



EUROPEAN  
COMMISSION

Brussels, 9.11.2016  
COM(2016) 715 final

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**2016 Communication on EU Enlargement Policy**

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## **I. INTRODUCTION**

In November 2015, the European Commission set out a medium-term strategy for EU enlargement policy to cover the period of the mandate of this Commission. It was endorsed by the Council in December 2015. This communication takes stock of progress in the implementation of that strategy, draws conclusions and makes recommendations as regards specific enlargement countries and on certain thematic issues.

The EU continues to face serious challenges on various fronts. Multiple crises have a destabilising potential not only in Europe, but also globally. The attractiveness of the EU in the enlargement countries has been partly affected by the economic downturn and scepticism regarding the European project.

At the same time, the firm prospect of EU membership, as continuously reaffirmed by all Member States, continues to drive transformation and anchor stability and security in the countries of Southeast Europe. Therefore, a credible enlargement process, based on strict and fair conditionality, remains an irreplaceable tool to strengthen these countries and to help support their modernisation through political and economic reforms, in line with the accession criteria.

Enlargement policy continues to deliver results and reforms are moving forward in most countries, albeit at different speeds. Given the complex nature of the necessary reforms, it is a long-term process and structural shortcomings persist, notably in the key areas of rule of law and the economy.

In Turkey specifically, the EU-Turkey Summit of 29 November 2015 and the subsequent EU-Turkey Statement of 18 March 2016 were able to lead to a significant reduction in irregular migration flows and, more broadly, to revitalise EU-Turkey relations. On 15 July, democratic institutions and society as a whole were shaken by a violent coup attempt in Turkey, which the EU immediately condemned in the strongest terms.

A continued commitment to the principle of "fundamentals first" remains essential for the enlargement countries. The Commission will continue to focus efforts on the rule of law, including security, fundamental rights, democratic institutions and public administration reform, as well as on economic development and competitiveness. These remain the fundamentals for meeting the Copenhagen and Madrid membership criteria. A stronger role for civil society and stakeholders more broadly remains crucial.

At the same time, it is important to recognise that accession negotiations are not – and never have been – an end in themselves. They are part of a wider process of modernisation and reforms. The governments of the enlargement countries need to embrace the necessary reforms more actively and truly make this their political agenda – not because the EU is asking for it, but because it is in the best interest of their citizens. Public support for future enlargements will depend on the degree of preparedness of candidate countries. Therefore, reforms through the EU accession process also help increase the confidence of citizens of EU Member States and of the candidate countries alike.

## **II. IMPLEMENTATION OF THE 2015 ENLARGEMENT STRATEGY**

### **a) Rule of law**

Overall, there have been efforts to modernise legal frameworks and infrastructure as well as to provide better training to judges and prosecutors. In July, Albania's Parliament unanimously adopted constitutional amendments which are the basis for a deep and comprehensive judicial reform. Serbia adopted comprehensive action plans on the rule of law, which set the work programme for reforms in chapters 23 and 24.

However, progress in setting up functioning and independent **judicial systems** remains slow, with most countries continuing to face problems of efficiency and a lack of sufficient independence and accountability. In Turkey, the independence of the judiciary was undermined by extensive changes to the structures and composition of high courts as well as continued pressure on judges and prosecutors. The dismissal of one fifth of the judges and prosecutors following the 15 July coup attempt represents a further significant challenge to the overall functioning of the judiciary. In the former Yugoslav Republic of Macedonia, the serious shortcomings brought to light by the wiretapping case have still not been adequately addressed.

In recent years, all countries have strengthened their frameworks for tackling **corruption** and **organised crime**. New institutions – such as the Montenegrin Anti-Corruption Agency – have been established and substantial efforts were deployed to foster specialisation, both in the police and within the judiciary. Despite these efforts, several countries in the region continue to show clear symptoms and various degrees of state capture. Companies, institutions or powerful individuals use illegal practices to influence and shape policies, the legal environment and the economy to their own interests. The declared political commitment to fight corruption has not translated sufficiently into concrete results. Efforts therefore need to focus more than ever on establishing a convincing and sustained track record in these fields based on efficient, effective and unbiased investigations, prosecutions and court rulings in cases at all levels. More transparency is needed in public procurement. Results in the fight against organised crime need to go beyond individual cases. The authorities need to seriously start dismantling criminal networks and confiscating assets, including using more ambitious and powerful tools like extended confiscation of assets and systematic use of financial investigations. Efforts should be stepped up to address trafficking in firearms. Progress made in recent years in addressing trafficking in human beings varies. More efforts are required to align with the relevant *acquis* and to ensure effective implementation of prevention measures as well as protection of and assistance to victims.

**Terrorism and radicalisation** continue to pose a security threat to the EU and the enlargement countries. Turkey has been particularly affected by several large scale deadly terrorist attacks in the past year. The phenomenon of fighters from both the EU and enlargement countries travelling to join insurgent groups particularly in Syria and Iraq, and the security threat they may pose when they return, are also likely to persist in the coming years. Enlargement countries have amended their criminal laws and anti-terrorism legislation, arming themselves with more robust tools to counter these phenomena. Several of them have also adopted new anti-terrorism strategies and action plans, which have moved away from a purely law enforcement approach but now also focus on prevention and anti-radicalisation. However, more needs to be done to counter radicalisation in the countries, in particular in the area of education and through better control of foreign funding fostering radical content. The EU is extending its anti-radicalisation network (RAN) to enlargement countries to provide the availability of good EU practices in anti-radicalisation. Enlargement countries should continue to use Europol as facilitator for cooperation on counter-terrorism.

## **b) Fundamental rights**

Fundamental rights continue to be largely enshrined in the legislation of the enlargement countries. In the Western Balkans, shortcomings in practice remain, but the situation is broadly stable. In Turkey, there has been backsliding in this area and practical implementation often shows significant shortcomings. Following the attempted coup in July, a state of emergency was declared under which far-reaching measures curtailing fundamental rights were taken. Many serious violations of the prohibition of torture and ill-treatment and of procedural rights were alleged in the aftermath of the coup attempt. Turkey must ensure the effective functioning of an impartial system of judicial review of alleged human right violations in its own interest. The Commission welcomes the commitment by the Turkish authorities to this end and urges Turkey to facilitate monitoring of the subsequent trials by international organisations.

Freedom of expression and media remains a particular concern in most enlargement countries, albeit to different degrees. The lack of progress in this area, already observed over the past two years, has persisted and, in some cases, intensified. The situation with regard to freedom of expression has deteriorated further significantly in Turkey, in particular through arrests and prosecution of journalists on terrorism charges and closure of a wide range of media outlets. In the Western Balkans, undue political interference in the work of public broadcasters, untransparent public funding of media, and intimidation of journalists has continued. To address these issues, building on the Speak Up! conferences, the Commission will launch a new concept of 'media days' in the region, broadening the spectrum of media-related issues addressed beyond the freedom of expression as such, also to cover the functioning of media markets, competition distortions and related issues such as financing and advertising markets.

Discrimination and hostility towards vulnerable groups, including on grounds of sexual orientation or gender identity, remains a serious concern. Further work is required to ensure equality between women and men, including tackling domestic and gender-based violence, and ensuring equal opportunities for women, notably on the labour market. The rights of the child, including development of child protection systems and effective policies to support persons with disabilities need to be strengthened. The difficult situation of Roma remains broadly unchanged and Roma, particularly in the Western Balkans, continue to be the victims of discrimination and social exclusion. The policy framework for Roma integration is in place in all enlargement countries, but governments need to enhance their efforts to implement the existing commitments and allocate the necessary resources at central and local level.

Effective protection of personal data as well as robust systems to ensure procedural rights are still not fully established in many enlargement countries.

### **c) Migration**

The migration crisis has been one of the key issues on the political agenda in the past year. It continued to demonstrate the strategic relevance of enlargement policy in the region. The EU reacted in a comprehensive and rights-sensitive way. The effective closure of the Western Balkans route by the countries concerned together with the EU-Turkey Statement of 18 March delivered clear results on the ground, with the number of irregular migrants and asylum seekers reaching the Greek islands dropping significantly, from several thousand a day to less than 100 per day on average. This also led to a sharp drop in the number of lives lost at sea. Turkey has continued to make great efforts to provide shelter to more than 2.7 million refugees notably from Syria and Iraq, including by broadening the legislation on temporary protection and enabling access to the labour market. It also strengthened border management and increased patrolling at its land and sea borders. The EU Facility for Refugees in Turkey is being rolled out rapidly and delivering tangible support to those in need. The total amount allocated under the Facility currently stands at EUR 2.2 billion, of which EUR 1.2 billion have been contracted and of which EUR 677 million have been disbursed. Serbia and the former Yugoslav Republic of Macedonia significantly contributed to the management of the migration flows. Since the summer of 2015, these two most affected Western Balkan countries, have received EU humanitarian assistance as well as additional assistance under the Instrument for Pre-Accession to support their positive and constructive efforts helping refugees and migrants on their territory.

However, migrants have continued their attempts to reach destinations in Europe. Some enlargement countries had to adapt rapidly both their legal and institutional frameworks as well as their infrastructure to cope with the migration crisis. The administrative and enforcement capacity - in particular when dealing with crisis situations - in all countries requires further support. Continued actions against migrant smugglers by police and judicial actors remains necessary, including through proactive cooperation and information exchange with partner countries.

To reduce migratory pressures on the Union and enlargement countries alike, further instruments are being deployed. In addition to the Facility for Refugees in Turkey, the *EU Regional Trust Fund in response to the Syrian crisis* and the compacts with Jordan and Lebanon are helping to provide education and employment for Syrian refugees and improve their welfare and life chances whilst remaining in the region. Special Support Measures and humanitarian assistance have also been deployed for the Western Balkans.

The citizens of five enlargement countries currently benefit from visa liberalisation when travelling to the EU. Turkey and Kosovo\* made significant progress in meeting the requirements of their visa liberalisation roadmaps in 2016, which allowed the Commission to propose to the Council and the European Parliament the lifting the visa requirement also for them once the remaining benchmarks will be met.

#### **d) Functioning of democratic institutions and public administration reform**

The proper functioning of **democratic institutions** remains a key challenge in a number of countries. The central role of national parliaments for the democracy needs to be embedded in the political culture. In Turkey, the attempted coup in July was a direct attack on the country's democratically elected institutions as such. Given the seriousness of the threat against the democratic institutions, a swift reaction to that threat was legitimate.

Nevertheless, the broad scale and collective nature of measures taken since the coup attempt raise a number of very serious questions. The earlier lifting of immunity in May of a large number of members of parliament is also a matter of serious concern.

In the Western Balkans the functioning of parliaments is often hampered by boycotts. Although some boycotts have been overcome, a divisive political culture remains. The agreement reached in the former Yugoslav Republic of Macedonia in July, implementing the Pržino Agreement of last year, provides the basis for the holding of early parliamentary elections in December 2016. Boycotting and obstruction of parliamentary activity by the opposition has continued in Kosovo, which included incidents of violence. Parliamentary scrutiny is often undermined by insufficient government reporting, weak parliamentary committee structures and the excessive use of urgent parliamentary procedures. While the conduct of elections as such is broadly without major incidents, important deficiencies, including with respect to election management and political interference in media reporting have an impact on the integrity of the overall pre-electoral and electoral process. Elections often continue to be seen as an opportunity to gain political control of the broader administration, including independent institutions.

Progress on **public administration reform** has been uneven. In Turkey, the impact of the high number of recent dismissals on the professionalism and efficiency of the public administration remains to be assessed. Most Western Balkan countries have made progress in adopting public administration reform strategies and public financial management reform programmes, but implementation and long-term sustainability needs to be ensured. The politicisation of the civil service remains an issue of concern. Despite modern civil service legislation, exceptions are regularly used, especially for appointments and dismissals of senior civil servant. The quality of policy-making and legal drafting is not in line with the approach of the EU Better Regulation Agenda. Legislation, public policies and major investments are often prepared without sufficient impact assessments and internal and public consultations.

In most countries, the structure of the state administration remains complex and does not ensure sufficient accountability. Citizens' rights to good administration, access to information and

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

administrative justice have to be better ensured. The introduction of e-government services remains a priority as a key factor for transparency, speed, and consistency in public services. Many countries have made progress with adopting modern laws on general administrative procedures, but legal certainty can only be ensured once contradicting special administrative procedures in sectoral laws are removed. Countries still need to find an appropriate balance between central, regional and local government that best supports implementation of reforms and the delivery of services to citizens.

#### **e) Economy**

The economic situation has gradually improved in the Western Balkans, with stronger growth, higher investment and more jobs created by the private sector. However, all enlargement countries face major structural economic and social challenges, with low efficiency of public administrations and high unemployment rates. Youth unemployment in particular remains worryingly high. Infrastructure and education systems need to be improved. The worsening of public debt/GDP ratios in the region has slowed down and could be even stopped in some countries due to welcome fiscal consolidation.

A lack of attractive job opportunities domestically is pushing many people to migrate. At the same time, significant inflows of remittances from abroad create disincentives to seek employment within the countries.

In the context of the EU framework to support economic governance, all candidate countries and potential candidates are invited to submit an annual Economic Reform Programme (ERP). The ERPs contain medium-term macroeconomic projections and budgetary plans for the next three years, as well as a list of priority structural reform measures aiming at boosting competitiveness and inclusive growth. The ERP process has helped to focus governments' attention to addressing urgent structural reform needs and to improve coordination. However, the tangible results of such reform efforts on people's lives still need to materialise. Awareness of the policy guidance by the relevant stakeholders and commitment to their implementation needs to be strengthened.

The EU and Turkey advanced their preparations to negotiate a modernisation and extension of the EU-Turkey Customs Union, which has significant untapped potential. The Commission is working on a draft negotiating directive to be presented by the end of 2016.

The investment climate in many countries is negatively affected by the continuing weaknesses with the rule of law and signs of state capture, in particular as regards independent and efficient court systems, the uneven enforcement of competition rules, weak public financial management and frequent changes in permits and taxes, which exacerbate the risk of corruption. This is particularly problematic for the Western Balkans, given deficiencies in the corporate governance frameworks, small and fragmented domestic markets, incomplete privatisation and limited regional trade integration. In Turkey economic growth strengthened, but the business environment continued to deteriorate and the economy remains vulnerable to financial uncertainty, changes in global investors' confidence and continued political risks. The deteriorated security situation has led to a marked contraction of the tourism sector.

Given the impact of the rule of law on economic governance, the Commission will pay particular attention to the links between these two pillars of the accession process.

#### **f) Regional cooperation**

The impetus given through the Western Balkan Six initiative, notably regarding the EU's connectivity agenda and the 'Berlin process', has continued to foster increased regional cooperation and thus political stabilisation and economic opportunities. Building on the results of previous summits, the July 2016 summit in Paris saw further advances on the connectivity agenda, including an agreement to establish a regional market for electricity and an enhanced focus on energy efficiency improvements and greater use of renewable energy. Regional initiatives, such as the South East European Cooperation Process, continued to foster stabilisation and cooperation. The countries also opened co-

operation in new areas, notably through the establishment of the Regional Youth Cooperation Office (RYCO) and the agreement to launch a new pilot scheme for exchanges of young civil servants. Western Balkan countries also agreed on trade facilitation measures and embarked on measures to further liberalise regional trade. Ultimately, the success of the cooperation will be measured against the delivery of connectivity projects on the ground. It is now urgent that physical works are launched to provide tangible proof of direct benefits for citizens. As regards transport and energy projects, however, the implementation of connectivity reform measures agreed in 2015 at the WB6 summit in Vienna needs to be accelerated.

Good neighbourly relations and regional cooperation are essential elements of the Stabilisation and Association and enlargement processes. There have been ongoing contacts and cooperation at bilateral and regional level, also in sensitive areas such as war crimes, missing persons, refugee return, organised crime and police cooperation. Good neighbourly relations continue to be reinforced through various regional cooperation initiatives. At the same time, more responsible political leadership and further efforts towards reconciliation are essential for promoting stability and the creation of an environment conducive to overcoming the legacy of the past. Statements which negatively impact on good neighbourly relations should be avoided.

Further efforts are needed to overcome bilateral disputes between enlargement countries and with Member States. Bilateral issues need to be addressed by the parties concerned as early as possible and should not hold up the accession process, which should be based on established conditionality. Results in this regard have been limited. Progress in normalisation of relations between Serbia and Kosovo needs to be accelerated. As regards the former Yugoslav Republic of Macedonia, maintaining good neighbourly relations remains essential, including a negotiated and mutually acceptable solution to the name issue under UN auspices. Progress in the United Nations led settlement talks in Cyprus is very welcome. In order to facilitate further progress, Turkey needs to fulfil its obligation of fully implementing the Additional Protocol and make progress towards normalisation of relations with the Republic of Cyprus. This could provide new momentum to the accession process. The Commission also urges the avoidance of any kind of threat, source of friction or action that damages good neighbourly relations and the peaceful settlement of disputes. The Commission stresses all the sovereign rights of EU Member States. This includes, inter alia, the right to enter into bilateral agreements and to explore and exploit natural resources in accordance with the EU *acquis* and international law, including the UN Convention on the Law of the Sea.

### **III. RECALIBRATING THE ENLARGEMENT PACKAGE**

#### **a) Introducing the recalibrated reporting methodology to new areas**

In 2015, the Commission introduced a number of changes to the reporting methodology. The aim was to further increase the sharpness of the assessments as well as the usability of the package as a source of information and guidance for all stakeholders and to provide greater transparency in the enlargement process, setting out more clearly where countries stand overall. The reports have an increased focus on the state of play to show more clearly where the countries stand in their respective preparations for meeting the membership criteria, they provide stronger guidance on what the countries should focus on in the following year and they have included more harmonised reporting and assessment scales, allowing countries to be directly compared. These changes reflect more clearly that the European integration efforts of the enlargement countries should entail a steady and thorough process of political and economic reforms and should not be understood as a narrow set of technical negotiations.

The recalibrated approach has been further expanded in 2016 beyond the pilot areas covered in 2015<sup>1</sup>. It now also covers areas linked to economic development (free movement of goods, competition, transport, energy), as well as certain areas of chapter 24 (migration, border control, asylum and fight against terrorism) and environment and climate change. This gradual expansion of the methodology takes into account the need to ensure appropriate sequencing of reforms and the continued need to focus on the fundamentals. The new methodology will be further expanded in 2018.

The harmonised assessment scales increased transparency and comparability of the reports. In order to have even more precise results, the assessment of the state of play has been further fine-tuned by using, where appropriate, interim steps between each two of the existing levels.

#### **b) Revised reporting on the economic criteria**

Building on last year's changes to the reporting on the economic criteria, the Commission has further refined its methodology and adjusted the sub-criteria that make up the two economic accession criteria. The aim of this adjustment is to ensure that enlargement countries will be economically fit and contribute to the competitiveness and stability of the EU when they become members.

The revised sub-criteria highlight the main economic shortcomings of the current enlargement countries such as their weak business environments with limited access to finance, high unemployment rates, poor education outcomes and low levels of innovation and regional connectivity. They allow for a more focused analysis of shortcomings in the functioning of markets and weakness in competitiveness. The new focus is also better aligned with the ERPs and thus contributes to providing clearer guidance to the enlargement countries in order to reap the benefits of closer integration with the EU before accession and ultimately meeting the economic criteria.

#### **c) From autumn to spring – the new package calendar**

The Commission plans to move the adoption of the annual Enlargement package from its traditional time slot in the autumn to a new slot in the spring. This would mean that the next package would not be adopted in October/November 2017, but in spring 2018. Subsequent Council conclusions could then be adopted at the General Affairs Council (GAC) in June. This new timing would allow the Commission to harmonise its reporting period with the calendar year, which is the usual basis for gathering statistical data. This had been repeatedly proposed by the enlargement countries.

The new timing of the package will also allow the Commission to harmonise its package reporting cycle with the ERP cycle. This would lend more weight to the economic fundamentals of the enlargement policy, ensure stronger coherence between the package and the ERP process, and work to lend greater visibility to the latter.

## **IV. CONCLUSIONS AND RECOMMENDATIONS**

Based on the above analysis and the assessments in the country summaries in annex, the Commission puts forward the following **conclusions** and **recommendations**:

### **I**

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<sup>1</sup> The rule of law and fundamental rights (functioning of the judiciary, corruption, organised crime, freedom of expression), the economic criteria, public administration reform and three chapters closely linked to these fundamentals (public procurement, statistics, financial control).



1. The EU's enlargement policy continues to be a strategic investment in **peace, security, prosperity, and stability** in Europe. Built on strict but fair conditionality and the principle of own merits, it continues to drive transformation and modernisation in the partner countries in an overall challenging environment. Stabilisation through such transformation is in the EU's own interest.
2. The Commission's focus on "**fundamentals first**" has delivered results on the ground and the reform processes are moving forward overall, albeit at different speeds. Given the complex nature of the necessary reforms, it is a long-term process and shortcomings persist in a number of key areas. Reforms are needed in the areas of rule of law, fundamental rights, democratic institutions and public administration reform, as well as on the economy, and the elected institutions need to move them forward for the benefits of their own citizens. Economic reforms and a strengthening of the rule of law produce mutually reinforcing benefits.
3. Cooperation with Turkey and the Western Balkans has been an important element in handling the **migration crisis** with several countries playing a constructive role. The EU is supporting the most affected countries, first and foremost Turkey, in their efforts to assist and protect refugees and migrants.
4. **Good neighbourly relations and regional cooperation** are essential parts of the enlargement and Stabilisation and Association processes. Further efforts are needed to overcome bilateral disputes, which must not hold up the accession process. The WB6 cooperation in the Western Balkans continues to play an important role in this context, including through the Berlin process.

## II

5. **Turkey:** Turkey is a key partner for the European Union. The EU strongly condemned the failed coup attempt of 15 July as a direct attack on democratic principles and expressed its full support and solidarity with the Turkish people and its democratic institutions. Following the failed coup attempt, a state of emergency was declared on 20 July across Turkey for three months. It has since been extended by another 3 months.

EU-Turkey relations face the same long term opportunities and challenges as before 15 July. However, the far-reaching measures taken after the coup further deepened a number of crucial challenges with regard to the respect for fundamental rights in the country, notably the freedom of expression, right to fair trial and due process. Further backsliding was noted as regards freedom of expression and in the functioning of the judiciary. The situation in the south-east remained one of the most critical challenges. The country saw a continued very serious deterioration in the security situation following the collapse of the Kurdish settlement process in July 2015 and was struck by several large-scale deadly terrorist attacks attributed to PKK and Da'esh. The EU has underlined that anti-terror measures must be proportionate and respect human rights. The political settlement process of the Kurdish issue must resume without delay. The EU is gravely concerned about the arrest of several HDP Members of Parliament on charges alleging support of terrorist activities.

Given the scale and collective nature of measures taken since July, the EU has called on Turkey, as a candidate country, to observe the highest standards in the rule of law and fundamental rights. The Turkish authorities undertook clear commitments to this end. The Commission urges Turkey to implement them in full, including through international monitoring of the detentions, trials and procedures after the coup attempt. The EU is committed to working together with a democratic, inclusive and stable Turkey to address our common challenges. Yet, the rule of law, human rights and fundamental freedoms must be respected under all circumstances, and the parliament and all forces represented in the democratic institutions of the country must be able to play their constitutional role in full. Regarding the renewed considerations to introduce a bill in parliament to reinstate the death penalty, the EU recalls that the unequivocal rejection of the death penalty is an essential element of the EU acquis and a central international obligation to which Turkey has committed.

The EU and Turkey deepened their relations in key areas of joint interest, as agreed at the EU-Turkey Summit of 29 November 2015. High level political dialogues and high level dialogues on energy and the economy took place. Turkey continued to make outstanding efforts to provide shelter to over 2.7 million refugees from Syria and Iraq. The cooperation with the EU on migration was stepped up following the EU-Turkey Statement of 18 March 2016. In combination with other measures taken, this led to a drastic decrease in deaths at sea and a substantial reduction in the numbers of refugees and irregular migrants leaving Turkey for Greece. Turkey made substantial progress over the past year in fulfilling the benchmarks of the visa liberalisation roadmap. The Commission made a proposal to lift the visa requirement on the understanding that Turkey would fulfil the outstanding benchmarks. The accession process saw the opening of two more chapters in November 2015 and June 2016 respectively. This includes also preparatory work on three other chapters and the ongoing updating of the screening reports in the key chapters 23 and 24. Both sides continued to explore possible options for upgrading the Customs Union. As a NATO, G20, OSCE and Council of Europe member, Turkey is an active international actor. Turkey remains active in the international coalition in the fight against Da'esh and a key partner in the region.

Turkey should also address macroeconomic imbalances, conduct further structural reforms and improve the business environment, particularly in the sensitive phase after the failed coup attempt.

Finally, in line with the repeated Council and Commission positions from previous years, it is now urgent that Turkey fulfils its obligation of fully implementing the Additional Protocol and makes progress towards normalisation of relations with the Republic of Cyprus. The Commission welcomes the engagement by the parties to the UN-led settlement talks. It is now important that further progress is made in these talks. In order to facilitate such progress, Turkey's commitment and contribution in concrete terms to a comprehensive settlement is crucial. The EU is ready to accommodate the terms of a settlement in line with the principles on which the Union is founded.

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## **V. ANNEXES**

1. Summaries of the findings of the reports
2. Key statistics

## ANNEX 1 – Summaries of the findings of the reports

### Turkey

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

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

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

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

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

The situation in the south-east remained one of the most critical challenges for the country. Turkey saw a continued very serious deterioration in the security situation, leading to heavy casualties following the collapse of the Kurdish settlement process in July 2015 and was struck by several large-scale deadly terrorist attacks by PKK and Da'esh. The authorities pursued their extensive anti-terror military and security campaign against the Kurdistan Workers' Party (PKK), which remains on the EU list of terrorist organisations. Serious allegations of human rights violations and disproportionate use of force by the security forces in the south-east were increasingly reported. Many elected representatives and municipal executives in the south-east were suspended, removed from their duties, or arrested under terrorism-related charges, some of them on the basis of decrees under the state of emergency following the coup attempt. However, anti-terror measures need to be proportionate and must respect

human rights. The settlement of the Kurdish issue through a political process is the only way forward; reconciliation and reconstruction are also becoming key issues for the authorities to address.

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

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

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

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

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

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

discrimination, hate speech against minorities, hate crime and violations of human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons continue to be a source of a serious concern.

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

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

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

Regarding the **economic criteria**, the Turkish economy is well advanced and can be considered a functioning market economy. Still, the large external deficit makes the Turkish economy vulnerable to financial uncertainty, changes in global investors' sentiment and political risks. The central bank cut interest rates even though inflation remained well above the official target. The business environment continued to deteriorate due to targeted actions against critical media and business people and political opponents through the active use of the tax authority, the financial crimes unit and courts. The implementation of structural reforms to improve the functioning of the markets for goods, services and labour has stalled. Overall, there was backsliding.

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

Regarding its **ability to assume the obligations of membership**, Turkey has continued to align with the *acquis*. With the positive exception of the visa liberalisation related work, efforts continued at a limited pace. Turkey is well advanced in the areas of company law, trans-European networks and science and research and it has achieved a good level of preparation in the areas of free movement of goods, intellectual property law, financial services, enterprise and industrial policy, consumer and health protection, customs union, external relations and financial control. Turkey is only moderately prepared on public procurement as important gaps remain in its alignment. Turkey is also moderately prepared in the area of statistics and transport policy where further significant efforts are needed across

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

the board. Turkey has only reached some level of preparation in environment and climate change where more ambitious and better coordinated policies still need to be established and implemented. In all areas, more attention needs to be given to enforce legislation whilst many areas require further significant progress to achieve legislative alignment with the EU *acquis*.