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**ON**

**TURKEY'S**

**PROGRESS TOWARDS ACCESSION**

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A.	INTRODUCTION .....	4
1.	Preface.....	4
2.	Relations between the EU and Turkey .....	5
	RECENT DEVELOPMENTS UNDER THE ASSOCIATION AGREEMENT, INCLUDING BILATERAL TRADE.....	7
	COMMUNITY ASSISTANCE.....	8
	DETAILED LEGISLATIVE SCRUTINY .....	10
	TWINNING.....	11
B.	CRITERIA FOR MEMBERSHIP.....	12
1.	Enhanced political dialogue and political criteria .....	12
1.1	Recent developments .....	15
1.2	Democracy and the rule of law .....	16
	THE PARLIAMENT.....	16
	THE EXECUTIVE.....	17
	NATIONAL SECURITY COUNCIL.....	18
	THE JUDICIAL SYSTEM.....	19
	ANTI-CORRUPTION MEASURES.....	22
1.3	Human rights and the protection of minorities.....	23
	CIVIL AND POLITICAL RIGHTS .....	26
	ECONOMIC, SOCIAL AND CULTURAL RIGHTS.....	36
	MINORITY RIGHTS AND THE PROTECTION OF MINORITIES.....	38
1.4	Cyprus.....	41
1.5	Peaceful settlement of border disputes.....	41
1.6	General evaluation .....	42
2.	Economic criteria .....	44
2.1	Introduction .....	44
2.2	Economic developments .....	45
2.3	Assessment in terms of the Copenhagen criteria.....	46
2.4	General evaluation .....	55
3.	Ability to assume the obligations of membership.....	56
3.1	Chapters of the acquis.....	59
	Chapter 1: Free movement of goods .....	59
	Chapter 2: Free movement of persons .....	64
	Chapter 3: Freedom to provide services .....	65
	Chapter 4: Free movement of capital .....	68
	Chapter 5: Company law.....	69
	Chapter 6: Competition Policy.....	71

	Chapter 7: Agriculture .....	73
	Chapter 8: Fisheries .....	77
	Chapter 9: Transport.....	79
	Chapter 10: Taxation .....	81
	Chapter 11: Economic and Monetary Union .....	83
	.Chapter 12: Statistics .....	84
	Chapter 13: Social Policy and Employment .....	86
	Chapter 14: Energy .....	90
	Chapter 15: Industrial policy .....	93
	Chapter 16: Small and Medium-sized Enterprises .....	95
	Chapter 17: Science and research .....	97
	Chapter 18: Education and training .....	98
	Chapter 19: Telecommunications and information technology.....	100
	Chapter 20: Culture and audio-visual policy.....	102
	Chapter 21: Regional Policy and co-ordination of structural instruments.....	103
	Chapter 22: Environment.....	105
	Chapter 23: Consumer and health protection.....	107
	Chapter 24: Co-operation in the field of justice and home affairs .....	109
	Chapter 25: Customs Union.....	118
	Chapter 26: External relations .....	120
	Chapter 27: Common foreign and security policy .....	121
	Chapter 28: Financial control .....	124
	Chapter 29: Financial and budgetary provisions.....	126
3.2	General evaluation .....	127
C.	CONCLUSION .....	131
D.	ACCESSION PARTNERSHIP: GLOBAL ASSESSMENT.....	137
	HUMAN RIGHTS CONVENTIONS RATIFIED BY THE CANDIDATE COUNTRIES.....	141
	STATISTICAL ANNEX.....	142

## A. INTRODUCTION

### 1. Preface

The European Council in Cardiff in June 1998 noted that the Commission would present a report on Turkey based on Article 28 of the Association Agreement and the conclusions of the Luxembourg European Council of December 1997. The Commission presented its first Regular Report on Turkey in October 1998, together with the Regular Reports for the other candidate countries.

The Helsinki European Council meeting in December 1999 concluded that:

*"Turkey is a candidate State destined to join the Union on the basis of the same criteria as applied to the other candidate States. Building on the existing European Strategy, Turkey, like other candidate States, will benefit from a pre-accession strategy to stimulate and support its reforms."*

As part of the pre-accession strategy, the Commission reports regularly to the European Council on progress made by each of the candidate countries in preparing for membership. Consequently, the Commission has published a series of yearly Regular Reports on Turkey, covering the years 1998 to 2002.

It is therefore appropriate to produce a Regular Report this year on Turkey's progress towards accession, on the same basis as in previous years.

The structure followed for this Regular Report is largely the same as that used in previous years. The present Report:

- describes the relations between Turkey and the Union, in particular in the framework of the Association Agreement;
- analyses the situation in respect of the political criteria set by the 1993 Copenhagen European Council (democracy, rule of law, human rights, protection of minorities);
- assesses Turkey's situation and prospects in respect of the economic criteria defined by the Copenhagen European Council (a functioning market economy and the capacity to cope with competitive pressures and market forces within the Union);
- addresses the question of 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. In this part, special attention is paid to nuclear safety standards, which were emphasised by the Cologne and Helsinki European Councils. This part includes not only the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis*. The European Council stressed the importance of this latter aspect at its meeting in Madrid in 1995 and on a number of subsequent occasions, most recently in Copenhagen in December 2002. At Madrid, the European Council stressed that the candidate countries must adjust their administrative structures, so as to create the conditions for the harmonious integration of these States. The Copenhagen European Council underlined again the importance of judicial and administrative reform in the candidate countries, stating that this will help bring forward their overall preparation for membership.

This Report takes into consideration progress since the 2002 Regular Report. It covers the period until 30 September 2003. In some particular cases, however, measures taken after that date might be mentioned. It looks at whether planned reforms referred to in the 2002 Regular Report have been carried out and examines new initiatives. In addition, this Report provides an overall assessment of the situation for each of the aspects under consideration.

The Report contains a separate section examining briefly the extent to which Turkey has addressed the Accession Partnership priorities.

As has been the case in previous Reports, “progress” has been measured on the basis of decisions actually taken, legislation actually adopted, international conventions actually ratified (with due attention being given to implementation), 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 the candidate 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 Regular Report. The information it 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, have served as additional sources. Council deliberations and European Parliament reports and resolutions have been taken into account in drafting the Report. The Commission has also drawn on assessments made by various international organisations, and in particular the contributions of the Council of Europe, the OSCE and the international financial institutions, and by non-governmental organisations.

## **2. Relations between the EU and Turkey**

The Brussels European Council in October 2002 concluded that:

*"Turkey has taken important steps towards meeting the Copenhagen political criteria and moved forward on the economic criteria and alignment with the *acquis*, as registered in the Commission's Regular Report. This has brought forward the opening of accession negotiations with Turkey. The Union encourages Turkey to pursue its reform process and to take further concrete steps in the direction of implementation, which will advance Turkey's accession in accordance with the same principles and criteria as are applied to the other candidate countries."*

The Copenhagen European Council of December 2002:

*"recalls its decision in 1999 in Helsinki that Turkey is a candidate state destined to join the Union on the basis of the same criteria as applied to the other candidate States. It strongly welcomes the important steps taken by Turkey towards meeting the Copenhagen criteria, in particular through the recent legislative packages and the subsequent implementation measures which cover a large number of key priorities specified in the Accession Partnership. The Union acknowledges the determination of the new Turkish government to take further steps on the path of reform and urges in particular the government to address swiftly all remaining shortcomings in the*

*field of the political criteria, not only with regard to legislation but also in particular with regard to implementation. The Union recalls that, according to the political criteria decided in Copenhagen in 1993, membership requires that a candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.*

*The Union encourages Turkey to pursue energetically its reform process. If the European Council in December 2004, on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the European Union will open accession negotiations with Turkey without delay.*

*In order to assist Turkey towards EU membership, the accession strategy for Turkey shall be strengthened. The Commission is invited to submit a proposal for a revised Accession Partnership and to intensify the process of legislative scrutiny. In parallel, the EC-Turkey Customs Union should be extended and deepened. The Union will significantly increase its pre-accession financial assistance for Turkey. This assistance will from 2004 be financed under the budget heading 'pre-accession expenditure.'*

The Thessaloniki European Council in June 2003:

*"welcomes the commitment of the Turkish government to carry forward the reform process, in particular the remaining legislative work by the end of 2003, and supports its ongoing efforts made in order to fulfil the Copenhagen political criteria for opening accession negotiations with the Union. Taking into account progress achieved, significant further efforts to this end are still required. With a view to helping Turkey achieve this objective, the Council adopted recently a revised Accession Partnership, which sets out the priorities that Turkey should pursue, supported by substantially increased pre-accession financial assistance. In accordance with the Helsinki conclusions, fulfilment of these priorities will assist Turkey towards EU membership. The Accession Partnership constitutes the cornerstone of EU-Turkey relations, in particular in view of the decision to be taken by the European Council in December 2004."*

The pre-accession strategy has continued to be implemented. In summary, the following results can be mentioned for the reporting period:

- Enhanced political dialogue continued under the Danish, Greek and Italian 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 such as Iraq, Caucasus, Western Balkans, Middle East and Afghanistan.
- A -first meeting of the enhanced economic dialogue took place in September 2003. This meeting was particularly useful to exchange information about the economic situation and the pace of economic reforms in Turkey.
- Three meetings of the regular monitoring of the political criteria took place alternately in Brussels and in Ankara. These meetings were chaired by the Commission with the participation of a representative of the Presidency.
- The Customs Union Joint Committee met in Brussels in December 2002.

- In view of deepening the customs union, the Commission is working with Turkey on an action plan in order to achieve the complete free circulation of goods. As regards the extension of the customs union, work on the liberalisation of services and public procurements has continued with a view to the resumption of negotiations.
- Effective participation of Turkey in a number of Community programmes and agencies started in 2003 on the basis of the Framework Agreement with Turkey signed on 26 February 2002. Turkey currently participates in the following Community programmes: Enterprise and Entrepreneurship, e-Content, Gender Equality, Combating Discrimination, Combating Social Exclusion, Incentive Measures in the field of Employment, the new Public Health Programme and the 6th Framework Programme on Research. The pre-accession financial assistance programme helps meet part of the costs of participation in these programmes and agencies. Preparations continue to allow Turkish participation in a number of other programmes: Intelligent Energies, IDA, Fiscalis 2007 and Customs 2007.
- Turkey is now a member of the European Environment Agency. The agreement was signed on 23 January 2003. Turkish participation in the European Monitoring Centre on Drugs and Drug Addiction in Lisbon is also being prepared.
- Following the conclusions of the Copenhagen European Council in December 2002, the Commission presented in March 2003 a Communication on "Strengthening the Accession Strategy for Turkey". In this communication, the Commission proposed a substantial increase in financial assistance for the period 2004-2006. Pre-accession financial assistance should reach € 250 million in 2004, € 300 million in 2005 and € 500 million in 2006. In line with the approach followed for all candidate countries, financial assistance will be linked to the priorities set out in the Accession Partnership. The communication also proposed enhanced co-operation in other areas, such as the political dialogue, the economic dialogue, justice and home affairs, maritime safety, the process of legislative scrutiny, extending the scope of the customs union, and deepening trade relations.

A revised Accession Partnership was adopted by the Council on 19 May 2003. More details on this instrument can be found in part D of this report.

A revised National Programme for the Adoption of the Acquis was adopted on 24 July 2003. This document sets out how Turkey envisages dealing with the Accession Partnership, the timetable for implementing the Partnership's priorities, and implications in terms of human and financial resources. Both the Accession Partnership and the National Programme for the Adoption of the *Acquis* are revised on a regular basis to take account of progress made and to allow for new priorities to be set.

As a candidate country for accession to the EU, Turkey was invited to participate as an observer in the Intergovernmental Conference on the future institutional architecture of the Union.

*Recent developments under the Association Agreement, including bilateral trade*

The Association Council met in Luxembourg on 15 April 2003. An Association Committee meeting was held in Brussels on 15 March 2003. The system of sub-committees continues to function as a forum for technical discussions.

The Joint Parliamentary Committee comprising representatives of Turkey and the European Parliament met in Istanbul in June 2003. On 5 June 2003, the European Parliament adopted a resolution on Turkey's application for membership of the European Union.<sup>1</sup> The Joint Consultative Committee with the Economic and Social Committee met in Istanbul in April 2003.

The share of the European Community in Turkey's foreign trade increased in 2002, after declining in 2000 and 2001. Turnover in trade with the EC in 2002 was 13.4% up on 2001 and accounted for 47.9% of Turkey's overall trade. In 2002, exports to the EC were 6.1% up on 2001, accounting for 51.4% (€ 19.1 billion) of Turkey's total export sales. Its main industrial exports to the EC were apparel, textiles, and vehicles and automotive parts. In 2002, imports from the EC were up by 19.8% on 2001, accounting for 45.5% (€ 24.5 billion) of Turkey's total imports. Its main industrial imports were machinery and iron and steel.

Turkey's agricultural exports to the Community fell in 2002 and its imports from the EU increased, leading to a reduction in the size of its significant trade surplus in the sector. The surplus is mainly accounted for by Turkey's exports of fruits and nuts; its main agricultural imports are cereals. Further agricultural trade liberalisation under Decision No 1/98 of the EC-Turkey Association Council is hampered by Turkey's ban on imports of most live animals and meat products from the EU.

In September 2002 the EU adopted definitive safeguard measures on imports of certain steel products, with *erga omnes* effect. These measures are the absolute minimum necessary to protect EU steel producers from serious injury due to surging imports resulting from US protectionism, culminating in the US safeguard measures of March 2002.

In October 2002, a new anti-dumping investigation was initiated on imports of hollow sections and provisional measures were adopted in July 2003.

### *Community assistance*

There is a dedicated pre-accession instrument to assist Turkey: the pre-accession financial assistance programme for Turkey adopted by the Council in December 2001. The procedures for programming and implementing this programme now largely mirror those of the Phare programme. The support provided by the pre-accession financial assistance programme is focused on the Accession Partnership priorities which are intended to help Turkey meet the criteria for membership.

Initially Turkey received support under the Meda programme and more recently through the two "European Strategy" regulations to support the customs union and economic and social development. A "pre-accession" focus was established for Turkey within these programmes following the conclusions of the Helsinki European Council.

The pre-accession financial assistance regulation superseded the above regulations from 2002. Like the Phare programme, it provides support for institution building, investment to strengthen the regulatory infrastructure needed to ensure compliance with the *acquis*,

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<sup>1</sup> For the European Parliament the rapporteur is Mr Arie Oostlander.



and investment in economic and social cohesion. This support comprises co-financing for technical assistance, twinning (*see below*) and investment-support projects, to help Turkey with its efforts to adopt the *acquis* and strengthen the institutions necessary for implementing and enforcing the *acquis*. The pre-accession financial assistance programme is also intended to help Turkey develop the mechanisms and institutions to promote economic and social cohesion; it is supported by a limited number of measures (investment and grant schemes) with a regional or thematic focus. It may also support activities which in the other candidate countries would be financed by ISPA or SAPARD.

Deconcentration of the management of all ongoing cooperation programmes with Turkey to the Commission Delegation in Ankara has continued to bear fruit. 2002 proved to be the most successful year to date for the Commission's financial assistance programmes to Turkey, with the value of projects contracted considerably exceeding the value of new commitments. 2003 is on target to produce a similar performance leading to a significant reduction in the backlog of assistance which had built up over the period 1996-2001.

Furthermore, following the decision in 2001 to establish a decentralised implementation system in Turkey, the Commission has accredited the agencies forming part of the system (National Aid Co-ordinator, Central Finance and Contract Unit, National Fund). A formal decision was subsequently taken to devolve responsibility for implementing pre-accession financial assistance programmes to the Turkish government.

Between 1995 and 2002, € 954 million was committed to various programmes in Turkey. For the years 2000-2003 financial assistance to Turkey amounts to an annual average of around € 177 million. In 2003 the pre-accession financial assistance national programme totals € 144 million. It focuses on the following priorities:

- Addressing the Copenhagen political criteria: twinning and technical assistance will be provided for the national police, human rights, democracy and citizenship education in schools, and improving government-to-civil society dialogue. Separately, Turkey is also a focus country under the European Initiative for Democracy and Human Rights.
- Approximation to the *acquis*: twinning, technical assistance and investment to improve market surveillance and conformity assessment systems, adopt EU environmental standards in the fields of drinking water, air quality, chemicals and waste management, approximate insurance legislation and financial control practices with EU standards, and strengthen the public procurement system; twinning, technical assistance and investment in the field of justice and home affairs to improve visa policy and practice, strengthen police forensic capacity and help the fight against money laundering and trafficking in people.
- Strengthening public administration: this part of the programme includes projects to strengthen the capacity of the customs administration, fisheries management, the energy market, transport and foreign direct investment.
- Economic and social cohesion: this objective targets the under-developed regions of Samsun, Kastamonu and Erzurum and aims to improve the capacity of the Turkish authorities in developing EU approaches to regional economic development. It also seeks to promote SME clusters around Istanbul and pilots a cross-border cooperation programme with Bulgaria.

The programme also includes capacity building for the National Aid Co-ordinator secretariat (primarily in project preparation, to improve their capacity to design pre-accession assistance programmes) and co-financing for Turkey's contribution for participation in certain EC programmes and agencies.

Although Turkey is not a beneficiary under the Phare Regulation, the country's participation in Phare multi-country programmes, such as TAIEX, is sought as far as possible through its own pre-accession financial assistance envelope. TAIEX activities have been further expanded to Turkey. A number of seminars, workshops and bilateral meetings have taken place in support of the legislative scrutiny. Further TAIEX activities are planned for 2003.

Overall the impact of Community assistance to Turkey is increasingly positive. It is hoped that following the decentralisation of management of the assistance programmes to the Turkish authorities the acceleration already witnessed in 2002-3 will be maintained and support can begin to have a significant impact.

The EU has provided significant resources in a number of important areas, such as basic education, training, environmental infrastructure, reproductive health, and macro-economic adjustment. More recently, the transfer of know-how, equipment and financial resources has begun in a number of important fields, such the reform of local administration, statistics and investment in the poorest regions of Turkey. The first support in 2002 for institution building in a wide range of *acquis*-related areas should succeed in focusing efforts on the legislative and institutional requirements for adoption and implementation of the *acquis*. Implementation of the 2002 programme was conditional upon Turkey's establishment of the decentralised management system and is therefore only beginning at the time of writing. The Commission has also sought a high degree of complementarity between the pre-accession financial assistance programme and the ongoing reform programmes supported by the international financial institutions, particularly the World Bank, in such areas as education, regulatory reform and public procurement.

Turkey is also a major beneficiary of assistance from the European Investment Bank (EIB). The country may benefit from up to five different mandates and facilities: the EuroMed II Lending Mandate for Mediterranean countries, the Mediterranean Partnership Facility, the Special Action Mandate for Turkey, the Turkey Earthquake Reconstruction and Rehabilitation Assistance Facility and the Pre-Accession Facility. In total Turkey received loan financing worth € 1395 million from 1992 to 2001. In 2002 around € 560 million was granted by the EIB for major investment projects, including the first loan to Turkey under the Pre-Accession Facility.

#### *Detailed legislative scrutiny*

The process of legislative scrutiny, carried out in the framework of the sub-committees of the Association Agreement has continued and intensified following the conclusions of the Copenhagen European Council. This process focused on precise sector issues. Its purpose is to guide Turkey in the requirements for implementation of the *acquis*, including administrative capacity and enforcement. In its Communication on the strengthening of the accession strategy, the Commission has further developed this process via an enhanced programme of TAIEX seminars and technical meetings, supplementing the work of the sub-committees with workshops on specific subjects.

## *Twinning*

One of the main challenges still 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' expertise available to the candidate countries through the long-term secondment of civil servants and accompanying short-term expert missions and training.

Twinning projects were programmed for Turkey for the first time in the 2002 national programme. There were 13 such projects in the programme. Twinning will again be an important element under the 2003 programme, contributing to the results of 17 projects. These span a broad range of sectors, the most numerous being in the areas of justice and home affairs and the financial sector. In addition twinning projects are planned in the fields of internal market, environment, fisheries, energy, transport and regional policy.

## **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”.<sup>2</sup>

In its 1998 Regular Report on Turkey, the Commission concluded:

*“On the political side, the evaluation highlights certain anomalies in the functioning of the public authorities, persistent human rights violations and major shortcomings in the treatment of minorities. The lack of civilian control of the army gives cause for concern. This is reflected by the major role played by the army in political life through the national security council. A civil, non-military solution must be found to the situation in south-east Turkey, particularly since many of the violations of civil and political rights observed in the country are connected in one way or another with this issue. The Commission acknowledges the Turkish government's commitment to combat human rights violations in the country but this has not so far had any significant effect in practice. The process of democratic reform on which Turkey embarked in 1995 must continue.*

*In addition to resolving these problems, Turkey must make a constructive contribution to the settlement of all disputes with various neighbouring countries by peaceful means in accordance with international law.”*

In its 2002 Regular Report, the Commission found that:

*“The decision on the candidate status of Turkey in Helsinki in 1999 has encouraged Turkey to introduce a series of fundamental reforms. A major constitutional reform was introduced in October 2001 aimed at strengthening guarantees in the field of human rights and fundamental freedoms and restricting the grounds for capital punishment. A new Civil Code was adopted in November 2001. Three sets of reform packages were adopted in February, March and August 2002. The death penalty has been lifted in peacetime. The state of emergency has now been lifted in two provinces in the South East and the decision has been taken to lift it in the two provinces where it still applies by the end of this year.*

*The adoption of these reforms is an important signal of the determination of the majority of Turkey's political leaders to move towards further alignment with the values and standards of the European Union. The August reforms were adopted*

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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 essentially 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.

*under difficult political and economic circumstances and are particularly significant as they impinge upon traditionally sensitive issues.*

*The reform of the prison system continued, and progress was made in terms of improving physical conditions. Monitoring Boards and the new system of enforcement judges are now operational. A number of recommendations of the European Committee for the Prevention of Torture (CPT) are being implemented. However, despite progress, certain problems remain with conditions in F-Type prisons.*

*The reduction in the length of pre-trial detention (police custody) periods is a positive development in the context of the fight against torture. However, the lack of immediate access to a lawyer means that incommunicado detention for prisoners convicted under State Security Courts continues. Longer periods of custody still apply in the areas under the state of emergency. There have been continued allegations of torture and ill-treatment and little progress in the prosecution of those accused of such abuses.*

*The reform package of August provides for the retrial of persons whose convictions have been found by the European Court of Human Rights to be in violation of the European Convention on Human Rights and Fundamental Freedoms.*

*The change made to Article 159 of the Turkish Penal Code means that the expression of opinion without the "intention" of "insulting" public institutions will no longer face criminal sanction. Changes to Articles 312 of the Penal Code and to the Anti-Terror Law, the Press Law, the Law on Political Parties and the Law on Associations eased certain restrictions on freedom of expression, association, the press and broadcasting.*

*The August package removed some restrictions in the law on broadcasting which had been readopted by Parliament in May following the president's veto. However the prosecution of writers, journalists and publishers has continued.*

*Progress has been made in the area of freedom of association where the law on associations has been modified and some restrictions lifted. Various grounds for banning associations remain, however.*

*The generally restrictive character of the Law on Associations remains, including the prior authorisation system. Foreign associations in Turkey are subject to certain limitations and strict controls.*

*As part of the August package, broadcasting and education in languages other than Turkish have now been authorised. Although the Law on Foundations has been amended, religious minorities continue to face limitations regarding legal personality, property rights, training of clergy and education.*

*The new Civil Code includes provisions aimed at improving gender equality and strengthening guarantees regarding the protection and rights of the child. Turkey ratified the 1969 UN Convention on the Elimination of All Forms of Racial Discrimination. However, trade unions remain subject to restrictions and child labour persists. The legislation which allows for reduced sentences for crimes related to "honour killings" is still applicable.*

*Reform of the judicial system has continued. The competence of the State Security Courts has been narrowed and the period of pre-trial detention reduced. The functioning of these Courts, though, is still not in line with international standards. There are continued reports that the judiciary does not always act in an independent and consistent manner. Training courses in human rights have taken place for judges and law enforcement officials.*

*A number of initiatives to foster more transparency in Turkey's public life have been taken in the last year. Nonetheless, corruption remains a serious problem. The relevant Conventions of the Council of Europe have not yet been ratified.*

*The lifting of the state of emergency in two provinces of the South East has led to an improvement in the conditions of daily life there. The protection of human rights in the region needs to be strengthened.*

*The constitutional amendment introducing changes to the composition and role of the National Security Council has been put into practice. Nonetheless, these changes do not appear to have modified the way in which the National Security Council operates in practice.*

*Turkey has continued to express support for direct talks between the leaders of the two communities in Cyprus to achieve a comprehensive settlement of the Cyprus problem. The EU, in line with statements issued by the United Nations Security Council, has emphasised the need for Turkey to take further steps to encourage the Turkish Cypriot leadership to work towards reaching a settlement before the end of accession negotiations.*

*Relations between Turkey and Greece have continued to improve. Efforts are continuing to put in effect new confidence building measures. Exploratory contacts on the Aegean between the two foreign ministries started in March 2002.*

*Overall, Turkey has made noticeable progress towards meeting the Copenhagen political criteria since the Commission issued its report in 1998, and in particular in the course of the last year. The reforms adopted in August 2002 are particularly far-reaching. Taken together, these reforms provide much of the ground work for strengthening democracy and the protection of human rights in Turkey. They open the way for further changes which should enable Turkish citizens progressively to enjoy rights and freedoms commensurate with those prevailing in the European Union.*

*Nonetheless Turkey does not fully meet the political criteria. First, the reforms contain a number of significant limitations, which are set out in this report, on the full enjoyment of fundamental rights and freedoms. Important restrictions remain, notably, to freedom of expression, including in particular the written press and broadcasting, freedom of peaceful assembly, freedom of association, freedom of religion and the right to legal redress.*

*Secondly, many of the reforms require the adoption of regulations or other administrative measures, which should be in line with European standards. Some of these measures have already been introduced and others are being drawn up. To be effective, the reforms will need to be implemented in practice by executive and judicial bodies at different levels throughout the country.*

*The Commission considers that the decision of the High Electoral Board to prevent the leader of a major political party from participating in the November 3 General Elections does not reflect the spirit of the reforms.*

*Thirdly, a number of important issues arising under the political criteria have yet to be adequately addressed. These include the fight against torture and ill-treatment, civilian control of the military, the situation of persons imprisoned for expressing non-violent opinions, and compliance with the decisions of the European Court of Human Rights.*

*In the light of the noticeable progress made in recent years and of the remaining areas requiring further attention, Turkey is encouraged to pursue the reform process to strengthen democracy and the protection of human rights, in law and in practice. This will enable Turkey to overcome the remaining obstacles to full compliance with the political criteria.”*

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 its ability to implement the *acquis*, in particular in the domain of justice and home affairs. Specific information on the development of Turkey's ability to implement the *acquis* in the field of justice and home affairs can be found in the relevant section (*Chapter 24 - Co-operation in the field of justice and home affairs*) of part 3.1 of this Report.

## **1.1 Recent developments**

Four major packages of political reform have been adopted over the last year, introducing changes to different areas of legislation. Some of the reforms carry great political significance as they impinge upon sensitive issues in the Turkish context, such as freedom of expression, freedom of demonstration, cultural rights and civilian control of the military. In this context, the seventh reform package adopted in July 2003 was particularly important. The new Parliament elected on 3 November 2002 adopted these “reform packages” with overwhelming majorities. Throughout this process, the Turkish population at large manifested its full support to changes aimed at bringing Turkey closer to the values and standards of the European Union.

The Government has also taken steps to ensure effective implementation of the reforms such as the setting up a Reform Monitoring Group. Furthermore, the government declared a zero tolerance policy towards torture. The state of emergency in all remaining provinces of the Southeast was lifted on 30 November 2002.

However, in spite of some positive developments on the ground, the reforms have produced limited practical effects. So far, implementation has been slow and uneven.

The Turkish government has declared repeatedly that its main objective is to meet the Copenhagen political criteria in time to allow a positive assessment by the Commission next year and thereby pave the way for a decision by the European Council in December 2004 to start accession negotiations with Turkey.

In parallel, substantial economic reforms have continued in line with the requirements from the International Monetary Fund. The reforms have contributed to the stabilisation and steady recovery of the Turkish economy.

Turkey's agreement to the comprehensive deal reached in December 2002 regarding the participation of non-EU European allies in ESDP, opened the way for the finalisation of the permanent arrangements between the EU and NATO and to the subsequent implementation of the Berlin Plus agenda.

Bilateral relations between Turkey and Greece continue to evolve positively with both governments making public commitments at the highest level to continued rapprochement. Several additional confidence building measures have been agreed between the foreign ministers of both countries.

The Turkish political landscape has undergone changes as a result of the parliamentary elections of 3 November 2002. For the first time after decades of coalition governments, Turkey has a single party government formed by the AK Party (Justice and Development Party) enjoying a large majority in Parliament.

An earthquake hit the south-eastern city of Bingöl in March, causing many casualties, including the death of 70 children, and resulting in considerable material damage.

The Constitutional Court decided to close down the People's Democratic Party (HADEP) and the general prosecutor launched legal proceedings against the Democratic People's Party (DEHAP) in view of its closure. Moreover, the Supreme Court ruled that DEHAP was responsible for submitting forged documents in view of participating to the November 2002 elections.

## **1.2 Democracy and the rule of law**

### *The parliament*

Parliamentary elections took place on 3 November 2002. As a result of the vote, only two parties out of the 18 running are represented in the Turkish Grand National Assembly, namely the Justice and Development Party (AKP) and the Republican People's Party (CHP). AKP received over a third of the vote, resulting in 363 seats, only 4 seats short of the two-thirds majority required for constitutional changes. The CHP obtained 178 seats, becoming the main opposition party. There were also 9 independent deputies elected.

The elections were monitored by members of the European Parliament and of the Council of Europe Parliamentary Assembly in some provinces. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) Election Assessment Mission visited Turkey from 29 October to 4 November 2002, in line with its programme of assessing electoral practices in established democracies as well as in countries in transition. The OSCE/ODIHR considered that the elections were held in line with international standards and that significant constitutional and legal reforms instituted over the past two years have further improved the overall legal framework for elections.

In the reporting period, the Parliament adopted a constitutional change amending Article 76 of the Constitution concerning the right to be elected, narrowing the scope of the ban



on participation in elections to involvement in acts of terrorism. After a veto by the President, this constitutional amendment was readopted unchanged by Parliament. Parliament also adopted a constitutional amendment on the reduction of the age limit for candidates in the general elections to 25 years.

Apart from the packages of political reforms (*see Section B.1.3 - Human rights and protection of minorities*), Parliament adopted 143 new laws and ratified several international and European conventions such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and Protocol No 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

After several years of discussion, a Parliamentary Committee for EU integration, called EU Harmonisation Commission, was established on 15 April 2003. This advisory Committee is responsible for following developments related to Turkey's pre-accession process, and for reviewing draft laws to check compliance with the *acquis*.

A Parliamentary Committee on the Constitutional reforms has continued to work with a view to amending additional provisions of the Constitution.

The Parliamentary Committee on Human Rights produced special reports on the human rights situation in the south-east in light of the lifting of the state of emergency, with specific recommendations to the executive. The Committee has collected public complaints on human rights violations and has requested relevant authorities to follow up and redress the situation where necessary. Members of the Committee have also been closely following a number of trials, including the re-trial in the Sadak, Zana, Dicle and Dogan case related to the former Democracy party (DEP).

On 1 March 2003, Parliament rejected a government motion permitting the deployment of US troops in the south-east of Turkey and the deployment of Turkish troops in Iraq. The government presented the motion once again and it was adopted by Parliament on 7 October.

The Constitutional Court annulled some of the internal rules of procedure of Parliament introduced in February 2001 in order to speed up approval of legislation. As a result, the Assembly has the right to vote on whether a committee report will be read in plenary.

### *The executive*

For the first time since 1987, a single-party government took office in November after the general elections, led by Prime Minister Abdullah Gül of AKP.

After Mr Recep Tayyip Erdogan was elected deputy following the adoption of the relevant constitutional amendment, he was appointed Prime Minister by the President and formed a new government, which received the vote of confidence from Parliament on 23 March 2003. The government's programme outlined the intention to introduce sweeping political reforms with particular emphasis on the law on political parties, the electoral law and the penal code. The programme also refers to plans to draw up a new Constitution enshrining the principles of a democratic state based on the rule of law and guaranteeing fundamental freedoms. Some of these plans have been partially implemented.

The goal of EU accession has been amongst the government's main priorities. On several occasions, the government reiterated its commitment to fulfil the Copenhagen political criteria before the end of 2004. In July the government adopted a revised National Programme for the Adoption of the Acquis (NPAA) and submitted it for discussion to political parties and NGOs.

The government set up a Reform Monitoring Group in September with a view to ensuring effective implementation of the reforms. Under the chairmanship of the deputy Prime Minister and Foreign Minister Gül, this Group holds weekly meetings. The remit of this group includes fact-finding missions intended to identify difficulties experienced in the practical implementation of the reforms.

During the reporting period, the President exercised his right of veto with respect to several pieces of legislation adopted by Parliament including the constitutional amendment concerning the possibility of selling forests belonging to the state and the law concerning the abolition of Article 8 ("propaganda against the indivisible unity of the state") of the Anti Terror Act in July 2003. In the latter case, Parliament readopted the same law, leading to the approval by the President.

The government issued an action plan in January designed to streamline the functioning of public administration and government, to promote a more transparent management of human resources in the public service and to strengthen the fight against corruption. One of the measures under this plan has been to reduce the number of ministries from 36 to 23. An inter-ministerial committee, established by the Government to co-ordinate the realisation of the action plan, was set up in March by the Prime Minister.

In some cases, the measures drawn up by executive bodies responsible for the implementation of specific aspects of the political reforms adopted by Parliament have considerably narrowed the scope of these reforms by establishing very strict conditions. This has been particularly the case for the regulation on radio and TV broadcasting in languages other than Turkish adopted by the High Audio Visual Board in December 2002, for the regulation on acquisition of real estate by community foundations adopted in January 2003 by the Directorate General of Foundations and for the circular authorising the registration of names given to children by their parents which are considered to be not politically "offensive".

### *National Security Council*

A number of fundamental changes have been made to the legal framework of the National Security Council (NSC) with a view to aligning relations between civil and military authorities on practice in EU Member States.

The advisory nature of the NSC was confirmed in a law implementing the amendment of October 2001 relating to Article 118 of the Constitution, which also increased the number of civilians in the NSC. In an amendment to the Law on the National Security Council the provision that "the NSC will report to the Council of Ministers the views it has reached and its suggestions" has been abrogated.

The representative of the NSC in the Supervision Board of Cinema, Video and Music has been removed by an amendment to the relevant Law. However, there remains a

representative of the National Security Council on other civilian boards such as the High Audio-Visual Board (RTÜK) and the High- Education Board (YÖK).

The seventh “reform package” adopted in July introduced some fundamental changes to the duties, functioning and composition of the NSC. An amendment to the Law on the National Security Council has abolished the extended executive and supervisory powers of the Secretary General of the NSC. In particular, the provision empowering the Secretary General of the NSC to follow up, on behalf of the President and the Prime Minister, the implementation of any recommendation made by the NSC has been abrogated. Other provisions authorising unlimited access of the NSC to any civilian agency have also been abrogated. A new regulation will be enacted to define the new tasks of the Office of the Secretary General.

Another amendment provides that the post of Secretary General will no longer be reserved exclusively for a military person. In August, it was decided to appoint a military candidate to replace the outgoing Secretary General for one year. The frequency of the meetings of the NSC has been modified, so that it will normally meet every two months instead of once a month.

New provisions have been adopted with a view to enhancing the transparency of defence expenditures. The Court of Auditors, upon request of Parliament, will now be authorised to audit accounts and transactions of all types of organisations including the state properties owned by the armed forces. The audit of the Court is still subject to the restrictions under Article 160 of the Constitution under which the confidentiality of the national defence is foreseen.

In spite of the extension of the remit of the Court of Auditors to national defence, the Armed Forces continue to enjoy a substantial degree of autonomy in preparing and establishing the defence budget and in public procurement in the defence-related area. There are still two extra-budgetary funds available to the military. One of these funds relates to a defence industry support fund in which the main budgetary resources allocated to defence originate. According to official data, the national defence budget amounts to 7 % of the consolidated state budget.

Apart from the NSC, the armed forces in Turkey exercise influence through a series of informal mechanisms. On various occasions military members of the NSC expressed their opinions about political, social and foreign policy matters in public speeches, statements to the media and declarations.

Overall, the above mentioned amendments could significantly modify the functioning of the National Security Council. In order to align civilian control of the military with practice in EU Member States, it is important that these reforms are effectively implemented, for military representation to be withdrawn from civilian bodies and for Parliament to ensure full control on the defence budget.

### *The judicial system*

The Turkish judicial system comprises a Constitutional Court, a Council of State, a Supreme Court, a Court of Jurisdictional Disputes and a general system of courts of first instance. There are also State Security Courts and Military Courts.

A number of structural changes have been made which have helped to strengthen the efficiency of the judiciary.

The court system has been strengthened with the adoption of the law on the establishment of family courts. Since January, 114 such courts have been established and 63 are already operating. These courts are competent for cases relating to family law. The task of these courts is to take protective, educational and social measures for children and adults including financial protection of the family. These courts will be established in all towns with a population of more than 100 000 inhabitants.

The Code of Civil Procedure and the Code of Criminal Procedure have been amended to allow re-trial in civil and criminal cases in which the European Court of Human Rights (ECtHR) has found violations of the ECHR and its Additional Protocols. The amendments provide for a one-year deadline after the ECtHR judgement for submitting an application for retrial. (*See Section B.1.3. — Human rights and the protection of minorities — "Civil and political rights"*)

The system of judicial records has been brought in line with Article 1 of the United Nations Convention on Children's Rights. The criminal record of children under 18 can now be only made available to public prosecutors under strict conditions.

The Law on juvenile courts has been amended raising from 15 to 18 the age at which young people must be tried in juvenile courts.

The system of notification of judicial acts and decisions has been strengthened with a view to ensuring proper notification for accused or condemned persons.

The Law on the Forensic Medicine Institution has been amended with the aim of accelerating judicial procedures. One function of the Forensic Medicine Institution is to conduct medical examinations of persons who claim to have been mistreated in police custody with a view to assessing the veracity of the allegations. Administrative capacity in this field has been strengthened and budgetary provisions for the recruitment of additional staff has been made. The amendments also envisage the establishment of forensic directorates in all penal court districts. In addition, 3 new directorates for Forensic Medicine have been set up and the network has been endowed with new technical equipment. However, conditions in many forensic medicine examination rooms at courthouses remain inadequate.

The Law on the Establishment and Trial Procedures of Military Courts has been amended with a view to ending military jurisdiction over civilians and to aligning the provisions of the military code of procedure with reforms adopted by previous packages concerning freedom of expression. As a result, military courts will no longer try civilians including juveniles held responsible for "inciting soldiers to mutiny and disobedience, discouraging the public from military duty and undermining national resistance" under Article 58 of the Penal Code.

As regards the functioning of the judiciary, both judges and public prosecutors are faced with a large backlog. The duration of trials in State Security Courts has increased slightly. For juvenile courts, the average trial period, though still longer than in other criminal courts, has decreased. The overwhelming caseload for courts does not allow enough time for the hearings and results in inadequate reading of case files, which has implications for the rights of the defence.

The number of judges and prosecutors in Turkey during the reporting period has increased from 9 020 to 9 162. The National Judicial Network Project to develop an information technology programme has continued to progress. The installation of infrastructure and software in the majority of provincial units across the country has been completed together with their connection to the central ministry in Ankara. The project aims to complete the computerisation of all provincial units by the end of 2003.

According to official figures, in 2002 and 2003 1 132 judges and prosecutors were trained on the implementation of the new Civil Code adopted in November 2001, 731 on the harmonisation of laws with EU law, 4 594 on human rights, 350 on forensic medicine applications and 519 on criminal matters and human rights, as well as numerous smaller training activities in other specialised areas such as international asylum law. A Justice Academy has been created to train judges and prosecutors as well as other judicial officers such as notaries.

Since October 2002 six training sessions on the implementation of the “reform packages” have been held in several cities with the participation of approximately 1 100 judges and public prosecutors.

The Ministry of Justice has published and distributed to judges and public prosecutors a guide book including Turkish translation of the case law of the ECtHR. Furthermore, on the official website of the Ministry of Justice, all decisions of the ECtHR are made available.

The judiciary plays an important role in the implementation of political reforms. Courts have started to apply the reforms. Criminal proceedings launched against individuals on the basis of Articles 312 (incitement to class, ethnical, religious or racial hatred) and 159 (insulting the state institutions) have generally concluded with acquittals. The courts have started to review convictions of persons convicted under Article 8 of the Anti Terror law and to order their release from prison. The courts have also started to review the convictions of persons convicted under article 169 of the Turkish Penal Code which has been amended and in appropriate cases, to order their release.

However, there are still signs of inconsistent use of articles of the Penal Code when applied to cases related to freedom of expression as shown by the broad use made by Article 312 and 169 of the Penal Code as well as Article 7 of the anti-terror law. (*See Section B.1.3. — Human rights and the protection of minorities — Civil and political rights*).

As last year, there has been no progress with regard to the establishment of intermediate courts of appeal, although legislative preparations are underway. The Supreme Court still performs the functions of court of second instance. The Supreme Court deals with an average of 500 000 cases a year which would otherwise be dealt with by courts of appeal. The establishment of courts of appeal would not only increase the speed and efficiency of the judiciary, but it would also be an important step forward in ensuring the right to a fair trial. At the same time, the establishment of courts of appeal would relieve the Supreme Court from its excessive workload and allow it to concentrate on its function of unifying and clarifying the Turkish case law.

There continue to be reports that the judiciary does not always act in an impartial and consistent manner. The principle of the independence of the judiciary is enshrined in the Turkish Constitution. In practice however, its independence is undermined by several

other constitutional provisions, which establish an organic link between the judiciary and the executive. The Constitution provides that judges and prosecutors shall be attached to the Ministry of Justice in so far as their administrative functions are concerned .

In addition, appointment, promotion and discipline and, broadly speaking, the careers of all judges and prosecutors in Turkey are determined by the Supreme Council of Judges and Prosecutors, which is chaired by the Minister of Justice and of which the Undersecretary of the Ministry of Justice is also a member . The possibility of removal and transfer to less attractive regions of Turkey by the Supreme Council may influence judges' attitudes and decisions. Aside from the composition of the Council itself, the influence of the executive is further enhanced by the fact that the High Council does not have its own secretariat and its premises are inside the Ministry of Justice building. The Council is entirely dependent upon a personnel directorate and inspection board of the Ministry of Justice for its administrative tasks.

Another difficulty of the Turkish judicial system is related to processing of evidence. Whilst public prosecutors are legally responsible for supervising all the phases of the criminal proceedings, day to day practice tends to suggest that public prosecutors are not always adequately informed by the security forces about the facts surrounding detention. Heavy overload seems also to explain why public prosecutors exercise little or no supervision over the security forces during the pre-trial investigation period and why many cases come to trial with inadequate preparation. Public prosecutors should therefore exercise closer control over the investigation of cases and the preparation of prosecutions.

In spite of some progress related to the improvement of the detainee's rights and the elimination of “incommunicado detention” (*see Section B.1.3. — Human rights and the protection of minorities — “Civil and political rights”*), the powers, responsibilities and functioning of the State Security Courts still need to be brought in line with European standards in terms of protection of human rights and fundamental freedoms, in particular the rights of defence. The abolition of these courts has been called for publicly by high ranking members of the judiciary and even announced by members of the Turkish Government.

#### *Anti-corruption measures*

Some progress has been achieved in adopting anti-corruption measures. However, surveys continue to indicate that corruption remains a very serious problem in Turkey. The sectors more prone to corruption are reported to be the media, government, construction, and health. Moreover, 80 % of businessmen believe that corruption is the main obstacle preventing foreign investment.

Parliament ratified in April the Council of Europe Civil Law Convention on Corruption paving the way for Turkey's participation in the Group of States against Corruption (GRECO) which monitors compliance with European anti-corruption standards.

In January, Parliament amended legislation with respect to combating bribery of foreign public officials in international business transactions with a view to implementing the relevant OECD Convention of which Turkey became a member in 2000. This law makes bribery of a foreign public official a criminal offence under the Turkish Penal Code. The law also renders the money laundering of proceeds of bribery a criminal offence in the Turkish penal system.

The judicial registration system has also been amended in respect of the record keeping period, which has been increased from five to ten years for convictions related to financial crimes (bribery, embezzlement, fraud, etc.) and to more than five years for prison sentences.

In January, a parliamentary investigation commission was set up to analyse the economic and social dimensions of corruption, and to identify necessary measures. It issued its report in July proposing to establish subcommittees to investigate a large number of politicians and former ministers including a prime minister for a series of corruption cases in public tenders, privatisation operations and other areas. The report also suggests limiting immunities and facilitating retrial of former ministers and heads of government.

In the action plan adopted in January, the Government included several measures and initiatives aimed at strengthening the fight against corruption. Among these measures are a Public Information Act intended to increase transparency of public life and a Civil Service Code of Conduct.

Many of the institutional mechanisms provided for in the plan are however not yet in place: the Inter-ministerial Commission consisting of nine ministries and departments was announced but has not yet met; the Steering Committee which is to consist of senior officials (such as Directors of Departments) has not been established.

Between May 2002 and May 2003, the Customs Inspectors prepared and submitted 170 investigation reports to the public prosecutors. In the same period, the Customs Controllers prepared and submitted 457 investigation reports to the public prosecutors.

### **1.3 Human rights and the protection of minorities**

As stated above, four new reform packages have been adopted since August 2002. These were enacted in January 2003 in Act No. 4778 (the fourth package), in February in Act No. 4793 (the fifth), in July in Act No. 4928 (the sixth), and in August in Act No. 4963 (the seventh). The reform packages address a range of issues related to human rights and the protection of minorities. These include strengthening the fight against torture, broadening the scope of fundamental freedoms such as the freedom of expression, association, demonstration and peaceful assembly, enhancing legal redress and improving cultural rights. A number of regulations and circulars have also been issued by the authorities in order to implement measures from the reform packages of 2002 and 2003. Detailed assessment of the legislation is given below.

Turkey has made progress with regard to **international conventions on human rights**. In June 2003 Parliament ratified the UN International Covenant on Civil and Political Rights and the UN International Covenant on Economic, Social and Cultural Rights. However, Turkey made reservations to these Covenants in relation to the right to education and to minorities' rights. In June 2003, Parliament also ratified Protocol No. 6 to the European Convention on Human Rights (ECHR) on the abolition of the death penalty except in times of war or the imminent threat of war. Turkey has not yet, however, deposited the relevant instruments of ratification with the UN and the Council of Europe.

Turkey has not signed the Optional Protocol to the UN International Covenant on Civil and Political Rights, the Council of Europe Framework Convention for the Protection of

National Minorities, the Revised European Social Charter or the Statute of the International Criminal Court.

Since October 2002 the European Court of Human Rights (ECtHR) has delivered 92 judgements concerning Turkey. On 43 occasions the Court found that Turkey had violated the ECHR (in only one case was Turkey judged not to have been in violation of the Convention) and 47 friendly settlements were concluded – many of which contained undertakings to take individual and general measures, over and above the payment of a sum of money. During this period 2614 new applications regarding Turkey were made to the ECtHR.

Turkey still faces problems in relation to the execution of judgements of the ECtHR.

Turkey has not yet taken all the necessary measures – prescribed by the Court in 1999 – to redress a number of violations of the right to freedom of expression, namely the striking out of the criminal convictions unjustifiably imposed and the restoration of civil rights. Neither has Turkey fully rectified the problems caused by a number of erroneous payments of just satisfaction in the period 2000-2002.

In October 2003 the Committee of Ministers of the Council of Europe decided to adopt an Interim Resolution regarding the lack of compliance by Turkey with its commitments following a friendly settlement in the case of *Institut de Prêtres français*<sup>3</sup> (2000) (*see below under “Civil and political rights”*). The Committee also decided to adopt an Interim Resolution on Turkey’s lack of compliance with the provisions related to the right to education in the case of *Cyprus against Turkey* (2001).<sup>4</sup>

As regards the *Loizidou* case<sup>3</sup>, concerning the violation of the applicants’ right to property, in June 2003 Turkey made the commitment that it would pay the just satisfaction awarded by the Court in 1998 by October 2003. At the time of writing, no such payment has been made.

On the other hand, the Committee recognised that further progress had been achieved in respect to the execution of 48 judgements<sup>4</sup> relating to abuses committed by the security forces, 34 judgements<sup>5</sup> concerning interference with the right to freedom of expression. Nevertheless, the Committee did not find that all necessary measures had been taken and decided that it would continue to play its monitoring role until Turkey provides concrete evidence of full execution.

Provisions enabling retrial in the light of the ECtHR’s decisions were enhanced as part of the fifth reform package. Retrial now applies to all decisions which were finalised by the ECtHR prior to 4 February 2003, as well as to applications filed after this date. However,

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<sup>3</sup> Case *Institut de Prêtres français vs. Turkey* (Application n° 26308/95)

<sup>4</sup> Case *Cyprus vs. Turkey* (Application n° 25781/94)

<sup>3</sup> Case of *Loizidou vs. Turkey* (Application n° 15318/89).

<sup>4</sup> See Int Res DH (2002) 98.

<sup>5</sup> See Int Res DH (2001) 106.



retrial does not apply to friendly settlements or to cases that were still pending prior to 4 February, which includes the case of Öcalan<sup>5</sup>. As a result of the amendments, 16 applications for retrial have been submitted to the competent judicial authorities including the retrial of the former Democracy Party (DEP) members of Parliament (Sadak, Zana, Dicle, and Doğan<sup>6</sup>) which was opened on 28 March 2003 and is ongoing. However, there are serious concerns regarding the compliance of the proceedings with the provisions of the ECHR on fair trial, particularly in relation to the rights of the defence. The Committee of Ministers of the Council of Europe decided in October 2003 to formally express these concerns to the Turkish authorities. With the sixth reform package administrative cases, in addition to criminal and civil cases, are covered by the provisions on retrial.

With regard to the **enforcement of human rights**, the complex structure of governmental human rights boards and committees established over the past two years has been strengthened. At the local level, the number of sub-provincial (district) Human Rights Boards was increased from 831 in 2002 to 859 in 2003.

The Reform Monitoring Group, which includes a representative of the government's human rights agency, is entrusted with the task of ensuring that allegations of human rights violations are investigated.

A Human Rights Violations Investigation and Assessment Centre was established within the Gendarmerie Command in April 2003. The Parliamentary Human Rights Investigation Committee investigated alleged violations of human rights and produced reports which were forwarded to the relevant institutions. The Committee has, for example, carried out inspections in the south east with regard to the normalisation of life in the former emergency rule provinces and has made numerous unannounced visits to police stations across the country.

With regard to training on human rights, a number of *ad hoc* projects have taken place in addition to the joint European Commission – Council of Europe initiative. This initiative covers human rights training for civil servants, in particular the judiciary; human rights awareness raising within society and support with respect to legal reform. In this context a training programme on ECtHR case law for the judiciary began in May 2003.

As regards the fight against discrimination, the Additional Protocol No. 12 to the ECHR on the general prohibition of discrimination by public authorities, signed in 2001, has not been ratified. Turkey still has no comprehensive strategy or legislative and administrative provisions against discrimination. It also lacks statistical data, which would show the nature and extent of any discrimination on the basis of all prohibited grounds, such as ethnic origin, religion or language. Turkey still needs to transpose and implement the EU anti-discrimination acquis based on Article 13 of the EC Treaty. (*see also Chapter 13 – Social policy and employment*).

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<sup>5</sup> Case of Öcalan vs. Turkey (Application n° 46221/99).

<sup>6</sup> Case of Sadak, Zana, Dicle, Doğan vs. Turkey (Applications n° 29900/96 to 29903/96)

### *Civil and political rights*

As stated above, following the abolition of the **death penalty** in August 2002, in June 2003 Parliament ratified Protocol No. 6 of the ECHR which forbids the death penalty except in times of war and the imminent threat of war.

The sixth reform package includes a provision to align existing legislation with the abolition of the death penalty, by converting all death penalties (except in times of war or the imminent threat of war) to sentences of life imprisonment.

In the case of Öcalan, the ECtHR ruled in March 2003 that Turkey had violated Articles 3, 5 and 6 of the ECHR concerning the applicant's complaints relating in particular to the death penalty, and his detention and trial. However, in July 2003 both Öcalan and the Turkish Government took steps to pursue this case further before the Grand Chamber.

With regard to the prevention of **torture and ill-treatment** the Government has committed itself to a policy of "zero tolerance" with respect to torture. Legislation in this area has been considerably strengthened. While implementation has led to some concrete results, the situation is uneven and torture cases persist.

Articles 243 (torture) and 245 (ill-treatment) of the Penal Code have been amended under the fourth reform package so as to prevent sentences for torture and ill-treatment from being suspended or converted into fines.

In January 2003 the Law on the Trial of Civil Servants and other Public Officials, and Article 154 of the Code of Criminal Procedures were amended, lifting the requirement to obtain permission from superiors in order to open investigations on public officials in cases of torture and ill-treatment. However, permission is still required in order to open investigations when certain other crimes are alleged, such as extra-judicial executions, disappearances and destruction of property.

As part of the fourth reform package, Decree 430 - which, in provinces under emergency rule, enables detainees to be taken out of prison and returned to police custody for up to ten days for investigation purposes - was amended. The period has been reduced from ten to four days each time an individual is returned to police custody. It should be noted, however, that emergency rule was lifted in all provinces on 30 November 2002. Access to a lawyer and health checks are now guaranteed when detainees are taken out of prisons for interrogation. The decision of a judge, who must see the detainee in question, is required before permission is granted to take individuals from prisons or detention houses.

The fourth reform package repealed Paragraph 4 of Article 16 of the Law on the Establishment and Trial Procedures of State Security Courts. The reforms grant defendants under the competence of the State Security Courts – like all other defendants – access to a lawyer as from the outset of deprivation of liberty. Provisions preventing lawyers from being present during statement taking when they are defending those being tried under the competence of State Security Courts, have been repealed under the sixth reform package. Changes in the rules of procedure with regard to State Security Courts have eliminated *incommunicado* detention (*see also Section B.1.2. — Democracy and the rule of law — The judicial system*). The seventh reform package further amends the Code of Criminal Procedures by giving priority to torture and ill-treatment cases, which will be considered to be urgent cases by the courts. In order to reduce the risk of impunity,

hearings can be conducted during judicial recess and cannot be adjourned for more than 30 days, unless there are compelling reasons to do so.

The Ministry of the Interior and the Ministry of Justice have distributed circulars to the relevant authorities informing them of the various changes made to the legislation and calling for their implementation.

There have been a number of important judicial decisions with respect to torture and ill-treatment. This includes the Manisa case (in which ten police officers were accused of torturing 16 youths) which ended in April 2003 with the Supreme Court confirming the policemen's sentences of between 60 and 130 months. More generally, the Supreme Court – in the context of a judgement on a torture case in late 2002 - has described torture and ill-treatment as a crime against humanity.

Turkey submitted its second report to the UN Committee Against Torture (CAT) in May 2003, which covered the period 1990 – 2003.

However, concerns continue to be expressed with respect to the punishment of perpetrators of torture and ill-treatment. Cases continue to be dropped after trials are discontinued due to an elapse of time. The UN CAT has stated that, in spite of the large number of complaints, the prosecution and sanctioning of members of the security forces for torture and ill-treatment are rare; proceedings are often long; too much importance is given to confessions in criminal proceedings and sentences are not commensurate with the gravity of the crime. This was described as a form of impunity for security officers with regard to cases of torture and ill-treatment. The CAT also expressed its concern regarding the numerous and consistent allegations of torture and ill-treatment; inadequate registration; insufficient medical assistance and a lack of prompt notification of family members with respect to detainees held in police custody. In addition, the CAT recommended that measures be taken to guarantee prompt, impartial and full investigations into allegations of torture and ill-treatment and that the statute of limitations for crimes involving torture be repealed.

In June 2003 the report by the Council of Europe's Committee for the Prevention of Torture (CPT) together with the response of the Turkish Government was published. The report was based on visits to Turkey by CPT delegations in March and September 2002. With respect to the implementation of recent legal reforms concerning custody by law enforcement agencies, the CPT concluded that, although there are isolated examples where the time of apprehension is not properly recorded, the shorter custody periods are being respected.

However, the CPT delegation found evidence of people in police custody being denied, discouraged, or not being informed about the possibility of having access to a lawyer, as well as of lawyers being prevented from meeting detainees in private and providing them with adequate legal counsel. Official sources show that, of those accused of crimes related to State Security Courts between 1 January and 31 March 2003, 1 954 of the 2 725 people accused did not seek to talk to their lawyers. It also should be noted that in some towns, no legal counsel is available.

With respect to medical examinations of persons in police custody, the same report found that the system does not necessarily act as a safeguard against torture or ill-treatment, and that the stipulation enabling the detained person to request the presence of security forces during examination leaves the system open to abuse, as pressure may be placed upon the

detainee. As far as prisons are concerned, the report reiterated concerns that all medical examinations, not simply those undertaken when prisoners are admitted, should take place outside the hearing range and – unless the doctor concerned requests otherwise – beyond the view of custodial staff.

Some sources suggest that pressure is applied to doctors so that torture cases are not supported with medical certificates and that certificates are sometimes destroyed or confiscated by police officers who are not satisfied with a doctor's assessment.

There are still reports of ill-treatment, including disappearances, abductions, arbitrary detentions, and the excessive use of force against demonstrators. Violence against women is of particular concern: one recent example occurred on 14 June 2003 when a women's representative of DEHAP in Istanbul, Ms Gülbahar Gündüz, was reportedly abducted, blindfolded, raped and tortured by individuals claiming to be police officers.

With regard to the case of the two HADEP officials who disappeared in 2001 after visiting a police station in Silopi, the ECtHR sent a delegation to Ankara in April 2003 to conduct an inquiry.

With regard to the **reform of the prison system**, the general situation has improved considerably.

The Penal Code has been reformed. Two new offences were introduced in February 2003 with the aim of increasing security in prisons and preventing hunger strikes. Article 307/a of the Penal Code introduces prison sentences of between two and five years for persons convicted of bringing or using weapons and certain communication devices into prisons. Article 307/b introduces sentences of one to three years for those convicted of offences such as preventing prisoners and detainees from meeting a lawyer or friends. The article also makes it an offence to prevent prisoners and detainees from being fed; those who commit this offence will be sentenced to between two and four years or, should somebody die as a result of malnutrition, to 10 to 20 years.

A number of articles of the Law on the Administration of Prisons and Detention Houses were also amended in February 2003 with regard to the provision of food and entry into prisons. An amendment to Article 4 relates to prisoners and detainees who are on "death fast" and refuse food. The law stipulates that they shall be informed by the prison doctor about the physical and psychological consequences of their actions. If any serious health danger arises, they shall be taken to hospital – if necessary against their will.

Although there are still reports of isolated cases of "death fasts", the number has declined considerably. Official sources state that there are currently no "death fasters" in prisons, although five convicts remain on "death fast" in hospital. The President has pardoned 171 prisoners involved in "death fasts", the sentences of 391 prisoners have been suspended and another 80 prisoners have been released due to health problems. In the reporting period 9 prisoners on "death fast" died, raising the total number of deaths to 66.

A new curriculum for the in-service training of prison and detention house personnel was adopted by the Ministry of Justice in January 2003 with a focus on human rights and combating ill-treatment in particular.

According to official sources, as of 30 April 2003, there are 64173 persons in prisons and detention houses, of whom 32624 are convicted prisoners and 31549 are detainees.

A circular issued by the Ministry of Justice in October 2002 lifted all conditions attached to participation in communal social activities in line with the recommendations of the CPT. However, there are reports that isolation among certain groups of prisoners, whether self-imposed or not, continues in high-security F-type prisons. Access to telephones (ten-minute phone calls every week) and the right to open visits in F-type prisons have improved considerably.

There are reports that lawyers and visitors have encountered difficulties meeting prisoners and that prisoners are not receiving appropriate medical treatment. The trials of the 1 600 Gendarmerie officers involved in the operation to transfer prisoners from Bayrampaşa Prison to the new F-Type prisons in December 2000 and of 161 security personnel allegedly responsible for the deaths of 10 inmates at Ulucanlar Closed Prison in September 1999 are ongoing.

As far as the upgrading of the physical infrastructure of prisons is concerned, official sources state that the transition from a ward to a cell-based prison system is nearing completion. Four more F-Type prisons have now been constructed, bringing the total to 10. A new women's prison is being built in Bakirköy-Istanbul.

A new school in Ankara for training prison staff is now functional and two new schools in Istanbul and Erzurum are expected to become operational soon.

The 129 Prison Monitoring Boards, established in 2001, continue to carry out inspections on living conditions, transfers and disciplinary measures in penal institutions. The Prison Monitoring Boards have made a large number of recommendations, focusing on living conditions, health, food, education and rehabilitation of prisoners. It is reported that the work of the Boards has led to some improvements in prisoners' conditions in these areas. More sensitive issues, such as those relating to ill-treatment and isolation, are not dealt with by the Prison Monitoring Boards.

Since the establishment of the "enforcement judge" system in 2001, 8 998 complaints on actions taken in respect to prisoners and detainees have been made to the 140 enforcement judges. Of the applications, 2 644 have been accepted and acted upon, 244 have been partially accepted and acted upon and 610 have been rejected by the enforcement judges. A large number of the applications (3 794) concerned disciplinary punishment.

There are concerns that the decisions of the enforcement judges are not always properly followed up and rejections are sometimes made arbitrarily. There are also indications that transmission of complaints to enforcement judges is not confidential and that applications are screened by the prison administrations. As a result, there is a risk that not all complaints are dealt with.

With regard to **freedom of expression**, a number of existing restrictions have been lifted. This has led to both acquittals and the release of a number of prisoners sentenced for the non-violent expression of opinion. However, despite legislative changes, some problems remain.

Article 8 of the Anti-Terror Law ("propaganda against the indivisible unity of the state") was repealed as part of the sixth reform package.

As part of the seventh reform package, the minimum sentence under Article 159 of the Penal Code (“insulting the state and state institutions and threats to the indivisible unity of the Turkish Republic”) has been reduced from one year to six months. The amendment confirms the August 2002 revision to the Article, which exempted from punishment the expression of opinions intended only to criticise, and not intended to “insult” and “deride” these institutions.

The seventh package also narrowed the scope of Article 169 of the Penal Code (“aiding and abetting terrorist organisations”) by removing the provision sanctioning “actions which facilitated the operation of terrorist organisations in any manner whatsoever”. Furthermore, the seventh package strengthens last year’s amendments to Article 7 of the Anti-Terror Law which introduced the notion of “propaganda in connection with the (terrorist) organisation in a way that encourages the use of terrorist methods”, by replacing “terrorist methods” with “resorting to violence or other terrorist means”. Fines have been increased ten-fold, and the length of prison sentences – which were increased last year – remains at one to five years.

Amendments to the Cinema, Video and Music Works Law were made under the sixth reform package. The scope for suspending or banning works in these fields has been narrowed to cover only offences considered to undermine the fundamental characteristics of the Republic and the indivisible integrity of the state. Any administrative decision to suspend a work in these fields must now be confirmed by a judge within 24 hours. A National Security Council representative will no longer be entitled to a place on the board of supervision (*see Section B.1.2. — Democracy and the rule of law — concerning the National Security Council*).

However, as announced by the Turkish government, the process of reviewing existing legal restrictions in this area has yet to be completed. In a report assessing the 3 November 2002 elections, the OSCE/ODIHR concluded that the broader legal framework and its implementation establish strict limits on the scope of political debate in Turkey. Non-violent expression of political views beyond these limits is still restricted by a variety of laws and is rigorously enforced.

As mentioned above, there is still a tendency for prosecutors to use alternative provisions of the Penal Code (Articles 312 and 169) and of the Anti Terror Law (Article 7) to limit freedom of expression. In addition, in several instances, alternative provisions were used to launch cases against individuals who had just been acquitted on the basis of the amended legislation. Even when convictions are overturned in accordance with the amended legislation, full legal redress is not automatically ensured.

The process of interpretation and implementation of the amended legislation should be pursued in a consistent and systematic manner in order to address the situation of all persons prosecuted and convicted for non-violent expression of opinion.

As regards **freedom of the press**, the situation continues to give rise to concern in spite of some legislative changes. The fourth reform package amended Article 15 of the Press Law. The amendment contains provisions that protect the owners of periodicals, editors and writers from being forced to reveal their sources.

As part of the seventh reform package, Articles 426 and 427 of Law No 765 were amended. A paragraph has been added to Article 426 in order to exempt scientific and artistic works, and “works of literary value” from the scope of the article, which bans

publications on the grounds of moral principles. Under Article 427, confiscated publications can no longer be destroyed or burned on the grounds of “hurting people’s feelings” or “exploiting people’s sexual desires”.

With respect to the effect of reforms in practice, the implementation of amended Articles 159 and 312 of the Turkish Penal Code, and of Article 7 of the Anti-Terror Law is not uniform. Heavy penalties, including imprisonment are reportedly inflicted at times upon journalists, authors and publishers who criticise state institutions and policies, or publish the statements of certain political groups.

Official data indicate that prosecution under the Press Law has diminished. However, reports indicate the continued confiscation of publications and printing equipment, the suspension of publishing houses and the imposition of heavy fines on publishers and printers. There is also strict censorship of internet content.

The ongoing process of reviewing legislation related to freedom of the press should be pursued in a comprehensive manner, encompassing all legislation that impacts upon freedom of the press.

In the field of **broadcasting**, reforms permitting radio and TV broadcasts in languages other than Turkish have not yet led to any concrete result.

A Regulation on the Language of Radio and TV Broadcasts was issued in December 2002 to implement the changes introduced in August 2002. The Regulation permits the state broadcasting corporation, TRT, to broadcast in languages and dialects traditionally used by Turkish citizens.

The Regulation states that broadcasting in these languages may take place for four hours per week on radio and two hours per week on television and the programmes can only be aimed at adults on the subjects of news, culture and music. It states that broadcasts cannot contravene the fundamental characteristics of the Republic and the indivisible integrity of the state. The Regulation also provides that the radio programme must be followed by a complete Turkish translation, that television broadcasts must have subtitles in Turkish, and that individuals in television broadcasts must wear modern clothes.

However, the Regulation could not be implemented for legal reasons related to the autonomous status of TRT.

As a result, in the sixth reform package, a legislative amendment was introduced extending the possibility of broadcasting in languages and dialects used by Turkish citizens in their daily lives to private stations, in addition to the TRT. The procedures and principles of this amendment are to be outlined in a regulation, which must be published by the High Audio-Visual Board (RTÜK) by November 2003. The amendment also states that restrictions on the broadcasting of election propaganda are to be shortened from one week to twenty-four hours before an election.

Thus, there have not yet been any broadcasts in languages traditionally used by Turkish citizens in their daily lives other than Turkish.

RTÜK continued to impose heavy penalties (including the suspension or cancellation of the broadcasting licence) upon private radio and television stations accused of violating certain principles of the state relating, for instance, to separatist propaganda and

incitement to hatred. For example, in June, Cinar Television, based in Van, was closed for one month for having broadcast the speech of the President of the Rights and Freedoms Party (HAK-PAR) during his visit to Van. TRT broadcast the same speech without encountering such difficulties.

As regards **freedom of association**, restrictions were eased following amendments under the fourth and seventh reform packages. However, significant limitations remain, including in relation to the establishment of associations on the basis of race, ethnicity, religion, sect, region, or any other minority group. Changes did not lead to the adoption of a clear framework addressing the main problems faced by associations.

The Law on Associations has been amended under the fourth reform package, enabling associations to use any language in their non-official correspondence and allowing legal entities (in addition to individuals) to become members of associations. Restrictions on making announcements or distributing publications have been eased. The obligation to forward copies of these documents to the relevant authorities prior to distribution, including to the public prosecutor, has been removed.

Any decision taken by the provincial administrative authorities regarding the confiscation of associations' declarations, announcements, and other publications is now subject to confirmation by a judge within 48 hours. In the absence of such confirmation, the decision is invalidated.

The seventh package also eased the restrictions on the establishment of associations by people convicted for certain crimes, and for those who had previously been members of an association or political party that was closed down by a court decision. Higher education students are now entitled to establish associations that not only relate to educational and recreational matters, but also to art, culture, and science.

Following amendments to the Civil Code and the Law on Foundations, Turkish associations and foundations can now open branches abroad and join international or foreign bodies. These are now permitted to operate and to open branches in Turkey after receiving permission from the Ministry of the Interior in consultation with the Ministry of Foreign Affairs.

As foreseen in the August 2002 reform package a Department of Associations was established in August 2003 to perform tasks hereto entrusted to the Directorate General of Security.

A positive development has been the Ankara State Security Court judgement of March 2003 acquitting defendants in connection with the court case launched against German foundations and NGO representatives for allegations of "involvement in activities against the national unity and secular structure of the country".

However, associations face problems with respect to closure of offices and branches and suspension of activities. In practice, they still experience considerable difficulties in co-operating with foreign associations and international bodies, including the receipt of funds.

Human rights organisations and defenders have had numerous court cases brought against them. Although the majority of cases have resulted in acquittals or the sentence being commuted to a fine or suspended, human rights defenders feel that the number of



cases amounts to harassment by the authorities. It is estimated that there are currently 500 cases pending against human rights defenders.

In May 2003 the headquarters and offices of the Human Rights Association's Ankara branch were searched by the Anti-Terror Branch of the Ankara Security Directorate after a warrant was issued by the Ankara State Security Court, reportedly on the basis of Article 169 of the Penal Code. During the search the hard discs of computers, video cassettes, CDs, documents and registration books were confiscated. No lawsuit has yet been issued.

With respect to **peaceful assembly**, existing restrictions have been eased.

In line with the amendments made as part of the third reform package, the October 2002 Regulation on the implementation of the Law on Public Meetings and Demonstration Marches confirmed a reduction in the minimum amount of time required to request permission to hold a demonstration from 72 to 48 hours. The age limit for organising a demonstration has been reduced from 21 to 18.

The seventh reform package limits the ability of Governors to postpone meetings. Meetings can be banned only in cases where there is a "clear and imminent threat of a criminal offence being committed". Official figures indicate that, in 2002, 95 demonstrations were prohibited or postponed, as compared to 141 in 2001.

There have been cases of local authorities using excessive force against protestors. One example concerns police firing shots into the air and injuring people by driving a police car into a crowd, which gathered to demonstrate following the Bingöl earthquake of May 2003.

As regards **political parties**, under the fourth reform package a number of changes were made to the Law on Political Parties mainly in order to align this with the constitutional amendment of October 2001. These include provisions making it more difficult to dissolve political parties. In order to close a political party, a "three-fifths majority" in the Constitutional Court is now required.

Following an amendment to Article 100 of the same law, a case for dissolving a political party may only be filed for "reasons stipulated in the Constitution". Article 102 of the law has also been amended so as to give a right to appeal against the request of the Public Prosecutor of the Court of Appeals to dissolve a party. An amendment to Article 104 provides for the possibility of imposing sanctions other than closure upon political parties. Under the revised Article, political parties can be deprived "partially or fully of state assistance". Furthermore, Article 11 of the law has been amended so as to increase minimum imprisonment sentences for violations of the law, from three to five years.

Several political parties have been subject to legal action with a view to their closure. In March 2003, the Constitutional Court unanimously ruled to permanently dissolve the People's Democratic Party (HADEP). According to the authorities, the new measures concerning the deprivation of state assistance were not applicable as HADEP did not reach the 10% electoral threshold necessary to benefit from state funding. HADEP was banned on the basis of Article 169 of the Penal Code and 46 members of the party were prevented from engaging in political activities for a period of five years. Other cases have been filed at the Constitutional Court for the dissolution of the Democratic People's Party (DEHAP), the Rights and Freedoms Party (HAK-PAR) and the Socialist Workers' Party

of Turkey. In September, the Supreme Court ruled that DEHAP was responsible for submitting forged documents with a view to participating in the November 2002 elections. The Supreme Electoral Board decided that this would not impact the validity of the aforementioned elections.

In February 2003, the ECtHR confirmed its judgement of July 2001, according to which the closure of the Welfare Party (Refah Partisi) in 1998 was not in violation of the ECHR<sup>7</sup>.

With respect to the **freedom of religion**, measures have been adopted in the area of property rights and construction of places of worship. However, their impact has been limited. Non-Moslem religious minorities continue to face serious obstacles with respect to legal personality, property rights, internal management, and a ban on the training of clergy.

In September 2003, representatives of four major non-Moslem religious communities (Greek-Orthodox, Catholic, Armenian and Syriac) made a joint appeal to the Turkish authorities calling on them to solve all outstanding problems.

As regards property rights, the Law on Foundations was amended as part of the fourth reform package and a Regulation was issued in January 2003. The Regulation removed the need for foundations to obtain permission from the Council of Ministers in order to acquire, dispose of and register properties (as required by an earlier regulation issued in October 2002). Permission is now required from the Directorate General of Foundations, though the Regulation also provides for consultation with relevant Ministries and public institutions “when it is deemed necessary”. The sixth reform package extends the deadline for the registration of minority foundations’ properties from six to eighteen months.

The January Regulation still only refers to non-Moslem foundations. This excludes all religious communities which are not able to establish foundations, including the Catholic and Protestant communities. In addition, foundations not included in a list of 160 minority foundations annexed to the Regulation are not able to register properties.

The question of confiscated properties, which is a major concern of non-Moslem religious communities, has still not been addressed. Given these communities’ lack of legal status, their properties are permanently at risk of being confiscated and attempts to recover property by judicial means encounter numerous obstacles. The Greek Orthodox community in particular, has recently resorted to the ECtHR in order to regain possession of some of its seized property.

With regard to the registration of property, foundations have encountered significant difficulties. Official sources state that 116 foundations have made a total of 2 234 applications, of which the majority were either found to be inadmissible because they were registered in the names of public institutions or private individuals (622), or were “returned to the applicant for completion” (910). As referred to above, the Turkish authorities have not implemented the settlement reached in December 2000 at the ECtHR

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<sup>7</sup> Case of Refah Partisi (The Welfare Party) and others v. Turkey (Applications nos. 41340/98, 41342/98, 41343/98 and 41344/98).

granting the Institut de Prêtres français the right to usufruct of a plot of land and the buildings thereon, and the right to rent the land for profit making purposes.

Religious foundations continue to be subject to the interference of the Directorate General of Foundations, which considerably limits their autonomy. This includes the possibility of dismissing their trustees, and of intervening in the management of their assets and accountancy.

Official sources state that between 2001 and 2003 406 foundations were dissolved. The boards of foundations encounter particular problems with respect to elections, which if not held can threaten their existence. As boards require an electorate in the catchment area surrounding the foundation, and electors may have moved out of these areas over time, it is not always possible to hold the elections. If elections are not held in due time, property confiscation may be the result. There are a few examples of catchment areas being enlarged to accommodate this problem, but the vast majority of foundations have not been able to benefit from these changes.

As far as permission for construction of places of worship is concerned, the Law on Public Works has been amended as part of the sixth reform package, followed by the issue of a circular in September 2003, replacing the word “mosque” with the phrase “places of worship”, meaning that churches and synagogues will now be covered. The Protestant community in particular has experienced difficulties in finding places in which to worship. The Protestant church in Diyarbakır still has no legal status, although in practice it has been open for worship since April 2003.

The ban remains on the training of clergy for religious minorities. Given the decreasing number of priests within their churches some religious minority communities feel threatened by this ban. In spite of repeated requests, the Halki seminary remains closed, although in August 2003 the authorities undertook to re-consider this matter. Limited resources prevent the vast majority of minority religious communities from training their clergy abroad, and nationality criteria restrict the ability of non-Turkish clergy to work, for example, for the Syriac and Chaldean Churches, or to become the Ecumenical Patriarch. Moreover, non-Turkish clergy continue to experience difficulties with respect to the granting and renewal of visa and residence permits. This is a particular concern for the Roman Catholic community.

Public use of the title of Ecumenical Patriarch was a cause of tension. For instance, in June 2003 Turkish public officials were instructed not to attend a lecture delivered by the Orthodox Patriarch Bartholomaios I on the grounds that the invitation to the ceremony referred to the Patriarch as Ecumenical.

A positive development has been the finalisation of the exercise to redraft the descriptions of Christian denominations in religious education textbooks. These had been criticised by many religious minorities for being subjective and inaccurate. The communities are expecting textbooks to be revised accordingly. There is a ban on the publication and import of non-approved religious textbooks, and there have been cases of books being confiscated by customs officials.

Difficulties persist in view of the fact that the deputy head of religious minority schools is a (Moslem) appointee of the Ministry of National Education, with greater authority than the head. The fact that clergymen and graduates from theological colleges are banned

from teaching in schools has created difficulties related to the teaching of minority religions.

An expert group meeting on freedom of religion took place in Ankara in July 2003, organised jointly by the Turkish authorities and the European Commission. Experts from EU Member States and Turkey exchanged information on the standards and practice of freedom of religion in EU Member States. They concluded that legal reforms adopted so far were insufficient, that legislation in this area should be revised on the basis of the generally accepted principles of non discrimination, equality and cooperation, and that an overhaul of the laws on associations and foundations based on EU standards, and taking into account the case law of the ECtHR, was necessary.

As far as the situation of non-Sunni Moslem communities is concerned, there has been a change as regards the Alevi. The previously banned Union of Alevi and Bektashi Associations was granted legal status in April 2003 which allowed it to pursue its activities. However, concerns persist with regard to representation in the Directorate for Religious Affairs (Diyanet) and related to compulsory religious instruction in schools which fail to acknowledge the Alevi identity.

A court case is pending against the Bahai community regarding the expropriation of a property used as a place of worship in Edirne.

The question of **asylum** seekers and **trafficking in human beings** is taken up in *Chapter 24 – Co-operation in the field of justice and home affairs*.

#### *Economic, social and cultural rights*

With respect to **gender equality**, as part of the sixth reform package the Penal Code has been amended in order to address concerns related to the perpetration of “honour killings”. Article 462 of the Penal Code, allowing for reduced sentences for so-called “honour killings”, has been repealed. However, the more general provisions of Article 51, related to crimes committed under “extreme provocation”, remain, applicable for offences traditionally viewed as being against “virtue”. Article 453 of the Penal Code was amended to increase the sanctions for the “honour killings” of out-of-wedlock children.

Violence against women is still widespread in Turkey. According to different reports, more than half the female population are subject to physical and psychological forms of violence within the family environment.

The new Labour Law of May 2003 recognises the principle of equal treatment in employment between persons irrespective of gender, as well as racial and ethnic origin, religion and ideology. However, legislation does not yet guarantee the effective prohibition of discrimination in employment. and further efforts are needed to promote gender equality, as laid down in EU legislation and implied in Articles 1(2) and 20 of the European Social Charter. Turkey has not yet accepted Article 8 of the European Social Charter on the right of employed women to protection of maternity.

The implementation of the provisions of the Civil Code allowing for the equal sharing of goods acquired during marriage (and made upon special declaration in the case of marriages entered into after January 2002) has been very limited. The representation of

women in elected bodies and government remains low. Twenty-four out of 550 members of the Parliament are female.

The internal code of the Parliament is still not in line with the provision lifting the ban on the wearing of trousers by female civil servants.

In March 2003 a ministerial position covering women's issues was established for the first time within the Government.

Turkey has not yet accepted Article 15 of the European Social Charter on the rights of disabled people. However, the new Labour Law requires that in a workplace with more than 50 employees a number of disabled people be employed, in accordance with an annually defined ratio.

With respect to the **rights of the child**, although the age limit for child labour has increased from 12 to 15 years since 1971, a significant number of children under the age of 15 are still employed, in particular in small enterprises and in agriculture. They are thus denied the right to education as prescribed by Article 7 of the European Social Charter. As mentioned previously, under the seventh reform package an amendment has been made to Article 6 of the Law on the Establishment, Duties and Trial Procedures of Juvenile Courts, raising from 15 to 18 the age below which young people must be tried in Juvenile Courts.

In ratifying the European Convention on the Exercise of Children's Rights in June 2002, Turkey demonstrated its commitment towards the protection of children. However, it 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.

With respect to **trade unions**, no progress has been made with regard to the acceptance of Article 5 ("right to organise") and Article 6 ("right to bargain collectively" including the right to strike) of the European Social Charter. As for the public sector, the June 2001 law, which contains significant constraints on the right to organise and the exclusion of the right to strike and to collective bargaining, has not been amended.

Turkey has not signed the 1996 Revised European Social Charter. (*See also Chapter 13 – Social policy and employment*).

With regard to **cultural rights**, the sixth reform package introduced a number of changes. As previously indicated (*see Section B.1.3. — Human rights and the protection of minorities — Civil and political rights, on broadcasting*), it provided for radio and television broadcasting in languages and dialects traditionally used by Turkish citizens in private stations, as well as by the public broadcaster. The Civil Registry Law was amended to permit parents to name their children as they desire, provided that such names are considered to comply with "moral values" and do not offend the public. The reference to "politically" offensive names, has been removed from the law. However, a circular was issued in September 2003 restricting the scope of this amendment by banning the use of names including the letters q, w and x, commonly used in Kurdish.

The fourth reform package amended Article 6 of the Law on Associations by giving associations the possibility of using foreign languages in their non-official

correspondence (*see Section B.1.3. — Human rights and the protection of minorities — Civil and political rights, on freedom of association*).

The use of languages and dialects other than Turkish in the areas of film, the arts, festivals, cultural events and radio broadcasts is nevertheless still subject to legal restrictions and judicial prosecution. However, there has been a degree of relaxation: judicial procedures and administrative sanctions against petitioners for optional Kurdish language courses at university level have been dropped; various cultural festivals with the participation of Kurdish music groups have taken place and a wide range of religious books and cassettes in Kurdish have been provided by publishing companies.

No progress was made on the implementation of the August 2002 reform package on the learning of the different languages and dialects traditionally used by Turkish citizens in their daily lives. A number of applications to establish such language courses have been rejected by the authorities on the grounds that the curricula focus on culture and history and not on language teaching. Moreover, there are certain stringent regulatory requirements, which in practice prevent the classes from being established. These relate, in particular, to the nationality and the qualifications required from the teachers, as well as to the level of education required from the students.

The seventh reform package eased restrictions on the location of teaching establishments. It also amended the legislation on teaching of foreign languages and learning of different languages and dialects by prescribing that the Council of Ministers alone will regulate and decide which languages are to be taught (without having to get the approval of the National Security Council). A regulation is to be issued in order to implement the amended law.

When ratifying the UN Covenant on Economic, Social and Cultural Rights, Turkey issued a reservation to Article 13 paragraph 3 and paragraph 4 concerning the right to education. As a result, the scope of parents' right to choose schools for their children (other than those established by the public authorities) and to ensure the religious and moral education of their children (in conformity with their own convictions) has been limited.

#### *Minority rights and the protection of minorities*

In January 2003 the OSCE High Commissioner on National Minorities was, for the first time, permitted to visit Turkey with the aim of starting a dialogue on the situation of national minorities. However, no such dialogue has followed from this initial meeting.

When ratifying the UN Covenant on Civil and Political Rights, Turkey issued a reservation to Article 27. As a result, the scope of the right of ethnic, religious or linguistic minorities to enjoy their own culture, to profess and practice their own religion, or to use their own language, has been limited. In addition, this reservation provides that this right will be interpreted and applied in accordance with the relevant provisions of the Turkish Constitution and the 1923 Treaty of Lausanne.

The electoral system makes it difficult for minorities to be represented in Parliament. In the election of November 2002, for example, the Democratic People's Party (DEHAP) did not reach the 10% threshold, despite receiving over 45 % of the votes in five of Turkey's 81 provinces.

Minorities have been subject to certain discriminatory practices by the authorities. There have been complaints that state-issued school history books are responsible for inducing feelings of hostility towards minority groups. Moreover, in April 2003, the Ministry of Education issued a circular requiring schools to organise conferences and essay competitions on controversial historical events related to the Armenians, Greek Pontus and Assyrians.

Greek schools faced restrictions in recruiting teachers and having teaching materials approved, which adversely affected the teaching of the language. Those religious minorities not usually associated with the Treaty of Lausanne (those other than Jews, Armenians and Greeks) are still not permitted to establish schools. This is a particular concern for the Syriac community.

Parents belonging to different religious minorities have encountered difficulties in enrolling their children in religious minority schools. Children can only attend such schools if their father is registered as belonging to that religious minority.

On Roma, legislation stating that nomadic gypsies are among the five categories of people not admitted to Turkey as immigrants is still in force. Some Roma communities report the persistence of strong prejudice leading to social exclusion.

The state of emergency in the two remaining provinces of Diyarbakır and Şırnak was lifted on 30 November 2002 putting an end to almost 15 years of emergency rule in the East and Southeast of Turkey. After the lifting of the state of emergency, budgets, assets and personnel of the Administration were transferred to governorships. With a government decree in February 2003, a number of new governors were appointed in the region.

In April the Constitutional Court annulled the Law Decree No. 285 of the Emergency Rule Administration Law, which prevented judicial recourse against decisions of the emergency rule governor.

The lifting of the state of emergency had a positive psychological impact in the region in spite of increased tension caused by the events related to the Iraq war with the deployment of military units and concern about a possible resurgence of terrorism. Although the security situation has continued to improve in recent months, there have been several armed clashes resulting in casualties, including deaths. Checkpoints are still present in the area but controls are scarcer than in the past and the military presence less visible.

In an attempt to foster social peace in the region, Parliament adopted a law on "social reinsertion" which entered into force on 6 August 2003. The law provides for a partial amnesty and reduction in sentences for persons involved in the activities of an illegal organisation. The law excludes the leaders of the organisation as well as those who have committed crimes. According to official figures of September 2003, of 2067 applications 524 prisoners have been released. According to the same sources, about two hundred militants from illegal organisations have surrendered.

Differences are noticeable between provinces such as Mardin, where the situation has gradually been returning to normal, and Bingöl, which was struck by the May earthquake, the destruction of buildings and social unrest, or Şırnak, where the situation seems to have changed very little.

As a result of the improved security, an increasing number of cultural manifestations were authorized and took place with high levels of popular participation. Of particular significance was the celebration of the Diyarbakir, Hakkari and Tunceli Festivals. In a few cases, however, events were banned and incidents with security forces occurred. There are still reports of violations of fundamental freedoms, although these are now more limited in scope.

The situation of internally displaced persons is still critical. A large number of those displaced live in extremely poor conditions on the periphery of cities and larger villages. Social and economic problems remain acute and unemployment rates are very high. Other concerns include the improvement of housing conditions, greater access to educational and health facilities and psychosocial care for women and children. Children are particularly exposed to physical, sexual and drug abuse as well as to police brutality. It is estimated that there are 10000 "street children" in the Diyarbakir area.

Implementation of the Return to Village and Rehabilitation Project has continued, though at a very slow pace and inconsistently, some regions progressing quicker than others. According to official sources, 82000 people were authorised to return to their villages in the period between January 2000 to January 2003. There is, however, concern regarding the lack of transparency and adequacy of consultation in the development of this project and disquiet about the absence of a clear strategy that explains the project aims, scope and budgetary implications. The number of areas where access is still prohibited has been reduced, but authorisation to return is still difficult to obtain. Although limited financial assistance has been provided to some returnees, there is a more general lack of financial resources to support return to villages, to compensate villagers for the destruction of houses or dwellings and to develop basic infrastructure in areas previously subject to armed clashes.

There are reportedly many landmines in the region, which have resulted in casualties.

The issue of village guards remains unresolved. Several incidents have resulted in casualties, including the deaths of some returnees who had been authorised to return to their villages. Judicial procedures have been opened against some village guards involved in murders. Official figures state that 58 551 village guards are still on duty.

Further to a decision taken on 25 December 2002, the Parliamentary Investigation Committee on Human Rights visited several provinces in the Southeast to review the situation in the region after the lifting of emergency rule, including the human rights situation in six cities. The Committee published reports and recommendations on these provinces based on field visits made between 17 and 20 January 2003.

The lifting of the state of emergency has led to a relative improvement in the general conditions in the area, although considerable difficulties remain. Reporting on his May 2002 visit to Turkey, the Special Representative of the UN Secretary General for Displaced Persons noted that an opportunity exists for the international community to work with the Turkish government on the problems related to displaced persons. The report formulates a list of recommendations that could form the basis for a more comprehensive approach on the issue. The Turkish government has started to follow up on these recommendations through some promising initiatives which will involve international partners and NGOs.



## 1.4 Cyprus

The Turkish government has on several occasions confirmed its support for efforts to find a comprehensive settlement of the Cyprus problem through the continuation of the United Nations Secretary-General's mission of good offices and the negotiations on the basis of his proposals. In the course of the enhanced political dialogue with Turkey, and at the EC-Turkey Association Council in April 2003, shortly after the breakdown of talks under UN auspices in The Hague, the Turkish government expressed the hope to see a settlement before May 2004.

The European Council in Thessaloniki of 19-20 June 2003 urged all parties concerned and in particular Turkey and the Turkish Cypriot leadership to strongly support the UN Secretary General's efforts and called for an early resumption of the talks on the basis of his proposals.

On 8 August Turkey signed a framework agreement aiming to establish a customs union with the northern part of Cyprus. Such an agreement which has no validity under international law, would be in breach of Turkey's commitments in its customs union with the EC. The Turkish government subsequently indicated that the agreement would not be ratified or come into effect.

In the *Loizidou* case, concerning the violation of the applicant's right to property and the non-payment of just satisfaction awarded by the Court, in June 2003 Turkey declared its intention to comply by October 2003 with the 1998 judgement of the ECtHR (*see also Section B.1.3. — Human rights and protection of minorities*).

## 1.5 Peaceful settlement of border disputes

Relations between Turkey and Greece continue to evolve positively with both governments making public commitments at the highest level to continued rapprochement. There has also been progress on the signing of bilateral agreements aimed at deepening co-operation between the two countries.

There have been several meetings at the level of high officials between the Foreign Ministries of both countries in the framework of the exploratory talks on the Aegean, in particular on the delimitation of the continental shelf. Next year's December European Council will review the situation relating to any outstanding disputes.

During their meeting in Crete on 26 May, foreign ministers Gül and Papandreou agreed on a number of confidence building measures including exchanges between military academies and military hospitals. Additional confidence building measures have been agreed in July with the decision to exchange personnel between the Partnership for Peace training centres of both countries. Air corridors in Southeastern Europe have been improved by both countries. Both countries also decided to cancel military exercises initially scheduled for the autumn 2003. The signature of the Ottawa Convention on anti-personnel mines and of the Olympic truce has also taken place.

Commercial and economic links continue to deepen. In February 2003 the two countries signed an agreement on the supply of natural gas from Turkey to Greece. An agreement was also signed in December 2002 that the two countries should undertake studies to boost commercial relations. A bilateral agreement on double taxation was signed.

A Greek task force continues to supply technical expertise to Turkey on acquis-related issues.

## 1.6 General evaluation

Over the past year the Turkish government has shown great determination in accelerating the pace of reforms, which have brought far-reaching changes to the political and legal system. It has also taken important steps to ensure their effective implementation, in order to allow Turkish citizens to enjoy fundamental freedoms and human rights in line with European standards. Four major packages of political reform have been adopted, introducing changes to different areas of legislation. Some of the reforms carry great political significance as they impinge upon sensitive issues in the Turkish context, such as freedom of expression, freedom of demonstration, cultural rights and civilian control of the military. Many priorities under the political criteria in the revised Accession Partnership have been addressed.

Progress is being made in streamlining the functioning of public administration and government. The government has, in particular, started reforms with a view to promoting a more transparent management of human resources in the public service. This also serves to strengthen the fight against corruption.

The duties, powers and functioning of the National Security Council (NSC) have been substantially amended, bringing the framework of civil-military relations closer to practice in EU Member States. The role of the Secretary General of the NSC has been reviewed and its executive powers have been abolished. There are still representatives of the NSC in civilian boards such as the High Audio Visual Board (RTÜK) and the High Education Board (YÖK). Full parliamentary control over military expenditures must be ensured both in terms of approving the budget and in terms of auditing.

More efforts are still needed to enhance the efficiency and the independence of the judiciary. Already, the judicial system has been strengthened with the establishment of a new system of family courts. The competence of military courts to try civilians has been abolished. Positive changes have been made to the system of State Security Courts, in particular the abolition of incommunicado detention. However, the functioning of these courts still needs to be brought fully in line with European standards in particular with the rights of the defence and the principle of a fair trial.

On the ground, implementation of the reforms is uneven. In some cases, executive and judicial bodies entrusted with the implementation of the political reforms relating to fundamental freedoms adopted by Parliament have narrowed the scope of these reforms by establishing restrictive conditions, hindering the objectives initially pursued. The government has recognised that the reforms are not being put into practice systematically and has set up a Reform Monitoring Group in order to ensure their implementation.

Turkey has ratified the Civil Law Convention on Corruption, so that on 1 January 2004 it will become a member of the Council of Europe's Group of States against corruption (GRECO). However, in spite of several initiatives, corruption remains at a persistently high level and affects many spheres of public life.

Turkey has ratified major international as well as European Conventions such as the International Covenant on Civil and Political Rights, on Social and Economic Rights and Protocol 6 of the European Convention on Human Rights.

It is, however, of great concern that Turkey has not executed many judgements of the ECtHR, by means of ensuring payment of just satisfaction or reversing decisions made in contravention of the ECHR. One example is the Loizidou case, as it is now five years since the ECtHR ruled on this matter.

The fight against torture and ill-treatment has been strengthened and the Turkish legal system has come closer to European standards in this respect. The scale of torture has declined but there are still reports about specific cases, which continues to cause concern.

The reform of the prison system has continued and rights of detainees have been improved. In practice, the right of access to a lawyer is not always ensured.

The possibility of retrial has been introduced but in practice few cases have been subject to retrial. In the case of Zana and others, retrial has so far largely resulted in a repetition of the previous trial, leading to persistent concerns about the respect for the rights of the defence.

The adoption of the reform packages has led to the lifting of several legal restrictions on the exercise of freedom of expression. The enforcement of the revised provisions of the Penal Code has led to many acquittals although cases against persons expressing non-violent opinion continue to occur. A number of persons imprisoned for non-violent expression of opinion, under provisions that have now been abolished, have been released.

Notable progress has been achieved in the area of freedom of demonstration and peaceful assembly where several restrictions have been lifted. Nevertheless, in some cases of peaceful demonstration, the authorities have made a disproportionate use of force.

As regards freedom of association, some restrictions have been eased, but associations still experience cumbersome procedures. Cases of prosecution against associations and particularly human rights defenders continue to occur.

The law on political parties has been amended to make closure of parties more difficult. However, HADEP has been banned by the Constitutional Court and DEHAP is facing proceedings with a view to its closure.

Concerning freedom of religion, the changes introduced by the reform packages have not yet produced the desired effects. Executive bodies continue to adopt a very restrictive interpretation of the relevant provisions, so that religious freedom is subject to serious limitations as compared with European standards. This is particularly the case for the absence of legal personality, education and training of ecclesiastic personnel, and full enjoyment of property rights of religious communities.

Measures have been taken to lift the ban on radio and TV broadcasting and education in languages other than Turkish. So far, the reforms adopted in these areas have produced little practical effect.

The lifting of the state of emergency in the Southeast has in general eased tensions amongst the population. There has been greater tolerance of cultural events. The programme for the return to villages proceeds at a very slow pace. Serious efforts are needed to address the problems of internally displaced persons and the socio-economic development of the region in a comprehensive fashion and of cultural rights in general.

In the conclusions of the Thessaloniki European Council, and the Accession Partnership, Turkey is encouraged to strongly support the efforts of the UN Secretary General towards a settlement of the Cyprus problem. Turkey has expressed its support on different occasions for a settlement to the Cyprus problem. Turkey has indicated that an agreement aiming to establish a customs union with the northern part of Cyprus will not come into effect.

Relations between Turkey and Greece have continued to improve. Efforts are continuing to put in effect new confidence building measures. Exploratory contacts on the Aegean between the two foreign ministries have also continued.

Turkey decided to give its agreement as a NATO member to the modalities of participation of non-EU European allies in EU-led operations using NATO assets. This has solved a problem which had hitherto hindered the effective launch of the European Security and Defence Policy.

Overall, in the past 12 months Turkey has made further impressive legislative efforts which constitute significant progress towards achieving compliance with the Copenhagen political criteria. Turkey should address the outstanding issues highlighted in this report, with particular attention to the strengthening of the independence and the functioning of the judiciary, the overall framework for the exercise of fundamental freedoms (association, expression and religion), further alignment of civil-military relations with European practice, the situation in the Southeast and cultural rights. Turkey should ensure full and effective implementation of reforms to ensure that Turkish citizens can enjoy human rights and fundamental freedoms in line with European standards.

Furthermore, Turkey should provide determined support for efforts to achieve a comprehensive settlement of the Cyprus problem.

## **2. Economic criteria**

### **2.1 Introduction**

In its 1989 Opinion on Turkey's application for EU membership, the Commission concluded:

*"Turkey's economic and political situation, ... , does not convince it that the adjustment problems which would confront Turkey if it were to accede to the Community could be overcome in the medium term".*

In its 2002 Regular Report, the Commission found that:

*"Turkey has made progress on the functioning of its market economy which should improve its capacity to cope with competitive pressure and market forces within the Union, but is still undergoing the consequences of the two deeply destabilising financial crises."*

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. The analysis in this year's Regular Report takes stock of developments since 1997.

## 2.2 Economic developments

*Economic output has surpassed pre-crisis levels and inflationary pressures have declined. The recovery was mainly based on exports and restocking, while domestic demand only recently started to accelerate. During 2002 and early 2003 the economy has started to recover from the sharp recession in 2001. So far, exports and restocking have been the main sources of growth. Recently, domestic demand appears to have strengthened, which led to a deterioration in the external balance. Inflationary pressures have come down. However, real interest rates have remained high and unemployment has continued to increase. Foreign direct investment inflows have remained negligible. The situation of public finances is improving, although the 2002 general government deficit still amounted to 10% of GDP. The real effective exchange rate has appreciated during the last year, reflecting high interest rates but also improved market confidence.*

<b>Main Economic Trends (as of 30 September 2003)</b>							
<b>Turkey</b>		<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003 latest</b>
Real GDP growth rate	percent	3.1	-4.7	7.4	-7.5	7.8	5.8 1 <sup>st</sup> semester
Inflation rate <sup>a</sup>							
- annual average	percent	84.6	64.9	54.9	54.4	45.0	28.1 Jan-Aug
- December-on-December	percent	69.7	68.8	39.0	68.5	29.7	24.9 Aug-on-Aug
Unemployment rate	percent	6.8	7.7	6.6	8.5	10.4	
- LFS definition							
General government budget balance	percent of GDP	-12.0	-19.0	-6.0	-28.0	-10.0 p	
Current account balance	percent of GDP	1.0	-0.7	-4.9	2.3	-0.8 p	
	million ECU/Euro	1770	-1276	-10631	3792	-1566 b	-3621 Jan.-June b
Gross foreign debt of the whole economy							
- debt export ratio	percent of exports of goods and services	161.7	204.8	201.0	204.4	:	
	million ECU/Euro	69 994	82 283	104 760	111 516	:	
Foreign direct investment inflow	percent of GDP	0.5	0.4	0.5	2.3	0.6 p	
- balance of payments data	million ECU/Euro	838	763	1064	3647	1097 b	219 Jan.-June b

<sup>a</sup> Index not yet harmonised.

<sup>b</sup> Source: Website of the National Bank.

P= provisional figures

Source: Eurostat unless otherwise indicated

*Progress on structural reforms has been slow, but the implementation of measures adopted in 2001 and 2002 shows encouraging results. The recently established independent regulatory and surveillance agencies have started to work. During the last*

year, the implementation of important structural reforms, such as measures to strengthen the banking sector, has continued. Important new measures were the adoption of a framework law on FDI, a reform of the direct tax law, the establishment of an employment agency and the adoption of a labour law. The liberalisation of the energy market has made important progress. The efficiency of public sector debt management has been improved.

*Social and regional disparities are substantial.* GDP per capita in purchasing power standards has slightly improved from 22% of EU average in 2001 to 23% in 2002. However, income disparities are still very pronounced. Labour market imbalances have deteriorated further. Unemployment has continued to increase, reaching 10.0% in the second quarter of 2003 compared to 9.3% a year before. Unemployment rates vary strongly between 13.2% in urban and 6.3% in agricultural areas. Youth unemployment has increased to more than 20%. In view of a relatively high share of hidden unemployment, the actual imbalance between labour supply and labour demand is probably significantly higher than indicated by official labour market statistics. Despite a significant deterioration in income disparities during recent years, the formation of absolute poverty was avoided. Traditionally strong family ties and the widespread existence of informal casual work are important factors in this respect. As a result of the export driven recovery, regional growth differentials have increased, favouring export oriented regions.

<b>Main Indicators of Economic Structure in 2002 (as of 30 Sept. 2003)</b>		
<b>Turkey</b>		
Population (average)	Thousand	69,626 E
GDP per head <sup>a</sup>	PPS	
	Percent of EU average	23
Share of agriculture <sup>b</sup> in:		
	- gross value added	Percent
- employment	Percent	33.2
Gross fixed capital formation/GDP	Percent	16.7
Gross foreign debt of the whole economy/GDP <sup>d</sup>	Percent	68.9
Exports of goods & services/GDP	Percent	28.8
Stock of foreign direct investment <sup>c</sup>	Million Euro	20644
	Euro per head	296
Long term unemployment rate	Percent of labour force	3.0

P: provisional data

a Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

b Agriculture, hunting, forestry and fishing.

c Data refer to 2000.

Source: Eurostat unless otherwise indicated

### **2.3 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.

*After some initial hesitation, the new government has decided to maintain the current reform programme.* In November 2002, early general elections resulted in the formation of a single party government with a strong parliamentary majority. Although the new government declared broad support for necessary structural reforms, the adoption of necessary reform steps slowed down markedly. The main reasons for this slowdown were a strong focus on political reforms and the crisis in neighbouring Iraq. Despite slow progress, the new government continues to implement the current reform programme, designed by the previous government. The Turkish reform efforts receive technical and financial support from the IMF and the World Bank, with disbursed IMF and World Bank loans accounting for more than 10% of GDP. On 25 July, the government presented a new letter-of-intent, in which it described the near-term implementation of the current reform programme. On 1 August, the IMF board approved the disbursement of the fifth tranche (about EUR 420 million) of the current IMF Stand-By Arrangement. The 2003 Pre-accession Economic Programme confirms the government's commitment to its reform agenda.

*The economic rebound after the 2001 crisis has been strong, based mainly on exports and restocking.* The impact of the Iraq crisis on the Turkish economy has remained limited, indicating improved shock resilience and strengthened market confidence. Real GDP grew by 7.8% in 2002 and reached pre-crisis levels at the end of the year. In the first half of 2003, output growth was 5.8%. The main sources of growth have been exports and restocking. Fixed investment declined in real terms by 0.8% in 2002 but rose by 7.1% in the first half of 2003. The investment-to-GDP ratio declined to 16.7% in 2002 and 16% in the first quarter of 2003, but recovered to 18.5% in mid-2003. Public consumption rose by 5.4% in 2002, reflecting increased election related expenditure in the second half of 2002. In the first half of 2003, public consumption declined by 3%. Despite a temporary increase in oil prices and interest rates, the overall impact of the Iraq crisis on the Turkish economy has remained limited. This is a positive indication for strengthened market confidence and the improved shock resistance of the Turkish economy.

*External accounts started to deteriorate, largely in response to the strengthening economy.* After a current account surplus of 2.3% of GDP in 2001, reviving imports led to a minor current account deficit of 0.8% of GDP in 2002. This trend continued in early 2003, leading to a current account deficit of some 2% of GDP in mid-2003. The main factors for stronger imports were continued restocking, the strengthening of the Turkish currency and the higher oil bill during the Iraq war. On the export side, developments were favourable. Commodity exports rose by 13% in 2002 and tourism revenues reached a record high of 4.7% of GDP. However, workers remittances continued to decline to about 1% of GDP, and inflows of foreign direct investment remained negligible in 2002, amounting to 0.6% of GDP.

*Employment growth could not absorb the increase in the labour force, leading to a continued rise in unemployment.* After a marked deterioration of labour market conditions in 2001, the strengthening economy started to show a positive impact on the labour market. During 2002 and in the first half of 2003 average employment increased by 1.4% (about 300 000 persons), while the number of registered unemployed rose by

about 450 000 persons, leading to a rise in the unemployment rate from 9.3% mid-2002 to 10% in mid-2003. This increase in persons employed or seeking work indicates increasing labour demand. However, at the same time the increase of working age population more than compensated this rise in labour demand. As a result, the labour force participation rate declined slightly in mid-2003, to 49.4% compared to 50.6% in mid-2002. Youth unemployment rose from 16.9% in the second quarter 2002 to 19.6% in the second quarter 2003. The number of working children in the 12-17 age bracket declined significantly, from about 1 million in mid-2002 to 770 000 in mid-2003.

*Inflationary pressures have reached a historic low.* In 2002, average consumer price inflation was 45%, compared to 54% the year before. The end-year consumer price inflation was 29.8%, which was significantly below the target of 35%. During the first eight months of 2003, average inflation was 28%, compared to 53% the year before. The main factors for the decline in inflationary pressures have been a strict fiscal and monetary policy, weak domestic demand and the strength of the Turkish currency and public sector wage agreements linked to ambitious year-end inflation targets. A proxy for core inflation, the private sector manufacturing price index, shows a similar declining trend. However, price rises of public enterprises in order to meet fiscal targets and increases in administrated prices could undermine this downward trend. Despite those risks, reaching the official end-year target for consumer price inflation of 20% now appears possible.

*Monetary policy is strictly oriented towards disinflation, while the exchange rate is floating freely.* Since the abandoning of the crawling peg exchange rate regime on 21 February 2001, base money is the main monetary anchor. Strict limits on the growth of base money and gross international reserves are set in line with inflation targets. During the first half year, the broad monetary aggregate, M3, rose by 31% in nominal terms and by 2.4% in real terms. Once inflationary pressures have sufficiently declined and inflationary expectations have stabilised, the Central Bank plans to move to inflation targeting. Preparations for moving to such a system are largely completed. So far, the increased independence of the Central Bank has helped to regain credibility, which is illustrated in the form of an increasing convergence of inflationary expectations with the year-end target of a 20% CPI increase. Real interest rates have remained high at nearly 20%, reflecting initial uncertainties concerning the policy approach of the new government, and shallow domestic capital markets. The Central Bank has reduced the overnight borrowing rate in several steps from 46% to 29% and the overnight lending rate from 53% to 35%. Mainly due to the sharp depreciation immediately after the abandoning of the currency peg, the value of the Turkish currency now is at about 50% of its pre-crisis level. However, the freely floating exchange rate shows a high sensitivity to market sentiment. The exchange rate appreciated by 10% in the first 2 months after the election of the new government. Rising regional tensions related to the crisis in neighbouring Iraq led to a depreciation of the currency, which reached its peak on 26 March, a few days after the start of the Iraq war. During that period, the exchange rate depreciated against the euro by 21%. Since that time, decreasing geopolitical uncertainty and high interest rates have again resulted in an appreciation by about 12%.

*The fiscal stance loosened towards the end of 2002 and corrective measures were taken only in spring and summer 2003.* 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 of Turkey's determination in maintaining the reform process. Due to the high share of short-term debt, market



confidence immediately affects the financing costs of Turkey's huge debt burden. After the consolidation of public finances had been on track until August 2002, additional election-related spending led to a marked loosening of the fiscal stance. As a result, the 2002 primary surplus target of 6½ of GDP was missed by 2½ percentage points, although the general government budget deficit (according to EU standards) had declined from 28.0% of GDP in 2001 to 10% in 2002. Unfortunately it took the new government until March 2003 to agree on a budget for 2003 including corrective measures and in line with the need to ensure debt sustainability. The budget for 2003 is designed to reach a public sector primary surplus of 6½% of GDP and contains a series of measures to correct the shortfalls during the beginning of the year. The most important measures are increases in alcohol and tobacco excises and motor vehicle and property taxes. In the field of structural measures efforts have been made to rationalise public investment programmes, to contain public employment, to implement a strict wage policy in the public sector and to reduce expenditure growth in the health care sector. Furthermore, the institutional structure has been improved by establishing a public procurement agency and a Treasury office for debt and risk management. However, the 2003 budget includes many one-off measures. A tax amnesty in early 2003 helped to generate short-term cash inflows. In many cases, such tax amnesties prove to have a negative impact on the taxpayer's discipline.

*The government debt ratio has declined but is a serious burden to the functioning of the public sector and to the economy as a whole.* After the 2001 banking crisis had led to a sharp rise in the public sector debt ratio by nearly 50 percentage points, the debt ratio has started to decline (from 105.4% in 2001 to 95% in 2002). The main factors have been a significant primary surplus, strong GDP growth and declining interest rates. The financing costs of this debt burden account for nearly 20% of GDP. The debt service dynamics is closely related to market confidence, with a short-term debt structure and more than 70% of domestic debt linked to short-term interest rates or exchange rate fluctuations.

*Measures to increase fiscal transparency have continued.* During the last year, emphasis has been on the implementation of legislation adopted in 2001 and early 2002, and on adopting amendments in order to strengthen their implementation. One important step in this respect has been the preparation of the *Financial Management and Financial Control Law* which will clarify responsibilities between the various public sector institutions. Furthermore, measures have been taken to better account for contingent liabilities, to monitor more closely expenditure commitments, and to increase the transparency of social security institutions. The *laws on the social security institutions* adopted in July and August are important achievements in this respect.. A functional review of the government has been prepared in order to simplify administrative structures and procedures. The reform of direct taxation has helped to simplify the tax system and to increase the efficiency of tax collection. A new *Public Procurement Law* became effective on 1 January 2003, which will help to increase transparency in this field and will help to fight corruption. Furthermore, a new *Public Finance and Debt Management Law* should help to increase the efficiency and transparency of public debt management.

*The free interplay of market forces has continued to improve.* After some initial uncertainty, the new government has confirmed the independence of sector regulatory and surveillance agencies. Legal restrictions on the reduction of state enterprise employees have been lifted and prices are now closer to market conditions. In the electricity sector, power distribution and generation has been reorganised and is now

licensed by the independent Energy Market Regulatory Authority (EMRA). The privatisation of those entities is under preparation. Although state enterprises are still key players in some sectors, such as banking, the management of those entities is approaching market conditions. State economic enterprises account for about 5% of GDP and about 19% 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 (2½% of total employment). The number of staff in those enterprises has declined by nearly 10% during the last year.

*Price distortions are declining as a result of the withdrawal of public financial support.* In the agricultural sector, the system of support prices has been replaced by a direct income support system (DIS). Electricity prices are now regulated by an independent agency. The share of administrated prices in the CPI basket has declined to about 17% of all 747 basket items.

*Another initiative to accelerate privatisation has been started, but realised privatisation revenues have remained very limited so far.* Overall, the private sector accounts for about 80% of value added, with state economic activities concentrated in some key areas, such as banking, energy and basic industries. After decades of little progress, the new government has launched a new initiative to privatise key state enterprises, such as *TEKEL*, the tobacco and beverage monopoly, and *Türk Telekom*, the telecommunication provider. In addition to those long-term privatisation projects, some more companies have been added to the portfolio of the privatisation agency, such as the Istanbul Stock Exchange and the National Lottery. All together, there are 30 companies in the privatisation programme with a state share of at least 50%. For 2003, the cash revenue target is EUR 1.9 billion (USD 2.1 billion or nearly 1% of GDP). By mid-2003, privatisation revenues amounted to about EUR 24 million. On 1 September, the tender for 88.9% of the Petrol Refinery PETKIM had to be re-launched, after the initial best bidder had failed to make the initial down payment.

*Barriers to market entry and exit have been further decreased.* The relatively high proportion of newly established companies (about 10% of the existing companies) is evidence for low market entry barriers and a dynamic entrepreneurial sector. However, SMEs face serious difficulties in borrowing capital from the financial sector and heavy bureaucracy impedes the swift completion of the necessary legal procedures. Foreign companies frequently have difficulties in dealing with lengthy and complicated bureaucratic procedures. Based on studies on impediments to investment, a number of measures to reduce entry and exit barriers have been taken during the last year. Company registration procedures have been simplified and streamlined, and the recruitment of expatriates has been facilitated. A framework law on foreign direct investment, which was adopted on 17 June, simplifies bureaucratic requirements and reduces the number of procedures for the registration of a new company to three. All procedures can be completed in a day. In order to facilitate the closure of non-viable companies, amendments to the *Execution and Bankruptcy Act* were adopted in July. Currently, the exit of a company from the market takes between 1-2 years.

*The legal system, including the regulation of property rights, is in place. However, the implementation of laws and contracts still needs to be improved.* The legislative process is relatively slow and the time lag between the adoption of framework legislation and of the actual implementing regulations is sometimes very long. Staffing and training of

judicial personnel are not always sufficient which has a negative impact on the swift settlement of commercial cases. Respect for intellectual property rights is not adequate.

*The banking sector has been strengthened, but the restructuring and consolidation process is not yet completed.* Turkish banking sector assets amounted to slightly more than 70% of GDP. Bank lending to the private sector has declined in recent years to about 17% of GDP, while the share of securities has increased to about 30% of GDP. About 90% of the security portfolio consist of government securities. The banking sector currently includes some 50 banks, but in fact is dominated by two state banks, amounting to about one third of the total sector's assets, and a few private banks. In order to prepare the state banks for privatisation, political interference has been reduced and the number of branches has been decreased. However, so far, no privatisation has taken place. The legal framework for mergers and acquisitions has been amended with a view to accelerating consolidation in the banking sector. During the last year, the process of improving the shock resilience of the banking sector has continued. In order to strengthen banking sector surveillance, the independent Banking Regulatory and Surveillance Agency (BRSA) was established in autumn 2000. During the last year, the competence of the BRSA has been enhanced and stricter prudential standards have been implemented. However, the efficiency of banking sector supervision is sometimes impeded by insufficient human resources and the slow speed of legal proceedings. The capital base of the banking sector has been strengthened and systemic weaknesses, such as a high exposure to foreign exchange risks, have been addressed. Most of the non-viable banks, which have been transferred under the administration of the public Savings and Deposit Insurance Fund (SDIF), have been dissolved. In July, the BRSA withdrew the banking licence of a smaller private bank and transferred it under SDIF administration. However, the dispute around the closure of one bank belonging to one of the influential conglomerates proves the need to further strengthen and clarify the legal and institutional framework dealing with banking sector surveillance. The main source of banking income is highly concentrated on interest earnings from government securities, which account for about 50% of total income. As a result of highly profitable and low risk bearing public sector borrowing, credit provision to the private sector has been particularly low. The recapitalisation of state banks, the elimination of non-viable banks and restructuring support in the form of the "Istanbul Approach" has helped to improve the sector's capitalisation. However, the assets of many banks are still vulnerable to a deterioration of their loan portfolio. Profitability of the banking sector improved after the 2001 crisis. Since autumn 2002, domestic currency lending spreads have remained at around 11%, while foreign exchange lending spreads have declined from 4.7% in September 2002 to 3.6% in April 2003.

*The role of the non-banking financial sector has remained very limited.* The sector comprises some 70 insurance companies, with assets accounting for about 4% of GDP. Some 30 investment companies and 270 funds represent net assets of about 1.5% of GDP. The implementation of the recently upgraded legal framework has led to improved alignment with international supervisory and prudential standards. The Istanbul Stock Exchange trades the stocks of close to 300 companies. Its market capitalisation has been above 30% of GDP in recent years, but declined to 19% in 2002. The non-banking financial sector is supervised by the Treasury and specialised agencies, such as the Capital Market Board, established in 1981, or the insurance surveillance board.

### *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.

*Turkey has made progress in improving the functioning of markets and in strengthening the institutional framework for a fully functioning market economy. However, macroeconomic stability and predictability has not yet been achieved to a sufficient degree.* Inflationary pressures have not sufficiently declined to allow economic agents to conduct medium term planning. High real interest rates impede productive investment. The banking sector is channelling financial capital towards the private sector only to a limited degree and the sector's consolidation process is not yet completed. The considerable costs of servicing the huge public sector debt are a considerable burden, absorbing a large fraction of Turkey's economic potential. Efforts to address those remaining issues must be maintained.

*Efforts to improve human capital have continued, although raising the general level of education remains a major challenge.* As a result of decades of insufficient spending on education and human capital development, the overall level of education of the Turkish labour force is relatively low, with only 86% of persons older than 15 years meeting the UNDP literacy criterion. Expenditure levels have been maintained despite the tight fiscal situation. However, expenditure on human capital is only around 3.5-4% of GDP. During the last year, efforts to improve basic education continued. Budgetary appropriations for education and health have been shielded from expenditure freezing measures, and in cooperation with World Bank and the EU various projects have been implemented in order to improve the quality of the educational infrastructure in general and that in disadvantaged regions in particular. Efforts have been undertaken to improve gender equality. However, the overall funding is very limited, given the challenge of upgrading not only basic education but also all higher levels of education and vocational training. The crowding out of public sector spending through unproductive expenditure, such as interest payments to service public sector debt, is thus having a serious negative effect on Turkey's ability to achieve its medium and long-term growth potential and to sustain competitive pressures in the medium term.

*Labour market policies have been brought closer to international standards, although the attention paid to labour market issues is far from sufficient.* The adoption of the labour law in June 2003 has been an important step towards meeting international standards in this field. The legal position of employees has been improved and important workers rights, such as holidays, social protection, flexible working times, severance payments and protection from unjustified dismissal have been officially established. Incentives for formal employment have been increased. However, the number of

employees benefiting from this legislation is still rather low. In order to improve the matching process in the labour market, an employment agency has been established.

*The growth of the physical capital stock is still impeded by economic volatility and debt financing.* Uncertain investment perspectives and the crowding out through public sector financing requirements led to a slowdown in productive investment, resulting in a continued decline in the share of productive overall investment (gross fixed capital formation) in GDP from 18.2% in 2001 to 16.7% in 2002. The share of equipment investment in GDP has shrunk, from 13.4% in 2001 to 12% in the first half of 2003. The lack of domestic investment capital and of foreign direct investment forces companies to finance their investment by retained profits. While internationally operating companies try to tap international capital markets, medium-sized and small enterprises still face serious difficulties in accessing the capital market. Investment in research and development has remained very low at below 1% of GDP.

*Foreign direct investment inflows have remained negligible.* In view of the still high degree of economic uncertainty and bureaucratic procedures, the annual inflow of foreign direct investment has continued to remain well below 1% of GDP. The total stock of foreign direct investment accounts for only about 9% of GDP. This lack of foreign investment hinders the modernisation of the Turkish capital stock, hampers access to international export markets and thus is an important brake on realising Turkey's economic potential. However, during the last year, important steps have been taken in order to improve the legal framework and to simplify administrative procedures. The new framework law on FDI provides the base for further measures to liberalise the inflow of foreign direct investment. In addition, bureaucratic procedures have been simplified and a special agency for investment promotion has been established. In 2002, total FDI inflows accounted for about EUR 1.1 billion (0.6% of GDP). During the first half of 2003, FDI inflows accounted to EUR 0.2 billion (0.1% of GDP). About half of the foreign direct investment takes place in the manufacturing sector, while another 45% is directed towards the service sector.

*Infrastructure investment suffered from budgetary constraints.* As a result of fiscal constraints and capital scarcity, investment in infrastructure continued to decline during the last year. So far, Turkey is relatively well endowed with road infrastructure and energy networks. However, the electricity network is insufficiently maintained and very energy inefficient as a result. The railway system is outdated and needs major upgrading. Due to chronic postponement of modernisation, the state railway company is generating major operating losses, which are a considerable burden on the budget.

*Enterprise restructuring has accelerated.* As a result of the banking crisis and the sharp economic recession, enterprise restructuring has accelerated. In particular in the banking sector, the number of active banks has declined and the number of staff and branches has been reduced drastically. This process is likely to continue, once the expected decline in public sector financing requirements does not offer any more highly profitable and risk-free business opportunities. In the manufacturing sector, the number of liquidated enterprises rose sharply, reflecting weak domestic demand and stricter market surveillance. Bigger enterprises appear to have weathered the crisis significantly better than medium sized companies, benefiting from their access to export markets.

*The long-term transition from an agricultural to a service-oriented economy has continued.* In 2002, the share of employment in agriculture declined from 35.4% in 2001

to 33.2%, while the share of employment in the manufacturing and service sector increased to 23.8% and 43%, respectively. Despite a considerable decline in the share of value added and employment, agriculture still plays a crucial role. As a traditional haven for the unemployed, the agricultural sector has played an important role during the last year in absorbing the social costs of the sharp economic crisis. Reform efforts to modernise this sector have continued, albeit at low speed. The Turkish authorities are currently implementing a World Bank supported agricultural reform programme. The implementation of the new direct income support system is proceeding, resulting in less distorted agricultural prices. At the same time, a programme for improving the production structure and modernising production methods is being carried out.

*Medium, small and very small enterprises have proved to be the stabilising core of the Turkish economy.* Despite the importance of big export-oriented companies and state enterprises, small and very small enterprises with less than 250 employees are the core of the Turkish economy. Benefiting from cheap inputs from the informal economy, these enterprises provide crucial overall stability for the highly volatile Turkish economy. Although they accounted for only about 30% of value added in manufacturing in 2002, they represent about 60% of the sector's employment. About half of employment in SMEs in the manufacturing sector is in micro-enterprises with less than 10 employees. These mainly family-owned enterprises fulfil an important shock-absorbing function for the Turkish economy, as their small scale makes them particularly flexible in adjusting to a changing business environment. As a result of a narrow capital market and the crowding out of private investment by the public sector financing requirement, private enterprises have limited access to credit.

*The reduction of state interference in the economy has continued.* After some hesitations, the independence of the new market regulatory and surveillance agencies has been confirmed and the regulatory framework has been strengthened. However, the new government has intervened on several occasions in order to comply with promises made during its electoral campaign. State subsidies and state aid are declining. Although the number of employees in state-controlled enterprises amounts to only 2½% of total employment (about 450 000 persons in state-controlled enterprises and banks), those enterprises are still very influential in certain sectors. In the banking sector, one third of the sector's assets is in the hands of state dominated banks. In the manufacturing sector fully state-owned enterprises still account for about a quarter of the sector's value added and for about 12% of the sector's employment. In many cases, these enterprises are overstaffed and inefficient. Prices are only partly cost-recovering. As these enterprises are mainly producing inputs to the manufacturing sector, price distortions spread through the whole economy.

*Trade integration with the EU has remained stable and the commodity structure of exports has continued to improve.* Overall trade integration in terms of trade in goods and services dropped in 2002, with the share of exports-in-GDP declining from 33.7% in 2001 to 28.8% in 2002 and the share of imports declining from 31.3% in 2001 to 30.5% in 2002. Trade integration with the EU has remained relatively stable, after the establishment of the Customs Union in December 1995 had led to a sharp increase in the level of trade. Turkish exports to the EU have remained at a level of slightly above 50% of total exports, while Turkish imports from the EU show greater fluctuation, reflecting wide swings in domestic demand. During 2002, Turkish commodity exports in total and exports to the EU both rose by about 6% in nominal terms. Imports from the EU rose significantly faster than total exports, namely by 19.8% compared to 16.3%. In the first

half of 2003, this trend continued. As in previous years, the export structure has improved. The share of advanced industrial commodities has increased, while the share of agricultural products has continued to decline. In particular, the export of motor vehicles has increased markedly during the last year.

*Price competitiveness of Turkish exports was maintained, despite the marked appreciation of the Turkish lira.* Although the real effective exchange rate has appreciated by about 14% since the last Regular Report, the export performance of Turkish commodities has been remarkably resilient. Export-oriented enterprises benefited from a decline in real wages by 6.4% in 2002. As a result, the profitability and competitiveness of export-oriented companies was maintained.

## **2.4 General evaluation**

Turkey has significantly improved the functioning of its market economy, while macroeconomic imbalances remain. Further decisive steps towards macroeconomic stability and structural reforms will also enhance the Turkish capacity to cope with competitive pressure and market forces within the Union.

Economic stability and predictability have increased with a continued decline in inflationary pressures, although these are still high, and the modernisation of Turkey's market regulations and institutions. The positive effects of adopted and gradually implemented structural reforms have helped to withstand the effects of the Iraq crisis without a major economic setback. The independent regulatory and supervisory agencies played a crucial role in this respect. Financial sector surveillance has been strengthened and the base for modern foreign direct investment legislation has been laid. Transparency and efficiency of public finance management has been improved.

The current reform process should be maintained. Fiscal discipline and a stability-oriented economic policy are cornerstones for strengthening market confidence and sustainable public finances. In order to achieve a well-balanced and sound economy, the disinflation process has to be maintained. The restructuring in the banking sector is not yet sufficiently advanced and the process of aligning the sector's surveillance and prudential standards with international norms should be completed. The privatisation of state-owned banks and enterprises as well as market deregulation has to be accelerated, and structural distortions should be addressed. Sufficient public and private investment in productive uses and devoting particular attention to education are important to increase the competitiveness and the growth potential of the economy. The inflow of foreign direct investment has to be encouraged by removing remaining barriers.

### 3. Ability to assume the obligations of membership

This section addresses the question of Turkey's ability to assume the obligations of membership – that is, the legal and institutional framework, known as the *acquis*, by means of which the Union implements its objectives. Alongside an evaluation of relevant developments since the 2002 Regular Report, this section seeks to provide an overall assessment of Turkey's ability to assume the obligations of membership, and of what remains to be done.

This section is structured in accordance with the list of 29 *acquis* chapters, and incorporates an assessment of Turkey's administrative capacity to implement the *acquis* in its various aspects.

In December 1995, the Madrid European Council remarked on the need to create the conditions for the gradual, harmonious integration of the candidate countries, particularly through the adjustment of their administrative structures. Taking up this theme, in Agenda 2000 the Commission underlined the importance of effectively incorporating Community legislation into national legislation, and the even greater importance of implementing it properly in the field, via the appropriate administrative and judicial structures. This is an essential precondition for creating the mutual trust indispensable for future membership.

The Copenhagen European Council in December 2002 underlined again the importance of judicial and administrative reform in the candidate countries, stating that this will help to bring forward overall preparation for membership. Building on the assessment of Turkey's administrative capacity provided in the 2002 Regular Report, the present Report seeks to add further depth and detail, focusing on the main administrative structures required for implementing the various aspects of the *acquis*.

In its 1998 Report, the Commission concluded:

*"Turkey has shown its ability to adopt and implement the bulk of the legislation stipulated in the Customs Union Decision by the deadlines. It must now show a similar determination in those sectors where the obligations have not been met on time. It has already begun the process of alignment on Community laws in most of the areas identified in the European strategy, though much remains to be done, particularly in the field of the internal market (including public contracts), agriculture and the environment. In sectors coming under neither the customs union nor the European strategy, Turkey still has a long way to go regarding the adoption of the *acquis*."*

*While Turkey has undeniably shown that it has the administrative and legal capacity to apply the *acquis* in the context of the customs union, it is not possible at this stage to offer an opinion on its future capacity regarding other areas of the *acquis* which have not yet been transposed."*

In the 2002 Regular Report, the Commission found that :

*"Since the 1998 Report, Turkey has made progress in aligning legislation in the areas covered by the Customs Union. Progress has also been achieved in areas such as the banking sector, telecommunications, energy and agriculture. The financial*



*sector has been restructured and administrative capacity in this field has been streamlined. Little progress has been achieved in other areas.*

*Over the past year, Turkey has further advanced in the areas of internal market, notably in the field of public procurement, as well as in the areas of energy and justice and home affairs. Progress in strengthening administrative capacity to implement the acquis has been limited.*

*Overall, Turkey has achieved a good degree of legislative alignment in the areas covered by the Customs Union, while in other areas this alignment is less advanced. Major discrepancies between the acquis and Turkish legislation remain. Administrative capacity needs to be strengthened. Considerable further efforts are needed.*

*Regarding the internal market, in the area of free movement of goods, the framework law on the free circulation of products adopted in 2001 has entered into force. Various pieces of implementing legislation have been adopted throughout a wide range of sectors. Substantial technical barriers to trade remain. Harmonization activities in sectors such as foodstuffs, pharmaceuticals and cosmetics should continue. Substantial work also remains to be done to establish and improve the functioning of various bodies (standardization, accreditation, and conformity assessment). An appropriate market surveillance system should be established. Despite the adoption of the Framework Law, pre-market surveillance is still in force. Current efforts focus on training of staff and improving the equipment capacity of the relevant bodies. On public procurement, a new law was adopted in May and subsequently amended in June 2002. The law is a significant step in the direction of aligning Turkey's public procurement rules with the Community acquis. Further efforts are needed to address substantial differences between the new law and the acquis. No progress can be reported in the field of free movement of persons.*

*In the field of free movement of capital, important restrictions on foreign investment in various sectors have remained. The implementation of legislation in the field of money laundering should be given greater attention. Turkey's alignment concerning financial services is well advanced, and further progress has taken place in 2001, in the framework of the reorganisation of the financial sector. In the field of non-financial services, there has been no progress, and much work still remains to be done in order to align Turkish legislation with the relevant acquis. In the area of company law, efforts have been made concerning the fight against piracy and counterfeiting. Implementation of the legislation should be further pursued and the Turkish Patent Institute needs to be fully independent. In the field of competition policy, the application of anti-trust provisions remains satisfactory. There has been no progress in aligning Turkey's state aid policy with the acquis and an independent State aid authority should be established as a matter of priority.*

*On agriculture, Turkey has started the registration of land and of live bovine animals. Preparations for a plant passport system have not started. Other elements under the relevant priority of the Accession Partnership have not been addressed. Concerning veterinary and plant health, an alignment strategy is under development. No upgrading of enforcement capacity has taken place. Turkey should focus on the transposition, implementation and enforcement of EC legislation in the veterinary*

*and phyto-sanitary sectors. Overall, progress on alignment with the acquis in the field of agriculture is limited.*

*On fisheries, no progress has been made in alignment with the Common Fisheries Policy. A modernized fleet registration system needs to be established. Major discrepancies with the main elements of the EC's fisheries policy remain, particularly on resource management, inspection and control and market and structural policies.*

*As regards transport policy, Turkey should step up the legislative work necessary to adopt the transport acquis. The administrative capacity to apply and implement the relevant legislation in all sectors should be improved. In many sectors (road and maritime transport in particular), alignment is very partial, resulting mainly from the transposition of international Conventions.*

*On taxation, alignment on excise duties and VAT has started and some progress has been achieved with respect to rates and other exemptions. In the area of indirect taxation, significant further efforts are needed. As for direct taxation, Turkey needs to improve direct tax collection and to eliminate discriminatory measures. Overall, alignment with the acquis in the field of direct and indirect taxation is partial. As regards Customs Union, there is a large degree of alignment on paper, but little effective alignment of practices.*

*In most fields, Turkey's statistical infrastructure is still very different from that of the EU. Co-operation between the Turkish authorities and Eurostat has started recently. Alignment with the acquis has started and substantial efforts are needed.*

*Steps have been taken in the field of social policy and employment, but are not always in full conformity with the acquis. There is an urgent need to develop and strengthen the conditions for a genuine social dialogue at all levels. While some progress has been made, in most areas Turkish legislation is still far from alignment with the acquis.*

*As regards energy, substantial progress has been achieved in the electricity and gas sectors. The two major laws adopted last year have been further implemented and progress has been achieved in establishing an independent regulatory authority for the electricity and gas sectors. Alignment with the acquis is well under way. However, further efforts are needed.*

*In the telecommunications sector, there has been no progress in liberalisation in mobile and fixed markets and the implementation of the legal framework with respect to the dominant operators. Progress has been achieved in adopting new legislation in the field of licensing, interconnection and to some extent on universal service. Further efforts are needed to improve the administrative capacity of the Telecom Authority, in particular in relation to human resources and training. Overall, alignment with the acquis remains limited.*

*As regards culture and audio-visual policy, the new law on broadcasting is not in line with the acquis. Overall, alignment with the acquis remains limited.*

*As regards regional policy, the definition by Turkey of a provisional map for regional development purposes according to NUTS classification criteria has been completed and approved by EUROSTAT. However, the use of this classification for planning*

*and regional policies has not yet started. No effective regional policy strategy in line with the EU standards has been developed. Overall, alignment with the acquis remains limited*

*In the environmental field, legislation to align with the Environmental Impact Assessment Directive has been adopted. Steps have been taken to develop a plan for financing investments. The adoption of a new Regulation on Environmental Inspection represents a positive step towards increasing Turkish administrative capacity to implement the acquis. Overall, alignment with the acquis remains limited*

*On consumers and health protection, alignment is limited and substantial efforts are needed to align the legislation and to reinforce administrative capacity and consumers' awareness.*

*In the field of justice and home affairs, efforts have been made to raise awareness on the legislation and practices of the EU, in particular in areas such as asylum and illegal migration. Further steps have been taken to strengthen the fight against organized crime, drugs trafficking and corruption. The legal basis for combating trafficking in human beings has been established. Alignment with the acquis has started, in particular on visa policy, but substantial further efforts are needed. The fight against illegal migration needs to be drastically strengthened.*

*Concerning external relations, the adoption of the Generalized System of Preferences should be pursued.*

*On financial control, budgetary and financial control mechanisms inside the Turkish administration should be improved. Overall, alignment with the acquis has started and substantial further efforts are needed.*

*Administrative capacity in different areas needs to be strengthened to ensure that the acquis is implemented and enforced effectively. Significant reform at all levels of the administration is required. In some cases, this will entail the establishment of new structures, for example in the field of state aid and regional development. In some areas, new regulatory bodies have been set up. Their autonomy should be assured while at the same time sufficient staff and financial resources need to be made available.”*

### **3.1 Chapters of the acquis**

As indicated, the following review of Turkey’s ability to assume the obligations of membership has been structured in accordance with the list of 29 acquis chapters. Accordingly, 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, justice and home affairs, external policies, and financial questions.

#### ***Chapter 1: Free movement of goods***

##### *Progress since the last Regular Report*

Concerning **horizontal and procedural measures**, Turkey has adopted the basic legislation with a view to introduce the principles of the new and global approach.

In the area of testing and certification, the Ministry of Industry and Trade, the Telecommunication Authority and the Undersecretariat of Maritime Affairs have published guidelines for the appointment of conformity assessment bodies in several sectors under their responsibility.

However, no notified bodies have been appointed yet. The Ministry of Industry and Trade and the Telecommunication Authority signed protocols with the Turkish Accreditation Agency, TÜRKAK, for the evaluation of conformity assessment body applications.

In the area of standardisation, the Turkish Standard Institute has continued to adopt CEN, CENELEC and ETSI standards.

In the area of accreditation, the Turkish Accreditation Agency (TÜRKAK) became a member of European Accreditation in November 2002. However, TÜRKAK has not yet signed the EA multilateral agreement which means that accreditation by TÜRKAK is not recognised in the EU. Accreditation of bodies has started.

As regards **sector-specific legislation**, in the fields covered by the old approach, a further 15 directives have been transposed in the area of motor vehicles and their trailers. With regard to agricultural and forestry tractors, three further directives have been transposed.

In the area covered by the new approach, EC directives have been transposed since the last Regular Report in the areas of radio and telecommunication terminal equipment, construction products, energy efficiency of household refrigerators, lifts, civil explosives and potentially explosive atmospheres. In total so far, the transposition of 20 new approach directives has been achieved. However, the necessary infrastructure on conformity assessment and market surveillance for practical implementation is not yet in place.

As regards the issue of food safety and foodstuffs legislation (*see also Chapter 7 – Agriculture*), transposition of the *acquis* has continued, notably on additives, on labelling, and irradiation. Turkey has made some initial steps in enhancing the administrative capacity to apply the *acquis*; it has for example started to set up the RASFF (Rapid Alert System for Food and Feed). Additional efforts are required to complement and improve the system.

The overall trade regime for pharmaceuticals remains problematic. In particular, no progress has been made since the last Regular Report concerning data protection; Turkey has not adopted any data exclusivity provisions, contrary to its obligations deriving from the EC-Turkey Customs Union.

With regard to the import regime for alcoholic beverages, a decree was published to implement the 2001 Alcohol Act. It is hoped that the interpretation of this decree by the Tobacco and Alcoholic Beverages Markets Authority may lead to improved market access, although the legislation in place maintains import restrictions with a ban on bulk imports, restrictions on ready-to-drink products, burdensome import licensing procedures and a volume threshold for free pricing and distribution.

No progress can be reported concerning the **non-harmonised area**. The legislation on exchange of information on national measures derogating from the principle of the free movement of goods has not yet entered into force. No progress can be recorded concerning the implementation of mutual recognition.

As for **public procurement**, the new Turkish public procurement law, adopted in January 2002, entered into force in January 2003. However, it is not in conformity with the *acquis*. Subsequently, amendments to the law on public procurement were published in August 2003 and new restrictive conditions were introduced. As a result, the new law widened the discrepancies rather than bringing the system closer to the *acquis*.

As for administrative capacity, a legally established, independently functioning Public Procurement Agency has been in place since April 2002 and has started to perform its functions. Since the last Regular Report further staff has been recruited and the agency has conducted training seminars for procuring entities.

### *Overall assessment*

In the framework of the Decision of the EC-Turkey Association Council on implementing the final phase of the Customs Union, Turkey undertook to adopt the Community legislation relating to the removal of technical barriers to trade by the end of 2000, but has failed in fulfilling this obligation.

The requirements for the import of alcoholic beverages constitute serious trade barriers in this sector. Moreover, Turkey applies arbitrarily the provisions of the import regime on second hand cars to different products. These unsettled trade disputes with the EU continued in the reporting period in spite of a number of initiatives by the EU to resolve them.

Turkey has taken important steps to establish conformity assessment and market surveillance infrastructure, from the perspective of legislation and regulation. These steps now need to be followed by the administrative strengthening and restructuring of the relevant government institutions for the actual implementation of the new and global approach directives.

Concerning standardisation, the mandatory standards regime implemented by the Turkish Standards Institute (TSE) continues to create trade barriers, involving pre-market control at the border. Currently, there are about 1 150 mandatory standards for the domestic market as well as for imports into Turkey. Although products bearing CE marking and EU certification are in principle allowed to circulate freely, there are still time-consuming and unnecessary requests for documentation, excessive testing procedures and delays in approval. Overall, TSE has continued to implement the mandatory regime in a non-transparent manner for the reporting period. The mandatory standards should be withdrawn as soon as possible, and at the latest when transposed new approach directives enter into force.

The TSE is responsible for the preparation and publication of standards, industrial metrology and calibration, conformity assessment and certification. It is an affiliate member of both CEN and CENELEC. TSE's application to CEN and CENELEC membership has now been frozen due to the inertia regarding the excessive use of mandatory standards in Turkey. Moreover, TSE is subsidising its standardisation

activities from other activities such as certification and testing; its financial dependency on secondary activities does not allow for clear separation of functions. TSE should meet the same features as the European standardisation institutions: independence, openness, transparency and consensus.

In the area of accreditation, the Turkish Accreditation Authority (TÜRKAK) established in 2000 is now operational and carries out accreditation activities. However, the fact that it is not a signatory to the multilateral agreement of European Cooperation for Accreditation and its accreditation is not yet recognised in the EU makes TÜRKAK less attractive for conformity assessment users, which instead seek accreditation from EU bodies. Moreover, TÜRKAK's efficient functioning is hampered by the heavy organisational structure imposed by the law.

The work on the designation of conformity assessment bodies needs to be accelerated in order to start the implementation of new approach legislation, much of which enters into force soon.

In the area of metrology, although scientific and industrial metrology is well organised and operates efficiently, mainly through the National Metrology Institute, the framework for legal metrology is not clear. The Ministry of Industry and Trade needs further training and technical advice in this field.

Turning to sectoral legislation, the number of sectors where transposition of the *acquis* is already in place has further increased since last year. However, Turkey has still not entirely fulfilled its obligations under the Customs Union, which was already due by the end of 2000.

In sectors covered by the old approach, further progress has been achieved with the adoption of legislation in the field of motor vehicles and agricultural and forestry tractors. There is still no progress on pharmaceuticals, cosmetics and chemicals. In sectors covered by the new approach, the transposition of directives regarding personal protective equipment, in vitro diagnostic medical devices, packaging and packaging waste and cableway installations is still pending and alignment of already transposed legislation with the *acquis* remains to be confirmed.

Overall, the regime for pharmaceuticals remains problematic in the areas of intellectual property rights, market authorisation, pricing policy, the reimbursement scheme and discrimination in favour of local products remains in force.

Turkey has made some progress in the adoption of food safety legislation, mainly as part of the Turkish Food Codex. Turkey should continue its efforts to achieve full harmonisation with the *acquis* and to enforce the implementation of legislation on all areas concerning food legislation, and in particular Hazard Analysis Critical Control Points (HACCP) and good manufacturing practice controls. Also better co-ordination of food safety activities of the Ministries of Agriculture and of Health should be achieved. Food safety controls in Turkey require much reinforcement.

Turkey should gradually prepare the administration and the food operators for the new rules. Turkey should improve its irradiation facility and bring its legislation on irradiated foodstuffs in line with EC law; take appropriate measures to prevent aflatoxin contamination in hazelnuts and dried figs; and accelerate the accreditation of laboratories and improve storing conditions. The strengthening of the regional inspection services

with appropriate information technology should be pursued. A control and analysis capacity needs to be put in place dealing with genetically modified and novel food.

In the non-harmonised area, substantial work remains to be done as regards the identification of barriers to the free movement of goods, the implementation of the mutual recognition principle and the adoption of legislation to implement the accompanying instruments in this area.

As for public procurement, considerable efforts and legislative changes, both in framework and implementing legislation, are still needed to ensure alignment. A number of discriminatory provisions against non-Turkish bidders remain. Through the amendment published in August 2003, a large number of procuring entities have been exempted from the scope of the law and bidding periods were reduced considerably, limiting competition and full transparency. Turkey should align conflicting conditions with the *acquis* without delay.

As for administrative capacity the Public Procurement Agency has currently around 170 staff. Since January 2003, approximately 5 000 new tenders have been announced, both in accordance with and using the procedures of the new law. As of June 2003, the Public Procurement Authority had received 233 complaints (140 services, 74 supplies, 19 works), of which 144 have been processed. Considerable further investment in the administrative capacity of the procurement authority and the procuring entities is needed to ensure transparent application of the new public procurement regime in Turkey.

### *Conclusion*

Since the last Regular Report, Turkey has made progress in transposing the *acquis*, in particular in terms of sector-specific legislation. However, there has been limited progress in establishing conformity assessment and market surveillance mechanisms and institutions. In public procurement Turkey has backtracked from alignment with the *acquis* through amendments to the public procurement law. Actual improvement in the area of free movement of goods remains therefore limited.

Overall, Turkey's transposition of the *acquis* is advanced but substantial efforts are needed to ensure full alignment and in particular proper implementation of legislation. In the short term, Turkey should focus further efforts on the adoption of instruments aimed at removing technical barriers to trade. Much has still to be done to ensure correct implementation of the *acquis* and compliance with the obligations ensuing from the Customs Union Decision with the deadline of 31 December 2000. In order to optimise the enforcement of adopted legislation, Turkey should abandon the practice of pre-market control of products and develop an adequate market surveillance system. To this end, appropriate institutions need to be established or developed. Further efforts are needed to improve alignment and administrative capacity in the area of food safety. The system of legal metrology needs to be reinforced. Turkey should refrain from introducing new technical specifications differing from those of the EU. Turkey should refrain from intransparent and discriminatory public procurement practices and align the procurement regime with the *acquis*.

## ***Chapter 2: Free movement of persons***

### *Progress made since the last Regular Report*

No progress can be reported in the area of **mutual recognition of professional qualifications, citizen's rights** or the future **co-ordination of social security systems**.

Concerning **free movement of workers**, a law on work permits for foreign citizens was adopted in February 2003. The law identifies different types of work permits (subject to different time limitations and conditions) for foreign citizens. The law states that the time limits will not be applicable to EU citizens as well as their spouses and children, regardless of their EU or non-EU origin.

As regards administrative capacity, no developments can be reported.

### *Overall assessment*

In the area of mutual recognition of professional qualifications, a national occupational standards agency has not yet been established. Legislation reviewing the minimum training requirements for 250 Turkish professions still remains to be adopted.

Different institutions are responsible for authorising access to the professions, partly private sector associations and professional organisations, partly state bodies such as the Board for Higher Education. There is no national co-ordinator yet for the mutual recognition of diplomas and professional qualifications. Legislation needs to be monitored to ensure a distinction between academic and professional recognition and to include simpler procedures allowing for the provision of services. The law concerning work permits for foreign citizens is an important development concerning free movement of workers.

Turkey still needs to review several laws and the role of professional organisations to eliminate restrictions on free movement of foreign workers.

With respect to co-ordination of social security systems, amendments to the current legislation are still needed in order to ensure the proper functioning of the social security system and to ensure its fiscal sustainability. Inefficiencies and cases of irregularities in the pension system and social security institutions are partly due to legal defects and partly to insufficient administrative capacity as reported in last year's Regular Report. Turkey should continue its efforts to stabilise its social security system.

### *Conclusion*

There has been some progress in the reporting period, notably in the area of free movement of workers.

Turkey's alignment with the *acquis* in this field remains limited. Turkey should focus on aligning legislation with all relevant aspects of the *acquis* in this area, in particular in the field of mutual recognition of qualifications and the related introduction of harmonised curricula and training requirements. Measures to develop the necessary administrative structures are still needed. With respect to social security systems, further legal and



institutional reforms are needed to ensure the financial stability and to strengthen administrative capacity.

### ***Chapter 3: Freedom to provide services***

#### *Progress since the last Regular Report*

There have been some developments in the area of **right of establishment or freedom to provide non-financial services**. A law concerning work permits for foreign citizens was adopted in February 2003. The law lays down rules for the issuing of work permits for several categories of employees, including self-employed and foreign citizens employed by foreign investors.

In the field of **financial services**, substantial progress has been made in the banking and securities sectors. Following substantial developments in 2001 and 2002, further efforts have been made concerning the transposition of international accounting standards into Turkish accounting principles in the banking sector. New accounting standards adopted in June 2002 have come into force in October 2003. The Banking Regulatory and Supervisory Authority (BRSA) adopted a set of amendments concerning rules for the functioning of banks and their establishment, as well as implementing rules on auditing of banks and risk management systems. The BRSA also published a communication concerning the evaluation of banks' risks. In addition, BRSA amended the implementing legislation on financial tables of special finance institutions.

Furthermore, the banking sector continues its restructuring under the Bank Capital Strengthening programme.

Concerning securities, the Capital Market Board (CMB) adopted the procedures and principles regarding the record-keeping of dematerialised capital market instruments by the Central Registry in December 2002.

The CMB adopted rules concerning the establishment and activities of portfolio management companies. In addition, it adopted a communiqué regarding investment performance standards and established rules and principles for cumulative voting in general assembly meetings of companies, which are subject to the capital market law. During the reporting period it adopted two sets of legislation regarding principles of non-voting shares and registration of profit and loss participation shares respectively. Furthermore, it set out principles for the establishment and operation of venture capital investment companies in March 2003.

An amendment to the implementing legislation concerning public offerings of capital market instruments was made in February 2003. By this amendment, principles concerning disclosure requirements are set and definitions of investment groups are made. Furthermore, an amendment was made to the communiqué on principles regarding registration and sale of shares. By this amendment, an increase is made to minimum public offering percentages depending on the amount of subscribed capital of companies whose shares will be traded, and a registration system is introduced. In addition, companies are required to present a written report indicating justifications of proposed issue prices in case of a restriction of pre-emption rights.

The CMB adopted an implementing regulation on the principles regarding the establishment and operation of securities markets other than exchanges in March 2003. By this regulation, the CMB is authorised to issue the necessary rules concerning the establishment of securities markets in which SMEs can obtain funds.

The CMB also issued modifications to the communiqués concerning independent monitoring, financial statements in high-inflation periods, and intermediation and intermediary institutions.

In the fields of **insurance** and **information society regulations**, no developments can be recorded. **In the area of personal data protection, no progress can be recorded although legislative preparations are underway.**

### *Overall assessment*

The adoption of the law on work permits for foreign citizens is a positive step to facilitate the freedom to provide professional services. However, various pieces of legislation in different sectors still contain certain restrictions excluding foreigners from the market. A substantial effort is needed to align Turkish legislation with the *acquis* in this respect.

In the field of financial services except insurance services, harmonisation is well advanced and the market is largely open to entry of foreign operators. The reforms in the banking sector are further positive steps.

After the financial crisis of 2001, Turkey substantially restructured its banking sector and harmonised its legislation with the *acquis* and international standards. However, further efforts are still needed, particularly with regard to the state guarantee on deposits and the alignment of the relevant legislation concerning the deposit guarantee scheme. A substantial part of the legislation is in line with the relevant *acquis* and international standards, but the effective enforcement of adopted legislation and prudential standards needs further attention. In this respect, maintaining the independence of the BRSA from external pressures continues to be crucial.

As for administrative capacity, the Banking Regulatory and Supervisory Authority's (BRSA) staff is at present composed of 70 managers and 181 experts. BRSA is financed through contributions to be paid by the banks to the Agency based on their balance sheet total for the preceding year. The BRSA conducts yearly inspections for each bank in Turkey. During the reporting period, a total of 76 on-site inspections were carried out. Reports are published on their website. The licenses of 13 banks were revoked following BRSA's intervention. A total of 6 licenses, including two foreign banks, were withdrawn by the BRSA at the banks' requests.

In the field of investment services, substantial efforts to harmonise the Turkish legislation with the relevant *acquis* and international standards have been made.

The establishment of standards and principles of registration of capital market instruments and the efforts made to get the central registry fully operational are important positive developments. However, the scope of the investor protection scheme continues to be out of line with the relevant *acquis*.

Regarding public offerings, the introduction of a minimum public offering threshold, expressed as a percentage of the total subscribed capital, is an improvement. However,

further efforts are needed to align with the relevant *acquis*. Further progress has also been achieved regarding collective investments, for which previous restrictions have been removed.

During the reporting period, the CMB has achieved an improvement concerning transparency requirements of listed companies and rules securing shareholder rights by adopting principles on cumulative shares and non-voting rights, and through information on performances. However, considerable efforts still need to be devoted to further alignment in this field. Regarding undertakings for collective investments in transferable securities, restriction of founders who may establish mutual funds, responsibilities of custodians and type of investment instruments still need to be aligned with the relevant *acquis*. Further efforts are still needed to align prospectus standards with the EU. With regard to financial intermediation Turkish banks, which wish to engage in equity trading at the stock exchange, continue to do so only through subsidiary brokerage firms.

As regards administrative capacity, the CMB consists of a seven-member Board and has 197 professional experts out of a total number of 427 staff. The CMB regulates and supervises 1 463 institutions. The CMB is a member of the International Organisation of Securities Commission (IOSCO), and has chaired the Emerging Markets Committee of IOSCO since May 2002. The CMB is also a member of the Capital Market Regulatory and Supervisory Consultative Group.

In the field of insurance, the level of *acquis* harmonisation, in particular in comparison with other financial services, is low. Some restrictions to exclude foreigners from the market still exist. The principles on insurance accounting and financial data collected from insurance companies are not in line with the relevant *acquis*. Furthermore, prudential standards should be aligned with the *acquis* and international standards. There are differences between EU legislation and Turkish legislation as regards solvency requirements of insurance undertakings. Turkish legislation does not apply the minimum solvency margin requirements laid down in the insurance directives. The Insurance Surveillance Board is not operationally independent, and the monitoring quality in the insurance sector is low, since the relevant regulations are not fully in line with the *acquis*. The maintained reinsurance monopoly remains a substantial contradiction with the *acquis*. The same goes for the ex-ante tariff control, which still exists and should be abolished to align with the *acquis*.

The insurance sector is regulated and supervised by the Undersecretariat of Treasury in Turkey. The General Directorate of Insurance (GDI) is responsible for the preparation and implementation of legislation as well as for off-site supervision, while the Insurance Surveillance Board conducts on-site supervisory activities. The GDI has a total staff of 34 persons. The Insurance Surveillance Board is composed of a total of 56 staff. Overall, the administrative capacity of the insurance supervisory bodies needs to be substantially increased.

Turkey is encouraged to maintain its current efforts to adopt legislation in the field of data protection in line with the *acquis*, including the establishment of a fully independent data protection supervisory authority.

In the field of information society services the level of alignment with the *acquis* is relatively low, further efforts are required.

## *Conclusion*

Since the last Regular Report, Turkey has made progress in this area, in particular as regards the banking sector and the area of investment services and securities markets.

In the field of professional services, alignment is low and a substantial effort is needed to align legislation with the relevant *acquis*. In the area of financial services, the overall harmonisation level in the banking and securities sectors is high. However, substantial effort is needed to harmonise insurance legislation with the relevant *acquis*. Furthermore, the administrative capacity of insurance supervisory bodies should be strengthened. The current efforts to adopt legislation in accordance with the *acquis* concerning data protection should be pursued, including the need for a fully independent supervisory authority. Further legislation concerning information-society services should be adopted in accordance with the *acquis*.

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

### *Progress since the last Regular Report*

In the field of **capital movements and payments**, a new foreign direct investment law was adopted in June 2003 as part of the comprehensive reform programme aiming at modernising, liberalising, and streamlining the legal, regulatory, and administrative framework on investment which was adopted in December 2001. The new foreign direct investment law repeals the previous law on encouragement of foreign capital of 1954.

The main objective of the law is to encourage foreign direct investment in Turkey by protecting the rights of foreign investors, by liberalising the acquisition of real estate by foreign legal entities in line with Turkish nationals' rights, and by accepting a notification - rather than a permission - based system for foreign direct investment.

As for portfolio management companies and standards (foreign collective undertakings), a regulation was adopted in January 2003 concerning their establishment and activities in the securities market. This regulation allows natural and legal persons of any nationality to establish portfolio management companies in Turkey, provided that the companies have a license, granted by the Capital Markets Board, and fulfil minimum capital requirements. Previously, only banks, insurance companies, brokerage houses, pension funds and employee funds were allowed to establish enterprises for collective investments in transferable securities in Turkey (*See also Chapter 3 – Free movement of services*).

In relation to **payment systems**, no development can be reported this year.

In the field of **fight against money laundering** further progress can be reported. A decree issued by the Financial Crimes Investigation Board came into force in November 2002. The decree provides for banks and private financial institutions to appoint a person responsible for reporting irregularities.

### *Overall assessment*

The new Foreign Direct Investment Law and its implementing legislation constitute positive steps to improve the regulatory investment framework.

Limitations on foreign ownership in a large number of sectors such as civil aviation, maritime transport, port enterprises, radio and television broadcasting, telecommunication, and mining and energy still remain as these restrictions are stipulated in other laws. In addition, foreign-controlled enterprises are prohibited from engaging in real-estate trading.

Concerning institutional investors no restrictions are stipulated, *de jure*, in the insurance law and implementing legislation as regards investment in foreign assets. However, these assets may not be used to constitute compulsory reserves.

As regards administrative capacity, Turkey's General Directorate of Foreign Investment (GDFI) within the Undersecretariat of Treasury is the main governmental body responsible for FDI matters. The GDFI has a staff of 75, and its responsibilities include authorisation and registration (of foreign companies and foreign staff), preparation of relevant legislation, allocation of state aids, promotion of inward FDI, keeping inward FDI statistics, and advisory services for foreign investors.

Regarding payment systems, all directives (on cross-border credit transfers and settlement finality, plus the recommendation on electronic payment instruments) remain to be transposed. Turkey also needs to establish an out-of-court redress scheme to deal with the settlement of disputes between banks and their customers.

In the field of fight against money laundering, Turkey has a functioning financial intelligence unit, the Financial Crimes Investigation Board, with a total staff of over 1 000. Overall, the Board needs to upgrade its paper-based information system and investigation procedures. The implementation of a financial intelligence database is highly recommended ( *see also Chapter 24- Justice and home affairs*).

### *Conclusion*

Since the last Regular Report, some developments have taken place in further aligning legislation with the *acquis*, notably as regards the liberalisation of capital movements.

Overall, alignment with the *acquis* is progressing but further efforts are necessary. In particular, Turkey should lift the remaining limitations on foreign investors, and continue its efforts to modernise, liberalise and streamline the legal, regulatory, and administrative framework on investment. The *acquis* on payments systems and the fight against money laundering needs to be transposed.

## ***Chapter 5: Company law***

### *Progress since the last Regular Report*

Regarding **company law** as such, no particular progress can be reported. A new Company Law, aiming at simplifying the procedures for setting up a company in Turkey, is pending in Parliament. If adopted, the new law will decrease the number of steps for establishing a company from 19 to 3

Concerning **accounting**, the Capital Market Board has adopted communiqués concerning the functioning, and the independence of auditing companies and auditing principles for pension funds.

Since early 2002 no particular developments have taken place in the field of **intellectual and industrial property rights**.

In the area of pharmaceuticals, IPR problems continued over the reporting period. No progress can be recorded concerning industrial property rights.

Administrative capacity has continued to develop during the period, in particular through the Capital Market Board, and training of judges on IPR issues has continued. However, no new specialised courts have been established in addition to the two existing ones (in Istanbul and Ankara).

There are no developments as regards **the Regulation replacing the Brussels Convention** and the **Rome Convention**.

### *Overall assessment*

The Turkish government, through a special committee created for this purpose, is revising the Code of Commerce to bring it in line with the *acquis* including the latest modifications on the First Company Law Directive. Regarding company law, the long pending alignment work needs to be accelerated to produce results in legislation and enforcement.

Concerning intellectual property rights, the Law on Intellectual and Artistic Works needs further amendment with respect to copyright in the information society, *sui generis* database protection, public lending, artists' resale rights and rental rights. No work has been noted in that respect in the last year.

The process of accession to the WIPO Copyrights Agreement and the WIPO Performances and Phonograms Agreement and the Geneva Text of the Hague Agreement on International Registration of Industrial Designs and WIPO Trademark Law Treaty is still pending. The same applies to the Rome and Bern Agreements, which were ratified in 1996 but never published in the Turkish Official Gazette.

Piracy and counterfeiting remains a serious problem in Turkey. According to the industry, the level of book piracy can be as much as 90%, as in the case of English-language text books. Other common forms of piracy concern optical discs with copyright content (movies, music, software, reference materials, etc.). Internet piracy (distribution of pirated media and unauthorized public performances of audiovisual works) is also commonly encountered.

Concerning industrial property rights, the laws adopted in 1995 need to be amended to comply with EC directives. Turkish law on designs should be amended to comply with the *acquis* on the legal protection of designs.

As regards patents, Turkey ratified the European Patent Convention (EPC) in 2000 and has become a party to the EPC. However, Turkey should further align its legislation with the EU and international requirements and ensure effective implementation.

The Turkish Ministry of Culture and Tourism established enforcement committees in all 81 provinces of Turkey in 2002. The Ministry reported that in the first two months of 2003, 15 000 pirated materials including cinematographic and musical works and 1 505 pirated publications were detected and 19 people have been prosecuted.

The fight against piracy is still not effective as suggested by the high level of infringements and the low number of court cases and sanctions applied to offenders. Administrative capacity should be strengthened, with training and more inter-institutional co-operation between the police, customs offices and the judiciary. The previously reported awareness raising campaigns have not led to any significant visibility or impact. Public awareness of the illegality of piracy needs to be increased.

Currently, apart from two specialised courts in Istanbul and Ankara, criminal and civil courts are dealing with IPR cases and excessive delays are encountered in reaching verdicts. Also, Turkey has to ensure the application of appropriate remedies and sanctions in cases of infringement of copyright and related rights.

### *Conclusion*

Since the last Regular Report, very limited progress can be reported.

Despite the measures taken in particular in previous years, overall alignment in the field of company law and intellectual and industrial property rights remains very limited. Both legislative and enforcement measures are needed to tackle piracy and infringements of intellectual and industrial property rights more effectively.

## ***Chapter 6: Competition Policy***

### *Progress since the last Regular Report*

Concerning **anti-trust rules**, the Competition Authority adopted implementing legislation concerning block exemption on R&D agreements. This communiqué aims at clarifying the application of competition rules for undertakings carrying out joint R&D activities and encouraging co-operation between undertakings in this field.

The Competition Authority also published the “Guidelines on the application of block exemption on the vertical agreements” in August 2003. Issues such as selective distribution, agreements between competitors, agreements involving intellectual property rights and agency agreements are also addressed in the Guidelines.

In 2002, the Competition Authority imposed fines amounting to €13.2 million in 16 cases out of 128 cases concluded. The Competition Authority imposed conditions on 6 mergers and acquisitions out of a total of 60 merger cases approved in 2002. Furthermore, the Authority imposed fines amounting to € 18,2 Million in 4 cases out of a total number of 52 cases concluded as of June 2003. In May 2003 the Competition Authority imposed a record fine on the mobile telecom operators Turkcell and Telsim, amounting to €17.8 million, on grounds of abuse of dominant position due to their refusal to provide national roaming.

Concerning administrative capacity, the inspection powers of the Competition Authority have been reinforced. The Authority can now perform on-the-spot inspections with a court order in order to obtain information and documents from companies which are being investigated. In addition, Parliament adopted a law amending the Competition Act, which allows fines imposed by the Competition Authority to be collected immediately, without waiting for the Supreme Court to rule on appeals. This provision allows more effective implementation of the decisions of the Competition Authority. Moreover, the

Authority may no longer retain 25% of the fines imposed. All the fines collected are paid to the Treasury. This provision removes the risks of conflict of interest.

In 2003, in the judicial review process, only 17 cases out of 116 were concluded by the Supreme Court.

No progress has been made on the adoption of **state aid** legislation, or on the establishment of a state aid monitoring authority.

Concerning adjustment of state monopolies, positive steps can be recorded. These consist of the transfer of the regulatory powers in the alcoholic beverages sector, from TEKEL to the Tobacco and Alcoholic Beverages Board and with their publication of the implementing decree for the 2001 Alcohol Act, although the law is not yet fully aligned.

### *Overall assessment*

New implementing legislation, modernised rules on vertical restraints and simplified procedures in conformity with the principles laid down by the *acquis* have been adopted. Pursuant to this legislation, the Competition Authority annulled the implementation of separate block exemption regulations on exclusive distribution, exclusive purchasing, motor vehicle and franchising agreements. Furthermore, the adoption of block exemption regulation on R&D agreements is a positive step.

Even though a substantial part of implementing legislation concerning block exemptions is aligned with the *acquis*, there is still no implementing legislation on rules for agreements of minor importance and horizontal restraints.

The independent Competition Authority consists of an eleven-member board and has a total staff of 317 (24 managers, 84 experts, 15 lawyers and 194 auxiliary staff).

Competition rules are still not effectively enforced with regard to public enterprises, state monopolies and companies having special rights. Public authorities responsible for sectoral legislation should complete alignment with the *acquis* as a matter of priority. The Competition Authority should be fully associated with this alignment process.

Moreover, promotion of competition should be taken into account during the privatisation process. Although some improvements have been recorded concerning the enforcement of competition rules in the regulated sectors, in particular telecommunications, the Competition Authority should be more active in promoting greater competition in the regulated infrastructure sectors as well as in the privatisation process. In this respect, the adoption of a protocol between the Competition Authority and the Telecommunication Authority is a positive step. This practice should be continued in order to ensure co-ordination between the Competition Authority and other sectoral regulatory authorities.

In the area of state aid, the legislation on state aid monitoring is not in conformity with the *acquis*, and a state aid monitoring authority needs to be established. This is the major factor delaying the adoption of an Association Council decision on the implementation of competition rules, despite the fact that Turkey is committed under the Customs Union to align and set up a state aid monitoring authority.



This is hindering the proper implementation of competition rules, resulting in potential competition infringements in markets via the allocation of public resources. Besides, the absence of reporting of state aids based on the EC standards reduces the transparency of financial transactions between the state and undertakings.

As regards undertakings with special or exclusive rights, the publication of the implementing decree contributes to improving the competition conditions in the alcoholic beverages sector. However, the primary legislation of 2001 does not provide a basis for an even playing field. Therefore, amendments to the primary legislation are necessary.

### *Conclusion*

Since the last Regular Report, some progress has been achieved in the area of anti-trust.

Overall, harmonisation in the field of anti-trust rules with the *acquis* and the obligations deriving from the Association Council Decision establishing the Customs Union is high. However, further efforts concerning alignment in block exemptions, adjustment of state monopolies and companies having exclusive and special rights is needed. Turkey should urgently adopt legislation concerning state-aid monitoring and establish a state-aid monitoring authority.

## ***Chapter 7: Agriculture***

### *Progress since the last Regular Report*

Agriculture in Turkey accounted for 11.5% of GVA in 2002<sup>8</sup>, as compared to 12.1% in 2001. A third (33.2%) of the Turkish labour force worked in the agricultural sector in 2002<sup>9</sup>. This figure is similar to that for the previous year.

In 2002, the overall level of agricultural trade<sup>10</sup> between Turkey and the EC remained stable. Turkey's exports to the EU fell somewhat, from €2.192 million in 2001 to €1.992 million, while its imports from the Community increased from €773 million to €941 million. EU imports were again dominated by fruits and nuts (though these were down on the previous year), followed by vegetable and fruit preparations. Key growth areas for EU food exports were cereals, oil seeds and dairy products. The Turkish Government continued to implement the new agricultural policy adopted in the year 2000. Key elements of this policy are direct income supplements to farmers, export refunds on a number of agricultural and processed agricultural products, the phasing out of input and credit subsidies as well as a crop substitution scheme for tobacco, tea and hazelnuts. Some crops, such as sunflowers, still enjoy high price support. Other complementary measures of the policy are the restructuring of the agriculture sales co-operatives and co-operative unions and the privatisation of state-owned food enterprises.

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<sup>8</sup> The source for all agricultural statistics is EUROSTAT unless otherwise specified.

<sup>9</sup> National Labour Force Survey (LFS) data, not yet harmonised with the EC's LFS. Agricultural employment is defined in LFS terms as economically active persons who earn a significant part of their income from agriculture.

<sup>10</sup> Source of trade figures: WTO definition of agricultural products, figures from EUROSTAT COMEXT (see U.E. 12.15: Commerce des produits agricoles 1998-2000, 1 Partie D.G. AGRI/G.2 Analyses quantitatives, prévisions, statistiques, études, 2001, pp. 10-57 et 86-89).

62% of farmers have participated in the direct income support scheme, which led to total payments of about €1.28 billion (about €68.4/hectare independent of crop type) to farmers in 2002. By the end of 2002, the implementation of the main elements of the reform had significantly reduced artificial incentives for inputs and production of particular crops and reduced annual budgetary subsidies by about €5.13 billion in 1999 to €0.94 billion (0.5 % of GDP).

In total, state support to agriculture, including rural development, represented in 2002 about 1.3 percent of the State budget.

The Government has been implementing a nation-wide farmer and farmland registration system. Approximately 2.5 million farmers (about 62% of the total) and approximately 16.4 million hectares of farmland (about 74% of the total) have been registered.

### **Horizontal issues**

Transposition and implementation of the *acquis* have in general not started with regard to horizontal issues which includes such areas as the paying agency, the Integrated Administration and Control System (IACS), quality policy, organic farming, the Farm Accountancy Data Network and trade mechanisms.

The new agricultural policy, however, supports and develops policies and structures that could serve as building blocks in the establishment of the EU systems of direct payments and IACS. This is the case for the introduction of direct income supplements for farmers, the emphasis on the registration of land and farmers, as well as the identification and registration of bovine animals.

Concerning organic farming an implementing regulation was published in 2002, which although a positive step does not include all *acquis* provisions. A commission for organic farming has been formed in the Ministry of Agriculture, but administrative capacity and procedures need to be further developed.

### **Common Market Organisations**

Transposition and implementation of the *acquis* have in general not started with regard to common market organisations. The restructuring of agricultural sales co-operatives and co-operative unions could constitute an important basis for taking over the *acquis* requirements in certain of the common market organisations, notably as regards fruit and vegetables. A draft law on agricultural producer organisations is pending approval.

### **Rural development, agro-environmental measures and forestry**

Transposition and implementation of the *acquis* have in general not started with regard to rural development, agro-environmental measures and forestry.

### **Veterinary and phytosanitary issues, including food safety**

Transposition and implementation of the *acquis* in the *veterinary field* are in general at an early stage. Some progress has been made in specific fields, notably the new *acquis*-aligned regulation on identification, registration and monitoring of bovine animals, which entered into force in October 2002. Under the combined old and new legislation approximately 7 million bovine animals have been identified and registered in a database

by June 2003. The number of holdings registered is 1.2 million. Other developments include the adoption of a communiqué concerning compulsory notification of animal illness (November 2002) and two animal health regulations concerning poultry *Salmonella* spp. and Transmissible Spongiform Encephalopathy and sheep/goat scrapie (May 2003).

*Animal health* remains a matter of serious concern (foot and mouth disease, blue tongue, sheep and goat pox, and brucellosis). However, efforts are being continued to strengthen the control of animal diseases. Monitoring programmes, introduced last year in the border regions, are continuing, is the control of animal and animal product movement. Disease-specific information manuals have been produced and distributed, and training seminars have been implemented. The enhanced BSE surveillance system, which started last year in Turkey, is continuing. Up to June 2003, approximately 1,500 different BSE diagnostic tests had been carried out. A positive development took place in May 2003 when the World Organisation for Animal Health (OIE) included Turkey in the list of countries free from rinderpest. Two regulations were adopted concerning artificial and natural insemination as well as the transfer of ovum and embryo (in November 2002) and bee-keeping (in May 2003).

In the area of *public health protection*, a number of implementing acts were issued. These are a regulation on working and inspection principles of poultry meat and meat product establishments (published in April 2003); a regulation on the licence for veterinary pharmaceutical and medical preparations (April 2002) and a regulation on prohibited substances for animals which have a value as foodstuff (December 2002).

A draft law on *animal welfare* is currently before Parliament.

On *animal nutrition*, two pieces of legislation covering production, import, export, sale and use of additives in feeding-stuffs and premixes were adopted in December 2002 and January 2003.

As regards the **phytosanitary sector**, transposition and implementation of the *acquis* is in general at an early stage. Some progress has been made in specific fields, in particular, in the area of *plant health (harmful organisms)*, where four potato communiqués (on the control of ring rot disease, cyst nematodes, wart disease and brown rot disease) entered into force at the end of September 2002. These regulations are in line with the relevant *acquis*.

As regards *seeds, propagating materials and plant variety rights*, implementing legislation concerning the inclusion of new seed varieties and an amendment to the registration of plant varieties were adopted in May 2003. This legislation is partly in line with the *acquis*. The Variety Protection Law has been approved by the International Union for the Protection of Plant Varieties (UPOV), which is an important step for Turkey to become a signatory to the UPOV Convention.

In the sector of *plant protection products*, new legislation on the placing on the market of products has led to transposition of certain parts of the *acquis*.

In the field of *plant hygiene*, which is of particular interest for Turkey, an action plan is being implemented to fight aflatoxin in hazelnuts, pistachio and dried figs. About 90 official food inspectors have been trained in 2003 on mycotoxins in foodstuffs and toxicology, sampling methods for aflatoxins and ochratoxin-A and on basic principles of

Hazard Analysis and Critical Control Points (HACCP) legislation and inspection. Sampling equipment and big capacity grinders were purchased, especially for provinces important with respect to aflatoxin analysis.

As regards food safety inspection and control capacity (*see also chapter 1 – Free Movement of Goods*), some progress has been made. New laboratory equipment was purchased and a new strategy adopted aiming at increasing the efficient usage of laboratory resources. The number of inspections for official food control varies for different provinces and there is no standardised approach for inspection among the different provincial authorities.

### *Overall assessment*

The new agricultural policy should be further implemented, in particular as regards the direct income supplements for farmers, the registration of land and farmers and the identification and registration of bovine animals. These measures will assist in the modernisation of Turkish agriculture and could also become building blocks in the establishment of the Common Agricultural Policy, in particular the paying agency, IACS and the common market organisations. However, in general, implementation of the *acquis* has not started as regards horizontal issues, common market organisations and rural development. Turkey should be encouraged to start this process and thus to build up the administrative capacity that will be necessary to take on the tasks related to the Common Agricultural Policy. The first priority in this regard should be the creation of a rural development strategy aimed at the restructuring and development of the agricultural and rural sectors, including the introduction of agri-environmental measures. Restructuring of the agriculture sector will greatly facilitate the adoption and the implementation of specific CAP mechanisms. Another useful step, which would serve to support Turkey's national system of direct payments, would be to start work on the building blocks of the IACS and Paying Agency structure. Finally, Turkey should be encouraged to continue its work taking over the *acquis* for organic farming and on strengthening the related control and certification bodies.

Concerning the veterinary field, Turkey should focus its efforts on building up administrative and control capacity along the lines of the EU *acquis* and to continue the efforts to improve the situation as regards animal disease control. In particular, it is necessary to establish OIE standards in diagnosis and test methods, to increase the analysis capacity of veterinary laboratories and to achieve their accreditation. Vaccine quality control and production and delivery mechanisms should be strengthened. Studies concerning contingency plans for OIE A List diseases need to be completed and tested. Disease surveillance and eradication programmes and epidemiological capacity should be strengthened and their scope broadened, through upgrading of equipment and training of veterinarians and other staff.

Turkey is encouraged to develop a national plan for upgrading agri-food establishments along the lines of the relevant *acquis*.

The basic veterinary structure is satisfactory. However, it should be adapted to accommodate modern information systems and increased resources should be made available. A strong epidemiology and information technology unit should be established at headquarters for monitoring systems and surveys, developing disease eradication plans and conducting risk analyses. The long-term veterinary border inspection posts and

controls along the border in Turkey should be modernised in terms of facilities, equipment and trained veterinary staff.

In the phytosanitary sector Turkey should focus its efforts on building up its administrative and control capacity along the lines of the EU *acquis* and continue efforts as regards harmful organisms and the use of plant protection products. An increase in human and capital resources appears necessary in order to achieve this aim. It is advisable to establish new, or to refurbish existing, plant health laboratories as well as sufficiently equipped border inspection posts for agricultural products. The laboratory capacity for residue monitoring and control of plant protection products should be upgraded.

Turkey has made some progress in the adoption of food safety legislation, mainly in relation to the Turkish Food Codex. Adequate training of staff and harmonisation and standardisation of sampling and testing procedures are needed. Turkey is encouraged to establish and implement rapid alert systems, risk assessment, technical and hygienic improvement of food processing establishments through. Co-ordination of food safety activities carried out by the Ministries of Agriculture and Health should be pursued.

### *Conclusion*

The continued efforts regarding direct payments to farmers and the registration of land and farmers as well as identification and registration of bovines provide useful building blocks for the IACS and Paying Agency structure but these steps should be further pursued. In general, the major task of implementing the *acquis* on horizontal issues, common market organisations and rural development has not yet started. Efforts should therefore be enhanced in this regard, most importantly through the creation of a rural development strategy to restructure and modernise the agricultural and rural sectors.

Progress has been made in specific parts of the veterinary and phytosanitary fields, in particular as regards animal disease control, identification and registration of bovine animals and harmful organisms related to potatoes. Transposition and implementation of the *acquis* in these fields are however at an early stage and it will require substantial efforts to achieve full compliance in these sectors. Particular efforts should be put on increasing the administrative capacity and upgrading control and inspection systems and the upgrading of agri-food establishments.

## *Chapter 8: Fisheries*

### *Progress made since the last Regular Report*

Since the last report, minor progress has been made in the area of **resource and fleet management** and **inspection and control** including the amendment of the fisheries regulation of 1995 (published in November 2002). The measures taken aim at bringing microbiological, chemical, toxicological and organoleptic parameters and tolerance levels in line with the EU criteria. Turkey has advanced in taking preparatory measures to align its legislation and institutions with the *acquis*. An EU alignment strategy for the fisheries sector over a three-year horizon, focusing on legal, institutional and structural policy reforms, has been finalised by the Fisheries Working Group (which includes representatives of the Fisheries Department of the Ministry of Agriculture and Rural Affairs, the Coast Guard, the State Statistics Institute and other stakeholders). This is

reflected in the National Programme for the Adoption of the *acquis* of July 2003 which gives an outline of all the measures which need to be adopted under the Common Fisheries Policy.

As regards **market policy**, an implementing regulation on the wholesale and retail markets for fishery products has been adopted. A communiqué on tuna fishing and the production of tuna fish was published in March 2003. A circular amending legislation on commercial fishing in seas and internal waters entered into force in February 2003. Two regulations have amended the regulation concerning water products in November 2002 and March 2003.

No developments can be noted in the area of **structural actions** and **state aids**.

As regards **international fisheries agreements**, Turkey is a member of the General Fisheries Commission for the Mediterranean (GFCM). Turkey provides support for setting up a Regional Fisheries Commission for the Black Sea Region.

### *Overall assessment*

In the area of resource and fleet management and inspection and control, Turkey has to step up efforts to reform its inspection and control bodies, train human resources and upgrade facilities and equipment. It has to modernise and align its Fishing Vessel Register to the *acquis*. On the institutional side, fishery competencies are spread over several institutions. This leads to lack of co-ordination and inefficient use of resources and needs to be addressed through institutional reform and the provision of adequate financial and technical means.

In the area of market policy, Turkey should increase its efforts to establish producer organisations, improve licensing and registration of fishing and aquaculture activities, and ensure that enterprises enforce the Hazard Analysis and Critical Control Points (HACCP) system in the areas of fish handling, fish markets and fish processing. There is a need for gathering harmonised fishery statistics and market (including price) information as well as marine biology data.

As regards international fisheries agreements, Turkey's application for membership of the International Commission for the Conservation of Atlantic Tuna (ICCAT) is still pending. However, its recommendations on fisheries management are applied.

### *Conclusion*

Turkey has made limited progress in the area of fisheries. Some preparatory work, especially in the area of inspection and control, has been finalised.

Although a strategy aiming at aligning with the *acquis* in the fisheries sector has been adopted, major discrepancies remain with the main aspects of EC fisheries policy, particularly in areas related to resource management and inspection. The alignment of key legislation with the *acquis* and the organic institutional reform still lie ahead. As regards institutional matters, consideration should be given to the establishment of a separate directorate or an agency for fisheries (including aquaculture) within, or under the control of, the Ministry, with comprehensive and clearly delineated responsibilities.

## ***Chapter 9: Transport***

### *Progress since the last Regular Report*

There have been some first developments with regard to **Trans-European Transport Networks**. In September 2002 Turkey signed with the EU and the countries of Pan-European Transport Corridor VIII a Memorandum of Understanding concerning the promotion of infrastructure within this corridor.

As concerns **land transport**, a Road Transport Law was adopted in July 2003. The Law aims at providing a general framework for both national and international road transport market activities. It requires the adoption of necessary secondary legislation.

Regarding **railways**, no progress can be reported in aligning with the relevant *acquis*.

There have been no particular developments in the field of **air transport**.

In terms of adoption of legislation transposing the *acquis* in the field of **maritime transport**, only very limited progress can be reported.

According to statistics for 2002 under the Paris Memorandum of Understanding, the percentage of Turkish flag vessels detained following Port State control was 18.8%, a decrease compared to its level in 2001 and 2000 (24.5% and 23.8%, respectively). However, Turkey is still on the black list, in the very high-risk category. This compares with an average for EU-flagged vessels of 3.5% in 2002. Efforts should be made to ensure that the Turkish flag is removed from the blacklist of the Paris Memorandum of Understanding.

No substantial developments can be reported in respect of administrative capacity in all of the transport sectors.

### *Overall assessment*

As regards Trans-European Transport Networks, Turkey should start preparing a programme with a view to identifying the main transport infrastructure needs in Turkey and the related transport network projects, in coherence with the TEN–Transport guidelines.

A complete programme has to be adopted by the Government for transposition and implementation of the transport *acquis*, including all modes of transport, with particular emphasis on maritime safety and on aviation safety and security. Turkey should also adopt a programme for adaptation of its maritime transport and domestic road transport fleets to EU standards.

In road transport, identification of the legislative and administrative gaps in the Turkish legislation and adoption of the corresponding action plan, with a clear timetable, remain of the highest priority. Turkey has only ratified various international conventions, and this has not yet been complemented with adequate transposition and implementation of the relevant road transport *acquis*.

Significantly different conditions are still applied to international and domestic transport operations. Legislative arrangements, which are effective for international transport operations, should be extended to cover the domestic part of transport operations, in line with the *acquis* requirements.

The general regulatory framework for the road transport sector in Turkey still focuses only on market access and on rules for admission to the profession, but does not address other crucial aspects of road transport, including other social rules and fiscal and technical rules. The EC requirements on technical and safety standards should also be applied to the domestic fleet. The technical *acquis*, notably on technical roadside inspections, weights and dimensions, speed limitation devices, vehicle registration documents, driving licenses, dangerous goods transport and safety advisers remains to be transposed.

As regards social legislation, the differences between Turkish and EC legislation in respect of driving times and rest periods still prevail. Although vehicles engaged in international transport operations already fall under the above rules, the domestic transport sector is still not covered.

On the fiscal aspects of road transport, the legislation on road-user charges, vehicle taxes as well as state aids needs to be brought into line with the relevant *acquis*.

Concerning the rail sector, Turkey should start aligning its legislation with the revised railways *acquis* in accordance with an action plan to be adopted by the Government. Priority should be given to the restructuring of the entire railway sector, including the re-organisation of the railway administration in line with the *acquis*. This will contribute to the strengthening of the Turkish railway operator's (TCDD) financial position. Subsidies paid to railway operations need to be defined in terms of a public sector obligation and covered by a public sector contract. The role and objectives that the Government expects TCDD to meet when providing such services need to be clear and explicit.

As regards air transport, alignment should particularly focus on air safety and air traffic management. The Joint Aviation Requirements need to be implemented steadily. Turkey is a full member of the Joint Aviation Authorities since April 2001.

On maritime safety, a comprehensive action plan has to be drawn up for the transposition of substantial parts of the *acquis* and implementation must be improved. This should include actions for more effective monitoring of classification societies.

Given that Turkey is still on the Black List of the Secretariat of the Paris Memorandum of Understanding on Port State Control, improving the flag state performance of the Turkish fleet remains a priority issue. Considerable efforts are necessary to decrease the detention rates for inspected ships. According to the Commission's indicative list of ships that should be banned under the new European maritime safety rules, one third of the potentially banned ships would be Turkish flagged. The quality and quantity of Port State Control must also be improved.

No developments can be reported concerning the elimination of existing restrictions applied to Cyprus-flagged vessels and vessels serving the Cyprus trade. Market access to coastal trade remains restricted solely to Turkish-flagged vessels. Turkey must lift existing restrictions applied to Cyprus-flagged vessels and vessels serving the Cyprus trade.



As regards administrative capacity, in all transport sectors but particularly in the field of maritime safety and road transport, attention must be focused on building up the capacity of the relevant administrations, with specific emphasis on strengthening the capacity of the Undersecretariat of Maritime Affairs and the Ministry of Transport. This is essential for ensuring effective implementation and enforcement of transport legislation. Furthermore, the rail transport unit within the Ministry has to be strengthened substantially. Currently, the staff and capacity of the Ministry is insufficient to cope with the *acquis* alignment exercise in the field of rail transport.

No improvement has been recorded in respect of strengthening co-operation among various Turkish administrations responsible for various aspects of road transport. In this regard, more effective co-ordination is essential between the Transport Ministry, the Ministry of Public Works and Settlement and the Traffic Services Unit of the National Police Administration.

### *Conclusion*

Since the last Regular Report, Turkey has made limited progress in transposing the transport *acquis*. A road transport law, which provides the framework for both international and national road market activities was adopted. Furthermore progress has been made with regard to the adoption of technical legislation in the road sector.

Alignment of the legislation with the Community transport *acquis* remains very limited, and calls for the adoption of action plans remain unheeded. Legislative alignment with the *acquis* should start on maritime safety, as well as on road and rail transport. Implementation and enforcement of maritime safety and road transport standards need to be improved, and due attention should be paid to building up the capacity of the implementing administrations. A comprehensive action plan, with a clear time schedule, should be adopted for the transposition and implementation of the transport *acquis*.

## ***Chapter 10: Taxation***

### *Progress made since the last Regular Report*

Concerning **indirect taxation**, developments are very limited. These only concern the area of *excise duties*, where Turkey has increased the ad valorem duty on cigarettes, bringing the total excise duty rate to 55.3% of the retail price, excluding VAT, i.e. closer to the 57% level established in the EU *acquis*. Fuel used for commercial navigation in Turkish waters by Turkish-registered vessels and for specific purposes has been exempted from excise duty.

In the field of **direct taxation** no progress can be recorded.

Limited progress has taken place in the field of **administrative capacity and mutual assistance**. As regards administrative capacity, the use of personal tax numbers was extended to cover a large portion of the taxpayers. An IT project (Tax Administration Automation Project) aimed at increasing the effectiveness and efficiency of the tax administration and of tax collection started to be implemented. The project, which should bring about electronic connection of all tax offices, was implemented in 22 provinces and 10 sub-provinces, covering 50% of the taxpayers and 90% of collected taxes.

## *Overall assessment*

In the field of indirect taxation, the structure of VAT is already in place, following the introduction of VAT in 1985. Nevertheless, alignment remains incomplete and further efforts are necessary in a number of areas, notably with regard to the scope of exempt transactions, to the scope and level of the reduced rates applied, as well as of special schemes.

As regards excise duties, partial alignment has been achieved with regard to the structure of the duties and to exemptions. Further alignment is however necessary in this area. Turkey needs to introduce the specific duty on cigarettes, and to change the duty on alcoholic products into a specific one calculated per quantity of product. The levels of the duties are in line with the EU minimum requirements for cigars, cigarillos, smoking tobacco and other tobacco products. However, the levels applied to cigarettes and alcoholic beverages are still well below the EU minima, the exemptions from the duty are only partially in line with the EU *acquis*, in particular for alcoholic products and mineral oils. The duty suspension scheme and in particular the provisions on tax warehouses, has to be adopted. The Tobacco Fund, which has been in force since 1986, stipulating collection of special duty from imported tobacco and cigarettes, is discriminatory and should be abrogated. As regards the recently introduced amendments on fuel used for commercial navigation, Turkey should take into account that the *acquis* does not allow differentiated taxation levels based on origin and that the exemption should be extended to all vessels operating in Turkish waters.

Concerning direct taxation, further efforts are needed to ensure alignment with the *acquis*. Turkey should also focus attention on the Code of Conduct for business taxation.

As regards administrative capacity, while some efforts aimed at improving the effectiveness of tax offices have been taken, by building IT capacity for the tax administration to be able to monitor tax accrual, tax collection, and the personal situation of taxpayers included in the taxpayer's register, Turkey must intensify its efforts to modernise and strengthen its tax administration, in order to increase taxpayers' compliance and to enable it to implement and enforce the EU *acquis*. Also, further efforts are needed, in particular with regard to electronic data transfer and data processing. Furthermore, the geographical coverage of the automation project should be enlarged.

The "tax peace" legislation, which was introduced in 2003, allowing taxpayers to regularise their position vis-à-vis tax offices with substantial discounts on the amounts due, while allowing for the reduction of the backlog of uncollected tax dues, does not provide for the necessary legal certainty that would encourage taxpayer's compliance.

## *Conclusion*

Limited progress has been achieved since the previous Regular Report both in the legislative area and with regard to administrative capacity.

In the legislative area, further alignment is required as concerns VAT, with particular attention to the scope of exemptions and reduced rates applied. As for excises, alignment is required in particular in the structure of the duty on alcoholic and tobacco products, as well as in the scope of exemptions. Also, although some approximation has been achieved, the applied duties are still lower than the EU minima for alcoholic products and

cigarettes. Turkey also needs to implement the duty-suspension movement regime. Moreover, Turkey should make further efforts to ensure alignment in the area of direct taxation and pay attention to the Code of Conduct on Business Taxation. With regard to administrative capacity, although some efforts are being put in place, Turkey should continue modernising its tax administration and strengthen its administrative capacity in order to increase tax collection and to ensure increased taxpayers' compliance.

## ***Chapter 11: Economic and Monetary Union***

### *Progress since the last Regular Report*

A detailed assessment of the various aspects of Turkey's economic policy has been given above, in the chapter discussing the economic criteria. Therefore, this section is limited to a discussion of those aspects of the Economic and Monetary Union *acquis* – as defined by Title VII of the EC Treaty and the other relevant texts - which candidate countries should implement by accession, i.e. the prohibition of direct public sector financing by the central bank, the prohibition of privileged access of the public sector to financial institutions, and the independence of the national central bank. As to the process of liberalisation of capital movements, upon the completion of which compliance with the EMU *acquis* is conditional, this aspect has been covered above, in [Chapter 4 – Free movement of capital](#).

Since the last Regular Report, no further development has taken place on direct **public sector financing by the central bank**.

As regards the **prohibition of privileged access of the public sector to financial institutions**, no developments can be recorded since the last Regular Report.

On the **independence of the central bank**, no further progress can be recorded concerning alignment with the *acquis*.

### *Overall assessment*

Upon accession, Turkey will participate in EMU without adopting the euro as a currency. It will need to implement the necessary changes to its institutional and legal framework.

Turkey is implementing the Central Bank Law which grants increased independence to the Central Bank of Turkey, and can be considered a major step forward. However, the inflation target is still decided in agreement with the Government. Amendments are still necessary to ensure full compliance with the *acquis* in the area of personal and institutional independence, in particular concerning the dismissal of the Central Bank governor and the length of the term of the board. Also, the possibility of a judicial review of a decision to dismiss its members should be considered. The prohibition of direct public sector financing by the central bank, is provided for by the Central Bank Law. However, certain exceptions remain, such as for the financing of the state's expenses in bailing out banks taken over by the Savings Deposit Insurance Funds.

Concerning prohibition of privileged access of the public sector to financial institutions, insurance companies must set aside compulsory reserves proportional to the volume of premiums collected. However, foreign assets may not be counted in these reserves,

therefore insurance companies are discouraged from investing their assets abroad. This constitutes a means of privileged access to financial institutions by the public sector since domestic financial markets in Turkey are dominated by debt papers.

### *Conclusion*

Since the last Regular Report, Turkey has made no progress with adopting the EMU-related *acquis*.

Turkey's legal framework is not in line with the *acquis*. Special attention must be paid to the independence of the central bank by further aligning the Central Bank Law with the *acquis* as far as the determination of the inflation target is concerned as well as other amendments in the area of personal and institutional independence. Provisions allowing direct financing of the budget by the central bank should be removed.

### *.Chapter 12: Statistics*

#### *Progress made since the last Regular Report*

In the field of **statistical infrastructure**, administrative capacity has been strengthened with a decision to increase the number of Regional Statistical Offices from 23 to 26 in order to have one office for each NUTS 2 region.

As regards **classifications**, the Turkish version of NACE Rev. 1.1 (Economic Activities in the European Community) is now available and used for the 2003 General Business Census, which started in March 2003. The adaptation of CPA 2002, the classification of products by activity, and of the Classification of Types of Constructions are ongoing. The implementation of the PRODCOM survey started at the beginning of 2003.

As regards the different **sector statistics**, progress can be reported as follows.

Concerning *demographic and social statistics*, the population projections were revised according to the 2000 Population Census results. In migration statistics, a project run by the Ministry of Interior for getting information on foreigners in Turkey is ongoing. The revision of the Labour Force Survey questionnaire is in progress. The questionnaire for the 2003 Labour Cost Survey has been tested.

In the area of *regional statistics* no substantial developments have taken place during the reporting period.

In the area of *macro-economic statistics*, some progress was made in defining sources for compiling Financial Accounts. Preparatory work in National Accounts for the implementation of the European System of Account (ESA 95) and for using new statistical sources, such as the 2003 General Business Census and the new household income and consumption expenditure survey, is ongoing.

As regards *business statistics*, pilot tests were conducted to study the compatibility of records with the requirements of Business Registers, before the 2003 General Business Census. The census is now being implemented. The Turkish Business Register is still under preparation.

In the area of *transport statistics* no substantial developments have taken place during the reporting period.

Concerning *external trade statistics*, a decision was taken by the State Institute of Statistics (SIS) in June 2003 to carry out a study on the implementation of the Intrastat system, measuring the trade of goods between Member States.

In *agricultural statistics*, the Farm Register is being set up based on the 2001 General Agriculture Census. Data entry of the Agriculture Holding List is planned to be completed in September 2003.

### *Overall assessment*

As regards statistical infrastructure, the existing legislation is under revision and is expected to improve the legislative framework in line with the requirements of the EC *acquis*. SIS still needs to significantly increase the number of staff. Administrative capacity needs further strengthening. The IT equipment is of good quality.

As regards classifications, implementation of the classification of economic activities (NACE) and of the classification of products by activity (CPA) remain priorities. The SIS needs to continue efforts to set up the classification of types of construction (CC), the standard goods classification for transport statistics (NTS) and the classification of functions of government (COFOG). The development of a classification server is also needed.

In the area of macro-economic statistics, the main challenge ahead of the SIS is the move from the UN System of National Accounts (SNA 1968) to the European System of Accounts (ESA 95). Better co-operation between the Ministry of Finance, the Central Bank, the Under-secretary for Treasury and the SIS is a prerequisite for improving government finance statistics. Weighting and coverage of the Harmonised Consumer Price Index (HICP) need to be improved further.

Turkey has been incorporated in some areas into the data collection mechanisms of the European Statistical System. The SIS is setting up the relevant tools to bring the official statistics in line with European Community requirements. However, in the areas of demographic and social, regional, business, transport, external trade and agriculture statistics substantial efforts are still needed in order to meet the requirements of the *acquis*.

### *Conclusion*

Since the last Regular Report, Turkey has made some progress in all statistical areas.

Although Turkey has started to align with the *acquis*, more efforts are needed in view of meeting the main requirements across the different areas. The existing legislation remains to be brought into line with the *acquis* in order to implement the fundamental principles of impartiality and reliability of data, transparency of statistics and confidentiality of personal data. It should also ensure the full independence and autonomy of the State Institute of Statistics (SIS) in methodological matters, techniques and procedures for producing and disseminating data.

## ***Chapter 13: Social Policy and Employment***

### *Progress since the last Regular Report*

In the area of **labour law**, some steps have been taken towards transposing the *acquis*. A new Labour Law was adopted by the Parliament in May 2003 which aims to transpose, at least partially, the *acquis* in areas such as working time, part-time and fixed term work, collective redundancies and protection of employees in cases of insolvency. Concerning child labour, the definition of child labour has been changed. The age limit was increased from 12 to 15 years. The European Convention on the Exercise of Children's rights came into force in October 2002. Within the framework of the ILO/IPEC project, children and youth centres were set up to rehabilitate street children in three provinces.

As regards **equal treatment of women and men**, the new Labour Law introduces some provisions which are partly in compliance with the Directives on equal pay, equal treatment in employment and the burden of proof. It accepts the principle of equal treatment between persons irrespective of sex, as well as racial and ethnic origin, religion and ideology. It also includes provisions for maternity leave.

In the area of **health and safety at work**, the Labour Law states that workplaces employing more than 50 people are obliged to recruit medical doctors and engineers and to establish health units to ensure health and safety at work.

As regards **social dialogue**, the new Labour Law provides for the establishment of permanent tripartite structures, including employer and employee representatives, within the Ministry of Labour and Social Security to draft legislation in the area of social affairs and employment. A first meeting of the Economic and Social Council took place in the reporting period.

In the field of **public health**, limited progress was made in transposing the *acquis* with regard to tobacco products. The Ministry of Health handed over its responsibility in this field to the newly established Tobacco Products and Alcoholic Beverages Market Regulation Board in November 2002. The Ministry of Health continued to receive a low proportion of the overall state budget with 2.42 % in 2003. Following the eradication of polio, the Ministry of Health has launched a measles elimination programme within the context of control of communicable diseases in the country. For the fight against HIV/AIDS, centres are being established at provincial level to provide counselling services to people with HIV/AIDS.

With regard to **employment policy**, average unemployment rose from 8.5% in 2001 to 10.6% in 2002. Female unemployment was 9.9% in 2002, whereas male unemployment was at 10.9%. The overall employment rate in 2001 was 48.9%. The female employment rate slightly increased to 26.3%, while the male employment rate was 67%. The Turkish Employment Organisation (IŞKUR) institutional law was adopted in June 2003. IŞKUR completed the National Observatory Report in co-operation with the social partners. The published report is a detailed analysis of the vocational training system in Turkey and it is to be updated annually. IŞKUR also carried out a background study for the Employment Policy Review. This will form the basis of a Joint Assessment Paper to be drawn up together with the European Commission.

With regard to **social inclusion**, there have been no developments since the last Regular Report. Regarding disabled people, the labour act requires employers with more than 50 employees to hire disabled people.

As regards **social protection**, no developments can be reported.

As regards the fight against **discrimination**, the new Labour Law emphasises the principle of equal treatment between persons irrespective of racial or ethnic origin, sex, religion and ideology. The Job Security Act adopted in August 2002 includes a provision that work contracts shall not be cancelled for reasons related to sex, race, marital status, family obligations, pregnancy, religion, political views, ethnicity and social roots. An amendment to the Act was adopted in May 2003 which limits its applicability to workplaces with more than 30 employees and to employees who have been employed for more than six months.

### *Overall assessment*

In the field of labour law, further efforts to align with the relevant *acquis* are needed. More detailed legislation should be adopted in all areas for full alignment with the relevant Directives. This applies in particular to the Directives on transfers of undertakings, posting of workers, young people at work, health and safety in fixed-term and temporary employment, European Works Councils, the involvement of workers in the European Company, information and consultation of workers, and the obligation to inform employees on the conditions of their contract or their employment relationship. Effective implementation and application of the new Labour Law has to be ensured.

The child labour figure decreased to 749,000 in 2002 from 893,000 in 2001<sup>11</sup>. However, Turkey should accelerate its reform efforts concerning child labour. The institutional and administrative capacity of the Child Bureau needs to be strengthened to perform the duties assigned to it. The draft law on child labour aiming at a partial transposition of the Community *acquis* on the protection of young people at work has to be enacted and enforced.

Turkey should look into and take the necessary measures to enhance the administrative capacity of the Ministry of Labour, the Turkish Employment Organisation and the Child Bureau.

In the field of equal treatment of women and men, the new Civil Code adopted in 2002 has been implemented over the reporting period. Further alignment will be required in particular concerning equal pay, equal treatment in employment, parental leave, and equal treatment in statutory and occupational social security schemes.

In the field of health and safety at work, Turkey should enact framework legislation and the relevant implementing regulations in order to bring the Turkish legislation in line with the *acquis* in this area.

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<sup>11</sup> Source: State Statistics Institute, Household Survey

As regards social dialogue, progress still needs to be made as a matter of priority to create the conditions for a free and genuine bipartite as well as tripartite social dialogue at all levels in line with the *acquis*. As noted already in 2002, Turkey should progress towards establishing full trade union rights including the elimination of restrictive thresholds for forming a trade union branch and the elimination of the requirement of 10% threshold for a trade union to be eligible for collective bargaining at company level. Notably, there are restrictive provisions relating to the right to strike and to collective bargaining in particular for public sector employees. The percentage of the labour force covered by collective agreements is extremely low: it is estimated to be below 15%. No social dialogue exists in most private enterprises, which may limit the proper implementation of the *acquis* at enterprise level. Social dialogue should be encouraged in private enterprises.

At national level, the Economic and Social Council still shows insufficient functioning of the consultation of social partners at national level. Its structural deficiencies, such as the predominant position of the Government, undermine the value of the Council and should be reviewed together with all the social partners. Private sector, public authorities and social partners need to show their commitment to social dialogue and take necessary measures to remove obstacles.

Turkey needs to strengthen its administrative capacity in terms of staff and resources, secretariat facilities for national tripartite and multipartite processes, and registration and analysis of collective agreements.

In addition to mobilisation of new resources in the area of public health, an efficient and effective allocation of available resources is needed to improve the health status of the population, levelling off the disparities of key health indicators according to regional, urban/rural and socio-economic characteristics. Harmonisation with the *acquis* relating to the setting up of a network for the epidemiological surveillance and control of communicable diseases and the related capacity building should be accelerated. More progress is also needed with regard to the tobacco *acquis*.

Turkey should accelerate its efforts to develop a national employment policy in line with the European Employment Strategy. Low employment rates, in particular of women, and high levels of youth and female unemployment are the main challenges. In addition to the problem of official unemployment, the extent of the informal economy also remains a concern. The adoption of the İŞKUR institutional law has been a positive step. However, the lack of adequate human and financial resources does not enable İŞKUR to efficiently carry out its tasks. Its capacity to elaborate active labour market initiatives to combat the high level of unemployment in the country should be strengthened as a matter of priority.

A national integrated strategy on promoting social inclusion, taking into account the EU objectives, needs to be developed. As poverty and social exclusion are multi-dimensional by nature, it is important to promote an integrated approach mobilising various governmental bodies and all relevant stakeholders in the process. It is also crucial to improve and develop social statistics systems on poverty and social exclusion in line with the EU commonly agreed indicators on social inclusion. Further work still remains to be done to improve the situation of disabled people. More importance should be attached to strengthening the administrative capacity of the Directorate General for Disabled People, notably in relation to improving access to education for children with disabilities.



As in 2002, much remains to be done in the field of social protection. The most urgent problems for the social security system are the lack of financial stability due to general macroeconomic imbalances, the presence of an informal sector and administrative and management problems. Turkey is encouraged to take the necessary measures to ensure the financial stability of the social security system and effective co-ordination among the different social security institutions. The administrative capacity of the social security institutions should be enhanced.

As regards discrimination, the Directives on equal treatment irrespective of racial or ethnic origin and equal treatment in employment and occupation irrespective of age, disability, sexual orientation and religion or belief, need to be transposed. Steps should be taken to establish an Equality Body as provided for in the racial equality Directive.

### *Conclusion*

Since the last Regular Report, Turkey has made some progress.

Although the process of aligning with the *acquis* has started mainly in areas related to labour law, much remains to be done in particular in areas related to social dialogue, social protection and promoting social inclusion. The implementation of the new labour law should be ensured. Further efforts should focus on alignment of the national legislation with the relevant *acquis*, in particular in the fields of social dialogue and public health. Promoting social inclusion and developing a national employment strategy in line with the European Employment Strategy still remain a matter of priority. Administrative capacity needs to be strengthened across all sectors.

## ***Chapter 14: Energy***

### *Progress since the last Regular Report*

No developments can be reported with respect to alignment with the *acquis* on **security of supply** and **oil stocks**. Within the Ministry of Energy, the Directorate General Petroleum Affairs is responsible for the determination and implementation of oil stockholding policies as well as overall planning of emergency measures.

As a further step to strengthen energy supply security, Turkey continued its efforts to diversify resources and routes. The Blue Stream pipeline, which connects Turkey with Russia via the Black Sea, was put into operation in December 2002. The engineering studies are under way as concerns the Caspian–Turkey gas interconnector. Turkey’s role as a transit country is of growing importance for the East-West transportation of both oil and gas. Turkey and Greece signed in February 2003 an agreement for the construction of a gas interconnector between the countries. In October 2002 a Memorandum of Understanding was signed by the gas transmission companies of Turkey, Bulgaria, Greece, Romania, Hungary and Austria with a view to further regional interconnections. Concerning oil, the construction of the Caspian-Mediterranean pipeline started in 2003, planned to be operational in 2005.

With a view to future synchronous interconnection of the Turkish power system with the western European electricity networks (UCTE), the Turkish and Greek transmission system operators signed in April 2003 an agreement for the construction of the Babaeski–Filippi link, planned to be operational by end-2006.

Regarding **competitiveness and the internal energy market**, substantial progress has been made in the reporting period. In September 2002, the Energy Market Regulatory Authority (EMRA) started to issue licences for various electricity activities.

Legal alignment continued in this reporting period through the adoption of a grid code, a distribution code, regulations on income and tariffs, auditing and pre-investigation procedures of EMRA.

Since March 2003 eligible consumers are free to select their suppliers. The level of market opening, at 23%, remains the same as during the previous reporting period.

In December 2002 Turkey signed a Memorandum of Understanding aiming at the creation of the Regional Electricity Market in South Eastern Europe. The state-owned wholesaler, TETAS, continues to purchase electricity produced by the state-owned electricity generation company, EUAS, as well as by the private generators under fixed price long-term power purchase agreements. TETAS determines a single wholesale price that is valid for all electricity it sells. The Government undertook in March and April 2003 a revision of the electricity tariff structure. The allocations from electricity charges to the state owned radio and television institution (TRT) have been reduced from 3.5% to 2%. The power charge component of tariffs has been abolished. The excess tariff regime applied for higher consumption has also been abolished. As of April 2003, EMRA introduced a single retailing tariff regime that is applied by all distribution companies.

Losses in distribution (technical losses and theft) remain very high, amounting to 22% of the electricity generated, at a value of € 1.7 billion in 2002. The electricity distribution

company (TEDAS) launched an initiative to tackle the problem of unpaid bills. This initiative provided for the payment of arrears (without any interest) by instalments, thus effectively reducing the amounts due.

The opening of the market in the *gas sector* took place in November 2002. Although the market is now open to competition for consumers with a minimum annual gas consumption of 1 million m<sup>3</sup> per annum and for consumers directly connected to the transmission system, BOTAŞ continues to carry out (international) trade, transmission and storage activities and is the sole supplier on the domestic gas market.

Substantial progress was made in adopting implementing legislation. In September 2002 the licensing regulation was adopted. Further legislation was adopted on tariffs, transmission and distribution networks, facilities, consumer services, auditing and pre-investigation, and internal installations.

As regards administrative capacity, EMRA has been reinforced. 18 junior experts have been recruited, and have undergone a comprehensive training programme on various regulatory matters. Moreover, 40 experts have been recruited on one-year renewable contracts. Additional personnel have been transferred to the Authority from various public administrations. Total personnel, including the supporting staff, reached 282 by mid-2003. Apart from the regulator, there has been some improvement in strengthening of the transmission system operator (TEIAS). A financial settlement unit has been established, which has a key role in proper operation of the contracts market.

As regards **energy efficiency**, progress has been made in aligning with the *acquis* through the adoption of regulations on energy labelling of refrigerators/freezers and ballast for fluorescent lighting. As concerns **renewable energy sources**, the electricity licensing regulation adopted in 2002 requires TEIAS and/or distribution licence holders to assign priority for system connection of generation facilities based on renewable resources. Generators of electricity based on renewable energy resources will get advantageous licence fees.

No particular developments can be reported with regard to **solid fuels**.

In the field of **nuclear energy**, there has been no particular development over the past year. Turkey does not operate any nuclear power plants.

### *Overall assessment*

As concerns security of supply, Turkey already maintains the 90 days of oil stocks as required by the *acquis*, but legislation in this domain still needs to be aligned.

Limitations on the ability of eligible customers to import from producers outside Turkey and of generators to export power to customers outside Turkey have still not been lifted.

Substantial progress in the adoption of implementing legislation represents a smooth move towards the completion of necessary regulatory framework in the electricity market. Further efforts are necessary to ensure genuine competition in the market. In this context the dominant position of the state trading company in the wholesale market and the power purchase agreements need to be addressed. The state generation and trading company continues to be strictly regulated by the EMRA to restrict its anti-competitive

behaviour in the wholesale and electricity balancing market. Although cross-subsidies in the electricity sector are prohibited by the licensing regulation, implementation of this regulation needs to be strengthened, including a timeframe for the phasing out of cross-subsidies.

Full integration into the Internal Electricity Market requires not only legal alignment but also the synchronous physical connection of the Turkish power system with the Western European electricity transmission networks (UCTE). Current restrictions on cross-border trading should be lifted.

Problems with most of the disputed build–operate–transfer and transfer–of–operating–rights contracts (generation and distribution) need to be resolved. Some investors have already brought the matter to international arbitration. Delay in the resolution of this problem discourages potential investors from investing in the Turkish electricity sector.

Despite limited progress, the problem of poor collection of electricity bills should be vigorously addressed. Regarding the gas market, progress in the adoption of implementing legislation is substantial. The initially envisaged level of 80% market opening is ambitious; the privileged treatment of various cities to which gas will be newly introduced causes doubts, because in the city distribution tenders of various cities the minimum gas consumption has been increased to 15 million m<sup>3</sup> per annum.

According to the Gas Market Law, BOTAŞ has to realise the first phase of the envisaged gas release programme in which at least 10% of the existing long-term import contracts of BOTAŞ will be divested. However, no strategic decisions have been taken yet with respect to the implementation of this programme. As concerns the operation of the transmission system, EMRA should continue to pay due attention to the close regulation of access to the network operated by BOTAŞ.

Account unbundling in BOTAŞ should take place swiftly. Cross-subsidies granted to BOTAŞ are still a matter of concern. No specific timeframe is in place for their removal.

Given that proper conduct of transmission activities is of prime importance in creating competitive electricity and gas markets, EMRA should give due attention to ensuring fair and transparent functioning of the transmission system operators.

Although the administrative capacity of EMRA has improved during the last year, it still needs further reinforcement. Due attention has to be paid to budgeting, staffing and salary levels. Organisational revisions of certain units of the Ministry of Energy and Natural Resources are needed to ensure Ministry's quick absorption of its changing role in the energy sector, which is limited to the determination and enforcement of general energy policies and strategies. Further improvement in the financial discipline of utilities, particularly those in the power sector, is essential.

Continued attention will need to be paid to the level of state aid to the hard coal industry. Compliance with the relevant state aid *acquis* needs to be ensured.

As regards energy efficiency, Turkey has advanced in legislative approximation, in particular concerning energy labelling and energy efficiency requirements. However, further efforts are necessary to achieve full compliance with the *acquis*. The Government should adopt a comprehensive energy efficiency strategy. The strategy should set forth a programme for the alignment to the remaining energy efficiency *acquis*, with a clear time

schedule. Greater importance has to be attached to the building sector. An overall renewable energy strategy has to be put forward to achieve increased use of renewable energy sources.

The National Energy Efficiency Conservation Centre under the responsibility of the Ministry of Energy is dealing actively with energy efficiency measures and activities. Dialogue and co-operation with the related governmental institutions are expected to be organised by the Energy Conservation Co-ordination Board comprising the representatives of the related Ministries and the Prime Minister's office. Necessary administrative and institutional arrangements have to be made to ensure that all horizontal aspects of energy efficiency are properly addressed in a variety of sectors such as energy, construction, transport, industry and environment. In order to ensure effective co-ordination and implementation of concerted energy efficiency measures, a framework law for energy efficiency is recommended.

On nuclear energy, Turkey will need to ensure compliance with Euratom requirements and procedures. In this respect due attention should continue to be given to preparing for the implementation of Euratom safeguards by persons or undertakings that operate nuclear installations or store nuclear material, such as universities, hospitals and medical practices.

### *Conclusion*

Turkey has made further progress in aligning its legislation with the Community energy *acquis in particular* by adopting implementing legislation during the last year. This is especially the case for competitiveness in the internal energy market including the opening of the gas market. Some progress has been made also in the area of energy efficiency and renewable energy sources. The administrative capacity in the energy sector has been strengthened.

In all energy fields, however, further efforts are needed to ensure completion of alignment, effective implementation and enforcement of the legislation. Further capacity building of the implementing authorities is essential to ensure effective implementation.

## ***Chapter 15: Industrial policy***<sup>12</sup>

### *Progress since the last Regular Report*

Since the adoption of the last Regular Report, no progress has been made with regard to the development of an **industrial strategy**, since the Turkish Government did by the end of September not adopt the Industrial Policy paper as originally planned.

With respect to public-sector reform, the Government adopted a regulation in March 2003 lifting restrictions on the retirement of public sector workers, thus enabling state economic enterprises to address the redundancy problem, in line with the ongoing IMF programme.

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<sup>12</sup> Developments concerning industrial policy should be seen in relation to the overall enterprise policy, including SME policy (see Chapter 16 - *Small and medium-sized enterprises*).

Further efforts were made in the area of **restructuring and privatisation**, and more particularly as regards public sector reform. Job cuts in state enterprises were carried out mainly through voluntary retirement schemes.

Due to difficult international conditions and the change of Government in November 2002, the Government's privatisation targets were not met in 2002. Total sales reached €500 million.

The Government has announced an ambitious privatisation programme for 2003. Privatisation activities have been carried out in the food, cement, iron and steel, paper, electronics, automotive, textile and wood products sectors. Plants and enterprises in mining, sugar, tobacco and beverages, textiles, paper, fertilisers, oil refining, petrochemicals, basic metals and machinery sectors are still in the privatisation programme. Moreover, the Privatisation Administration is examining the related legislation to include the Istanbul Stock Exchange, the Istanbul Gold Bourse, the National Lottery Agency, and Halkbank in its portfolio. The new programme aims at attracting a wider range of investors and is expected to yield €4 billion in 2003. The Government will concentrate on privatisation of large public companies, but will also sell some medium and small-sized public assets.

No particular developments are to be reported in the area of restructuring of the Turkish steel industry.

A new foreign direct investment law was adopted in 2003. The main objective of this law is to encourage foreign direct investment in Turkey by protecting the rights of foreign investors, by liberalising the acquisition of real estate by foreign legal entities in line with Turkish nationals' rights, and by accepting a notification-based rather than a permission-based system for foreign direct investment.

### *Overall assessment*

Turkish industrial policy is largely in conformity with the principles of EC industrial policy. However, the transposition of these principles into an effective industrial strategy, including implementation and benchmarks, remains weak, also due to the difficult macroeconomic situation in Turkey during recent years.

Foreign direct investment (FDI) plays a particularly important role in the Government's overall macroeconomic stabilisation programme, enhancing the country's competitiveness in the global market and thus stimulating economic growth and income generation. However, FDI remains particularly low, primarily because of macroeconomic instability, but also due to complex legislative procedures and the impossibility for foreign investors to obtain majority shares in certain companies. The new Foreign Direct Investment law, adopted in June 2003, could help to attract new investors.

The Government supports independent regulatory boards such as the Capital Markets Board, the Competition Authority, the Banking Regulation and Supervisory Authority, the Tobacco Board, and the Public Procurement Authority. The independent boards have helped curb political interference in economic management in Turkey by creating a level playing field and transparent rules of the game for investors and protection for consumers in strategic sectors of the economy. They have also contributed to public expenditure management and more effective governance.

The Turkish steel industry has structural problems at both national and individual enterprise level which could not be fully addressed by previous restructuring programmes. Thus, the Turkish authorities asked the EU to extend the period during which public aid could be granted to steel companies to allow further restructuring. Accordingly, the EU required the Turkish authorities to prepare individual business plans and a national restructuring plan. The long-term viability of the main Turkish steel companies will depend on a coherent, clear and rational restructuring programme currently being developed by the Turkish authorities. It should be noted that an important element of any industrial policy is the control of state aid and the compatibility of support schemes with EU rules which will have to be examined (*see also Chapter 6 – Competition policy*).

### *Conclusion*

Since the last Regular Report, Turkey has made some progress in the field of public sector reform as well as with the adoption of a new foreign direct investment law.

Further efforts are needed to restructure state-owned enterprises including privatisation. Restructuring the steel industry remains a high priority.

## ***Chapter 16: Small and Medium-sized Enterprises***

### *Progress since the last Regular Report*

Although a national SME Strategy and Action Plan compatible with EU **SME policies**, such as the European Charter for Small Enterprises (ECSE) and the Multiannual Programme for enterprise and entrepreneurship (MAP), was finalised in July 2003, this document was not formally adopted by the government by the end of September 2003. The implementation needs to be undertaken in a systematic way.

There is limited progress concerning the simplification of the **business environment** and on-line access to information and services. Turkey launched the "e-Turkey" initiative in order to establish the necessary infrastructure in the field of the information-based economy and to encourage use of the Internet. In this respect, the Directorate General of Revenues established the "Internet Tax Office". The main private commercial banks developed significant services, especially for SMEs to increase Internet banking. Several Chambers of Commerce and Industry constituted their web portals to be able to work as a one-stop shop for SMEs on the Internet.

Registration time for SMEs has been reduced and the procedure for registering a company has been considerably simplified.

Technology Development Zones and Centres (technoparks) have been established for the purposes of integrating and enhancing the scientific and technological infrastructure of universities and the private and public sectors, adapting SMEs to new and advanced technologies, and developing new products and production processes.

Access to finance for SMEs is still underdeveloped and remains a significant barrier for Turkish SMEs. The current real interest rates remain excessively high for SMEs to finance their day-to-day business transactions, let alone investments. Alternative forms of financing for SMEs, such as seed capital, business angels and micro-lending, are not

readily available in Turkey. The Capital Market Board enabled venture capital companies to establish themselves as investment trusts.

There are no new developments regarding the **SME definition**, which is not yet in line with the *acquis*.

### *Overall assessment*

The legislation governing the SME sector is complex and lacks co-ordination. SME applications to various public institutions for state support take a long time to process and procedures are cumbersome. More than 50% of the budget of the public institutions that provide support to SMEs is unused. While these public institutions put this down to a lack of demand, SMEs complain about a lack of support.

The Turkish authorities are working on the simplification of the business environment. As part of the "reform programme for the improvement of the investment climate" the number of legal steps to be undertaken for the "formation of a company" has been reduced from nineteen to three stages and are now concentrated in a single centre (chamber of commerce). A committee is working on sector licences, permits, land, acquisition, development and control of plots of land, incentives and taxes, imports, exports, customs, standardisation, intellectual property rights, etc. in order to simplify the business environment. Progress towards establishing "one-stop shops" for enterprises remains very limited. On the other hand the costs for formal procedures to start a company are still too high.

Continued political commitment and support is needed to implement the "SME Strategy and Action Plan". There is currently no formal and regular dialogue between the private sector and public institutions. Active participation of the private sector through the SME task force to monitor and revise the strategy and plan would be advisable.

The benefits and opportunities of the Community programmes - especially MAP - should be actively and clearly explained to raise awareness of the programme.

Turkey should step up efforts to promote entrepreneurship in schools. SME support schemes should be revised to cover not only manufacturing but all sectors, including trade, services and tourism. Institutions administering support schemes should be more effective.

Further efforts are needed to improve the business climate of SMEs, particularly after the recent economic crisis. The reduced domestic demand, high cost of energy, lack of working capital, high interest rates, etc. are still major obstacles for Turkish SMEs.

Complex administrative procedures remain an obstacle to the development of Turkish SMEs. It is crucial that the Government steps up measures to simplify the business environment. A systematic analysis of legal, administrative and technical barriers for SMEs should be made in cooperation with the private sector.

High interest rates and poor access to investment capital remain serious constraints for SMEs. Concessional finance schemes have been launched, but the funds allocated by the Government are insufficient to meet financing needs.



Turkey should align its SME definition on the relevant Commission recommendation.

### *Conclusion*

Since the last Regular report, Turkey has made some progress in following the approach of the EU SME policy.

The introduction of simplified procedures to register and establish a company is a positive development. Furthermore, Turkey is very well endowed with technology development zones and centres. The SME Strategy and Action Plan should be adopted formally and then implemented accordingly. Further efforts are needed to improve business environment and the access to finance for SMEs. Turkey still needs to align its SME definition.

### *Chapter 17: Science and research*

#### *Progress since the last Regular Report*

As of January 2003 Turkey is associated with the **Sixth EC Framework Programme for Research and Technological Development**.

The Turkish Scientific and Technological Research Council (TUBITAK) was designated in October 2002 as the national contact organisation responsible for raising awareness, providing advice, assisting and training potential participants in the programme. The network of national contact organisations is made up of a national coordinator, eleven national contact points for the different areas of the Sixth Framework Programme, a support unit and a number of institutional National Contract Points including various public and private organisations. Since October 2002, Turkey has been taking part in activities of programme committees as observer. Furthermore, since March 2003, Turkey has participated in the board of governors of the Joint Research Centre.

The Turkish Research and Business Office was opened in Brussels to closely follow developments under the Sixth Framework Programme, to establish closer relations with the EC and with the research and technological development offices of other countries, to create exhibition opportunities for Turkish companies and researchers in Brussels, to carry out lobbying activities on behalf of Turkey and to liaise with the National Coordinator as part of the Turkish National Contract Point network. The office is a public-private partnership and its shareholders are the Union of Turkish Chambers and Commodities, TUBITAK, the Small and Medium Size Industry Development Organisation and the Turkish Craftsmen and Artisans Confederation.

TUBITAK has initiated a programme to encourage the Turkish science and research community to become lead partners or partners in consortia. Grants to fund the development of proposals are awarded, ranging from € 2 000 to € 12 000. A similar programme to provide support for study trips and to allow for attendance of meetings abroad with a view to developing projects has continued during the reporting period.

#### *Overall assessment*

The available figures continue to indicate that the level of gross domestic expenditure in research and development as a percentage of GDP is still very low. The number of researchers in Turkey has not increased since the last report, it is still only one tenth of the EU average.

Turkey should continue to focus further efforts on increasing expenditure on research and development and strengthening the role of the private sector and SMEs in research and technology activities. Participation in the Sixth Framework Programme should contribute to these improvements.

### *Conclusion*

Turkey's full association with the Sixth Framework Programme can be regarded as good progress and a proof of the Turkish willingness to accelerate harmonisation of its national science and technology policy with those of the EU.

Even though Turkey's full association with the Sixth Framework Programme is a significant step forward, the result of it still remains to be assessed. Overall, Turkey needs to increase its level of investment in science and research to lay the foundation for the future competitiveness of its economy and to contribute rapidly to job creation.

### *Chapter 18: Education and training*

#### *Progress since the last Regular Report*

Following the establishment in January 2002 within the State Planning Organisation of a department responsible for Turkish participation in relevant **Community programmes**, 32 new staff members have been appointed and seconded from different ministries. This department acts as the future National Agency in charge of the Socrates, Leonardo da Vinci and Youth programmes and it established workplans in co-operation with the Commission and launched the implementation of a whole range of preparatory measures. An amendment to the Law on the establishment and mission of the State Planning Organisation providing for the department's legal status and financial and administrative autonomy to act as the Turkish National Agency was approved by the Parliament in July 2003.

The law aiming at transposing the directive concerning the **education of children of migrant workers** was adopted in November 2002.

As regards the **reform of the education and training system**, the previous Government started implementing measures to increase the length of compulsory education from eight to twelve years by 2005 and the duration of secondary education from three to four years by the academic year 2002/2003. The new Government elected in November 2002 also intends to increase the length of compulsory education to twelve years by 2005, but cancelled the measures to increase the duration of secondary education to four years. The government is making efforts to make vocational schools more attractive and to increase school attendance of children of poorer families.

There has been no progress in developing the compulsory pre-school education for handicapped children in Turkey since the last report.

### *Overall assessment*

As regards participation in Community programmes, good progress has been made, despite considerable delays in the recruitment of staff and in the adoption of the Law giving a legal status to the future National Agency. The law is now in place, but implementing regulations remain to be adopted. The staff appointed to the department has reached reasonable numbers but remains insufficient. Turkey's full participation in the programmes in 2004 is dependent on satisfactory implementation of the preparatory measures under each of the three programmes.

Concerning the education of the children of migrant workers full transposition of the directive remains to be confirmed.

The Turkish education and university system based on the Law on High Education is marked by a high degree of centralisation. Due to the existence of a strong High Education Council (YÖK) responsible for controlling the compatibility of the education programmes with the fundamental principles indicated in the Law on High Education and enjoying broad disciplinary powers concerning rectors and faculty, there is a lack of academic, administrative and financial autonomy in the higher education system.

The Turkish Parliament, which determines the High Education Council budget every year, does not have the authority to inspect its expenditures. The Minister of National Education represents the higher education system in the Parliament and can chair the meetings of the High Education Council but has no voting rights. Furthermore, neither the decisions of the Council nor those taken by the universities are subject to approval by the Ministry. The National Security Council is also represented in the Board of the High Education Council. This structure prevents universities from being more labour market-oriented. The high rate of unemployment among university graduates supports this view. It is necessary to reform the system of education to move universities away from a supply-driven structure to a labour market demand-driven structure.

While a law of 1997 provides for compulsory pre-school education for handicapped children, Turkey's capacity in this respect is insufficient. In the academic 2002/2003 year only 61 children attended pre-school education.

In order to allow poorer families to send their children to school, the Ministry of National Education has decided to distribute course books free of charge at the basic education level in the 2003-2004 academic year. This important measure is expected to enhance especially the attendance of girls.

Whilst the 8<sup>th</sup> Five Year Development Plan was successful in increasing the schooling rate in secondary education, it did not succeed in reducing the proportion of pupils attending general high school in favour of vocational technical schools.

Overall, two main problems in the field of secondary education remain. Firstly, the demand for secondary education is much higher than expected. Secondly, a smaller number of students can be channelled to vocational and technical schools than planned. This is due to insufficiencies on the supply side. University entry exams discriminate in favour of graduates of general high schools.

Turkey has pursued plans to favour vocational and technical education in secondary education since the 1970s. Although many legal measures have been taken to strengthen

secondary vocational and technical education, including the right to enter post-secondary vocational schools without any exams, these measures have not reversed the trend towards general education.

### *Conclusion*

Overall, some progress has been achieved in the area of education and training.

Turkey should continue and complete its preparations for participation in the three Community programmes. Implementation measures in the provinces with regard to the education of the children of migrant workers should be monitored. With a view to making universities more labour market oriented, the co-ordinating role of the High Education Council should be re-examined. Turkey should take the necessary measures for the early diagnosis of children with special education needs and show the necessary care in providing pre-school education opportunities to those children. Turkey is encouraged to review its planned targets and strategies related to secondary education and alleviate the pressure created by secondary education on higher education.

## ***Chapter 19: Telecommunications and information technology***

### *Progress since the last Regular Report*

Concerning **telecommunications**, legislative alignment is under way to prepare for the introduction of competition for fixed voice telephony by January 2004. The Telecommunications Authority issued an Ordinance on Access and Interconnection that came into force in May which provides for the designation of operators with significant market power and for both access and interconnection obligations that can be imposed in such cases.

Penetration in mobile services has increased to 34%. Out of the current four GSM operators, the two latest entrants in the market merged in May. With 15.7 million subscribers out of 23.4 million, the incumbent Turkcell, maintained its dominant position in the market (67%) in 2002. The fixed telephony penetration rate is 28%. The penetration rates for access to the Internet and cable television connection are still low (each 6%).

National roaming agreements have not yet been concluded between the GSM operators. This issue is subject of a long running dispute between the operators and international arbitration is pending. In June, the Competition Authority fined Turkcell € 12.8 million and another operator €5 million on the grounds of abuse of dominant position in the GSM market relating to national roaming facilities.

As regards the regulatory framework, the Telecommunication Authority has statutory independence from the ministry and has substantial budgetary and personnel resources for which increases are planned. It has continued to issue second-type telecommunications licenses. Five licences for global mobile personal communications by satellite, 86 licences for Internet service providers, 2 licences for satellite platform services and 19 licences for satellite telecommunication services have so far been granted.

A regulation concerning the rules and procedures for the cancellation of GSM subscriptions came into force in September 2002. Significant market power designations were issued for the mobile sector in September 2003. The current legislation requires that obligations for universal service should be assumed by Turk Telecom.

An initiative related to the information society entitled “e-Transformation Turkey” was launched in May 2003. With an overall budget of € 765 million, the project will contribute to the achievement of the goals set forth in the e-Europe+ programme.

There has been no progress concerning **postal services**.

### *Overall assessment*

The continued dispute regarding implementation of the Turkish authorities’ policy on national roaming could undermine the conditions for current and potential investments in the Turkish market. The main requirement for secure investment is regulatory stability and predictability coupled, where appropriate, with effective enforcement of competition rules.

As concerns the enforcement of the competition rules in the telecommunication sector, the conclusion of a co-operation protocol between the Competition Authority and the Telecommunication Authority is a positive development. The fixed voice and satellite services markets in Turkey are still dominated by a state controlled incumbent operating company. The speed and success of liberalisation in these and other parts of the sector will be strongly influenced by the degree to which this particular operator co-operates with the government’s liberalisation policy.

Turkey’s transposition programme in the telecommunications sector should take into account the 2002 *acquis* when the market begins to show signs of maturity and, in any event, before accession. The licensing regulation has to be effectively implemented so that individual licences are kept to a minimum, given that this will reduce obstacles to market entry. The legislation on tariffs has to be implemented to the effect that all operators having significant market power must introduce state-of-the-art cost-accounting systems and cost-orientation of tariffs. Regulations have to be adopted in the following fields: leased lines, numbering, carrier selection and carrier pre-selection, number portability, local loop unbundling and universal service. The implementation of the single European emergency call number “112” is still limited to calls to public hospitals. The administrative capacity of the Telecommunications Authority still needs further reinforcement in order to be prepared for the full liberalisation of the market by the beginning of 2004.

There are still no plans for the liberalisation of postal services. An independent national regulatory authority for the postal market needs to be established. Major efforts are needed in this area to fully comply with the *acquis*.

### *Conclusion*

Since the last Regular Report, Turkey has continued to make progress in preparing for the liberalisation of the fixed voice telephony market in particular in adopting the relevant regulation concerning access and interconnection. No progress has been made as regards postal services.

Legislative alignment with the telecommunications *acquis* is still insufficient and further efforts are necessary especially in terms of effective implementation. Universal service, numbering, leased lines and data protection require further attention. Implementation and enforcement of legislation, in particular on licensing and tariffs, should be improved. The unresolved dispute over national roaming casts doubt on the effectiveness of the Turkish authorities in this area. Alignment with the *acquis* in the area of postal services remains very limited. Considerable efforts are needed to liberalise the markets in postal services.

## ***Chapter 20: Culture and audio-visual policy***

### *Progress since the last Regular Report*

Concerning **audio-visual policy**, further to the law adopted in August 2002, a regulation on the “Language of Radio and Television Broadcasts”, entered into force in December 2002. According to the new regulation, broadcasts in different languages and dialects traditionally spoken by Turkish citizens can be made only by the State Radio and Television Company TRT. The regulation provides for the conclusion of a protocol between the High Audio-Visual Board (RTÜK) and TRT concerning broadcasts in other languages. According to the regulation, TRT is mandated to carry out nationwide market research to identify the demands and needs of the different communities.

Subsequently, TRT filed a court case with the Council of State to suspend the implementation of the regulation. It claimed that the bylaw obliging TRT to broadcast in other languages was in contradiction with its autonomous structure and that the law establishing state television broadcasting had not been amended in line with the new regulations. The Council of State decided in July 2003 that only a change of the RTÜK Law could force TRT to handle this matter. TRT local language broadcasts have therefore been suspended.

The matter was addressed as part of the sixth “reform package” in June 2003 which amended Articles 4 and 32 of the Law on the Establishment and Broadcasts of Radio and Television Stations. The amendment of Article 4 extends radio and television broadcasting in languages and dialects used by Turkish citizens in their daily lives to private stations, in addition to TRT. The procedures and principles of this amendment are to be outlined in a regulation, which must be published by RTÜK by November 2003. The amendment to Article 32 provides that restrictions on the broadcasting of election propaganda are to be shortened from one week to twenty-four hours before an election.

There have been no broadcasts yet in languages traditionally used by Turkish citizens in their daily lives other than Turkish. Official sources have reported that the corporation encountered difficulties when attempting to recruit staff, partly as a result of the number of non-Turkish dialects and languages used by Turkish citizens, which total more than 50.

No decision was made in the reporting year by the Constitutional Court on the appeal by President Sezer, which suspended the enforcement of some articles of the Law on Establishment of Radio and Television Enterprises and their Broadcast, as amended in the framework of the third reform package of August 2002.

The representatives of the National Security Council in the Supervision Board of Cinema, Video and Music have been removed by an amendment to the Law on Cinema, Video and Music Works.

### *Overall assessment*

The amendments adopted in August 2002 on radio and television broadcasting have not yet been implemented. The measures enacted by the administrative body (RTÜK) have considerably narrowed the scope of the reforms by establishing very strict conditions, hindering the objective of the reform. The new law adopted in June 2003 allowing public and private television and radio broadcasting in languages other than Turkish provides a basis for progress.

Turkey has not yet aligned its legislation with the *acquis* on television. RTÜK is working on the new implementing regulations. Official sources anticipate that the EC Television without Frontiers Directive and the Transfrontier Television Convention will be taken into account, as the main references in the harmonisation process. This concerns, in particular, issues which have not been properly addressed yet, such as the protection of minors, teleshopping, advertising and the promotion of European audio-visual works.

### *Conclusion*

Since the last Regular Report, Turkey has made further legislative progress, mainly in the area of authorising broadcasting in language other than Turkish.

However, Turkey's level of alignment with the *acquis* in this chapter remains limited. Further substantial efforts are required to bring Turkish legislation and implementation in line with the *acquis*. Turkey is also encouraged to adopt implementing measures in line with the spirit of the adopted legislation, in particular concerning radio and television broadcasting in languages other than Turkish.

## ***Chapter 21: Regional Policy and co-ordination of structural instruments***

### *Progress since the last Regular Report*

As regards **territorial organisation**, the law establishing 26 new regions to form the provisional NUTS level 2 classification was passed in September 2002. The new provisional NUTS 2 regions group the 81 provinces into clusters with geographical or economic similarities.

In terms of the **legislative framework**, no new legal texts have been adopted. The legislative framework for financial control and compliance with other Community policies is monitored in other chapters.

As regards **institutional structures**, in late 2002 the State Planning Organisation (SPO) set up a new department which, among other tasks, will specifically deal with EU pre-accession regional development programmes. Pending the establishment of fully operational Regional Development Agencies, SPO has in some regions established service unions between the provinces that form a provisional NUTS 2 unit. Four such unions were set up in 2003, in addition to those already established as the result of local

initiatives. Adequate funding and the responsibilities of the service unions have yet to be determined. In addition, a working group under the auspices of the General Secretariat for EU Affairs, with representatives of the SPO and other line ministries, is in charge of carrying out a systematic review of Turkish legislation in relation to the *acquis* in the field of regional policy.

As regards **programming**, the SPO is drafting a National Development Plan (NDP) that will cover the period 2004-2006 and that will be submitted to the Commission by the end of 2003.

No developments are to be reported as regards **monitoring and evaluation**, nor **financial management and control**.

In the field of **statistics**, following the establishment of the new NUTS 2 subdivision, the SPO's General Directorate of Regional Development and Structural Adjustment and the State Institute for Statistics have begun compiling statistics at this level, and the SPO produced its first set of indicators in the spring of 2003.

### *Overall assessment*

A provisional NUTS classification, including 26 NUTS 2 level regions, has been established and agreed with the Commission.

As regards institutional structures, Turkish regional policy is carried out in the framework of a centralised planning system, for which the SPO is legally responsible. With the exception of the Authority for the development of the South-eastern Anatolia Project (GAP), which has a regional office in the south-east, there are no other planning and implementing structures outside Ankara. The continued existence and status of the GAP Administration is under debate.

Sufficient capacity to implement regional policy needs to be established at central and regional level. At regional level, service unions cannot replace dedicated structures for implementing structural funds. Structures still need to be designed and put in place for monitoring and evaluation, as well as financial management and control.

With regard to programming, the 2004-2006 NDP, which is under preparation, should lay the foundations for longer-term coherent policy for regional development aimed at reducing the growing disparities between regions. Participation of all relevant stakeholders should be ensured (regional and local as well as social and economic partners). In this context, regional development plans may be prepared for all the 26 provisional NUTS 2 regions as, at present, the only regional development plans which have been prepared have been based on broader regional territorial units and do not meet Structural Funds requirements. The individual regional plans will have to form a coherent whole with the strategy of the national plan for the development of the regions.

Turkey will need to build up further co-ordination structures not only between central and provincial authorities, but also with other line ministries, to ensure that the development of regional policies is truly integrated across all sectors of economic activity.

### *Conclusion*



Some progress has been made since the last regular report in laying the foundation for the implementation of regional policy in line with EC structural policies, in particular as regards territorial organisation and the preparation of a National Development Plan.

Turkey has substantial ground to cover in aligning itself with the EU in the field of regional policy and the use of structural instruments. Considerable efforts are still necessary to develop sufficient capacity to implement regional policy at central and regional level, and the necessary institutions need to be created and endowed with adequate human and financial resources.

## ***Chapter 22: Environment***

### *Progress since the last Regular Report*

As regards the **integration of environmental protection into other policies**, no progress can be reported.

In the field of **horizontal legislation**, limited progress can be reported. Public consultation mechanisms related to environmental impact assessment appear now to be largely in line with EC requirements, but further efforts are needed concerning transboundary issues. Implementation is still a matter of concern. Since 1 March 2003 full responsibility for screening decisions has been delegated to the Local Environmental Boards.

As regards **waste management**, a law was adopted on the ratification of the changes made to the Basel Convention on the control of transboundary movements of hazardous wastes and their disposal in June 2003.

No progress can be reported with regard to **water quality**.

In the field of **air quality**, in January 2003 Turkey adopted legislation relating to emissions from non-road mobile machinery.

In the field of **nature protection**, a Ministerial Decree on the import and export of endangered species (CITES Convention) was adopted in February 2003, and the European Landscape Agreement was ratified in June 2003.

No progress can be reported on transposition of the *acquis* on **industrial pollution and risk management**.

In the field of **genetically modified organisms**, the Cartagena Protocol on biosafety (Biodiversity Convention) was ratified in June 2003.

In the field of **chemicals**, two laws on substances that deplete the ozone layer (Montreal Protocol) were adopted in June 2003.

As regards **noise**, legislation relating to noise emissions from outdoor equipment and household appliances was adopted in January and February 2003.

As regards **nuclear safety and radiation protection**, a regulation on the provision of information to the general public in the event of a radiological emergency has been adopted (*see Chapter 14 — Energy*).

Turkey has taken some measures to strengthen its **administrative capacity**. A law on the establishment of the Ministry of the Environment and Forestry adopted in May 2003 merges the two existing ministries. The new law defines the roles and responsibilities of the Ministry of the Environment and Forestry on the basis of the original laws on their establishment and reduces the overlaps in the respective responsibilities and implementation. The law provides for a threefold increase over previous Ministry of the Environment staffing levels, but it still needs to be seen how this staff will be allocated.

An addendum to the Regulation on Environmental Inspection entered into force in January 2003, in order to improve the quality of the inspectors by laying down new job profiles.

### *Overall assessment*

Some limited steps have been taken in the fields of air quality, nature protection, chemicals, noise and nuclear safety and radiation protection to adopt legislation and to strengthen administrative capacity. However, Turkey needs to make greater efforts as regards both legal alignment and implementation in all sub-sectors of the chapter.

Turkey has not yet ratified the Kyoto Protocol.

In the field of air quality, legislation needs to be aligned with the *acquis*, and steps taken to ensure implementation, including upgrading of the air quality monitoring system.

Although legislation in the field of waste management is to some degree in line with the *acquis*, further efforts are needed with respect to transposition and implementation. Sufficient financial resources need to be allocated to the sector.

As regards water quality, further efforts are needed to transpose and implement the *acquis*, including a new framework law on water resources and to bring drinking water and wastewater discharge standards in line with the *acquis*.

Despite the adoption of a number of regulations on nature protection, legal harmonisation remains low. A framework law on nature protection and implementing legislation transposing the provisions of the birds and habitats *acquis* need to be adopted. Steps need to be taken to ensure implementation. Legislative changes foreseen regarding Natural Heritage and a new Mining Law may seriously hamper progress on nature protection.

As regards industrial pollution and risk management, full alignment and implementation require further efforts.

As regards chemicals and genetically modified organisms, further efforts are needed to achieve harmonisation. Implementing measures need to be enhanced: for example, a general inventory of chemical substances has yet to be established.

In the field of nuclear safety and radiation protection, despite some legislative progress, further efforts are needed to achieve full legal harmonisation. Steps need to be taken to enhance implementation.

Turkey needs to continue integrating environmental protection requirements into the definition and implementation of all other policies so as to promote sustainable development.

The creation of an integrated Ministry of the Environment and Forestry is a valuable step to strengthen administrative capacity. However, it is too early to assess the impact of this reorganisation on the implementation and enforcement of environmental legislation. Efforts towards effective implementation of environmental rules, especially recruitment and training of specialised staff and purchase of equipment, are needed.

Considerable investments need to be secured, also in the medium term, to ensure implementation of the environment *acquis*.

### *Conclusion*

Since last year's Regular Report, Turkey made limited progress on transposing the environmental *acquis* and improving administrative capacity. In some areas such as air quality, waste management, nature protection, genetically modified organisms, chemicals, noise and nuclear safety, some limited progress can be reported. The reorganisation of the Ministry of Environment and Forestry has constituted an improvement.

The overall transposition remains low in most sectors. Further efforts are needed particularly in the areas of horizontal legislation, air quality, waste management, water quality, nature protection, industrial pollution and risk management, and the fulfilment of the membership requirements of the European Environment Agency, including its data collection system.

## ***Chapter 23: Consumer and health protection***

### *Progress since the last Regular Report*

A framework law on consumer protection amending the existing "Law on the Protection of Consumers" was adopted in March 2003 and entered into force in June 2003. The law lays down rules on safety- and non-safety related areas, such as credit sales, consumer credit and injunctions, rules on dangerous imitation, injunctions on dangerous goods and services, and liability of defective services.

Concerning **safety-related measures**, an implementing regulation has been adopted aiming at transposing certain directives. As regards the directive on product liability for defective products, Turkey has not yet taken any steps towards transposition. The revised directive on general product safety remains also to be transposed.

As regards **market surveillance**, the Ministry of Industry and Trade, responsible for the majority of products, has adopted a market surveillance strategy within the framework of the law on the preparation and implementation of technical legislation on products and the implementing regulation relating to market surveillance and the inspection of products (*see also Chapter 1 – Free movement of goods*).

Furthermore, 16 pieces of implementing legislation in the area of **non-safety related measures** were published by the Ministry of Industry and Trade in June and August

2003. These regulations lay down rules concerning doorstep and distance selling, package travel, unfair terms in consumer contracts, timeshare property, indication of prices, consumer credit and guarantees. However, their alignment with the relevant directives still needs to be completed. The new directive on distance marketing of consumer's financial services will have to be transposed as well.

Concerning settlement of disputes, no new specialised consumer courts have been established during the reporting period and disputes over €300 have been dealt with by four consumer courts operating in the provinces of Istanbul, Ankara and Izmir. With respect to out-of-court settlement, Turkish arbitration committees continued settling disputes between consumers and suppliers. Rules on the setting up and operation of the arbitration committees for consumer problems were published in August 2003.

With regard to administrative capacity and enforcement, 77 staff are employed in the Directorate General responsible for Consumer Protection. A unit of 15 inspectors and controllers has been established inside the Ministry of Industry and Trade, responsible for carrying out investigation, supervision and research on the premises of factories, stores, shops, commercial enterprises, depots or warehouses in which goods are stored or sold or services are rendered. In addition to the Ministry inspectors and controllers, municipalities have the right to assign their personnel for the inspections required. During the reporting period, 652 173 products were inspected and the Ministry started legal action in the courts against 101 companies.

Within the framework of the regulation on misleading and comparative advertisements, the Board of Advertisement continued its activities to monitor advertisements and to examine consumer claims. Actions to prohibit the publication or broadcasting of such non-compliant advertisements were taken. In the reporting period, approximately €2.5 million in fines have been collected. The Board consists of 25 members representing public institutions, universities, professional chambers and consumer organisations and convenes at least once a month. Rules on the organization and operation of the Board were published in August 2003. Regarding consultative structures, the Consumer Council continued to meet once a year, last time in November 2002.

The consumer law foresees financial support to **consumer organisations** in Turkey. However, the development of an effective consumer movement in Turkey should be promoted. Efforts should also be made in order to raise consumer and business awareness about their rights and responsibilities.

### *Overall assessment*

Turkey has taken important steps to align with the *acquis* in the field of safety and non-safety related measures by adopting an extensive legislative framework.

Turkey should, however, complete alignment with the *acquis* also by transposing the revised directive on general product safety. Efforts should be made to implement and enforce these laws effectively throughout Turkey. A comprehensive legislative framework in the field of market surveillance has been adopted in particular in areas under the responsibility of the Ministry of Industry and Trade. However, implementation, enforcement and training measures need to be strengthened considerably. An effective market surveillance structure to check the safety of products should be established and adequate resources should be allocated to ensure an adequate level of consumer

protection. Turkey is also encouraged to become a member of TRAPEX (Transitional Rapid Exchange of information on dangers arising from the use of dangerous products) to prepare for access to the RAPEX system as soon as this becomes possible.

To address the issue of settlement of disputes Turkey should establish more specialised consumer courts.

The role of consumer organisations should be further promoted in order to develop and implement consumer policy and encourage more active involvement in developing consumer product safety standards.

### *Conclusion*

There has been significant progress since the last Regular Report. The framework law and specific legislation aimed at aligning with the *acquis* have been adopted, and a number of directives have been transposed into the legislation of Turkey with the adoption of the framework law.

Overall alignment on the consumer and health protection is well underway in particular after the adoption of the framework law. Turkey should finalise legislative transposition and make further efforts to implement and to enforce the consumer protection legislation. An effective market surveillance structure to check the safety of products should be established and adequate resources must be allocated to ensure a high level of consumer protection. The development of an effective consumer movement should be further promoted.

## ***Chapter 24: Co-operation in the field of justice and home affairs***

### *Progress since the last Regular Report*

Regarding **visa policy**, Turkey has continued with the alignment of the EU negative visa list and lifted visa exemptions for the citizens of the following 13 countries in April 2003: Indonesia, South Africa, Kenya, Maldives, Seychelles, Grenada, Saint Lucia, Bahamas, Barbados, Belize, Jamaica, Fiji Islands and Mauritius. This brings down the discrepancy between the EU visa obligations list and that of Turkey to seven countries.

No significant development has taken place in the area of **Schengen** requirements concerning police co-operation apart from some awareness-raising and training activities similar to last year.

On **external borders**, the Task Force responsible for the preparation of the overall strategy for alignment with the EU *acquis* on border management has concluded its work. The strategy has been adopted. The strategy, as part of the revised National Programme for the Adoption of the *Acquis* (NPAA), foresees the creation of a new body within the Ministry of Interior for all border protection issues, including coast guards, composed of non-military, professional law enforcement officials. Turkey also continued to increase and upgrade its infrastructures and technical facilities such as optical readers for the detection of forged and falsified documents at border gates.

In the area of **migration and asylum**, the above mentioned inter-ministerial Task Force also developed a strategy for alignment with the EU *acquis* in these two areas. The

strategies, which will guide the subsequent legislative and institutional work in the medium-term, foresee the establishment of a specialised, civilian unit for migration and asylum issues under the Ministry of Interior, which will be responsible for receiving and deciding on requests for residence permits of foreigners and asylum applications in the first instance. The strategy also foresees the establishment of a separate and independent higher board (the “Appeal Board”) in order to assess the appeals lodged against the asylum decisions of the specialised unit.

In February 2003 the Turkish Parliament adopted a law regarding work permits for foreigners. The law envisages a centralised system of work permits for foreign nationals legally entering Turkey. The new law also authorises foreigners to work as domestic workers, which was not possible under the previous law. It also, *inter alia*, seeks to align with the provisions of the Geneva Convention concerning employment of refugees. (*see also Chapter 13 – Social policy and employment*). Secondary legislation necessary for the implementation of the law was adopted in September 2003.

The Law on Turkish Nationality was amended in June 2003 to prevent marriages of convenience. The new amendments introduced a waiting period of three years for foreigners who have married Turkish nationals before the application for the acquisition of the Turkish nationality can be made. Applications for Turkish nationality can be made to offices of governors in the country and to Turkish diplomatic representations abroad provided that the spouses live together and the bond of marriage still continues.

Even though Turkey continues to be an important transit and destination country for illegal migration flows, the trend of illegal migration via Turkey has shown a decrease. The authorities reported that 82 825 illegal migrants were apprehended in 2002, as compared to 92 362 in 2001. In the first six months of 2003, 23 208 illegal migrants were apprehended.

Authorities reported that as a result of the intensified efforts and initiatives targeting illegal migration, international routes for migration flows have been diverted away from Turkey in 2002 and 2003.

Turkey still experiences difficulties in applying the provisions of the Readmission Protocol between Turkey and Greece and therefore needs to improve the implementation of this Protocol considerably. The figures on the number of requests and the number of accepted requests reported by Turkish authorities differ considerably from those provided by the Greek authorities. In this regard comparable databases should be set up.

With regard to the signing of readmission agreements with third countries, some progress can be reported. Turkey signed a readmission agreement with Kyrgyzstan in May 2003 regarding the readmission of the nationals of the two countries. Negotiations with Bulgaria have advanced and the agreement with Romania has been initialled. Turkey is currently also negotiating a readmission agreement with Uzbekistan. The agreement signed with Syria in September 2001 was ratified by Turkey in June 2003. The EU asked Turkish authorities for the opening of the negotiations on an EU-Turkey readmission agreement. To date Turkey has not formally replied.

The transit arrangement concluded between a number of Member States and Turkey on the voluntary return of rejected Iraqi asylum seekers in 2002 was terminated during the course of 2003 due to the war in Iraq and the subsequent establishment of a new authority in that country.

Turkey continued to participate in the activities of Centre for information, discussion and exchange on the crossing of frontiers and immigration (CIREFI) and its Early Warning System. Participation in the Facilitation Information System of the Member States of the European Civil Aviation Conference for early warning against illegal migration was ensured at airports. The Turkish National Police continued to give training to its staff on fight against fraud and document forgery, illegal migration and trafficking in persons and 1500 staff received training between November 2001 and December 2002. It has been reported that in particular training on anti-forgery has resulted in increasing numbers of detection of forged documents by police officers at border gates and consequently persons who were refused entry to Turkey increased from 6 069 in 1999 to 11 084 in 2002. As of April 2003, 1 989 persons with forged documents were not allowed to enter the country. Negotiations have continued concerning the conclusion of a Joint Action Programme on Illegal Migration between the EU and Turkey.

With regard to social support provided to refugees and asylum-seekers, direct aid was provided to 1224 persons in 2002 under the coordination of provincial governors by the Turkish Red Crescent, state hospitals, municipalities and the Social Solidarity and Assistance Foundation in the form of cash money, food, clothing, health services and heating material. The schooling situation of children of refugees and asylum-seekers has improved. Of the currently 11 635 refugees and asylum-seekers registered in Turkey, 3.235 are under 18 years of age and 591 of them attended primary and secondary level schools in the last school year. The Ministry of Interior intensified its efforts in cooperation with the offices of governors to ensure a 100% schooling rate in the 2003-2004 school year.

Before the war in Iraq, Turkey made extensive preparations for a possible mass influx of refugees. An inter-ministerial crisis management centre was established under the Prime Ministry and provisional shelters for refugees were set up before the Iraqi border. Even though some individuals crossed the Iraqi-Turkish border during the war to look for refuge in Turkey, the expected mass flows did not take place.

Turkey continued with the intensive training activities on asylum issues in co-operation with the UNHCR for law enforcement officers and judiciary. The recently approved strategy on asylum envisages in the medium-term the establishment of permanent training structures for the specialised unit mentioned above.

In the area of **police co-operation and the fight against organised crime**, Turkey ratified the 2000 Convention against Transnational Organized Crime (Palermo convention) in March 2003 as well as its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against Smuggling of Migrants by Land, Sea and Air. The Turkish Penal Code had already been amended (August 2002) to align with the two Protocols to the Palermo Convention. The third Protocol, on firearms, has not been ratified yet.

A new law on Combating Smuggling of goods was adopted in July 2003. The law clarifies the definition of smuggling and provides for financial penalties to be imposed in minor cases, and for sentences of imprisonment, in general, to be imposed only in cases of organised smuggling.

Implementing the legislative amendments of August 2002, reported last year, with regard to prohibiting trafficking in persons and prescribing serious penalties that are increased

with aggravating circumstances, more trafficking-related arrests have been made. The Turkish authorities arrested 1157 members of organised trafficking gangs in 2002. In the first three months of 2003, this figure reached 169. Of those arrested, legal procedures were opened against 676 organisers for violation of Article 201a of the Penal Code (offence related to smuggling) and against 34 organisers for violation of Article 201b (offence related to trafficking in human beings), both amended in August 2002.

Furthermore, six trafficking cases (involving 14 victims) were reportedly opened before Turkish courts against a total of 17 suspects as of August 2003. In two cases, the court directed an acquittal, finding three defendants not guilty and determining that the two alleged victims had not been illegally trafficked. The other four cases are ongoing. In these cases, 14 suspects are on trial and 12 people have filed a complaint against them.

The Ministries of Justice and the Interior conducted training on the new anti-trafficking legislation. Consequently, 75 officials of the Ministry of the Interior and 600 judges and prosecutors were trained on combating human trafficking in the course of 2003. Further training activities are envisaged for 2003 and 2004.

Furthermore, an inter-ministerial Task Force for the fight against trafficking in persons was established in October 2002 under the coordination of the Ministry of Foreign Affairs.

The Task Force has adopted recommendations, which were later adopted by the Prime Ministry as a National Action Plan in March 2003, to be implemented by the relevant ministries with regard to setting up hotlines for emergency calls for victims of trafficking, especially women, establishment of shelters for victims in a number of provinces, taking measures for witness protection, ensuring the return and integration of victims, provision of health and other social services to victims, issuing of temporary residence permits on humanitarian grounds and support for NGOs working with victims. Accordingly, some buildings have been identified in a number of cities as potential shelters for victims. Although the implementation of the above measures is not yet fully in place, sixteen foreign citizens exposed to trafficking were issued a humanitarian visa (one month temporary residence permit) as of August 2003. Others who were offered the humanitarian visa declined and requested to leave Turkey.

As far as the fight against trafficking in drugs is concerned, a number of successful operations were carried out by the law enforcement authorities, partly in international cooperation including some Member States of the EU. The Turkish International Academy Against Drugs and Organized Crime (TADOC) continued its training programmes for law enforcement officers. Since its establishment in 2000, TADOC, provided training to 5 224 persons from Turkey and abroad.

With regard to administrative capacity in fighting organised crime, the Law of the Forensic Medicine Institute was amended in February 2003 to extend its tasks and strengthen the structure of the Institute. The number of specialisation branches of the Institute was increased. At the same time by way of introducing a clear provision that examinations will not be carried out only on paper, but can also be carried out at the scene, it is aimed at increasing the effectiveness of the Institute in strengthening evidence-based prosecutions (*see also Political Criteria*).

With regard to the **fight against terrorism**, Turkey signed the Protocol amending the European Convention on the Suppression of Terrorism in May 2003 and continued to



implement the various decrees issued since December 2001 in response to the UN Resolution on the suppression of financing of terrorism.

Regarding the **fight against fraud and corruption**, in January 2003 Turkey adopted new legislation aimed at implementing the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, ratified in 2000. Accordingly the Turkish Penal Code, the Public Procurement Law, the Law on Preventing Money Laundering, the Law on Control of Narcotics, the Law on the Organisation and Tasks of the Ministry of Finance and the Law on Public Officials were revised. These amendments mainly introduced two new offences into Turkish legislation. First, the offence of bribing a foreign public official was inserted into Article 211 of the Penal Code. Second, laundering property and proceeds obtained or derived from bribery, including bribing a foreign public official, has been added to Article 2 of the Law on Prevention of Money Laundering. Furthermore, in accordance with the above-mentioned amendments, legal persons were made subject to criminal liability with respect to bribery.

In February Turkey notified the OECD Working Group on Bribery in International Business Transactions that legislation implementing the 1997 Convention was fully in place and that Turkey was ready to receive OECD examiners.

In January 2003, the Turkish government announced an “Emergency Action Plan”, which contains a section on corruption with important additional elements to the “Action Plan on increasing transparency and enhancing good governance in the public sector” adopted in January 2002. These elements are the acceleration of the ratification process of the Criminal and Civil Law Conventions on Corruption of the Council of Europe, increased sanctions for corruption offences in criminal law, increased transparency in the financing of political parties, enhanced access to information by reviewing secrecy provisions and enhanced dialogue between government, public administration and civil society.

Furthermore in January, a Parliamentary Investigation Committee was set up by a parliamentary decision to analyse the reasons, economic and social dimensions of corruption and to identify necessary measures to effectively fight against corruption.

Consequently, in line with the Emergency Action Plan, Turkey ratified the Council of Europe Civil Law Convention in September 2003.

According to latest figures available, authorities reported that 18 958 cases related to corruption were brought before the court in 2001. In the same year, 18 282 cases were concluded by courts, resulting in 6 362 convictions, 6 126 acquittals, 426 abatements and 5 278 others, where sentences have been postponed.

In the area of the **fight against drugs**, a Precursors Agreement between Turkey and the EU was signed in February 2003 with the aim of enhancing the international fight against the production and trade of precursors and chemical substances used in the illicit manufacture of narcotic drugs and psychotropic substances through exchange of information and monitoring of trade flows. The Agreement is currently awaiting ratification by Turkey. With regard to completion of the national drug strategy in line with the EU Drug Strategy 2000-2004, in the light of the Council Joint Declaration of 28 February 2002 on the extension to all candidate countries of the EU Action Plan on Drugs and its future implementation, no progress can be reported. To date, negotiations for Turkey’s membership of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) have not been concluded.

In the field of **money laundering**, the Financial Crimes Investigation Board (MASAK) adopted a regulation in November 2002 regarding the customer identification requirement and procedures for all liable groups to report suspicious transactions. Accordingly, the scope of the transactions in customer identification has been extended with no limitation on the amount; the procedures for customer identification have been defined; the principles and procedures for assignment of compliance officers by liable parties have been determined; liable parties are obliged to carry out “internal controls” in addition to the external audits and finally an obligation on liable parties to provide training for their employees has been introduced (*see also Chapter 4 – Free movement of capital*).

The number of cases reported to and investigated by MASAK increased considerably in 2002. In 2002, 393 cases were reported to MASAK by public, private and international sources, compared to a total of 882 in 1997-2001. The number of suspicious transactions reported to MASAK was 194 in 2002, compared to 688 in the previous five years. MASAK carried out preliminary investigations on 258 cases in 2002 and consequently 4 cases were submitted to judicial proceedings, compared to 279 investigations and 30 legal cases opened in 2001. The majority of these cases were related to drug trafficking, forged documents, fraud and bankruptcy.

Regarding international co-operation, MASAK has had 138 incoming requests and 108 outgoing requests for information exchange since its establishment in 1997.

With regard to **customs co-operation**, Turkey continued to upgrade its facilities and infrastructure at customs gates, in particular on borders to Greece and Iran. The Undersecretariat of Customs carried out successful operations in the seizure of smuggled goods, particularly drugs and fuel oil, and intensified its participation in the activities of Southeast European Co-operation Initiative (SECI). Furthermore, 765 illegal migrants were apprehended by customs officers at border gates in 2002 and 180 in the first five months of 2003.

In the area of **judicial co-operation in criminal and civil matters**, Turkey has adopted a National Action Plan (NAP) for adopting and implementing the *acquis* in the area of judicial co-operation in criminal matters. The NAP includes actions required to improve legislation and practices in the area of mutual legal assistance, extradition and restraint and confiscation of assets. 47 judges and prosecutors were trained and trainers at the same time.

With further regard to judicial cooperation, the Law on the Enforcement of Criminal Judgements given by Courts of Foreign Countries on Turkish Citizens and by Turkish Courts on Foreign Nationals was amended in January. Accordingly, the Turkish Ministry of Justice is now fully in charge of enforcement of court judgements passed by Turkish courts on foreign nationals and by foreign courts on Turkish nationals. Prior to this change, a decision of the Council of Ministers was necessary for the enforcement of such judgements, resulting in delays to the detriment of sentenced persons.

The Ministry of Justice reported that judicial co-operation in criminal matters improved with the European Union on the ground as the quality of translations provided by the Ministry ameliorated considerably, resulting in better understanding and handling of cases. Reportedly contacts with Member States in the area increased significantly, partly

as a result of the successful implementation of the EU Programme on Developing Judicial Co-operation in Criminal Matters.

In July, the Law on the Establishment of the Justice Academy was adopted. The object is the creation of an organisation, which aims at the training of judges, public prosecutors and other legal professions under the authority of the Ministry of Justice. It is foreseen that three months after the entry into force of the law, the existing Training Centre for Candidate Judges and Prosecutors will to be transformed into the Training Centre responsible for pre-service and in-service training of the judiciary. Also the short-term and long-term training plans have to be prepared before the end of the year following the entry into force of the law, which is three months after its publication in the Official Gazette. The adopted law envisages a strong dependence of the Academy on the executive power, which could be considered as contrary to the European Charter on the Statute for Judges, according to which the body in charge of the implementation of initial and continuous training programmes has to be under an authority independent of the executive and legislative powers, within which at least one half of those who sit are judges elected by their peers following methods guaranteeing the widest representation of the judiciary.

The law on juvenile courts has been amended raising from 15 to 18 the age at which young people must be tried in juvenile courts. The seventh reform package ended the jurisdiction of military courts over civilians.

With regard to **human rights instruments**, in June the Turkish Parliament ratified the United Nations International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Protocol 6 to the European Convention on Human Rights on the abolition of the death penalty was ratified by the Parliament in June 2003.

### *Overall assessment*

On data protection (*see also Chapter 3 – Freedom to provide services*), Turkey is invited to accelerate the adoption of a law on protection of personal data and the ratification process of the 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, signed by Turkey in 1981. As reported last year, Turkey will need to establish an independent data protection supervisory authority with the establishment of the legislative framework mentioned above.

With regard to visa policy, Turkey is encouraged to continue with the alignment with the EU via lists and to ensure conformity of its visa issuing practices with EU standards.. In terms of administrative capacity, Turkey needs to upgrade its consular services abroad in the detection of falsified documents.

As regards external borders, the adoption of the Border Management Strategy for alignment with the EU *acquis* and best practices is a significant step forward. As recommended in the 2002 Regular Report, the strategy has taken into account the February 2002 Schengen Catalogue on best practices. Turkey is encouraged to start implementing this strategy without delay.

In the area of migration and asylum, the adoption of the Migration and Asylum Strategies for alignment with the EU *acquis* is another significant step. Similarly, Turkey is

encouraged to implement these strategies and to establish and train a specialised, civilian unit for migration and asylum issues under the Ministry of Interior. The Joint Action Programme on Illegal Migration between the EU and Turkey should be concluded as soon as possible. The legislative framework with regard to handling migration including admission of third country nationals for employment and for study purposes, the status of third-country nationals residing on a long-term basis and family reunification needs to be improved to achieve conformity with the *acquis*.

Concerning administrative capacity, Turkey has achieved considerable progress in increasing its efficiency in the fight against illegal migration through improved co-operation among authorities as well as with Member States and third countries and should continue this effective approach. In order to meet the minimum standards for the elimination of trafficking in human beings, Turkey needs to put in place the recommendations issued by its Task Force, in particular with regard to the protection of victims. As far as readmission and expulsion are concerned, Turkey needs to enhance its capacity to handle both. In 2002, 42 232 foreigners were expelled on grounds of violating Turkish law. Expulsions to remote countries of origin remain an issue to be addressed. Since the EU considers that a readmission agreement between the EU and Turkey is a matter of utmost importance, a request to open negotiations on the signing of a readmission agreement was forwarded to Turkey in March 2003. To date Turkey has not formally replied. Turkey should also continue its efforts to conclude readmission agreements, and in particular, improve the implementation of the Readmission Protocol with Greece. The legislative framework with regard to asylum needs to be revised ensuring the full implementation of the 1951 Convention and the EU *acquis*. In this context, the lifting of the geographical limitation on the 1951 Convention remains an issue of utmost significance. The establishment of a nation-wide screening mechanism for asylum-seekers among detained illegal immigrants and improved access to asylum procedures continue to be important. As regards administrative capacity, developing refugee status determination capacity and the establishment of an independent appeal procedure need still to be addressed.

In the area of police co-operation and the fight against organised crime, enhanced co-operation between the different enforcement bodies remains an issue to be tackled while criminal investigation methods and forensic capacity in investigations need to be improved.

With regard to the fight against terrorism, Turkey needs to eliminate any legal and practical difficulties in freezing and confiscation of terrorist assets, 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. As far as compliance with the eight Special Recommendations of the Financial Action Task Force on Money Laundering related to the prevention of financing of terrorism is concerned, Turkey has achieved full compliance with most of the recommendations and is in partial compliance with recommendations related to freezing and confiscating of assets

As for the fight against fraud and corruption, the fragmented structure of public administration with different institutions subject to different laws and unclear delineation of duties and responsibilities, as well as insufficient co-ordination and communication between public institutions and lengthy processing times for administrative procedures greatly impact upon the ability of the government to prevent and control corruption.

Training of public officials, awareness-raising on combating corruption and systematic application of codes of conduct and codes of ethics within the public administration are recommended. Turkey is encouraged to ratify the Council of Europe 1999 Criminal Law Convention. With a view to start alignment with the *acquis* in the area of the protection of the financial interests of the European Communities, fraud needs to be included in the legislation as a predicate offence (*see also Chapter 28 – Financial control*).

With regard to the fight against drugs, as last year Turkey is invited to sign the 1995 Council of Europe Agreement on Illicit Traffic by Sea, implementing Article 17 of the 1995 UN Vienna Convention against Illicit Traffic in Narcotic Drugs and Psycho-tropic Substances. Turkey should also ratify the EU Agreement on Precursors. Turkey is expected to appoint a National Drug Co-ordinator. The establishment of a mini-Dublin Group in Ankara on drug-related issues is recommended once more.

On money laundering, Turkey needs to extend the definition of money laundering offences in line with the *acquis* as reported last year (*see also Chapter 4 – Free movement of capital*). Furthermore, the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime should be ratified.

As far as customs co-operation is concerned, interagency 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 considered.

In the area of judicial co-operation in criminal and civil matters, further training and enhanced human resources in the judiciary are necessary to ensure the adequate implementation of the relevant international conventions and bilateral agreements to which Turkey has acceded. Turkey is advised to set up the legislative and institutional framework for the creation of a Court of Appeal and take steps to strengthen the impartiality and independence of the judiciary.

As regards human rights legal instruments, Turkey still has to ratify the 1981 Council of Europe Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data as well as Protocols 4, 7 and 12 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocol 6 concerning the abolition of the death penalty.

### *Conclusion*

Since the last Regular Report, Turkey has made important progress in developing and adopting initial strategies for alignment with the EU *acquis* and its practices in the area of Justice and Home Affairs.

Turkey has improved and intensified its co-operation with the European Union and its Member States in many fields such as the fight against illegal migration and organised crime. Overall, Turkey should start implementing the strategies adopted and intensify its efforts to align its legal and institutional framework. Improving co-ordination and co-operation among institutions of justice and home affairs, the reform of the judiciary, intensified active co-operation with the European Union on illegal migration (including as soon as possible the conclusion of the Joint Action Programme on Illegal Migration)

and lifting of the geographical limitation to the 1951 Geneva Convention on refugees, and co-operation with the EU in fighting trafficking are issues that need to be addressed more concretely. Turkey should also start to negotiate a readmission agreement with the EU.

## ***Chapter 25: Customs Union***

### *Progress since the last Regular Report*

As regards the alignment of Turkey's legislation with the **customs *acquis*** further alignment has taken place concerning proof of origin for certain textile products released for free circulation in the Community, and on the conditions for the acceptance of proof of origin (April 2003). Furthermore, Turkey adapted its customs legislation concerning outward processing of goods due to an amendment of the Community's Customs Code. A national regulation on customs transit was adopted in July 2003 which is described as intended to prepare Turkey 's eventual accession to the EC-EFTA Convention on a Common Transit system.

The Community and Turkey signed an agreement on precursor control in February 2003. The legislative process for the adoption of the agreement by both Turkey and the EC is proceeding and expected to be finalised by the end of this year.

In March 2003 the Turkish government decided to improve mutual administrative assistance in customs matters with Norway, Switzerland and Iceland.

No progress has been made since the last Regular Report with respect to free zones and customs procedures with economic impact, as regards non customs legislation which conflicts with aligned customs procedures and with regard to the alignment of tariff preferences to those of the Community (as far as the signing of a customs union framework agreement with the northern part of Cyprus is concerned see also part B.1.4 of this report).

Turkey continued to strengthen its **administrative capacity**. Following the modernisation and computerisation of customs offices, there was a consolidation in the number of customs offices and regional directorates. The GÜMSIS (Security Systems for Customs Checkpoints) project, which aimed to improve facilities at customs posts, *inter alia* for controlling trade in motor vehicles and cultural goods and detecting nuclear materials, has been partially completed. Vehicle scanning systems, which were installed within the scope of the first phase of the project on the modernisation of the Turkish customs, are now operational. Seven radioactive and nuclear substance detectors have been installed and have already proven successful in supporting seizures of such substances.

Origin units have been established in two regional customs directorates with high levels of exports of tuna fish to improve controls in this area, and a new document (the traceability form) has been developed to assist in determining the origin of finished products based on the materials used.

Within the scope of Turkey's customs modernisation project, good progress has been made as regards the percentage of customs declarations processed via Electronic Data Exchange (EDI) following the introduction of the computerised import, export and

national transit entry-processing system (BILGE). However, this system is not yet compatible with EC systems such as the integrated tariff or new computerised transit system.

Customs co-operation agreements were concluded with Hong Kong and China, Serbia and Montenegro, Latvia, Morocco and Kazakhstan.

### *Overall assessment*

The Decision establishing the Customs Union requires Turkey to align its commercial and customs policies with those of the Community. Turkey has almost completed the alignment with the Common Customs Tariff but not with the Community's preferential tariff arrangements. Turkey's customs legislation is almost fully aligned with the Community Customs Code as it stood in 1999, together with some later provisions such as those on outward processing.

No progress has been made in solving problems such as the treatment of free zones and customs procedures with economic impact, where the lack of alignment of provisions outside the customs code remains, leading to difficulties with the application of the customs provisions. In addition, concrete progress is needed on aligning legislation on customs control of counterfeit/pirated goods and cultural goods, and provisions of WCO/ECE Conventions. Turkey should make further efforts in these areas.

The administrative and operational capacity of the customs administration has been improved continually. Successful computerisation efforts and new projects in this respect contribute to the effectiveness and efficiency of customs operations. Despite these efforts, there are still shortcomings with regard to origin controls of agricultural and fishery products. These shortcomings are an obstacle to including agricultural products in the system of pan-European cumulation of origin. Further efforts to improve origin controls are needed.

In the area of counterfeit and cultural goods, enforcement of legislation outside the remit of the Ministry of Culture continues to be insufficient. Administrative restructuring and further co-ordination between police, customs offices and courts are necessary for effective enforcement.

Turkey should continue improving administrative structures and modernising the customs service and step up efforts to improve border management and post-clearance controls. Further efforts are also needed to combat corruption within the administration and to fight customs fraud and economic crime by improving co-ordination with other enforcement bodies and co-operation with the authorities of Member States.

### *Conclusion*

Since the last Regular Report, very limited progress has been made in bringing Turkish customs legislation closer to the *acquis*. Turkey continued to strengthen administrative capacities, including computerisation.

While Turkey has almost fully aligned its legislation in this area with the 1999 and some later *acquis*, several outstanding issues should be addressed. This concerns further alignment of legislation on the customs aspects of control of counterfeit and pirated

goods and cultural goods as well as the alignment of non-customs legislation relevant to the application of customs provisions on free zones and customs procedures with economic impact. Turkey should continue to strengthen inter-institutional co-operation, post clearance audits and border control in order to achieve satisfactory implementation and enforcement of the aligned legislation. The development of computerised systems and preparation for interconnectivity with Community systems should be further pursued.

## ***Chapter 26: External relations***

### *Progress since the last Regular Report*

Turkey's **commercial policy** is aligned with the EC common commercial policy to a fair degree. This is a result of the EC-Turkey customs union obligations. It provides for Turkey's progressive alignment within five years starting from 1995 with the EC preferential trade regime, including free trade agreements and autonomous regimes. However, in this field of the commercial policy Turkey has not fulfilled its obligations, in particular Turkey has still not harmonised its import regime with the EC Generalised System of Preferences. No further progress has been made in this respect since the last Regular Report.

Turkey did not, for the most part, coordinate its positions and policies within the World Trade Organisation with the EU. Turkey's close coordination on geographical indications was, however, satisfactory.

Turkey should also improve coordination and cooperation in GATS negotiations with the Commission, mainly in order to facilitate the future convergence of their GATS commitments and MFN exemptions into the EU ones, to be finalised upon accession.

Concerning **bilateral agreements with third countries**, Turkey's free trade agreements with Bosnia-Herzegovina and Croatia entered into force as of 1 July 2003. Turkey is in the process of negotiating free trade agreements with Morocco, Egypt, the Palestinian Authority, the Faeroe Islands, Lebanon and Albania. Exploratory talks have been held with South Africa for a free trade agreement. Turkey has been continuing efforts to initiate formal negotiation process with Jordan, Algeria, Syria, Tunisia, Mexico and Chile. However, no developments can be reported on the conclusion of a free trade agreement between Turkey and Cyprus (concerning the signing of a customs union framework agreement with the northern part of Cyprus see also part B.1.4).

No developments can be reported as far as medium and long term export credits to companies and dual-use goods are concerned.

No new figures are available on **development aid** and **humanitarian aid**. Turkey has, however, provided some humanitarian assistance.

### *Overall assessment*

Turkey's external commercial policy converges with the EU mainly due to the obligations set out in the Association Council Decision which established the customs union. However, the alignment of preferential tariff regimes with those of the Community remains incomplete.



Turkey has made no progress in aligning its Generalised System of Preferences (GSP). In spite of obligations arising from the Association Council Decision 1/95, Turkey's import regime is still not aligned with the EC GSP regime. The respective Turkish regulation is not in line with the *acquis* and needs substantial revision. Although there was a minor improvement in the scope of goods covered by the GSP regime, major differences remain in the product coverage and incentive mechanisms.

Turkey's progress in negotiations with certain third countries on concluding free trade agreements in accordance with its obligations under the customs union has been slow. In certain cases, these negotiations still could not be initiated despite the efforts made by Turkey.

Turkey should enhance and improve its co-operation on WTO issues.

Turkey has so far entered into free trade agreements with the EFTA countries, Israel, Hungary, Romania, Lithuania, Estonia, the Czech Republic, Slovakia, Slovenia, Latvia, Bulgaria, Poland, FYROM, Bosnia-Herzegovina and Croatia. However, the eight agreements with countries acceding to the EU cease to apply in May 2004. A consultation mechanism has been established between the EC and Turkey on trade policy and is functioning smoothly. On export credits to companies, Turkey still has to align its legislation with the EC *acquis*.

In the field of dual-use goods Turkey has been party to international export control arrangements and regimes, aimed at controlling the export of dual-use goods, to which the EU is a party. However, enforcement competences in this area are dispersed among different institutions and based on separate legislative acts. Turkey needs to harmonise its dual-use control system with the *acquis*. This refers in particular to updating of control lists with the decisions taken by the export control regime to which Turkey is also a member.

Turkey's administrative capacity related to customs services are addressed under the chapter on Customs Union (*see also Chapter 25 - Customs Union*).

### *Conclusion*

Very limited progress was made in the area of trade policy, as Turkey continued to respect only partly its obligations under the customs union with the EU.

Overall Turkey has reached a fair level of alignment. However, long outstanding obligations still remain to be fulfilled, in particular in the area of GSP. Concerning bilateral agreements with third countries, Turkey should continue its efforts to conclude free trade agreements.

### *Chapter 27: Common foreign and security policy*

Turkey has 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 during the reporting period. Turkey has played a constructive role

within the framework of the Common Foreign and Security Policy (CFSP), including meetings at the level of Political Directors.

As regards **EU sanctions and restrictive measures, statements, declarations and démarches**, Turkey has aligned itself with decisions, resolutions and declarations of the EU and has associated itself with a number of the Union's common positions and joint actions. In particular, Turkey has aligned itself with an EU declaration calling on the government of Iran to conclude and implement urgently and unconditionally the international non-proliferation and disarmament regimes.

Turkey's agreement to the comprehensive deal reached in December 2002 regarding EU-NATO relations allowed cooperation in military crisis management, lifting the obstacles in the implementation of the Berlin Plus agenda

Bilateral relations between Turkey and Greece continue to evolve positively with both governments making public commitments at the highest level to continued rapprochement. There have been 12 meetings at the level of Political Directors between the Foreign Ministries of both countries in the framework of the exploratory talks on the Aegean. Several additional confidence-building measures have been agreed between the foreign ministers of both countries. These measures concern exchanges between military academies and military hospitals. Both countries also decided to cancel naval military exercises initially scheduled for the autumn 2003.

There has also been progress on the signing of bilateral agreements aimed at deepening co-operation between the two countries including an agreement signed in Thessaloniki in February 2003 concerning the Turkey-Greece Gas Pipeline Project. An agreement was signed in September 2003 concerning civil air traffic over the Aegean.

Turkey has continued to play a very important role in stability and security in the Balkans, the Caucasus and the Middle East. Turkey participated in the EU-Balkans Summit in June 2003. Turkey participates in SFOR and the EU Police Mission in Bosnia, KFOR and UNMIK in Kosovo, as well as in the EU-led operation in FYROM. The Turkish armed forces took over the command of the South-Eastern Europe Peacekeeping Force for two years in July 2003. Turkey has also assumed the chairmanship of the South-East Defence Ministers Coordination Committee (SEDM-CC) for a two-year term.

Turkey has continued to participate in the Stability Pact for South-Eastern Europe, chairing Working Tables I and II. Turkey promotes co-operation around the Black Sea including the Black Sea Economic Co-operation Organization and the BLACKSEAFOR.

Turkey supports the road map on the Middle Eastern peace process and has proposed to host a peace conference between Israelis and Palestinians.

Bilateral relations with Syria and Iran developed well and a number of ministerial visits took place.

Turkey's border with Armenia is still closed. However, following a recent bilateral meeting in New York in September 2003, the possibility of reopening the border to diplomats and foreign tourists was mentioned along with the fact that Turkey might reconsider its linkage of bilateral relations to the Nagorno Karabakh issue. Grass-roots civil society initiatives have continued with a view to promoting closer co-operation between Turkey and Armenia, notably under the aegis of the Turkish Armenian Business

Development Council (TABDC). It has been agreed that the Turkish Airlines would start operating two flights per week from Istanbul to Yerevan.

During the reporting period, Turkey continued to play an important role in the international campaign on the fight against terrorism. Turkey has signed the Protocol amending the European Convention on the Suppression of Terrorism. Turkey has not signed the Statute of the International Criminal Court.

Turkey has deployed sustained diplomatic efforts at multilateral level to try to find a peaceful solution to the Iraqi crisis. A meeting between all Iraq's neighbors took place in Istanbul in January 2003 and led to the adoption of a joint statement.

Turkey led the International Force of Stabilisation in Afghanistan (ISAF) until December 2002 and participates in the Bonn process for the reconstruction of Afghanistan.

In his intervention at the Summit of the Organisation of the Islamic Conference (OIC) in Teheran, the Turkish Minister of Foreign Affairs called on his colleagues from other Muslim countries to introduce more democracy and transparency into their political systems.

### *Overall assessment*

Turkey's decision to give its agreement as a NATO member to the participation of non-EU European allies in EU-led operations using NATO assets has contributed to the successful launching of the European Security and Defence Policy.

In terms of regional political dialogue, Turkey continues to participate actively in regional co-operation fora, such as the Council of the Black Sea States. Turkey is an important actor in promoting stability and security in its region (Balkans, Caucasus, Mediterranean and the Middle East) and has taken a number of initiatives within this role.

Turkey has sought to improve its bilateral relations with neighboring countries. Relations with Greece have continued to improve with frequent contacts at the level of foreign ministers. Contacts at high political level with Armenia have taken place. Bilateral relations with Iran and Syria have continued to develop.

Turkey played an important role in diplomatic efforts to find a peaceful solution to the Iraqi crisis. By refraining from any unilateral intervention in Northern Iraq, Turkey responded positively to the appeal by the international community. Turkey has an important role to play in the stabilization and reconstruction of Iraq.

As regards administrative capacity to implement the provisions relating to the CFSP, Turkey has a well-staffed and functioning Ministry of Foreign Affairs. The Ministry of Foreign Affairs is connected to the Associated Correspondents' Network information system, through which the EU communicates with associated partners within the CFSP.

### *Conclusion*

Overall, Turkey's foreign policy has continued to position itself along the lines of that of the European Union.

Turkey should focus further efforts on ensuring that its foreign policy orientation remains in line with the Union's developing foreign and security policy, and on finalizing the development of the necessary administrative structures. In particular, Turkey should ensure that its national policies and practice conform to the EU's common positions, should defend these positions in international fora, and should ensure that all sanctions and restrictive measures can be duly implemented. Turkey should also continue to promote stability and security in its region, namely the Balkans, Caucasus, Eastern Mediterranean and the Middle East. In that context, fostering steady improvement of relations with neighbouring countries is crucial. Turkey also has an important role to play in the effort to stabilize Iraq.

## ***Chapter 28: Financial control***

### *Progress since the last Regular Report*

Concerning **public internal financial control** (PIFC), a new budget management and control law (the Public Financial Management and Financial Control Law) was submitted to Parliament, but not yet adopted.

This would also extend **external audit** to the remaining extra-budgetary funds. Efforts are also being undertaken to restructure the Court of Accounts in accordance with the principles laid down in the Lima Declaration for Supreme Audit Institutions.

Turkey has made progress in the area of **control of structural action expenditure** through the establishment of administrative structures to manage pre-accession funds.

There have been no further developments as regards the **protection of EC financial interests**.

### *Overall assessment*

A significant difference continues to exist between Turkey's traditional public management and control structures and the criteria required of such systems by the EU. This difference is particularly visible in the absence of managerial accountability, the absence of modern internal audit and in the overlapping and often conflicting functions within and between the Ministry of Finance and the Court of Accounts. Both the Ministry of Finance and the Turkish Court of Auditors carry out extensive *ex ante* controls.

The public internal financial control system has not changed legally or structurally since the 2002 Regular Report. Nevertheless, there is close co-ordination between the Commission and the Ministry of Finance. A policy paper on the issue has been approved and a Law on Public Financial Management and Financial Control submitted to Parliament. Turkey is committed to passing this legislation as part of its stand-by arrangement with the IMF covering its economic programme for 2002-2004. The proposed law provides for changes to the current system in line with a number of concerns expressed in previous Regular Reports. However, implementation of these changes cannot be anticipated in the immediate future. In the meantime, and despite the continued proliferation of inspection bodies and the Ministry of Finance's heavily centralised *ex ante* controls, it is not possible to address the relatively high occurrence of irregularities in a systematic and efficient way.

In pursuing its reform of the financial control system, the Turkish Government should bear in mind a number of essential minimum requirements to ensure approximation to EC standards. All income, expenditure, assets and liabilities for all public spending centres should be brought together under a single national budget. Progress has been made in this area with the reform of provisions governing extra-budgetary funds and debt management. The scope of the Court of Accounts' responsibilities (to be focused on external audit activities) should continue to be expanded to cover all general government expenditure including that of autonomous agencies. A unified approach to the management and audit of the entire national budget – both public internal financial control and external control – is also required. This should be accompanied by the introduction of managerial accountability for all public expenditure.

Furthermore, functionally independent internal audit units, responsible for carrying out internal audit of their respective institutions, should be introduced into all budget centres (line ministries and public agencies). Their internal audit procedures should focus on systems-based and performance-audit functions, in line with international standards. There needs to be a clear separation of audit duties between the budget centres, the Ministry of Finance and the Court of Accounts. Currently the Court of Accounts is still prevented from properly exercising its external audit duties on budget expenditure as a result of its *ex ante* controls of all budget payment orders. The Court should introduce INTOSAI standards into the performance of its audits. Appropriate legislative amendments will be required to implement reforms of both PIFC and the external audit systems. These would include changes to the law governing the Court of Accounts, whose operational and functional independence must also be assured. The value of the Court's audit activities would also be enhanced through improved reporting and follow-up procedures with line ministries and Parliament, and through the publication of its reports. Although these recommendations were made in the 2002 Regular Report no concrete progress towards their achievement can be reported to date.

With regard to control over structural action expenditure, the necessary measures to strengthen the administrative capacity for the treatment of irregularities affecting pre-accession assistance have been incorporated into the manuals of the National Fund and Central Finance and Contract Unit (CFCU), as well as in the agreements signed this year between the National Fund and the CFCU and between the CFCU and the implementing agencies. In September 2003 the Commission adopted a decision conferring management authority for the EC's financial assistance programme for Turkey, on a partially decentralised basis, to the CFCU.

Nevertheless, Turkey will need to restructure its existing internal financial control systems in order to manage structural action expenditure effectively in the future, in particular through the establishment of clear, public internal financial control rules and procedures, together with substantial reinforcement of Turkey's administrative capacity in this regard.

With a view to ensuring adequate protection of EC financial interests, Turkey needs to strengthen the administrative capacity for the treatment of cases of suspected fraud and other irregularities affecting pre-accession assistance, including the effective communication of irregularities to the Commission.

### *Conclusion*

Due to the delay in passing the Public Financial Management and Financial Control Law, no progress has been made since the last Regular Report.

Financial control mechanisms within the Turkish administration should be improved, both in terms of their legislative base and in terms of implementation. Turkey should concentrate its efforts on enacting the Law on Public Financial Management and Financial Control and on amending the charter of the Turkish Court of Accounts, and subsequently ensuring their effective implementation. It should also reinforce the legislative framework and its administrative capacity to protect the EU's financial interests.

## ***Chapter 29: Financial and budgetary provisions***

### *Progress since the last Regular Report*

Further progress has been achieved concerning the **national budget formulation and execution**. New implementing legislation means that net lending is now included in the budget as an appropriation and accounting and coding reforms have been extended to all consolidated budget agencies and, on a pilot basis, to general government units.

No developments can be reported with regard to **own resources**.

### *Overall assessment*

Turkish budgetary practices have in many respects been inconsistent with standards essentially applicable in the EU. There is still a large number of revolving funds and agencies with special accounts conducting off-budget operations which do not follow budget standards and whose budgets are not submitted to Parliament. The number of such funds has, however, been reduced.

Financial management responsibilities continue to be fragmented between different administrative units headed by different ministers. As a result there is a lack of clear ownership of the overall public sector budget. Improvements are also required in assessing budget needs in the budget's preparatory stage. As well as expanding the coverage of the budget, as outlined above, priority areas for continued reform include the needs to improve budget transparency, accounting standards, and the link between policy formulation and the budget process.

Nevertheless, the situation has improved. The process of consolidation of the budget is nearing completion and the on-going comprehensive public sector reform programme should be vigorously pursued. Procedures for preparing and approving the budget for capital expenditure should be fully integrated with those for recurrent expenditure. Local government expenditure should be brought within the definition of the public sector for accounting purposes.

Fiscal reporting should be timely, comprehensive, reliable and identify deviations from the budget. In 2003 the Ministry of Finance completed a new automated accounting system which centralised its accounting database and covers all consolidated budget agencies. Thus, it will be able to monitor and address commitments on a regular and timely basis, conduct surveys of commitments in excess of appropriations, and produce analytical reports with the completion of the roll out of the new budget code structure.

The government has taken steps in 2003 to strengthen tax administration operations. The budget for 2003 includes resources to employ additional tax auditors, and in January its new audit co-ordination unit completed an audit co-ordination plan which targets audit resources to high-risk areas. Turkey is committed to continuing this process and to fundamentally reforming the tax administration, drawing on OECD experience, as part of its stand-by arrangement with the IMF covering its economic programme for 2002-2004. The reorganisation of the General Directorate of Revenues is on-going.

As far as the underlying policy areas affecting the own resources systems are concerned, institutions necessary for applying the own resources system already exist and are performing the relevant activities, such as collecting customs duties, managing the statistical system for Gross National Income (GNI) and VAT resource based calculations, and managing the VAT collection system. Additional alignment will be necessary for the proper calculation of VAT and GNI resources. In this context, Turkey needs to adopt a new statistical law in line with EU standards, to revise the national accounts methodology for the proper implementation of ESA95, and align macroeconomic statistics further with the *acquis*, in particular as regards GDP estimates, harmonised consumer price indices, short-term indicators, balance of payments and social statistics.

As regards traditional own resources, Turkish customs legislation is largely in line with the 1999 *acquis*, but Turkey should make further efforts to align and enforce legislation. Also with regard to the control of future EC own resources, Turkey should reinforce instruments intended to combat VAT and customs duty fraud.

In addition to the need for the central co-ordination of the proper collection, monitoring, payment and control of funds payable to the EC budget, administrative capacity should continue to be strengthened in the context of the relevant policy areas described elsewhere in this report, such as agriculture, customs, taxation, statistics and financial control.

### *Conclusion*

Some progress has been made since the last Regular Report through the adoption of new implementing legislation, and the public sector reform programme has improved budgetary practices.

Turkey should adopt the Public Financial Management and Financial Control Law expeditiously and focus further efforts on continuing to improve budget transparency and accounting standards, in particular implementing the new budget code structure. Turkey should also adopt a new statistical law in line with EU standards and focus efforts on reorganising the tax administration. Efforts should also be made to complete the reorganisation of the General Directorate of Public Revenues and to begin to extend this structure to the local level.

## **3.2 General evaluation**

Turkey's alignment has progressed in most areas but remains at an early stage for many chapters. It is most advanced in chapters related to the EC-Turkey Customs Union but in this respect it is not fully meeting its obligations. Alignment is also more advanced in areas where other international obligations exist which are similar to the *acquis*. Further

legislative work is required in all areas, and Turkey should focus on implementing its National Programme for the Adoption of the *Acquis*, in line with the Accession Partnership priorities, more consistently across all chapters. Also, new legislation should not move away from the *acquis*.

On the *free movement of goods* Turkey has made progress, particularly on sector-specific legislation, but substantial efforts are needed in terms of both alignment and implementation of the New and Old Approach legislation on product safety and product specifications, as regards both industrial and processed food products, including food safety. There has been only limited progress in establishing conformity assessment and market surveillance mechanisms and institutions, and the system of legal metrology needs to be reinforced. Through amendments to the public procurement law, Turkey has reduced the level of compliance with the *acquis*. In the short term, Turkey should seek to adopt instruments to remove technical barriers to trade. Much work remains to be done to ensure correct implementation of the *acquis* and compliance with the obligations ensuing from the Customs Union Decision applicable on 31 December 2000.

On *free movement of persons*, there has been some progress in the reporting period, mainly in the area of free movement of workers, but Turkey's alignment remains limited. With regard to the *free movement of services*, Turkey has made some progress in relation to the banking sector, and to investment services and securities markets. In the field of professional services, limited progress has been made. In the insurance sector, a substantial effort is needed to harmonise legislation with the *acquis* and to strengthen administrative capacity. Efforts to adopt legislation concerning data protection should be continued and further legislation concerning information-society services should be adopted in accordance with the *acquis*. On *free movement of capital* the alignment with the *acquis* is progressing, notably as regards the liberalisation of capital movements, but further efforts are necessary.

Despite the measures taken in previous years, alignment in the field of *company law*, including intellectual and industrial property rights, remains limited. Both legislative and enforcement measures are needed to tackle piracy and infringements of intellectual and industrial property rights. On *competition*, efforts are needed to strengthen the provisions for state aid monitoring and to establish a state aid monitoring authority.

As regards *agriculture*, some progress has been made in the veterinary and phytosanitary fields particularly as regards animal disease control, identification and registration of bovine animals and harmful organisms related to potatoes. Further substantial efforts aimed at increasing administrative capacity and upgrading control and inspection systems, and the upgrading of food processing establishments, will be required if full compliance is to be achieved in these sectors. A strategy for rural development should be put in place. In the area of *fisheries*, limited progress has been made but some preparatory work, especially in the area of inspection and control, has been completed. However, the alignment of key legislation with the *acquis* and the institutional reform still lie ahead.

On *transport*, progress remains very limited. In certain sectors, particularly road transport and maritime safety, the level of alignment achieved relates to the transposition of various international conventions. Substantial efforts are needed in the area of maritime safety and on road and rail transport. Limited progress has been achieved on *taxation*, both in terms of legislation and administrative capacity. As regards legislation, further alignment is required on VAT, where due attention should be paid to the scope of



exemptions and application of reduced rates. As for excise, although some approximation of alcohol and tobacco duties has been achieved, the applied duties are still lower than the EU minimums. Turkey also needs to implement the duty-suspension movement regime.

Turkey has made some progress in all *statistical* areas, but more efforts are needed in order to meet the main requirements as regards alignment. The existing legislation needs to be brought into line with the *acquis* in order to implement the fundamental principles of impartiality and reliability of data, transparency of statistics and confidentiality of personal data. On *social policy and employment*, Turkey has made some progress. Administrative capacity has been strengthened and measures have been adopted to promote gender equality in the field of labour law and on employment policy. Further efforts are required in the field of social dialogue and health and safety. As regards *energy*, significant progress has been achieved via the adoption of various provisions implementing the framework laws on electricity and gas markets. Alignment in the areas of energy efficiency and renewables has also progressed. In all energy fields, further efforts are needed to ensure completion of alignment.

On *industrial policy*, Turkey has made progress in the field of public sector reform, as well as with the adoption of a new foreign direct investment law. Further efforts are required to restructure state-owned enterprises. Steel industry restructuring remains a high priority. Turkey has made some progress as regards *small and medium-sized enterprise* policy. The introduction of simplified procedures to register and establish a company is a positive development. Turkey is well endowed with technology development centres. Turkey's full association with the Sixth Framework Programme demonstrates positive engagement in *science and research*, although Turkey's participation in EU programmes has only recently begun. Turkey should increase levels of investment in science and research. Some progress has been achieved in the area of *education and training*. Turkey should increase efforts to complete its preparation for participation in the three Community programmes, and ensure that measures are being implemented.

Despite some progress, legislative alignment with the *telecommunications acquis* is still insufficient and further efforts are necessary, particularly with regard to universal service, numbering, leased lines and data protection. Implementation and enforcement of the existing legislation should be improved. Considerable efforts are needed to liberalise the market for postal services. Turkey has made legislative progress on *culture and audio-visual policy*, in particular, through authorising broadcasts in languages other than Turkish. However, further substantial efforts are required to align with the *acquis* and Turkey is encouraged to adopt implementing measures on broadcasting in other languages.

In the field of *regional policy*, some progress has been achieved since the last regular report but considerable efforts are still necessary to ensure implementation of regional policy at central and regional level. Appropriate institutions need to be created and endowed with adequate human and financial resources. In the *environmental* area, Turkey has made limited progress in a number of areas, and overall the level of alignment with the *acquis* remains low in most areas. Greater efforts are needed as regards both legislation and implementation on all aspects of environment policy.

Alignment of *consumer and health protection* has progressed, notably with the adoption of a framework law. However, an effective safety surveillance regime should be established and adequate resources are needed to ensure a high level of consumer protection. In adopting initial strategies for alignment in the area of *justice and home affairs*, Turkey has made important progress. Co-operation has improved in many fields, such as the fight against illegal migration and organised crime. Turkey should start implementing the strategies already adopted and intensify its efforts to align its legal and institutional framework. Turkey should start to negotiate a readmission agreement with the EU.

In the *customs union* chapter, the following outstanding issues should be given priority: legislation on customs control; counterfeit and pirated goods; cultural goods and non-customs legislation relevant to the application of customs provisions on free zones and customs procedures with economic impact. Administrative capacity has been improved, but Turkey should continue to strengthen inter-institutional co-operation, post-clearance audits and border control, in order to achieve satisfactory implementation and enforcement of the aligned legislation.

Turkey has made very limited progress on *external relations*, where long outstanding obligations, particularly in the area of the Generalised System of Preferences, remain to be fulfilled. In the context of bilateral agreements, Turkey should continue its efforts to conclude free trade agreements with partners with whom the EU has such arrangements. In the field of the *common foreign and security policy*, Turkey's policy has largely continued to position itself along the lines of that of the EU. Turkey should ensure that its national policies and practice conform to the EU's common positions, and should ensure that all sanctions and restrictive measures can be duly implemented.

Due to the delay in passing the Public Financial Management and Financial Control Law, little progress has been made on *financial control*. Turkey should adopt this law and focus on improving budget transparency and accounting standards and implementing the new budget code structure.

In many fields implementation is weak. Administrative capacity in different areas needs to be strengthened to ensure that the *acquis* is implemented and enforced effectively. In some cases, administrative reform should entail the establishment of new structures, for example in the field of state aid and regional development. Where new regulatory bodies have been set up, their autonomy should be assured and they should be provided with sufficient staff and financial resources.

## C. CONCLUSION

Over the past year the Turkish government has shown great determination in accelerating the pace of reforms, which have brought far-reaching changes to the political and legal system. It has also taken important steps to ensure their effective implementation, in order to allow Turkish citizens to enjoy fundamental freedoms and human rights in line with European standards. Four major packages of political reform have been adopted, introducing changes to different areas of legislation. Some of the reforms carry great political significance as they impinge upon sensitive issues in the Turkish context, such as freedom of expression, freedom of demonstration, cultural rights and civilian control of the military. Many priorities under the political criteria in the revised Accession Partnership have been addressed.

Progress is being made in streamlining the functioning of public administration and government. The government has, in particular, started reforms with a view to promoting a more transparent management of human resources in the public service. This also serves to strengthen the fight against corruption.

The duties, powers and functioning of the National Security Council (NSC) have been substantially amended, bringing the framework of civil-military relations closer to practice in EU member states. The role of the Secretary General of the NSC has been reviewed and its executive powers have been abolished. There are still representatives of the NSC in civilian boards such as the High Audio Visual Board (RTÜK) and the High Education Board (YÖK). Full parliamentary control over military expenditures must be ensured both in terms of approving the budget and in terms of auditing.

More efforts are still needed to enhance the efficiency and the independence of the judiciary. Already, the judicial system has been strengthened with the establishment of a new system of family courts. The competence of military courts to try civilians has been abolished. Positive changes have been made to the system of State Security Courts, in particular the abolition of incommunicado detention. However, the functioning of these courts still needs to be brought fully in line with the European standards in particular with the defence rights and the principle of fair trial.

On the ground, implementation of the reforms is uneven. In some cases, executive and judicial bodies entrusted with the implementation of the political reforms relating to fundamental freedoms adopted by Parliament have narrowed the scope of these reforms by establishing restrictive conditions, hindering the objectives initially pursued. The government has recognised that the reforms are not being put into practice systematically and has set up a Reform Monitoring Group in order to ensure their implementation.

Turkey has ratified the Civil Law Convention on Corruption, so that on 1 January 2004 it will become a member of the Council of Europe's Group of States against corruption (GRECO). However, in spite of several initiatives, corruption remains at a persistently high level and affects many spheres of public life.

Turkey has ratified major international as well as European Conventions such as the International Covenant on Civil and Political Rights, on Social and Economic Rights as well as Protocol 6 of the European Convention on Human Rights.

It is, however, of great concern that Turkey has not executed many judgements of the ECtHR, by means of ensuring payment of just satisfaction or reversing decisions made in

contravention of the ECHR. One example is the Loizidou case, as it is now five years since the EctHR ruled on this matter.

The fight against torture and ill-treatment has been strengthened and the Turkish legal system has come closer to European standards in this respect. The scale of torture has declined but there are still reports about specific cases, which continues to cause concern.

The reform of the prison system has continued and rights of detainees have been improved. In practice, the right to access a lawyer is not always ensured.

The possibility of retrial has been introduced but in practice few cases have been subject to retrial. In the case of Zana and others, retrial has so far largely resulted in a repetition of the previous trial, leading to persistent concerns about the respect for the rights of defence.

The adoption of the reform packages has led to the lifting of several legal restrictions on the exercise of freedom of expression. The enforcement of the revised provisions of the Penal Code has led to many acquittals although cases against persons expressing non-violent opinion continue to occur. A number of persons imprisoned for non-violent expression of opinion, under provisions that have now been abolished, have been released.

Notable progress has been achieved in the area of freedom of demonstration and peaceful assembly where several restrictions have been lifted. Nevertheless, in some cases of peaceful demonstration, the authorities have made a disproportionate use of force.

As regards freedom of association, some restrictions have been eased, but associations still experience cumbersome procedures. Cases of prosecution against associations and particularly human rights defenders continue to occur.

The law on political parties has been amended to make closure of parties more difficult. However, HADEP has been banned by the Constitutional Court and DEHAP is facing proceedings in view of its closure.

Concerning freedom of religion, the changes introduced by the reform packages have not yet produced the desired effects. Executive bodies continue to adopt a very restrictive interpretation of the relevant provisions, so that religious freedom is subject to serious limitations as compared with European standards. This is particularly the case for the absence of legal personality, education and training of ecclesiastic personnel as well as full enjoyment of property rights of religious communities.

Measures have been taken to lift the ban on radio and TV broadcasting and education in languages other than Turkish. So far, the reforms adopted in these areas have produced little practical effect.

The lifting of the state of emergency in the Southeast has in general eased tensions amongst the population. There has been greater tolerance for cultural events. The programme for the return to villages proceeds at a very slow pace. Serious efforts are needed to address the problems of the internally displaced persons and the socio-economic development of the region in a comprehensive fashion and of cultural rights in general.

In the conclusions of the Thessaloniki European Council, and the Accession Partnership, Turkey is encouraged to strongly support the efforts of the UN Secretary General towards a settlement of the Cyprus problem. Turkey has expressed its support on different occasions for a settlement to the Cyprus problem. Turkey has indicated that an agreement aiming to establish a customs union with the northern part of Cyprus will not come into effect.

Relations between Turkey and Greece have continued to improve. Efforts are continuing to put in effect new confidence building measures. Exploratory contacts on the Aegean between the two foreign ministries have also continued.

Turkey decided to give its agreement as a NATO member to the modalities of participation of non-EU European allies in EU-led operations using NATO assets. This has solved a problem which had hitherto hindered the effective launch of the European Security and Defence Policy.

Overall, in the past 12 months Turkey has made further impressive legislative efforts which constitute significant progress towards achieving compliance with the Copenhagen political criteria. Turkey should address the outstanding issues highlighted in this report, with particular attention to the strengthening of the independence and the functioning of the judiciary, the overall framework for the exercise of fundamental freedoms (association, expression and religion), the further alignment of civil-military relations with European practice, the situation in the Southeast and cultural rights. Turkey should ensure full and effective implementation of reforms to ensure that Turkish citizens can enjoy human rights and fundamental freedoms in line with European standards.

Furthermore, Turkey should provide determined support for efforts to achieve a comprehensive settlement of the Cyprus problem.

Turkey has significantly improved the functioning of its market economy, while macroeconomic imbalances remain. Further decisive steps towards macroeconomic stability and structural reforms will also enhance the Turkish capacity to cope with competitive pressure and market forces within the Union.

Economic stability and predictability have increased with a continued decline in inflationary pressures, although still high, and the modernisation of Turkey's market regulations and institutions. The positive effects of adopted and gradually implemented structural reforms have helped to withstand the effects of the Iraq crisis without a major economic setback. The independent regulatory and supervisory agencies played a crucial role in this respect. Financial sector surveillance has been strengthened and the base for a modern foreign direct investment legislation has been laid. Transparency and efficiency of public finance management has been improved.

The current reform process should be maintained. Fiscal discipline and a stability-oriented economic policy are cornerstones for strengthening market confidence and sustainable public finances. In order to achieve a well-balanced and sound economy, the disinflation process has to be maintained. The restructuring in the banking sector is not yet sufficiently advanced and the process of aligning the sector's surveillance and prudential standards with international norms should be completed. The privatisation of state-owned banks and enterprises as well as market deregulation has to be accelerated, and structural distortions should be addressed. Sufficient public and private investment into productive uses and devoting particular attention to education are important to

increase the competitiveness and the growth potential of the economy. The inflow of foreign direct investment has to be encouraged by removing remaining barriers.

Turkey's alignment has progressed in most areas but remains in an early stage for many chapters. It is most advanced in chapters related to the EC-Turkey Customs Union but in this respect it is not fully meeting its obligations. Alignment is also more advanced in areas where other international obligations exist which are similar to the *acquis*. Further legislative work is required in all areas, and Turkey should focus on implementing its National Programme for the Adoption of the *Acquis*, in line with the Accession Partnership priorities, more consistently across all chapters. Also, new legislation should not move away from the *acquis*.

On the *free movement of goods* Turkey has made progress, particularly on sector-specific legislation, but substantial efforts are needed in terms of both alignment and implementation of the new and old approach legislation on product safety and product specifications, both as regards industrial and processed food products, including food safety. There has been only limited progress in establishing conformity assessment and market surveillance mechanisms and institutions, and the system of legal metrology needs to be reinforced. Through amendments to the public procurement law, Turkey has reduced the level of compliance with the *acquis*. In the short term, Turkey should seek to adopt instruments to remove technical barriers to trade. Much work remains to be done to ensure correct implementation of the *acquis* and compliance with the obligations ensuing from the Customs Union Decision applicable on 31 December 2000.

On *free movement of persons*, there has been some progress in the reporting period, mainly in the area of free movement of workers, but Turkey's alignment remains limited. With regard to the *free movement of services*, Turkey has made some progress in relation to the banking sector, and to investment services and securities markets. In the field of professional services, limited progress has been made. In the insurance sector, a substantial effort is needed to harmonise legislation with the *acquis* and to strengthen administrative capacity. Efforts to adopt legislation concerning data protection should be continued and further legislation concerning information-society services should be adopted in accordance with the *acquis*. On *free movement of capital* the alignment with the *acquis* is progressing, notably as regards the liberalisation of capital movements, but further efforts are necessary.

Despite the measures taken in previous years, alignment in the field of *company law* including intellectual and industrial property rights, remains limited. Both legislative and enforcement measures are needed to tackle piracy and infringements of intellectual and industrial property rights. On *competition*, efforts are needed to strengthen the provisions for state aid monitoring and to establish a state aid monitoring authority.

As regards *agriculture*, some progress has been made in the veterinary and phytosanitary fields particularly as regards animal disease control, identification and registration of bovine animals and harmful organisms related to potatoes. Further substantial efforts aimed at increasing the administrative capacity and upgrading control and inspection systems, and the upgrading of food processing establishments, will be required if full compliance is to be achieved in these sectors. A strategy for rural development should be put in place. In the area of *fisheries*, limited progress has been made but some preparatory work, especially in the area of inspection and control, has been completed. However, the alignment of key legislation with the *acquis* and the institutional reform still lie ahead.

On *transport*, progress remains very limited. In certain sectors, particularly road transport and maritime safety, the level of alignment achieved relates to the transposition of various international conventions. Substantial efforts are needed in the area of maritime safety and on road and rail transport. Limited progress has been achieved on *taxation*, both in terms of legislation and administrative capacity. As regards legislation, further alignment is required on VAT, where due attention should be paid to the scope of exemptions and application of reduced rates. As for excises, although some approximation of alcohol and tobacco duties has been achieved, the applied duties are still lower than the EU minimums. Turkey also needs to implement the duty-suspension movement regime.

Turkey has made some progress in all *statistical* areas, but more efforts are needed in order to meet the main requirements as regards alignment. The existing legislation needs to be brought into line with the *acquis* in order to implement the fundamental principles of impartiality and reliability of data, transparency of statistics and confidentiality of personal data. On *social policy and employment*, Turkey has made some progress. Administrative capacity has been strengthened and measures have been adopted to promote gender equality in the field of labour law and on employment policy. Further efforts are required in the field of social dialogue and health and safety. As regards *energy*, significant progress has been achieved via the adoption of various provisions implementing the framework laws on electricity and gas markets. Alignment in the areas of energy efficiency and renewables has also progressed. In all energy fields, further efforts are needed to ensure completion of alignment.

On *industrial policy*, Turkey has made progress in the field of public sector reform, as well as with the adoption of a new foreign direct investment law. Further efforts are required to restructure state-owned enterprises. Steel industry restructuring remains a high priority. Turkey has made some progress as regards *small and medium-sized enterprise* policy. The introduction of simplified procedures to register and establish a company is a positive development. Turkey is well endowed with technology development centres. Turkey's full association with the Sixth Framework Programme demonstrates positive engagement on *science and research*, although Turkey's participation to EU programmes has only recently begun. Turkey should increase levels of investment in science and research. Some progress has been achieved in the area of *education and training*. Turkey should increase efforts to complete its preparation for participation in the three Community programmes, and ensure that measures are being implemented.

Despite some progress, the legislative alignment with the *telecommunications acquis* is still insufficient and further efforts are necessary, particularly with regard to universal service, numbering, leased lines and data protection. Implementation and enforcement of the existing legislation should be improved. Considerable efforts are needed to liberalise the market for postal services. Turkey has made legislative progress on *culture and audio-visual policy*, in particular, through authorising broadcasts in languages other than Turkish. However, further substantial efforts are required to align with the *acquis* and Turkey is encouraged to adopt implementing measures on broadcasting in other languages.

In the field of *regional policy*, some progress has been achieved since the last regular report but considerable efforts are still necessary to ensure implementation of regional policy at central and regional level. Appropriate institutions need to be created and

endowed with adequate human and financial resources. In the *environmental* area, Turkey has made limited progress in a number of areas, and overall the level of alignment with the *acquis* remains low in most areas. Greater efforts are needed as regards both legislation and implementation on all aspects of environment policy.

Alignment on *consumer and health protection* has progressed, notably with the adoption of a framework law. However, an effective safety surveillance regime should be established and adequate resources are needed to ensure a high level of consumer protection. In adopting initial strategies for alignment in the area of *justice and home affairs*, Turkey has made important progress. Co-operation has improved in many fields, such as the fight against illegal migration and organised crime. Turkey should start implementing the strategies already adopted and intensify its efforts to align its legal and institutional framework. Turkey should start to negotiate a readmission agreement with the EU.

In the *customs union* chapter, the following outstanding issues should be given priority: legislation on the customs aspects of control; counterfeit and pirated goods; cultural goods and non-customs legislation relevant to the application of customs provisions on free zones and customs procedures with economic impact. Administrative capacity has been improved, but Turkey should continue to strengthen inter-institutional co-operation, post clearance audits and border control, in order to achieve satisfactory implementation and enforcement of the aligned legislation.

Turkey has made very limited progress on *external relations*, where long outstanding obligations, particularly in the area of the Generalised System of Preferences, remain to be fulfilled. In the context of bilateral agreements, Turkey should continue its efforts to conclude free trade agreements with partners with whom the EU has such arrangements. In the field of the *common foreign and security policy*, Turkey's policy has largely continued to position itself along the lines of that of the EU. Turkey should ensure that its national policies and practice conform to the EU's common positions, and should ensure that all sanctions and restrictive measures can be duly implemented.

Due to the delay in passing the Public Financial Management and Financial Control Law, little progress has been made on *financial control*. Turkey should adopt this law and focus on improving budget transparency and accounting standards and implementing the new budget code structure.

In many fields implementation is weak. Administrative capacity in different areas needs to be strengthened to ensure that the *acquis* is implemented and enforced effectively. In some cases, administrative reform should entail the establishment of new structures, for example in the field of state aid and regional development. Where new regulatory bodies have been set up, their autonomy should be assured and they should be provided with sufficient staff and financial resources.



#### D. ACCESSION PARTNERSHIP: GLOBAL 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.

A revised Accession Partnership was adopted by the Council in May 2003.<sup>13</sup> The purpose of the Accession Partnership is to assist the Turkish authorities in their efforts to meet the accession criteria, with particular emphasis on the political criteria. It covers in detail the priorities for accession preparations, in particular implementing the *acquis*, and forms the basis for programming pre-accession assistance from Community funds.

Turkey has begun to address the priorities defined by the revised Accession Partnership. Overall, progress has been made, but substantial efforts are still necessary to complete the tasks foreseen for the period 2003-2004. 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 2003 national programme (see more details in part A.2 of this report)

With regard to short-term priorities concerning the **enhanced political dialogue and political criteria**, significant progress has been made in meeting the priorities. In particular, there has been a sustained legislative effort aiming at bringing the relevant legislation in line with the EU standards. In some areas, there is a need for additional legislative efforts. Overall, implementation on the ground is uneven and the concrete results of the reforms remain to be seen.

Turkey has continued to express support for the current process of direct talks between the leaders of the two communities to achieve a *comprehensive settlement of the Cyprus problem*<sup>14</sup>. As for the principle of peaceful settlement of border disputes, relations between Turkey and Greece have continued to improve. Efforts are continuing to put into effect new confidence-building measures.

The two *International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights* have been ratified. Turkey made important reservations.

Legal provisions have been strengthened to *reinforce the fight against torture*. The government has adopted a zero tolerance policy towards torture. Legislative measures have been taken to *guarantee the right for detained persons to access in private to a lawyer and to sanction torture perpetrators*. In practice however, the right to access in private to a lawyer is not always respected. The *training of law enforcement officials on human rights* issues has continued and new initiatives have been taken.

There has been progress in lifting existing *restrictions to freedom of expression*. Changes were made to the Turkish Penal Code and the Anti-Terror Act. Most cases brought against individuals have resulted in acquittals issued by courts. The *situation of persons imprisoned for having expressed non-violent opinions* has been addressed and several

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<sup>13</sup> 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).

<sup>14</sup> For ease of reference, wording from the Accession Partnership is rendered in italics.

people have already been released. Some cases have been subject to *retrial*, so far without any practical effect. Some, but not all, legal restrictions concerning *freedom of association and assembly* have been lifted. There has been little progress in the area of *freedom of religion*. In practice, non-Moslem communities continue to face serious restrictions.

Initiatives have been taken to strengthen the *efficiency of the judiciary*. A Justice Academy has been set up. The scope of the competence of *State Security Courts* has been further amended. However, the powers and functioning of State Security Courts is still not in line with European standards and practice. The reform package adopted in July introduced important changes to the duties, structure and functioning of the *National Security Council*.

Further legislative and regulatory measures have been adopted concerning *radio and TV broadcasting in language other than Turkish*, but these amendments have not yet led to such broadcasting in practice. The state of emergency has been lifted in the *Southeast* leading to a positive psychological impact and an improvement of the security situation. There is as yet no comprehensive approach towards reducing regional disparities, and the question of internally displaced persons remains to be addressed, albeit the Turkish side has recently started, together with international partners, some promising initiatives.

The short term Accession Partnership priorities relating to the **economic criteria** have been partially met. The *financial and economic programme* comprising structural reforms, as well as fiscal and monetary policies to improve public finances – drawn up by the government in March 2001 – continues to be implemented in line with IMF requirements. The process of *restructuring the financial sector* has progressed. The implementation of the new banking law has contributed to strengthening the banking sector; prudential rules have been improved. The Central Bank Law was amended to strengthen its *independence* from the government. Turkey participates in the pre-accession fiscal surveillance procedure, consisting of an annual notification of fiscal positions.

The government continues to implement structural *agricultural reforms*. The registration of land and of live bovine animals has started. Progress in the area of *privatisation* in the industrial and agricultural sectors has been limited. The *state monopoly* on production, import, pricing and distribution of alcoholic beverages and *tobacco* remains an important matter of concern. A law facilitating the inflow of *foreign direct investment* has been promulgated, but has not produced yet tangible effects. Despite improvements in the tax collection system, the problems due to the size of the *informal economy* have not been sufficiently addressed.

Although Turkey has begun to address the Accession Partnership priorities relating to the **ability to assume the obligations of membership**, the short term priorities in relation to most chapters of the *acquis* have not yet been addressed in a significant way. They have been partially met in relation to the freedom to provide services, statistics, social policy and employment, energy, industrial policy, small and medium-sized enterprises, consumer protection and health, justice and home affairs, the customs union, and external relations. The priorities relating to the free movement of capital have largely been met.

As regards the **medium-term priorities** identified in the 2003 Accession Partnership, Turkey has begun to address certain issues relating to the economic criteria, 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 part B.3 of this report: *Ability to assume the obligations of membership*. The revised Accession Partnership follows the same structure as the Regular Report.

The revised Accession Partnership continues to be a main tool guiding Turkey's work on preparation for accession to the EU for the period 2003-2004 and beyond. 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.

## ANNEXES

## ANNEX I

### HUMAN RIGHTS CONVENTIONS RATIFIED BY THE CANDIDATE COUNTRIES

(as at end of October 2003)

<i>Adherence to following conventions and protocols</i>	<b>Bulgaria</b>	<b>Romania</b>	<b>Turkey</b>
<b>ECHR (European Convention on Human Rights)</b>	✓	✓	✓
Protocol 1 (right of property)	✓	✓	✓
Protocol 4 (freedom movement et al.)	✓	✓	
Protocol 6 (death penalty)	✓	✓	✓ <sup>1</sup>
Protocol 7 (ne bis in idem)	✓	✓	
<b>European Convention for the Prevention of Torture</b>	✓	✓	✓
<b>European Social Charter</b>	n/a	n/a	✓
<b>Revised European Social Charter</b>	✓	✓	
<b>Framework Convention for National Minorities</b>	✓	✓	
<b>ICCPR (International Covenant on Civil and Political Rights)</b>	✓	✓	✓
Optional Protocol to the ICCPR (right of individual communication)	✓	✓	
Second Optional Protocol to ICCPR (death penalty)	✓	✓	
<b>ICESCR (International Covenant on Economic, Social and Cultural rights)</b>	✓	✓	✓
<b>CAT (Convention against Torture)</b>	✓	✓	✓
<b>CERD (Convention on the Elimination of All Forms of Racial Discrimination)</b>	✓	✓	✓
<b>CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)</b>	✓	✓	✓
Optional Protocol to the CEDAW			✓
<b>CRC (Convention on the Rights of the Child)</b>	✓	✓	✓

<sup>1</sup> Not yet notified to the Council of Europe.

## ANNEX II

### STATISTICAL ANNEX

	1998	1999	2000	2001	2002
<b>Basic data</b>	<b>in 1000</b>				
Population (average)	65,157E	66,293E	67,420E	68,529E	69,626E
	<b>in km<sup>2</sup></b>				
Total area	769,604	769,604	769,604	769,604	769,604
<b>National accounts</b>	<b>1000 Mio Turkish Lira</b>				
Gross domestic product at current prices	52,224,945	77,415,272	124,583,458	178,412,438	276,002,988
	<b>1000 Mio ECU/euro</b>				
Gross domestic product at current prices	177.8	173.1	216.7	161.8	191.7
	<b>in ECU/Euro</b>				
Gross domestic product per capita a) at current prices	2,800	2,700	3,200	2,400	2,800
	<b>% change over the previous year</b>				
Gross domestic product at constant prices (nat. currency)	3.1	-4.7	7.4	-7.5	7.8
Employment growth	2.4	2.5	-3.8	-1.0	:
Labour productivity growth	:	:	:	-6.5	7.6
Unit labour cost growth	:	:	:	-4.6	:
	<b>in Purchasing Power Standards</b>				
Gross domestic product per capita a) at current prices	6,100	5,600	5,700	5,200	5,500
	<b>in % of EU-15 average</b>				
GDP per capita a) at current prices in PPS	30	26	25	22	23
Labour productivity (GDP per person employed in PPS)	37.8	33.4	34.1	31.8	36.3
Structure of production	<b>% of Gross Value Added b)</b>				
- Agriculture	16.5	14.5	13.6	11.3	11.5
- Industry (excluding construction)	21.7	22.0	22.6	24.2	24.5
- Construction	5.7	5.3	5.0	4.9	4.0
- Services	56.2	58.2	58.8	59.7	60.0
Structure of expenditure	<b>as % of Gross Domestic Product</b>				
- Final consumption expenditure	81.9	87.4	85.6	86.3	80.7
- household and NPISH	69.2	72.3	71.5	72.0	66.7
- general government	12.7	15.2	14.1	14.2	14.0
- Gross fixed capital formation	24.6	21.9	22.4	18.2	16.7
- Stock variation	-0.4	1.5	2.2	-1.4	4.7
- Exports of goods and services	24.3	23.2	24.1	33.7	28.8
- Imports of goods and services	27.9	26.9	31.5	31.3	30.5

	1998	1999	2000	2001	2002
<b>Inflation rate</b>	<b>% change over the previous year</b>				
Consumer price index c)	84.6	64.9	54.9	54.4	45.0
<b>Balance of payments</b>	<b>in Mio ECU/euro</b>				
-Current account	1,770	-1,276	-10,631	3,792	-1,566 g)
-Trade balance	-12,684	-9,837	-24,263	-5,066	:
<i>Exports of goods</i>	27,848	27,062	33,262	38,385	:
<i>Imports of goods</i>	40,532	36,899	57,525	43,451	:
-Net services	12,007	7,024	12,308	10,194	:
-Net income	-2,663	-3,319	-4,333	-5,583	:
-Net current transfers	5,108	4,856	5,657	4,246	:
<i>- of which: government transfers</i>	142	340	232	231	:
- FDI (net) inflows	838	763	1,064	3,647	1,097 g)

<b>Public finance</b>	<b>in % of Gross Domestic Product</b>				
General government deficit/surplus	-12.0	-19.0	-6.0	-28.0	-10.0p
General government debt	50.0	67.0	58.0	105.0	95.0p
<b>Financial indicators</b>	<b>in % of Gross Domestic Product</b>				
Gross foreign debt of the whole economy	39.4	47.5	48.3	68.9	:
	<b>as % of exports</b>				
Gross foreign debt of the whole economy	161.7	204.8	201.0	204.4	:
<b>Monetary aggregates d)</b>	<b>1000 Mio ECU/euro</b>				
- M1	7.0	8.6	12.1	9.0	9.7
- M2	55.3	74.5	91.1	83.9	82.3
- M3	56.9	76.1	93.7	85.7	86.2
Total credit d)	30.8	30.7	44.1	26.9	20.8
<b>Average short-term interest rates</b>	<b>% per annum</b>				
- Day-to-day money rate	74.6	73.5	56.7	89.7	49.5
- Lending rate	79.5	86.1	51.2	78.7	53.6
- Deposit rate	80.1	78.4	47.1	74.6	50.4
<b>ECU/EUR exchange rates</b>	<b>(1ECU/euro=..Turkish Lira)</b>				
- Average of period	293,736	447,237	574,816	1,102,430	1,439,680
- End of period	365,748	544,641	624,267	1,269,500	1,738,000
	<b>1994=100</b>				
- Effective exchange rate index	15.4	9.9	7.1	3.8	2.8
<b>Reserve assets</b>	<b>Mio ECU/euro</b>				
-Reserve assets (including gold)	17,879	24,280	25,077	22,652	26,744
-Reserve assets (excluding gold)	16,941	23,225	23,986	21,483	25,562

<b>External trade</b>	<b>Mio ECU/euro</b>				
Trade balance	-17,019	-13,387	-29,262	-11,172	-15,239
Exports	24,130	24,964	30,182	35,071	37,864
Imports	41,149	38,351	59,444	46,243	53,103
	<b>previous year=100</b>				
Terms of trade	100.0	98.8	91.4	97.7	99.4
	<b>as % of total</b>				
Exports with EU-15	50.0	54.0	52.2	51.4	51.5
Imports with EU-15	52.4	52.6	48.8	44.2	45.5

	1998	1999	2000	2001	2002
<b>Demography</b>	<b>per 1000 of population</b>				
Natural growth rate	16.0E	15.5E	15.1E	14.6E	14.2E
Net migration rate (including corrections)	1.5E	1.5E	1.5E	1.5E	1.4E
	<b>per 1000 live-births</b>				
Infant mortality rate	44.7E	43.3E	41.9E	40.6E	39.4E
Life expectancy :	<b>at birth</b>				
Males:	65.4E	65.6E	65.8E	66E	66.2E
Females:	69.9E	70.2E	70.4E	70.6E	70.9E

<b>Labour market (Labour Force Survey) e)</b>	<b>% of population</b>				
Economic activity rate (15-64)	54.9	55.4	51.8	51.3	51.5
Employment rate (15-64), total	51.1	51.0	48.2	46.8	45.8
Employment rate (15-64), males	74.1	72.8	71.0	68.4	66.0
Employment rate (15-64), females	27.9	29.1	25.3	25.0	25.6
	<b>as % of the total population of the same age group</b>				
Employment rate of older workers (55-64)	40.4	40.6	35.4	34.7	34.1
Average employment by NACE branches	<b>in % of total</b>				
- Agriculture and forestry	40.5	41.5	34.5	35.4	33.2
- Industry (excluding construction)	17.5	16.8	18.2	18.3	19.2
- Construction	6.2	6.1	6.4	5.3	4.6
- Services	35.9	35.8	40.9	41.0	43.0
	<b>% of labour force</b>				
Unemployment rate, total	6.8	7.7	6.6	8.5	10.4
Unemployment rate, males	6.8	7.7	6.6	8.8	10.7
Unemployment rate, females	6.9	7.5	6.5	7.9	9.4
Unemployment rate of persons < 25 years	14.2	15.3	13.2	16.6	19.5
Long-term unemployment rate	2.7	2.1	1.4	2.4	3.0

<b>Social cohesion</b>	<b>ratio of top quintile to lowest quintile</b>				
Inequality of income distribution	:	:	:	:	:
	<b>% of population aged 18-24</b>				
Early school-leavers	:	:	:	:	:
	<b>% of population aged 0-65</b>				
Population in jobless households (persons aged 0-65)	:	:	:	:	:

<b>Standard of living</b>	<b>per 1000 inhabitants f)</b>				
Number of cars	58.9	61.4	65.5	66.1	66.1
Main telephone lines	260.3	272.3	272.6	275.5	271.7
Number of subscriptions to cellular mobile services	51.9	114.1	221.9	284.2	298.5

<b>Infrastructure</b>	<b>in km per 1000 km<sup>2</sup></b>				
Railway network	11.2	11.3	11.3	11.3	11.3
	<b>Km</b>				
Length of motorways	1,726	1,749	1,773	1,851	1,851
<b>Industry and agriculture</b>	<b>previous year=100</b>				
Industrial production volume indices	101.3	96.2	106.1	91.3	109.5
Gross agricultural production volume indices	110.6	94.7	104.2	93.3	108.5



	1998	1999	2000	2001	2002
<b>Innovation and research</b>	<b>as % of GDP</b>				
Spending on Human Resources (public expenditure on education)	3.00	4.00	3.46	:	:
	<b>as % of GDP</b>				
Gross domestic expenditure on Research & Development	0.5	0.6	:	:	:
	<b>per 1000 inhabitants</b>				
Level of Internet access – households	:	:	:	:	:

<b>Environment</b>	<b>tonnes CO2 equivalent per capita</b>				
Total greenhouse gases emissions	139ps	144ps	153ps	:	:
	<b>Kg of oil equivalent per 1000 euro of GDP</b>				
Energy intensity of the economy	413.8	488.4	494.9	:	:
	<b>as % of total electricity consumption</b>				
Share of renewable energy	37.3	29.5	24.3	:	:
	<b>as % of total freight transport</b>				
Modal split of freight transport	94.8	94.8	94.3	95.3	:

P=provisional figures

E=estimated data

s=EUROSTAT estimate

- a) Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.  
b) Data refers to ISIC Rev. 2.  
c) For Turkey the national consumer price index is given, which is not strictly comparable with the interim HICPs.  
d) For 2002: value at the end of November.  
e) 2<sup>nd</sup> quarter survey.  
f) Data for 2001 and 2002 are provisional. Data for 2000 were calculated according to provisional results of population census of year 2000.  
g) Source: Website of the National Bank

## Methodological notes

### Finance

*Public finance:* The general government deficit / surplus refers to the national accounts concept of consolidated general government net borrowing / net lending (EDP B.9) of ESA95. General government debt is defined as consolidated gross debt at end-year nominal value.

*Gross foreign debt* is of the whole economy, covering both short- and long-term, but excluding equity investment and money market instruments. The source for stock of outstanding debt is OECD, while the source of GDP is Eurostat. For the ratio of gross foreign debt to exports, the national accounts definition of exports of goods and services is used (source: Eurostat).

*Monetary aggregates* are end-year stock data, as reported to Eurostat. Generally, M1 means notes and coin in circulation plus bank sight deposits. M2 means M1 plus savings deposits plus other short-term claims on banks (corresponding to Turkish M2Y). M3 means M2 plus certain placements in a less liquid or longer-term form (corresponding to Turkish M3Y). Total credit means loans by resident monetary financial institutions (MFIs) to non-MFI residents.

*Interest rates:* Annual average rates based on monthly series reported to Eurostat. Lending rates refer to bank lending to enterprises for over 1 year. Deposit rates refer to bank deposits with an agreed maturity of up to one year. Day-to-day money rates are overnight interbank rates.

*Exchange rates:* ECU exchange rates are those that were officially notified to DG ECFIN until 1 January 1999, when the ECU was replaced by the euro. Euro exchange rates are reference rates of the European Central Bank. The effective exchange rate index (nominal), as reported to Eurostat, is weighted by major trading partners.

*Reserve assets* are end-year stock data, as reported to Eurostat. They are defined as the sum of central bank holdings of gold, foreign exchange, SDRs, reserve position in the IMF, and other claims on non-residents. Gold is valued at end-year market price.

### External trade

*Imports and exports (current prices)*. The data are based upon the "special trade" system, according to which, external trade comprises goods crossing the customs border of the country. Value of external trade turnover includes the market value of the goods and the additional costs (freight, insurance etc.). *Trade Classification*. Merchandise trade flows should be using the commodity classification according to the Combined Nomenclature (CN).

FOB means that all costs incurred in transport up to the customs frontier are charged to the seller. CIF means that the purchaser pays the additional costs.

Imports are recorded on CIF basis, exports on FOB basis.

*Imports and exports with EU-15*. Data declared by the Republic of Turkey.

### Labour market

*Economic activity rate (ILO Methodology)*. Percentage of labour force in the total population aged 15-64. This rate is derived from LFS (Labour Force Survey) observing the following ILO definitions and recommendations:

Labour force: employed and unemployed persons according to the ILO definitions stated below.

The employed: all persons aged 15-64, who during the reference period worked at least one hour for wage or salary or other remuneration as employees, entrepreneurs, members of co-operatives or contributing family workers. Members of armed forces (excluding residents of military barracks) and women on child-care leave are included.

The unemployed: all persons aged 15+, who concurrently meet all three conditions of the ILO definition for being classified as the unemployed: (i) have no work, (ii) are actively seeking a job and (iii) are ready to take up a job within a fortnight.

*Unemployment rate (by ILO methodology)*. Percentage of the unemployed in labour force. This rate is derived from LFS (Labour Force Survey) observing the ILO definitions and recommendations (see ILO definitions above).

*Average employment by NACE branches*. This indicator is derived observing the ILO definitions and recommendations.

The Labour Force survey in Turkey is not yet harmonised with the EU.

Source: Long term unemployment rate: Eurostat; Unemployment rate total, males, females: 1998-1999 national LFS, 2000-2002 Eurostat. All other indicators: national LFS.

### Standard of living

*Number of cars*. Passenger car: road motor vehicle, other than a motor cycle, intended for the carriage of passengers and designed to seat no more than nine persons (including the driver).

The term "passenger car" therefore covers microcars (need no permit to be driven), taxis and hired passenger cars, provided that they have less than ten seats. This category may also include pick-ups.

*Telephone subscribers*. Mobile and hand phones subscribers are not included.

### Infrastructure

*Railway network*. All railways in a given area. This does not include stretches of road or water even if rolling stock should be conveyed over such routes; e.g. by wagon-carrying trailers or ferries. Lines solely used for tourist purposes during the season are excluded as are railways constructed solely to serve mines; forests or other industrial or agricultural undertakings and which are not open to public traffic. The data considers the construction length of railways.

*Length of motorways*. Road, specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

(a) is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other, either by a dividing strip not intended for traffic, or exceptionally by other means;

(b) does not cross at level with any road, railway or tramway track, or footpath;

(c) is specially sign-posted as a motorway and is reserved for specific categories of road motor vehicles.

Entry and exit lanes of motorways are included irrespectively of the location of the signposts. Urban motorways are also included.

### Industry and agriculture

*Industrial production volume indices.* Industrial production covers mining and quarrying, manufacturing and electricity, gas, steam and water supply (according to the ISIC Rev. 3 Classification Sections C, D, and E).

*Gross agricultural production volume indices.* Gross agricultural production volume indices are calculated in constant prices of 1993. The quarter indices are calculation on the basis of the previous quarter.

#### Innovation and research

*Total public expenditure on education* includes direct public expenditure on educational institutions, public subsidies to other private entities for education matters (e.g. subsidies to companies or labour market organisations that operate apprenticeship programmes) and public subsidies to households such as scholarships and loans to students for tuition fees and student living costs. Educational institutions are defined as entities that provide instructional services to individuals or education-related services to individuals and other educational institutions.

Data are collected through the joint UNESCO-OECD-EUROSTAT data collection (UOE) questionnaires on educational finance.

*Gross domestic expenditure on R&D (GERD)* is composed of: Business enterprise expenditure in R&D (BERD), Higher Education expenditure in R&D (HERD), Government expenditure in R&D (GOVERD) and Private Non-profit expenditure in R&D (PNRD).

For details please refer to the following link to the Eurostat website: [http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/innore\\_exp.htm](http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/innore_exp.htm)

*Internet access of households:* Annual data on percentages of households with Internet access at home compiled via household surveys (telephone interviews).

#### Environment

*Total greenhouse gases emissions:* This indicator shows trends in anthropogenic emissions of the greenhouse gases: carbon dioxide (CO<sub>2</sub>), nitrous oxide (N<sub>2</sub>O), methane (CH<sub>4</sub>) and three halocarbons, hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF<sub>6</sub>), weighted by their global warming potentials (GWP). The GWP relates to the ability of the different gases to contribute to global warming over a 100 year time horizon. GWPs are provided by the Intergovernmental Panel on Climate Change. The figures are given in CO<sub>2</sub> equivalents.

*Energy intensity of the economy* The energy intensity ratio is the result of dividing the Gross Inland Consumption by the GDP. Since Gross Inland Consumption is measured in kgoe (kilogram of oil equivalent) and GDP in 1000 EUR, this ratio is measured in kgoe per 1000 EUR.

For details please refer to the following link to the Eurostat website: [http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/enviro\\_ei.htm](http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/enviro_ei.htm)

*Share of renewable energy:* This indicator measures the contribution of electricity produced from renewable energy sources to the national electricity consumption. It is a ratio between the electricity produced from renewable energy sources and the gross national electricity consumption calculated for a calendar year.

For details please refer to the following link to the Eurostat website: [http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/enviro\\_sr.htm](http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/enviro_sr.htm)

*Modal split of freight transport:* Percentage share of road in total inland freight transport (road, rail and inland waterways), tonne–km.

#### Sources

Total area, External trade, Demography, Standard of living, Infrastructure, Industry and agriculture: National sources.

National accounts, Inflation rate, Balance of payments, Public finance, Financial indicators, Labour market, Social cohesion, Innovation and research, Environment: Eurostat.