eastern and emerging market economies. In 2004 the share of total imports from the EU to Turkey decreased rather markedly while exports destined for the EU declined slightly, but exports to the EU still constituted 55 % of total exports. However, the decline in the share of total exports continued in 2005 and exports to the EU did in the first eight months amount to 52% of total exports. Also as regards foreign direct investment, the EU is the main partner of Turkey. In 2004, around 78% of total FDI inflows originated from EU Member States.

Exports have expanded despite a strengthening Turkish lira. The unit labour cost-based real effective exchange rate (REER) rose by 15% from mid 2004 to mid 2005 affecting competitiveness negatively, although the REER was still well below the pre-crisis levels seen in the beginning of 2001. Labour productivity has improved both in the private and the public sector. In the public sector this reflects recent restructuring and the subsequent reduction of the number of employees. In the private sector, increased capital investments contributed positively to productivity levels and productivity increased at the same time as employment

and working hours rose. Productivity in the manufacturing sector increased faster than for the private sector overall.

2.3 General evaluation

As regards the **economic criteria**, Turkey can be regarded as a functioning market economy, as long as it firmly maintains its recent stabilisation and reform achievements. Turkey should also be able to cope with competitive pressure and market forces within the Union in the medium term, provided that it firmly maintains its stabilisation policy and takes further decisive steps towards structural reforms.

Further significant gains on macroeconomic stabilisation have been achieved over the last year. Due to a rigorous and cautious policy mix, fiscal consolidation continued, debt dynamics improved and inflation further decreased, while economic growth has remained robust. Considerable progress has been made on improving public financial management and control, and as a result fiscal transparency has increased. A significant overhaul of the social security and health systems is ongoing. The successive improvements in the supervisory and regulatory framework of the banking sector and the advances in privatisation are progressively tightening economic agents' financial discipline and improving Turkey's business and investment climate. Foreign direct investment has picked up.

To build upon this progress, macroeconomic stabilisation, based on budgetary restraint, should be further pursued. The recent sharp increase in the current account deficit requires careful monitoring and a readiness to take prompt actions. Further structural reforms, in particular aimed at strengthening the rule of law, enhancing privatisation and enterprise restructuring, correcting labour market imbalances and reducing the informal economy should underpin and strengthen the stabilisation process. Resources should be more efficiently allocated, in particular by a reform of key factor markets. Commitments to restrict the total wage bill should be respected. The reform of public expenditures budgetary procedures should be continued and a full implementation of improved regulatory and legal frameworks should be ensured.

3. 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 is structured in accordance with the list of the 33 of the 35 *acquis* chapters which are negotiated.

Alongside an evaluation of relevant developments since the 2004 report, the section gives an overall assessment of Turkey's ability to assume the obligations of membership, and of what remains to be done. Where appropriate, it also reviews the fulfilment of Turkey's obligations under the Association Agreement.

This section also incorporates an assessment of Turkey's administrative capacity to implement the *acquis* in its various aspects. In all areas of the *acquis*, Turkey must bring its institutions, management capacity and administrative and judicial systems up to Union standards, both at national and regional level, with a view to implementing the *acquis* effectively and, if necessary, in good time before accession. At the general level, this requires a well-functioning and stable public administration built on an efficient and impartial civil service, and an independent and efficient judicial system.

In the 2004 report, the Commission found that:

“Turkey's alignment has progressed in many areas but remains at an early stage for most chapters. Further work is required in all areas, new legislation should not move away from the acquis, and discrimination against non-Turkish service providers, or products should be discontinued. Administrative capacity needs to be reinforced. Moreover no Member State should be excluded from the mutual benefits deriving from the alignment with the acquis.”

3.1 Chapters of the *acquis*

This section opens with an assessment of progress relating to the cornerstones of the internal market which are known as the “four freedoms”, and continues with a systematic review of progress on each of the chapters, covering all aspects of the *acquis*, including sectoral policies, economic and fiscal affairs, regional policy, environment, the area of justice, freedom and security, external policies and financial questions.

Chapter 1: Free movement of goods

The principle of the free movement of goods implies that products must be traded freely from one part of the Union to another. In a number of sectors this general principle is complemented by a harmonised regulatory framework, following the “old approach” (imposing precise product specifications) or the “new approach” (imposing general product requirements). The harmonised European product legislation, which needs to be transposed, represents the largest part of the *acquis* under this chapter. In addition, sufficient administrative capacity is essential to notify restrictions on trade and to apply horizontal and procedural measures in areas such as standardisation, conformity assessment, accreditation, metrology and market surveillance.

Since the last Regular Report, Turkey has made some further progress in the area of free movement of goods, in particular, regarding the horizontal and procedural measures. Alignment of sector-specific legislation was limited due to already achieved level of alignment especially in the area of New Approach Directives.

Concerning **general principles** applying to free movement, no progress can be reported. Restrictions to operations of vessels and aircrafts prevent free circulation of goods between Turkey and Cyprus. Turkey should have identified in its legislation all provisions contrary to articles 28 to 30, also mirrored by Articles 5 to 7 of Decision 1/95, but failed to do so. Conflicting provisions should have been repealed, such as in particular compulsory import licences or permits, or additional technical and labelling requirements. In particular the existence of compulsory licences or permits is not compatible with the general principles of free circulation of goods and constitutes a violation of commitments deriving from the Customs Union Decision. Limitations to market access continue to be observed notably in the alcoholic beverages sector, in particular several provisions in the 2001 Alcohol Act are in breach of the Customs Union and of the WTO.

Provisions on mutual recognition have still not been introduced in the Turkish legislation,. For example the Turkish Standards Institute (TSE) plays role in import control as designated by the technical Ministries, in the non-harmonised area and even occasionally in harmonised fields. Moreover certain burdensome certification requirements still constitute costly barriers to trade.

As regards **horizontal measures**, some progress can be reported in the area of *standardisation*. The Turkish Standards Institute (TSE) has continued to transpose EN standards adopted by the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC) and the European Telecommunications Standards Institute (ETSI).. TSE is no longer elaborating mandatory standards and with the entry into force of further New Approach Directives and other harmonised EC legislation, the number of mandatory standards is reducing.

TSE is a member of the International Electro technical Commission, as well as affiliate , not full, member of CEN and CENELEC. It is a financially independent public entity without state financing, but partly relies upon the revenues generated by its official tasks related to import controls. TSE is also involved in certification of products, services, quality managements systems and calibration. Although the general budget figures of the TSE are available, a clear separation of financial flows does not exist for its several functions.

Although the EU principles and practice of standardisation require voluntary participation in the elaboration of standards, about 145 experts in the standards preparation groups receive fees. There is also need to update the quality management system regarding standardisation and development of a business plan on standardisation work.

In terms of *conformity assessment*, progress has been achieved in the reporting period. The Ministry of Labour and Social Security published the notified body criteria regarding personal protective equipment in December 2004 as done by other Ministries in the last reporting period.

The Turkish government communicated 8 notified body designations, covering 13 New Approach Directives. These bodies were designated by the Turkish Ministries following an initial assessment by TÜRKAK, the National Accreditation Agency.

TURKLAB, the Association of Testing and Calibration laboratories became an associate member of EUROLAB.

In terms of management system certification, the market consists of approximately 82 active certification bodies and some work without formal accreditation. TSE has a big share in the management system certification market as well as a developing role in personnel certification.

Regarding *accreditation*, TURKAK, the national accreditation agency, has made progress. Total number of accreditations reached 69, mostly in the fields of testing, calibration and system certification. The number of local assessors within TURKAK has also increased, showing an increasing capacity of this institution. TURKAK has officially applied to become a signatory of the multilateral agreement (MLA) of the European Cooperation for Accreditation Cooperation (EA) in the areas of calibration, testing and inspection laboratories, quality management system (ISO 9000) and product certification in March 2005. As the MLA signatory status is not yet granted, TURKAK's accreditation are not recognised in the EU.

In terms of *metrology*, there has been limited progress. Regarding legal metrology, Turkey has signed the international agreement for adhering to the International Legal Metrology Organisation (OILM) in May 2005.

The Ministry of Industry and Trade is the responsible body for legal metrology. The Ministry lacks organisational capacity and trained personnel in EU directives on legal metrology.

The National Metrology Institute (UME), which is the major player regarding scientific and industrial metrology, continues its services to the industry. UME is a member of the International Measurement Confederation (IMAKO), European Collaboration in Measurement Standards (EUROMET) and the European Analytical Chemistry Organisation (EURACHEM). There has been an increasing interest from universities on scientific and industrial metrology in the last year. Deficiencies still exist in terms of measurement of uncertainty calculations and traceability. Participation in inter-laboratory comparisons remains limited.

Some progress can be reported regarding *market surveillance*. The Ministry of Industry and Trade, which is responsible for the implementation of the largest share of New Approach Directives, has local inspectorates in all 81 provinces of Turkey and started market surveillance activities according to New Approach directives and other harmonised legislation on a pilot scale and started compiling statistics. The surveillance activities covered products within the scope of low voltage equipment, electromagnetic compatibility, machinery, textiles, labelling of footwear, energy labelling of household appliances, pressure equipment, simple pressure vessels, hot water boilers and gas appliances. The Ministry has also agreed with certain test laboratories that they act as market surveillance support laboratories as the Ministry itself does not have an internal testing facility. The Ministry of Health and Ministry of Agriculture and Rural Affairs use their own laboratory facilities for inspection. The Ministry of Health could not yet implement its market surveillance strategy in the area of New Approach Directives (toys, medical devices). As regards construction products and personal protective equipment, implementation of market surveillance activities has proceeded on a pilot scale only. The Under secretariat of Maritime Affairs published a regulation on market surveillance in February 2005 laying down its strategy regarding recreational crafts.

Establishment of an efficient market surveillance system covering the whole country is still in its early stages. Although a Market Surveillance Coordination Board takes advisory decisions, coordination remains insufficient especially for exchange of information and sharing of testing facilities amongst public authorities for similar tests used for market surveillance.

Turkey has continued to adopt and update **old approach product legislation**. Regulations aiming to align EC legislation in the field of pharmaceuticals for human use and cosmetics were respectively published in January and May 2005. In January 2005 Turkey adopted a new regulation which notably introduces data exclusivity for pharmaceuticals. The regulation was further amended in June 2005. However the data exclusivity is limited to proprietary medicinal products which have been registered for the first time after 1 January 2001 within

one of the countries in the Customs Union and for which no application for a marketing authorisation for a generic products has been placed in Turkey by 1 January 2005. Moreover, there is yet no agreement on the regime applicable to pending requests for authorisation for generics. Implementation data protection has been a long overdue requirement, which Turkey had undertaken with the signature of the Customs Union Decision and has been at the origin of a serious dispute, which is not yet entirely settled.

Harmonisation efforts in motor vehicles continued with the publication of 4 additional communiqués and with some updates and amendments on the already harmonised legislation. The Ministry of Industry and Trade published a regulation on the implementing principles of type approval regarding measures and measuring instruments in October 2004. However this regulation also brings further requirements in addition to the EC type approval and actually creates technical barriers to trade.

Secondary legislation was also adopted on the methods of testing for biodegradability of detergents, their sampling, packaging and declaration to the Ministry of Health. No particular development can be reported concerning other chemicals, crystal glass products, labelling of textile, footwear.

Concerning **new and global approach product legislation**, due to legislative harmonisation work performed during the last years, only a few new developments are to be reported. Directive on cableway installations were transposed in in January 2005 and entered into force in July 2005. The directives on measuring instruments still need to be transposed. Although transposition of nearly all New and Global Approach legislation is complete, the alignment of the transposed legislation and its implementation still remains to be confirmed. As market surveillance is not effectively carried out, there are doubts especially regarding implementation. The understanding and use of CE marking in the domestic market is rather limited.

As regards **procedural measures**, and in particular *notification procedure*, even though Turkey has transposed the Directive laying down a procedure for the provision of information in the field of technical standards and regulations, it notifies most of its legislation to the Commission only after the legislation entered into force, contrary to the provisions of the Directive. A regulation on the implementation of the principle of Mutual Recognition and the Notification of National Measures derogating from the principle of Free Movement of Goods between Turkey and the European Union was published.

Concerning *external border checks* a regulation on the import controls concerning the safety of products coming from third countries was also published in the reporting period. Turkey is trying to introduce the mechanisms in order to implement the regulation.

There is no progress to be reported regarding *cultural goods* and *firearms*.

Conclusion

Despite undisputed progress in certain areas, free circulation of products between the EU and Turkey is not fully effective. A number of commitments deriving from the customs union have not been respected. Substantial work is still necessary concerning the implementation of articles 28 to 30 of the Treaty, in particular concerning the removal of provisions contrary to the general principles of free circulation of products and mutual recognition. Import control is still widely used and despite the reduction of mandatory standards, technical barriers to trade still exist. Existing obstacles to free circulation of goods due to restrictions on Cypriot vessels or aircrafts should be lifted.

Turkey has further aligned its structures and legislation in accordance with the *acquis* regarding free movement of goods. The number of mandatory standards has further reduced. Although positive developments can be reported regarding standardisation, the functioning of the Turkish Standards Institute should be improved. There is a need to lay down a clear separation of financial flows for Turkish Standards Institute's several tasks in the conformity assessment area and also a need to develop a clear plan for its standardisation work. Separation of market surveillance and conformity assessment functions should be ensured in general by all players including Ministries and conformity assessment bodies.

The conformity assessment structures continue developing and progress concerning accreditation is worth noting.

In terms of metrology, traceability and measurement of uncertainty calculations constitute the weak points of the system. Inter-laboratory comparison needs to be developed. It is also necessary to strengthen the capacity of the Ministry of Industry and Trade.

The technical ministries have made some improvements towards the implementation of market surveillance. Nevertheless, an effective market surveillance system in conformity with new approach principles is not yet in place.

Although much progress has been achieved regarding harmonisation of the legislation, the full implementation of New Approach Directives is still incomplete. Efforts are needed with regard to the implementation of these directives as well as the transposed old approach legislation. Turkey should refrain from introducing additional technical requirements causing new technical barriers to trade.

Chapter 2: Freedom of movement for workers

The *acquis* under this chapter provides that EU citizens of one Member State have the right to work in another Member State. EU migrant workers must be treated in the same way as national workers in relation to working conditions, social and tax advantages. This *acquis* also includes a mechanism to coordinate national social security provisions for insured persons and their family members moving to another Member State.

No progress has taken place in this chapter over the reporting period.

No progress can be reported concerning access to labour market. Turkey still needs to review several laws and the role of professional organisations in order to eliminate restrictions on the free movement of foreign workers.

Efforts to modernise the Public Employment Services are underway. These efforts should continue, and staff should be trained in view of a possible future inclusion in the EURES (European Employment Services) network.

No progress can be reported in the area of coordination of social security systems. Turkey should continue its efforts to reform its social security system and strengthen administrative capacity.

Conclusion

No progress has taken place over the reporting period. Alignment with the *acquis* continues to be at an early stage. Turkey still has to undertake extensive work to harmonise its legislation and to further strengthen institutions in all areas covered in this chapter.

Chapter 3: Right of establishment and freedom to provide services

Member States must ensure that the right of establishment of EU national and legal persons in any Member State and the freedom to provide cross-border services is not hampered by national legislation, subject to the exceptions set out in the Treaty. The *acquis* also harmonises the rules concerning regulated professions to ensure the mutual recognition of qualifications and diplomas between Member States; for certain regulated professions a common minimum training curriculum must be followed in order to have the qualification automatically recognised in an EU Member State. As regards postal services, the *acquis* also aims at opening up the postal services sector to competition in a gradual and controlled way, within a regulatory framework which assures a universal service.

No new developments are to be reported in the area of right of establishment. Turkey abolished the Law on Crafts and Services Reserved for Turkish citizens and adopted the Law on Work Permits of Foreigners, which introduces a more liberal approach. The Ministry of Labour and Social Security is the responsible body for the foreigners' work permits. However, restrictions still exist in sectoral legislation which limits the right of establishment for foreigners. Sectoral legislation generally requires economic operators to obtain a licence or authorisation, which necessitates mandatory membership in a chamber of commerce, trade association or other professional organisation. Economic operators have to pay considerable membership fees. In certain sectors, foreign nationals cannot provide services even if their company is established in Turkey. Certain professions remain closed to foreign nationals.

In this area, overall alignment with the *acquis* is at a very early stage. Substantial efforts are needed to transpose the *acquis* in this area. Administrative capacity should be developed to screen administrative or legal rules existing or under preparation to ensure that their implementation would not hamper the right of establishment.

No particular developments can be reported concerning the area of freedom to provide cross-border services. In Turkey, service providers are generally required to obtain a licence or authorisation, even for a temporary provision of services. This requirement is generally linked to mandatory membership in a professional organisation which necessitates establishing a company in Turkey. Certain professions remain closed to foreign nationals.

Alignment with the *acquis* remains very limited as regards to freedom to provide cross-border services. Further efforts are required to remove the sectoral legal and administrative barriers preventing EU nationals or EU companies from providing cross-border services.

In the area of postal services, no particular development is to be reported since the last reporting period. Turkey has not yet started aligning its legislation with the *acquis*. A monopoly still exists in the postal sector. A national regulatory authority (NRA) has not been established yet, although its establishment is planned.

Substantial efforts are required for the gradual liberalisation of the markets for postal services. The minimum characteristics of the universal postal service should be defined. Maximum limits for the services which may be reserved for the universal service provider must be set. A national regulatory authority has to be established to ensure the compliance with Postal Directive and to guarantee competition in the postal sector. Operational independence of the NRAs should be ensured, including the structural separation of the regulatory responsibilities from the responsibilities of the incumbent postal operator. The licensing, supervision and monitoring responsibilities should be performed in line with the *acquis*.

No particular developments are to be reported as regards mutual recognition of professional qualifications.

The sectoral directives for professions have not been transposed into Turkish legislation and the minimal training requirements have not been aligned with the *acquis* yet. Adequate structures, which can enforce compliance with these requirements, are not in place. Substantial efforts are needed to establish the administrative capacity to certify the professional qualifications and to handle recognition requests submitted by non-nationals.

Conclusion

Overall alignment with the *acquis* covered in this chapter is very low. Substantial legislative and implementing efforts are needed to ensure the right of establishment for EU natural and legal persons. The same applies for the freedom to provide cross border services where a number of barriers still exist. With regard to postal services progress is required to start gradually liberalising postal services. A national regulatory authority needs to be established. Mutual recognition of professional qualifications requires more efforts concerning transposition of relevant directives and administrative capacity.

Chapter 4: Free movement of capital

Member States must remove, with some exceptions, all restrictions on the movement of capital both within the EU and between Member States and third countries. The *acquis* also includes rules concerning cross-border payments and the execution of transfer orders concerning securities. The directive on the fight against money laundering and terrorist financing requires banks and other economic operators, particularly when dealing in high-value items and with large cash transactions, to identify customers and report certain transactions. A key requirement to combat financial crime is the creation of effective administrative and enforcement capacity, including co-operation between supervisory, law enforcement and prosecutorial authorities.

Since the last Regular Report, Turkey has made some progress, notably in removing some sectoral restrictions to capital movements and in the area of combating money laundering. No progress can be reported in the area of payment systems and cross-border transfers.

In the field of **capital movements and payments**, despite some positive steps, overall alignment with the *acquis* remains limited. Restrictions on foreign ownership in the telecommunications and mining sectors were removed in 2004. Other sectoral legislation, in particular in the areas of civil aviation, maritime transport, radio and television broadcasting, and energy continues to include significant restrictions on foreign ownership. There is a need to identify and eliminate all sectoral and structural barriers hindering capital movements.

In March 2005, the Constitutional Court annulled provisions, establishing the reciprocity principle for foreigners' real estate purchases (introduced in 2003) on the basis of possible threats to national integrity and the indivisible unity of the state. This provision entered into force in July and since a new regulation has not been adopted, land registration offices are instructed to wait for the new regulation and to suspend foreigners' real estate purchase requests. The resulting legislative situation regarding the acquisition of real estate by foreigners has yet to be clarified. While the existing insurance law and the implementing legislation does not contain any restrictions in the use of foreign assets by institutional investors, the latter may still not include foreign assets to set up compulsory reserves. Further progress is needed in removing all restrictions affecting the acquisition of real estate in Turkey by EU citizens and companies.

The General Directorate of Foreign Investment, which is part of the Under secretariat of Treasury and acts as the main public authority responsible for foreign direct investment, has

limited responsibilities and no competence to eliminate the existing legal and administrative obstacles in the area of capital movements.

No progress was registered in the area of **payment systems**, and cross-border transfers, where the *acquis* has yet to be transposed. The necessary administrative structures, such as an out of court body responsible to handle the disputes between banks and their customers for the cross-border credit transfers, do not exist.

In the **fight against money laundering**, some progress was made to align legislation with the *acquis*, including the revised Financial Action Task Force standard, but alignment is still only partial. The new Criminal Code that entered into force in June 2005 widened the scope of predicate offences covering all offences punishable by more than one year's imprisonment. In addition, more extensive provisions concerning confiscation of property derived from money laundering have been introduced. The Code on Criminal Trial Procedures, which also entered into force in June 2005, introduced special investigation methods for the fight against money laundering such as interception of communications and surveillance techniques.

However, further progress is needed as regards the anti-money laundering Law, which would need to be revised, and effectiveness of processes. In particular, professions such as lawyers, external accountants and tax advisors have not been included in the scope of the law. In the current legislation, a requirement is missing that in the event of suspicion or doubt on the identity, customers always need to be identified and situations of enhanced due diligence are not tackled. In addition, there is no specific provision on terrorist financing. Also, government transactions have been exempted from the anti-money laundering legislation.

The effective implementation and enforcement of the anti-money laundering legislation is another point of concern, notably with respect to the adequacy of resources, powers and skills of the entities of the maintenance chain (legislators, FIU, supervisors and law enforcement entities) as well as of statistical information. In this context, particular attention should be given to improving the ability of prosecutors and judges to deal with money laundering cases, to information collection and to strengthening the analysis capacity of the Financial Crimes Investigation Board (MASAK), which operates as the Financial Intelligence Unit. Supervision/monitoring of the anti-money laundering requirements generally needs strengthening. Turkey should also make a clear attribution of tasks to the relevant institutions in the area of money laundering.

Although the number of suspicious transaction reports being filed has increased compared to last year (290 as against 180), the reporting of suspicious transactions is still low. MASAK carried out 270 preliminary investigations in 2004, compared to 192 in 2003. Prosecutions were brought in 41 cases, compared to 31 cases in 2003. However, the enforcement record in terms of convictions, confiscations, seizures and freezing of assets remains limited and efforts to enhance it need to be continued vigorously.

Money laundering awareness and feedback to the reporting entities are likewise limited. This is also due to the lack of a provision protecting institutions and their employees from liability when reporting suspicious transactions. The effective co-operation between the entities of the maintenance chain within Turkey and with third countries needs to be enhanced. Moreover, the effectiveness of anti-money laundering efforts is hampered by corruption. Effective enforcement is also frustrated by the informal economy.

Turkey is a party to main international and European Conventions in the area and will be reviewed by the Financial Action Task Force (FATF) for the third time in the beginning of 2006. However, both legislation and enforcement records need to be strengthened to match international standards.

Conclusion

Despite some progress, Turkey's overall alignment with the *acquis* under this chapter remains low. In the field of capital movements and payments the situation concerning restrictions to investment by foreigners remains unclear after the recent decision of the Constitutional Court. Further progress is needed in removing all restrictions affecting the acquisition of real estate by EU citizens and legal persons as well as sectoral and structural barriers. In the area of payment systems, and cross-border transfers the *acquis* has yet to be transposed. In the fight against money laundering, the extension of the scope of the provisions, and of the transactions covered remains incomplete. Moreover, the implementation and enforcement of the legislation needs seriously strengthening.

Chapter 5: Public procurement

The *acquis* on public procurement includes general principles of transparency, equal treatment, free competition and non-discrimination. In addition, specific EU rules apply to the coordination of the award of public contracts for works, services and supplies, for traditional contracting entities and for special sectors. The *acquis* also specifies rules on review procedures and the availability of remedies. Specialised implementing bodies are required.

Since the last Regular Report, no new alignment with the *acquis* of the Turkish legislation on public procurement can be noted. On the contrary, some legislative steps have even reduced the level of alignment.

No progress took place concerning **general principles**. On the contrary, a number of derogations to the Turkish Public Procurement Law have been introduced. These derogations have been introduced through five sectoral laws. The Law of November 2004 on World University Sports Olympics (Universiade) in Izmir exempted the procurement of any goods and services by public institutions for the purpose of the Universiade by introducing a temporary article to the Public Procurement Law. Moreover there are some concerns as regards the law on intervening in urgent cases related to pollution of sea by petroleum or similar toxics and compensation of damage enacted in March 2005 brought in derogation from the scope of Public Procurement Law. Accordingly, any acquisition of goods or services which fall under the scope of the new law will be exempt from the provisions of the Public Procurement Law..

Such derogations do not only deteriorate the integrity of the Public Procurement Law but also undermine the objective of providing a comprehensive framework for public procurement. Moreover, the Public Procurement Law entails elements to favour Turkish bidders, which distorts equal competition and contradicts with the principle of non-discrimination on grounds of nationality.

Since the last Regular Report, there is limited progress to be reported regarding the **award procedures of public contracts**. The Public Procurement Agency revised thresholds and financial limits on the basis of the wholesale price index for 2004. The thresholds and financial limits remained above EC levels, reducing opportunities for foreign bidders and competition in general. In addition, complicated qualification procedures form an additional bureaucratic obstacle to wider participation and reduce competition by increasing the cost of participation in public tenders.

According to the statistical data issued by the Public Procurement Agency, in 2004, 87% of the tenders were procured via open procedure, 1% was procured via restricted procedure, and

12 % was procured via negotiated procedure. 184 out of 95.105 (i.e less than 0.2 %) tenders contracted in 2004, which represented 4% of the annual contract value, were awarded to non-domestic bidders.

The Public Procurement Law deviates from the *acquis* in various other respects. Some of the basic definitions such as that of contracting entities do not correspond to those set out in the relevant EU Directives. In addition, the scope of the public procurement legislation does not correspond with that of the Directives in particular as it does not cover public works concessions and some of the entities operating in utilities sector. There is a significant need for the adoption of legislation specifically addressing the utilities sector.

Concerning administrative capacity, there has been some progress as the Public Procurement Agency organised training activities for its staff as well as for procuring entities and established electronic mechanisms so as to ensure timely and transparent dissemination of information. In 2004, 2432 stakeholders, including the Public Procurement Agency personnel, from 47 institutions received training. Moreover, the Public Procurement Agency published tender guidelines, which are available both in paper and electronic format. The Public Procurement Agency has started issuing electronic bulletins in May 2005 in addition to procurement bulletins. The Tender Tracking System launched in 2004 is another positive development as it allows the bidder to pursue the progress in the tenders as well as the state of play regarding complaints. However, in practice, the Public Procurement Agency seems to lack the authority to ensure a uniform implementation of the Public Procurement Law.

There is no new development to be reported in the area of **remedies**. The functioning of the remedies mechanism raises concerns, in particular as review procedures are available only to economic operators which had submitted tenders. Such a limitation is not in line with the *acquis* as it does not provide other stakeholders a chance to complain. Conciliation and attestation procedures foreseen by the *acquis* remain to be transposed into the Turkish procurement legislation.

In accordance with, and using the procedures of the public procurement legislation, 39,821 tenders were announced in 2004. Concerning these tenders, the Public Procurement Board reviewed 3040 cases, 145 of which were referred to the administrative court.

Conclusion

No significant progress took place. On the contrary, a number of exemptions to the Public Procurement Law exist and the Turkish public procurement legislation has been diverging further from the *acquis* with the amendments to the procurement law. Turkey should refrain from adopting new derogations conflicting with the *acquis*. Action is needed to end non-transparent and discriminatory public procurement practices and to align the Public procurement law with the *acquis*.

Further strengthening of the administrative capacity in the area of public procurement is needed. The enforcement of the Public procurement Law requires further training and the allocation of adequate resources to the Public Procurement Agency as well as to the procuring entities

Chapter 6: Company law

The company law *acquis* includes rules on the formation, registration, merger and division of companies. In the area of financial reporting, the *acquis* specifies rules for the presentation of annual and consolidated accounts, including simplified rules for small- and medium-sized

enterprises. The application of International Accounting Standards is mandatory for some public interest entities. In addition, the *acquis* specifies rules for the approval, professional integrity and independence of statutory audits.

Since the last reporting period, Turkey has made some progress in the area of **company law** in particular with regard to accounting standards.

As regards administrative structures, the Commercial Code in force requires companies to be registered in commercial registration offices at chambers of commerce. Registration on-line is not possible. Company information is not available electronically but is published with a registration number in the Turkey's Commercial Registry Gazette. The Union of Turkish Chambers of Commerce and Industry performs those tasks under the overall supervision and control of the Ministry of Industry and Trade.

This process is compulsory for establishment of all commercial companies i.e. collective, joint stock, limited and co-operative companies.

In the area of **corporate accounting and auditing**, some progress was made with regard to accounting standards. . Currently, further standards in this area are presented for public consultation. Overall, Turkey has made only limited progress towards the adoption of International Financial Reporting Standards (IFRS), including International Accounting Standards (IAS).. Moreover, there are still significant differences between the financial position and performance of an enterprise prepared in accordance with the Turkish Uniform Chart of Accounts (UCA) and Tax Procedure Law, as opposed to the financial position and performance resulting from IFRS. Since the Tax Procedure Law has precedence over all other accounting regulations, most Turkish companies only prepare financial statements in accordance with the UCA and the Tax Procedural Law, which represents a deterrent factor to effective implementation of the IFRS.

Regarding administrative capacity of the Accounting Standards Board (ASB), no progress can be reported. It is functioning under the Capital Market Board as a separate department, even though it was established de jure as a separate body. The current regulatory framework of the ASB is insufficient. Under the current structure, recruiting qualified staff, establishing an IT system and other structural matters is not possible.

Little progress has been made in the area of auditing.

The general regulatory framework for independent auditors is laid down in the Law on Independent Accountants, Independent Accountants and Financial Advisors and Sworn Financial Advisors. The regulatory framework needs to be extensively redefined in particular as regards the scope and the type of responsibilities of independent auditors, code of conduct provisions and disciplinary measures. In particular the Law does not specify to whom the independent auditor (or sworn financial advisor) will be responsible in case he/she approves wrong and misleading financial reports.

Conclusion

Turkey has made limited progress in the field of company law. Turkey has made only limited progress towards the adoption of IFRS and IAS. Turkey has made little progress in the area of auditing. The overall level of alignment, of the Turkish legislation with the *acquis* and its application remain therefore limited for this chapter, both for company law and corporate accounting and auditing.

Chapter 7: Intellectual property law

The acquis on intellectual property rights specifies harmonised rules for the legal protection of copyright and related rights. Specific provisions apply to the protection of databases, computer programs, semiconductor topographies, satellite broadcasting and cable retransmission. In the field of industrial property rights, the acquis sets out harmonised rules for the legal protection of trademarks and designs. Other specific provisions apply for biotechnological inventions, pharmaceuticals and plant protection products. The acquis also establishes a Community trademark and Community design. Finally, the acquis contains harmonised rules for the enforcement of both copyright and related rights as well as industrial property rights. Adequate implementing mechanisms are required, in particular effective enforcement capacity.

The alignment with the acquis is already advanced in the area of enforcement of intellectual property rights as well as with regard to the administrative capacity. There has been little additional progress concerning further alignment with the acquis.

No progress was made in legislative alignment with provisions concerning **copyright and neighbouring rights**. As regards implementation, a regulation on the certification of undertakings making duplication and sale of the materials on which copyright works are fixed came into force in April 2005. It is expected that the system will provide more control over illegal duplication, even if the compatibility of this measure with other aspects of the single market *acquis* remains to be demonstrated.

The Copyright and Cinema DG of the Ministry of Culture and Tourism (DGCC) has begun to establish procedures to certify undertakings. The DGCC is the body responsible for defining policy areas, reviewing related legislation, taking necessary measures, co-operating with other stakeholders in the field of copyright and neighbouring rights. It recruited 7 new junior examiners in 2005. However, training and specialization of staff has not improved.

A regulation on principles and procedures on the usage and/or transmission of works, performances, production and publications was published in June 2005 and an amendment to the regulation concerning the implementation of banderols was published in November 2004.

With regard to right holders, there are 17 collecting societies. A compromise addressing collective management of copyright royalties among collecting societies could not be reached. Conflicts about representation of right owners by collecting societies still continue and a clear strategy to effectively implement its legislation in this area should be established.

Overall, Turkey has essentially aligned its legislation concerning copyright and neighbouring rights with the *acquis*, even though the legislation still needs to be further revised for full alignment with the *acquis* and with international requirements. Improved co-ordination and co-operation is necessary among all stakeholders i.e. the DGCC, the judiciary, the police and collecting societies. Administrative capacity is not improving, and for certain aspects even weakening.

Some new developments can be reported concerning **industrial property rights** (IPR). The regulation implementing the Law on Topographies of Integrated Circuits was adopted in December 2004.

The Trademark Law Treaty and Geneva Act of the Hague Agreement concerning the International Registration on Industrial Designs entered into force as of 1 January 2005.

A regulation establishing a consultative board to the Turkish Patent Institute (TPI) has been published in April 2005.

The TPI continued raising awareness among the general public and right holders, through seminars, and training activities. The number of provincial information and documentation centres operating on behalf of TPI in the premises of some universities and chambers of commerce increased to 20. (*Regulatory data protection for pharmaceutical products are examined under Chapter 1 – Free Movement of Goods.*)

As regards administrative capacity, search and examination of patent applications in some classes of international patent classification were initiated as of 1 January 2005. The European Patent Office Query (EPOQUE) database system has been installed and is being utilised by the TPI patent examiners. Overall, the core administrative structures are in place and were further strengthened.

Some progress has been made concerning **enforcement**.

Specialised IPR courts have improved. Two additional IPR specialised courts function effectively, which brings the distribution of such courts as follows: 1 criminal and 3 civil IPR courts in Ankara, 2 civil and 3 criminal IPR courts in Istanbul and 1 criminal IPR court in Izmir. Further training on IPR was delivered to approximately 50 judges and prosecutors dealing with IPR cases in November 2004.

However, some flaws still exist concerning the functioning of the TPI. For instance, right owners and trade mark attorneys complain about inconsistent decisions of the TPI in applying trademark protection rules and registration procedures. Difficulties and lengthy procedures to oppose and/or to cancel bad faith trademarks and industrial designs lead to distrust among right owners concerning IPR protection in Turkey. Objections of applicants or opponents based on earlier use or acquired distinctiveness are not taken into consideration by the TPI in evaluation procedures. Search and examination transactions for patent applications take longer than the EU average transactions.

In addition, some problems also remain concerning the judiciary. Right owners and attorneys faced increasing difficulties in obtaining search and seizure warrants from non-specialised lower courts. Sharp discrepancies among the decisions of lower court judges in different circuits undermine the success in enforcement made by specialised courts. Moreover, punishments have not proved deterrent even for counterfeiting actions involving threats to public health.

The publication of a circular on “Tax Losses of the State due to Intellectual and Industrial Rights Piracy and Counterfeiting” by the Ministry of Justice was a step forward. This provision addresses the Office of the Chief Public Prosecutors to encourage the inter-institutional cooperation within the framework of protection of intellectual and industrial rights and prevention of tax losses.

The national police made efforts in enforcing intellectual and industrial property rights and in training its staff. Between 2000 and 2004, 2.900.000 pirate materials were seized in police raids. From 12 March 2004 (after the police was authorized for ex officio seizures on open places) to June 2005, the number of seized pirate items reached 3.551.330. In the same period, in 4771 raids, 5056 accused people were referred to anti-piracy commissions and public prosecutors to be fined administratively or arraigned before the courts.

Seizures and police raids in particular of pirate CDs and books have been continuing, but at the same time the pirate trade discovers new methods such as delivery of the pirate goods on the customer’s order. Evidence of organised piracy on books have appeared, including street selling, illegal commercial photocopying, but also printing piracy, including the use of forged or stolen banderols. Although, piracy of copyright and related rights decreased compared to past years, further measures should be taken to combat book piracy, and piracy on optical

disks should also be targeted decisively., The level of counterfeiting of trade marks and industrial designs remains high.

Conclusion

Turkey has continued to increase the level of alignment with the *acquis* in the area of copyright and industrial property rights, which is quite advanced.

As regards the legal framework for enforcement, full alignment with the enforcement Directive should be ensured, in particular as regards provisional and precautionary measures. Infringing activities should be effectively combated especially when they amount to organised crime.

Administrative capacity has also improved, but remains insufficient. Effective enforcement of the legislation remains insufficient and gaps remain as regards the proper implementation of the legislation by non-specialised lower courts, and occasionally by specialised courts. The level of piracy remains particularly high. Coordination and cooperation between relevant bodies i.e. the Ministry of Justice and the judiciary, the police, the Ministry of Finance, the Under-secretariat for Customs and municipalities are necessary but remain weak. Concerning in particular the judiciary, the application of provisional and precautionary measures and duration of court procedures remain insufficient.

Chapter 8: Competition Policy

The competition *acquis* covers both anti-trust and state aid control policies. It includes rules and procedures to fight anti-competitive behaviour by companies (restrictive agreements between undertakings and abuse of dominant position), to scrutinise mergers between undertakings, and to prevent governments from granting state aid which distorts competition in the internal market. Generally, the competition rules are directly applicable in the whole Union, and Member States must co-operate fully with the Commission in enforcing them.

Limited progress can be reported in the field of competition policy, since last year's report.

In the field of **anti-trust** including **merger control**, amendments made to the Competition Act in September 2004 extended the one month limit for the collection of imposed fines to 3 months after the finalisation of the Competition Authority's decision. Decisions of the Competition Authority become effective now after publication on the Authority's website, whereas the Competition Authority was previously required to issue its decisions in the Official Gazette. In addition, the Competition Authority increased in March 2005 the level of administrative fines provided for in the Competition Act. In July 2005, an amendment to the Competition Act eliminated the requirement of mandatory notification of agreements between undertakings. There are no sector-specific block exemption regulations on motor vehicle distribution, insurance, telecommunications and postal services. Furthermore, the Community rules on horizontal cooperation agreements and *de minimis* still need to be incorporated into competition rules. Major efforts concerning alignment in the adjustment of state monopolies and companies having exclusive and special rights are also needed.

The Competition Authority has administrative and operational independence and appears to have a sufficient administrative capacity to ensure antitrust enforcement and merger control. It places high emphasis on continuous training of its staff. Although this Authority has exclusive competence to enforce anti-trust rules, it has not been able to intervene in distortions of competition which arise from other legislation containing anti-competitive provisions. The

Competition Authority's competence over undertakings is therefore seriously restricted by such legislation, and a comprehensive review of this state of play should be initiated urgently. The Authority's remarks concerning drafts of all types of legislation which may have an impact on competition are often not taken into account. The commitment by all public and legislative authorities to remove and avoid legal barriers to competition should be ensured.

The sector regulatory authorities such as the Energy Market Regulatory Authority, the Telecommunication Authority, the Banking Regulatory and Supervision Authority, do not ensure efficient cooperation and use of consultation mechanisms with the Competition Authority in order to prevent any competition distortions in their respective regulated markets yet.

As regards the enforcement record, in 2004, the amount of fines imposed by the Competition Authority in the 91 cases where it found an infringement of competition rules is 46,055,762 YTL (around 26 MEUR). Up to May 2005, the Authority imposed fines amounting to 15,668,674 YTL (around 9,2 MEUR) in 40 decisions on competition infringements. Furthermore, during 2004, the Authority rejected 15 out of 62 applications for negative clearance or exemption.. In 2004, the Competition Authority imposed conditions on 3 mergers and acquisitions out of a total of 122 merger cases approved, and by May 2005 it had handled 45 merger cases and imposed conditions in 3 cases. In the context of merger control, the Competition Authority has played an active role in the privatisation process. Through its advisory opinions delivered to the Privatisation Authority, the Competition Authority has continued to advice on how to design privatisation tenders before they are launched, to ensure competition in the post-privatisation period. The Competition Authority issued opinions, for example, on the privatisation tenders of tobacco factories, ports, and the Turkish Telecommunication Company.

The delays encountered in the handling of appealed competition cases by the Supreme Administrative Court continue to be a matter of concern. The Supreme Administrative Court has concluded only 88 cases out of 329 appeals lodged since 1999. However, this concern is alleviated by the fact that since 2003 the Authority is entitled to collect imposed fines without waiting for the finalisation of judicial review process.

No new developments can be reported with regard to the adoption of **state aid** legislation or the establishment of an operationally independent state aid monitoring authority. Turkey has not yet fulfilled its obligation under the Customs Union Decision 1/95 and the 1996 ECSC-Turkey Free Trade Agreement, to establish a state aid monitoring authority and to align and ensure full transparency of its existing and new state aid schemes. This hinders the implementation of a state aid control regime and results in distortions of competition in markets via the allocation of public aid, and decreases the transparency of financial transactions made between the state and undertakings.

Regarding the steel sector, the Turkish authorities have not ensured a satisfactory level of transparency on state aid granted to the sector as envisaged in the 1996 ECSC-Turkey Free Trade Agreement. Only one law, related to investment allowance, has been notified, in April 2005. Limited progress has been achieved as regards the draw up of the National Steel Restructuring Programme (NRP) supporting the Turkish request for derogation to allow state aid for the steel industry. The technical work of the NRP has been concluded in June 2005 but the programme has not yet been adopted at political level. Progress in this area is very urgent, not only to address the overall situation of the steel sector but also to clarify the framework on which the privatisation of Erdemir should take place.

Conclusion

Since the last report, Turkey has made limited progress in the field of competition. Harmonisation with the anti-trust *acquis* appears well advanced. The level of enforcement of anti-trust rules and merger control by the Competition Authority has continued to be satisfactory, although serious delays in the handling of appeal cases have occurred in the judiciary. Concerning the privatisation process, the Competition Authority has been more active than during the previous reporting period through the issuing of a number of advisory opinions prior to tender launchings.

The adjustment of state monopolies and companies having exclusive rights should receive more attention.

As regards State aid, Turkey has made no progress since the last report, in particular as regards the implementation of the transparency commitments included in existing bilateral agreements. Legislation concerning state aid monitoring, which is in line with the EC state aid rules, is not in place. There is no operationally independent state aid monitoring authority. Their absence is the major delaying factor for the adoption of implementing rules for competition under the Customs Union Decision 1/95. As regards the steel sector a National Restructuring Programme for the Steel sector remains to be adopted.

Chapter 9: Financial Services

The *acquis* in the field of financial services includes rules for the authorisation, operation and supervision of financial institutions in the areas of banking, insurance, supplementary pensions, investment services and securities markets. Financial institutions can operate across the EU in accordance with the 'home country control' principle either by establishing branches or by providing services on a cross-border basis.

There has been some progress in the field of financial services.

Progress continued in the field of **banking** since the last reporting period, but delays occurred and the new banking law has been adopted in October , which provides increased transparency and disclosure requirements for banks. Even though the banks are not allowed to trade in the stock markets for prudential reasons, they are active players in the stock exchange through their wholly-owned subsidiaries.

The BRSA ~~announced~~ adopted a detailed road map for the BASEL-II capital, requirements framework, with a view to start implementation as of January 2008 with the less advanced approaches and as of January 2009 with the advanced ones.

As a result of the disinflation process, the implementation of inflation accounting was suspended in 2005. The BRSA revised the implementing legislation on the taking up and pursuit of the business of banks, with a view to strengthen its supervisory activities on the banks' off-shore branches and subsidiaries abroad. The revision introduced new restrictions on banks operating in Turkey, such as limiting the asset size of the off-shore branches to 10 percent of their balance sheets. Furthermore, local branches are no longer allowed to offer deposit accounts in off-shore branches. The BRSA also increased the capital requirements for the unused portion of the credit card limits.

As a result of the rising demand for consumer credits, the BRSA introduced detailed sub-accounts into its standard accounting plan in order to cover different types of credit cards, personnel loans, housing loans and others. A new Circular is also published on Accounting

Practices, which provides standards about the accounting of different taxes applicable for banks.

There are a total of 48 banks operating in Turkey. 18 private, 3 state, 13 foreign and the SDIF bank operate as commercial banks. The banking sector is largely open to foreign operators; however their share in total assets was limited to 3% as of 2004. State banks control 35% of the total assets, provide 21% of the total loans, and collect 42% of the total deposits.

Concerning administrative capacity, the BRSA is an administratively and financially autonomous entity. The decision-making body of the Agency is the Banking Regulation and Supervision Board, which consists of seven members. Board members are appointed by the Council of Ministers, upon the proposal of the responsible Minister. The BRSA is financed by the banks' contributions, calculated on the basis of the size of their balance sheets. The BRSA had a total staff of 323 in 2003 and increased to 364 in 2004.

In 2003 and 2004, the number of staff responsible for on-site and off-site supervision activities was 71 and 67, respectively. The BRSA's tasks include the examination of the private banks and state banks once a year. In practice, foreign banks and development banks are also being examined on a yearly basis. The number of full scope examinations conducted by the BRSA officials was 51 in 2003 and 46 in 2004. Sworn bank auditors prepared 204 reports in 2003 and 198 reports in 2004. In 2004 a total of 10 notices of crime were filed against those who are determined to be responsible, 32 administrative fines were imposed, and 20 persons were prohibited temporarily to work as authorized signatories in banks, which was slightly more than in 2003.

The BRSA has concluded Memoranda of Understandings with the banking supervisory authorities of Albania, Bahrain, Indonesia, Kazakhstan, Pakistan, Romania, Malta, Greece and Kyrgyzstan. The BRSA each year prepares an activity report, which is submitted to the relevant Minister and to the Council of Ministers. Banks are required to submit a variety of reports to the BRSA with different frequencies.

Non-bank financial institutions (leasing, factoring and consumer finance companies) and money lenders are regulated by the General Directorate of Banking and Exchange (GDBE), operating as an integral part of the Undersecretary of Treasury. The GDBE has a staff of 12. The Board of Treasury Controllers is the responsible authority for the supervision of these financial intermediaries. Since the Board is also responsible for the supervision of State Economic Enterprises, World Bank loans and European Union funds, its resources are not adequate to conduct full scope examinations on a regular basis. In 2004, only a total of 10 targeted examinations were conducted for the non-bank financial institutions. Both the GDBE and the Treasury Controllers do not have operational and structural independence. Their activities are being financed from the budget and their decisions require the approval of the Treasury Undersecretary and/or the relevant Minister. The Capital Markets Board is the regulatory and supervisory authority for the investment companies. The level of co-ordination between the supervisory authorities remains too low to ensure the effectiveness of supervision and monitoring. The signing of the co-operation agreements signed between the BRSA, the Central Bank of Turkey and the Undersecretariat of Treasury is a first step in this process.

In general, the fragmented nature of supervision and regulation is a significant problem in the area of financial services. Banks and special finance institutions offering financial products on a non-interest basis ("islamic banking") have been regulated and supervised by the BRSA. Leasing, factoring and consumer finance companies and insurance sector are regulated and supervised by four different General Directorates of the Undersecretariat of Treasury.

Overall, in the banking area, the level of alignment with the *acquis* is moderate. Co-operation between the different supervisory authorities should be strengthened. Limits to large exposures to parent undertakings should be aligned with the *acquis*. The institutional and administrative capacity of the regulatory authority to assume the obligations arising from the adoption of BASEL-II capital requirements is not in place yet.

In the area of non-bank financial institutions no development can be reported as regards to legislation or administrative capacity since the last Report, and alignment with the *acquis* is limited.

Since the last Regular Report, limited progress can be reported in the area of **insurance and supplementary pensions** sector. The insurance market remains relatively limited in Turkey. Public awareness of the significance of insurance is still very limited and the number of insured persons and insurance premiums per capita are accordingly low. Insurance premiums in terms of percentage of GNP remain at a very low level, both with regard to life and non-life insurance.

The overall alignment with the *acquis* remains limited in the insurance sector. The existing legislation is outdated and some articles have been annulled by court decisions, a problem which might create regulatory and supervisory gaps. Ex-ante tariff controls and pre-approval procedures for licensing are still in place. The Reinsurance Monopoly Law is still in force. The existing pool system for the non-life reinsurance based on compulsory cessions to a single operator is not in line with market economy principles. Foreign insurance companies can provide services by getting approval from the relevant ministry, provided that they establish branches in Turkey. Attention should be paid that vehicles are covered against third party liability.

The Treasury adopted a new accounting plan and the relevant implementing legislation, which aim at improving the information gathering and reporting standards in the insurance sector and to improve the alignment with EU standards. Furthermore, a new implementing legislation for the accounting system has been introduced to further align the standards for the financial tables.

The Undersecretariat of Treasury is the regulatory and supervisory authority for the insurance sector, including supplementary pensions. The General Directorate of Insurance (GDI) is responsible for the regulatory issues and statistical reporting, whereas the Insurance Supervisory Board (ISB) conducts on-site and off-site monitoring. The GDI has a total staff capacity of 64, whereas the ISB has a total staff of 49, of which 39 is responsible for onsite examinations. Neither the GDI nor the ISB are autonomous organisations, since the important decisions require the approval and signature of the Undersecretary and the relevant minister. Both bodies are financed by the general budget. ISB inspectors conducted 166 examinations in 2004, 3 more than in 2003. As a general rule, insurance companies are subject to on-site examinations every two years, whereas for certain companies this might be on a yearly basis.

No Memoranda of Understanding has been signed with foreign supervisory authorities.

Insurance, reinsurance, and supplementary pension companies are required to submit monthly and quarterly reports, whereas insurance experts, brokers and independent auditors submit information if deemed necessary. Since 2001, licences of 14 insurance companies have been withdrawn.

Since the last Regular Report, limited progress can be reported in the area of **investment services and securities markets**. The overall level of alignment in the area of investment services and securities markets is moderate. Capital adequacy, public disclosure and company prospectus requirements have been brought in line with the *acquis*. Current capital adequacy

rules in Turkey can be considered as more conservative than the *acquis*. On the other hand, further progress is required in the area of investor compensation funds. Existing regulations differ from the *acquis* with respect to the scope of funds and the amount of coverage. Banks are not allowed to engage in the activities related to public offering of capital market instruments, and the sale and purchase of shares in the secondary markets. In practice, banks deal with these activities through their wholly owned subsidiaries. Regarding the undertakings for collective investment in transferable securities, the restrictions on founders who may establish mutual funds, the responsibilities of custodians, and the type of investments are the main differences between existing regulations and the *acquis*.

Turkish Derivatives Exchange has become operational in 2005. Currently, seven different futures contracts based on commodities, interest rates, currencies, and stock indices are being traded in the derivatives market. This development constituted an important step for the improvement of the securities markets. New prudential rules were introduced on the purchase of investment instruments by using overdraft facilities.

The prospectus standards are not in line with the *acquis* yet. In the area of market abuse, in particular the full adoption and implementation of the *acquis* concerning insider dealing and market manipulation is still needed.

The Capital Markets Board (CMB) acts as the regulatory and supervisory body for the investment services and securities markets. The CMB is a public entity with administrative and financial autonomy. The Board is composed of seven members appointed by the Council of Ministers for a period of six years. Members may be re-elected. Financial sources of the CMB budget are the fees on the issuance of securities and a certain percentage of the revenues of the organised exchanges. The chairman and members of the board hold office for six years. The CMB publishes an annual report which is addressed to the Council of Ministers. A total of 16 Memoranda of Understanding have been concluded with foreign supervisory authorities to exchange information and improve supervisory co-operation.

On-site and off-site examinations are conducted by the experts in the Enforcement Department, which has a total staff capacity of 40. Experts and assistant experts prepared 211 reports in 2004. Regarding intermediary institutions, 5 licences have been suspended and 33 licences have been withdrawn. The CMB also censured one audit firm in 2004. A total of 123 financial sanctions have been imposed on real and legal persons in 2004 and their names and the reasons for sanctions have been published in the CMB web site.

Conclusion

Since the last report, progress continued in banking, but the overall level of alignment is still moderate. A new banking law has been adopted, which provides greater transparency and disclosure requirements for the banks. Its implementation requires that the BRSA has adopts around 50 pieces of implementing legislation, which constitutes a serious challenge. Supervisory activities on off-shore branches and subsidiaries abroad have been strengthened.

The co-operation between the supervisory authorities has strengthened but remains rather low. The administrative and institutional capacity of the BRSA should be further improved. Limits to parent undertakings are not in line with the *acquis*. Provisions enabling the SDIF to use overdraft facilities from the Central Bank have are neither. The independence of the regulatory authorities is not sufficiently ensured.

Concerning insurance, some progress can be reported. The Treasury has adopted a new accounting plan and the implementing legislation for insurance companies, based on EU practises. However, the overall alignment with *acquis* remains limited. There is not yet an

insurance law addressing the deficiencies in the regulation and supervision. Co-ordination among supervisory authorities has improved but further enhancement remains needed. Prudential standards are not in line with the EU norms. The quality of the financial reporting remains rather low.

Limited progress can be reported in the area of investment services and securities markets since the last Regular Report. The opening of Turkish Derivatives Exchange is an important development. Rules concerning investor compensation schemes, Undertakings for Collective Investment in Transferable Securities and prospectus standards are not in line with *acquis*. The adoption and implementation of *acquis* in the area of market abuse has improved slightly.

Chapter 10: Information society and media

The *acquis* includes specific rules on electronic communications, on information society services, in particular electronic commerce and conditional access services, and on audio-visual services. In the field of electronic communications, the *acquis* aims to eliminate obstacles to the effective operation of the internal market in telecommunications services and networks, to promote competition and to safeguard consumer interests in the sector, including universal availability of modern services. As regards audio-visual policy, the *acquis* requires the legislative alignment with the Television without Frontiers Directive, which creates the conditions for the free movement of television broadcasts within the EU. The *acquis* aims to the establishment of a transparent, predictable and effective regulatory framework for public and private broadcasting in line with European standards. The *acquis* also requires the capacity to participate in the community programmes Media Plus and Media Training.

Some progress has been made in this area.

Some progress concerning **electronic communications and information technologies** can be reported. Turkey's electronic communications market is quite large with a volume of EUR 8.7 billion and has a significant potential for growth in all segments. Turkey has continued its efforts to liberalise the market through further alignment with the *acquis*.

With regard to full liberalisation, although the market has been open for competition since January 2004 through the abolition of the *de jure* monopoly of Turk Telekom, some obstacles remain for new entrants as the application of the regulatory framework is only in its early stages.

As regards fixed telephony, sixteen data transmission service providers have been granted licences. In practice however, Turk Telekom has almost full control of the market with 19 million subscribers. The market for mobile services has been open to competition since 1994 and currently there are two mobile phone 900 operators (Turkcell and Telsim) and one mobile phone 1800 operator (Avea) active in the market. The penetration rate in the mobile services market has reached 58% as of July 2005 with 40.4 million subscribers. The communication taxes imposed on fixed and mobile telephony remain extraordinarily high, as was reported in last year's report. For fixed telephony a communication tax of 15% above the 18% VAT is still applicable, as is the 25% communication tax for mobile telephony.

The privatisation of Turk Telekom was initiated on 25 November 2004 as a block sale of 55% of its shares. The decision for the winning bid submitted by Oger Telecoms Joint Venture Group became effective on 2 August 2005. It still needs to be approved however by the Council of State. The tender process had been facilitated by legislative measures reducing limitations on foreign ownership in telecoms, and by a redefinition of the "golden share".

After the introduction of broadband (ADSL) in Turkey, the number of subscribers for internet services has increased significantly reaching 720.000 in May 2005. Accordingly, the penetration rate for internet access has increased to 14%. For cable TV, the number of subscribers has increased by 6%.

Cable TV services of Turk Telecom have been unbundled and transferred to Turksat A.Ş. (Turksat), the public enterprise in charge of satellite services. At the same time, an exclusive right was granted to Turksat as it became obligatory for all public institutions to receive their satellite services from Turksat. This means that the twenty-four other satellite telecommunication services license holders face a restricted access to the market (approximately 50%).

Despite the growing number of licences in the electronic communications sector, the total revenue of new entrant operators is estimated to be below 1% of the total revenue of the sector.

With regard to the regulatory framework, Turkey has issued some legislation to implement the 1998 telecommunications framework, but there are still gaps to be filled. A law on the provision of universal services has been adopted. No specific regulation for leased lines has been issued since last year's report. For the implementation of the 2003 framework, more steps need to be taken. In parallel with that it is important that the existing legislation is effectively applied. This is necessary for the development of competition. In order to create competition it is also necessary that the remaining implementing legislation including number portability and rights of way is issued and that the infrastructure licences are granted. It is equally essential that the regulations on carrier (pre-) selection are enforced in practice as soon as possible. The implementation of local loop unbundling, which will improve competition and was legally introduced on 1 July 2005, should not be delayed.

With regard to administrative capacity of the Telecommunications Authority, the number of employees has changed only little since the previous report. A total of 460 employees including 75 telecommunication (assistant) experts are dealing with regulatory tasks, 60 of which deal with economic regulation work. In the Ministry of Transport, which is responsible for policy making, the human resources situation has improved with the training and recruitment in December 2004 of 25 new EU assistant experts who are directly involved in EU related issues within the Ministry.

Since the 2004 Regular Report there has been no progress in the implementation of the single European emergency call number "112". It remains limited to calls to hospitals.

Some progress has been achieved as regards **information society services**. Further to the enactment of the law on electronic signature, implementing legislation on procedures and principles pertaining to the implementation of electronic signature law and processes and technical criteria regarding electronic signatures has been enacted. However, Turkey has not signed or ratified the Council of Europe Convention on Cybercrime and still needs to align its legislation with EU standards on electronic commerce and conditional access services.

In the field of **audiovisual policy**, concrete progress in legislation and implementation remained limited.

The Turkish Parliament ratified a constitutional amendment on the Radio and Television Supreme Council (RTÜK), the national regulatory authority, in June 2005. Under this amendment to Article 133 of the Constitution, the Supreme Council's nine executive members are to be selected by political parties in proportion to their seats in Parliament. This marks a change from the previous law according to which two members were nominated by the press councils and by the Higher Education Council (YÖK). The amendment, which was

vetoed by the President once, entered into force in June. The Law on the establishment and broadcasting of radio and television channels has been amended accordingly in July. As a result, the political independence of RTÜK which had already been criticised in the past for charges of partisanship, might be weakened. Nine new members proposed by the two main parties have been elected in July.

The President also vetoed legislation passed by Parliament in March that would have allowed foreign investors to own more than 25 percent of shares in Turkish media enterprises.

Only limited progress is to be reported in the area of broadcasts in languages other than Turkish and dialects used by Turkish citizens in their daily lives. Although an implementing regulation regarding broadcasts in languages and dialects other than Turkish was enacted in January 2004, there has been no licensing of private broadcasters since that decision.

The Public Turkish Radio and Television Corporation (TRT) continued its broadcasts in selected mother-tongues since June 2004. TRT's Radio 1 and TV Channel 3 broadcasts in Bosnian, Arabic, Circassian, Kirmanji and Zaza, but those broadcasts remain limited both in terms of duration and scope. For television, their transmission period cannot exceed 45 minutes daily and a total of four hours a week and for radio, an hour a day and five hours a week. In terms of scope, they can only cover news, music and cultural programmes but not, for example, children's programmes.

No private broadcaster at national level has applied for broadcasting in languages other than Turkish since the enactment of the 2004 legislation. At local and regional level, eleven private local television and/or radio stations have submitted their applications in order to get the necessary permission to broadcast in languages other than Turkish. But both extensive procedural regulations and RTÜK's insistence that a nation-wide "Profile Study" on the use of local languages in different parts of Turkey should be completed before it would issue any licenses in effect prevented any local broadcasts.

Turkey's level of alignment with the EC audiovisual *acquis* remains limited to some provisions concerning advertisement and the protection of minors. The Regulation Concerning Radio and Television Broadcast in Languages and Dialects used traditionally by Turkish Citizens, a step towards the basic principles enshrined in the *acquis*, still has to be implemented. The Law on the Establishment of Radio and Television broadcast still poses problems in terms of definitions, jurisdiction, freedom of reception, major events, promotion of European and independent works and restrictions on the share of foreign capital and television enterprises.

In order to safeguard the freedom of the press, Turkey will have to ensure that the legislation on defamation reflects European standards (*see also chapter 23: Judiciary and fundamental rights*).

Despite the creation of a strong regulatory body (RTÜK) ten years ago, there is still no stable, transparent and effective regulatory framework in Turkey: radio and television stations pre-existed the regulatory framework and the regulatory authority has not yet been in a position to re-allocate frequencies and review the temporary licenses.

Conclusion

Turkey has made some progress in the area of information society and media since the last report. It has done so notably by liberalising the electronic communications and information technologies sector, by aligning their legislation to the *acquis* and by introducing legislation, although some legal acts and implementing regulations as well as the attribution of infrastructure licences are still lacking. In addition the privatisation process of a majority

share of Turk Telekom may give a signal in order to attract more foreign investments. However the real challenge for creating competition in the market lies in applying and enforcing the applicable regulations and legislation. In this regard Turkey needs to increase the effectiveness of its activities. To be able to perform these tasks the Telecommunications Authority needs to be strengthened.

Turkey needs to sign and ratify the Council of Europe Convention on Cybercrime and align its legislation with the *acquis* on electronic commerce and conditional access services.

Turkey is partially aligned with the *acquis* in audiovisual policy. Concrete progress in legislation and implementation in the reporting period remained limited. Although broadcast in languages other than Turkish started in 2004, the necessary consolidation of the process is yet to come. Considerable efforts are needed to bring Turkish legislation and implementation in line with the *acquis*. The strengthening of administrative capacity should continue. The independence of the regulatory body should be strengthened as well. Turkey is encouraged to continue with, and effectively implement, its legislative reforms.

Chapter 11: Agriculture and rural development

The agriculture chapter covers a large number of binding rules, many of which are directly applicable. The proper application of these rules and their effective enforcement and control by an efficient public administration are essential for the functioning of the common agricultural policy (CAP). Running the CAP requires the setting up of management and quality systems such as a paying agency and the integrated administration and control system (IACS), and the capacity to implement rural development measures. Member States must be able to apply the EU legislation on direct farm support schemes and to implement the common market organisations for various agricultural products.

Limited progress concerning the alignment in the field of agriculture and rural development can be reported since the last Regular Report.

Since 2001 Turkey has been implementing an agricultural reform programme, the Agricultural Reform Implementation Project (ARIP), with support from the World Bank. The project has been extended for the period 2005-2007. In addition to direct income support, several new sub-components have been included to help farmers in the transitional period (e.g., land consolidation, village based participatory investments, institutional reinforcement of agricultural sales cooperatives and unions).

In December 2004, Turkey adopted an agricultural strategy which indicates the strategic objectives and instruments of agricultural support in the period 2006-2010. The strategy paper will form the basis for the Agriculture Framework Law. Whilst this strategy contains some welcome elements (for example a commitment to create a sustainable, competitive agri-food sector, to improve food safety standards, to encourage diversification and to support agri-environment scheme), it also represents a step backwards in some important respects. For example the direct payment system, whose share is to decline from 76 % to 45% out of the total agricultural budget, is to be re-coupled to focus on specific crops. Production linked premia are to be increased, and deficiency payments increased to stimulate production of crops for which Turkey is not self-sufficient. These changes represent not only a step back from the agricultural reform programme pursued by Turkey in recent years but also represents a development that goes against the directions of the Common Agricultural Policy as reformed in 2003 and 2004. This tendency gives rise to some concern. The administrative capacity of the Ministry of Agriculture and Rural Affairs has not been reinforced since last year's report. The same competences are often shared between different general directorates

and/or departments leading to unclear responsibilities or conflicts of competences and does not contribute to efficient administration. The public reform law providing the legal basis for the restructuring of the Ministry of Agriculture and Rural Affairs has not yet entered into force.

Concerning **horizontal issues**, Turkey has made limited progress in aligning its agricultural legislation to the *acquis*.

Turkey has recently started work on building an EU-style *paying agency*, in the context of the IPA (Instrument for Pre-accession Assistance) rural development component which will apply from 1 January 2007.

On the *Integrated Administration and Control System (IACS)*, some limited progress can be reported in the context of an EU-funded pre-accession project. Due to start this year, this project will use pilot projects to test different methods of building the Land Parcel Identification System (LPIS) and will identify the legal and institutional developments required for a functioning IACS system.

Little progress can be reported on *quality policy* or *organic farming*, although, as noted in last year's Regular Report, Turkish national schemes already approach those specified in the EU *acquis*. The new framework law concerning organic farming was adopted by the Parliament in December 2004. The law stipulates the production methods for organic products and lays down the responsibilities of the Ministry of Agriculture and Rural Affairs. It provides for control and certification services, import and export rules and advertising of organic products.

No progress can be reported on the Farm Accountancy Data Network (FADN).

No progress has been made regarding *state aid* legislation in the agriculture sector. Although the elimination of input subsidies was one of the objectives of the Agriculture Reform Implementation Project, the Turkish Prime Minister announced to grant input subsidies again in 2005, e.g., for diesel and fertilizer.

No developments are to be reported as regards the **common market organisations** or associated trade mechanisms (export refunds, import quota licensing etc). This is not however a cause for concern at this stage in the pre-accession process. A new regulation concerning the establishment of agriculture producer organisations has been published. The regulation determines certain production levels for the recognition of producer organisations. Organic and fisheries products are also concerned. Some progress can be reported on **rural development**. The Ministry of Agriculture and Rural Affairs together with the Turkish state planning organization has drafted a rural development strategy and work is starting in the context of an EU-funded project on a national rural development plan. Turkey has also recently started preparing for the implementation of IPA (rural development component (IPARD)), for which Turkey will be eligible from 1 January 2007. Turkey has now set up two working groups in this area, one of which will support the managing authority in defining the IPARD programme and one which will be responsible for building up the IPARD agency. Given the deadline of 1 January 2007, Turkey needs to take urgent political decisions in this area to secure the timely disbursement of IPARD funds.

Conclusion

Since the last Regular Report, limited progress can be reported with respect to the alignment with the Common Agriculture Policy mechanisms. Turkey is therefore encouraged to continue with the legislative alignment process and to build up the necessary administrative capacity to implement new legislation fully.

As indicated in the 2004 Regular Report, the main priority for Turkey in the short to medium term is to restructure and modernise the agricultural sector and to create alternative employment in rural areas. In this respect the initial moves Turkey has made on rural development are a welcome development. They remain limited however and progress in this area needs to be accelerated, particularly on the finalisation of a rural development strategy, the creation of a rural development plan, and the implementation of the Pre-accession Instrument for Rural Development (IPARD). The registration of farmers and cultivated land should be completed. In addition improvement and updating of agricultural statistics is recommended.

Chapter 12: Food safety, veterinary and phytosanitary policy

This chapter covers detailed rules in the area of food safety. The general foodstuffs policy sets hygiene rules for foodstuff production. Furthermore, the *acquis* provides detailed rules in the veterinary field, which are essential for safeguarding animal health, animal welfare and safety of food of animal origin in the internal market. In the phytosanitary field, EU rules cover issues such as quality of seed, plant protection material, harmful organisms and animal nutrition.

Turkey has made some progress in the area of food safety, veterinary and phytosanitary policy although preparations in this area are still at an early stage.

Concerning **general foodstuffs policy**, Turkey has shown limited progress in transposition and implementation of the food safety *acquis*. On the administrative capacity for control measures, the Ministry of Agriculture and Rural Affairs has substantially increased the number of food inspectors in 2005 and carrying out regional training courses. Communiqués on wine, alcohols, milk and milk products have entered in to force.

The Turkish 2004 *Food Law* is not in line with the EU *acquis* and needs to be reviewed in the framework of a new “food feed and veterinary package”. The Law has transferred the competences of the Ministry of Health on food safety and control to the Ministry of Agriculture and Rural Affairs. However due to delays in the preparation of related implementing regulations, there has been a considerable gap in official controls. Turkey is participating in the Rapid Alert System for Food and Feed on a voluntary basis. However, the national system in place is not well functioning; the results of the alerts received are not being monitored properly and there are no appropriate network for information between the central and local units.

Legislation is mostly in line with the *acquis* as regards *labelling, presentation and advertising, additives and purity criteria* and *extraction solvents*. No concrete progress can be reported since the last report.

Transposition of the EU *acquis* on *food supplements* has not started yet. As regards *flavourings*, the transposition of the EU *acquis* needs to be completed. Implementing legislation regarding the *food contact materials* are in place; however the important changes introduced with the new EU legislation have not yet been transposed.

Turkey has harmonised the legislation relating to *food for particular nutritional uses*. However, the EU legislation on the substances which are allowed to be added to these foodstuffs still needs to be transposed.

Implementation of the EU *acquis* in the area of *hygiene and official control* has been limited. A regulation on market control, of foodstuffs and packaging material has entered in to force in March 2005, however it is not fully inline with the EU *acquis*. A number of local and regional

control laboratories have received accreditation from the Turkish accreditation agency mainly on certain types of aflatoxin and ochratoxin analysis. Physical, chemical and microbiological methods of analysis have been standardised among the provincial control laboratories in order to be in line with the EU practise.

On *contaminants*, a Communiqué on sampling methods for the official controls of ochratoxin A level in foodstuffs has been published in January 2005. The regulation on setting up the maximum limits for certain contaminants is in place; however certain amendments need to be done in order to follow the EU practise. On *genetically modified organisms (GMO)* the Food Law of June 2004 has introduced the definition of GMO food however no major progress can be reported regarding the transposition of the *acquis* in this area. No progress has been observed neither regarding *novel foods*

The relevant EU legislation as regards *ionising radiation* has been transposed and implementation is ongoing.

The responsibility *for mineral waters* belongs to the Ministry of Health which has published EU conform regulations on mineral waters.

In the area of **veterinary policy**, although the preparatory technical work has continued at a good path, the *general* framework for veterinary policy in Turkey is not yet in place (framework laws).

No indication of progress has to be noted in the area of *transmissible spongiform encephalopathy (TSE) and animal by-products* remained limited.

Turkey progressed on the *identification and registration of animals*. However, to bring the system in line with EU standards, further efforts are required to complete the registration process and address the weaknesses of the system, related mainly to the update of the data of animal registered as well as the control measures. Registration of ovine and caprine animals has not yet started in Turkey.

Turkey's implementation as regards the *financing of veterinary* inspection and controls is not in line with the EU practise. No progress in this area has been observed within the reporting period.

Turkey has continued the alignment efforts related to *veterinary checks on third country imports and rules for imports*. A Border Inspection Post master plan and inspection manuals have been adopted, in which some of the future border inspection posts are identified in order to upgrade the inspection facilities. However as the responsibilities are not clearly defined between the relevant services, implementing legislation on import controls has not yet been adopted.

Efforts have been observed concerning *animal diseases control measures*. For foot and mouth disease (FMD) a vaccination campaign has been implemented, new actions need to be organised in the context of a global strategy for the control of this crucial disease. In addition vaccination campaigns have been implemented against brucellosis, sheep and goat plague, anthrax, sheep and goat pox, bluetongue, Newcastle disease and rabies. Furthermore, an animal disease strategy for controlling the World Organisation for Animal Diseases (OIE) List-A diseases, has been prepared. Efficient implementation is however linked to the implementation of veterinary control systems. Turkey's *de facto* ban on import of live animals and animal products from the EU has remained in place (*see section A.2: Relations between the EU and Turkey*). No substantial progress in this area has been observed in the reporting period.

No major progress can be reported as regards rules for placing on the market of food of animal origin (*public health protection*). A large number of agri-food establishments remain to be upgraded to satisfy EU hygiene requirements. This will require a comprehensive strategy including timetables and a focus on foreseeable problem areas including the structure and layout of establishments. Legislative alignment (modification of the Food Law) as well as a clear distribution of competences among the relevant services, is necessary in view of the implementation of the EU acquis.

Concerning *common measures (including zoonoses)* relating to the prohibition of certain substances and control of residues, Turkey has shown a considerable improvement on the legislative harmonisation and preparation of national monitoring plans. Despite the progress on national residue monitoring plans, analytical infrastructure needs to be upgraded and all active substances required by the EU legislation should be included in the annual plans. No significant progress has been achieved within the reporting period on *animal welfare*.

In the **phytosanitary policy** limited progress has been made in transposition and implementation of the phytosanitary *acquis*.

Turkey is encouraged to upgrade its laboratory infrastructure and continue training efforts with regards to the phytosanitary sector. A piece of legislation (Communiqué) on agricultural quarantine sampling and analysis was published in October 2004.

Regarding *quality of seeds and propagating material*, no progress can be reported.

Regarding *plant health*, legislation has not yet been aligned with the EU *acquis*. Inspections at the borders and diagnosis at plant health institutes should be brought in line with the EU practices and standards. Since the last reporting period plant quarantine laboratories have started to carry out additional pesticide analysis. As regards plant protection products, legislation has been brought in line with the *acquis* by the Communiqué on the maximum residue limits of plant protection products in foodstuffs in January 2005.

On *plant hygiene*, the legislation is in line with the *acquis* regarding the official controls of contaminants. Sampling and analysis methods are in place and an action plan on avoiding aflatoxin contamination has been implemented since 2002. An aflatoxin working committee was established and an action plan, which mainly covers extensive training programmes for farmers and for the private sector, has started in pilot provinces. Despite those measures the number of rapid alerts increased in 2005.

Some progress has been achieved in the area of *animal nutrition*. Communiqués on the production, export, import, sale and use of feed additives and premixes (January 2005) on undesirable substances in feed (February 2005) and on materials whose addition to compound feed and use for animal nutrition purposes is prohibited (June 2005) have entered into force.

Turkey has started the official procedure for acceding to the International convention for the protection of new varieties of plants (UPOV).

Conclusion

Some progress has been made in specific parts of the veterinary, phytosanitary and food sectors. Nevertheless, transposition and implementation of the *acquis* in these fields require substantial efforts to achieve full compliance.

Certain implementing rules have been drafted in the veterinary area. However, as the legal basis has not yet been put in place, adoption was not achieved. A global package integrating modification of the food law, hygiene rules and veterinary framework law has to be adopted in order to achieve progress in this area.

In order to execute the tasks required under the *acquis* (see also chapter 11: Agriculture), it seems necessary to restructure and strengthen the Ministry of Agriculture and Rural Affairs. Special attention should be paid to reinforcing and upgrading the control systems. Food processing establishments should be improved with regard to technical and hygienic conditions.

Chapter 13: Fisheries

The *acquis* on fisheries consists of regulations, which do not require transposition into national legislation. However, it requires the introduction of measures to prepare the administration and the operators for participation in the common fisheries policy, which covers market policy, resource and fleet management, inspection and control, structural actions and state aid control. In some cases, existing fisheries agreements and conventions with third countries or international organisations need to be adapted.

Turkey has made no substantial progress concerning the alignment of its legislation with the *acquis* in the area of fisheries.

No developments concerning **resource and fleet management, inspection and control** took place. Implementation of the *acquis* has not started yet.

The administrative structures of the fisheries sector in Turkey remain unsatisfactory due to the difficulties created by the spread of the fisheries competences between different ministries. A planned reorganisation of the Ministry of Agriculture and Rural Affairs with a view to establishing a central Directorate General for Fishery Products has not taken place pending the entry into force of the general Public Administration Framework Law.

Turkey should increase its efforts concerning resource management and the building up of the necessary inspection and control capacities. The licensing and registration of fishing and aquaculture activities should be further improved. The existing fishing vessel register, data collection and statistics system need to be revised and strengthened in order to comply with EU standards.

The monitoring and reporting of catches, landings and fishing activities require substantial improvements. Fishery officers are not based at fishing ports and the fragmented institutional structure and division of responsibilities do not contribute to effective administration. Enforcement surveillance, inspection and control activities are entrusted to both Ministry of Agriculture and Rural Affairs and the Coast Guard (under the Ministry of Internal Affairs). Their effectiveness is hampered due to a lack of sufficient human and technical resources as well as insufficient legal provisions. There is also a lack of adequate scientific research and monitoring data and no stock assessment of key targeted species.

No developments concerning **structural actions** took place.. Implementation of the *acquis* has not started yet.

With regards to **market policy**, there is limited intervention by the State in controlling the supply, prices and withdrawals from the market. The price support regime is incompatible with the *acquis*, see below regarding state aid. A new regulation concerning the establishment of producer organisations has been published in January 2005. The regulation determines certain production levels for the recognition of producer organisations and a number of products or product groups. Turkey needs to improve the overall marketing system for fish and fisheries products.

On **state aid**, no progress can be reported with regard to state aid legislation in the fishery sector. Turkey has a price support regime based on the direct support to production, which is not in line with the *acquis* and needs to be reviewed.

Turkey has not concluded new **international agreements** in the field of fisheries. The inefficient management of blue-fin tuna is undermining multilateral conservation measures in force, as those introduced by of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Conclusion

Turkey has made no substantial progress concerning the Fisheries sector, at this stage the Turkish fishery legislation is not aligned with the *acquis* and the administrative structures do not yet meet the requirements of the Common Fisheries Policy.

Turkey should adopt the necessary alignment legislation and increase its efforts concerning conservation of fish stocks, resource management and the modernization of the production and marketing structures. Turkey needs to improve the administrative structures as a matter of priority and to build-up the necessary inspection and control capacities.

Chapter 14: Transport policy

EU transport legislation aims at improving the functioning of the internal market by promoting safe, efficient and environmentally sound and user-friendly transport services. The transport *acquis* covers the sectors of road transport, railways, inland waterways, combined transport, aviation, and maritime transport. It relates to technical and safety standards, security, social standards, state aid control and market liberalisation in the context of the internal transport market.

Turkey has made some progress in this area.

Some progress has been achieved in the area of **road transport**, particularly in relation to the *acquis* on market access and licensing. The Ministry of Transport revised the implementing legislation regulating road transport on various aspects of the licensing requirements in December 2004 and February 2005. Other pieces of legislation were adopted regarding social legislation, professional competency training of road transportation activities, vehicle worthiness stations, standard checking procedures and recording equipment related to road transport.

Overall, limited implementation capacity regarding road safety as well as lack of alignment on the transportation of dangerous goods is still a matter of concern. The adaptation of the Turkish road transport fleet to EU technical and environmental standards is ongoing. Effective implementation and enforcement of the aligned legislation is not yet ensured which is also reflected in Turkey's road traffic accident average which remains six times higher than the EU average. Despite recent recruitments administrative capacity, numbers and training of staff in the General Directorate of Land Transport should be strengthened. Streamlining of decision making and increased coordination with other competent authorities remains highly needed especially in relation to road safety and social legislation.

Progress concerning **rail transport** remains limited. The Regulation regarding operation of trains owned by third parties on the state railway lines (TCDD) entered into force in April 2005, ending the TCDD monopoly on freight and passenger services, but implementation mechanisms are unclear and require further monitoring. The privatisation via transferring operating rights of the TCDD ports has started with the exception of Haydarpaşa. The

tendering of the Iskenderun and the Mersin Ports are finalised and the tendering for the Izmir Port and the Samsun Port has started. All of the privatisations are scheduled to be finalised by the end of 2005. TCDD still depends heavily on government subsidies; its loss in 2004 was EUR 670 million.

The railway sector does not meet the legislative and institutional requirements of the *acquis*. The sector is not genuinely liberalized and commercially independent. The national regulatory body has not been established. There is no institutional set up for licensing, allocation of infrastructure and safety certification. The existing rail infrastructure needs to be substantially modernized to ensure interoperability with the conventional European rail network. Considerable legislative alignment, far reaching institutional reforms and considerable investments in the sector are required.

Inland waterways transport is an insignificant aspect of the transport sector in Turkey, with no river type vessel and no specific legislation.

Regarding the **air transport** *acquis*, limited progress can be reported. The instructions on licensing of plane and helicopter pilots have been issued in July 2005. The implementation needs to be monitored to confirm alignment with the *acquis*. The Implementing Regulation on Approved Overhaul Administrations was published in July 2004.

However, Turkey's overall alignment with the *acquis* remains limited. Conversion of Joint Aviation Requirements and EUROCONTROL standards to implementing regulations should also progress and an autonomous accident investigation unit remains to be established.

With the Ministry approval in September 2005, slot coordination responsibility is placed under the authority of a commission established under the presidency of the General Directorate of Civil Aviation (GDCA) in coordination with the Turkish Airlines and General Directorate of Airports Operation (GDAO). Compliance with the *acquis* needs to be monitored as GDCA is entirely dependent on the Turkish airlines and GDAO in order to fulfil its slot coordination task. GDCA's administrative capacity needs to be substantially strengthened. Turkey needs to revise existing practices aimed at protecting the position of flag carrier Turkish Airlines.

No progress can be reported with regard to restrictions applied to Cyprus Airways and other Cypriot transport companies to use the Turkish national airspace and the restrictions on communications between the Turkish and Cypriot civil aviation authorities.

As a candidate country Turkey is encouraged to engage with the Commission to negotiate a "horizontal agreement". Furthermore, under its bilateral agreements with EU Member States, Turkey should allow Community air carriers to operate from EU Member States to Turkey and not discriminate between Community air carriers on the basis of nationality²².

In the area of **maritime transport**, some progress can be reported for legislative alignment and strengthening of administrative capacity.

Drafts aimed at transposing most of the maritime safety *acquis* were prepared. The law on emergency response during pollution of the marine environment with hydrocarbon or other hazardous substances has entered into force in March 2005, but still requires the necessary institutional to be established. A regulation on reception and control of waste from vessels was issued in December 2004 and its implementation shall be monitored and the port reception facilities upgraded.

²² On 5 June 2003, the Council granted the Commission a mandate to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community agreement.

The procedures to become a signatory party to SOLAS-78, SOLAS -88 (International Convention for the Safety of Life at Sea), and Load Line 88 and Mar-Pol Annexes III and IV (International Convention for the Prevention of Pollution from Ships) remain, however, to be finalised. A central ship safety database, a national port state control database and a vessel traffic system in the Marmara Sea were established.

The detention rate of Turkey in 2004 decreased to 8,63% as compared to 17,5% in 2003 and to an average for EU-flagged vessels of 3,996% in 2004. No further improvement was, however, registered in the first 9 months of 2005. Turkey remains on the black list of the Paris Memorandum of Understanding but improved its position from very high risk to high risk category. Further improvement of the performance of the Turkish fleet is necessary.

It should be noted that a significant number of the objectives set in the Maritime Safety Action Plan for 2004 remained to be fulfilled by mid-2005.

Access to coastal trade remains reserved for Turkish vessels. No progress was registered concerning the removal of the existing restrictions on Cyprus-flagged vessels and vessels serving the Cyprus trade.

With regards to maritime security, Turkey has fulfilled its international obligations under the SOLAS Convention / Chapter XI/2 and the ISPS Code.

No progress has taken place concerning **state aids**. There is no established institution in Turkey regulating state aid.

Conclusion

Notwithstanding the progress made in the transport sector in general, further efforts are needed to transpose and align with the relevant *acquis* and to ensure effective implementation.

In the field of road transport, Turkey has made good progress to bring its legislation into line with the *acquis*, yet some further adjustments will be necessary in order to achieve full transposition and the corresponding implementation capacity should be strengthened.

For the other transportation sectors, the level of alignment with the *acquis* is uneven. Substantial legislative and institutional reforms are needed to restructure the entire rail sector in line with the *acquis*. In the field of maritime and air transport the adoption of international agreements and rules should be complemented by the transposition of the relevant *acquis*. Besides the need for further legislative alignment, due emphasis must be given to the implementation and enforcement capacity of all of the relevant administrations particularly in the air and maritime transport sectors. In the latter sector, implementation of the Maritime Safety Action Plan must be strengthened. The Commission expects Turkey to remove all restrictions on the free movement of goods, including restrictions on means of transport.

Chapter 15: Energy

EU energy policy objectives include the improvement of competitiveness, security of energy supplies and the protection of the environment. The energy *acquis* consists of rules and policies, notably regarding competition and state aids (including in the coal sector), the internal energy market (opening up of the electricity and gas markets, promotion of renewable energy sources), energy efficiency, nuclear energy and nuclear safety and radiation protection.

Some progress has been made in the field of energy.

As regards **security of supply**, a national oil stocks commission with relevant competencies has been established in 2005. Turkey has essentially aligned with the *acquis* with regard to

security of supply. Turkey is obliged to hold minimum oil stocks equivalent to 90 days of annual consumption in accordance with requirements of the International Energy Agency (IEA). Following recent oil price increases, companies have used their oil stocks to compensate, and oil stocks are currently below required levels.

Turkey has continued its efforts to diversify resources and routes and to strengthen its role as a transit country for oil and gas from the Caspian Basin and the Middle East to the EU. The construction of a Turkey-Greece gas interconnector has started in July 2005 and should be completed in 2006. In addition, Turkey supports the “Nabucco” gas pipeline project (Turkey-Bulgaria-Romania-Hungary-Austria) currently in the planning phase, for which the Caspian Basin, including Iran, could also be a supplier, and is collaborating with the Mashreq countries in the project to bring natural gas from Egypt, Syria and eventually, when conditions permit, from Iraq to the EU (*the relation to the trans-European energy network programme TEN-E is detailed in chapter 21*). A new South Caucasus gas pipeline Baku-Tibilis-Erzurum is expected to become operational by the end of 2006. Regarding oil, the construction of the Baku-Tbilisi-Ceyhan pipeline is nearing completion. When the pipeline will be operational as expected in November 2005, this will increase security of supply and also reduce the burden of dangerous materials carried through the Turkish Straits. Special attention should be paid to the protection (security) of these infrastructures, with due regard to their important role for the security of supply of the European Union.

Efforts should continue to strengthen Turkey’s position as a transit country by actively participating in projects of common interest for Trans-European Energy Networks as well as regional formations, which will all contribute to security of supply.

As regards the **internal energy market**, limited progress has been made.

While the legal framework and implementing legislation for the liberalization of the electricity market is fairly advanced and largely in line with the acquis, implementation remains limited. The 2004 strategy paper on electricity sector reform and privatisation strategy is under implementation. TEDAS, the Turkish electricity distribution company, has been restructured and 21 distribution regions have been established. However, some delays are occurring in the preparation of the privatisation of 20 distribution companies. In July, an amendment to the Electricity Market Law was adopted which allows private distribution companies to establish generation facilities on the condition that accounts for distribution and generation activities are kept separate.

There has been a slight increase in market opening, the threshold for eligible customers having been lowered from 7.8 to 7.7 GWh/year, amounting to a market opening of 29%. The target remains to achieve full market opening by 2011. During a five-year transition period, no changes in the eligibility threshold are envisaged. Although some progress has been made as regards electricity losses (technical losses in distribution and theft) their overall ratio remained high at 18.6% in 2004.

Turkey so far has no synchronous interconnection to the western European electricity networks, and energy trade is limited. But progress has been made in cooperation with the Union for the Coordination of Transmission of Energy, as well as on the construction of the Babaeski-Filippi link with Greece. Currently a two-line link with Bulgaria is operational, but on a non-synchronous basis.

Turkey signed the 2003 Athens Memorandum designed to create a regional electricity and natural gas market in South East Europe and participated in the negotiation [process leading to an Energy Community Treaty](#).

Implementing regulations on security of supply, quality of the transmission system, and balancing and settlement have been issued. The latter is only applied “virtually” however due to all prices still being regulated.

Delays in privatization and the unresolved issue of guaranteed prices hamper competition. Turkey should continue efforts to ensure timely implementation of the electricity sector strategy paper. Turkey should furthermore focus attention on the following issues: The dominant position of the state trading company in the wholesale market should be adjusted, the current restrictions for cross-border trading should be removed, the existing long-term power purchase agreements should be tackled, and cross-subsidies should be eliminated. The reduction of distribution losses also remains an important issue to tackle.

As regards the internal gas market, no new implementing legislation has been issued. Market opening in the gas sector remains at 80% (eligibility threshold of 1 mio m³/year). However, given that the national gas incumbent BOTAS has maintained its monopoly on import, trade and storage of gas, there is no effective market opening. The first preparations for the restructuring of BOTAS and the privatisation of trade and storage activities have started, but no tangible results on account or legal unbundling have been achieved yet. The tendering for gas distribution companies in cities is ongoing. 32 tenders have been completed since market opening, fifteen of which are operational.

No real progress has been made regarding the gas release programme, whose objective is to reduce the share of BOTAS’ import contracts to 20% of annual consumption. A tender for contract transfer was launched in November 2004 but subsequently postponed several times. The approach has recently been changed to volume releases instead of contract releases.

While the legal framework for the gas sector is mostly in line with the acquis, Turkey should increase its efforts to prepare for an effectively functioning market. The privatisation of distribution companies should continue, the real implementation of the gas release programme should start, and the restructuring of BOTAS should be prioritised. A concrete time frame and road map for the reform of the gas sector should be developed.

Concerning administrative capacity, the Energy Market Regulatory Authority has 296 employees, with 166 of them involved in regulatory matters. The authority’s responsibilities will further increase with the completion of the liberalization process. This will require larger numbers of staff, especially in economic regulatory matters. Staff training schemes should continue. The capacities and independence of the Energy Market Regulatory Authority must be further strengthened, with its decisions not being dependent on approval by other government bodies. The authority is financed through contributions from regulated companies and entities.

No progress has been made on the adoption of **state aid** legislation, or on the establishment of an operationally independent state aid monitoring authority. Despite the fact that Turkey is obliged under the Customs Union and ECSC Free Trade Agreement to align and ensure full transparency of its existing and new state aid schemes, neither of these obligations has so far been fulfilled.

Turkey’s lignite production does not receive state aid. For the hard coal production in the Zonguldak coal basin, a restructuring programme to reduce state aid and to promote private operation is underway.

Concerning **energy efficiency**, no development can be reported. Turkey should as a matter of priority adopt an energy efficiency framework law, as a basis for legal alignment to the acquis, and to reduce the high energy intensity of the Turkish economy.

As regards **renewable energy sources**, some progress can be reported. The Law on the Use of Renewable Energy Sources in Electricity Generation was adopted in May, establishing the necessary legal framework for the promotion of renewable energy. The law provides transitional arrangements (until 2011) for more competitive prices for electricity generated from plants that have a renewable energy resource certificate, and other incentives for investments in renewables. Furthermore the law gives the Council of Ministers the authority to increase the price applicable to renewable energy resources by a maximum 20% at the beginning of each year.

The renewable energy law is a first step towards implementation of the renewables acquis. However, the law does not set a target for electricity generated from renewable sources by 2010, as foreseen by the relevant directive. Given Turkey's significant untapped potential for renewable energy sources, it should set itself an ambitious target for their further development, including geothermal energy. Turkey would be recommended to develop an overall strategy for renewable energy sources.

Concerning administrative capacities, the National Energy Efficiency Conservation Centre's statute and capacities should be reviewed, also in light of new legislation, with a view to ensuring more effective horizontal coordination among all relevant sectors, including energy, construction, transport, industry and environment.

Regarding **nuclear energy**, Turkey currently does not operate any nuclear power plants, but there is one 250 kW TRIGA II research reactor at the Istanbul Technical Institute put into operation in 1979. A radioactive waste processing facility has been in operation in Ckmece since 1989.

Turkey has recently reactivated earlier plans to develop a nuclear energy generation capacity, aiming at 5.000 MW by 2020 to meet rising domestic demand forecasts. Preparatory studies have been launched.

Turkey is partially aligned with the acquis, and a regulatory authority is in place. A safeguard agreement with the IAEA entered into force in 1981. If nuclear power plants are to be built, the Turkish Atomic Energy Authority's (TAEA) administrative capacities and resources will have to be strengthened considerably prior to the respective licensing process. TAEA, which is currently affiliated to the Ministry of Energy, should be transformed into a fully independent regulatory authority with its own budgetary resources. Its research and development functions should be separated from TAEA's regulatory tasks.

The economic feasibility of developing a nuclear capacity should also have to be assessed in the light of the establishment of the new Energy Community for the region and the considerably improved energy trading opportunities this will bring.

The European Union has repeatedly emphasised the importance it attaches to a high level of nuclear safety in all candidate countries.

Some progress has been made as regards **nuclear safety and radiation protection**. Several implementing regulations on radiation safety have been adopted in the reporting period. Turkey will need to ensure compliance with Euratom Treaty requirements and procedures. In this respect, due attention will need to be paid to preparing the implementation of Euratom safeguards, in particular regarding the reporting of nuclear material flows and inventories directly by the persons or undertakings operating nuclear installations or storing nuclear materials. This includes small holders like universities and medical facilities.

As a candidate country, Turkey must also comply with the directive on environmental impact assessments including transboundary consultations with Member States. Under the

international Convention of Nuclear Safety, Turkey already has an obligation to consult neighbouring countries on proposed nuclear installations and provide information allowing them to conduct their own impact assessment.

Conclusion

Progress in several areas of the energy sector has been achieved in the reporting period.

Although Turkish energy market laws and implementing regulations are largely in line with the EU *acquis*, effectively functioning and competitive markets are not in place. Obstacles to competition need to be tackled without distorting conditions in the markets. The administrative capacity of the regulators needs to be strengthened to achieve more effective regulation. The legal framework for energy efficiency as well as implementing regulations for renewable energy need to be issued in a reasonable time frame. Regarding nuclear safety, full compliance with the *acquis* is becoming increasingly important in the light of Turkey's plans to develop its nuclear energy generation capacity.

Chapter 16: Taxation

The *acquis* on taxation covers extensively the area of indirect taxation, namely value-added tax (VAT) and excise duties. It lays down the scope, definitions and principles of VAT. Excise duties on tobacco products, alcoholic beverages and energy products are also subject to EU legislation. As concerns direct taxation, the *acquis* covers some aspects of taxing income from savings of individuals and of corporate taxes. Furthermore, Member States are committed to complying with the principles of the Code of Conduct for Business Taxation, aimed at the elimination of harmful tax measures. Administrative co-operation and mutual assistance between Member States is aimed at ensuring a smooth functioning of the internal market as concerns taxation and provides tools to prevent intra-Community tax evasion and tax avoidance. Member States must ensure that the necessary implementing and enforcement capacities, including links to the relevant EU computerised taxation systems, are in place.

Turkey has made little progress in the area of taxation.

In the area of **indirect taxation**, Turkey has made no substantial progress towards alignment on VAT legislation. While a VAT system is in place since 1985, substantial steps need to be taken so as to achieve full alignment with the *acquis* in several areas, particularly as concerns the scope of exempt transactions, the special schemes, and the scope and level of the reduced rates applied. The reduced VAT rate of 8%, that Turkey is now applying on foodstuffs, medicine and medical services, education and education materials, is allowed under the *acquis*. However, the existence of two reduced rates, one of which set below the required 5%, is not in line with the *acquis*.

On *excise duties*, Turkey has achieved some progress towards alignment with the *acquis* on tobacco products. In this area, amendments introduced in July 2005 appear to have eliminated from legislation all discriminatory features against imported cigarettes. This is not the case for alcoholic beverages, where imported products are still *de facto* taxed at higher rates than comparable domestic products. The structure of the duty on alcoholic beverages is incompatible with the *acquis*. The duty is partly differentiated by alcoholic content, but also by product type and several alcoholic drinks of the types normally produced in Turkey (e.g. raki) are taxed at much lower rates than imported ones (whisky, rum, etc) even though their alcoholic content is the same. Additional discriminatory practices can be found in the operations of the Tobacco Fund, which collects a special duty on imported tobacco and

cigarettes. Such discriminatory measures do not only contradict the *acquis* but also Turkey's commitments under the Customs Union Agreement and World Trade Organisation rules.

Besides abolishing the discriminatory structure of duties on alcoholic products, as well as the Tobacco Fund, Turkey needs to align further the structure of the duty and the level of rates, particularly on cigarettes, where the requirements provided for in the *acquis* are only partially met. Furthermore, the necessary steps should be taken for the timely implementation of the duty suspension regime for domestic movements and fiscal warehouses.

Since the last Regular Report, some progress can be recorded in the area of **direct taxation**. Turkey has amended its legislation on free-zones, gradually terminating tax incentives until 2008 and introducing a standstill clause. Under the new law new entrants will no longer be eligible for such incentives. Additional efforts are required to accomplish alignment with the *acquis* in the field of direct taxation. Whilst making these efforts, Turkey needs to avoid introducing any tax measures which would be against the principles of the code of conduct for business taxation.

Some developments can be reported in the area of **administrative cooperation**. Regarding administrative capacity, a law establishing a semi-autonomous Tax Administration has entered into force, restructuring the administration on functional basis and introducing a direct responsibility link between local offices and Headquarters. The computerisation of tax offices continued, as did the distribution of tax identification numbers to taxpayers. In total, 300 tax offices across Turkey, collecting 95% of accrued tax revenues, have been included in the computer network, while 38 million taxpayers have received tax identification numbers. However, a comprehensive Tax Policy Strategy focusing on the introduction of information technology in tax offices so as to increase voluntary taxpayer compliance and to ensure the proper implementation and enforcement of the *acquis* does not exist yet.

Conclusion

The Turkish fiscal regime is partially in line with the *acquis*, but considerable further legislative alignment is necessary, particularly regarding the scope and rates of VAT and the structure and rates of excise duties, as well as with regard to *acquis* on direct taxation. In addition, existing discriminatory elements in the tax legislation, which are contrary to both the *acquis* and the basic rules of Customs Union and WTO, have not yet been removed.

With regard to administrative capacity, the effectiveness and efficiency of the tax administration and its capacity to improve tax collection and enhance taxpayer compliance is low.

Chapter 17: Economic and monetary policy

The *acquis* in the area of economic and monetary policy contains specific rules requiring the independence of central banks in Member States, prohibiting direct financing of the public sector by the central banks and prohibiting privileged access of the public sector to financial institutions. Member States are expected to co-ordinate their economic policies and are subject to the Stability and Growth Pact on fiscal surveillance. New Member States are also committed to complying with the criteria laid down in the Treaty in order to be able to adopt the euro in due course after accession. Until then, they will participate in the Economic and Monetary Union as a Member State with a derogation from the use of the euro and shall treat their exchange rates as a matter of common concern.

There has been some progress since the last Regular Report in the area of economic and monetary policy.

With regard to **monetary policy**, no particular developments can be registered.

The Government continues to set inflation targets, involving the Central Bank. Therefore, provisions concerning *Central Bank Independence* need further alignment with the *acquis*. In particular, the setting of the inflation target by the Government should be removed.

The Central Bank announced a new monetary and exchange rate policy in 2005, with a view to start a formal inflation targeting system in the beginning of 2006. During the transition period, monetary policy decision making mechanism will be aimed at increasing the transparency and predictability of interest rate decisions. As regards liquidity provisions, it has become possible for banks to borrow unlimitedly from the Central Bank against collateral.

Although the Central Bank Law has brought a general prohibition of *monetary public sector financing*, the provision enabling the financing of the Saving Deposits Insurance Fund is still not in line with the *acquis*. The possibility for the CBT of lending money to such a fund could be contrary to Art 101 EC, if the Central Bank could end up assuming financial responsibilities (e.g. irrecoverable losses stemming from the non-repayment of NCB loans) that in principle are borne by the state.

Regarding the *prohibition of privileged access* of the public sector to financial institutions, provisions contained in implementing regulations oblige now financial institutions to acquire or to hold liabilities of public authorities.

In particular, banks are obliged to keep a certain amount of compulsory reserves in the form of Turkish Treasury bonds at the Central Bank. Similar requirements exist for insurance companies. These can only use as collaterals Turkish Treasury bonds and bills, shares of Turkish public companies, shares and commercial papers of listed companies, mutual fund participation certificates, and real estate in Turkey. This definition excludes foreign assets, such as foreign government bonds. In practice, this requirement is fulfilled by only Turkish Treasury bonds and bills, since Turkish capital markets are dominated by public debt paper.

Even though the Central Bank accounts have been audited by external auditors in practice, external audit is only optional in the Central Bank law. The Bank may provide unlimited liquidity to the commercial banks against collateral. The necessary safeguards to eliminate the moral hazard risks that might stem from the Central Bank's unlimited "lending of last resort" function are not in place.

Overall, alignment with the *acquis* remains limited in the area of monetary policy.

Since the previous reporting period, some progress can be reported in the area of **economic policy**. Turkey submitted a new Pre-Accession Economic Programme (PEP) to the Commission as part of the requirements emanating from the Pre-Accession Fiscal Surveillance Procedure. The PEP 2004 covers the targets and forecasts for the period 2005-2007. It aims at achieving sustainable growth, further lowering inflation, reducing fiscal deficit and public debt stock to the Gross Domestic Product ratios towards EU standards, and reducing regional disparities. The PEP is expected to help Turkish authorities to conceive and implement a consistent set of economic policies.

The structures responsible for the economic policy coordination within the Government are fragmented. More than five ministries and undersecretariats are responsible for inherently integrated economic activity areas. This situation is a major obstacle to the efficiency and the effectiveness of policy formulation, co-ordination and implementation. The restructuring of

the co-ordination mechanisms is an essential requirement for the sustainable implementation of a coherent set of economic policies.

Conclusion

Some progress can be reported in the area of monetary and economic policy, but overall alignment with the *acquis* remains limited in this area. Moreover, the Central Bank's statute must be revised to ensure the personal and institutional independence of the monetary authority. In particular, the relevant articles of the statute regulating the dismissal of the Central Bank governor and the terms of office for the Board members should be aligned with the *acquis*. The possibility of judicial review has not been introduced yet. Consideration should also be given to introducing judicial referral mechanisms into the Central Bank Law for any decision relieving the members of the CBT's decision-making bodies dealing with ESCB-related tasks from office. The Bank's inability to charge fees for its operations on behalf of the Treasury could affect its financial independence and should therefore be abandoned.

The external audit of the accounts remains to be voluntarily. The Central Bank is not allowed to charge fees for the operations it conducts on behalf of the Treasury.

The overall capacity for the implementation of economic policy remains rather limited, as the coordination system cannot effective and efficient policy formulation, co-operation and implementation yet.

Chapter 18: Statistics

The *acquis* in the field of statistics requires the existence of a statistical infrastructure based on principles such as impartiality, reliability, transparency, confidentiality of individual data and dissemination of official statistics. National statistical institutes act as reference and anchor points for the methodology, production and dissemination of statistical information. The *acquis* covers methodology, classifications and procedures for data collection in various areas such as macro-economic and price statistics, demographic and social statistics, regional statistics, and statistics on business, transport, external trade, agriculture, environment, and science and technology. No transposition into national legislation is needed as the majority of the *acquis* takes the form of regulations.

Some progress has been achieved in the administrative structure of the State Institute of Statistics and in a number of selected statistical areas, which had been given priority.

Turkey has made limited progress over the past year concerning **statistical infrastructure**. The new statistical law is could not be adopted. This law should also aims at strengthening the co-ordination role of the State Institute for Statistics (SIS) within the Turkish statistical system, determine the principle of confidentiality of individual data, regulate planning activities and dissemination policy and define the appointment procedures for the President of the SIS. 26 Regional Statistical Offices are now established and equipped with some financial and human resources in order to have one office for each Nomenclature of Territorial Units for Statistics (NUTS) 2-digit region.

In order to further adopt the *acquis* on statistics, administrative capacity needs significant strengthening. The exact definition and distribution of tasks between the headquarters of the SIS and the individual regional offices remains to be finalized.

Both head-quarters and regional offices need more and better qualified staff. Training is therefore, important and should be followed-up by the SIS.

The SIS has also enlarged its co-operation with other bodies of the statistical system such as the Ministries of Finance, Health, Industry and Commerce, Agriculture and Rural Affairs and of Labour and Social Security in order to familiarise them with the EU standards in statistics.

Administrative capacity for statistics in other Ministries and governmental bodies which provide the input for specialized statistics is not sufficient yet.

Turkey has made some progress as regards **classifications**. The Turkish version of Statistical Classification of Economic Activities in the European Community Revision 1.1 (NACE Rev. 1.1) was progressively used for the business register and other surveys. A translation of the Community Industrial and Services Nomenclature for 2004 and 2005 was prepared. A national version for the International Standard Classification of Education (ISCED) was created. Many classifications have been put on the web-site of the SIS to make them widely available for application by other ministries and institutions involved in the production of official statistics. The Turkish version of PRODCOM 2002 and 2003 (product classification) was published as a book and as CD.

In the field of classifications and the utilisation of these classifications by all producers of official statistics implemented, further alignment is needed. The use of harmonised classifications needs to be enhanced throughout the statistical system of Turkey.

As regards **sector statistics** some progress has been achieved in selected priority areas. In the field of *demographic and social statistics*, the questionnaires for the Labour Force Survey and for the Labour Cost Survey were both revised in accordance with EU methodology. The main survey on income and living conditions was implemented in 12000 households in April 2005 according to EU methodology.

In the area of *regional statistics* an inventory of available regional data was developed and urban audit data compiled. A recalculation of time series according to the new regional breakdown for some statistical areas was done.

In the area of *macro-economic statistics*, some progress in National Accounts for the implementation of the European System of Accounts (ESA 95) has been achieved by using the definitions of the ESA 95. No other significant development can be reported. In this area, the main challenge still ahead of the SIS is the move from the UN System of National Accounts to ESA 1995. Better co-operation between the Ministry of Finance, the Central Bank, and the Undersecretary for the Treasury and the SIS is a pre-requisite for improving government finance statistics. The use of conceptual studies for all areas of macro-economic statistics remains rather limited. This also includes the provision of basic data from other areas such as business statistics.

As regards *business statistics*, the business register is being established based on NACE Rev. 1.1. Tax register records are regularly checked to update the business register. The check for consistency of data from the 2003 Business Census is ongoing as well as the analysis and data compilation according to EU standards. For short-term statistics monthly and quarterly surveys for industry and construction were streamlined.

In the area of transport statistics data on rail transport are compiled according to the EU standards.

Concerning *external trade statistics*, there is already a good level of compliance achieved for the system measuring trade with Third Countries. The base year for external trade indices was changed to 2003 and new indices were published in early 2005.

In *agricultural statistics*, preparations for a livestock and a crop production survey, including viticulture in line with EU standards have started. The questionnaire for the Farm Structure Survey to be held in October – November 2005 was developed.

Beyond the official protocols of cooperation signed between the SIS and other government bodies which have already been mentioned in the past progress report the SIS is actively preparing the harmonization process of other data providers. In this context special efforts have been made with the Ministries of Finance, Health, Industry and Commerce, Agriculture and Rural Affairs and of Labour and Social Security. It was found that the EU statistical standards are little known in these organizations.

Turkey has incorporated in some areas (i.e. labour cost survey, farm structure survey) into the data collection mechanisms of the European Statistical System. The SIS is setting up the relevant tools to bring the official statistics into line with European Community requirements. The on-going harmonization process in the selected areas must continue and additional areas must be added successively.

Conclusion

Turkey has made some progress. Overall, Turkey's alignment with the *acquis* in the area of statistics is limited but it proceeds following the steps agreed between the SIS and Eurostat.

The adoption of the new statistical law should be given highest priority. Substantial efforts are needed to progress towards overall alignment with the *acquis* in all main areas for statistical development (business statistics, social statistics, agricultural statistics and macro-economic statistics, trade statistics, regional statistics and environment statistics) gives room for further improvement.

Chapter 19: Social policy and employment

The *acquis* in the social field includes minimum standards in the areas of labour law, equality, health and safety at work and anti-discrimination. The Member States participate in social dialogue at European level and in EU policy processes in the areas of employment policy, social inclusion and social protection. The European Social Fund is the main financial tool through which the EU supports the implementation of its employment strategy and contributes to social inclusion efforts (implementation rules are covered under *Chapter 22*, which deals with all structural instruments).

Turkey has made some progress in the area of social policy and employment.

In the area of **labour law**, progress was limited. A regulation on the establishment of the wage guarantee fund was issued in October 2004 with the aim of transposing the *acquis* related to the protection of employees in the event of the insolvency of their employer. The fund will be managed by the Turkish Employment Agency (İŞKUR). Turkey still needs to address several shortcomings in the transposition of some directives, as reported in last year's Regular Report. These include among others the directives on collective redundancies, transfer of undertakings and information on individual employment conditions. The scope of application of the labour law is still too limited, as certain sectors or categories of businesses (for example agricultural businesses with fewer than 50 employees) are excluded from it. The sectoral working time directives and the directives on European works council and posting of workers remain to be transposed. Turkey also needs to prepare for the transposition of the directives supplementing the statutes of the European company and the European cooperative society with regard to the involvement of employees as well as the information and

consultation directive. Concerning the administrative capacity of the Ministry of Labour and Social Security, recruitment of qualified personnel continued.

Turkey should continue its efforts to combat child labour. While a new Law on the Protection of Children was adopted in July 2005, legislation concerning child labour should be fully aligned and also include provisions to protect children working in sectors currently not covered, such as sea and air transport or agricultural businesses with less than 50 employees. (*see also Section B.1.3 – Human rights and the protection of minorities*).

In the field of **health and safety at work**, Turkey has reached a good degree of alignment with the *acquis*, and efforts to implement the existing legislation have been strengthened. An implementing regulation was adopted in November 2004 with the aim of transposing the EC directive on work on board fishing vessels. An amendment was made to the regulation on arduous and hazardous work in October 2004, allowing women to work in such jobs under certain conditions. However, the Council of State suspended in August 2004 the regulation transposing the Framework Directive on health and safety at work, thereby preventing this text from being fully implemented, even though other regulations related to health and safety at work remain in force. Furthermore, the scope of the Turkish legislation should now be extended to cover the public sector, and the regulations on asbestos and noise should be adapted to cover the current status of the *acquis* in those fields. Intensive efforts to ensure implementation of the *acquis*, including through information, awareness-raising and training should continue and be intensified. Strengthening the capacity of the labour inspectorate and involving the social partners in the overall implementation of well-being at work should remain priorities.

As regards **social dialogue**, very little progress can be reported. A circular from the Prime Minister's office, aimed at reducing some restrictions on the activities of members, representatives and managers of the public sector trade unions, including press relations was issued in June 2005. The 'Tripartite Advisory Board', a body bringing together government and social partners, met for a second time in May 2005. The Labour Assembly, another tripartite body, was reconvened in September 2004 after twelve years. Full trade union rights still need to be established, as demanded in previous regular reports. Moreover, organisation of trade union meetings and demonstrations should be facilitated. The percentage of the labour force covered by collective agreements still remains extremely low. At national level, in order to improve the performance of the Economic and Social Council some structural reforms should be implemented, including the reduction of the still predominant position of the Government's representatives (*see also section B.1.3 – Human rights and protection of minorities*).

As regards **employment policy**, the labour market continues to display poor performance and 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 2004 stood at 43.7% with a slight increase compared to 2003. However, female employment is still low at just under 25%, while male employment picked up slightly from 62.9% in 2003 to 64.7% in 2004.

IŞKUR is continuing its efforts to improve its institutional capacity. . Substantial efforts were made to up-grade basic education provision. However, more efforts need to be pursued on adults' training in order to ensure the human capital development. Important efforts are needed to increase labour supply and ensure an inclusive labour market and improve the public employment services at all levels. Work is underway to prepare the Joint Assessment Paper of Employment Policy Priorities between the European Commission and the Turkish

authorities. This work should be pursued to support Turkey's efforts should to develop a forward-looking employment policy in line with the European Employment Strategy.

Concerning **social inclusion**, work has started to draft the Joint Inclusion Memorandum between the European Commission and the Turkish government. A national integrated strategy on promoting social inclusion, taking into account the EU objectives, still needs to be developed. While the risk of poverty rate before all transfers is lower (30.9%) than the average of EU Member States, the role of the social protection system in alleviating poverty is still very limited²³. As a result, the risk of poverty rate including all transfers (23.3%) is significantly higher than the EU average of 15% in 2002. Existing structures to promote social inclusion are highly dispersed and there is insufficient coordination of activities. It is important to promote an integrated approach mobilising various governmental bodies and all relevant stakeholders in the process. While a new Law on Disabled People was adopted in July 2005 (*see also section B.1.3 – Human rights and protection of minorities*), substantial work still remains to be done in particular to improve the situation of vulnerable groups.

In the field of **social protection**, the Government should pursue its ongoing efforts aimed at reforming the social security system. Its main current weaknesses remain the lack of financial stability, the presence of a large informal sector and administrative and management problems. In an effort to reform the social security system, and gathering the social security institutions under a single framework, a law was adopted in January 2005 transferring all hospitals belonging to the social security institutions to the Ministry of Health. Furthermore, in February 2005, all beneficiaries of the social security system have been entitled to obtain medications from all pharmacies. However, further efforts are required in the field of health care to improve population coverage and equity of access. Addressing geographical disparities of care supply is also a matter of concern. Efforts currently undertaken to upgrade the administrative capacity of the social security institutions should continue.

As regards **equal treatment between women and men**, no progress can be reported as regards the transposition of the EC Directives prohibiting discrimination on employment. The law establishing the Directorate General for the Status of Women was adopted in October 2004. The main function of this authority will be to strengthen the position of women in social, economic, cultural and political life. While the new penal code entered into force in June 2005 has profoundly improved women's fundamental rights as reported in last year's Regular report, full transposition of the directives on gender-equality is still required. Further alignment is still required in particular concerning parental leave, equal pay, access to employment, burden of proof, as well as statutory and occupational social security. The Turkish law should also stipulate that associations, which have a legitimate interest in ensuring that the principle of equal treatment is applied, may engage as provided in the *acquis*, either on behalf or in support of the complainant, in any judicial or administrative procedure. Furthermore, the Equality Body required by the *acquis* still needs to be established. Further efforts are needed to improve gender equality in economic and social life and to ensure effective enforcement of the relevant legislation (*see also Section B.1.3– Human rights and the protection of minorities*).

As regards the **fight against discrimination**, efforts are still needed in particular to transpose the non-employment aspects of the Racial Equality Directive. The new penal code, entered into force in June 2005, has introduced penalties for those who commit discrimination hindering someone's economic activity on the grounds of language, race, gender, political ideas, religion etc. However, full transposition of the EC directives concerning discrimination

²³ Source: social protection in 13 candidate countries, DG EMPL publication, 2003.

on grounds of sex, racial or ethnic origin, religion or belief, disability, age and sexual orientation is still required. Significant challenges remain with regard to the situation of minorities and the effective implementation and enforcement of anti-discrimination provisions (*see also Section B.1.3– Human rights and the protection of minorities*).

As regards the rights of people with disabilities, a new law on Disabled People was adopted in July 2005. The law provides for guidelines for the classification of different kinds of disabilities, and includes provisions for care services, rehabilitation, early diagnosis, employment and education of disabled people. The law stresses the need to combat discrimination against people with disabilities, and stipulates that discrimination based on disability is a crime. The law also compels the employers and public institutions to make the necessary physical arrangements in the workplaces. However, more importance should be given to improving central and decentralised structures and facilities (community-based services or institutions) for disabled people, and to improving access to education for children with disabilities.

Some, albeit limited progress, was made towards bringing Turkey's employment and social policies in line with the *acquis*. Some legislative changes have taken place in the fields of labour law and health and safety at work. No or little legislative progress has been achieved regarding legislation in the field of social dialogue, gender-equality and anti-discrimination. The Turkish authorities have started working and made progress on the Joint Assessment Paper of Employment Policy Priorities (JAP) and the Joint Inclusion Memorandum (JIM). The administrative capacity of the Ministry of Labour was strengthened. However, further efforts are still required on both the legislative and administrative sides.

Turkey should further pursue its efforts, particularly in areas related to labour law, health and safety at work, and social protection. Turkey should urgently improve gender-equality and the fight against discrimination, and establish full trade union rights by eliminating restrictions currently applied. The JAP and JIM should be pursued as steps to bring Turkish policies closer to the EU policies and to identify the challenges the country is facing in the employment and social inclusion fields. Completing both documents and implementing their conclusions should be considered as a priority. Above all, the main challenge for Turkey in this chapter is related to the full implementation and enforcement of the *acquis* on the ground. Strengthening of administrative capacity at all levels should continue.

Chapter 20: Enterprise and industrial policy

EU industrial policy seeks to promote industrial strategies enhancing competitiveness by speeding up adjustment to structural change, encouraging an environment favourable to business creation and growth throughout the EU as well as domestic and foreign investments. It also aims to improve the overall business environment in which small and medium sized enterprises (SMEs) operate. It involves privatisation and restructuring (*see also Chapter 8 – Competition policy*). EU industrial policy mainly consists of policy principles and industrial policy communications. EU consultation forums and Community programmes, as well as communications, recommendations and exchanges of best practices relating to SMEs aim to improve the formulation and coordination of enterprise policy across the internal market on the basis of a common definition of SMEs. The implementation of enterprise and industrial policy requires adequate administrative capacity at the national, regional and local level.

Progress in relation to an industrial strategy has been limited as the industrial strategy for Turkey is in line with the basic principles of EC industrial policy. Some progress was made with regard to privatisation and restructuring, the business environment and SME policy.

As regards the **industrial strategy**, Turkey presented a satisfactory progress report on industrial policy implementation in December 2004. The “Industrial Policy for Turkey” has been prepared under the coordination of the State Planning Organisation, with the contribution of the Ministry of Industry and Trade, the Undersecretariat of the Treasury, the Undersecretariat for Foreign Trade, the Secretariat General for EU Affairs, KOSGEB, the Turkish Patent Institute, the Union of Chambers of Commerce, Industry, Maritime Trade and Commodity Exchanges of Turkey, and the Confederation of Turkish Craftsmen and Artisans.

With regard to **privatisation and restructuring**, privatisation efforts further accelerated and substantial progress can be reported in this area.

While in 2003 total *privatisation* receipts amounted to only EUR 226 million, in 2004, privatisation revenues significantly increased and reached a level of EUR 1,019 million. The block sale of alcohol production facilities Tekel and the public offerings for Turkish Airlines were the largest privatisations in 2004. The Privatisation Administration significantly increased the privatisation activities in 2005 and completed several privatisations. Largest completed privatisations in 2005 are the two public offerings for the state chemical company Petkim, partial sale of state oil refinery Tupras to foreign investors via the Istanbul Stock Exchange, the sale of Atakoy group tourism companies and of Eti Aluminium. The Turkish administration finalised tender procedures for two large scale privatisations, namely Telekom and the oil refinery Tupras. Tender procedures have also been completed for the sale of the Istanbul Hilton Hotel, Mersin Port, Tekel Twin Towers, and Iskenderun port. The tender for the transfer of operating rights of the Istanbul Atatürk Airport in Turkey has been completed. The administration also completed the tender procedures for the block sale of its 46% stake in the steel and iron company Erdemir. Privatisation of Tekel’s tobacco branch failed due to lack of offers. No new development can be reported on the privatisation of state banks.

The privatisation administration is implementing a privatisation social support project aimed at reducing the socio-economic impact of privatisation and mitigating the negative impact of economic instability of poor households. As of 2005, 46 percent of the employees who have been displaced by the privatisation of state economic enterprises have benefited from the programme.

As regards *restructuring*, no new development is to be reported with regard to the restructuring of state banks. (*as regards steel industry restructuring, see Chapter 8 – Competition policy.*)

In the area of **business environment**, the “Reform Programme for the Improvement of the Investment Environment”, initiated in 2001, has only had limited follow-up and led to only limited progress in the form of shortening of company establishment procedures and the assignment of the Ministry of Labour and Social Security as the single authority for foreigners’ work permits (*see Chapter 3 Right of Establishment and Freedom to Provide Services*).

The dialogue with the business community has continued, amongst others, in the form of the “Investment Advisory Council”, which is a World Bank initiative aimed at gathering high-level representatives of international investors together with the national authorities to provide recommendations on improving the investment environment. The decentralisation and transfer of procedures to set up a business to local Commercial Registry Offices which are supported by the local Chambers of Commerce or Industry can be reported as positive development.

In 2004, total FDI inflows into Turkey amounted to EUR 904 million. Equity capital inflows accelerated in July 2005 with a monthly inflow of EUR 849 million and cumulative inflows in

the first seven months amounted to EUR 1,414 million. This represents 115% increase in the equity capital inflows with respect to the same period of the previous year, which leads to 60% increase in net FDI inflow to Turkey.

Although the existing FDI law aims at simplifying procedures, the sectoral legislation is not in line with the FDI framework law, in particular in the fields of public procurement, taxation, intellectual property rights, anti-trust policy, state aid monitoring, and restructuring of state monopolies.

Overall, the business environment improved, but further efforts are needed in a number of areas including increasing the transparency and legal certainty of the judicial system, the simplification and stabilisation of the taxation system in order to reduce uncertainties for economic decisions and addressing the issue of high energy costs and lack of working capital notably for SME.

In the area of **SME policy**, The Ministry of Industry and Trade has been authorised by Parliament to adopt the implementing legislation to align the Turkish “SME definition” with the EU definition. The Small and Medium Industry Development Organisation (KOSGEB) has been assigned for the implementation of the SME strategy and action plan by the High Planning Council under the coordination of the Ministry of Industry and Trade. The active participation of the private sector in the implementation of the SME Strategy and Action Plan has been limited. A new law entered into force in June 2005 regarding the professional organisations of craftsmen and tradesmen, will allow tradesmen and artisans to conduct their registration procedures online, herewith improving the information database on craftsmen and tradesmen and providing more transparency.

As regards access to finance for SMEs, progress continued since the last Regular Report. Several public and private banks launched new SME loan facilities with lower interest and longer payback periods. A new micro-credit mechanism for entrepreneurs, who are willing to establish businesses, has been launched by the KOSGEB. Furthermore, a Credit Guarantee Service has been initiated by the Turkish Credit Guarantee Fund in cooperation with the European Investment Fund under “The Multiannual Programme for Enterprise and Entrepreneurship, and in particular for Small and Medium-Sized Enterprises (MAP)”. This cooperation is the first between Turkey and EU Institutions within the scope of guarantees.

The Strategic Road Map Application has been initiated by KOSGEB, which would help on assessment of SMEs regarding their needs. Around 40,000 SMEs participated in this initiative since the fourth quarter of 2004.

Concerning **administrative capacity**, the Ministry of Industry and Trade is the responsible body for the formulation and co-ordination of enterprise and industrial policies. The State Planning Organisation is the responsible body for the preparation of a pipeline of projects that could be funded by pre-accession funds. KOSGEB is a publicly funded support institution for SMEs operating in the manufacturing sector. KOSGEB provides almost 22 different support schemes to SMEs through 3 Directorates, 10 Laboratories, 14 Technology Development Centres and 25 Enterprise Development Centres in several provinces of Turkey. KOSGEB does lack the administrative capacity and adequate procedures to ensure a fully efficient and transparent implementation of activities.

Turkey has no development agency responsible for FDI and export promotion. Despite the initial decision by the Coordination Committee for the “Reform Programme for the Improvement of the Investment Environment” to establish an Investment Promotion Agency, the necessary and pending legislation establishing an IPA was not adopted and it was decided

that the General Directorate of Foreign Investment within the Undersecretariat of Treasury is to take up these functions.

The absence of regional development agencies constitutes an important impediment to effective implementation of industrial policy at the local level (*see also Chapter 22 – Regional policy and coordination of structural instruments*).

Euro Info Centres offer information, advice, and assistance to SMEs as a first stop shop on EU matters. Innovation Relay Centres have been assisting enterprises on technology transfer and research and development activities since 2004.

Conclusion

Turkish industrial policy is largely in conformity with the principles of EC industrial policy. Further efforts are needed to monitor the implementation of the industrial strategy against benchmarks.

Despite some progress concerning privatisation, the privatisation and restructuring of state owned banks and the restructuring of the steel sector, are far from completed.

In the field of business environment, despite some progress in the restructuring of the private banking sector, reduction of red tape and better access to finance for SMEs further work is needed. A legal regulatory and administrative framework on investment is missing. The tax regime is rather complex, corporate governance relatively weak, the efficiency and pace of court procedures remains low as is progress in reforming the social security system.

Although the level of foreign direct investment has increased it still remains low compared to the size of the country, partly due to the lack of an office attracting FDI.

SME policy has improved. The introduction of a micro credit system for entrepreneurs and the co-operation with European Investment Fund is a positive step. Further work is needed to align the SME definition to the acquis.

Overall administrative capacity needs to be strengthened as regards enterprise and industrial policy, business support and representative organisations, including regional development agencies.

Chapter 21: Trans-European networks

This chapter covers the Trans-European Networks policy in the areas of transport, telecommunications and energy infrastructures, including the Community guidelines on the development of the Trans-European Networks and the support measures for the development of projects of common interest. The establishment and development of Trans-European Networks and the promotion of proper interconnection and interoperability of national networks aim to take full advantage of the internal market and to contribute to economic growth and the creation of employment in the European Union.

No particular progress can be reported in this area.

With regard to **transport networks** a transport infrastructure needs assessment study has been launched. The study shall by 2006 identify the transport network that can be considered as the basis for the future extension of the trans-European transport network in Turkey in line with the trans-European network transport guidelines. Turkey has also participated in the High Level Group on the extension of the major trans-European transport axes to neighbouring countries. Priority should be given to the use of existing infrastructure and to a regional, inclusive approach.

The **energy networks** finance electricity and gas transmission infrastructure feasibility projects which are of European interest and aim to increase competitiveness in the electricity and gas markets while reinforcing security of supply. Protection of the environment is integral to the EU's development policy of trans-European networks.

The construction works for the Turkey-Greece gas interconnector, (which is among the priority projects of the European Union) for which a feasibility study an environmental impact assessment and engineering studies were financed through the trans-European networks funds are scheduled to be completed in July 2006. The feasibility study regarding the extension of the Turkey-Greece gas interconnector to Italy is also being undertaken with trans-European networks funds. This study will determine the gas amounts to be carried by the pipeline.

The construction of the Nabucco gas pipeline project to transport natural gas from the Caspian and Central Asian region to Europe via Turkey, Bulgaria, Romania, Hungary and Austria is among the priority projects of the European Union. This pipeline will significantly contribute to the security of energy supply in Europe. The financial and legal basis for the project has developed considerably after the establishment of the Nabucco Company Pipeline Study GmbH in late 2004. Turkey should pursue efforts to support and participate in the development of the Nabucco Project. The TEN-E (trans-European energy network) Programme has supported technical, financial and economic studies in relation to the Nabucco project.

Conclusion

No particular progress has been made in this area. Turkey should urgently complete the transportation infrastructure needs assessment study, actively follow up developments of the High Level Group on the extension of the major trans-European transport axes to neighbouring countries and start including the trans-European networks in its national planning.

Chapter 22: Regional policy and coordination of structural instruments

The *acquis* under this chapter consists mostly of framework and implementing regulations, which do not require transposition into national legislation. They define the rules for drawing up, approving and implementing Structural Funds and Cohesion Fund programmes reflecting each country's territorial organisation. These programmes are negotiated and agreed with the Commission, but implementation is the responsibility of the Member States. Member States must respect EU legislation in general, for example in the areas of public procurement, competition and environment, when selecting and implementing projects. Member States must have an institutional framework in place and adequate administrative capacity to ensure programming, implementation, monitoring and evaluation in a sound and cost-effective manner from the point of view of management and financial control.

Some progress was made in the area of regional policy and coordination of structural instruments.

Concerning **territorial organisation** no developments are to be reported since Turkey grouped its 81 provinces (NUTS III level regions) to create 26 new NUTS II regions, for statistical purposes, in 2002. However, the NUTS II regions do not correspond to any administrative structures, which remain at the central, provincial and municipal levels. Some developments have taken place in the field of statistics following the substantial progress made in previous years. Work is ongoing to expand the database for regional statistics

according to the NUTS classification. An inventory of available regional data was developed and urban audit data compiled.

As for the **legislative framework**, Turkey's preparations for the implementation of regional policy are conditioned by its on-going reform of the public administration, contained in four laws. One of these, the Law on Public Administration Reform, was sent by the President, for revision, to the Grand National Assembly in 2004. It has yet to be adopted. The remaining three laws, the Law on Municipalities, the Law on Metropolitan Municipalities, and the Law on Special Provincial Administrations were adopted in July 2005. The Turkish Republic is a highly centralised state, with limited experience of participatory approaches to economic development. This legislative package is to be welcomed, insofar as it devolves the responsibility for a number of executive functions to the lower tiers of the public administration and introduces a measure of local democracy at the provincial level. This should facilitate the application of the principles of partnership. However, there are important deficiencies, particularly in relation to the coherence of this legislation. No development can be reported on the legal framework for the establishment of Regional Development Agencies.

There has been progress in some *acquis* areas that are relevant for regional policy, and these are reported in detail in the corresponding chapters. No significant progress relevant to regional policy is noted in the area of public procurement or environment.

The **institutional framework** in Turkey for regional policy is narrow as responsibility for planning, programming, implementation and monitoring remains concentrated within the State Planning Organisation. Decisions have not been taken yet regarding the establishment of the managing and paying authorities that will be needed, initially for the implementation of the regional development component as well as other components of the planned Instrument for Pre-accession Assistance and ultimately for the implementation of EU Structural Funds. There has been little progress in strengthening collaboration between sectoral and regional departments within the State Planning Organisation, which is a vital element for the determination of investment strategies. There are also no structures for coordination with sectoral ministries in relation to regional development.

Concerning **administrative capacity**, currently, the principal institution in the implementation of EU-funded regional development programmes is the Central Finance and Contracts Unit, which is responsible for all procurement and contacting issues related to regional programmes. This unit is understaffed and under-resourced in relation to the growing workload.

The State Planning Organisation has responsibility not only for regional planning, but also for supporting the implementation of regional development programmes. Capacity in terms of personnel at central level within the State Planning Organisation is adequate, but decision-making is highly centralised. Devolution of responsibility to regional structures is limited, and the service unions (partnerships of provincial and municipal administrations) that have been established do not have the administrative capacity to implement programmes without external support.

No progress has been registered in relation to **programming**. Although the State Planning Organisation has extensive planning experience, this is mostly confined to the strategic level. There is significant weakness in bridging the divide between strategic plans and operational programmes. Programming has not adequately involved regional stakeholders.

No significant developments are to be reported concerning **monitoring and evaluation**.

As regards **financial management and control**, all the provisions of the Law on Public Financial Management and Control, except those on budget execution, entered into force in

2005. Nevertheless, most of them are not operational in the absence of implementing legislation. Some progress has been made to solve practical problems related to pre-accession assistance but the entities responsible for applying the Decentralised Implementation System need to be reinforced urgently and very considerably (*see also Chapter 32 – Financial and budgetary provisions*).

Conclusion

There has been some progress in establishing the legislative framework for the decentralisation of Turkey's public administration, and this should help to promote a participatory approach to regional policy. There has also been further progress in the introduction of financial control provisions, and in the compilation of statistics relevant for regional policy. Framework legislation needed to implement the *acquis* under this chapter, in the areas of public procurement, environment, and multi-annual budgeting is not in place yet. The institutional framework, particularly in relation to strategy, inter-ministerial coordination and dedicated regional structures is not adequate. Administrative capacity for the design and implementation of programmes and projects is weak.

In the light of the planned EU Instrument for Pre-accession Assistance, strategy issues, readiness of the responsible entities, namely line Ministries and agencies, establishment and /or reinforcement of relevant corresponding structures, capacity to present and implement programmes and projects as well as staffing should be given an urgent attention.

The establishment and early accreditation of managing and paying authorities for the implementation of the planned EU Instrument for Pre-accession Assistance (as precursors of structures under the Structural Funds) should be addressed as a matter of priority. These steps must be taken urgently, if the bodies concerned are to be accredited in time to implement the new instrument from 2007.

Considerable efforts are required to develop sufficient administrative capacity at both central and regional level. Turkey may consider delegating responsibility for sectoral strategy, implementation and monitoring to the sectoral ministries and to regional structures so that the State Planning Organisation could focus on its planning mandate and its role as a coordinator. The establishment of, and provision of institution-building support to, permanent structures, namely to Regional Development Agencies, could go a long way to redressing the shortfall in administrative capacity at regional level.

Chapter 23: Judiciary and fundamental rights

EU policies in the area of the judiciary and fundamental rights aim to maintain and further develop the Union as an area of freedom, security and justice. The establishment of an independent and efficient judiciary is of paramount importance. Impartiality, integrity and high standards of adjudication by the courts are essential for safeguarding the rule of law. This requires a firm commitment to eliminating external influences over the judiciary and to devoting adequate financial resources and training. Legal guarantees for fair trial procedures must be in place. Equally, Member States must fight corruption effectively as it represents a threat to the stability of democratic institutions and the rule of law. A solid legal framework and reliable institutions are required to underpin a coherent policy of prevention and deterrence of corruption. Member States must ensure the respect of fundamental rights and EU citizens' rights as guaranteed by the *acquis* and by the Charter of Fundamental Rights.

As regards **independence and impartiality of the judiciary**, various provisions of the Turkish Constitution guarantee judicial independence. Article 9 provides that judicial power

is exercised by independent courts. Under Article 138 judges are protected from receiving instructions, recommendations or suggestions that may influence them in the exercise of their judicial power. Furthermore, no legislative debate may be held concerning the exercise of judicial power in a pending trial, and both the legislative and the executive are required to comply with court decisions without alteration or delay. Article 140 requires judges to discharge their duties in accordance with the principles of the independence of the courts and the security of tenure of judges. However, Article 40(6) provides that judges and public prosecutors are attached to the Ministry of Justice in so far as their administrative functions are concerned. These constitutional guarantees of an independent judiciary are reflected in various provisions of domestic law, including the Law on Judges and Public Prosecutors, the Criminal Procedure Law, the Civil Procedure Code and the Penal Code.

The High Council of Judges and Prosecutors is the supreme governing body of the judiciary. The judicial members of the High Council are appointed by the President of the Republic. The High Council is composed of five judges, the Minister of Justice and the Undersecretary of the Ministry of Justice. The High Council does not have its own secretariat or budget and its premises are inside the Ministry of Justice building.

The High Council of Judges and Prosecutors and the Ministry of Justice are responsible for the *appointment* of graduates of the Judicial Academy as judges and prosecutors. Graduates seeking entry to the judicial profession, as either judges or prosecutors, first take a written examination administered by the School Selection and Placement Centre which administers all examinations for entry to higher education institutes in Turkey. Candidates who pass the written examination are then interviewed by a panel composed of representatives of the Ministry of Justice, and the successful candidates are admitted to the Judicial Academy for two years' training. The oral examination enables the Ministry of Justice to exercise considerable influence over the recruitment of candidate judges and prosecutors. The High Council is also responsible for *transfers* between posts, *promotions*, the allocation of posts and the imposition of *disciplinary penalties* and *removal from office*. Appeals against decisions of the High Council are made to a twelve-person panel composed of the seven original Council members plus five alternate members.

Amendments to the Law on Judges and Prosecutors adopted by the National Assembly in June 2005 are intended to simplify the procedure for practising lawyers to become judges or prosecutors. Until the adoption of these amendments, practising lawyers had very rarely become judges. These amendments provide that lawyers under thirty-five with at least three years' professional experience can apply to take a written examination and an interview; successful candidates undergo six months training at the Justice Academy before admission as a judge or prosecutor.

Article 139 of the Constitution guarantees the *permanence of judicial office*, subject to certain limited exceptions, such as incapacity due to ill-health.

The draft law to establish an *association of judges* has not yet been adopted.

Although *salaries for judges and prosecutors* have been increased significantly in recent years, they nevertheless remain modest

In order to raise awareness of international *ethical standards*, the High Council of Judges and Prosecutors disseminated the United Nations Bangalore Principles of Judicial Conduct to all judges and prosecutors.

In relation to the **quality and efficiency of the judiciary**, The Ministry of Justice and the Judicial Academy, which was established in 2003, organised extensive *training* for judges and prosecutors on the Penal Code and the Code of Criminal Procedure, as well as in areas such as

human rights, asylum law, money laundering, trafficking in persons and intellectual property rights. The Judicial Academy has been responsible for training all candidate judges and prosecutors since 2004 and is gradually taking over in-service training of judges and prosecutors from the Ministry of Justice. The General Assembly of the Academy contains eight representatives of the Ministry of Justice and the Academy is largely funded by the Ministry. In the last academic year, the Academy trained 915 candidate judges and prosecutors.

All judges and prosecutors are *evaluated* regularly by judicial inspectors to assess their integrity, efficiency and quality. The inspectors are officials of the Ministry of Justice and submit their reports to the Ministry.

The *budget* of the Ministry of Justice was increased by 16.5% in 2005 compared to 2004. Nevertheless, expenditure on the judicial system remains low compared to the average in the EU Member States.

So far as *computerisation* is concerned, progress on the National Judicial Network Project which started in 1998 continued and it is now operational in a number of courts and prisons . This Project enables many tasks currently performed on paper, such as filing court proceedings, to be performed electronically. A database including decisions of the Supreme Court of Appeal and the Council of State has been created and added to the network. Judicial records can now be accessed through the network by judges and prosecutors. In addition, most courts and prosecutors' offices in Turkey have been connected with each other online.

The *number of judges and prosecutors* has remained largely stable; there are currently 5 952 judges and 3 179 prosecutors in service and a further 1 053 judges and prosecutors in training. A law adopted in December 2004 provided for the recruitment of 4 000 additional judges and prosecutors, 100 judicial inspectors and 6 619 court administrative staff. This recruitment would represent an increase of almost 50% in the number of judges and prosecutors in Turkey and would contribute significantly to reducing delays in court proceedings. However, concern has been expressed by the senior judiciary in Turkey that the influence of the Ministry of Justice in the recruitment of such a substantial number of additional judges and prosecutors may gravely undermine the independence of the judiciary.

So far as *duration of trials* before the Criminal courts is concerned, the average criminal trial period in 2004 was 210 days, while the average duration of civil proceedings was 177 days. The *backlog* of cases before the Criminal courts was slightly reduced in 2004; 1 070 133 criminal cases were carried over from 2003 to 2004, while 1 056 754 criminal cases were carried over from 2004 to 2005. The backlog of cases before the Civil courts also decreased slightly; 671 915 cases were carried over from 2004 to 2005, compared to 679 501 cases carried over from 2003 to 2004.

The new Code of Criminal Procedure grants prosecutors greater discretion to discontinue unmeritorious cases and enables judges to return indictments which are not based on sufficient evidence. These powers should increase the speed with which cases are tried by the courts, as they will enable clearly weak cases to be dropped at an early stage. Moreover, the system of plea bargaining has been introduced by the new Code of Criminal Procedure.

As regards **legal guarantees including access to justice**, so far as the prohibition of *arbitrary arrest* is concerned, Article 90 of the Criminal Procedure Code provides that persons who are arrested by the police must be informed of the reason for their arrest.

Article 141 of the Constitution limits the length of pre-trial *detention* by providing for the right to be judged within a reasonable time. Under Article 91 of the Criminal Procedure Code, a person who has been arrested shall in general be brought before a court within twenty four

hours; in exceptional cases, this period may be extended to a maximum of four days. A person who has been remanded in custody awaiting trial may be detained, under Article 102 of the Criminal Procedure Code, for up to six months if accused of a minor offence and two years if accused of a serious offence; in exceptional cases, this period may be extended to three years.

Article 38 of the Constitution provides for the *presumption of innocence* to be applied in criminal trials.

Article 36 and 141 of the Constitution guarantee the *right to a fair and public trial*. Article 182 of the Code of Criminal Procedure also provides for trials to be held publicly.

The *right of defence* is enshrined in Article 36 of the Constitution. The Code of Criminal Procedure regulates the use of legal counsel and the rights of defence in criminal investigations and during trials. The new Code substantially improves the rights of the defence. Article 150 of the new Code of Criminal Procedure provides that all accused persons may have access to a lawyer and that representation by legal counsel is mandatory, both during the investigation and the trial, for offences punishable by more than five years' imprisonment. Legal representation is also mandatory for minors, the deaf and persons of limited mental capacity. Article 147 of the Code of Criminal Procedure provides that detainees must be reminded of their right to have a defence lawyer present and that a lawyer may be appointed by the Bar Association. Bar associations have reported a 100% increase in the appointment of lawyers for accused persons since the entry into force of the new Code.

The provision of an interpreter free of charge for defendants and witnesses who cannot speak the Turkish language has been strengthened by the new Code of Criminal Procedure. Courts are now required to establish lists of expert witnesses, including interpreters, in their area of jurisdiction. However, as there are no interpreters trained in legal interpretation between Turkish and languages used by non-Turkish speaking ethnic groups in Turkey, there may still be difficulties in ensuring effective interpretation for the non-Turkish speaking population.

The new Criminal Code also introduces the principle of cross-examination, which strengthens the rights of the defence. Nevertheless, certain practices undermine *equality of arms*. The design of the court room, in which the prosecutor is seated on a raised platform next to the judges while defence counsel is seated at ground level, places the prosecution in a privileged position vis-à-vis the defence. Defence counsel experience difficulties in communicating with their clients both in the court house immediately before the trial (in part due to lack of suitable facilities) and in the court room during the course of the trial.

The principle of *legality of criminal offences* is set out in Article 38 of the Constitution and in Article 2 of the Penal Code.

The *non-retroactivity of penalties* is established in Article 38 of the Constitution and in Article 7 of the Penal Code.

Proportionality between the criminal offence and the penalty is guaranteed by Article 3 of the Penal Code.

The principle of *ne bis in idem* is established in Article 223 of the Code of Criminal Procedure.

In relation to **anti-corruption policy**, Turkey has ratified the Council of Europe Criminal Law and Civil Law Conventions on Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials. It has joined the Group of States against Corruption (GRECO), which monitors compliance with Council of Europe anti-corruption standards. The UN Convention against Corruption has been signed but not yet ratified.

The new Penal Code contains provisions concerning bribery, trading in influence, abuse of power and embezzlement. The Code also introduces the concept of liability of legal persons in cases of corruption. It contains detailed provisions concerning corruption in public procurement. As offences of corruption are now dealt with by the Code, the proposed law on corruption has been withdrawn. 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. No progress has been made concerning the transparency of the financing of political parties. Although public officials are required to submit asset declarations, there is a need to extend the scope and frequency of declarations.

The Ethical Board for Public Servants started to operate in September 2004. A circular was adopted in 2004 instructing public bodies to cooperate fully with the Board. A regulation on the code of ethics for public employees was adopted in April 2005.

Responsibility for fighting corruption is currently split between several organisations, such as the Prime Ministry Inspection Board, Inspection Boards within each Ministry, the High Audit Board and the Public Procurement Authority. The functioning of inspection boards needs to be aligned with international best practices and their independence needs to be strengthened.

The efficiency and effectiveness of various governmental, parliamentary and other bodies established to combat corruption remain a matter of concern. The consistency of the policies and the degree of coordination and cooperation are weak. Turkey is encouraged to strengthen the independence and effectiveness of anti-corruption bodies. Furthermore, dialogue between the government, public administration and civil society needs to be strengthened. In addition more action should be taken to raise public awareness of corruption as a serious criminal offence. Continuous support at the highest political level for the fight against corruption should be ensured.

As regards **fundamental rights**, Turkey became a member of the Council of Europe in 1949, shortly after the institution was founded, and ratified the European Convention on Human Rights (ECHR) in 1954. Individual petition has been possible since 1987. Turkey has ratified Protocols 1, 2, 3, 5, 6, 8 and 11 to this Convention.

A number of institutions have been established in Turkey to carry out work in the area of human rights. These include the Reform Monitoring Group, the Human Rights Presidency and the Parliamentary Human Rights Investigation Committee. In particular, the Human Rights Presidency has continued to intensify its work to provide training on human rights, process complaints and address specific cases. Nevertheless, the impact of the Presidency remains low as it has a limited budget, its role in relation to line ministries is poorly defined and it is not consulted on legislative proposals. From October 2004 to March 2005, the Human Rights Presidency and the provincial Human Rights Boards attached to the Presidency received complaints of human rights abuses from 565 individuals. This figure represents less than one complainant per board, suggesting limited awareness of the existence of the boards and/or low levels of trust. The local boards are also under-resourced and their effectiveness varies depending on the approach of the deputy governor chairing them. The Ministry of Interior's Investigation Office has received over 1000 complaints of human rights abuses since its establishment in 2004, although on only one occasion has an investigation led to disciplinary action being taken against a public official.

The *death penalty* in peacetime was abolished in August 2002 and in all circumstances in January 2004, when Turkey signed Protocol No 13 to the ECHR.

Most of the legislative and administrative framework prohibiting *torture and inhuman or degrading treatment or punishment* has been put in place and reports of torture and ill-treatment in Turkey are diminishing in most parts of the country. The new Penal Code and the Code on Criminal Procedure introduce additional provisions which strengthen the fight against torture. In particular, the new Penal Code increases the term of imprisonment for those convicted for crimes of torture and ill-treatment. The provincial Human Rights Boards began to conduct announced visits to places of detention in 2005. Such monitoring should be continuously improved and expanded.

Notwithstanding the achievements to date, the full eradication of torture and ill-treatment requires further work. NGOs and the authorities continue to receive reports of torture and ill-treatment, including some alleged extra-judicial killings in the context of violence in the East and Southeast. The Human Rights Association received 331 complaints related to torture in the first three months of 2005, a slight decrease as compared to the same period in 2004. In particular, the fight against impunity for those committing such crimes needs to be significantly reinforced. In 2004, of the 1 831 cases concluded, 99 led to imprisonment, 85 to fines and 1 631 to acquittals. (*see Section B.1.2 –Human rights and the protection of minorities*).

With regard to the *prison system* the situation has improved significantly since 1999. Institutions such as the Enforcement Judges and Monitoring Boards have been set up and a number of recommendations of the Council of Europe's Committee for the Prevention of Torture (CPT) have been implemented. Consequently, prison conditions have improved greatly in recent years. In the reporting period, a major development was the adoption of a new Law on the Execution of Sentences in December 2004, which introduces modern concepts such as community service and probation into Turkish law.

As regards *integrity of the person*, the new Penal Code criminalises the trade in human organs and prohibits experiments on humans in the absence of consent and official authorisation. The Code also prohibits abortion or sterilisation without consent. Turkey has ratified the Convention on Human Rights and Biomedicine, although it has not yet ratified its additional protocols.

The *right to privacy* is enshrined in the Constitution, which refers to the respect of personal and family life. The Penal Code includes a provision prohibiting the violation of private life, including a tougher minimum sentence where such a violation involves covert sound recording.

As regards *data protection*, the new Penal Code includes a provision stating that a penalty of imprisonment will be imposed on persons who illegally record personal information data on the political, philosophical or religious opinions, racial origins, illegal moral tendencies, sexual lives or health conditions of others, or their relations to trade unions. The Code also contains provisions relating to the distribution of personal data and the destruction of such data within legal timeframes. Turkey has signed but not yet ratified the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. Turkey needs to set up an independent data-protection supervisory authority as a key component of the institutional framework for the enforcement of personal data-protection rules.

The *right to marry* and the *right to found a family* are governed by Article 41 of the Constitution, which concerns the protection of the family based on equality between partners. The Civil Code sets out the legal framework as regards marriage and divorce.

Although *freedom of conscience* is guaranteed by the Turkish Constitution and freedom of worship is generally not hindered, non-Muslim religious communities continue to encounter serious problems, particularly in terms of legal personality, property rights, the training of clergy, and the management of their foundations. The current legal framework does not recognise the right of religious communities to establish associations with legal personality in order to promote and protect their religions. The large non-Sunni Muslim Alevi community is not officially recognised in Turkey (*see Section B.1.2. – Human rights and the protection of minorities*).

Turkey does not recognize the right of *conscientious objection* to compulsory military service and has no alternative civilian service, as prescribed by the Council of Europe Recommendation which lays down the principles regarding conscientious objection.

With regard to *freedom of expression*, which is guaranteed by Article 26 of the Constitution, the situation of people sentenced for the non-violent expression of opinion is being addressed. The numbers of prosecutions and convictions in relation to the expression of non-violent opinions have fallen, although journalists, publishers, political parties and human rights organisations are still often subject to judicial harassment and on occasion convicted. While recent legislative changes have improved the situation, the latest amendments to the Turkish Penal Code have been criticised by journalists' associations and others because they still leave a significant margin of interpretation for the judiciary (*see Section B.1.2. – Human rights and the protection of minorities*).

Regarding *freedom of assembly*, which is guaranteed by Article 34 of the Constitution, there have been a number of reports of excessive use of force by the police in the context of demonstrations and marches in Turkey. The authorities again issued a circular in 2005 calling on governors to respond to such practice with appropriate sanctions. There continue to be reports of the police recording NGO meetings and press conferences.

As regards *freedom of association*, the new Law on Associations has had a positive effect in terms of removing a number of restrictions on civil society. However, Articles in the Constitution referring to the integrity of the state or the interpretation of the principle of secularism could still be used to obstruct the establishment of associations representing particular religious or cultural interests.

The *right to property* is guaranteed by Article 35 of the Constitution. In April 2005, Article 35 of the Law on Title Deeds, which was amended to allow the acquisition of property by foreigners in 2003, was annulled by the Constitutional Court due to concerns related to national security and the unity of the state. Since July 2005, no immovable property has been sold to foreigners, although the government is working on legislation which would permit such sales. In practice, Greek nationals have encountered problems inheriting properties in Turkey, and Syrians who have settled outside Turkey and no longer have Turkish citizenship have not been able to register their properties in the Southeast. Non-Muslim religious communities face numerous problems in relation to their property rights (*see Section B.1.2. – Human rights and the protection of minorities*).

As regards *non-discrimination*, the new Penal Code, which entered into force in June 2005, criminalises discrimination on various grounds. However, no progress has been made on the adoption of further legislation aimed at guaranteeing the effective prohibition of discrimination in employment, as provided for by the acquis.

As regards *the rights of the child*, although Turkish Labour Law prohibits the employment of children under the age of 15, there are still several shortcomings as regards the scope of application of the Law. Turkey ratified the UN Convention on the Rights of the Child in 1995.

As regards **EU citizens' rights** and in particular the right to vote and stand as a candidate at elections, only citizens have the right to vote under the Constitution. When the time comes, citizens of the Union residing in the country who are not nationals will have to be allowed to vote and to stand as candidates in elections to the European Parliament and in municipal elections. Legislation will also have to be enacted to transpose the relevant *acquis* on voting rights to European parliamentary and municipal elections.

Regarding residence rights, the legislation will have to be amended in due course order to ensure compatibility with the *acquis* on free movement of persons, notably on the formalities and conditions for entry and stay of EU citizens in the territory.

Conclusion

As regards the judiciary, substantial progress been made, in particular with the entry into force of the new Penal Code and the Code of Criminal Procedure. The adoption of a law enabling the recruitment of some 4 000 additional judges and prosecutors will also have a significant impact on the efficiency of the legal system. However, considerable concerns remain regarding the independence of the judiciary, and in particular the influence of the Ministry of Justice over the recruitment of judges and prosecutors. Further steps also need to be taken to ensure equality of arms between prosecution and defence before the court and to ensure that all citizens enjoy access to justice.

In the last year, some progress has been achieved in adopting anti-corruption measures, However, surveys continue to indicate that corruption remains a very serious problem in Turkey. Better cooperation and coordination are needed among actors in the fight against corruption, and ideally an independent body should be established in this regard.

In general, the situation as regards fundamental rights in Turkey has improved significantly since 1999. However, the momentum of the reform process slowed in the reporting period and further progress is required, particularly in terms of the implementation of reforms (*see Human rights and the protection of minorities for details*).

Chapter 24: Justice, freedom and security

EU policies aim to maintain and further develop the Union as an area of freedom, security and justice. On issues such as border control, visas, external migration, asylum, police cooperation, the fight against organised crime and against terrorism, cooperation in the field of drugs, customs cooperation and judicial cooperation in criminal and civil matters, Member States need to be properly equipped to adequately implement the growing framework of common rules. Above all, this requires a strong and well-integrated administrative capacity within the law enforcement agencies and other relevant bodies, which must attain the necessary standards. A professional, reliable and efficient police organisation is of paramount importance. The most detailed part of the EU's policies on justice, freedom and security is the Schengen *acquis*, which entails the lifting of internal border controls in the EU. However, for the new Member States substantial parts of the Schengen *acquis* are implemented following a separate Council Decision to be taken after accession.

Further progress has been made.

As regards the **Schengen** *acquis* and the management of **external borders**, no new developments have taken place in the area of Schengen requirements but work has continued on drawing up a National Action Plan to implement the Integrated Border Management Strategy adopted in 2003. An inter-departmental Task Force has been formed to oversee the

development of the Action Plan. The work on the Action Plan now needs to be completed. Border management is currently split between different bodies; Turkey should continue to work towards creating a non-military professional corps of border guards. As a first step, the Law on the Protection and Security of Land Borders will need to be revised.

Regarding **visa policy**, Turkey has continued alignment with the EU positive visa list by lifting the visa requirement for Guatemala. The visa requirement was also lifted for the Czech Republic. Turkey has also continued alignment with the EU negative visa list by introducing visas for the Marshall Islands and Micronesia. There continues to be a discrepancy between the EU visa obligations list and that of Turkey as regards six countries. Turkey is encouraged to continue alignment with the EU visa lists as well as to align with EU rules concerning the issue of visas. Turkey needs to improve the capacity of its consular services abroad to detect false documents.

With regard to **migration**, a National Action Plan for alignment with the *acquis* on migration and asylum was adopted in March 2005. The Action Plan provides for the adoption of the *acquis* in accordance with a set timetable. Turkey should begin implementation of the Action Plan. Certain provisions in the Action Plan, such as those concerning the establishment of the asylum and migration authority, family reunification, long-term residence and residence of students, require clarification. It is essential that the proposed migration and asylum authority is able effectively to apply the *acquis* and is composed of specialist officials who have been trained in asylum and migration law. The provisions concerning the composition and functioning of the authority need to be clarified.

In May 2005 Turkey opened negotiations with the EU concerning a readmission agreement, which is a welcome development. The readmission agreement with Romania, concluded in January 2004, was ratified. A readmission agreement with Ukraine was signed in June 2005. Negotiations to conclude readmission agreements with Bulgaria and Russia have continued.

Turkey continued to participate in the activities of the Centre for information, discussion and exchange on the crossing of frontiers and immigration and its early warning system.

54,810 illegal migrants were apprehended in Turkey in 2004 (compared to 48,055 in 2003). The Turkish authorities apprehended 7,470 illegal migrants in the first quarter of 2005. Altogether 8,000 foreigners were refused admission at border crossing points in 2004 (compared to 5,720 in 2003). 955 organisers of illegal migration were arrested in 2004, and 175 in the first three months of 2005. 12 vessels used for the purpose of illegal migration were detained in Turkish waters in 2004.

In the area of **asylum**, a National Action Plan for alignment with the *acquis* on migration and asylum was adopted in March 2005. The Action Plan provides for the adoption of the *acquis* in accordance with a set timetable, which should now be implemented. Certain provisions of the Action Plan, including on subsidiary protection, mass influx and accelerated procedure, require clarification. In this context, the lifting of the geographical limitation to the 1951 Convention remains a key issue.

The number of new asylum seekers decreased significantly in the reporting period. While 3 026 applied for asylum in 2004, 1 054 persons sought asylum in the first five months of 2005. There is still a large caseload from previous years, mainly concerning Iranian asylum seekers (70%). In 2004, there were 964 new applicants from Iraq but many applications submitted in previous years have not been determined.. There have been no developments concerning the return of Turkish refugees from Northern Iraq.

Turkey applies the principle of non-refoulement to aliens at its borders. Applications for asylum are handled in co-operation with the UN High Commissioner for Refugees (UNHCR).

However, there continue to be reports that some asylum seekers at the border are prosecuted for illegal entry and deported. Aliens who are apprehended away from the border are not always permitted to submit an application for asylum, as they are considered to have acted in bad faith; the UNHCR encounters considerable difficulty in gaining access to such persons while in detention. There are reports that asylum seekers of European origin who are not covered by the geographic limitation to the Geneva Convention, notably Chechens and Belarusians, encounter considerable difficulties in submitting asylum applications. There is a need to establish procedures for asylum seekers at international airports. Turkey is also encouraged to enhance efforts to improve reception conditions.

Although the UNHCR continues to bear the principal responsibility for meeting the material needs of non-European refugees and applicants for asylum, the Turkish authorities continued to provide direct aid in the form of cash, food, clothing, health services and heating material. Non-European asylum applicants receive medical assistance from the UNHCR while they are waiting for their application to be decided; if they are granted the status of temporary asylum seeker, they are then entitled to use state health care facilities. The children of applicants for asylum have the right to attend Turkish primary schools. Unaccompanied child asylum seekers are cared for by the Social Services Child Protection Agency. Turkey has continued to train officials on asylum issues.

In the area of **police co-operation and the fight against organised crime**, the new Code of Criminal Procedure in force from 1 June 2005 contains new powers concerning the conduct of criminal investigations, covering issues such as search, interception of communication, covert surveillance and physical examination. The law concerning organised crime was amended so as to extend the scope of offences for which the interception of communications can be authorised.

In January 2005 the Ministry of Interior issued a circular to ensure better co-operation and co-ordination between the police, the gendarmerie and the coast guard. A law was adopted to enable the recruitment of 10 000 university graduates as new police officers.

Criminal investigation methods and forensic capacity in investigations still need to be improved. Though steps have been taken to improve co-operation and co-ordination between the law enforcement authorities, further work is necessary. There is a need to improve the production of statistics on law enforcement, risk analysis and performance indicators, to develop crime prevention strategies in line with EU best practices and to establish a national police ethics code in line with the Council of Europe code. Turkey should develop its national strategy against organised crime.

Articles 79-80 of the Penal Code, which came into force in June 2005, substantially increase penalties for smuggling and trafficking persons. When the offences are committed by an organisation, the penalties are increased further. The Penal Code also provides for the freezing and confiscation of assets of smugglers and traffickers.

The Turkish authorities arrested several members of organised human trafficking gangs in the first nine months of 2005. The National Task Force on Combating Trafficking in persons continued to meet regularly. In February 2005 the Turkish authorities, in co-operation with the International Organisation for Migration, initiated a counter-trafficking programme. Women tourists thought to be at risk from traffickers are provided with information concerning trafficking, including the telephone number of a free emergency helpline. Moreover, an anti-trafficking public information campaign has been launched. The programme also provides assistance to victims of trafficking; within this programme 103 victims have been assisted to return to their country of origin. The programme covers training of officials, which has contributed to an increase in the number of victims identified by the

authorities. In 2004, 239 persons were identified as victims of trafficking, while in the first six months of 2005 126 victims were identified. Prosecutions were brought against 227 traffickers in 2004 and against 215 traffickers in the first six months of 2005.

The shelter for victims of trafficking which opened in Istanbul in August 2004 has so far received 72 victims. Humanitarian residence permits have been granted to 26 victims of trafficking. Protocols on police co-operation and information exchange in the field of trafficking in persons were signed in 2005 with Georgia and Ukraine.

Ongoing efforts in the field of trafficking in persons need to be maintained.

No new development can be reported concerning the protection of the euro against counterfeiting.

In the **fight against money laundering**, some progress was made concerning alignment of legislation with the *acquis*. The new Criminal Code widened the scope of predicate offences covering all offences punishable by more than one year's imprisonment. In addition, more extensive provisions concerning confiscation of property derived from money laundering have been introduced. The Code on Criminal Procedure introduced special investigation methods for the fight against money laundering, such as interception of communications and surveillance techniques. However, the 1996 Act on Prevention of Money Laundering is not fully in line with the *acquis* (*see also Chapter 4 – Free movement of capital*).

With regard to the **fight against terrorism**, Turkey ratified the Protocol to the European Convention on the Suppression of Terrorism in January 2005. In order to implement decrees adopted pursuant to UN Security Council Resolutions on the suppression of financing of terrorism, the Turkish authorities froze the assets of 2 institutions and 2 persons.

Turkey should provide the widest possible range of assistance to other countries' law enforcement and regulatory authorities for terrorist financing investigations and ensure that entities, in particular non profit organisations, cannot be misused to finance terrorism.

In the area of the **fight against drugs**, Turkey signed, in October 2004, the 1995 Council of Europe Agreement on illicit traffic by sea, implementing Article 17 of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances.

No further progress can be reported concerning alignment of the national drug strategy with the EU Drug Strategy. The anti-smuggling and organised crime unit within the Turkish national police is responsible for co-ordination of anti-drug trafficking activities.

Turkey has not agreed to the establishment of a mini-Dublin Group in Ankara but has notified the central Dublin Group that it wishes to become a member. The guidelines for co-operation in the Dublin Group are currently under review.

A number of successful operations were carried out by the Turkish National Police and the Gendarmerie against drug trafficking. Record seizures of heroin were recorded in Turkey. Several controlled deliveries were carried out in co-operation with police forces in the Member States leading to substantial seizures. The Turkish law enforcement authorities have started to use more sophisticated investigation techniques aimed at dismantling trafficking networks rather than only arresting individuals.

Turkey's geographic location requires intensive focus on the fight against drugs. Turkey needs to revise its National Drugs Strategy, adopted in 1997, so as to bring it into line with the EU Drug Strategy and should now ratify the 1995 Council of Europe Agreement against illicit traffic by sea. The establishment of a mini-Dublin Group in Ankara is recommended.

With regard to **customs co-operation**, the installation of X-ray equipment, closed circuit television, number plate scanning system and a vehicle monitoring system at some border crossing points led to a substantial increase in seizures of drugs and smuggled goods. The new Penal Code granted an improved legal status to the Directorate General of Customs Enforcement. The Turkish customs authority participated in the EU joint customs operation "Toledo II" concerning the fight against cocaine smuggling organised by Spain, concerning the fight against cocaine smuggling by air (November 2004) and operation "Roots", organised by Germany, for combating drug smuggling on the Balkan route (July 2005)".

Inter-agency co-operation needs to be enhanced. The introduction of mobile surveillance units and development of risk analysis using the existing customs co-operation agreements with neighbouring countries and others should be taken forward.

In the area of **judicial co-operation in criminal and civil matters**, the law establishing the regional Courts of Appeal came into force on 1 June 2005. In December 2004, the Ministry of Justice was granted the power to appoint 4 000 additional judges and prosecutors as well as 6 500 administrative court staff. 200 Judges and prosecutors attended foreign language classes in public and private institutions. Following the adoption of the law concerning courts of appeals, Turkey is invited to take steps to establish these courts. The application of the 1980 Hague Convention on international child abduction which entered into force in Turkey on 1 August 2000 should be improved as the new Brussels II Regulation 2201/2003 has rendered the application of the 1980 Hague Convention stricter between EU Member States since 1 March 2005. (*see also Chapter 23 – Judiciary and fundamental rights*).

Conclusion

Turkey continued to make further progress in aligning its legislation with the *acquis* and EU practices in the area of justice, freedom and security, and the Turkish legislation is aligned to a certain extent with the EU *acquis*.

Nevertheless, progress is needed in a number of important areas, such as implementation of the National Action Plan for alignment with the *acquis* on migration and asylum, intensified and active co-operation with the European Union on illegal migration and in combating trafficking, as well as development of the national strategy against organised crime and the legislative framework for combating money laundering. Further steps should be taken to improve co-ordination and co-operation among relevant institutions.

Chapter 25: Science and research

The *acquis* in the field of science and research does not require transposition of EU rules into the national legal order. Implementation capacity relates to the existence of the necessary conditions for effective participation in the EU's Framework Programmes. In order to ensure the full and successful association with the Framework Programmes, Member States need to ensure the necessary implementing capacities in the field of research and technological development including adequate staffing.

Since the last report, some progress has been made in this area.

Turkey continues to be associated with the **6th Framework Programme for Research and Technological Development (FP6)**. Turkey is not associated with the **Euratom** Framework Programme.

The Turkish National Coordination Office, established to coordinate activities within FP6, was strengthened. The number of national contact points and project assistants was increased

to 17 and 13 respectively in June. The number of institutional contact points, forming a bridge between the National Coordination Office and other public and non-governmental organisations, universities and chambers of trade and industry reached 542. A number of projects and support programmes, aiming at facilitating and encouraging participation of Turkish researchers in FP6, continued.

The success rate of Turkish project proposals under FP6 has improved from about 15% in 2002 to 17% in 2005 (data as of March 2005). However, the number of submissions is still too low in particular under the thematic priorities and for integrating projects in the form of the new instruments. Indeed, most of the successful projects were submitted in international scientific cooperation, and under specific calls for candidate countries. Turkey also needs to further improve the involvement of industry. As regards the practical uptake of the science and technology related acquis in the neighbouring sectors, some 150 Turkish experts have been trained in the seven institutes of the Commission's Joint Research Centre (JRC). Participation of Turkish researchers in the mobility opportunities offered by the JRC continued, with currently ten experts/trainees working at the JRC.

A number of developments occurred related to legal and administrative structures as well as implementation capacities of Turkey in the field of science and research. Regarding the renamed Turkish Scientific and Technological Research Council (TÜBİTAK), a bill was adopted in May 2005 which authorises the Prime Minister to appoint directly seven of the 14 Science Council members of TÜBİTAK and to approve the other seven members selected by the Higher Education Board and the Union of Turkish Chambers and Commodities. It also gives a right to the Prime Minister to approve or directly appoint the president of TÜBİTAK if the Science Council fails to agree on a nomination. However, President Sezer rejected this bill stating it was against the scientific autonomy of TÜBİTAK, and that it contradicted public interest and the principle of the rule of law. Adopted unchanged again by Parliament, the bill entered into force in June. In July, new members of the Science Council were nominated. However, the Constitutional Court has suspended further implementation of the relevant new provisions, pending a substantial decision by the Court on the constitutionality of these legal amendments.

A regulation defining procedures and regulating how projects in the fields of natural and social sciences are to be proposed, evaluated, selected, monitored and concluded has been published in the official gazette and entered into force in March. This regulation is to be implemented by TÜBİTAK. Support to projects in the fields of humanities and social sciences has been increased. New payment mechanisms, in the form of royalties to the initiators of and contributors to projects supported by TÜBİTAK, have been introduced.

The Supreme Council for Science and Technology met in September 2004 and March 2005. The national science and technology initiative, including the creation of a Turkish Research Area, was adopted. It aims to synergise research and technological development activities among TÜBİTAK, public agencies, non-governmental organisations, private sector companies and universities and seeks to contribute to solving problems, increasing the quality of life, enhancing welfare and boosting competitiveness. A national space research programme has been prepared. TÜBİTAK has determined the technology areas which should receive priority within the framework of Vision 2023, an important policy document for 2003-2023, setting the targets of the centennial of the Republic of Turkey in the area of science and technology. In order to promote research in society a number of support programmes have been initiated. A protocol aiming to disseminate scientific activities to primary and secondary schools was signed between the Ministry of National Education and TÜBİTAK in November 2004.

In line with the increase of its activities, the equivalent of EUR 250 million was added to TÜBİTAK's 2005 budget. Targets have been fixed to increase the level of gross domestic expenditure for research and development as percentage of GDP from currently around 0.8 % to 2.0% by 2010, and the number of full time equivalent researchers to 40.000 by the same year. The figures also indicate a sharp increase in TÜBİTAK's industrial research and development support (EUR 54 million in 2004, up from EUR 25 million in 2000). The number of bilateral agreements on cooperation in science and technology, with a total of 60 countries, reached 100. As regards the number of publications in international periodicals, Turkey is ranked 22nd in the Science Citation Index compared to rank 37 achieved in 1993.

Conclusion

Some improvements in Turkey's science and research capacities including its increased participation in the 6th Framework Programme for Research and Technological Development (FP6) have been achieved. However, in order to ensure more effective participation in this programme, Turkey should make further efforts to increase the number of Turkish project proposals, while at least maintaining the success rate reached.

Concerning the appointment of the president and Science Council members of the Turkish Scientific and Technological Research Council (TÜBİTAK), legal clarity should be sought to enable this most important institutional player in Turkey in the field of science and research to effectively fulfil its responsibilities and ensure Turkey's successful participation in EU research activities.

Support for research and development has increased significantly over recent years. These increases should continue with a view to closing the gaps in the main science and technology indicators of Turkey compared with EU averages. Turkey has set itself an ambitious research investment target of 2% of GDP by 2010, which would contribute to an effective participation in the European Research Area. Taking into account the "Investment in Research Action Plan", Turkey should develop an overall strategy aiming in particular at improving public support and framework conditions for investment in research. The management, monitoring and evaluation capacities in the administration should be strengthened to improve the impact of policy measures and increased public budgets.

Chapter 26: Education and culture

The areas of education, training, youth and culture are primarily the competence of the Member States. A cooperation framework on education and training policies aims to converge national policies and the attainment of shared objectives through an open method of coordination, which led to the "Education and Training 2010 program", which integrates all actions in the fields of education and training at European level. As regards cultural diversity, Member States need to uphold the principles enshrined in Article 151 of the EC Treaty and ensure that their international commitments allow for preserving and promoting cultural diversity. Member States need to have the legal, administrative and financial framework and necessary implementing capacity in place to ensure sound financial management of the education, training and youth Community programmes (currently Leonardo da Vinci, Socrates, Youth).

Overall, there has been progress in this area.

As regards **education and training**, Turkey has been participating very successfully since April 2004 in the Community Programmes *Socrates*, *Leonardo da Vinci*, and *Youth*. Supported by continued information campaigns by the Turkish National Agency, these programmes met with a strong interest among students and young professionals. In 2005, there was a considerable further increase in the number of applications, which had already been very significant in 2004.

The Turkish National Agency satisfactorily fulfilled its tasks related to the management of the programmes' decentralised activities in 2004, including the organisation of the project selection, contracting, payments to beneficiaries, project monitoring and reporting to the Commission. The National Agency has contracted 90% of funds allocated for these activities for projects involving more than 9000 Turkish participants together with partners from the EU. The National Agency will have to continue its efforts to consolidate its management capacity to cope with the considerable increase in the number of applications.

A Steering and Monitoring Committee comprising representatives of the State Planning Organisation, the Ministry of National Education, the General Secretariat of EU Affairs, the Higher Education Council, the Directorate General of Youth and Sports, and the Turkish Employment Agency holds regular meetings to determine general policies regarding the implementation of the Community Programmes and to monitor and evaluate the work of the National Agency. An active involvement of the sectoral bodies in the Steering and Monitoring Committee is essential to ensure that the programmes also benefit the national policies in these fields. In this context, cooperation and coordination between all the ministries involved should be strengthened.

Turkey participates in the *Education and Training 2010* work programme, which is part of the EU Lisbon strategy. The Ministry of National Education has submitted a national report on the modernisation of the education and training systems in Turkey, as a contribution towards the 2006 Joint Report on the implementation of the 2010 work programme.

There has been progress in access to education. In the last four years, a 68% increase has been observed in the number of children in pre-schools, which remains however low (16% of this age group). The campaign initiated in 2003 to encourage girls' participation in education was rolled out in 20 additional provinces in 2005, and efforts in this regard should continue. Although more financial resources have been devoted for the education of children with special needs, there still remains much to be done in this area.

Pilot implementation of new curricula for the first five grades of basic education started at 120 primary schools in nine provinces during 2004-2005, with a view to nationwide implementation in 2005-2006. Curricula for grades 6 to 8 have been adopted.

Regarding the strengthening of vocational and technical education, the Board of Education has started to implement the extension from three to four years of the upper-secondary education, both general and vocational. This reform allows for horizontal transitions between secondary general and vocational/technical education schools. Conversely, the coefficient for vocational school graduates at university entrance exams was actually lowered.

Priority should be given to the development of skills training at enterprises and their professional organizations. The Vocational and Technical Education Faculties which train teachers for vocational education and training (VET) should be restructured to allow the implementation of the European Credit Transfer System. This should be dealt with as an integral part of restructuring the whole higher education system – through cooperation between the Higher Education Council (YÖK) and the Ministry of National Education, and using the ongoing Modernisation of VET programme.

In the field of higher education, significant progress has been made in the implementation of the Bologna process in Turkey. Regulations on academic assessment and quality control have been revised to take into account the European standards and guidelines developed by the European Network for Quality Assurance. A national diploma supplement has been elaborated on the basis of the model developed jointly by the European Commission, the Council of Europe and UNESCO, and disseminated to Turkish universities; its implementation will be mandatory in all higher education institutions in Turkey from 2005 onwards.

To enable universities to make their full contribution to a knowledge-based economy, in line with the Lisbon strategy, Turkey should ensure that its regulatory framework allows universities to undertake genuine change and pursue strategic priorities. More efforts should be made towards decentralization, in order to allow the education system to respond to local needs. This remains an important challenge for the still highly centralised system.

While there is evidence of progress being made in different sectors of education and training, it is difficult to gain an overview of the development and extent of participation in lifelong learning. The foundations for such participation should be laid by the development of a coherent and comprehensive lifelong learning strategy which integrates the principles of flexibility and adaptability in a learner-centred approach and promotes an aspiration to continuing participation in learning in different environments.

Concerning **culture**, Turkey in July confirmed its wish to participate in the *Culture 2000 programme*, and indicated its readiness to make the financial contribution required for its participation in 2006. Turkey should now complete its internal preparations for the conclusion of a Memorandum of Understanding allowing its participation, and take the appropriate financial and administrative measures.

Conclusion

Some progress in the area of education and culture has been made. Turkey successfully participates in three specific Community programmes. The reforms underway in education and training are broadly in line with the common European objectives and priorities. The Turkish authorities should now establish a coherent and comprehensive lifelong learning strategy. It is therefore important that Turkey ensures an effective involvement in the Education and Training 2010 work programme and identifies realistic but challenging targets to be achieved by 2010. Generally, the education system should become more decentralised.

To achieve full alignment with the *acquis* on culture, Turkey will have to fully embrace EU policies for the protection of cultural diversity, including in the UN framework.

Chapter 27: Environment

EU environment policy aims to promote sustainable development and protect the environment for present and future generations. It is based on preventive action, the polluter pays principle, fighting environmental damage at source, shared responsibility and the integration of environmental protection into other EU policies. The *acquis* comprises over 200 major legal acts covering horizontal legislation, water and air quality, waste management, nature protection, industrial pollution control and risk management, chemicals and genetically modified organisms (GMOs), noise and forestry. Compliance with the *acquis* requires significant investment. A strong and well-equipped administration at national and local level is imperative for the application and enforcement of the environment *acquis*. Since last year's Regular Report, some progress has been made in the field of waste management, in the noise

sector and nature protection. Limited or no substantial progress has been made with regard to transposition of the *acquis* in the other environment sectors.

In the field of **horizontal legislation**, no substantial progress can be reported. Turkey has not yet ratified the Kyoto Protocol and has not yet become a party to the Espoo and Aarhus Conventions. Further efforts are also needed as regards the establishment of a greenhouse gas emission allowance trade scheme as well as the adoption of legislation on Emission Trading. Implementation of horizontal legislation still requires significant further efforts. Whereas the current legislation on Environmental Impact Assessment (EIA) appears to be aligned to the *acquis* on most counts, trans-boundary requirements remain to be transposed and correct handling of public consultations still require further attention. In addition, transposition of the Strategic Environmental Assessment Directive (SEA-Directive) is at a very early stage and needs particular attention. Overall, transposition and implementation of horizontal legislation is still a matter of concern and further significant efforts are needed in this regard.

As regards **air quality**, limited progress can be reported. Regulations on industrial air pollution control and on control of air pollution from domestic heating were adopted. The transposition of the air quality framework legislation is however not yet very advanced. Transposition of legislation on the pollution from vehicles is rather advanced. The Consumer information Directive was fully transposed and the Quality of Petrol and Diesel Fuels Directive is almost fully transposed. Further legislation, in particular transposing directives on sulphur content of liquid fuels and volatile organic compound emissions need to be adopted and steps taken to start implementation, including upgrading of air quality monitoring and modelling.

The Ministry of Environment and Forest and the Ministry of Health have the responsibility of monitoring air quality parameters. There is a certain overlapping of monitoring tasks between these two institutions. Overall, transposition and implementation of air quality need further significant efforts.

Some progress can be reported concerning transposition concerning **waste management** with the adoption of an amendment of a regulation on waste batteries and accumulators, a regulation on the control of medical waste, an amendment of an implementing regulation on solid waste as well as of implementing regulations on control of vegetable waste oil and hazardous waste. With regard to sewage sludge the amendment of the implementing regulation on soil pollution control entered into force in May 2005.

Legislation in the field of waste management is advanced with regard to the transposition of several Directives, including the Framework Directive. Progress remains poor for the polychlorinated biphenyls and End-of-life vehicles Directives. Legislation for Waste Electrical and Electronic Equipment (WEEE) is under preparation. No developments can be reported for the Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) Directive. Further efforts are still necessary to complete transposition of the Landfill and Waste Incineration Directives. The capacity of the Ministry of Environment and Forest with regard to licensing, monitoring, inspection and enforcement needs to be strengthened. Sufficient financial resources need to be allocated to the sector. Overall, implementation needs further efforts and a national waste management plan needs to be adopted.

Limited development can be reported concerning **water quality**. Implementing Regulations concerning water for human consumption was adopted and codes of good agricultural practices. Although some aspects of the water quality *acquis* are already covered by the Turkish legislation, transposition remains low except for the Nitrates and Drinking Water Directives. No development in transposition of the Water Framework Directive can be

reported and significant efforts are required in this regard in order to achieve full compliance by accession. The development of transboundary water cooperation, in line with the Water Framework Directive and international conventions to which the Community is a party is at a very early stage. The institutional framework for water management is complex and weak. It does not provide sufficient guarantees for implementation and enforcement and is not organised yet on a river basin based management. Division of responsibilities for water management among the relevant institutions needs particular attention due to potential overlaps, redundancies and insufficient clarity. Substantial investments are needed in this sector. Overall, transposition and implementation are a matter of concern. Significant efforts are needed in order to achieve full compliance and implementation by accession.

Some progress can be reported in the area of **nature protection**. A number of regulations on the establishment of the wildlife conservation and wildlife enhancement areas, as well as a communiqué on permissions and limits controlling the international trade of the bulbous wild plants and regulations on hunting were adopted. In addition, a national park in Eastern Anatolia and three internationally important wetlands (RAMSAR sites) were established.

Despite the adoption of some legislation and declaration of protected areas for the purpose of nature protection, the level of legal harmonisation and implementation remains very low. The continuing rapid loss of habitats is a cause of concern. A framework law on nature protection and implementing legislation on birds and habitats need to be adopted. Special attention needs to be paid to legislation in other policy areas having a link with nature protection. Institutional framework is complex, divided among several authorities and division of responsibilities among the relevant institutions needs particular attention. Overall, transposition, implementation and enforcement need to be improved significantly.

No progress can be reported regarding **industrial pollution control and risk management**. Transposition and implementation remain very low with only very limited progress in transposition of some of the Seveso Directive's requirements. Overall, full alignment and implementation require significant efforts.

No new development can be reported as regards **chemicals**. The level of harmonisation remains very low with the exception of the Animal Experiments Directive. Current capacity for effective implementation is insufficient and needs to be improved.

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

Progress can be reported as regards **noise**. An implementing Regulation concerning the assessment and management of environmental noise was adopted. Overall, the level of harmonisation is advanced, however, implementation requires further efforts and noise maps and action plans need to be prepared.

Limited progress can be reported in the area of **forestry**. A communiqué related to the implementation of the national plan to combat desertification was issued by the Ministry of Environment and Forest and a national forestry strategy was developed. Turkey has a well developed structure related to forestry issues. However, implementation requires significant further efforts.

Conclusion

Some progress can be reported only in the field of waste management, nature protection and noise. The overall level of transposition of the environmental *acquis* remains low, although the transposition is advanced in the field of waste management and noise. Weaknesses in the implementation and enforcement of environmental *acquis* are still source of a major concern.

Trans-boundary issues under the environmental *acquis* and international conventions, to which the Community is a party, require particular attention.

Turkey needs to take steps to integrate environmental protection requirements into the definition and implementation of all other policies, and to promote sustainable development. Particular attention is also needed as regards strengthening administrative capacity and coordination mechanisms between the authorities involved in the implementation of environment policy. Considerable investments need to be secured to ensure implementation of the environment *acquis*. In this context, it needs to be stressed that all new investment projects should comply with the EU environment *acquis*.

Chapter 28: Consumer and health protection

The consumer protection *acquis* covers the safety of consumer goods as well as the protection of the economic interests of consumers in a number of specific sectors. Member States need to transpose the *acquis* into national law and to put in place independent administrative structures and enforcement powers which allow for effective market surveillance and enforcement of the *acquis*. Appropriate judicial and out-of-court dispute resolution mechanisms as well as consumer information and education and a role for consumer organisations should be ensured as well. In addition, this chapter covers specific binding rules in the area of public health. Turkey has made some progress in the area of consumer and health protection.

Concerning **safety related measures** no further progress has been made in legislative alignment. The Law on the preparation and implementation of technical legislation on products, which transposes the General Product Safety Directive (92/59/EEC) to a large extent in 2001, continues to constitute the regulatory framework. It also specifies the measures to be applied by the competent authorities in case of the detection of unsafe products. It lays down the common basic principles on product safety for all kinds of products. However, it leaves the detailed provisions to the specific product legislation which defines the specific product safety standards.

Concerning **market surveillance**, little progress has been noted. The Ministry of Industry and Trade is the main body in charge of the New Approach Directives. It has local inspectorates in all 81 provinces of Turkey. It started market surveillance activities and gathering statistics on a pilot scale. The surveillance covered products under the scope of low voltage, electromagnetic compatibility, machinery, textiles, labelling of footwear, energy labelling of household appliances, pressure equipment, simple pressure vessels, hot water boilers and gas appliances.

The Ministry of Public Works and Settlement (construction products), Ministry of Labour and Social Security (personal protective equipment) and the Telecommunication Authority have proceeded further with organising and implementing market surveillance work on a pilot scale. The Ministry of Health has not yet implemented its market surveillance strategy in the area of New Approach Directives (toys, medical devices).

The Under-Secretariat of Maritime Affairs published a regulation on market surveillance in February 2005, laying down its strategy regarding recreational crafts.

A web-based online information channel was created, which provides notifications on dangerous products between national authorities and customs.

However, market surveillance in the form of in-market control is not yet fully organised and implemented in the country. Although the Market Surveillance Coordination Board which

takes advisory decisions continues its work, sufficient coordination is not in place especially for exchange of information and sharing of testing facilities amongst public authorities for similar tests utilised for market surveillance. (see also Chapter 1: Free movement of goods).

Administrative capacity and enforcement of consumer protection rules in the area of **non-safety related measures** have been further improved, but no new legislative development could be recorded.

Overall, the Framework Law on Consumer Protection, as amended in 2003, and the relevant implementing regulations, provide the main legislative framework in the consumer area.

An important development was the gradual increase in the number of specialised consumer courts. Currently, 7 consumer courts are established in Ankara, 6 in Istanbul, 3 in Izmir and 1 each in Adana, Antalya, Bursa and Kayseri.

The administrative capacity of the Directorate General for Protection of Consumer and Competition was further strengthened through recruitment of 5 junior controllers and 8 junior examiners. The number of the members of the Board of Advertisement was increased to 29 with 4 representatives from the Ministry of Health and the Ministry of Agriculture.

In order to introduce different aspects of the new consumer law to the public, the Directorate General made a consumer awareness raising campaign through TV, radio spots, newspaper inserts, billboard posters about consumer credits, faulty products, consumer rights, arbitration committees and consumer courts. Following the start of the campaign in January 2005, the number of consumer complaints increased considerably. In addition to the campaign, supply tender for improving logistics of arbitration committees was finalised.

Consumer organisations are represented in the Consumer council. This is a consultative structure, set up in 1995, which convenes once a year, provides a forum for discussions on general consumer policy. Public institutions, universities, professional chambers are also represented. The Council conveyed in March and took a series of recommendations in the consumers area. A monitoring committee to follow up on the Consumer Council's decisions was also established.

The possibility for the Ministry of the Industry and Trade to support consumer organisations has been abolished. In fact, the opportunity had never been used by consumer organizations.

Turkey is encouraged to further support the development of an independent, representative and effective consumer movement in Turkey and involve consumer organisations in the development and implementation of consumer policy.

Some developments are to be reported in the area of **public health**.

In the field of tobacco control, significant progress was made in aligning with the *acquis*. A directive concerning the manufacture, presentation and sale of tobacco products has been transposed and published in January 2005. It will enter into force in January 2006 and contains a temporary derogation to the date of application of the maximum tar yield of cigarettes manufactured and marketed.

The WHO Framework Convention on Tobacco Control, which supplements the provisions of Directive 2003/33/EC, has been ratified in December 2004. The Convention provides a framework for tobacco control measures to protect the public from the health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke. A comprehensive multi-sectoral national tobacco control plan is being prepared in accordance with the Convention.

Concerning communicable diseases, the Ministry of Health is closely following up the WHO strategies for the elimination of measles in the country. Through this effort, 9 million children under 6 received an additional dose of measles vaccine in addition to the school children vaccinated in the last year. As regards fight against HIV/AIDS, Turkey continues to be a low prevalence country. The cumulative number of cases reported since 1985 is 1371 for HIV positive and 551 for AIDS. To improve the quality of the data collected, since the last Report, the Ministry of Health has established a monitoring and evaluation unit, which will collate and analyse data from the various sources and monitor progress in prevention

In order to set up a network for the epidemiological surveillance and control of communicable diseases, Turkey has harmonised the list of modifiable diseases under the existing surveillance system with the list of diseases provided under Commission Decisions 2000/96/EC, 2003/534/EC, and 2003/534/EC. The definitions of diseases were revised and completed to provide collection and analysis of standardised data covered by community network. A directive for the notification system of communicable diseases was published in the Official Gazette in November 2004. As regards capacity building, an “Outbreak control and Surveillance Unit” has been established under the Primary Health Care General Directorate of the Ministry of Health as an initial step to set up the structures for collecting information; informative workshops regarding the new notification system are held at all levels of the health system.

In order to facilitate the adoption of the *acquis* concerning, administrative capacity should be strengthened in terms of qualified staff and upgrading of the physical infrastructure. The structures for collecting information and dissemination of the relevant surveillance data should be designated at all levels. As in the case of flaccid paralysis (polio), Turkey should set up an Early Warning and Response System for rapid exchange of information on potentially health threatening events.

Concerning tobacco control, the *acquis* appears to have been transposed to a large extent. The administrative capacity for implementation of the tobacco *acquis* needs to be strengthened inter alia with better coordination and a clear description of roles and responsibilities of the Ministry of Health and the Tobacco Products and Alcoholic Beverages Market Regulation Board.

Conclusion

Turkey has made some progress in most areas of consumers and health protection. In particular, further specialised consumer courts have been established.

In the area of public health a network for the epidemiological surveillance and control of communicable diseases is being set up and alignment with tobacco control has progressed swiftly. Turkey should continue the alignment process and build up the necessary administrative capacity for adoption and implementation of the *acquis*, and improve the enforcement of legislation.

In the consumer area, more progress is needed to put in place a fully developed, functioning and effective market surveillance system and to ensure an appropriate level of consumer protection throughout the country. The consumer movement remains to be further developed.

In the public health area, the institutional and administrative capacity of the Ministry of Health needs to be strengthened to perform the duties related to protect and improve the health and safety status of the population.

Chapter 29: Customs union

The customs union *acquis* consists almost exclusively of legislation which is directly binding on the Member States. It includes the EU Customs Code and its implementing provisions, the combined nomenclature, common customs tariff and provisions on tariff classification, customs duty relief, duty suspensions and certain tariff quotas, and other provisions such as those on customs control of counterfeit and pirated goods, drugs precursors, export of cultural goods as well as on mutual administrative assistance in customs matters and transit. Member States must ensure that the necessary implementing and enforcement capacities, including links to the relevant EU computerised customs systems, are in place. The customs services must also ensure adequate capacities to implement and enforce special rules laid down in related areas of the *acquis* such as external trade.

Turkey has made some progress in this area.

As regards the alignment of Turkey's legislation with the **customs rules** *acquis* further progress has taken place concerning temporary admission of private road vehicles and border controls on goods.

In March 2005 Turkey has adopted a communiqué on temporary admission. The purpose of the communiqué is to determine the implementing rules on temporary admission with ATA carnet. Turkey had already ratified the Convention on Temporary Admission (The Istanbul Convention) in March 2004. However, the communiqué does not cover annexes on "means of transport", and "goods imported with partial relief from import duties and taxes" which are also integral parts of the Istanbul Convention. In March 2005 Turkey also published a decree approving the Customs Convention on temporary importation of commercial road vehicles.

In October 2004 Turkey amended the communiqué on rules of origin in free movement of goods between Turkey and the EU, and the name of "Cyprus" was inserted into the list of the EU member states.

No progress can be recorded on provisions governing free zones. The provisions outside the customs code, particularly those of foreign trade, and tax legislation, remain a matter of concern. The monitoring of movement of goods produced in the free zones is under the competence of the Under-secretariat for Foreign Trade. There are still some exemptions in the tax legislation concerning auditing of undertakings established in the free zones. Moreover, customs controls of duty free shops sales need to be strengthened.

As a matter of urgency the customs control rules on the protection of intellectual property rights should be aligned. The lack of these rules adversely affects the coordination between the customs enforcement authorities, and other relevant public authorities (i.e. the Ministry of Culture, Turkish Patent Institute, and Turkish police force and courts). The introduction of Intellectual Property Rights issues into the training curricula of customs control officials is an improvement.

The **administrative and operational capacity** of the Under-secretariat of Customs continued to be strengthened.

The progress recorded in alignment with EC rules concerning the origin regime of agricultural products and its adequate enforcement has been confirmed through controls made by EC officials.

In the framework of the Customs Modernisation Project of Turkey, the total number of automated customs offices reached 71, in addition to 16 regional directorates. There are 62 customs offices implementing Electronic Data Interchange System (EDIS) which allows

making customs declarations electronically. The usage of EDIS among customs operators has become widespread. In 2004, 63% of imports and exports declarations have been made through EDIS; this rate has reached 72% in the first five months of 2005.

The increased use of X-Ray devices, Closed Circuit TV systems (CCTV), License Plate Scanners and Vehicle Tracking Systems, helped to detect more drugs and smuggled goods in 2004 compared to 2003.

The new Criminal Procedure Law, which entered into force in June 2005, gives similar competences to customs control officers as the judicial policy when performing their tasks. The Customs inspectors concluded 117 investigation reports. Moreover, for 12 cases the inspectors prepared preliminary investigation reports. The customs valuation of imported alcoholic beverages from the EU does not seem to be in line with the WTO Valuation Agreement, EC-Turkey Customs Union provisions and the *acquis*.

All customs officials signed a code of conduct on ethics.

Since June 2003 the EC Customs 2007 Programme has been opened for the participation of Turkey. The participation of Turkish customs officials has gradually increased since March 2005.

Turkey has signed an agreement on mutual administrative assistance in customs matters with South Africa in March 2005. The agreements already signed with Algeria and Iran have entered into force in May and April 2005 respectively. The Agreements between Turkey and Afghanistan, and between Turkey and Netherlands were signed in April 2005, and August 2005 respectively.

The Customs Modernisation Project has continued to improve the overall level of automation infrastructure. However, due to the size of the country further efforts are needed in order to make all customs offices have similar automation structure. The electronic vehicle monitoring system, which was developed in 2001 and became operational at Turkey's western border posts as of January 2004, still needs to be extended to other customs border posts.

Turkey's computerised import, export and national transit entry-processing system is not yet compatible with the EU systems such as the integrated tariff (TARIC) or new computerised transit system (NCTS). The Under-secretariat of Customs does not only need to undertake these modernisation activities of IT infrastructure, but also needs to attach particular importance to strengthening its administrative structures, aligning its business procedures and improving the training quality of customs officials.

Conclusion

Overall, the level of alignment in the area of customs is high, in particular due to the alignment in the framework of the EC-Turkey Customs Union. However, further alignment of Turkish Customs Code with that of the EC is still needed.

Non-customs legislation applied in free zones and the continuation of weaknesses in the IPR enforcement in the customs controls is a matter of concern. These issues should be improved substantially.

The recent automation of customs offices and modernisation of customs controls should continue. Significant modernisation efforts are required to improve the functioning of the customs administration, in order to have sufficient capacity to implement and enforce the *acquis communautaire*.

Chapter 30: External relations

The *acquis* in this field consists mainly of directly binding EU legislation which does not require transposition into national law. This EU legislation results from the EU's multilateral and bilateral commercial commitments, as well as from a number of autonomous preferential trade measures. In the area of humanitarian aid and development policy, Member States need to comply with EU legislation and international commitments and ensure the capacity to participate in the EU's development and humanitarian policies. Applicant countries are required to progressively align its policies towards third countries and its positions within international organisations with the policies and positions adopted by the Union and its Member States.

Turkey has made limited progress.

With regard to **commercial policy**, some progress can be recorded. In the areas covered by the EU-Turkey Customs Union, Turkey's commercial policy is already aligned to a large extent with the EU's. A ministerial decree concerning the alignment with the current EU Generalised System of Preferences in force until December 2005 was published in October 2005. Turkey needs to align with the new Generalised System of Preferences scheme adopted by the EU Council in June 2005 and which will enter into force in January 2006. In January 2005 Turkey imposed safeguard measures on textile and apparel products of Chinese origin in 42 categories. These measures imposed - on the basis of relevant WTO rules - differ from those adopted by the EC in July 2005. Turkey should allow for the smooth continuation of bilateral trade between the EC and Turkey, for goods originating in China and in transit through the EC.

The level of coordination of Turkey with the EU within World Trade Organisation on trade issues has improved. Nonetheless, alignment to the EC negotiating positions in the Doha Development Agenda negotiations is difficult to achieve fully due to Turkey's developing country status in the WTO context. Turkey has to make more efforts in this respect. The coordination and cooperation in GATS also needs to be further improved. In particular, Turkey needs to ensure that future GATS offers in the Doha Development Agenda negotiations are compatible with those of the EC so as to facilitate the consolidation with the EC's commitments when it accedes to the EU. Of particular importance is the use of the same classifications for services sectors.

Concerning **bilateral agreements with third countries**, Turkey signed free trade agreements (FTA) with Tunisia and Syria in November and December 2004 respectively. The FTA with Tunisia entered into force in July 2005. Free trade negotiations with Albania, Lebanon and Egypt still continue. Moreover, an Interim Free Trade Agreement between the Republic of Turkey and the Palestine Liberation Organization for the Benefit of the Palestinian Authority entered into force in July 2005. In certain cases, due to the unwillingness of other parties, Turkey has been unable to initiate free trade negotiations despite its efforts. Nevertheless Turkey should continue its efforts to conclude these negotiations with other countries, which have signed a FTA with the EU.

No developments can be reported regarding medium and long-term export credits to companies and dual-use goods.

Concerning alignment with the EU **development policy**, Turkey implements its development aid projects through the Turkish Cooperation and Development Agency (TIKA) established in 1992. The Agency has been active mainly in Central Asian and Balkan countries, and the Russian Federation.

No new figures are available on **development aid and humanitarian aid**. Turkey has, however, provided some humanitarian assistance. The primary beneficiary countries of Turkish official aid are the Central Asian countries, the Russian Federation, and Ukraine.

Conclusion

Turkey's external commercial policy converges with that of the EU for the areas covered by the Customs Union.

However, Turkey needs to make further efforts in order to reach full alignment with the EC Common Commercial Policy. Long outstanding obligations of Turkey in other fields of the Customs Union still remain to be fulfilled (*see Chapter 8 - Competition and Chapter 1 - Free Movement of Goods*).

Chapter 31: Foreign, security and defence policy

The common foreign and security policy (CFSP) and the European security and defense policy (ESDP) are based on legal acts, including legally binding international agreements, and on political documents. The *acquis* consists of political declarations, actions and agreements. Member States must be able to conduct political dialogue in the framework of CFSP, to align with EU statements, to take part in EU actions and to apply agreed sanctions and restrictive measures. Applicant countries are required to progressively align with EU statements, and to apply sanctions and restrictive measures when and where required.

In the reporting period Turkey has broadly continued to position its foreign and security policy in line with that of the European Union.

The regular enhanced **political dialogue** established as part of the accession strategy with Turkey has continued with exchanges of views on international issues, such as Southern Caucasus, Western Balkans, the Middle East Process, the Mediterranean and Middle East regions, Iraq, Iran and Afghanistan. Turkey has shown a keen interest to continue active participation in political dialogue with the EU including ESDP (European Security and Defence Policy) developments.

It has actively participated in the exchanges in this context with the EU and, for ESDP, in the EU Troika meetings of the EU with non-EU European NATO members. While Turkey participated in all relevant Troika meetings including at Political Director, European Correspondent and Working Group level, it attended only one of the two formal meetings with the 25 EU member states.

The Turkish Foreign Ministry's administrative organization is basically compatible with EU CFSP structures. The Deputy Undersecretary for European Affairs performs the function of political director. Besides there is a European correspondent and a deputy European Correspondent. The Turkish MFA is connected to the ACN information system through which the EU communicates with the associated partners within the CSFP. Turkey's record of alignment with **EU sanctions and restrictive measures, statements, declarations and demarches** continues to demonstrate the significant extent of convergence of EU-Turkey views. In particular, Turkey has generally aligned itself with EU common positions and declarations in particular as regards terrorism and non-proliferation. In some instances, Turkey decided not to align itself with EU common positions in particular as regards the International Criminal Court. However, Turkey's overall record suggests that alignment has been somewhat selective from a geographical point of view with delays or lacunae observed as regards the Balkans, Asia (Burma) and Africa (Darfur). Turkey continues to support

though with some nuances the Barcelona Process to promote good neighbourly relations, encourage political stability, reinforce the solution of human rights issues and support democratic developments.

Turkey continues to display an active interest in the development of the ESDP. In this connection, Turkey is presently participating in the EU led police missions in Kosovo (UNMIK), in Bosnia-Herzegovina (EUPM), in the former Yugoslav Republic of Macedonia (Proxima) and in the Democratic Republic of Congo (EUROPOL KINSHASA). Turkey has participated in several UN and NATO missions in the Balkans beginning with UNPROFOR, IFOR, KFOR and SFOR which was replaced in December 2004 by EUFOR-ALTHEA, in which Turkey also participates. It has similarly expressed its desire to contribute to the EUJUST LEX in Iraq concerning the development the rule of law.

Turkey announced its intention to contribute to the Battle Groups Concept of the Headline Goal 2010 at the Military capabilities Conference held in Brussels in November 2004. Turkey, Italy and Romania have signed a Letter of Intent in May 2005 in Brussels, regarding the formation of a joint Battle Group that will be offered to the EU in the second half of 2010. It also wishes to take part in the European Defence Agency and to contribute to the Civilian Headline Goal 2008.

Turkey's participation in the ESDP continues to present certain difficulties. Indeed, Turkey and the EU have a different interpretation of the "Berlin Plus" agreements between EU and NATO. As a result, Turkey's insistence that Cyprus and Malta be excluded from the EU-NATO strategic co-operation in crisis management has so far hampered such co-operation. Turkey has so far vetoed Cyprus' accession to the Wassenaar agreement concerning the Code of Good Conduct on Arms Export as well as the dual use regulation. This hampers the functioning of the single market in the areas covered by the agreement.

Turkey has continued to promote stability and security in neighbouring areas such as the Balkans, the Caucasus, the Mediterranean and the Middle East as a country with close political, economic, historical and cultural ties with the region.

Since July 2003, Turkey assumed the Chairmanship of the Coordination Committee of the Southeast Europe Defence Ministerial Process (SEDM/CC) as well as the Chairmanship of the Political Military Steering Committee of the Multinational Peace Force Southeast Europe (PMSC-MPFSEE). Turkey also contributed to the Stability Pact for South-eastern Europe and the Southeast European Cooperative Initiative (SECI). Turkey participates in other initiatives including the BLACKSEAFOR, the Black Sea Economic Cooperation Organisation, the Economic Cooperation Organization and the D8. In March 2005 Turkey invited the Black Sea Neighbouring States to join the operation "Black Sea Harmony". Turkey also contributed to the ad hoc subordinate group which elaborates principles and modalities of the employment of the BLACKSEAFOR for the purposes of preventing the threat of terrorism and illicit trafficking in weapons of mass destruction, their means of delivery and related materials with a draft report.

Relations between **Greece** and Turkey have continued to develop positively. High profile visits took place including the Greek Foreign Minister's visit to Turkey in April 2005. Additional Confidence building measures have been concluded. In August 2005, 31 rounds of meetings have been held at the level of Undersecretary of the MFA's in the context of the exploratory talks initiated in 2002. A protocol of co-operation in the judiciary was signed by both countries Justice Ministers. The Turkish and Greek Prime Ministers inaugurated jointly the start of the construction of natural gas-pipeline between Karacabey (Turkey) and Komotini (Greece). The Turkish Land Forces Commander paid a visit to his Greek counterpart in June.

Turkey's support to the **Middle East Peace Process** has continued. The Foreign Minister and the Prime Minister visited Israel and Palestine in January and May 2005 respectively. In these visits, they confirmed Turkey's readiness to play an active role as a regional actor enjoying the confidence of both sides, in consolidating the positive trend on the Israeli-Palestinian issue. Turkey donated 25.000 police uniforms (representing a total value of 4,8 million dollars) to the Palestinians with the aim of supporting the security reform efforts. Turkey pledged 5 million US dollars to the efforts of the Quartet's Special Representative Wolfensohn, for the reconstruction projects in the Palestinian territories. Upon the request of the Palestinian side, Turkey dispatched 15 observers to the Presidential elections held in January 2005. Turkey will send an observer team to the Palestinian legislative elections and has also proposed to take part in the EU election monitoring team for these elections. Furthermore, at the request of both Israel and the Palestinian Authority, Turkey has taken part in the Temporary International Presence in Hebron (TIPH) since 1997. In September the Turkish Prime Ministry facilitated a historic meeting between the Foreign Ministers of Israel and Pakistan in Istanbul.

Turkey has repeatedly expressed concerns about the situation in **Iraq** in general and in particular about the situation of Turcoman as well as the status of the city of Kirkuk. It has continued to deploy diplomatic efforts to promote its stabilization. Turkey hosted the 8th meeting of Iraq's neighbouring countries in April 2005 in Istanbul. The newly elected Prime Minister of the Iraqi Transitional Government paid his first visit abroad to Ankara in May 2005 and held high level talks. Turkey has offered several times help to the victims of attacks in Iraq. In this context it provides humanitarian assistance to wounded Iraqis offering them medical treatment at Turkish hospitals. As of May 2005, Turkey has started a training program on electoral systems and the working of democratic institutions for representatives of Iraqi political parties and groups as well as to Iraqi diplomats. Transit trade between the Iraqi and Turkish border constitutes an important source of income for the population in the region. However the security situation causes serious concerns on the Turkish side. According to some sources, Turkey has still more than 1300 soldiers in North Iraq.

Improvements in relations with **Syria** continue. The Turkish President paid a visit to Damascus in March 2005. Border disputes with Syria are currently being tackled by an agreement concerning the joint effort to de-mine the Turkish side of the common border. Syria and Turkey also agreed upon cooperation regarding the fight against Terrorism.

As regards **Iran**, Turkey has supported efforts of the EU to obtain long-term guarantees on the implementation of the Nuclear Non-Proliferation Treaty and its Nuclear Safeguards Agreement with the IAEA by Teheran.

Turkey takes part in the Bonn process for the reconstruction of **Afghanistan**. Turkey has been entrusted in February 2005 with the commando of multinational ISAF contingents in Afghanistan for the second time for a period of six months and participated to a training mission in Iraq. The Turkish government reiterated its willingness to support reconstruction efforts in the country and pledged to contribute \$ 100 Mio.

Turkey's border with **Armenia** remains closed. However, the bilateral dialogue process between Turkey and Armenia continues on various levels, including the Ministers of Foreign Affairs. Within the framework of this process, nine meetings were held by officials. There has been an official exchange of letters between the Turkish Prime Minister and the Armenian President. In his letter dated April 2005, the Turkish PM proposed to set up a joint commission composed of independent historians and other international experts with unconditional access to all relevant archives with a view to discuss the tragic events of 1915. In his response the Armenian President pointed out that, instead of employing historians, both

governments should rather establish diplomatic relations first and create a joint government commission dealing with all critical questions of the relationship, including closed borders. Both leaders were due to meet in Warsaw in the margin of the Council of Europe Summit, but the meeting did not take place. Direct flights from several Turkish cities to Yerevan continue. In the wake of the 90th anniversary of the tragic events of 1915, Turkish academics participated in conferences in Yerevan. Armenian Parliamentarians made an official visit to Turkey. In September 2005 a conference entitled ‘Ottoman Armenians during the collapse of the Empire: Scientific Responsibility and Issues of Democracy’ took place in Istanbul.

As regards relations with the **Southern Caucasus**, Turkey indicated full support for the **European Neighbourhood Policy**. Turkey continues to participate in the meetings of the regional initiative GUAM (Georgia, Ukraine, Azerbaijan and Moldova) as an observer. In this context Turkey also contributed to multilateral efforts and supported the work of international organizations such as the OSCE.

Turkey continues to play an active role in the international campaign to **combat terrorism**. Turkey is party to all UN Anti-Terrorism protocols and conventions. In January 2005 Turkey ratified the Protocol Amending the European Convention on Suppression of Terrorism.

Turkey has still not signed the Statute of the **International Criminal Court**. A new working group has been established by the Ministry of Justice with the participation of the General Staff and Ministry of Foreign Affairs as well as academics in February 2005 with the aim of elaborating and structuring the articles related to the war crimes in the Turkish civil and military legislation in light of the Rome Statute.

Turkey supports democratic reform efforts of the Organisation of the **Islamic Conference**. To this end Turkey donated \$1 million to the Organisation which is currently headed by a Turkish academic. Turkey has on several occasions called upon Muslim countries to face the necessity of democratic reform and urged them to take the route of democratization.

The Turkish Prime Minister reiterated in June 2005 his governments commitment to the Democracy Assistance Dialogue initiated at the G-8 Summit held in Sea Island in 2004. Turkey together with Italy and Yemen holds the co-chairmanship of the project launched within the framework of the Broader Middle East and Northern Africa initiative. Turkey actively participated in both the first formal Democracy Assistance Dialogue meeting in Rome in November and Forum for the Future in Morocco in December 2004. Turkey plans to host a theme-specific Democracy Assistance Dialogue meeting in 2005. Turkey along with Spain is jointly chairing the UN Secretary General’s new initiative “Alliance of Civilizations” since July 2005.

In the reporting period Turkey intensified and diversified its foreign policy activity. In particular high level visits have been paid to various countries. A considerable number of bilateral cooperation agreements have been signed.

Conclusion

Overall, Turkey’s alignment with EU Common Foreign and Security Policy has continued and it should make every effort to support EU positions in international fora. Turkey has been actively involved in peacekeeping and stabilization efforts in the Balkans. It has also remained committed to the stabilization of its neighbouring regions including the Caucasus, Central Asia as well as the Middle East. Bilateral relations with neighbours have continued to improve, in particular with Syria and Iran where Turkey used its influence to convince the leadership of that country to abide by the request of the international community. Concerning Iraq, Turkey has continued to express concerns about the situation. At the same time, Turkey

makes an active contribution to the stabilization of the country in particular by deploying diplomatic efforts targeted at all Iraq's neighbours.

As regards Armenia, although the border is still closed and no diplomatic relations have been established yet, official contacts have continued to take place and should be intensified in view of co-operation and reconciliation between the two countries. 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 process of peaceful settlement of border disputes.

Turkey's participation in the ESDP continues to present certain difficulties. Indeed, 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 agreement. Turkey has yet to sign the International Criminal Court statute.

Chapter 32: Financial control

The *acquis* under this chapter relates to the adoption of internationally agreed and EU compliant principles, standards and methods of public internal financial control (PIFC) that should apply to the internal control systems of the entire public sector, including the spending of EU funds. In particular, the *acquis* requires the existence of effective and transparent financial management and control systems (including adequate ex-ante, ongoing and ex-post financial control or inspection); functionally independent internal audit systems; the relevant organisational structures (including central co-ordination); an operationally and financially independent external audit organisation to assess, amongst others, the quality of the newly established PIFC systems. This chapter also includes the *acquis* on the protection of EU financial interests and the fight against fraud involving EU funds.

There has been some progress in the area of public internal financial control and the protection of EU financial interests.

Turkey adopted the Public Financial Management and Control Law reforming Turkish **public financial management and control** systems in line with modern public financial management concepts and EU practices in 2003. All the provisions of the Law, except those on budget execution, entered into force in 2005. Nevertheless, most of them are not operational in the absence of implementing legislation.

In order to ensure full implementation of the law, those articles on budget execution should be enacted and implementing legislation relating to issues such as manuals for internal audit and financial management and control, as well as the establishment and proper use of an internal audit charter and a code of ethics should be developed without any further delay.

As provided for in the law, an Internal Audit Coordination Board was established in 2004. The Board also has the mandate to act as an independent central harmonisation unit to guide the process of introducing functionally independent internal audit. In April 2005, the Prime Ministry issued a circular on the course of action to be taken for the implementation of the Public Financial Management and Control Law. For this purpose; a "Steering Committee for Change" has been formed under the coordination of the Ministry of Finance. In parallel, all public institutions falling under the category of general government were to establish "change management teams". Establishment of such structures within the transition period is a positive development. Effective cooperation between the main actors, namely the State Planning Organisation, the Treasury and the Ministry of Finance, should also be ensured in the course of this transformation.

There is no new development to be reported in the field of **external audit**.

The Public Financial Management and Control Law ensures a clear designation of audit duties between budget centres, the Ministry of Finance and the Court of Accounts, and extended external audit to the remaining extra-budgetary funds. The law authorises the Turkish Court of Accounts to conduct financial, performance and compliance audits of all public administrations in accordance with international audit standards. Gradually eliminating the ex ante control function of the Turkish Court of Accounts, the law expands the audit scope of the Turkish Court of Accounts.

In order to address the evolving needs as a consequence of changes in method and scope of auditing by the Turkish Court of Accounts, Turkey needs to adopt the revised charter for the Court of Accounts on the basis of the INTOSAI without delay.

There is some progress to be reported in the field of **protection of EU financial interests**. The Framework Agreement on pre-accession assistance between the European Union and Turkey, which was signed in February 2005, entered into force following the issuance in May 2005 of the circular setting out the rules for its implementation. The Agreement sets out a single framework for pre-accession assistance to Turkey under the priorities of the Accession Partnership and offers solutions to the practical problems encountered in the implementation of the EU financial assistance to date.

As stated in the 2004 Report, adoption of the Public Financial Management and Financial Control Law was a significant development regarding the protection of EU financial interests. However, implementing legislation needs to be enacted at the earliest so as to ensure proper operation of the new system brought in by the law. Furthermore, these initiatives should be strengthened by setting up an anti-fraud coordination unit responsible for the treatment of cases of suspected fraud and other irregularities affecting pre-accession assistance, as well as the notification of these irregularities to the European Commission.

Administrative structures to manage pre-accession funds within the *ex ante* Decentralised Implementation System are in place. The system has been accredited for the management of all types of EU funds. Nevertheless, low staffing level in these institutions leads to considerable delays in the functioning, and could, if not addressed, lead to the withdrawal of their accreditation. Turkey needs to take necessary measures to enhance efficiency and effectiveness of these administrative structures without delay. New structures also urgently need to be established and accredited to implement the 5 components of the Integrated Pre-Accession instrument from 2007 (*see also Chapter 22 – Regional policy and coordination of structural instruments*).

Conclusion

The Public Financial Management and Control Law follows the principles of the *acquis*. However, as the law is not fully in force, the current system is in compliance neither with the law itself nor with the *acquis*. For the same reason, the administrative capacity for the implementation of the new legal framework also remains to be assessed in the future. In order to ensure effective application of the law, establishment of all relevant administrative structures as well as the enactment of implementing legislation should be ensured. Turkey needs to ensure timely adoption of the revised Charter of the Turkish Court of Accounts for proper implementation of external audit in line with the Public Financial Management and Control Law and the new Charter. For the protection of EU financial interests, the administrative capacity of the structures responsible for anti fraud coordination and for applying the Decentralised Implementation System need to be developed and strengthened further. In addition, contacts with OLAF should take place to establish a structure specialized

in the coordination in fight against fraud and in the cooperation with the anti-fraud service of the European Commission. The designation of a service with competences to protect the euro against counterfeiting should also be envisaged.

Chapter 33: Financial and budgetary provisions

This chapter covers the rules concerning the financial resources necessary for the funding of the EU budget ('own resources'). These resources are made up mainly from contributions from Member States based on traditional own resources from customs and agricultural duties and sugar levies; a resource based on value-added tax; and a resource based on the level of gross national income. Member States must have appropriate administrative capacity to adequately co-ordinate and ensure the correct calculation, collection, payment and control of own resources. The *acquis* in this area is directly binding and does not require transposition into national law.

No new developments are to be reported with regard to EU financial and budgetary provisions and the application of the EU own resources system.

In relation to traditional own resources, Turkish customs legislation is mostly in line with the 1999 *acquis*. However, substantial efforts are necessary for full alignment and in particular proper implementation. As regards the control of future EC traditional own resources, Turkey needs to enhance its efforts to combat fraud in VAT and customs duty. In May 2005, Turkey enacted a law restructuring the tax administration so as to enhance the collection of tax revenues and voluntary taxpayer compliance.

In addition to administrative capacity building, additional legislative alignment is necessary for the accurate calculation of the VAT and GNI resources. In this respect, Turkey needs to align its statistical law with EU standards, continue establishing the mechanisms for the proper implementation of the ESA95 standards, and ensure further alignment of macroeconomic statistics with the *acquis*, particularly harmonized consumer price indices, social statistics, GNI estimates, short-term indicators, and balance of payments.

Institutions necessary for application of the underlying policies affecting the own resources system, such as collection of customs duties, management of the statistical system for gross national income (GNI) and VAT resource-based calculations, and management of the VAT collection system, are in place and operational. Nevertheless, a coordination unit in charge of laying the administrative grounds to consolidate data from various institutions needs to be established.

Conclusion

There are no significant divergences between the Turkish and the EU system concerning the basic principles and institutions in the underlying policy areas linked to the application of the own resources system. Turkey needs to continue its efforts to align with the relevant *acquis* chapters, in particular customs, taxation, statistics and financial control, and to strengthen implementation and enforcement. In due course, although the *acquis* in this area does not require transposition, Turkey will need to establish coordination structures and implementing rules so as to ensure the correct calculation, collection, payment and control of own resources and reporting to the EU for implementation of the own resources rules.

3.2 General evaluation

As regards Turkey's **ability to adopt and implement the EU legal order**, there has been some, though uneven, progress since 2004. Progress has taken place in the area of *free circulation of goods*, in particular concerning the implementation provisions covered by the new approach, including the possibility for Turkey to notify conformity assessment bodies, as well as market surveillance. For the other areas, i.e. old approach and non harmonised areas, no progress took place. Despite the EC-Turkey Customs Union, circulation of products is not yet entirely free.

Free movement of capital has slightly improved. Certain restrictions have been lifted, but foreigners are not allowed to acquire real estate and to engage in certain economic sectors. Some progress has taken place in the important area of money laundering, but alignment remains incomplete.

Some progress took place concerning *company law*, in particular as regards accounting standards and auditing. Overall alignment remains limited for this chapter.

Alignment concerning *intellectual property rights* is advanced, and has further improved. Also some improvement has been made concerning enforcement of the legislation, but this remains the weakest aspect of the system.

In the area of *competition policy*, provisions concerning undertakings (anti trust, and merger control) are satisfactorily aligned and implemented by the competition authority. On the other hand, on state aids, no progress can be reported as regards alignment or enforcement. Therefore alignment remains very limited, despite specific bilateral commitments. Particular attention should be devoted to state aids control in the steel sector.

Some progress has been made concerning *financial services*, and in particular insurance and supplementary pension sector. Progress in the banking sector needs to be consolidated. Nevertheless, overall alignment in this area is limited, and the administrative capacity needs to be reinforced.

In the area of *information society and media*, some progress can be recorded concerning electronic communication and information technologies, where liberalisation proceeded, and information society services. Effective implementation of the legislation would require further development of the administrative capacity. In the area of audiovisual policy, both recent progress and overall alignment remain limited.

Concerning *agriculture and fisheries*, progress was very limited. Some initiatives have been taken concerning rural development but these need to be reinforced. Overall the alignment and administrative capacity remain very limited.

Alignment in the areas of *food safety, veterinary and phytosanitary policy* is also fairly limited. Alignment is higher in certain specific sub-sectors of general foodstuff policy, but still incomplete, and implementation appears difficult. The general framework for veterinary policy is not in place. However the administration has started work to identify the problems on the ground and the administrative changes necessary to address them. Phytosanitary policy shows some limited progress. Administrative structures will need major upgrading.

Progress concerning *transport* is uneven among the various modes of transport. Some progress took place concerning road transport, where alignment is more advanced, but implementation remains incomplete. Substantial legislative and institutional reforms are needed in the rail sector. In maritime transport some progress can be reported on legislative alignment and strengthening of administrative capacity. With regard to air transport some progress can be noted although overall alignment remains limited. On *energy*, overall some

progress has been achieved, notably as regards security of supply and renewable energies. While progress remained limited concerning the establishment of the internal energy market, there was none concerning state aids in the sector, nor energy efficiency. If Turkey develops a nuclear energy generation capacity, administrative capacities must be strengthened to ensure a high level of nuclear safety. Some progress has been made concerning radiation protection.

Progress in the area of *taxation* is limited, as concerns both indirect taxation, and direct taxation. Overall the Turkish fiscal regime is partially complying with the *acquis*, but substantial alignment is still required. The size of the informal economy remains an issue. The administrative capacity needs extensive upgrading.

Some progress has been recorded concerning *statistics*, and in particular as regards classifications, sector statistics. The alignment with the *acquis* is currently limited, but co-operation between Eurostat and the State Institute of Statistics is continuing. Some progress was made in the area of *employment and social policy*. However, while alignment is relatively advanced on health and safety at work, substantial efforts are still required in areas such as social dialogue, gender equality and antidiscrimination. A major task lies ahead as concerns implementation and strengthening of administrative capacity.

The Turkish strategy concerning *industrial policy* is already largely in line with the basic principles of the EU. Since the previous Report some additional progress can be reported, in particular for SME policy. Progress is uneven on *regional policy and coordination of structural instruments*. No development took place since the previous Report on territorial organisation, and programming. Progress has taken place in the legislative framework, and financial management and control. Considerable efforts remain necessary to set up the institutional structures. Administrations involved in regional policy should be established, both at central and regional level, and subsequently upgraded.

In the areas covered by the *judiciary and fundamental rights*, Turkey has made progress in aligning with EU standards and practices concerning the judiciary and anti-corruption measures. However, further steps are needed to ensure the independence and efficiency of the judiciary. On corruption, further action is necessary to improve the efficiency of the relevant bodies established to combat corruption and to raise public awareness of corruption as a serious criminal offence.

Turkey continued to align its legislation with the *acquis* in the area of *justice freedom and security*. Overall, the Turkish legislation is partly in line with the *acquis*. Further progress is necessary in a number of areas such as adoption of a law on protection of personal data, adoption and implementation of the National Action Plan on Border Management, implementation of the National Action Plan on Migration and Asylum, lifting the geographic limitation to the Geneva Convention and developing inter-agency co-operation.

Concerning *environment*, Turkey has made limited progress. The overall level of transposition of the *acquis* remains low, with the exception of waste management and noise, where transposition is advanced. Weaknesses in the implementation and enforcement are still source of concern. Turkey needs to take steps to integrate environmental policy into the definition and implementation of all other policies.

Alignment in the area of *consumers and health protection*, is advancing steadily. In particular progress was made in the implementation of non-safety related measures. For safety related measures, no further progress took place. Some development was recorded concerning public health, and in particular concerning tobacco legislation. The administrative capacity should be reinforced.

Provisions concerning *customs union* are aligned to a large extent, also to comply with bilateral EC-Turkey agreements. However, further alignment of the Turkish Customs Code with that of the EC is still needed. Non-customs legislation applied in free zones and the continuation of weaknesses in intellectual property rights enforcement in customs controls is a matter of concern

The commercial aspects of EU policy on *external relations* are largely followed by Turkey, as a commitment deriving from the EC-Turkey customs union. In particular, new free trade agreements with third countries were signed. Turkey managed to align to a large extent with the EC GSP regime. Turkey has a large degree of alignment with EU *common foreign and security policy*. Bilateral relations with neighbouring countries, including Greece, have further improved. The border with Armenia is still closed. Turkey and the EU have a different interpretation of the “Berlin Plus” agreements between EU and NATO which hampers EU-NATO strategic co-operation in crisis management.

C. ACCESSION PARTNERSHIP: OVERALL ASSESSMENT

Turkey's progress and overall state of preparation in respect of the Copenhagen criteria has been examined and conclusions drawn above. The present section assesses briefly the overall extent to which the priorities of the Accession Partnership have been met.

The Accession Partnership for Turkey was first adopted by the Council in 2001. A revised Accession Partnership was adopted in May 2003.²⁴ Along with the present report, a revised Accession Partnership is being proposed. The purpose of the Accession Partnership is to assist the Turkish authorities in their efforts to meet the accession criteria. It covers in detail the priorities for accession preparations, in particular implementation of the *acquis*, and forms the basis for programming pre-accession assistance from EU funds.

The priorities of the Accession Partnership have been selected on the basis that it is realistic to expect that the country can complete them or take them substantially forward over the next few years. A distinction is made between short-term priorities, which are expected to be accomplished within one to two years, and medium-term priorities, which are expected to be accomplished within three to four years.

Turkey has continued to address the priorities defined in the revised Accession Partnership. Overall, some further progress has been made, but substantial further efforts will be necessary to complete the tasks foreseen. The revised priorities will reflect the progress achieved to date and address areas where more progress is needed. For a considerable number of these priorities, the government will benefit from EU assistance, as projects directly related to these priorities have been included in the 2005 national programme (*see also section A.2*).

With regard to the priorities concerning the **enhanced political dialogue and the political criteria**, further legislative progress has been achieved, in particular in those areas identified as priorities in last year's report. As regards implementation, although progress was achieved in some areas, this remains uneven. As such, it is clear that political reform needs to be further consolidated and broadened.

On Cyprus, over the last year Turkey has continued to support efforts for a *comprehensive settlement of the Cyprus problem* within the UN framework and in line with the principles on which the Union is founded. As regards the principle of *peaceful settlement of border disputes*, relations with Greece have continued to develop positively. Additional confidence-building measures were adopted. The process of exploratory talks has continued.

Turkey has made further progress in acceding to the relevant *international and European conventions* and has increased its efforts to execute *decisions of the European Court of Human Rights* (ECHR). Several protocols were signed, including Protocol No 14 to the European Convention on Human Rights and the Protocol amending the European Social Charter. The European Agreement relating to Persons participating in Proceedings of the European Court of Human Rights was ratified on 6 October 2004 and entered into force on 1 February 2005. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force on 1 January 2005.

The government has remained committed to the *fight against torture and ill-treatment*, continuing to pursue a zero-tolerance policy towards torture. Nonetheless, on the ground, cases of *torture and ill-treatment* continue to be reported. *Detainees* are still not always made aware of their rights by the law enforcement bodies and prosecutors do not always promptly

²⁴ Council decision 2003/398/EC of 19 May 2003 on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with Turkey (OJ L 145, 12.6.2003, p. 40)

and adequately conduct investigations against public officials accused of torture. Continued efforts will be necessary to eradicate these methods, including the consistent imposition of appropriate sanctions on the perpetrators of torture and ill-treatment.

The new Penal Code, which introduced improvements in particular in relation to women's rights non-discrimination and the fight against torture and ill-treatment, entered into force on 1 June 2005. In spite of various legal and practical initiatives, the problem of discrimination on the basis of gender remains a cause for concern. Efforts will be needed to fully enforce new legal developments on the ground.

Some further progress has been achieved in aligning the overall framework for the exercise of *fundamental freedoms* with European standards.

As regards *freedom of expression*, amendments to the Penal Code provide for only limited progress. Much will depend on the way in which certain articles are applied and interpreted by the judiciary on the ground. In terms of implementation, several problems remain. Although a number of people prosecuted for expressing non-violent opinion have been acquitted by higher judicial bodies, in a number of cases journalists, editors, writers and other citizens continue to be prosecuted and in some cases convicted. Provisions enabling retrial still do not apply to all relevant ECtHR judgments.

On *freedom of association and peaceful assembly*, a new law entered into force in November 2004, marking a significant step forward in the development of civil society. However, a regulation adopted in March 2005 introduced some restrictions which could in practice hamper both the establishment and functioning of associations. Despite measures taken to ease restrictions on demonstrations, there have been several cases where security forces have used disproportionate force against demonstrators. Both associations and foundations continue to encounter difficulties if they conduct work that is not considered to be in conformity with their statute, or if their statute is considered to be in contravention of the constitution.

As regards *freedom of religion*, apart from some ad hoc measures, only very limited progress has been made in establishing legislation which addresses outstanding problems. Non-Moslem religious communities continue to experience difficulties connected with legal personality, property rights, training of clergy, residence rights and work permits for Turkish and non-Turkish clergy, schools and internal management. Action taken by the authorities to challenge the property rights of the non-Moslem religious foundations by the State is also a matter of concern. There has been no progress on the status of the large non-Sunni Muslim Alevi community in Turkey.

Concerning the *protection of minorities and the exercise of cultural rights*, a lively debate on Turkey's approach to minority rights was sparked following the publication of a report on this subject by a state body, the Human Rights Advisory Board. However, there has been no further broadening of the general approach and no consolidation of the relevant legal framework, in particular in the area of broadcasting and education, where important restrictions continue to apply.

On civil–military relations, further steps have been taken to restructure the National Security Council. However, more efforts are needed to ensure full civilian control of the military, in line with practice in EU Member States. The armed forces in Turkey continue to exercise influence through informal mechanisms. Apart from formal reforms to the legal and institutional framework, it is important that the civilian authorities fully exercise their supervisory functions in practice, in particular as regards the parliamentary control of defence

expenditure, and the formulation of the national security strategy and its implementation, including with regard to relations with neighbouring countries.

Significant progress has been achieved in the area of the *judiciary* with the adoption and the entry into force of a series of new laws which will contribute to improve its *independence and efficiency*. This concerns in particular the new Penal Code, the new Code of Criminal Procedure, the Law on the Courts of Appeal as well as the law on the Enforcement of Sentences and Security Measures. Although higher judicial bodies, such as the Court of Cassation have continued to issue a number of judgments interpreting the reforms in accordance with the standards of the ECtHR, it remains difficult to discern a clear trend in the case law. Intensive training of judges and prosecutors has continued, in particular as regards the European Convention for the Protection of Human Rights. Turkey is encouraged to take further steps to strengthen the independence of the High Council of Judges and Prosecutors and to remove political influence over the appointment of judges and prosecutors.

The *prison system* has continued to improve although isolation in high security prisons remains a serious problem. The training of enforcement judges has, to date, been inadequate. The Turkish authorities have pursued a number of *training programmes on human rights* targeting relevant personnel in the Ministry of the Interior, Ministry of Justice, the gendarmerie and the police.

There has been very little progress in dealing with the situation of *internally displaced persons*, and in particular their return to villages in the Southeast. Turkey is encouraged to intensify its efforts to promote safe return, including through the removal of obstacles such as inadequate infrastructure, landmines and village guards.

Regarding the priorities related to the **economic criteria**, short term priorities have been partially met. The current disinflation programme continues to be implemented effectively while reforms in the financial sector have also continued. The legislative framework to facilitate foreign direct investment has improved, and the dialogue with the EU on macroeconomic issues is satisfactory. However, further work is necessary as regards privatisation. Efforts are underway to address the informal economy and the reforms of the agricultural sector have continued. No major progress has been made with regard to the fisheries sector.

As regards the medium-term priorities identified in the 2003 Accession Partnership, Turkey has continued to address certain issues relating to the economic criteria. In particular, it has continued to implement structural reforms which have allowed for reducing drastically inflation. Nevertheless, the priorities set in 2003 have not been met entirely and sustained efforts remain necessary.

Concerning the priorities related to the **ability to assume the obligations of membership**, there has been progress in meeting the short terms priorities in a number of chapters. The legal work to complete the free circulation of goods has progressed but is not yet completed. However, as regards competition, there has been no progress in the establishment of a state aid monitoring authority.

Regarding the medium-term priorities laid down in the Accession Partnership from 2003, Turkey has addressed issues related to the free movement of capital, taxation, economic and monetary union, energy and justice and home affairs.

Progress on the issues identified as priorities in the Accession Partnership is discussed in more detail in other parts of this report, notably in section B.3.: *Ability to assume the*

obligations of membership. The revised Accession Partnership follows the same structure as the present report.

The revised Accession Partnership continues to be the main tool for guiding Turkey's work on preparation for accession to the EU. Implementation of the Accession Partnership needs to continue. It should be given the necessary political attention and should help Turkey to set its legislative and institution-building agenda.

STATISTICAL ANNEX

Statistical data on Turkey as of 1 September 2005

Basic data	Scale	Unit	Foot-note	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Population: total	Thousand	Number	1)	61.763	62.909	64.064	65.215	66.350	67.420	68.365	69.302	70.231	71.152
Total area of the country	Unit (x1)	km ²		:	:	:	:	769.604	769.604	769.604	769.604	769.604	769.604
National accounts	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Gross domestic product	1 000 Million	National currency		7.762.456	14.772.110	28.835.883	52.224.945	77.415.272	124.583.458	178.412.438	277.574.057	359.762.926	430.511.477
Gross domestic product	Million	EUR		129.979	144.583	167.916	180.612	172.765	216.372	163.210	192.905	213.052	242.045
Gross domestic product per capita	Unit (x1)	EUR	2)	2.109	2.306	2.688	2.846	2.685	3.207	2.379	2.771	3.013	3.372
SI: Growth rate of Gross domestic product at constant prices (national currency), relative to the previous year	Unit (x1)	%		7,2	7,0	7,5	3,1	-4,7	7,4	-7,5	7,9	5,8	8,9
SI: Employment growth (national accounts), relative to the previous year	Unit (x1)	%	3)	3,7	2,1	-2,5	2,8	2.1f	-0.4f	-1.0f	-0.8f	-1.0f	:
Labour productivity growth: growth in GDP (constant prices) per person employed, relative to the previous year	Unit (x1)	%	4)	:	:	:	:	:	:	-6,5	8,8	6,1	:
SI: Unit labour cost growth (national accounts), relative to the previous year	Unit (x1)	%	5)	:	:	:	:	:	:	-4,6	:	:	:
GDP per capita at current prices	Unit (x1)	PPS	6)	4 600e	5 000e	5 500e	5 700e	5 500	6 000	5 300	5 600f	5 900f	6 500f
SI: GDP per capita at current prices, PPS, EU-25=100	Unit (x1)	%	6)	29.9e	31.0e	32.6e	32.2e	30	30	26	26.4f	27.5f	28.9f
SI: Labour productivity, PPS (GDP per person employed), EU-25=100	Unit (x1)	%	6)	35.9e	37.2e	40.3e	39.9e	37	39.9f	35.7f	37.6f	40.0f	41.8f
Agriculture (NACE Sections A+B): share of total gross value added	Unit (x1)	%		15,0	15,9	13,6	16,9	14,6	13,6	11,4	11,4	11,6	11,1
Industry (excluding construction) (NACE Sections C to E): share of total gross value added	Unit (x1)	%		25,8	24,2	24,2	21,4	21,9	22,5	24,2	24,3	23,8	23,8
Construction (NACE Section F): share of total gross value added	Unit (x1)	%		5,4	5,6	5,8	5,6	5,4	5,1	4,8	3,9	3,3	3,4
Services (NACE Sections G to P): share of total gross value added	Unit (x1)	%		53,8	54,3	56,4	56,1	58,1	58,8	59,6	60,5	61,3	61,7
Final consumption expenditure, as a share of GDP	Unit (x1)	%		79,4	81,2	80,6	79,9	81,6	83,4	81,8	80,2	80,5	79,9

Final consumption expenditure: household and NPISH, as a share of GDP	Unit (x1)	%		68,9	69,3	68,3	67,5	67,4	69,7	68,3	66,3	66,8	66.6f
Final consumption expenditure: General government, as a share of GDP	Unit (x1)	%		10,6	11,9	12,3	12,4	14,2	13,7	13,5	13,9	13,7	13.3f
—Gross fixed capital formation, as a share of GDP	Unit (x1)	%		23,3	25,8	26,5	24,0	20,4	21,8	17,2	16,5	15,5	18.0f
—Stock variation, as a share of GDP	Unit (x1)	%		1,6	-0,6	-1,3	-0,4	1,4	2,1	-1,3	4,7	7,3	8.0f
Exports of goods and services, relative to GDP	Unit (x1)	%		19,5	22,2	24,7	23,8	21,7	23,4	32,0	29,2	27,5	29.1f
Imports of goods and services, relative to GDP	Unit (x1)	%		23,8	28,7	30,5	27,2	25,1	30,7	29,7	30,6	30,8	35.0f

Inflation rate	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
SI: Consumer price index: total (CPI), growth relative to the previous year	Unit (x1)	%	7)	76,0	79,8	99,1	69,7	68,8	39,0	68,5	29,7	18,4	9,3

Balance of payments	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Balance of payments: current account total	Million	EUR	8)	-1.788	-1.919	-2.326	1.770	-1.261	-10.631	3.785	-1.610	-7.105	-12.495
Balance of payments current account: trade balance	Million	EUR	8)	-10.055	-8.083	-13.269	-12.534	-9.556	-23.775	-4.168	-7.702	-12.385	-19.234
Balance of payments current account: exports of goods	Million	EUR	8)	16.541	25.255	28.315	27.350	27.061	33.262	38.380	42.432	45.267	53.863
Balance of payments current account: imports of goods	Million	EUR	8)	26.596	33.338	41.584	39.884	36.618	57.038	42.548	50.134	57.652	73.097
Balance of payments current account: net services	Million	EUR	8)	7.355	5.243	9.622	12.047	7.025	12.308	10.194	8.332	9.287	10.269
Balance of payments current account: net income	Million	EUR	8)	-2.450	-2.305	-2.657	-2.663	-3.319	-4.333	-5.583	-4.816	-4.914	-4.437
Balance of payments current account: net current transfers	Million	EUR	8)	3.362	3.227	3.978	4.919	4.589	5.169	3.342	2.576	908	906
Balance of payments current account: net current transfers - of which government transfers	Million	EUR	8)	819	437	277	142	340	232	231	529	263	260
Direct investment (FDI) in the reporting economy	Million	EUR	8)	677	569	710	838	735	1.063	3.647	1.124	1.550	2.197

Public finance	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
General government deficit/surplus, relative to GDP	Unit (x1)	%		-4,1	-8,4	-7,8	-7,1	-11,7	-10,3	-16,0	-14,1	-11,1	-7,0
SI: General government debt, relative to GDP	Unit (x1)	%		17,5	21,3	21,8	22,2	29,6	29,2	68,5	54,0	54,0	52,1

Financial indicators	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Gross foreign debt of the whole economy, relative to GDP	Unit (x1)	%		:	:	:	:	:	:	:	:	:	:
Gross foreign debt of the whole economy, relative to total exports	Unit (x1)	%		:	:	:	:	:	:	:	:	:	:

Money supply: M1	Million	EUR		4.826	6.641	6.977	7.006	8.595	12.093	8.955	9.107	12.990	15.681
Money supply: M2	Million	EUR		15.622	21.659	24.969	31.232	41.131	51.119	37.212	35.604	46.687	59.111
Money supply: M3	Million	EUR		16.623	23.398	27.090	32.912	42.749	53.712	38.931	37.285	49.731	63.086
Total credit: credit by monetary financial institutions (MFIs) to total residents (consolidated)	Million	EUR		19.420	26.090	33.831	30.816	30.712	44.085	26.948	19.637	28.590	43.106
Interest rates: day-to-day money rate, per annum	Unit (x1)	%		72,4	76,2	70,3	74,6	73,5	56,7	92,0	49,5	36,2	21,8
Lending interest rate (one year), per annum	Unit (x1)	%		105,1	99,2	99,4	79,5	86,1	51,2	78,8	53,7	42,8	29,1
Deposit interest rate (one year), per annum	Unit (x1)	%		91,7	92,8	93,0	93,3	85,5	38,2	62,2	53,9	40,3	23,6
EUR exchange rates: average of period - 1 euro= ... national currency	Unit (x1)	Number		59.169,933	101.979,913	170.617,897	292.797,659	445.676,524	573.942,460	1.093.683,466	1.429.766,047	1.685.301,164	1.767.685,881
EUR exchange rates: end of period - 1 euro= ... national currency	Unit (x1)	Number		:	:	:	:	542.096	618.561	1.268.115	1.703.477	1.745.072	1.826.800
Effective exchange rate index (1999=100)	Unit (x1)	Number		652,0	384,8	232,0	145,5	100,0	74,0	40,0	30,8	27,4	26,7
Value of reserve assets (including gold)	Million	EUR		13.822	17.702	19.587	20.779	24.343	23.325	19.961	28.086	35.173	37.641
Value of reserve assets (excluding gold)	Million	EUR		12.439	16.319	18.462	19.766	23.332	22.319	18.929	26.807	33.616	36.006

External trade	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Trade balance: (all goods, all partners)	Million	EUR		:	:	:	:	-13.387	-29.263	-9.247	-16.341	-18.620	-27.720
Value of exports: (all goods, all partners)	Million	EUR		:	:	:	:	24.964	30.182	32.677	38.137	41.516	50.511
Value of imports : (all goods, all partners)	Million	EUR		:	:	:	:	38.351	59.444	41.924	54.478	60.136	78.231
Terms of trade (export price index / import price index), relative to the previous year	Unit (x1)	Number	9)	96,4	101,7	104,4	100,0	98,7	91,5	97,7	99,4	102,0	103,0
Share of exports to EU-25 countries in value of total exports	Unit (x1)	%		:	:	:	:	56,1	54,3	53,5	53,9	55,1	54,7
Share of imports from EU-25 countries in value of total imports	Unit (x1)	%		:	:	:	:	53,7	50,3	45,6	47,5	48,2	46,7

Demography	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Natural growth rate : crude rate of natural increase (births minus deaths)	Unit (x1)	per 1000	1)	16,8	16,8	16,5	16,0	15,4	15,1	14,6	14,2	13,9	13,5
Net migration rate: number of immigrants minus the number of emigrants	Unit (x1)	per 1000	10)	:	:	:	:	:	:	:	:	:	:
Infant mortality rate: number of deaths of children under one year of age relative to 1000 live births	Unit (x1)	Number	1)	43,0	40,9	38,8	36,5	33,9	28,9	27,8	26,7	25,6	24,6
Life expectancy at birth: male	Unit (x1)	Years	1)	65,6	65,9	66,3	66,7	67,1	68,1	68,2	68,4	68,6	68,8
Life expectancy at birth: female	Unit (x1)	Years	1)	70,2	70,6	70,9	71,3	71,8	72,8	73,0	73,2	73,4	73,6

Labour market	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Economic activity rate (15 - 64): proportion of the population aged 15-64 that is economically active	Unit (x1)	%	11)	56,8	56,4	55,2	55,3	55,2	52,4	52,3	52,3	51,1	51,5
SI: Employment rate (15-64): proportion of the population aged 15-64 that is in employment	Unit (x1)	%		52,4	52,5	51,3	51,4	50,8	48,9	47,8	46,7	45,5	46,1
SI: Employment rate (15-64), male: proportion of the male population aged 15-64 that is in employment	Unit (x1)	%		74,6	74,9	74,8	74,3	72,7	71,7	69,3	66,9	65,9	67,9
SI: Employment rate (15-64), female: proportion of the female population aged 15-64 that is in employment	Unit (x1)	%		30,2	30,3	28,0	28,5	28,9	26,2	26,3	26,6	25,2	24,3
SI: Employment rate of older workers (55-64): proportion of the population aged 55-64 that is in employment	Unit (x1)	%		41,7	41,6	40,5	41,1	39,3	36,3	35,9	35,3	32,7	33,1
Agriculture, forestry and fishing (NACE Sections A+B) as a share of total employment	Unit (x1)	%	11)	44,1	43,7	41,7	41,5	40,2	36,0	37,6	34,9	33,9	34,0
Industry (NACE Sections C to E) as a share of total employment	Unit (x1)	%	11)	16,0	16,4	17,5	17,1	17,2	17,7	17,5	18,5	18,2	18,3
Construction (NACE Sections F) as a share of total employment	Unit (x1)	%	11)	6,0	6,1	6,2	6,1	6,2	6,3	5,2	4,5	4,6	4,7
Services (NACE Sections G to P) as a share of total employment	Unit (x1)	%	11)	33,9	33,7	34,6	35,3	36,5	40,0	39,7	42,1	43,4	43,0
SI: Unemployment rate: proportion of the labour force that is unemployed	Unit (x1)	%		7,6	6,6	6,8	6,9	7,7	6,5	8,4	10,3	10,5	10,3
SI: Unemployment rate, male: proportion of the male labour force that is unemployed	Unit (x1)	%		7,8	6,9	6,5	6,9	7,7	6,6	8,7	10,7	10,7	10,5
SI: Unemployment rate, female: proportion of the female labour force that is unemployed	Unit (x1)	%		7,3	6,0	7,8	6,8	7,6	6,3	7,5	9,4	10,1	9,7
Unemployment rate of persons < 25 years: proportion of the labour force aged <25 that is unemployed	Unit (x1)	%		15,5	13,5	14,3	14,2	15,0	13,1	16,2	19,2	20,5	19,6
SI: Long-term unemployment rate: proportion of the labour force that is long-term unemployed	Unit (x1)	%		2,7	2,9	2,7	2,7	2,1	1,3	1,7	2,9	2,5	4,0

Social cohesion	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
SI: Inequality of income distribution: ratio of top quintile to lowest quintile	Unit (x1)	Number	12)	:	:	:	:	:	:	:	10,8	:	:
SI: Early school-leavers: proportion of the population aged 18-24 having not completed upper secondary education and who are currently not in any education or training	Unit (x1)	%	1)	:	:	:	:	:	58,1	58,1	55,1	52,9	54,4

SI: Children aged 0-17 living in jobless households: share of children aged 0-17	Unit (x1)	%	:	:	:	:	:	:	:	:	:	:	:
SI: Persons aged 18-59 living in jobless households: share of persons aged 18-59	Unit (x1)	%	:	:	:	:	:	:	:	:	:	:	:

Standard of living	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Number of passenger cars / population	Unit (x1)	per 1000		49,5	52,0	55,7	58,9	61,4	65,6	66,3	66,4	66,9	75.9p
Number of main telephone lines (fixed) / population	Unit (x1)	per 1000		215,8	227,1	245,8	260,1	272,1	272,8	276,5	272,9	269,3	268,8
Number of subscriptions to cellular mobile telephone services / population	Unit (x1)	per 1000		7,1	12,8	25,1	53,8	115,8	223,4	286,3	337,3	397,6	488,2

Infrastructure	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Density of railway network (lines in operation)	Unit (x1)	per 1000 km ²		:	:	:	:	11,3	11,3	11,3	11,2	11,3	11.3p
Length of motorways	Unit (x1)	km		1.200	1.400	1.500	1.700	1.700	1.800	1 900p	1 900p	1 900p	1 900p

Industry and agriculture	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Industrial production volume index (2000=100)	Unit (x1)	Number		:	:	:	:	:	100,0	91,3	99,9	108,7	119,3
Agricultural production volume indices of goods and services (at producer prices) (previous year = 100)	Unit (x1)	Number		102,7	107,0	97,7	110,6	94,7	104,2	93,3	108,5	98,0	101,6

Innovation and research	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
SI: Spending on human resources (public expenditure on education) as a share of GDP	Unit (x1)	%		2,33	2,36	2,43	3,14	3,59	3,50	3,65	3,55	3,79	3,83
SI: Gross domestic expenditure on research & development, relative to GDP	Unit (x1)	%		0,38	0,45	0,49	0,50	0,63	0,64	0,72	0,67	:	:
SI: Percentage of households who have Internet access at home. All forms of Internet use are included. The population considered is aged 16 to 74.	Unit (x1)	%		:	:	:	:	:	:	:	:	:	7,0

Environment	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
SI: Total greenhouse gases emissions, CO ₂ equivalent (1990=100)	Unit (x1)	Number	13)	122,7	134,1	141,0	140,7	139,9	155,4	143,6	146,7	155,3	:

SI: Energy intensity of the economy	Unit (x1)	kg of oil equivalent per EUR 1000 GDP	14)	484e	496e	488e	479e	500e	509e	514e	494e	498p	477p
SI: Share of renewable energy in electricity consumption	Unit (x1)	%		41.9e	43.0e	38.1e	37.3e	29.5e	24.3e	19.1e	25.6e	:	:
SI: Road freight transport as a share of total inland freight transport (Modal split of freight transport)	Unit (x1)	%		93,0	93,8	93,6	94,8	94,8	94,3	95,3	95,5	94,6	95.3p

1) Mid-year population estimates.

2) Mid-year population figures used to calculate per capita values; 1995-1996 population projections from 1985-1990; 1997-1999 population count from 1997; 2000-2004 general census of population.

3) Employment growth according to national accounts concepts is not available.

4) Labour productivity growth according to national accounts concepts is not available.

5) Unit labour cost growth according to national accounts concepts is not available.

6) Source: NewCronos.

7) National consumer price index (not strictly comparable with interim HICPs).

8) Data were originally provided in US dollars and converted to EUR using the average annual exchange rates for 1995 to 2004 (from NewCronos).

9) Calculated on the basis of ISIC Rev.3, base year 1994.

10) Calculated using population figures from national accounts, which may differ from those used in demographic statistics.

11) Weighted annual Labour Force Survey results, not average rates of the four quarters.

12) 2002 and 2003: based on Household Budget Surveys.

13) Total greenhouse gas emissions (CO2 equivalent) includes the direct emission gases (CO2, CH4 and N2O) from the fuel combustion of sectors (electricity production, transport, industry, households and others), agriculture and industrial processes/production.

14) Source: Ministry of Energy and Natural Resources.

e estimate
f forecast
p provisional

Note: The full set of Key indicators is available in http://europa.eu.int/estatref/info/sdds/en/coop_eur/coop_eur_base.htm. The definitions of the indicators that countries have been requested to follow can be found (in English) in http://europa.eu.int/estatref/info/sdds/en/coop_eur_definitions.pdf, which also includes the definitions of the few indicators extracted from Eurostat's database, and from Comext. When countries have indicated divergences from the definitions requested these are indicated in a list of the footnotes.