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**REGULAR REPORT**

**ON**

**TURKEY'S**

**PROGRESS TOWARDS ACCESSION**

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## A. Introduction

### a) 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.

The Commission presented its first Regular Report on Turkey in October 1998, together with the Regular Reports for the other candidate countries, with a view to the Vienna European Council; a second report was adopted in October 1999, with a view to the Helsinki European Council.

The Helsinki European Council 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. The first fully-fledged Regular Report for Turkey was presented to the Nice European Council in December 2000. A second Regular Report was presented to the Laeken European Council in December 2001. The Commission has prepared this Regular Report with a view to the Brussels European Council in autumn 2002.

The structure followed for this Regular Report is largely the same as that used for the 2000 and 2001 Regular Reports. In line with previous Regular Reports, 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 at Seville in June 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 Seville European Council also stressed



how important it was that candidate countries should continue to make progress with the implementation and effective application of the *acquis*, and added that candidate countries must take all necessary measures to bring their administrative and judicial capacity up to the required level.

This Report takes into consideration progress since the 2001 Regular Report. It covers the period until 15 September 2002. In some particular cases, however, measures taken after that date are mentioned. It looks at whether planned reforms referred to in the 2001 Regular Report have been carried out, and examines new initiatives. In addition, this Report provides a global assessment of the overall situation for each of the aspects under consideration, setting out for each of them the main steps still to be taken by Turkey in preparing for accession.

Furthermore, in view of the fact that the 2002 Regular Reports will provide the basis on which the Commission will formulate its recommendations as to which countries are ready to conclude negotiations, this Report includes an evaluation of Turkey's track record since the 1998 Regular Report. For the economic criteria the track record covers the period since 1997 and the report also provides a dynamic, forward-looking evaluation of Turkey's economic performance.

The Report further includes a separate section examining 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 matter of principle, 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. The candidate countries have been invited to provide information on progress made in preparations for membership since the publication of the last Regular Report. The information each of the candidate countries has provided within the framework of the Association Agreement, the National Programmes for the Adoption of the *Acquis* where they are available, and various peer reviews that have taken place to assess candidate countries' administrative capacity in a number of areas, have served as additional sources. Council deliberations and European Parliament reports and resolutions<sup>1</sup> have been taken into account in the preparations. 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, as well as those of non-governmental organisations.

## **b) Relations between the European Union and Turkey**

The European Council of Laeken of December 2001 concluded that: "Turkey has made progress towards complying with the political criteria established for accession, in

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<sup>1</sup> The Rapporteur for Turkey is Mr Alain Lamassoure

particular through the recent amendment of its constitution. This has brought forward the prospect of the opening of accession negotiations with Turkey. Turkey is encouraged to continue its progress towards complying with both economic and political criteria, notably with regard to human rights. The pre-accession strategy for Turkey should mark a new stage in analysing its preparedness for alignment on the *acquis*."

The European Council of Seville in June 2002 "welcomed the reforms recently adopted in Turkey. It encourages and fully supports the efforts made by Turkey to fulfil the priorities defined in its Accession Partnership. The implementation of the required political and economic reforms will bring forward Turkey's prospects of accession in accordance with the same principles and criteria as are applied to the other candidate countries. New decisions could be taken in Copenhagen on the next stage of Turkey's candidature in the light of developments in the situation between the Seville and Copenhagen European Councils, on the basis of the regular report to be submitted by the Commission in October 2002 and in accordance with the Helsinki and Laeken conclusions."

In 2002, the emphasis has been on the implementation of the new phase of the pre-accession strategy for Turkey.

In summary, the following results under the pre-accession strategy can be mentioned for 2002:

- the continuation of an enhanced political dialogue under the Belgian, Spanish and Danish Presidencies with meetings of Political Directors in Brussels, Madrid and Copenhagen and political dialogue as part of the Association Council in April 2002. During these meetings, a number of key issues have been discussed such as the political reforms and human rights in Turkey, Cyprus, peaceful settlement of border disputes, European Security and Defence Policy (ESDP) as well as wider issues regarding the situation in the Caucasus, the Middle East and in the Balkans.
- the start of a process of detailed legislative scrutiny in the first half of 2002 within the eight sub-committees of the Association Committee. This committee decided in January 2002 on the subjects, on which work should focus, including a schedule of meetings. The first series of meetings were completed in July 2002. This process allowed for a more detailed dialogue on the requirements for the transposition, implementation and enforcement of parts of the *acquis*. Differences in Turkish legislation with the *acquis* in various sectors were identified. The sub-committees monitored the implementation by Turkey of the Accession Partnership priorities and discussed various trade issues. In July 2002, an extra meeting of the sub-committee dealing with Justice and Home Affairs took place to discuss the matter of illegal immigration. On that occasion, both sides agreed on a Common Action Programme on illegal migration to be adopted at the next meeting of the Association Committee.
- the adoption in December 2001 of a regulation on pre-accession financial assistance to Turkey. This new regulatory framework ensures an accession driven approach of the EC's financial co-operation with Turkey. As for all candidate countries, financial assistance has to focus on the priorities identified in the Accession Partnership.
- the commitment of €194 million in grant assistance to Turkey in 2001. EIB loans to Turkey in the same year totalled €375 million. (see below).

- the continuation of negotiations for the extension of the EC-Turkey Customs Union to services, and the mutual opening of public procurement markets. These negotiations took place in December 2001. The Customs Union currently covers trade in industrial goods and processed agricultural products.

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

The Association Committee met in Brussels in January 2002. The meeting was an opportunity to take stock of Turkey's compliance with the Copenhagen criteria, to discuss the pre-accession strategy for Turkey as well as the state of implementation of the Association Agreement. It laid the basis for the preparation of the Association Council meeting.

The Association Council was held in Luxembourg in April 2002. Among the issues discussed were Turkey's progress in meeting the Copenhagen political criteria in particular in the field of human rights and fundamental freedoms. Exchange of views took place on other important issues such as Cyprus, peaceful settlement of border disputes and the fight against terrorism. The pre-accession strategy was discussed as well as the state of bilateral relations in particular the implementation of the Customs Union.

Representatives of the Turkish government started to participate in technical committees in line with established policy for candidate countries.

The EP - Turkey Joint Parliamentary Committee met twice: in Istanbul in November 2001 and in Brussels in June 2002. A wide range of issues was discussed including EU-Turkey relations, human rights, Cyprus, ESDP, and the fight against terrorism. EC-Turkey financial co-operation was discussed in depth.

Two meetings of the Joint Consultation Committee under the Economic and Social Committee took place in November 2001 in Brussels and in July 2002 in Erzurum. The Customs Union Joint Committee met in Brussels in November 2001. A consultation mechanism on areas of relevance for the Customs Union has met on a regular basis. The Customs Co-operation Committee met in December 2001 and in September 2002.

A number of transitional arrangements under the Customs Union expired in December 2000. There is an urgent need for Turkey to remove technical barriers to trade, to adopt competition implementing rules, to strengthen the enforcement of intellectual property rights and to adjust state monopolies of a commercial character to ensure non-discrimination in market access between EC and Turkish operators.

In general, manufactured goods circulate freely within the Customs Union. A number of trade issues covering agricultural and industrial goods remain unresolved. Access for alcoholic beverages and second hand goods to the Turkish market are restricted. Turkey frequently does not meet its Customs Union commitments. Other products, such as pharmaceuticals, cosmetics, energy drinks, ceramics and spare parts for various reasons face difficulties entering the Turkish market. This is also the case for various agricultural products, inter alia due to delays in granting import licences and punitive import conditions.

A new anti-dumping investigation was initiated on imports of hot rolled coils from Turkey (among others) in December 2001. The investigation on imports of welded tubes and pipes (iron and non-alloy steel) led to the imposition of provisional duties in March 2002.

The business investment climate needs drastic improvement. The administrative procedures in place are lengthy and burdensome. Testing requirements for certain EC products are excessive and unnecessary since they duplicate tests already carried out elsewhere.

In the agriculture sector, the Commission has continued consultations with Turkey on a package to compensate the EC for Turkey's current ban on certain concessions, granted under an Association Council Decision, on imports of live bovine animals and beef from the Community. Turkey is ready to conduct negotiations with the EC as foreseen under the Customs Union Decision. A licensing system for the exports of Turkish dried fruits, including hazelnuts, to the EC was established in order to protect public health in the EU. The products contain unacceptably high levels of residues of contaminants.

Overall, Turkish exports to the EC account for € 20.1 billion or 51.6% of total exports, whereas imports from the EC account for € 20 billion or 44.6% of Turkish imports.

In response to the protectionist measures taken by the US, which greatly restricted access to their market and created the risk of considerable trade diversion, the EU imposed provisional safeguard measures *erga omnes* on imports of certain steel products in March 2002. These measures were partly confirmed in September 2002.

### *Accession Partnership*

The first year of the Accession Partnership – the time period for the fulfilment of the short-term priorities – expired at the end of March 2002. Its implementation is reviewed in part D of this Report.

### *National Programme for the Adoption of the Acquis*

Turkey adopted its National Programme for the Adoption of the Acquis in March 2001. It is being implemented through the enactment of various pieces of legislation. No modifications have been made to the National Programme in 2002.

### *Community Assistance*

A new regulation concerning pre-accession financial assistance for Turkey entered into force in December 2001. The purpose of this framework is to simplify procedures and to ensure an accession-driven approach to financial assistance to Turkey. The procedures for programming and implementing the pre-accession financial assistance programme now mirror those of Phare, i.e. a deconcentrated management system for financial assistance has been put into place with greater responsibilities for the Turkish Government. This new system has already led to an upturn in the rate of tendering and contracting in 2002 compared with previous years. Over €200m of previously programmed assistance is expected to have been contracted by the end of 2002.

The regulation reiterates that during the current financial perspective the Commission's objective will be to maintain pre-accession financial assistance at a level double that enjoyed by Turkey in the period 1993-99.

Furthermore, following the decision to establish a decentralised implementation system in Turkey by the end of 2002, the government has begun to put in place the necessary structures which form an integral part of the system (National Aid Co-ordinator, Central Finance and Contract Unit, National Fund).

In 2002 the total national allocation for Turkey is €149 million. Resources this year will be devoted to the following priority areas:

- Political criteria. Technical assistance and investment are being provided in the following areas: the development of modern questioning techniques for law enforcement agencies, and the fight against organised crime, drugs and fraud. A range of civil society development initiatives are also on-going addressing issues as diverse as pluralism and cultural diversity to women's health rights. Turkey is also a "focus country" under the European Initiative for Democracy and Human Rights (EIDHR). This will allow Turkey to benefit from projects to promote the freedom of expression and independent media, good governance, improved access to justice, the prevention of torture and support for the rehabilitation of torture victims, as well as the fight against racism and discrimination. For the most part such projects will be implemented by civil society organisations.
- Economic criteria. Following the economic crisis in Turkey support is being provided in particular for SMEs.
- Meeting the obligations of the *acquis*. Technical assistance and investment are being provided in areas such as: justice and home affairs, internal market, agriculture, energy, telecommunications, employment and active labour market policy, health and safety at work, environment, competition and state aid, and maritime safety.
- Economic and social cohesion. This has been addressed extensively by on-going pre-2002 programmes. Two major projects have been developed for the south east. The promotion of employment in the region is a key element of these programmes. Feasibility studies have been financed for the development of cross-border programmes.

Participation in Community programmes and agencies has accelerated. A framework agreement between the European Community and the Republic of Turkey was ratified by the Turkish Parliament in June . It allows Turkey to participate in all programmes and agencies open to the candidate countries. At present Turkey participates in the European Environment Agency, the European Monitoring Centre for Drugs and Drug Addiction, IDA, Public Health, Combating Discrimination, Gender Equality, Combating Social Exclusion and Incentive Measures in Employment, and Customs 2007. Funding provided under the 2002 programme co-finances preparations for Turkish participation in Community programmes such as Customs 2002, the Multi-annual Programme for Enterprises and Entrepreneurship (SME), *e-Content*, and the Leonardo, Socrates and Youth programmes are well advanced. Turkey has to set up a National Agency to manage its participation in the education programmes. Further steps need to be taken in order for the Agency to become fully operational.

Turkey now also benefits from the multi-country programme TAIEX. .

Turkey is also a major beneficiary of assistance from the EIB. It benefits 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 has received loan financing worth €1020 million from 1992 to 2000. In 2001, around €375m was granted by the EIB for four major investment projects.

### *Detailed legislative scrutiny*

Subcommittees under the Association Committee have been carrying forward the detailed legislative scrutiny as part of the new stage in the pre-accession strategy for Turkey decided in Laeken. The Association Committee of January 2002 adopted a work programme and a list of subjects to be dealt with by each sub committee.

This process allows for a more detailed dialogue on the requirements for the transposition, implementation and enforcement of the *acquis*, focusing on precise sectoral issues. The process also included the examination of the capacity of the Turkish administration to implement the *acquis* effectively. The first round of meetings ended in July 2002. There has been an extra meeting of the subcommittee on justice and home affairs focusing on the issue of illegal migration.

### *Twinning*

One of the main challenges still facing the candidate countries is the need to strengthen their administrative 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.

A total of 503 twinning projects were funded by the Community between 1998 and 2001. Between 1998 and 2000 these projects primarily targeted the main priority sectors identified in the Accession Partnerships: agriculture, the environment, public finance, justice and home affairs and preparation for the management of Structural Funds. Since 2000, other important sectors of the *acquis* have also been addressed through twinning, such as social policy, the fight against drugs, transport and telecommunications regulation. Twinning now covers all areas pursuant to the *acquis*.

Turkey has not benefited from twinning to date. Two major information meetings on the twinning process have been held with the Turkish administration in 2001 and 2002. Up to 12 twinning projects are included in the 2002 programme for Turkey.

## **B. Criteria for membership**

### **1. Enhanced political dialogue and Political criteria**

#### *Introduction*

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 2001 Regular Report, the Commission found that:

*"The constitutional amendments adopted by the Turkish Parliament on 3 October 2001 are a significant step towards strengthening guarantees in the field of human rights and fundamental freedoms and limiting capital punishment. The amendments narrow the grounds for limiting such fundamental freedoms as the freedom of expression and dissemination of thought, freedom of the press and freedom of association. Attention has now turned to the effective implementation of these important changes. The Turkish Government is finalising a package of new draft legislation that is aimed at implementing a number of constitutional amendments, in particular with regard to freedom of expression and thought. It should facilitate progress towards satisfying the Accession Partnership priorities.*

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<sup>2</sup> 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." More recently, 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.

*“ Despite these changes, a number of restrictions on the exercise of fundamental freedoms have remained. The extent to which individuals in Turkey will enjoy real improvement in the exercise of fundamental freedoms will depend on the details of implementing legislation, and the practical application of the law. It is encouraging that a general principle of proportionality has been introduced and that the stated general aim of the reform is effectively to bring to the forefront respect for human rights and the rule of law.*

*“ The moratorium on the death penalty has been maintained. The revised Article 38 of the Constitution limits the death penalty to cases of terrorist crimes and in times of war or imminent threat of war. The exception for terrorist crimes is not in line with Protocol 6 to the European Convention on Human Rights (ECHR) (which does not permit any reservations), whereas the exception of times of war and in cases of imminent threat of war is permitted under Protocol 6. Legislative changes to the Penal Code will be needed to put this revised Article into effect. This will permit an assessment of whether Turkey is in a position to sign and ratify Protocol N° 6 to the ECHR.*

*“ The reforms related to economic, social and cultural rights contain a number of positive elements. The provisions forbidding the use of languages prohibited by law, in Articles 26 and 28, have now been abolished. This could pave the way for the use of languages other than Turkish and is a positive development. Existing restrictive legislation and practices will need to be modified in order to implement this constitutional reform, as the Turkish authorities have recognised. There has been no improvement in the real enjoyment of cultural rights for all Turks, irrespective of their ethnic origin.*

*“ A number of substantial prison reforms have been adopted. Turkey is encouraged to ensure that these reforms are fully implemented. The disproportionate use of force in breaking up prison protests is to be regretted. The continuing loss of life as a result of hunger strikes is unacceptable from a humanitarian point of view. Irrespective of the political motives of those involved, efforts should be stepped up to prevent further deaths. Free debate on these issues should be allowed.*

*“ Reform of the judicial system has begun. The independence of the judiciary, the powers of State Security Courts and military courts and compliance with rulings of the European Court of Human Rights remain matters of concern.*

*“ A number of initiatives have been taken to increase the awareness of law enforcement officers and judicial personnel of human rights issues, but it is too early to assess the practical impact of these.*

*“ Despite several initiatives to foster more transparency in Turkey's public life, corruption remains a serious problem. The recent signature of important Council of Europe Conventions on corruption and on money laundering is a positive development.*

*“ Further action needs to be taken to improve the economic situation in the South East to reduce regional disparities and to enhance economic, social and cultural opportunities for all citizens. The state of emergency still applies to four provinces in this part of the country.*

*“ The basic features of a democratic system exist in Turkey, but a number of fundamental issues, such as civilian control over the military, remain to be effectively addressed.*



*“ Despite a number of constitutional, legislative and administrative changes, the actual human rights situation as it affects individuals in Turkey needs improvement.*

*“ Though it is beginning to make progress in some areas, Turkey does not yet meet the Copenhagen political criteria and is therefore encouraged to intensify and accelerate the process of reform to ensure that human rights and fundamental freedoms are fully protected in law and practice, for all citizens, throughout the country.*

*“ Fuller use should be made of the enhanced political dialogue, to further stimulate progress on key issues, which are priorities of the Accession Partnerships, such as human rights, Cyprus and the peaceful settlement of border disputes.*

*“ Given Ankara's support for the decision of Mr Denktash to withdraw from the UN proximity talks and to decline the UN Secretary General's invitation to talks in New York, the support Turkey has expressed in the political dialogue for the UNSG's efforts to find a comprehensive solution of the Cyprus problem should now be followed by concrete steps by Turkey to facilitate a solution.”*

The section below provides an assessment of developments in Turkey, seen from the perspective of the Copenhagen political criteria, including the overall functioning of the country's executive and its judicial system. Such developments are in many ways closely linked to developments regarding Turkey's ability to implement the *acquis*, in particular in the 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 – Cooperation in the field of justice and home affairs*) of part *B.3.1.* of this Report.

### *Recent developments*

A major constitutional reform was adopted in October 2001 aimed at strengthening guarantees in the field of human rights and fundamental freedoms and limiting 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 adoption of these reforms demonstrates the determination of the majority of Turkey's political leaders to move towards further alignment with the values and standards of the European Union. These reforms were adopted under difficult political and economic circumstances, and represent a major shift in the Turkish context. The building of political consensus around these changes was prepared by an intensive public debate concerning EU accession which took place in Turkey during the last year with the participation of political parties, civil society, business as well as academic circles.

The debate focused on the fulfilment of the Copenhagen political criteria, particularly the abolition of the death penalty, Radio/TV broadcasting and education in languages other than Turkish. Turkey's future in the EU was the subject of a meeting convened by President Sezer on 7 June 2002 with leaders of most political parties represented in Parliament. At the end of the meeting, a statement was issued confirming that EU membership was a common objective for the political parties represented at the meeting.

The reform package adopted by Parliament in August 2002 was particularly far reaching. Among the amendments adopted are the lifting of the death penalty in peace time, the

possibility for Radio and TV broadcasting in Kurdish, the widening of freedom of expression and greater freedom for non-Moslem religious minorities.

The National Security Council recommended on 30 May 2002 that the state of emergency in two provinces of the Southeast be lifted.. The Turkish Parliament endorsed this recommendation and this measure entered into force on 30 July 2002. The National Security Council also recommended the lifting of the state of emergency in the two remaining provinces by the end of the year.

Substantial economic reforms continued, supported by the IMF and the World Bank. This contributed to the stabilisation of the Turkish economy. The banking sector underwent restructuring while efforts continued to reform the energy, telecommunications and agriculture sectors. There was, however, no significant progress in privatisation.

In August 2002, Parliament decided to call early elections on 3 November 2002.

The Turkish government has declared its continued support for the efforts of the United Nations Secretary General to achieve a comprehensive settlement of the Cyprus problem.

In December 2001, direct talks between the leaders of the two communities in Cyprus started with the aim of reaching a comprehensive settlement.

Relations between Turkey and Greece have continued to improve. Exploratory contacts on the Aegean between the two foreign ministries started in March 2002. Several bilateral agreements have been ratified.

Despite progress, the issue of Turkey's participation in decisions on EU-led operations using NATO assets as part of the European Security and Defence Policy has remained unresolved.

The Constitutional Court continued its judicial proceedings against the HADEP party on the basis of alleged links with a terrorist organisation.

A number of students across the country petitioned for optional language classes in Kurdish to be taught in universities. While in some universities several petitions were accepted, in others they could not be submitted. The High Education Board (YÖK) issued injunctions to university rectors to impose disciplinary sanctions on the petitioners. Some students were subject to criminal proceedings by the State Security prosecutor in several cities. In a number of instances, the cases resulted in acquittals.

Turkey organised the EU-OIC (Organisation of Islamic Conference) Forum on "Civilisations and Harmony, the Political Dimension" in Istanbul in February.

In June, Turkey took over the command of the Afghan peacekeeping Force (ISAF).

## **1.1. Democracy and the rule of law**

### *Parliament*

Parliament adopted some 45 new laws including the new Civil Code (1030 articles) and the three 'reform packages' implementing the 2001 constitutional amendments. Parliament also re-adopted without change two laws that had been vetoed earlier by the

President, namely the law on conditional release of prisoners and the High Audio Visual Board (RTÜK) Law on broadcasting. The latter law was subsequently amended as part of the third reform package of August 2002.

Parliament made efforts to increase its efficiency by changing its internal regulation. In January 2002, a number of deputies appealed to the Constitutional Court against the new internal regulation. The Court ruled that the new regulation was partly unconstitutional. In the court's opinion the "Questions and Answers" period should not be limited to 10 minutes and members of Parliament should be allowed to ask questions on individual articles of draft laws and to submit more than 3 amendments to each article of a draft law.

Parliament adopted an amendment to Article 86 of the Constitution concerning salaries and pensions of Members of Parliament.

The Parliamentary Committee on Human Rights resumed its activities and has met 8 times since last October. The committee organised special visits to police stations, prisons, orphanages and NGOs in Antalya, Eskisehir, Kocaeli, Trabzon, Van and Siirt, and produced reports after each visit. Two additional sub-committees were established to investigate the issue of illegal telephone tapping and human rights violations during demonstrations in Istanbul.

Two deputies from the Fazilet ("Virtue") Party lost their seats in Parliament after the publication in the Official Gazette of the decision of the Constitutional Court to close their party on the grounds of anti-secular activities.

A new Parliamentary group was formed called "New Turkey" (YTP).

Discussions continued on the setting up of a Parliamentary Committee for EU Integration.

The Committee on Constitutional Affairs discussed a number of constitutional amendments mainly related to the powers of the executive.

### *The Executive*

The current three-party coalition has been in office for more than three years. Differences regarding political and economic reform have emerged among the coalition partners. In July, the ruling coalition lost its majority in Parliament following the resignation by many MPs from the senior government party. Since then, there has been a minority government. Following the decision to hold early elections several ministers resigned and have been replaced. The President of the Republic exercised his right of veto with regard to several laws, notably the law on conditional release of prisoners, the State Security Courts Law, the law on restructuring of the financial sector debt and the amendments to the property tax law. In June 2002, the President appealed to the Constitutional Court against the law on broadcasting (RTÜK) and the law on conditional release, which following an earlier presidential veto had both been re-adopted by Parliament unchanged.

The President also vetoed the amendment to Article 86 of the Constitution concerning the increase of the wages and salaries of Members of Parliament, because this was considered inappropriate at a time of considerable economic difficulties.

In the field of public administration, efforts have been made to improve the quality of public management and staffing. A general regulation concerning the persons to be appointed to public offices was adopted in May 2002. This lays down the general principles and procedures for the selection of public officials. A new system of management has been put in place in the Ministry of Education.

In January 2002, the Government adopted an Action Plan on Enhancing Transparency and Good Governance in the Public Sector. This will have implications for the duties and responsibilities of both central and local administrations.

The General Secretariat for EU affairs (EUSG) has further consolidated its role co-ordinating the implementation of the NPAA and the pre-accession strategy. A translation co-ordination unit has been established. Organisational arrangements have been made to foster closer co-operation with other departments and agencies. Consultations between the EUSG and social partners, the private sector and non-governmental organisations have been reinforced. Thirteen working groups have been set up with representatives of civil society.

The EUSG has been involved in preparing the detailed legislative scrutiny of the acquis, within the framework of the eight sub-committees under the EC-Turkey Association Committee.

The role of civilian officials in local administration has been strengthened. As a result of the modification of Article 9 of the Law on the Organisation, Duties and Powers of the Gendarmerie, military officers are no longer entitled to act in provincial administrations as deputy for the Governor in the latter's absence. This change represents a significant step towards the demilitarisation of the provincial administration.

### *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. The Turkish court system is organised as a two tier system where the Supreme Court performs the function of High Court of Appeal.

Some changes have taken place in the judicial system.

The system of enforcement judges established in May 2001 is now in place, through the appointment of 140 judges in criminal courts across Turkey (*see below on the reform of the prison system under Civil and political rights*).

A new Civil Code was adopted by Parliament in November 2001 and entered into force in January 2002. It introduces changes in areas such as gender equality, freedom of association and child protection (*see below under Economic, social and cultural rights*).

The State Security Courts continue to function. Their operation has been modified following the adoption of a number of legislative amendments, notably to the Law on the Establishment and Prosecution Methods of State Security Courts and the Law on the Fight Against Criminal Organisations. As a result, offences relating to organised crime and fraud in the banking sector no longer fall under the competence of the State Security Courts.

The right of defence for detainees falling under the competence of the State Security Courts has been improved. The final paragraph of Article 16 of the Law on the Establishment and Prosecution Methods of State Security Courts has been abolished. This provision limited detainees' right of access to a lawyer and required the presence of a third person, normally a public official, at meetings between the detainee and his lawyer. Detainees prosecuted for collective offences falling under the jurisdiction of State Security Courts are now legally entitled to access to a lawyer, but only after 48 hours (*see below under Civil and political rights*).

Despite these limitations to the jurisdiction of State Security Courts, the powers, responsibilities and functioning of these Courts still need to be brought in line with European standards.

The National Judicial Network Project has continued. The project, which is now in its second phase, aims to establish an information system between the courts and all other institutions of the Ministry, including prisons, with a view to accelerating court proceedings and ensuring uniformity and efficiency.

The judicial system is faced with a large backlog. There are currently 1,153,000 criminal cases and 548,000 civil cases pending. The average duration of judicial proceedings remains long: 406 days in general criminal courts and 241 days in general civil courts. The Ministry of Justice reports the average duration of proceedings to be longer at juvenile courts than in other courts (2000: 755 days). Furthermore, in certain cases, the duration is much longer than the average (*see below on torture and mistreatment under Civil and political rights*).

There has been no progress with regard to the establishment of intermediate courts of appeal. The Supreme Court has thus far performed the functions of a court of second instance. The establishment of a Court of Appeal would be an important step forward in ensuring the right to a fair trial, and increase the speed and efficiency of the judiciary.

One of the difficulties of the judicial system appears to be the inconsistent use, by public prosecutors, of a broad range of articles of the Penal Code, when applied to cases related to freedom of expression<sup>3</sup>.

In spite of the amendments to the provisions on freedom of expression (Articles 159, 312 and Article 8 of the Anti terrorist law), there has been a certain tendency by prosecutors to use other provisions of the Penal Code, which were left unchanged by the harmonisation packages, to limit freedom of expression. This is particularly the case for Article 169 (support for illegal armed organisations) that was applied to students petitioning for optional language courses at university.

Day to day practice shows differences in the interpretation of the law in practical cases. As a result, there is a lack of clarity, transparency and legal certainty. There is evidence

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<sup>3</sup> Articles 159 (insulting the State institutions), 169 (support for an illegal armed organisation) and 312 (incitement to class, ethnical, religious or racial hatred) of the Penal Code and Article 8 of the Anti-terrorist law (separatist propaganda) are among the provisions most commonly used to restrict freedom of expression. These provisions are particularly applied to individuals expressing opinions on Kurdish related matters, and the role of religion, which might be portrayed as violating the principles of *indivisibility of the territory* and the *secular nature of the state* as provided under Article 13 and 14 of the Constitution.

that in some cases the judge, invoking the same law provisions, decided to grant an acquittal while in other cases the opposite decision was taken<sup>4</sup>. This in turn raises the question of the predictability of interpretation of the law.

The Supreme Court has started to apply the provisions of the reform packages, in particular in the field of freedom of expression and the fight against torture. In a number of cases, the Court has overruled judgements on the grounds that they were contrary to the newly introduced provisions.

On the other hand, the Supreme Court overruled a decision of the State Security Court in Diyarbakir which appeared to be based on the newly introduced provisions, in particular on the new version of Article 312 of the Penal Code. In this case, the Diyarbakir State Security Court decided to delete the criminal records of Tayyip Erdoğan, the leader of the AKP party, convicted under the old Article 312. The State Security Court ruled that the act for which he was convicted was no longer considered as a criminal offence under the new version of Article 312. This would have allowed Mr Erdoğan to participate in the elections of 3 November, but the Supreme Court ruling, followed by the subsequent decision of the High Electoral Board effectively prevented this.

As regards juvenile courts, two more courts were established in Diyarbakir and Istanbul, bringing the total to eight. Work is underway to establish juvenile courts in eight other provinces. The extension of these juvenile courts to all regions has been slower than planned. There has been no progress concerning the structure and the remit of juvenile courts. Their competence is limited to juveniles between 11 and 14 years. Consequently, juveniles between 15 and 18 are tried by ordinary courts. Where juvenile courts do not exist, juveniles are tried by ordinary courts.

No progress can be reported on establishing additional forensic medicine institutes.

There are continued reports that the judiciary does not always act in an independent and consistent manner.

As regards the application of the European Convention on Human Rights (ECHR), the Constitutional Court's ruling of 20 March 2002 is a positive development. In this ruling, the Court recognised that the ECHR is a source on which the Turkish courts can base decisions. This should help guarantee fair trial under Article 6 of the ECHR. However, the issue of the direct effect of the judgements of the European Court of Human Rights (EctHR) remains to be addressed.

As part of the third “reform package” adopted in August 2002 provisions have been added to the Turkish legal system to allow for retrial in the event of convictions, both in civil and criminal cases, that have been found contrary to the ECHR. The newly adopted measures have paved the way for reopening impugned proceedings. These new provisions will only apply to decisions taken pursuant to applications made to the ECtHR after August 2003.

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<sup>4</sup> Although there have been some acquittals in cases connected to Article 312 (cases Kutlular, Koru and Freedom of Thought), in other cases, the application of the same Article has led to convictions (Five journalists of Yeni Asya were convicted on 10 March by the Istanbul State Security Court). The same trend has been observed in the application of Article 159 of the Penal Code where several acquittals (cases Başlangıç, Bayramoğlu, Özkoray) were in contrast with a number of convictions and postponement of sentences (Bekdil and Cevik cases, for example)

Legal measures are also required to ensure the restoration of civil and political rights where those rights have been restricted in violation of the ECHR, and to ensure the clearing of criminal records (*see also below on Human rights and protection of minorities*).

Another area of concern remains the jurisdiction of military courts over civilians. In 2001, 176 cases involving 358 civilians were dealt with by military courts, mostly in relation to charges of fraud in avoiding military service or obstructing, intimidating and insulting soldiers on duty.

Training programmes have continued, covering such issues as fair trial, the fight against organised crime and the new Civil Code. Regional seminars were organised, in particular in the areas of prevention of torture and freedom of expression. Two thousand judges and prosecutors have been trained in forensic medicine law. Training through a joint programme of the European Commission and the Council of Europe on ECHR case law for the judiciary is to start in autumn 2002. The Ministry of Justice has planned seminars for judges and prosecutors starting in Ankara and other provinces for the autumn.

### *Anti-corruption measures*

Surveys indicate that corruption remains a serious problem in Turkey. The high-level steering committee set up by the Government in 2001 has stimulated anti-corruption measures.

In January 2002, the Government adopted an Action Plan on Enhancing Transparency and Good Governance in the Public Sector. Whilst the plan has the wider objective of improving the performance of public services, it has implications for preventing corrupt practices by enhancing transparency. It envisages the adoption of a number of measures, such as a code of ethical conduct for civil servants and public administrators, strengthening the inspection and audit system, and stepping up the fight against money laundering.

It also provides for the setting up of specialised courts for corruption cases. Accountability and transparency in election campaign financing is to be improved, notably by amending the Political Parties Law, so as to oblige parties to disclose their sources of financing and setting upper limits to contributions. It is planned to amend the relevant legislation on compulsory declaration of resources (Declaration on Wealth, Bribery and Anti-Corruption) in order to increase public access to financial disclosure statements by public officials. The creation of a specialised judicial police force, under the supervision of the Chief State Prosecutor, has also been proposed.

In May 2002, the Government adopted a circular appointing five Ministers to implement the Action Plan. Several authorities are responsible for the measures foreseen under the Action Plan in the Public Sector.

In January 2002, Parliament adopted a new Law on Public Procurement with the aim of enhancing transparency and curbing corruption. The law was amended on a number of basic points in June 2002. A Public Procurement Authority has been established and its ten board members, including the president, were appointed in April 2002 (*see also B.3 Chapter 1 Free movement of goods*).

The Prime Ministry Inspection Board is responsible for establishing the general principles of inspection, as well as carrying out inspections and auditing any public or private organisation.

Turkey has still not ratified neither the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime, nor the Council of Europe Civil Law and Criminal Law Conventions on Corruption signed on 27 September 2001. It is a party to the OECD Convention on Combating Bribery of foreign public officials in International Business Transactions, and participates in the monitoring of anti-corruption measures by the OECD Working Group on Bribery in international commercial transactions. Turkey is not a member of the Council of Europe Group of States against Corruption (GRECO).

Official data suggest a steady increase in the number of cases opened related to abuse of duty by civil servants (Article 209 of the Turkish Penal Code). The latest data indicate that 190 cases were opened and 161 cases (from previous years) were concluded. Of those charged, 84 were sentenced and imprisoned, 43 acquitted, and 1 case was dropped.

In relation to bribery, there were 855 cases opened in 2000 (a significant increase vis-à-vis previous years). Six hundred and fifteen cases were concluded. Three hundred and thirteen resulted in convictions including imprisonment, and 249 in acquittals. Eight cases were dropped.

According to official sources, 32 investigations were being conducted by Customs Protection Controllers.

Overall, a number of steps have been taken to prevent corruption and corrupt practices. The adoption of a strategy to enhance transparency and good governance is a welcome development, and due attention should now be given to its implementation.

### *The National Security Council*

The constitutional amendment introducing changes to the composition and the role of the National Security Council has been put in practice. A draft law aimed at implementing this amendment is still pending before the Parliament. The number of civilians has increased from 5 to 9 compared with 5 military members.

The National Security Council (NSC) is formally an advisory body. In practice its opinions carry more weight than mere recommendations and its military members are particularly influential. The National Security Council holds monthly meetings. After each meeting conclusions are made public through a press release. The NSC has issued opinions and recommendations on a number of governmental issues and policies, including emergency rule in the Southeast, the fight against terrorism, political and economic reforms relating to Turkey's compliance with the EU accession criteria, and Cyprus.

On 30 May 2002, the National Security Council recommended lifting the state of emergency in the provinces of Hakkari and Tunceli on 30 July. At the same time it recommended an extension of the state of emergency for Diyarbakir and Şırnak while indicating that the state of emergency in those provinces should be lifted by the end of the year. On various occasions throughout the year, military members of the National



Security Council expressed their opinions about political, social and foreign policy matters in public speeches, statements to the media and declarations. They also played an active role in the debate about reforms to comply with the EU political criteria. They have been particularly active on issues such as cultural rights, education and broadcasting in languages other than Turkish.

The role of the NSC in the High Audio Visual Board has been strengthened as a result of the law on broadcasting (RTÜK), which was re-adopted by Parliament following a veto by the President and is currently pending before the Constitutional Court.

The Armed Forces enjoy a substantial degree of autonomy in establishing the defence budget. Details of the military budget have been made public via the press. There are still two extra-budgetary funds available to the military in spite of the efforts of the Government to close such funds and make such expenditure subject to normal budgetary procedures. The NSC has continued to be an important factor in domestic politics. The introduction of a civilian majority of members and the limitation to an advisory role, in line with the Accession Partnership priority, do not appear to have changed the way the NSC operates in practice. Although decisions are taken by majority, opinions of its military members continue to carry great weight.

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

The constitutional amendments of October 2001 led to the adoption of three sets of implementing legislation in 2002.

The three “reform packages”, adopted in February, March and August 2002 in Acts No 4744, 4748 and 4771, modified various provisions of Turkey’s major legislation and addressed a wide range of human rights issues, including the death penalty, the exercise of fundamental rights and freedoms, pre-trial detention and legal redress.

The government appears determined to ensure a swift implementation of the new provisions. It is making efforts to provide for the approval of all required regulations and administrative measures by November 2002.

Further detailed assessments of this legislation are given below.

Turkey has made some progress with regard to the various **international conventions on human rights**. In April Parliament ratified the 1969 UN Convention on the Elimination of All Forms of Racial Discrimination. Turkey introduced a reservation to Article 22 of the Convention, to the effect that cases involving Turkey can only be referred to the International Court of Justice with its consent. In July 2002, Turkey signed the European Agreement Relating to Persons Participating in Proceedings of the European Court of Human Rights. No progress has been made in acceding to other major international human rights instruments such as the Statute of the International Criminal Court, the UN International Covenant on Civil and Political Rights, and the UN International Covenant on Economic, Social and Cultural Rights.

In January 2002 the Government decided to withdraw the derogation made in 1992, concerning Article 5 of the ECHR (“right to liberty and security”) with regard to provinces under emergency rule. In line with the constitutional and legislative amendments, the maximum pre-trial detention (police custody) period is now four days

before the detainee needs to be brought before a judge, plus a possible three day extension in the areas under emergency rule. This is an improvement on the previous maximum of ten days.

Notwithstanding the revision of Article 38 of the Constitution and the amendment of the Penal Code (*see below under Civil and political rights*) Turkey did not sign Protocol 6 or Protocol 13 to the ECHR on the abolition of capital punishment. Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities.

Between 1 October 2001 and 30 June 2002, 1874 applications regarding Turkey were made to the European Court of Human Rights (ECtHR). Of these, the majority (1125) were related to Article 6 of the ECHR (“right to a fair trial”). Three hundred and four were concerned with Article 5 (“the right to liberty and security”), and 246 applications were made under Article 3 (“prohibition of torture”). One hundred and four pertained to Article 11 (“freedom of assembly and association”), and 95 to freedom of expression (Article 10).

Turkey’s failure to execute judgements of the European Court of Human Rights (ECtHR) remains a serious problem. There are, for example, 90 cases where Turkey did not ensure fully the payment of just satisfaction ordered by the Court and 18 cases, related to the exercise of freedom of expression, where the authorities did not erase the consequences of criminal convictions violating the ECHR.

In July the Committee of Ministers of the Council of Europe adopted an Interim Resolution<sup>5</sup> regarding Turkey’s lack of compliance with some 40 judgements of the ECtHR, delivered between 1996 and 2002, on violations of the ECHR by Turkish security forces (*see below*).

On 30 April, the Committee of Ministers of the Council of Europe adopted an Interim Resolution<sup>6</sup> urging the Turkish authorities to respond to the Committee’s repeated demands that the situation of former Members of Parliament Sadak, Zana, Dicle and Dogan be remedied. The Committee called on Turkey to reopen the proceedings, or undertake other *ad hoc* measures, so that all consequences of the violation of the right to a fair trial should be erased.

The Loizidou case, concerning the continuing violation of the applicant’s right to property and the non-payment of the just satisfaction awarded by the Court, is also under continued consideration by the Committee of Ministers of the Council of Europe. There was no follow-up to the third Interim Resolution<sup>7</sup> regarding this case, adopted in June 2001, in which Turkey was condemned for the non-execution of the judgement of the European Court of Human Rights of 28 July 1998.

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<sup>5</sup> IntResDH(2002)98. Action of the Security forces in Turkey: progress achieved and outstanding problems.

<sup>6</sup> IntResDH(2002)59 concerning the judgement of the European Court of Human Rights of 17 July 2001 in the case of Sadak, Zana, Dicle, Dogan v. Turkey.

<sup>7</sup> DH(2001)80 on the payment of just satisfaction in the case of Loizidou against Turkey, concerning violation of the applicant's right to property she owns in northern Cyprus (judgement of 28 July 1998, violation of Article 1 of Protocol No 1) Strasbourg, 26 June 2001.

In September, the Parliamentary Assembly of the Council of Europe adopted a comprehensive Resolution<sup>8</sup> on the state of implementation of the ECtHR decisions by Turkey. The Assembly urged the Committee of Ministers of the Council of Europe to take all necessary measures to ensure the execution of the Court's decisions without delay. It also recommended the Committee to envisage, if necessary, the use of financial sanctions against Turkey.

In the third “reform package”, Turkey introduced the possibility of retrial for criminal and civil cases to comply with the rulings of the ECtHR. This does not, however, address cases such as those mentioned above, as the new provisions will only apply to decisions taken pursuant to applications made to the ECtHR after August 2003. The amendment does not address, either, other questions related to legal redress, such as the restoration of civil and political rights for those convicted in violation of the provisions of the ECHR.

With regard to the **enforcement of human rights**, the Turkish government made efforts to strengthen its monitoring and reporting mechanisms, as well as the dialogue with civil society in the field of human rights. The Parliamentary Human Rights Investigation Committee carried out inspections in detention centres, and in December 2001 an Inter-ministerial High Human Rights Board was set up, comprising representatives of the Ministries of Interior, Justice and Human Rights. The Committee should convene on a monthly basis and is intended to monitor the implementation of legislation and the human rights situation on the ground.

There are currently Human Rights Boards in 81 provinces and 831 sub-provinces. The Boards have begun to work, but are not fully operational. The Human Rights Presidency in Ankara, which is in charge of monitoring the implementation of legislation in the area of human rights, is organising awareness campaigns in the local media, and special hotlines and complaint boxes. Every provincial and sub-provincial Board has an application desk, and should evaluate all applications and ensure appropriate follow up.

All Boards should meet every month and report back to the Human Rights Presidency on a quarterly basis. Between October 2001 and June 2002, 1192 applications were filed. Of these, 924 were related directly to human rights violations. Four hundred and twenty of these cases were investigated, and 146 cases were referred to the judiciary.

There is considerable reluctance on the part of some NGOs to participate in the Human Rights Boards. This is due to their reservations regarding the composition of the Boards, which, in some cases, includes members of the security forces.

With regards to training on human rights, a joint European Commission – Council of Europe initiative on “Police, professionalism and the public in Turkey” was agreed in January 2002. However, its functioning has been hindered by a number of technical problems. A further joint European Commission – Council of Europe initiative, which includes raising awareness of human rights issues among law enforcement officials and judicial personnel, is to be initiated in autumn 2002.

As regards the fight against discrimination, in April 2002 Turkey ratified the 1969 UN Convention on the Elimination of All Forms of Racial Discrimination. In August 2002 Turkey ratified the Optional Protocol to the UN Convention on the Elimination of

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<sup>8</sup> Resolution 1297(2002) and Recommendation 1576(2002) adopted on 23 September 2002.

Discrimination against Women. The Additional Protocol No 12 to the ECHR on the prohibition of discrimination has yet to be ratified. Turkey has no comprehensive civil or administrative law provisions against discrimination. Much remains to be done in terms of transposition and implementation of the Community anti-discrimination *acquis* based on Article 13 of the EC Treaty (*See Chapter 13- Social policy and employment*).

### *Civil and political rights*

Following the August 2002 reforms, **capital punishment** in peacetime has been abolished. The abolition of capital punishment had been widely debated in the coalition Government, and central to this debate was Öcalan's case, which is pending before the ECtHR. The death penalty in time of peace has been converted into life imprisonment. Prisoners convicted of terrorist crimes must serve their full sentence.

The process of converting existing death sentences into life imprisonment began in September 2002. The moratorium on executions, in force since 1984, has been maintained although death sentences continued to be imposed by Courts until August 2002, on the basis of the Anti-Terror Law.

With regard to the prevention of **torture and mistreatment**, pre-trial detention periods in police custody have been reduced to a maximum of four days, with a possible extension of three days in the provinces still under emergency rule. In these provinces Decree 430, which allows detainees to be returned to custody for periods of up to ten days, continues to apply. In such cases, the detainee is deprived of access to a lawyer and of contacts with relatives. In September the Minister of Justice issued a circular urging the judicial authorities to avoid any misuse of the provisions of Decree 430.

The amendments to Articles 107 and 128 of the Code of Penal Procedure, introduced in February 2002, require that relatives of the detainee be informed of the arrest or custody extension 'without delay' and 'by decision of the prosecutor'.

Following the amendments to Article 16 of the Law on the Establishment and Prosecution Methods of the State Security Courts, detainees who fall under the scope of these Courts have the right of access to a lawyer after 48 hours in detention. Meanwhile the detainees remain "incommunicado" and this is when, reportedly, torture is most likely to occur. Detainees can waive the right to a lawyer, which leaves the possibility for detainees to be subject to pressure to do so.

According to the European Committee for the Prevention of Torture (CPT)'s recommendations, legal counsel should be provided to all detainees as from the outset of deprivation of liberty. During a recent mission to Turkey, the CPT found that the practice of delaying access to a lawyer until a formal statement has been taken persists in many police stations. The majority of investigations by police and prosecutors are still geared towards obtaining a confession from the suspect, often without the presence of a lawyer, and confessions are still accepted in courts without further supporting evidence.

The Turkish authorities continued to agree to the publication of the reports of the CPT's visits to Turkey. In response to some of the criticisms made in the April 2002 CPT report, the Director General for Security issued a circular on 28 June 2002, in which he called for all officials to be vigilant against mistreatment. The circular states that interrogation

rooms may no longer be painted black, and forbids the projection of light onto the face of the accused during the interrogation.

Although the CPT reported a gradual improvement in detention conditions in the Istanbul area, it also confirmed that allegations of torture and ill treatment in police custody are still frequent. Allegations of torture and of extra-judicial killings are especially prevalent in the South-East. No disappearances have been reported in 2002, but the HADEP officials Mr Serdar Tanis and Mr Ebubekir Deniz, who disappeared in January 2001, are still missing.

Sentences passed on those found guilty of torture or ill-treatment are often light, and frequently converted into fines or suspended. Administrative authorisation is required to prosecute public officials. For example, it has been widely reported that police officers in Diyarbakir were not prosecuted for having allegedly tortured Mr Hasan Irmak, despite forensic reports showing evidence of torture.

Court cases are often prolonged, with many ending unresolved as they exceed the statute of limitations. This can also result from a failure to carry out sentences within a certain period of time, or excessively lengthy court cases. An example can be seen in the case against ten police officers accused of torturing 16 young people in Manisa (Western Anatolia). The case has been open since 1996, but due to the non-appearance of defendants at the trials, and because the lawyers of some of the defendants withdrew from the trial, no progress has been made to date. The statute of limitations will apply to this case in June 2003.

A case concerning the alleged torture of Ms Gülderen Baran, which had started in 1996 against five police officers accused of torture, ended without a judgement.

As referred to above, in July the Committee of Ministers of the Council of Europe adopted an Interim Resolution regarding Turkey's compliance with some 40 judgements of the ECtHR delivered between 1996 and 2002. These judgements relate to violations of the ECHR committed by the Turkish security forces. The Committee recalled that the fight against terrorism should be conducted in full respect of human rights. Whilst welcoming Turkey's recent efforts in adopting reforms, it expressed concern at the continued allegations of torture and ill-treatment and stressed the need for further measures to be taken to prevent abuses. The Committee called on Turkey to further improve police and gendarmerie education and training, and to establish effective deterrent sanctions against abuses.

An amendment brought by the second "reform package" to Article 13 of the Civil Servants Law makes civil servants, found guilty of torture or ill-treatment, liable to pay the compensation stipulated by the ECtHR themselves. The deterrent effect of this measure remains to be confirmed.

As part of the campaign to increase awareness of human rights issues amongst the security forces, the rulings of the ECtHR are translated and published in the Police Academy magazine. Training at the Police Higher Vocational Education Schools has been extended from nine months to two years, and courses on human rights have been included in the curriculum.

The third "reform package" of August 2002 amended the Law on the Duties and Competencies of the Police. It provided for some safeguards against possible abuses by

the police by limiting their discretionary authority. This was confirmed in September through an amendment to the 1998 Regulation on Apprehension, Police Custody and Interrogation. However, a decision of the Public Prosecutor is still required before relatives of an apprehended person can be informed of an apprehension. Detainees falling under the scope of the State Security Courts are still denied the right to benefit from free legal assistance and to have a lawyer present during statement taking procedures. The possibility remains for performing medical examinations to detainees in the presence of the police.

The amendment to the Law on the Duties and Competencies of the Police also permitted the police to close down public Internet cafés and other places where Internet can be accessed.

The **reform of the prison system** has continued and the government started to implement the changes introduced last year. The Law on the Establishment of Prison Staff Training Centres was adopted in July 2002, thus providing a legal basis for the Prison Staff Training School in Ankara. The law lays down the principles and procedures regulating Prison Staff Training Centres and foresees the establishment of four additional centres with a staff of 61 people. Since July 2001, 1123 prison personnel have been recruited.

The CPT and civil society representatives continued to voice concerns regarding conditions of isolation in F-type prisons. In January the Minister of Justice rejected the compromise formula of “Three Doors, Three Locks” on the grounds that it contravened Article 16 of the Anti-Terror Law. The proposal, put forward by four Turkish bar associations, was intended to alleviate isolation conditions in the new F-type high security prisons by allowing for the locks to three cells to be opened, so that groups of nine inmates (three from each cell) could meet in the corridors.

A circular issued by the Ministry of Justice on 10 January indicated that prisons could allow groups of up to ten prisoners to meet for five hours each week. Certain conditions were attached, namely, participation in communal activities such as education, sport or other socio-cultural activities. The CPT recommended that the conditions concerning the communal activities should be dropped. The Minister of Justice has announced his intention to hold a symposium on such matters once the hunger strike protesting against the F-type prisons has ended.

According to the Ministry of Justice, by May 2002, 232 of the 1233 inmates in F-type prisons were participating in the rehabilitation programmes and social activities on offer. However, there is self-imposed isolation amongst prisoners convicted of terrorism.

In a circular of August 2002, the Minister of Justice urged prosecutors to ensure proper treatment and security of prisoners and to provide for sanctions for prison staff contravening these instructions.

Access to telephones (ten-minute phone calls every week) and the right to open visits are gradually improving, but lawyers still experience difficulty in visiting their clients in prison. The registration of prisoners is, however, well implemented.

The hunger strikes protesting against the F-type prisons continued, and in the reporting period more than ten prisoners died, raising total deaths to 57. In the meantime, many prisoners were conditionally released on health grounds by the courts. The “solidarity”

strike was called off in May, and the relatives of the prisoners on strike said they would continue their protest by political means. . Official sources stated that there were 20 prisoners on death fast and 13 under medical treatment, although unofficial sources suggest higher figures.

In November 2001 police raided flats housing “solidarity” hunger strikers in the Küçükarmutlu district of Istanbul. Police used teargas, four people died and 20 people were arrested in the operation. The authorities claimed the deaths were due to self-immolation, and forensic reports showed that the victims had no bullet wounds. When questioned, the Turkish authorities said that an investigation had been conducted, that an information note on the ‘security operation’ was available, and that no further investigation was necessary.

One thousand six hundred gendarmerie officers, who were involved in the intervention against the hunger strikers in the Bayrampaşa prison on 19 December 2000 are currently under investigation for “ill-treatment” and “miscarriage of justice”.

In December 2001, nine members of the Turkish Medical Doctors Union, who had been on trial on charges of encouraging hunger strikers to commit suicide, were acquitted. Also in December 2001, the Ankara State Security Court acquitted 29 defendants on charges of “supporting an armed gang” brought in relation to statements on F-type prisons. The trial of 161 security personnel for the killings of 10 inmates at Ulucanlar Closed Prison in September 1999 continues.

With regard to the external supervision of prisons, the number of Monitoring Boards established reached the target of 129. Their task is, *inter alia*, to carry out inspections and produce quarterly reports for the Ministry of Justice and other relevant bodies on living and health conditions, transfers and disciplinary measures in penal institutions. The Boards include lawyers, doctors, pharmacists, psychologists, and members of other professions. The Monitoring Boards submitted 3963 suggestions for improvements in 460 reports to the Ministry of Justice in the period January-July 2002. The suggestions related mainly to tasks of the Chief Public Prosecutor’s office, physical infrastructure and construction, budget and payments, education and rehabilitation, and personnel shortages.

Furthermore, Monitoring Boards made a number of formal applications to the Office of the Chief Public Prosecutor for improvements in the prison system. These relate to living conditions in prisons and the treatment of visitors. According to official reports, the Boards did not come across any allegations of torture during their visits. All 527 prisons were visited and the total number of visits was of 998.

In total, 140 enforcement judges were appointed: by July 2002 they had received 4527 applications regarding various issues, mainly concerned with enforcement of sentences, disciplinary punishments and conditions in prisons. Of the applications, 1308 were admitted, 140 partially admitted and 3079 rejected by the enforcement judges.

Civil society representatives have reservations regarding the composition of the Monitoring Boards, and are thus reluctant to become involved in their work. The actual impact of the Monitoring Boards and of the institution of enforcement judges on detention conditions in prisons needs monitoring.

Concerning the rehabilitation of inmates, İŞKUR (the Turkish Labour Institute), part of the Ministry of Labour and Social Security, launched a scheme to facilitate the integration

of former inmates into the employment market. The scheme, carried out in co-operation with the Ministry of Justice and NGOs, is designed to train inmates and guarantees employment after release from prison.

In connection with reducing overcrowding in prisons, reference should be made to Law No 4758 on Conditional Release and Postponement of Punishments (the so-called 'Amnesty Law'). As reported in last year's Regular Report, the previous 'Amnesty Law' adopted in December 2000 was vetoed by the President and annulled by the Constitutional Court in July 2001. It was resubmitted, unchanged, to Parliament, and entered into force in May 2002. By September 2002, 43576 prisoners had benefited from this law. Intellectuals and journalists in prison for 'crimes' relating to freedom of expression and 'social conscience' did not, however, benefit from the Amnesty Law. In August 2002, President Sezer granted amnesty to two prisoners on hunger strike on the grounds of their deteriorating health condition.

President Sezer again referred the Amnesty Law to the Constitutional Court, applying for its annulment on the grounds that it was discriminatory. The Constitutional Court decided to revoke Article 1 of the Law, which shortens jail terms for a number of crimes by ten years. It is, however, unclear how the annulment of Article 1 will affect the current enforcement of the law, and the Court rejected the President's request to suspend the law entirely.

According to official sources, in May 2002 there were 60327 persons in prison: 29514 convicted prisoners and 30813 detainees.

The issue of persons in prison for expressing non-violent opinions has not been addressed.

With regard to legislative changes pertaining to **freedom of expression**, the first "reform package", adopted in February 2002, brought amendments to Articles 159 and 312 of the Turkish Penal Code, as well as to Articles 7 and 8 of the Anti-Terror Law. The third "reform package" of August 2002 introduced an additional amendment to Article 159 of the Penal Code.

The first amendment to Article 159 ("insult to the State and to State institutions and threats to the indivisible unity of the Turkish Republic") reduced prison sentences (the maximum penalty was reduced from six to three years imprisonment, for example), and abolished the fines imposed for criticising Turkish laws. However, the actual definition of the offence remained the same. In the second amendment to Article 159, of August 2002, the scope of the provision was amended in the following way: expressions of criticism of the institutions are no longer subject to penalties unless they are intended to "insult" or "deride" those institutions. The notion of "intention" is open to interpretation and only practice will allow the assessment of the full impact of this amendment.

The description of the offence under Article 312 ("incitement to hatred on the basis of differences of social class, race, religion, sect or region") was amended. The notion of incitement ... "in a way that may be dangerous for public order" was added as an element of the offence. According to the authorities, this amendment narrows the scope of Article 312. An additional paragraph in the amended Article introduced a new type of criminal offence, namely insulting "part of the people degradingly and in a way that hurts human dignity", which is punishable by six months to two years imprisonment.



Changes to Articles 7 and 8 of the Anti-Terror Law introduced the notion of “propaganda in connection with the (terrorist) organisation in a way that encourages the use of terrorist methods”. Sentences for such offences were increased. Prison sentences for other offences were maintained or reduced, and the bans on television and radio broadcasting were shortened, but fines were increased, and the notion of “visual” propaganda was introduced. Thus, the overall impact of changes to these articles remains to be seen.

Since the entry into force of the first legislative amendments in February, several cases have been brought on the basis of the revised legislation. Case law shows that there has been little consistency in the implementation of the legislative changes. A number of cases have resulted in acquittal, while other, similar cases have resulted in heavy sentences. This has detrimental effect on legal certainty (*see also above - the judicial system*).

While there appear to be fewer cases brought under Articles 159 and 312, there is a shift towards bringing cases on other grounds. Article 169 of the Turkish Penal Code (“support for illegal organisations”), for example, has been widely used in recent months for cases regarding freedom of expression. According to the judicial authorities the amendments to the Penal Code have led to the overruling by the Supreme Court of 50 judgements made under Article 159 and 24 judgements under Article 312. However, court cases relating to freedom of expression are still being brought against journalists, writers and publishers and some sources indicate that there are currently some 100 pending cases.

A report published by the Association of Turkish Editors on 25 May indicates that 40 books by 39 writers were banned or subject to investigation between January and May 2002 alone. In reply to a parliamentary question the Ministry of the Interior announced that in 2001 the number of books and periodicals confiscated was 1309.

In March, the National Film Censors banned the film “Big Man, Small Love”, following complaints by police officers, who were offended by the depiction of police brutality.

The interpretation of legislation is crucial to ensuring actual freedom of expression. There are as yet no signs that the interpretation of the law by judges consistently takes into account the rights of the defendant under the ECHR.

As regards **freedom of the press**, the first “reform package” amended Article 8 of the Anti-Terror Law. Fines for publishers found guilty of offences of “terrorist propaganda” were increased from a minimum TL 100 million to a minimum TL three billion.

The second “reform package”, which contained modifications to the Press Law, did little to ease restrictions on the freedom of the press. It introduced the possibility to confiscate the printing equipment of publications found to be acting against the basic principles of the “integrity of the nation, republican order, or the country’s national security”. The maximum suspension for a publishing company found guilty of such offences has been shortened, as has the maximum length of imprisonment for those who continue to publish suspended periodicals.

The third “reform package” further modified the Press Law by replacing prison sentences for crimes related to the press with heavy fines. The high level of the newly introduced fines (which range from TL one billion to a TL 100 billion) prompted President Sezer to ask the Constitutional Court, on 14 August 2002, to abrogate these amendments. The

amount of the fines was described as disproportionate and in contradiction with the constitutional principles of freedom of the press and dissemination of thought.

The grounds for imposing penalties were not modified and the Press Law continues to maintain restrictions on the freedom of the press. Members of the press corps are subject to pressure and censorship, and many face prosecutions. Journalists have been prosecuted on the grounds of Articles 7 and 8 of the Anti-Terror Law as well as Articles 159 and 169 of the Turkish Penal Code.

In provinces under the state of emergency the authorities made use of the right to forbid distribution and printing of newspapers and other publications.

The independence of the press is weakened by the absence of an organised press union.

In July 2002 the ban introduced in December 2000 on broadcast and media publications concerning the F-type prisons and the hunger strikes was lifted.

In the field of **broadcasting**, the first “reform package” brought changes to Article 8 of the Anti-Terror Law. The maximum closure period for radio or TV channels for propaganda against the unity of the State was reduced from fifteen to seven days.

In the third “reform package”, the High Audio-Visual Board (RTÜK) Law was amended to allow for “broadcasts in the different languages and dialects used traditionally by Turkish citizens in their daily lives”. Its implementation is subject to the adoption of a regulation by RTÜK’s Supreme Board by November 2002. The amendment confirms, however, restrictions to broadcasts which “contradict the fundamental principles of the Turkish Republic and the indivisible integrity of the State”.

The scope for bans on broadcasts was narrowed with the deletion of references to broadcasts promoting “pessimism” and “desperation”, which had been introduced in May 2002.

Re-transmission of foreign broadcasting became legal. The implementation of this provision is, however, subject to the adoption of a regulation no later than by August 2003. In practice, as from May 2002 the ban on the re-broadcasting of the BBC World Service and Deutsche Welle programmes, imposed in August 2001, had been lifted.

These amendments follow the adoption of the RTÜK Law in May 2002 when Parliament re-adopted unchanged the RTÜK Law.. This law imposed tighter restrictions on freedom of expression. It prohibited broadcasts which “violate the existence and independence of the Turkish Republic, the territorial and national integrity of the State, the reforms and principles of Atatürk”, or “instigate the community to violence, terror, or ethnic discrimination” and introduced very high penalties.

The RTÜK Law also introduced strict censorship of Internet content, as web pages have to be submitted to the authorities for approval before being published.

The RTÜK Law penalises private radio and television stations for the use of "offensive language, libel, obscenity, incitement to separatism, or for the broadcasting of programmes in Kurdish". In March 2002, RTÜK imposed a record number of bans on radio and television stations, and on 17 April 2002 CNN-Türk was closed down for a day. In February, Mr Nevzat Bingöl, owner of the local TV station "Gün TV" in

Diyarbakir, was indicted for having broadcast a Kurdish song, and charged under Article 8 of the Anti-Terror Law (“disseminating separatist propaganda”). On 12 February, without waiting for the outcome of the trial, RTÜK imposed a yearlong broadcasting ban on the TV station. The ban was lifted in March 2002, and the final court decision is pending.

Following a request by President Sezer for the law to be annulled, the Constitutional Court issued in June 2002 a suspension order on two Articles. These relate to the composition of the RTÜK Board and the ownership of shares. However, the main provisions of the law remain in force pending further deliberations by the Constitutional Court.

With regard to **freedom of association and peaceful assembly**, following the amendment of Article 33 of the Constitution in October 2001 (which modified the general rules and restrictions on the right to form an association), the second “reform package” introduced changes to the Law on the Establishment of Associations. Articles 7, 11 and 12, which regulate relations with international organisations, were removed from the amended Law thus lifting restrictions on contacts with foreign counterparts. The amended law elaborated on the freedom to establish associations and to join associations. The grounds for banning an association were restricted, and the previous justification of there being a ‘probability’ of it committing a crime was removed. All references to “languages banned by the law” were deleted. The minimum age for an organiser of an association or gathering was lowered from 21 to 18 years.

While Articles 7, 11 and 12 of the Law on Associations were removed from the amended law, restrictions of similar nature had been introduced into the Civil Code of January 2002, thus maintaining the possibility for the authorities of exerting control over relations with international organisations.

The exercise of freedom of association is still subject to restrictions. Under the amended law, associations formed by university students may deal with educational matters only. Those sentenced under Article 312 of the Penal Code are barred from founding an association for five years (this prohibition was permanent in the previous legislation). Under the new legislation, the restrictions imposed in Article 5 of the Law on Associations (“it is forbidden to found an association for the purpose of engaging in any activity on the grounds of or in the name of any region, race, social class, religion or sect”) remain in place. Furthermore, associations cannot use languages other than Turkish in their official contacts, and the minimum number of federations required to create a confederation was increased from three to five, thus making it more difficult to form a confederation.

The third “reform package” further revised the Law on Associations. A number of restrictions on the scope of associations' activities have been removed. These relate mainly to limitations imposed on civil servants on their right to establish associations and to the ban on associations' activities for civil defence purposes.

The amendment to the Law on Associations further provided for the establishment of a new body in charge of associations within the Ministry of the Interior, as opposed to the current Directorate General for Security. The changes also introduced new control procedures on the associations' activities and accounts, which are to be regulated by the Ministries of the Interior and of Finance no later than by August 2003. Significant

discretionary powers for inspecting and auditing the facilities, books, accounts and transactions of the associations continue to be given to the authorities.

The general restrictive character of the Law on Associations has been maintained, including a cumbersome prior authorisation system. Activities of foreign associations in general are limited to a restricted number of areas and safeguards against breaches of the right to privacy in relation to documents held by associations are not provided for. The various legal grounds for banning associations, namely in connection with the wording of their names and the definition of their objectives, have remained unchanged.

Amnesty International was given permission to open a branch in Turkey in March. Civil society organisations became more active during the reporting period. The Izmir Bar Association, for example, took an important initiative with regard to the fight against torture, and four bar associations joined forces to propose the “Three Doors, Three Locks” compromise, as a solution to the deadlock on F-type prisons. Furthermore, the Turkish Businessmen’s and Industrialists’ Association (TÜSIAD) published several papers on political reforms in Turkey, and in June, the Civil Society Platform, which is made up of 175 civil society organisations, issued a notice urging politicians to commit themselves and ‘take brave steps’ on the way to EU membership.

NGOs, however, encounter difficulties in establishing dialogue with the authorities and seek to participate more actively in the reform process. At the initiative of the Council of Europe’s Commissioner for Human Rights Mr Gil-Robles, a seminar on civil society was held in Ankara in May, attended by representatives from NGOs and from the Turkish authorities. Those present concluded that there should be closer co-operation between civil society and the authorities, and that NGOs should be involved in the drafting of a new law on associations.

The pressure on NGOs in relation to their support for F-type prison protests subsided and several court cases against NGOs, journalists and doctors ended in acquittal. In March the case against the Human Rights Foundation (HRF), which faced charges of opening a rehabilitation centre for victims of torture in Diyarbakir without authorisation from the Ministry of Health, ended in acquittal. However, there is still a court case against the HRF on the grounds of possession of illegal publications. The activities of some human rights organisations continue to be restricted. A case has been brought against the Ankara branch of the Human Rights Association (HRA), under Article 169 of the Turkish Penal Code for supporting the protest against F-type prisons.

Several civil society organisations, which focus on human rights questions, are subject to close monitoring and some face prosecutions, confiscation of equipment, and censorship of their press releases and communiqués.

The Mesopotamia Culture Centre, the HRA Bingöl branch, and HRA headquarters have been subject to investigations. The Chairperson of Diyarbakır HRA branch, as well as the HRA branches in İstanbul, İzmir and Elazig face investigations and prosecutions on numerous charges.

The pressure on NGOs was extended to German foundations, following the publication of a book that alleged that German foundations had supported protests against gold mining in Bergama. The Konrad Adenauer, Friedrich Ebert, Heinrich Böll, and Friedrich Naumann Foundations, and the Orient Institute are under investigation by the State

Security Court Prosecutor for allegations of "involvement in activities against the national unity and secular structure of the country."

In February the Cultural Association of the Union of Alevi and Bektaşî Formations was dissolved on the grounds that, according to Articles 14 and 24 of the Constitution, and Article 5 of the Law on Associations, it was not possible to found an association by the name of Alevi or Bektaşî, which refer to Moslem religious communities. Following an appeal by the association, the case is pending before the Supreme Court. The second "reform package" introduced amendments to the Law on Public Meetings and Demonstration Marches, notably deleting Article 21, thereby extending to public organisations the right to hold meetings and demonstrations. The third "reform package" introduced further changes. The procedures regulating active participation by foreigners in gatherings were somewhat eased, as the requirement for "authorisation" has been replaced by an advance 48 hours "notification". Similarly, the general notification period for meetings to be held has been reduced to 48 hours, as from 72 hours.

However, the law retains its restrictive character including the requirement of the signing of the "notification" by every member of the organising committee, accompanied by the "identities, occupations, permanent address and, where applicable, workplaces of the members and chairperson of the organising committee". The committee also has to comprise a minimum of seven members.

Despite the changes, the authorities still have considerable discretionary powers in authorising meetings and demonstrations. In practice significant obstacles to the holding of marches and demonstrations remain.

Restrictions on the showing of films, the holding of concerts and the staging of theatre plays in public places were eased in August 2002. The requirement for prior authorisation for performances was replaced with a notification obligation, 48 hours in advance. However, performances can be subject to sanctions if they are considered to be against the indivisible integrity of the State.

As for foundations, the third "reform package" provided for the possibility of establishing international co-operation both for Turkish foundations and for foundations established abroad. This co-operation is, however, subject to a number of conditions such as being considered "useful", being authorised by the Council of Ministers and, in the case of foreign foundations, being reciprocal.

With regard to the law on **political parties**, Article 101 of the Political Parties Law was amended, with the second "reform package", in line with the amendment made to Article 68 of the Constitution. Under the new law, the Constitutional Court may decide to deprive a political party of financial assistance, rather than dissolving it. While leaving the grounds for sanctioning political parties unchanged, it makes it more difficult to close down a political party.

In the case of *Sadak and others v. Turkey*,<sup>9</sup> in which the applicants complained that, with the dissolution of their party (DEP), they had been deprived of their parliamentary

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<sup>9</sup> Case of *Selim Sadak and others v. Turkey* (Applications nos. 25144/94, 26149/95 to 26154/95, 27100/95 and 27101/95).

mandates, the European Court of Human Rights ruled in June 2002 that there had been a violation of Article 3 of Protocol No 1 (“right to free elections”) of the ECHR.

Following the ECtHR judgement of 31 July 2001<sup>10</sup> that the closure of the Welfare Party (Refah Partisi) was not in violation of the ECHR, the Party requested that the case be referred to the Grand Chamber of the ECtHR under Article 43 of the ECHR. The hearing took place on 19 June 2002, and judgement is pending.

A closure proceeding against the People’s Democracy Party (HADEP), initiated in 1999, is pending before the Constitutional Court. The Rights and Freedoms Party (HAK-PAR), which was founded in February 2002, is also facing a closure case on charges that its statute and programme contain elements contrary to the “indivisible unity of the State and the nation”.

**Freedom of religion** is guaranteed but non-Moslem religious communities face legal obstacles. As indicated below, some of these obstacles have been addressed in the August 2002 “reform package”.

Non-Moslem religious communities, whether recognised by the 1923 Lausanne Peace Treaty (Greeks, Armenians and Jews) or not have encountered problems with regard to their lack of legal personality and property rights, and a ban on the training of clergy in Turkey.

Cadastral registration of properties is in the name of individuals or foundations. In the case of non-Moslem religious communities, only properties declared under Law No 2762 of 1936 are legally recognised, and all properties not listed in 1936 have been taken over by the Turkish State or may be confiscated.. Armenian, Greek and Catholic properties have been confiscated, or are at risk. There have been two cases of confiscation of Armenian property in recent months. The Protestant community faces significant administrative problems regarding the rental of places of worship and the construction of new churches. However, the authorities have granted permission in July 2002 for the resumption of the construction of a new Protestant Church in Diyarbakir.

Restrictions on restoration of churches and school buildings have been eased.

In an effort to remedy some problems related to property rights, the third “reform package” introduced an amendment to the Law on Foundations. “Community foundations” are allowed, as of August 2002, to acquire and dispose of property, “regardless of whether or not they have the statute of foundations”. Furthermore, these communities are entitled to register the property they actually use as long as they can prove ownership. The implementation of this amendment is subject to a number of conditions. Permission must be obtained from the Council of Ministers for the purpose of acquisition and disposal of new property but there is no appeal procedure foreseen. A deadline of six months has been fixed for filing applications to register property in use although it is not clear to which administrative bodies these applications should be addressed. The short time limit constitutes a hindrance in practice which could jeopardise the objective of the reform package in this area, since the six-month term started on 9 August 2002, and the applicable procedures remain to be specified.

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<sup>10</sup> Case of Refah Partisi (the Welfare Party) and others v. Turkey (Applications nos. 41340/98, 41342/98, 41343/98 and 41344/98).

Although the scope of these new provisions is as yet unclear, it would appear that they apply only to non-Moslem *foundations*. This would exclude all religious communities that do not have the status of foundations, including the non-Turkish Catholic and Protestant communities.

The Law on Foundations continues to prohibit the renting or lending of property not covered by the August 2002 reform. The discretionary power of the Directorate General of Foundations over religious foundations, including the possibility of dismissing their trustees, remains unchanged. The recent amendment does not provide for the return of confiscated property.

The ban remains on the training of clergy for religious minorities. Non-Turkish clergy often have difficulties with visa and residence permits.

The Armenian Patriarch asked that a special university department, specialising in the teaching of Christianity, be set up in Istanbul. The authorities agreed, but insisted that Moslems be in charge of the teaching. This was rejected by the Patriarch. The Greek Orthodox community has repeatedly requested the re-opening of the Halki seminary, which has been closed since 1971. The Protestant and Catholic communities consider that they would benefit from the freedom to train clergy in Turkey.

Religious communities may have their own schools, but the Deputy Head of such schools must be a (Moslem) representative of the Ministry of National Education, who has greater authority than the Head (of the religious community concerned). The Syriac community does not have its own schools and, consequently, finds it difficult to teach its liturgical language to its youth.

Compulsory religious courses cover descriptions of different religions, but are considered by many religious minorities to be subjective and inaccurate. In a recent initiative, the Ministry of National Education suggested that Christian communities could draft new entries for the textbooks. This initiative still needs to be followed up.

There are reports of harassment of clergy by the authorities. Charitable associations such as Caritas face problems because of the lack of legal status.

Despite these difficulties, there are signs of increasing *de facto* recognition of non-Moslem communities. The Turkish State is becoming more involved in the inter-religious dialogue at international level, and is adopting a more inclusive approach in religious education. In October 2001 the Ministry of Interior invited the leaders of the different religious communities to voice their concerns and requests. As yet, however, there has been no adequate follow-up to this initiative: requests have either remained unanswered, or have been rejected. The Directorate for Religious Affairs (Diyanet) asked Jewish and Christian representatives to join in the common declaration on peace in the Middle East at the beginning of 2002.

There has been no improvement in the status of the Alevis.

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*

The new Civil Code entered into force on 1 January 2002 (*see also Chapter 13 - Social policy and employment*). With regard to **gender equality**, in line with the amendment made in October 2001 to Article 41 of the Constitution, the concept of ‘the head of the family’ was abolished and equal opportunities for women and men in family life were introduced. In particular, amendments were made to guarantee equal rights and obligations of the spouses. The mother’s rights to pregnancy and childbirth expenses, in the event that the father refuses to recognise the child, were extended. However, the Article which stipulates that goods acquired during marriage shall be shared equally between the spouses only applies to marriages entered into after the adoption of the new Civil Code.

On 3 January 2002 Parliament overturned the 1982 regulation banning female civil servants from wearing trousers in the work place. The internal code of the Parliament is not in line with this change. The Directorate for Religious Affairs announced in May 2002 a series of “clarifications” on the Moslem faith, aligning the right of women to attend public religious services with that of men. The regulation, which allowed students at public nursing schools to be subjected to virginity tests, was abolished in February.

There are legislative barriers preventing women from entering certain types of employment and women and men do not enjoy equal pay in practice. Active participation of women in politics is low. Twenty-three out of 550 Members of the present Parliament are female.

“Honour killings” qualify for reduced sentences, which may be further reduced if the accused is a minor.

The new Civil Code incorporates some amendments regarding the protection and **rights of the child**. The new Article 182 introduces the concept of the ‘interests of the child’ in cases of separation or divorce. Changes to Article 282 eliminate discrimination between the legal status of legitimate and illegitimate children. Turkey still does not comply with Articles 7 (“child’s right to protection”) and 17 (“right of mothers and children to social and economic protection”) of the European Social Charter. Article 17 of the Charter declares the right of young delinquents to protection, but juveniles are still imprisoned in Turkey.

Turkey ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in June.

Turkey's efforts to prevent child labour have been acknowledged by the International Labour Organisation (ILO). However, despite a decrease in the number of children working, it has been estimated that there are 893000 children working in Turkey (*see also Chapter 13 - Social policy and employment*). Although the Child Bureau has drawn up a national programme and action plan to combat child labour, it has yet to be properly implemented. Work continues on the ILO/IPEC (International Programme for the Elimination of Child Labour) project to improve children’s rights.

There has been no progress with the social and educational rights of disabled persons and legislation is not implemented properly.



**Trade Unions** are subject to restrictions concerning freedom of association and the right to strike. Their activities continue to be impeded by the requirement of a 10% threshold for a trade union to be eligible for collective bargaining at company level. Public sector employees are deprived of the right to strike. Civil servants who took unauthorised strike action in December 2000 to obtain the right to strike and the right to collective bargaining have been prosecuted. Despite its new legal status, the Economic and Social Council has not yet convened.

Turkey ratified the European Social Charter in 1989, with reservations on Article 5 (“right to organise”) and Article 6 (“right to bargain collectively and to strike”). Turkey has yet to sign the revised European Social Charter.

Some steps have been taken concerning the social protection of unemployed people. In April 2002, payments of unemployment benefit were made for the first time. It is planned that employees who are laid off due to privatisation will receive unemployment benefits from the Privatisation Administration for six to eight months.

As for **cultural rights**, following the constitutional amendment to Article 26, which removed the restriction that “No language prohibited by law shall be used in the expression and dissemination of thought”, the third “reform package” introduced the possibility to broadcast in the different languages and dialects used traditionally by Turkish citizens in their daily lives. As stated above, the implementation of this provision is subject to the adoption of a forthcoming regulation. There are signs that the spirit of the August 2002 reform is being implemented. On Turkey’s Victory day (30 August 2002), a public concert took place in Ephesus where a famous Turkish singer performed in several languages, namely in Kurdish, Armenian, Greek and Turkish. The concert benefited from the support of the Minister of Culture and was followed by subsequent concerts in Aspendos (Antalya) and Istanbul.

The third “reform package” also amended the Law on Foreign Language Education and Teaching. It provided for the possibility of learning different languages and dialects traditionally used by Turkish citizens in their daily lives and of opening private courses for that purpose on the condition that this does not contradict the “indivisible integrity of the State”. A regulation implementing this provision was adopted on 19 September.

Following the adoption of this amendment, a number of court cases against students who had petitioned for optional Kurdish courses at university level, were dropped.

Public education in languages other than Turkish does not fall under the scope of the amended Law on Foreign Language Education and Teaching, as Article 42 of the Constitution (“no language other than Turkish shall be taught as a mother tongue to Turkish citizens at any institutions of training or education”) remained unchanged.

In the period before the adoption of the third “reform package” the use of the Kurdish language was subject to wide-ranging restrictions.

In May the High Audio-Visual Board (RTÜK) imposed a 180-day ban on the “Voice of Anatolia”, following a programme concerning the closure of the Cultural Association of the Union of Alevi and Bektashi associations. The reason for the order to stop broadcasting was stated to be the violation of the principle of “not allowing broadcasts which lead society to violence, terrorism or ethnic discrimination or create feelings of hatred among the public”, as set out in Article 4(g) of the RTÜK Law.

Seventeen music cassettes of Kurdish songs were banned in the area under emergency rule, and several radio and TV stations were subject to closure or suspension because they broadcast Kurdish songs. Books on the Laz culture and on Pontus culture were subject to investigation and prosecution. In April, Mr Sülhattin Önen, a minibus driver in the Diyarbakir region, was indicted for listening to a cassette of Kurdish music. He was charged under Article 169 of the Turkish Penal Code (“support for a terrorist organisation”) and was given a suspended sentence of 45 months. In August, Mr Azad Yasar’s Kurdish poetry book was withdrawn from circulation. The author was put under investigation on the suspicion of aiming at the division of the country. Parents who gave children Kurdish names were subject to prosecution.

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

There has been limited improvement in practice in the ability of members of ethnic groups, with a cultural identity and common traditions, to express their linguistic and cultural identity. Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities, and does not recognise minorities other than those mentioned in the 1923 Treaty of Lausanne.

Following a circular issued by the Ministry of National Education in October 2001, calling for the elimination of all pejorative language with regard to the Roma community in dictionary definitions, all official dictionaries are being corrected. No further legislative steps have been undertaken, and the Settlement Law of 1934 is still applicable to “nomadic gypsies”, implying that they are still among the categories of people who are not accepted in Turkey as immigrants. There is much prejudice against Roma communities in Turkey, and the existing legislation does not provide them with sufficient protection.

In June, following a recommendation made by the National Security Council, Parliament decided to lift the state of emergency in the provinces of Hakkari and Tunceli. This measure took effect as of 30 July 2002. The state of emergency was extended for four months in the two other provinces of Diyarbakir and Şirnak, but the National Security Council indicated that it would be lifted in full by the end of the year.

There have been some positive signs regarding the enjoyment of cultural rights in the Southeast: a photographic exhibition on the Syriac minority was held in Diyarbakir in early November, for example, and a European Film Festival, previously banned, also took place.

The security situation has continued to improve in the Southeast. After the lifting of the state of emergency in Hakkari and Tunceli, some relaxation in daily life has been reported. The Tunceli Culture and Nature Festival took place between 1 and 4 August with no ban on bands singing in Kurdish. Previously banned journals and newspapers could be found at newsagents. However, the Governor of Tunceli stated that the military would not be pulled back. With the lifting of emergency rule in the Southeastern province of Hakkari, the security forces' practices in the region have also changed. In the province military influence is still felt, but the atmosphere is reportedly much less tense. According to reports from the city, the food quota has been lifted.

In the light of certain remaining restrictions, the situation in the Southeast following the lifting of the state of emergency needs to be monitored.

Efforts have continued to improve the situation of displaced persons. During his visit to Turkey in June 2002, the UN Secretary General's Special Representative for Displaced Persons acknowledged a greater openness in the authorities' attitude. The European Parliament and the Parliamentary Assembly of the Council of Europe paid visits to the Southeast.

According to the UN Secretary General Representative for Displaced Persons's Report the number of displaced persons amounts to a figure between 378000 and one million. The "Return to Village and Rehabilitation Project" has been further implemented, and according to the authorities, 37000 persons have now returned to their villages. However, it is difficult to evaluate the actual implementation of this project, as official information is scarce. The same applies to the Action Plan for the Southeast adopted by the National Security Council, which has still not been made public.

In Diyarbakir, Bingöl, Van and other areas, a sizeable number of villagers have returned to their villages. In the area of Mardin, members of the Syriac Orthodox community have been authorised to return to 20 villages. However, the overall situation of displaced persons remains a matter of concern.

Procedures for authorising displaced persons to return to their villages are slow: the number of people who have returned remains relatively modest mainly due to the lack of infrastructure and funding for re-building villages.

Over 4000 displaced people now live in newly built "central villages". The majority of the displaced rural population continues to live in urban centres in very difficult economic and social conditions. Inadequate health care, lack of hygiene, malnutrition, insufficient drinking water, and improper disposal of sewage and garbage are common problems. This situation has adverse consequences for the children whose education and literacy levels are unsatisfactory.

The "village guards" system acts as a disincentive for displaced persons to return to their villages. There are currently 60000 – 70000 village guards in the area whose conduct is widely reported to be undisciplined and abusive. There are still landmines in the region and explosions are frequent. Civil society organisations active in the region are subject to considerable pressure from the authorities, facing judicial proceedings as well as temporary closures (*see above on Civil and political rights*). This is also the case in "adjacent provinces", those bordering the provinces under the state of emergency, such as Van. Many of these restrictions on cultural rights and freedom of association are linked to the perceived need to protect the indivisibility of the State. The authorities justify the restrictions as being a part of the campaign against terrorism.

Turkish engagement in a dialogue with the OSCE High Commissioner on National Minorities would be a welcome development.

### **1.3. Cyprus**

The prospects for a settlement of the Cyprus problem under the auspices of the United Nations are analysed in the Regular Report on Cyprus. In the course of the enhanced political dialogue with Turkey, and at the EC-Turkey Association Council in April 2002, the Turkish government expressed its support for the current process of direct talks between the leaders of the two communities.

The EU repeatedly emphasised the need for Turkey to encourage the Turkish Cypriot leadership to work towards reaching a settlement on the Cyprus issue before the end of accession negotiations.

#### **1.4. Peaceful settlement of border disputes**

Relations between Turkey and Greece have continued to improve, largely due to the close co-operation between the Foreign Ministers of the two countries. The restructured government declared in July that it would continue along this path.

During the last year, ten bilateral co-operation agreements have entered into force in areas such as environment and economic development. Furthermore, five co-operation agreements regarding culture and emergency relief were signed. Greece continues to provide technical know-how to Turkey on *acquis* related issues.

In March, an agreement was signed between the two governments to build a natural gas pipeline, which will provide for the supply of natural gas from the Caspian Sea area to Greece via Turkey. This project, at the cost of €300 million, is of high symbolic importance as it is a physical link between the two countries.

Economic co-operation has proceeded in other sectors. A Turkish-Greek Joint Economic Commission met for the first time in Athens on 13 February, and a protocol was signed covering co-operation in the fields of energy, industry, agriculture, transport, SMEs, customs and regional co-operation.

Moreover, a protocol was ratified between the two countries for the readmission of illegal migrants. It has entered into force but is not yet implemented fully. Efforts are continuing to promote new confidence building measures, such as the cancellation of military exercises in the Aegean Sea. Contacts have started between the intelligence agencies of both countries. Greece and Turkey organised a joint ceremony for the 50<sup>th</sup> anniversary of NATO in Brussels, and in April 2002 the Greek and Turkish Foreign Ministers made a joint visit to the Middle East. In March, the foreign ministries began exploratory contacts about the Aegean. The contacts were formally launched in Istanbul in the context of the EU-OIC (European Union-Organisation of the Islamic Conference) forum on the harmony of civilisations.

#### **1.5. General Evaluation<sup>11</sup>**

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.

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<sup>11</sup> See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

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 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<sup>12</sup>, 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.

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<sup>12</sup> In its Report of 1998, the Commission concluded that: "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 give 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-eastern Turkey, particularly since many of the violations of civil and political rights observed in the country are connected 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 these problems, Turkey must make a constructive contribution to the settlement of all disputes with various countries by peaceful means in accordance with international law." Issues such as civilian control over the military, persistent human rights violations, torture as well as lack of protection for cultural rights have been mentioned in the subsequent reports.

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.

## **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 2001 Regular Report, the Commission found that:

*“Confronted with two financial crises, Turkey has been unable to make further progress towards achieving a functioning market economy. Considerable parts of its economy are, however, already competing in the EU market, under the framework of the customs union with the EC.”*

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. Summary of economic developments since 1997**

*Economic growth was very volatile during 1997-2001, with periods of overheating and two sharp recessions. Despite large output fluctuations, current account imbalances remained limited, as tourism revenues, workers remittances and portfolio investment helped to smooth trade account imbalances. Annual inflows of foreign direct investment remained negligible, accounting for about 0.8% of GDP on average. Average annual consumer price inflation was 69.9%, with large fluctuations between 101% year-on-year in January 1998 and 33% in February 2001. The general government deficit accounted for 15.7% of GDP on average, fluctuating between 6% and 28.7% of GDP, according to EU standards (ESA95). After the financial crises in 2000 and 2001, the public finance situation deteriorated markedly, partly due to higher interest rate expenditure reflecting increased uncertainty. The costs of the bailing out the banking sector and the depreciation resulted in an increase of the stock of the general government debt from 55.6% of GDP in 1997 to 101.4% in 2001. Real interest rates remained very high. The real effective exchange rate remained relatively stable in the first half of the reporting period. In 2000, a crawling peg resulted in a considerable real appreciation, which after the free floating in February 2001 was more than offset by a sharp depreciation.*



Main Economic Trends								
Turkey		1997	1998	1999	2000	2001	Average	2002 latest
Real GDP growth rate	per cent	7.5	3.1	-4.7	7.4	-7.4	1.2	2.3 Q1
Inflation rate (CPI) <sup>c</sup>	per cent	85.7	84.9	64.2	57.3	57.6	69.9	:
- annual average								
- December-on-December	per cent	99.9	68.9	66.9	41.3	74.2	70.2	:
Unemployment rate								
- LFS definition	per cent	6.7	6.8	7.7	6.6	8.5	7.3	9.6 Q2
General government budget balance	per cent of GDP	-13.4	-11.9	-18.7	-6.0	-28.7	-15.7	
Current account balance	per cent of GDP	-1.4	1.0	-0.7	-5.3	2.3	-0.8	
	million ECU/€	-2,326	1,770	-1,280	-11,510	3,792 <sup>b</sup>	-1,911	-997 Jan.-May <sup>b</sup>
Gross foreign debt of the whole economy	per cent of exports of goods and services	155.9	156.0	206.6	200.3	:	:	
- debt export ratio	million ECU/€	64,308	67,514 <sup>a</sup>	83,002	103,752	:	:	
Foreign direct investment inflow								
- balance of payments data	per cent of GDP	0.4	0.5	0.4	0.5	2.2	0.8	
	million ECU/€	710	838	735	1,151	3,647 <sup>b</sup>	1,416	173 Jan.-May <sup>b</sup>

Sources: Eurostat. National sources. OECD external Debt Statistics

<sup>a</sup> series break as a result of some technical changes to the definition.

<sup>b</sup> Source: Website of the National Bank. <sup>c</sup> Index not yet harmonised.

*Key structural reforms have been adopted, which are likely to contribute to future macroeconomic stabilisation.* Important progress has been made in the reform of the banking and agriculture sectors, the deregulation of key markets - such as tobacco, sugar, electricity, telecommunication and gas - and a reform of the social security system, improving the sustainability of the pension system and introducing an unemployment

insurance scheme. The increase of the Central Bank's independence has been a further important step in reducing inflationary pressures. As a result, the role of the state and of political interventions has been reduced significantly, in particular after the financial crisis in 2001. Furthermore, important steps have been taken to increase the efficiency of the public administration and to improve the transparency of public sector accounts. In particular due to the recent measures to strengthen the banking sector, the shock resistance of the economy has improved.

*Over the whole period, economic growth has been significantly below population growth, leading to a marked decline in per capita income. Social and regional disparities have widened, as a result of the continuously high inflation and economic volatility. GDP per capita in purchasing power standards was only 22% of the EU average in 2001. Labour market imbalances have increased. The activity rate of persons of working age (15-64) declined from 54.9% in 1997 to 51.3% in 2001, while the employment rate decreased faster, from 51.2% to 46.8%. This led to a rise in unemployment from 6.7% in 1997 to 8.5% in 2001. By mid-2002, unemployment has further increased to 9.6%, varying between 13.5% in urban and 4.5% in agricultural areas. Unemployment rates in the 15-24 years age group has been at about 17%. Actual imbalances between labour supply and demand might be even higher, given that the widespread existence of marginal labour in the informal and agricultural sectors tends to result in a more favourable reporting of labour market developments.*

<b>Main Indicators of Economic Structure in 2001</b>		
Population (average)	Thousand	68,618
GDP per head <sup>a</sup>	PPS	5,200
	per cent of EU average	22
Share of agriculture <sup>b</sup> in:		
- gross value added	per cent	12.1
- employment	per cent	35.4
Gross fixed capital formation/GDP	per cent	17.8
Gross foreign debt of the whole economy/GDP <sup>c</sup>	per cent	47.7
Exports of goods & services/GDP	per cent	33.2
Stock of foreign direct investment	Million €	:
	€ per head <sup>a</sup>	:
Long term unemployment rate	per cent of labour force	1.8

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

<sup>b</sup> Agriculture, hunting, forestry and fishing.

<sup>c</sup> Data refer to 2000.

### **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.

*The broad consensus about the essentials of economic policy has widened over the last 5 years, in particular after the financial crisis in February 2001.* After a series of rapidly changing and short-term oriented governments, the 3-party coalition government formed in May 1999 implemented various measures to stabilise and reform the Turkish economy. Despite disagreement on policy priorities and the distribution of the social costs of the reforms, there has been broad consensus among practically all political parties on the need to bring down inflationary pressures and to consolidate public finances. After the financial crisis in February 2001, the government intensified its ambitions to address structural distortions resulting from political interference and a fragile financial sector. The increasing consolidation efforts of the Turkish authorities gained financial and technical support from the IMF and the World Bank. However, disputes within the coalition government occasionally undermined the credibility of programme implementation and delayed economic consolidation. The Pre-accession Economic Programmes presented in 2001 and 2002 indicate an increasing awareness of the importance of developing a consistent medium-term policy framework.

*Real GDP growth has been very volatile around a low trend growth.* Average real GDP growth was at around only 1% during 1997-2001, with annual growth rates oscillating between +7.5% and -7.4%. This high volatility reflects both a high vulnerability to adverse shocks and the ability to rebound rapidly from such shocks. The main source of growth has come from exports of goods and services, which have increased by 9.7% on average during the period. Year-on-year, growth rates of exports fluctuated between +19.2% and -7.4%. Gross fixed investment declined on average by 5.8% per year, with year-on-year growth rates between +16.8% and -31.9%. These considerable fluctuations were to a large extent responsible for the high volatility of output growth and reflect the particularly short planning horizon of economic agents in Turkey. Private consumption increased on average by about 0.5% per year, with fluctuations between +8.4% and -9%. Average annual growth of public consumption was 3.2% during the period, being relatively stable between +4.1 and +7.9% until 2000, but declining by 8.6% in 2001. This decline was mainly the result of a sharp drop in non-wage current expenditure, reflecting the need to consolidate public finances. During the first quarter of 2002, real GDP rose by 2.3% year-on-year. The recovery was mainly driven by re-stocking and exports of goods and services, while gross fixed investment continued to decline.

*The external accounts have remained largely in balance.* Despite strong output fluctuations, the current account imbalances remained limited, reaching a deficit of 5.3% of GDP when the economy was growing strongly in 2000 and a surplus of 2.3% of GDP during the 2001 recession. During the first half of 2002, the current account was close to balance. The gap between the current account balance and the trade deficit amounted to about 6% of GDP during 1997-2001 and was usually filled in nearly equal parts by

tourism revenues and workers remittances. With respect to the capital account, the main source of foreign capital inflow was portfolio investment, which was attracted by the high interest rate level. Public sector credits taken up on international markets also played an important part. This approach helped to reduce financing costs, but increased the public sector foreign debt and its exposure to exchange rate risk. Foreign direct investment did not play any significant role in financing the current account deficit.

*Unemployment increased during the recessions in 1999 and 2001.* Marginal employment in the informal and agricultural sector has resulted in relatively low average official unemployment figures of 7.25% of the labour force. However, the recent crises have led to a significant increase in the level of unemployment. In 1999, after the earthquake, unemployment temporarily increased by 1 percentage point. In 2001, the unemployment rate rose to 8.5%. Data for the first half of 2002 indicates a peak of 11.8% in the first quarter and a decline to 9.6% in the second quarter. In rural areas, unemployment remained relatively low, at around 4-5% on average with strong seasonal fluctuations. In urban areas, unemployment rates rose from 9.5% in 1997 to 14% in the first half of 2002. Youth unemployment (below the age of 25) rose from 14.3% in 1997 to 16.7% in 2001. In the second quarter of 2002 it increased further to 17.2%. The main factor behind the recent rise in unemployment is the sharp economic crisis in combination with restructuring in the banking sector and state-owned enterprises.

*Despite some recent progress, inflationary pressures have remained high and volatile.* Persistently high inflation has been one of the major weaknesses of the Turkish economy. Average inflation stood at close to 70% between 1997 and 2001. In 1997, politically determined increases of agricultural support prices and public sector wages resulted in a sharp rise of inflation, to around 100% at the end of 1997 and early 1998. A consolidation programme helped to reduce inflation to around 70% by the end of 1998. The widespread practice of backward indexation of wage agreements resulted in persistently high inflation expectations and prevented a further decline of inflation during 1999. In 2000, the next disinflation initiative using a crawling peg exchange rate regime as a nominal anchor and linking public sector wages to inflation targets helped to bring down inflation to 33% by February 2001. The breakdown of the exchange rate regime and the following depreciation of the Turkish currency pushed inflation back up to 73% in January 2002. Since then, inflationary pressures have been declining again, indicating that the government might have succeeded in breaking inflationary inertia, such as backward-looking wage contracts. During the first half of 2002, month-on-month inflation rates declined from 5% in January to 0.6% in June. Year-on-year, consumer price inflation weakened from 73.2% in January to 42.6% in June. Given the declining inflation during the first half of the year, the achievement of the government's target of an end-of-year inflation rate of 35% seems to be in reach.

*Monetary and exchange rate policy shifted from a largely accommodating policy stance in 1997 and 1998 to a pre-announced crawling peg regime with strict monetary targets in December 1999. In February 2001, the Turkish authorities returned to a free floating exchange rate system.* In the framework of the 1999 consolidation programme, the Central Bank switched from its focus on maintaining the real exchange rate constant, to a strategy of a pre-announced exchange rate path, which was supposed to include a widening band at a later stage of the dis-inflation process. Monetary policy was subordinated to this exchange rate policy, with strict limits on domestic monetary aggregates. As a result of this monetary regime, the liquidity of money markets was closely related to capital inflows and outflows. By end-2000, deteriorated market

confidence in the dis-inflation programme led to increased short-term capital outflows, creating major liquidity problems in the Turkish financial sector. Finally, the government had to switch to a free floating system in February 2001. Within a few weeks, the exchange rate depreciated by more than 50% and strengthened only in spring 2002, based on increased confidence in the stabilisation programme. Currently, the Turkish Central Bank is focusing on smoothing excessive monetary and exchange rate fluctuations, while using base money as the anchor for monetary policy.

*Attempts to achieve sustainable public finances were impeded by rising financing costs and extraordinary events, such as the earthquakes in 1999 and the banking crisis in 2001.* Despite successful measures to control non-interest expenditure and to raise revenues, public finances have been characterised by a high and very volatile general government deficit, fluctuating between 6% and 28.4% of GDP. Besides one-off effects, such as the fiscal costs of the earthquakes in 1999 or of restructuring the banking sector after the financial crisis in 2001, the most important structural factor behind this pattern has been interest payments, fluctuating between 13% and 26% of GDP. When deducting interest rate payments, Turkey has realised considerable primary surpluses (between 1.4% and 7.7% of GDP) during most of the period. This is a considerable achievement, in particular when compared to previous economic stabilisation efforts. The sharp increase in the deficit in 2001 reflects mainly the one-off impact of the financial crisis and of absorbing the accumulated costs of agricultural support. Local government and social security fund deficits together contributed only about  $\frac{1}{4}$ - $\frac{3}{4}$  percentage points to the overall deficit. In view of rising financing needs, tax rates have been increased, tax exemptions have been removed and measures to reduce tax evasion and to increase the efficiency of the tax administration have been adopted. As a result, the share of total revenues in GDP rose from 20% in 1997 to 27% in 2001<sup>13</sup>. The biggest contribution came from increases in indirect taxes. Non-interest expenditure remained largely constant at around 20% of GDP.

*Government debt has risen markedly during the reference period, largely due to the financial crisis in 2001.* According to EU accounting standards, the general government gross debt rose from 55.6% of GDP in 1997 to 102.4% in 2001. The sharp increase by 45 percentage points in 2001 is to a large extent the result of the costs of the financial crisis. Besides a considerable deficit, the biggest impact on the debt level came from the depreciation, which increased the weight of foreign currency debt by 17 percentage points. The costs of bailing out insolvent private banks added another 7½ percentage points to the government gross debt. The maturity composition of Turkey's external debt has improved. The share of short-term external debt in total external debt declined from 25% before the financial crisis, to about 12% by mid-2002. The largest share of the funds for strengthening the financial sector were raised domestically, through floating rate notes or exchange rate indexed notes. As a result, government exposure to interest and exchange rate fluctuations has increased markedly.

*Increased fiscal transparency has contributed to a less favourable, but more realistic picture of the situation of public finances.* The recently adopted laws on public procurement, financial management and financial control are a big step forward in order to bring Turkish legislation in line with international standards. The reforms led to the establishment a public procurement agency and of an office for debt and risk

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<sup>13</sup> According to GFS statistics.

management. Furthermore, previously extra-budgetary funds have been re-integrated into the public sector and previously unrecorded financial transactions are now explicitly treated. By 2002, the more than 60 extra-budgetary funds have been reduced to only five, accounting to about 1½ of GDP.

*From 1998 onwards, the Turkish authorities have made repeated efforts to stabilise the economy.* However, inherent economic instabilities - such as persistently high inflation and the systemic weaknesses in the financial sector - and external shocks - such as the Russian crisis in 1998 and the earthquakes in 1999 - impeded attempts to stabilise the economy. After rapid success in early 2000 in reducing interest rates, insufficient political support for the consolidation programme eroded confidence in the disinflation programme and led to a breakdown of this stabilisation effort. The latest programme, presented in May 2001, benefits from stronger political support and a more fundamental approach to structural reform. In January 2002, a new 3-year stand-by arrangement with the IMF has been concluded. This new arrangement builds on the previous programme, approved in December 1999 and seeks to support the completion of Turkey's ambitious structural reform agenda. So far, the programme has tried to eliminate key structural weaknesses and seems to have been successful in reducing inflationary expectations. Furthermore, the authorities have been successful in maintaining fiscal discipline under difficult circumstances. This has significantly contributed to the credibility of the current stabilisation effort. However, political uncertainty still rapidly translates into higher financing costs for rolling over the public sector debt.

*The free interplay of market forces has improved.* Due to Turkey's tradition of a state-guided development approach, state interventions and state-owned enterprises tended to play an important role in the economy, in particular in basic industries and in the banking sector. During the last 5 years, the political influence on state banks has been reduced, more prices are now based on supply and demand, and the liberalisation of important markets has started. A further important step in increasing the role of market forces for allocating scarce economic resources has been the establishment of independent market regulatory and competition surveillance institutions. However, the process is not yet fully completed. State-owned enterprises are still very dominant in key sectors, such as in the banking sector or in basic industries. In the banking sector, one third of the sector's assets is in the hand 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. Budgetary transfers to these companies not only lead to price distortions and inefficient factor allocations, but also represent a significant budgetary burden. In the banking sector, state institutions still dominate credit provision to the agricultural sector and to SMEs.

*Price distortions have declined.* The system of agricultural support prices, which had led to major distortions in the price structure, has been largely eliminated. Prices for tobacco and sugar are now determined by supply and demand instead of state purchasing agencies. Prices for energy and for products of many state enterprises are being increased in order to reflect better the real cost situation. However, energy prices are still subsidised as part of attempts to cushion the social costs of the economic consolidation programme. About a quarter of prices in the CPI basket are set through administrative procedures.

*Despite various initiatives to proceed with privatisation, real progress has been limited.* Turkey's privatisation process started back in the early 1980s. Due to unfavourable market conditions and a lack of interest from potential investors, recent attempts have had very limited success. Accumulated privatisation revenues since 1985 amount to only about 3% of GDP. Net revenues from privatisation tend to be even lower, given the considerable costs of preparing the companies for privatisation. Besides several smaller privatisations, the most important projects carried out recently have been the sale of the remaining state shares in the Petrol distribution company POAŞ and the public offering of 31.5% of the oil refinery TÜPRAŞ. In the banking sector, the two big state banks have been restructured and prepared for privatisation, while the sale of another state-dominated bank is scheduled to take place before the end of 2002. The legal framework for privatisation has been improved. The Constitution has been amended to allow for international arbitration and the privatisation of energy companies. Türk Telekom has been made more attractive to private investors. New laws to reform the sugar, tobacco, electricity and gas markets now provide for the privatisation of the former sector monopolies.

*Barriers to market entry and exit have been further lowered.* Overall, the Turkish economy is characterised by rather high number of market entries and exits, accounting for about 10% of the number of existing enterprises. This points not only to the high flexibility of Turkish entrepreneurs but also to a liberal regime of market access. Nevertheless, there are still impediments to starting up new enterprises, in particular for SMEs and foreign enterprises. Bureaucratic procedures are still complicated and time-consuming. Prohibitively high interest rates and the reluctance of banks to provide credit to the private sector impede the establishment of SMEs. However, progress has been achieved in reducing remaining market barriers. Formerly state-dominated areas, such as the markets for electricity, gas, tobacco, alcohol and sugar, are in the process of being opened up to market competition. In particular in the banking sector, exit procedures have been strengthened and international prudential standards are now implemented more strictly. This new approach has led to the disclosure of 19 non-viable banking institutions so far, which has had a positive effect on the health of the banking sector as a whole.

*The legal system, including the regulation of property rights, is in place. However, the implementation of laws and contracts still needs to be improved.* Although the legal system is firmly established, bureaucratic procedures make for a slow legislative process. Time-lags between the adoption of framework legislation and of the actual implementation regulations are very long and also impede the effectiveness and predictability of the legal framework. Insufficient staffing and training of judicial personnel mean that commercial cases can take a long time, impeding the effectiveness of the existing legislation. Implementation of intellectual property rights is insufficient.

*The financial sector is still in the process of consolidation and does not yet channel sufficient savings towards productive investment.* During the 1990s, the banking sector expanded rapidly, benefiting from high public-sector financing requirements and loose financial market regulations and supervision. Banking sector deposits rose from around 45% of GDP in 1997 to about 62% of GDP in 2001, while banking sector assets rose from around 80% to close to 100% of GDP. At the same time, domestic credit to the private sector remained at a relatively low level of about 20% of GDP. The Turkish banking sector is dominated by 3 state-dominated banks, accounting for nearly 30% of total assets, and a few big private banks, accounting for another third of the sector's assets. Many of the important private banks are part of family-owned enterprise groups,

the so-called conglomerates. As a result of complex ownership structures, compliance with prudential and transparency standards is difficult to assess. Their lending inside the enterprise group is not always in line with market principles or prudential standards. The difference between lending and borrowing rates has been high, pointing to inefficiencies in the sector. In addition, the overall profitability of the banking sector has declined markedly during recent years.

*A major banking crisis erupted in 2000-2001.* During 2000, increasing tensions in the financial markets revealed major systemic weaknesses. Profitability declined as a result of the December 1999 programme's success in reducing interest rates and public-sector borrowing requirements. Furthermore, tight conditions on the overnight money market posed major difficulties to banking institutions, which had specialised in refinancing medium-term credit on the overnight market. In particular state banks had been very exposed to this kind of activity, forcing them to roll-over on a daily basis up to 4% of GDP. Unexpected liquidity bottlenecks in November 2000 and February 2001 drove these overexposed banks close to bankruptcy. The authorities had to intervene and switch to a less strict monetary policy and give up the crawling peg exchange rate regime. The sharp depreciation of the currency after the floating eroded the capital base of some overexposed institutions. In order to address the banking sector's weaknesses, a major financial effort was necessary to restructure the financing profile of the troubled banks and to strengthen the sector's capital base. Furthermore, increased priority has been devoted to faster alignment of prudential regulations with international standards. Banking surveillance has been strengthened. Political interference with the lending of state banks to specific sectors, such as agriculture and SMEs, was reduced last year. So far, 19 non-viable banks, accounting for about 15% of the sector's total assets, have had to be transferred to the custody of the Savings Deposit Insurance Funds, reducing the number of operating banks to 57. The costs of bailing out the banking sector have led to a sharp increase in the public-sector debt ratio. As a result of improved transparency regulations and the economic recession, the share of non-performing loans in the banking sector's loan portfolio rose from 2.3% in 1997 to 12.9% in 2001. In order to alleviate the bad-loan issue, the government is supporting corporate debt restructuring through the so-called Istanbul Approach. Furthermore, the authorities are restructuring the state banks and prepare them for privatisation. One important step in this process has been the elimination of political interference in the management of the banks and the reduction in the number of branches. The privatisation of the state-dominated Vaquif bank is scheduled to be completed by the end of 2002. The other two state-dominated banks are supposed to be privatised as soon as possible. The recent transfer of one major private bank into the custody of the SDIF not only indicates that the cleaning-up process in the banking sector is still continuing, but also underlines the authorities' determination in proceeding with the sector's consolidation.

*The non-banking financial sector plays a very limited role.* It consists of some 70 insurance companies, with assets accounting for about 4% of GDP. The Istanbul Stock Exchange has a market capitalisation of about 35% of GDP. Furthermore, there are some 30 investment companies and about 270 funds, whose net assets account for about 1.5% of GDP. Financial sector supervision has improved with the increasing alignment of prudential and surveillance standards with international norms.



### *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.

*Despite progress in strengthening the functioning of markets and institutions, macroeconomic stability has not been achieved.* Since 1997, many structural reforms have been adopted. However, political instability has hindered economic stabilisation. The great financing requirement of the public sector impedes private investment into productive uses. Inflationary pressures and overall economic volatility are still too high to allow economic agents to make decisions in a climate of stability and predictability.

*Investment in human capital has been insufficient.* Turkey's human capital development has been characterised by strong population growth and very limited budgetary allocations for meeting the increasing need for education and health care. In addition, access to education and health services is very unevenly distributed among the Turkish provinces. Annual public spending on education was at around only 4% of GDP during 1997-2001, which is markedly below what is necessary given Turkey's demographic structure. The lack of sufficient funds reflects the crowding out of budgetary expenditure by interest rate payments. The scarcity of resources primarily affects basic education, in particular in rural areas. Universities are in a slightly better situation, as a strict limitation on the number of university entrants shields them from the demographic pressure to which the institutions providing lower levels of education are exposed. The educational content does not sufficiently match the requirements of the enterprise sector. High unemployment rates among secondary school leavers are the result. The brain drain of highly educated personnel is a problem. However, despite the fiscal constraint, important efforts to improve basic education have been made in recent years, in particular in rural areas. As a result, enrolment ratios have improved. Furthermore, the period of compulsory schooling was increased from 5 to 8 years in 1997. There also seems to have been some progress in reducing child labour. According to official statistics, the number of working children in the 12-17 age group declined recently to 890,000, which is about 4% of the labour force. Given Turkey's high share of unregistered activities, the real number of working children is likely to be significantly higher. The provision of health services faces a similar situation of insufficient financing in view of rapidly increasing demand. The recent sharp recession had a negative impact on the health situation of the lower income group. The Turkish authorities tried to alleviate the impact of the crises on the lower income groups. Budgetary expenditure on health increased from close to 3% of GDP to close to 4% of GDP, while expenditure on pensions and social protection rose from slightly above 6% of GDP to 8% of GDP. The budget for 2002 foresees a further slight increase of social expenditure. Given the high importance of human capital for sustaining competition and improving potential growth, a continuation of the present situation would be a substantial threat to Turkey's prospects for catching-up.

*Labour market policies are underdeveloped.* Given Turkey's priority of macroeconomic stabilisation, little attention has been paid to labour market issues, such as the high unemployment rates in urban areas and unemployment of secondary school leavers. Positive steps in this respect have been the introduction of an unemployment insurance scheme and the establishment of labour market offices and of an Economic and Social Council. However, this council has so far only met once since its establishment in mid-2001.

*The growth of the physical capital stock has slowed down.* Gross fixed investment has declined on average annually by 5.8% during the last 5 years. As a result, the share of investment in GDP declined sharply from 26.4% in 1997 to 17.8% of GDP in 2001. This development could have a negative impact on Turkey's competitive position and its economic growth potential. A relatively large share of investment is devoted to construction. The share of investment in equipment has declined from 17% to 13% of GDP. The share of public investment has remained remarkably constant at around 6% of GDP. Turkey's physical capital stock is split between some up-to-date export-oriented and internationally competitive enterprises, a huge number of under-capitalised small family enterprises oriented towards the domestic market and using traditional management techniques, and an important informal sector with very low capital intensity. The economic volatility has further widened this gap as smaller firms face difficulties with accessing banking credit and depend on retained profits to finance their investments. Many big export-oriented enterprises tap international capital markets to avoid the limited domestic capital market. Investment in research and development has been low at only ½% of GDP in recent years.

*Foreign direct investment inflows have remained negligible.* During recent years, annual inflows of foreign direct investment have remained below ½% of GDP, which is significantly below Turkey's potential. The accumulated stock of FDI accounts for about 15% of GDP. The failure to attract foreign investment is a major impediment to Turkey's growth potential, as it represents a missed opportunity to modernise the Turkish capital stock and to improve market access. In particular in view of Turkey's low level of research and development activities, the lack of foreign know-how is particularly disadvantageous. High economic volatility, political uncertainty and complicated and opaque bureaucratic procedures are the main reasons for the low inflow of FDI. In order to increase Turkey's attractiveness for foreign investors, the Constitution was changed in 1999, to allow for international arbitration, to establish a constitutional base for privatisation and to authorise governments to contract out or transfer public services to private enterprises. Furthermore, the Turkish authorities have reduced the steps necessary for obtaining investment incentives and have prepared legislation concerning work permits for foreigners.

*Infrastructure investment is very unevenly distributed across the country.* Turkey's infrastructure is characterised by a rather well developed road network, in particular in the industrial core areas in the western part of the country. The railway network, on the other hand, is worn out and urgently needs to be improved. Turkey's railway company is a state monopoly and represents a major budgetary burden. The length of motorway has increased by 20% during the last 5 years, while the length of the railway network has remained much the same. The energy distribution network has a considerable energy saving potential. Other infrastructure facilities, such as gas and oil pipelines, have been extended in recent years.

*Enterprise restructuring has accelerated due to structural reforms and budgetary constraints.* As a result of structural reforms in the banking sector, in agriculture and the energy sector, the restructuring of enterprises has accelerated significantly in these areas. Stronger banking supervision and the ensuing reduction of connected lending has started to force the restructuring of enterprises in conglomerates. Deregulation in the agricultural and energy sectors has resulted in the break-up of former state institutions and to the establishment of several joint stock companies. In state-owned enterprises, redundant labour is being reduced. Declining budgetary support forces these companies to increase productivity and to align prices with the real cost situation.

*The transition from an agricultural to a service-oriented economy has continued.* In line with international trends, Turkey is experiencing a decline in the importance of the agricultural sector, while the service sector is gaining. During the period 1997-2001, the share of the agricultural sector in total gross value added declined from 13.8% to 12.1%. The share of manufacturing and construction remained largely unchanged, while the share of the services sector rose from 56.3% to 59.3%. A similar pattern can be observed in terms of employment, although the share of employment in agriculture is still high. During 1997-2001, employment in the agricultural sector declined from 40.8% in 1997 to 35.4% in 2001, while the share of employment in the service sector rose from 35.1% in 1997 to 41% in 2001.

*Small and very small enterprises are 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 account for only about 30% of value added in manufacturing, 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. Most likely many of these enterprises will face difficulties in aligning with EU standards, such as labour regulations, social, health and environmental standards.

*State interference in the economy has started to decline.* Deregulation of important markets, such as agriculture, energy and telecommunication has led to a significant reduction in state interference. Independent regulatory and monitoring agencies have been established, replacing state regulation. Furthermore, numerous free-trade agreements have been signed in recent years. State subsidies and state aid have been reduced.

*Trade integration with the EU has remained at a high level.* After a sharp increase in openness to trade during the 1980s and the early 1990s, Turkey's trade integration with the rest of the world has remained rather constant, with exports and imports of goods and services staying at slightly above 50% of GDP. When preparing the establishment of the Customs Union between the EC and Turkey, trade restrictions were dismantled gradually, which led to a marked increase in bilateral trade. Afterwards, the speed of further trade integration slowed down. Nevertheless, the share of Turkey's merchandise exports to the EU in total merchandise exports rose from 46.6% in 1997 to 51.6% in 2001. However, the share of Turkish merchandise imports from the EU declined in that period, from

51.2% of total imports to 44.6% in 2001. The decline in imports is largely related to the economic crises in 1999 and 2001, reducing significantly the import of machinery and consumer durables, which are usually coming from the EU-15.

*The commodity composition of exports has continued to improve.* On the export side, the share of industrial commodities has increased from 87.6% to 91%, mainly due to a considerable increase in exports of motor vehicles from 4.3% to 10.2%, while the share of textiles has remained largely constant in absolute terms and has declined in relative terms from 38.4% of total merchandise exports to 33.1%. The share of agricultural commodities has declined from 11% to 8%. The changes in the commodity composition of merchandise imports largely reflect weak domestic demand and the increase in oil prices. The share of investment goods and industrial inputs, such as metal products and machinery, has declined from 20.2% to 16.2%, while the share of crude oil has increased from 5.7% to 10.5%.

*Price competitiveness of Turkish exports has been very volatile.* It deteriorated markedly during 2000, when the combination of a pre-announced crawling peg and persistently high domestic inflation led to a marked appreciation of the real exchange rate. As a result, Turkey lost market shares on important export markets, while imports were booming. The sharp depreciation after the free floating in February 2001 has largely corrected the loss in competitiveness. Labour productivity growth has been decelerating, reflecting weak capital accumulation and low output growth.

## **2.4. General evaluation<sup>14</sup>**

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.

After several attempts to stabilise the economy, the current reform programme is producing positive results and growth has resumed. Fiscal discipline has improved and the transparency of public sector accounts has increased markedly, while inflationary pressures are declining. Political interference, a main source for Turkey's economic instability, has been reduced and structural weaknesses, such as a fragile and distorted banking sector, are being addressed. Financial market regulation and supervision have been strengthened. Important steps have been taken to liberalise key markets, such as agriculture and energy.

To improve the functioning of its markets and its competitiveness, Turkey needs to continue the present reform process in order to achieve macroeconomic stability and fiscal sustainability. Further reducing chronically high inflation and maintaining fiscal discipline are important pre-conditions to this end. Prudential and accounting standards in the banking sector have to be brought in line with international norms. The privatisation of state banks and enterprises has to be accelerated and the market deregulation completed. Increasing investment into productive uses and devoting particular attention to education is important to increase the competitiveness and the growth potential of the

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<sup>14</sup> See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

economy. The inflow of FDI has to be encouraged by simplifying bureaucratic procedures and by removing remaining barriers.

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

#### *Introduction*

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 2001 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. Furthermore, it includes an evaluation of Turkey's track record since the Commission's 1998 Report on Turkey.

This section is structured in accordance with the list of 29 negotiating 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.

In June 2002, the Seville European Council repeated how important it was that candidate countries should continue to make progress with the implementation and effective application of the *acquis*, and added that candidate countries must take all necessary measures to bring their administrative and judicial capacity up to the required level. Building on the assessment of Turkey's administrative capacity provided in the 2001 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 2001 Regular Report, the Commission found that :

*“Turkey's alignment with the acquis is most advanced in the areas covered by the Customs Union. Since the last Regular Report, further alignment has taken place in these areas. In addition, significant legislation was adopted in the field of banking including on the Central Bank, and in sectors such as telecommunications, energy and agriculture. However, in some cases newly adopted legislation departed considerably from the acquis (cosmetics, audio-visual policy, social policy). Major discrepancies between the acquis and Turkish legislation have remained. Progress in strengthening administrative capacity to implement the acquis has been limited.*

*Regarding the internal market, various pieces of legislation on free movement of goods have been adopted including standards. The adoption of a framework for technical legislation is particularly significant. Further steps need to be taken in a number of areas. The existing regime of public procurement is not in line with 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. Major efforts are required to further align legislation in the field of non-financial services. The implementation of legislation in the field of money laundering should be given greater attention. In the area of company law, no progress has been made in establishing a new commercial code. Important steps have been taken to align legislation on intellectual property rights with the acquis. Specialised courts have been set up in the field of intellectual property protection, but the enforcement capacity in this field needs to be strengthened. In the field of competition policy, the application of anti-trust provisions remains satisfactory. Turkey's state aid policy is not compatible with the acquis. Despite a new law, the situation with respect to monopoly adjustment on alcohol and tobacco remains a matter of concern.*

*Turkey has started a substantial reform in the agricultural sector. However, some of the basic features of the new Turkish direct income policy differ from the current approach in the EU. Turkey has not established a number of basic mechanisms, such as a nation wide land register. It should focus on the transposition, implementation and enforcement of EC legislation in the veterinary and phytosanitary sectors.*

*On fisheries, no progress has been made in the alignment with the Common Fisheries Policy. A modernised fleet registration system needs to be established.*

*As regards transport policy, Turkey should step up the legislative work necessary to adopt the Community transport acquis. The administrative capacity to apply and implement the relevant legislation in all sectors should be improved.*

*On taxation, significant progress is required in particular on approximation of the rates applied in the VAT system.*

*In most fields, Turkey's statistical infrastructure is still very different from that of the EU. No concrete progress can be reported.*

*Steps have been taken in the field of Social Policy and Employment but not all conform with the acquis. The new law on the Economic and Social Council, for example, fails to create the conditions for a genuine social dialogue. Turkish legislation remains very different from that of the EC. As regards energy, substantial progress has been achieved in the field of electricity and gas sectors. The two major laws adopted this year are important steps in preparing Turkey for the internal energy market.*

*In the telecommunications sector, the new regulatory framework should be brought in to line with the acquis on matters such as universal services and data protection.*

*As regards regional policy, Turkey has made no progress and considerable attention needs to be paid to prepare the implementation of structural policies.*

*In the environmental field, further new legislation needs to be adopted including an important framework law, which is pending before parliament.*

*In the field of justice and home affairs, Turkey recently signed three important conventions of the Council of Europe on money laundering and the fight against corruption. A bilateral agreement with Greece to combat crime has entered into force. Turkey has taken initiatives to align with the EU's visa policy and to conclude readmission agreements in the field of migration. Administrative capacity should be strengthened in the field of border controls and the fight against illegal immigration.*

*In customs, there is almost full alignment.*

*On financial control, budgetary and financial control mechanisms inside the Turkish Government should be improved.*

*Administrative capacity in different areas needs to be strengthened to ensure that the acquis is implemented and enforced effectively. A 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.*

*The Accession Partnership with Turkey was adopted in March 2001 and Turkey has made substantial preparatory efforts for its implementation. . Turkey gained greater understanding of the acquis and the government has started an intensive process of preparation of new legislation. In the areas of free movement of goods, intellectual property protection, energy, telecom and customs, the measures taken have partially met the short term Accession Partnership priorities. Considerable further efforts are needed to meet the short term Accession Partnership priorities related to the acquis."*

### **3.1. The 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 negotiating 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*

Since the last Regular Report, Turkey has made further progress in alignment with the *acquis*, especially by adopting horizontal legislation in the area of conformity assessment and market surveillance. The alignment of the sector-specific legislation has also been considerably accelerated in the last year. However, there has been little progress in establishing conformity assessment and market surveillance mechanisms and institutions. Actual improvement in free movement of goods is therefore limited.

Concerning **horizontal and procedural measures**, the law on the preparation and implementation of technical legislation on products entered into force in January 2002. The purpose of this framework law is to lay down the principles and procedures for the placing on the market of products, conformity assessment, market surveillance, inspection and relevant notification procedures.

The framework law has been supplemented by secondary legislation. In total, four pieces of legislation have already been adopted and entered into force in January and in April 2002: (i) market surveillance and inspection of the products, (ii) use and affixing of the CE conformity mark, (iii) working principles and procedures for the conformity assessment bodies and notified bodies and their assignments, and (iv) notification procedures between Turkey and the EC regarding technical legislation.

In the area of standardisation, the Turkish Standard Institute has continued to adopt CEN and CENELEC standards, but ETSI standards were not adopted this year.

No progress can be reported concerning accreditation and certification.

As regards **sector-specific legislation**, in the fields covered by the *Old Approach*, 17 EC directives have been transposed notably in the field of legal metrology and pre-packaging.

The Turkish rules on weights were amended in April 2002. Four rules transposing directives on alcohol meters and alcohol hydrometers, pressure gauges for motor vehicles, alcohol tables, and electrical energy meters were amended with the aim of postponing their entry into force until 2003.

EC directives have been transposed in the field of pressure vessels.

In the area of motor vehicles and their trailers, 22 directives have been transposed and three directives, which were transposed before the publication of the previous Regular Report, have been amended. With regard to agricultural and forestry tractors, eight directives have been transposed.

Turkey has also transposed a directive on textiles and a directive on crystal glasses.

In the area covered by the *New Approach*, directives have been transposed on electrical equipment designed for use under certain voltage limits, electromagnetic compatibility, appliances burning gaseous fuels, pressure equipment, simple pressure vessels, recreational crafts, medical devices and active implantable medical devices, and non-

automatic weighting instruments. Turkey also transposed the directives on machinery and toy safety.

As regards the issue of food safety and foodstuffs legislation (*see also Chapter 7 - Agriculture*), Turkey has transposed, since December 2001, some of the *acquis* by adopting legislation mainly in the fields of packaging materials and food for particular nutritional uses. A major part of the *acquis* still needs to be transposed. Information on compatibility of Turkish legislation with Community law and its food safety principles will need to be provided at more regular intervals.

A 'Food inspection strengthening project' has started and should bring about necessary improvements in the control services. Some training programmes on inspection, HACCP and laboratory analysis have been carried out.

As regards customs entry and exit points, the previous implementing legislation on the appointment and declaration of border inspection posts for imported and exported foodstuffs has been amended in order to allow for more effective controls (*on food safety, see also Chapter 7 – Agriculture*).

One directive on medicinal products was transposed in May 2002, but the overall trade regime for pharmaceuticals remains problematic, and discriminations in favour of local products remain in force.

The implementing regulation for fertilisers used in agriculture has been published. The Turkish legislation in this field is thus aligned with the *acquis* in this field.

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 particular developments can be reported in other sectors, including the fields of cosmetics, detergents, and explosives for civil use, construction products and chemicals.

As for **public procurement**, a new law on public procurement was adopted in January 2002 and subsequently amended in June 2002. It is expected to enter into force in January 2003. The new law will provide for additional transparency, accountability, competition, and should at the same time ensure a more effective and efficient utilisation of public resources. The amendments of June 2002 relate to thresholds and submission periods for tender dossiers. These two amendments have further aligned the Turkish legislation to the *acquis*.

A Public Procurement authority has been legally established and its ten board members, including the president, were appointed in April 2002. Considerable investments in the administrative capacity of the new Authority and procuring entities are needed to ensure that the new law will be operational by 2003.

### *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.

The requirements for the import of alcoholic beverages and the delays in adapting the TEKEL monopoly result in serious trade barriers in this sector. Moreover, Turkey applies arbitrarily the provisions of the import regime on second hand cars to different products. These two issues constitute unsettled trade disputes with the EC.

When the *acquis* on industrial products is adopted and implemented in Turkey, it is essential that the authorities ensure that it is accompanied by the necessary administrative and institutional developments in order to guarantee its full and correct application. Although the Framework Law on the Preparation and Implementation of Technical Legislation on Products and the related implementing legislation entered into force in 2002, the conformity assessment structures are not yet in place. The same also applies to market surveillance, which is currently performed by several ministries, depending on the relevant sectors following pre-market control procedures and mandatory standards. This situation needs to be addressed as quickly as possible to allow for the enforcement of the legislation adopted, and requires training on the requirements of the new market surveillance structures.

Concerning standardisation, the mandatory standards regime enforced by the Turkish Standards Institute (TSE) in the absence of necessary structures for market surveillance continues to create trade problems. There are still time-consuming and unnecessary requests for documentation, excessive testing procedures and delays for approval. These concerns need to be addressed as soon as possible by reducing the divergent practices.

The TSE, which is an independent institution not funded by the state budget, 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 and has applied for full membership of both these organisations. However, these applications have not yet led to the acceptance of TSE as a member.

Moreover, the dual function of the TSE in both standardisation and conformity assessment is another cause for concern. These roles have to be separated in an independent and autonomous way with clear division of competences.

In the area of accreditation, the Turkish Accreditation Authority established in 2000 has not become fully operational although it has largely completed its organisational structure and staffing and started receiving applications for accreditation. None of these applications had been concluded by the end of April 2002.

In the area of certification, there are no certification bodies officially assigned by the national authorities such as ministries.

Turkey needs to accelerate and complete its work towards harmonisation of technical legislation in the various fields in which limited progress was achieved last year.

In some sectors alignment with the *acquis* is already in place. However, Turkey has still not fulfilled its obligations under the Customs Union to implement a large body of legislation on technical requirements for products already due by the end of 2000.

In sectors covered by the Old Approach, progress in the field of motor vehicles and agricultural and forestry tractors is welcomed. More efforts need to be made in alignment in other areas, such as pharmaceuticals, cosmetics and chemicals, where the Turkish authorities foresee completion of alignment of the legislation in 2003 (pharmaceuticals and cosmetics) and 2005 (dangerous substances and preparations).

As for public procurement, the adoption of the new law and the establishment of a public procurement authority is a positive first step towards aligning the Turkish Public Procurement Law with the *acquis*. Considerable efforts and legislative changes, both in primary and implementing legislation, are still needed to ensure full alignment. A number of discriminatory provisions against non-Turkish bidders remain.

The reservation of markets for domestic bidders due to high thresholds and the provision of price preferences (15%) for domestic bidders are also inconsistent with the relevant *acquis*. A newly added criterion, which reserves the market for domestic goods above a certain threshold, further limits market access for EC goods (Article 63).

Concerning food legislation, much reinforcement of the administrative capacity is still needed. Turkey needs to address such outstanding issues as the upgrading of laboratory equipment, training of officials, elaborating inspection and sampling plans and the restructuring of administrative structures.

In the Report of 1998, the Commission concluded that the Turkish administration as a whole had put considerable effort into establishing the necessary conditions for the customs union to function properly by the planned deadline. Since the entry into force of the customs union, it could be considered that both parties generally ensured the free movement of industrial products between them. There was little alignment, on the other hand, of Turkish legislation with the *acquis* in the area of removing technical barriers to trade. The framework legislation to enable Turkey to take up the basic principles of the Community New and Global Approaches was still missing. Consequently, very little progress had been made in the sectors covered by the New Approach Directives. Some progress had been made in the sectors covered by the Old Approach legislation even if the Commission had not had the opportunity to check the compatibility of the Turkish legislation. Much still had to be done therefore to ensure compliance with the obligations ensuing from the Customs Union Decision by the deadline of 31 December 2000.

Since that time, difficulties with existing obstacles to trade barriers have lingered. Further progress was noted with the adoption of a number of pieces of legislation related to horizontal measures. Turkey has accelerated work on the transposition of the *acquis*, the alignment of technical legislation and public procurement, though in neither field is alignment yet complete. Some of the implementing laws in the fields covered by the *New Approach* are to enter into force after long transition periods. Moreover, there are also considerable deficiencies in terms of administrative capacity for the enforcement of the harmonised legislation on both horizontal and sectoral aspects. This results in ineffective market surveillance, and the systematic verification of products at the moment of import. Overall, Turkey's alignment with the *acquis* is well advanced but substantial further efforts are needed to reach full alignment.

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 compliance with the obligations ensuing from the Customs Union Decision with the deadline of 31 December

2000. Indeed, the existence of non-tariff barriers to trade makes it difficult to fully achieve the benefits of the Customs Union. In order to optimise the enforcement of adopted legislation Turkey should also abandon the practices of pre-market control of products in favour of market surveillance. The institutions in charge of market surveillance need to be established or developed. The whole system of legal metrology needs to be reinforced. Turkey should refrain from introducing new technical specifications differing from those of the EC.

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

### *Progress since the last Regular Report*

The current reporting period has seen no further alignment with Community provisions.

There has been no progress in the area of **mutual recognition of professional qualifications, citizens' rights, free movement of workers** or the future **co-ordination of social security systems**.

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 professions 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 that it distinguishes between academic and professional recognition and includes simpler procedures allowing for the provision of services.

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

In particular, with respect to co-ordination of social security systems, amendments to the current social security legislation are still needed in order to ensure the proper functioning of its social security system. Inefficiencies, deficits and cases of irregularities in the pension system and social security institutions are partly due to insufficient administrative capacity. Turkey should continue its efforts to streamline and co-ordinate its social security institutions in accordance with EC guidelines.

In previous Regular Reports, the Commission has not noted any particular developments in this area. Turkey's alignment with the *acquis* in this field remains very limited. Turkey should focus its efforts on aligning legislation with all relevant aspects of the *acquis* in this area. Further work to develop the necessary administrative structures is also needed.

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

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

Since the last Regular Report, there has been some progress regarding financial services and enhancing administrative capacity.

There has been no progress in the area of **right of establishment or freedom to provide services** (other than financial services) (*for further details see B.2. Economic criteria*). No progress can be reported concerning self-employed workers.

In the field of **financial services**, substantial progress has been made in particular in the banking sector, under the Banking Sector Restructuring Programme, which is part of the IMF-sponsored economic reform programme.

Following the adoption of implementing legislation, banks may acquire non-financial subsidiaries, provided that the shares acquired in a single company do not exceed 15% of the bank's own funds. A regulation on the accounting plan and standards of banks was amended in order to allow the inclusion of repo transactions on balance sheets as of February 2002. Furthermore, a regulation on accounting practices, which is compatible with the International Accounting Standards (IAS), has been in force since July 2002 in order to ensure that the balance sheets of banks are compliant with IAS requirements.

During the reporting period, the Banking Regulation and Supervision Agency (BRSA) has been supervising offshore banks established by Turkish banks or by their majority shareholders in Bahrain, Luxembourg, Malta and the Netherlands.

Concerning securities, the Capital Market Board (CMB) published two sets of implementing legislation concerning principles of consolidated financial statements and accounting for investments in associates in capital markets and financial statements in high-inflation periods in November 2001. This legislation has not yet entered into force.

Further legislation adopted concerns amendments to the regulation of the Istanbul Stock Exchange and the establishment and functioning of the Stock Exchange. Modifications to the Communiqué on principles regarding investment funds and a regulation concerning pension funds have also been adopted. Finally, a Communiqué concerning the principles regarding advisory activities and investment advisory institutions has been published.

In the fields of **insurance** and **personal data protection**, no progress can be recorded. The same applies to **administrative capacity**. There has been no development concerning the **information society regulations**.

#### *Overall assessment*

The possibility for foreigners to provide **non-financial services** in Turkey remains subject to substantial obstacles in a number of sectors, in particular in the areas of legal and health services. Accountancy services can only be provided on the basis of reciprocity. Professional service providers such as architects and engineers must be registered as members of professional associations in Turkey, even if they are already registered in their country of origin. Much work remains to be done to align Turkish legislation with the *acquis* in this respect.

By contrast, the sector of **financial services** is largely open to entry of foreign operators. Foreign banks started to purchase Turkish banks after they were restructured. Attention will need to be paid to enforcement of the new legislation in the banking sector. In this respect, maintaining the independence of the Banking Regulation and Supervisory Board (BRSA) is crucial. As for administrative capacity, the BRSA's staff is at present composed of 55 managers and 197 experts.

The current reforms in the banking sector are contributing significantly to the stabilisation and strengthening of a crucial sector of the Turkish economy (*see also B.2. Economic criteria*).

In the field of investment services and securities markets, the adoption of the Regulation on Rules and Principles Regarding Consolidated Financial Statements and Accounting for Investments in Associates in Capital Markets by the CMB is a welcome development. However, much work still remains to be done in order to align Turkish legislation with the relevant *acquis*, in particular with regard to investor compensation schemes, capital adequacy and supply of material information.

The previous Regular Report reported that the CMB enacted a regulation regarding the Investor Protection Fund in June 2001. However, the Central Registry, which is responsible for administering the Investor Protection Fund, established in September 2001, is not yet fully operational due to logistical shortcomings. In addition, this investor protection scheme is not in line with the relevant *acquis*, in particular with respect to its scope, which is narrower than that in the EC.

Regarding the capital adequacy of intermediary institutions, the requirements concerning minimum capital, calculation of provisions against risks, and reporting requirements are not in line with the relevant *acquis*.

The Capital Market Board (CMB) is entitled to set the standards for prospectuses on financial information. These are to a large extent in accordance with the principles of the relevant EC directives. There is still a need for enhancing transparency of unlisted companies, which are admitted to trade on regulated markets. In addition, the scope of information in prospectuses should be extended to other areas such as forward-looking data, prospects and consolidated accounts of the issuer, and information about guarantors.

There are also differences with respect to certain publication and disclosure obligations of issuers whose securities are admitted to official listing in Turkey. Regarding collective investments, banks, insurance companies, brokerage houses, pension funds and employee funds can establish enterprises for collective investments in transferable securities in Turkey. However, the matter is not regulated by the UCITS Directive (Undertakings in Collective Investments Transferable Securities).

Regarding financial intermediation, Turkish banks are only permitted to engage in equity trading at the Stock Exchange through subsidiary brokerage firms. In the field of insurance, specific restrictions to exclude foreigners from the market remain. Moreover, the adoption of an insurance monitoring law in line with the relevant *acquis* is urgently needed. The operational independence of the Insurance Surveillance Board should be ensured in line with the requirements of the *acquis*. Maintaining the reinsurance monopoly is in clear contradiction with the *acquis*. Furthermore, ex ante tariff control should be abolished in order to align with the in-market control system in the EC.

As regards administrative capacity, the CMB is the regulatory and monitoring authority of the securities and investment markets. The CMB is autonomous and self-financing. A fee of 0.2% of the volume of the securities registered with the CMB is paid by the issuer, which constitutes the budget source of the CMB. In addition, 5% of the revenue from exchanges traded under the Capital Market Law is also required to be transferred to the CMB. The CMB consists of a seven-member Board and has a total staff of 410 persons (21 managers, 202 experts and 186 auxiliary staff).

The 1998 Report stated that Turkey should have no particular problems in the medium term in applying the *acquis* on the free movement of services. Harmonisation in the financial services sector was well advanced.

Since 1998, progress has been achieved in the area of financial services, and in particular in strengthening administrative capacity and other surveillance bodies. Progress has remained limited in the area of non financial services. The overall alignment with the *acquis* in the banking sector is progressing well. The reform of the banking sector is bringing the regulation of the Turkish banking sector into line with international standards and the *acquis*. However, in areas such as investment services and insurance, substantial efforts are still needed.

Turkey should focus further substantial efforts on aligning the legislation concerning the freedom to provide non-financial services. Also, regulations concerning the insurance and re-insurance sector should be brought into line with the *acquis*, and further liberalisation is required concerning investment services.

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

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

There have been only limited developments since the last Regular Report in further aligning legislation with the *acquis*.

In the field of **capital movements and payments**, a comprehensive **reform programme** aiming at modernising and streamlining the legal, regulatory, and administrative framework on investment has been adopted in December 2001. However, this program has not yet led to changes in the applicable legislation.

In relation to **payment systems** and **money laundering** no further progress can be reported this year.

##### *Overall assessment*

In the field of capital movements, there is a certain degree of alignment with the *acquis*. However, significant restrictions place limits on participation by foreigners in Turkish enterprises and in acquisition of real estate.

Regarding restrictions on foreign investment, limitations on foreign ownership still exist in a large number of sectors such as civil aviation, maritime transport, port enterprises, radio and television broadcasting, telecommunication, and mining and energy.



Regulations concerning the acquisition of real estate by non-nationals (foreign natural persons) and foreign legal persons exist. The acquisition of real estate by foreign natural persons is bound to the principle of reciprocity between Turkey and other countries. In addition, foreign real persons are prohibited from acquiring real estate in villages (Village Law) and near military and security areas (Prohibited Military and Security Areas Law). Acquisitions over 30 hectares are subject to the permission from the Council of Ministers.

Concerning legal entities, foreign firms are permitted to acquire real estate in Turkey pursuant to foreign investment legislation and provided that the real estate to be acquired is related to the investor's permitted activities. Foreign-controlled enterprises are prohibited from engaging in real estate trading. The Tourism Law and Petroleum Law include exemptions to the restrictions stipulated in the Village Law. Turkey should bring this legislation into line with the *acquis*.

An authorisation system for investment is still in place and capital of USD 50 000 must be provided to establish a company or open a branch in Turkey. A new foreign investment law is expected to replace the present system by a registration system and remove the minimum amount required for investing in Turkey. Regarding derivatives, the physical movement of securities and other capital market instruments into and out of the country is free. There is no particular restriction on the movement of personal capital. Foreigners may import and re-export unlimited amounts of funds. There is no limit to the repatriation of profits or investments. The transfer of capital by Turkish national or non-national residents for the purpose of direct investment, in kind or in cash, amounting to more than USD 5 million or its equivalent requires authorisation by the Under-Secretary of the Treasury. Banks must inform the Under-Secretary of the Treasury of transfers if the value exceeds the equivalent of USD 50000 in Turkish Lira. Payments for import and invisible transactions as well as capital export are excluded from this provision.

Regarding payment systems, the whole *acquis* (Directives on cross-border credit transfers and on settlement finality, Recommendation on electronic payment instruments) remains to be transposed. Turkey also needs to establish an out-of-court redress scheme to deal with the settlement of complaints between banks and their customers.

No restrictions apply to cross-border credit transfers (payments).

Concerning institutional investors no restrictions are stipulated, *de jure*, in the Insurance Law and implementing legislation as regards the investment in foreign assets. However, these assets may not be used to constitute compulsory reserves (collateral). Turkey needs to fully align its legislation with the relevant *acquis*. In particular, lawyers, auditors and accountants should report suspicious transactions to the Financial Crimes Investigation Board.

As regards administrative capacity, Turkey has a functioning financial intelligence unit, the Financial Crimes Investigation Board, with a staff of over 1000. Since 1991, Turkey has been the only candidate country, which is a member of the OECD Financial Action Task Force on Money Laundering. Since the beginning of 2001, 35 cases have been investigated, resulting in the opening of judicial cases concerning transactions covering approximately € 250 million. Overall, the Board needs to upgrade its paper-based information system and investigation procedures. The implementation of a financial intelligence database is highly recommended.

In its 1998 Report, the Commission concluded that, although Turkey had introduced relatively liberal arrangements in the area of free movement of capital, restrictions were still in place on certain transactions. This applied in particular to certain types of foreign direct investments and real estate investments by non-residents, and the admission of certain securities to capital markets. The same restrictions were highlighted in the Report of 1999, which also highlighted the establishment of the real time gross settlement system (RTGS). The need for an authorisation for foreigners intending to invest in Turkey was underlined as a shortcoming to be corrected.

Since 1998 Turkey has further aligned its capital movement regime with the *acquis*. However, substantial additional efforts are required for the alignment to be complete.

Turkey should focus further efforts on further aligning its foreign investment legislation with the *acquis*, and on removing all restrictions for foreign investors. Among these, the restrictions on the possibility of buying real estate and on the participation of foreigners in a number of sectors should be removed. The authorisation which is necessary for foreign investors should be replaced by a more liberal regime.

## ***Chapter 5: Company Law***

### *Progress since the last Regular Report*

Since the last Regular Report, Turkey has made further progress in the field of and intellectual property rights.

Regarding **company law**, as such, no particular progress can be reported.

As regards **accounting**, the Capital Market Board (CMB) has issued two Communiqués that determine the accounting standards of consolidated financial statements and for limited liability companies in periods of high inflation. These steps constitute progress in terms of alignment with the *acquis* and bring more transparency. These provisions will be in force as from 2003. In addition, the Accounting Board of Turkey has been established. Its role is to determine and publish national accounting standards

The latest developments in the legislative aspects of **intellectual and industrial property rights** (IPR) in 2001 and early 2002 show some progress, although these have not yet fully materialised. In particular, the process of accession to the WIPO Copyrights Agreement and the WIPO Performances and Phonograms Agreement is not completed yet. This also applies to industrial property rights with respect to accession to the Geneva Text of the Hague Agreement on International Registration of Industrial Designs and WIPO Trademark Law Treaty.

In March 2002, provincial Committees to combat piracy were established by the relevant authorities in 70 provinces in Turkey. These Committees consist of Ministry, local Government and police staff, and representatives of the professional associations. They will monitor piracy cases within the individual districts. An information campaign has been launched to raise the awareness on the need to combat fraud and piracy.

### *Overall assessment*

Alignment on Company law and accounting remains limited.

Concerning intellectual property rights, the new Law on Intellectual and Artistic Works needs further amendments with respect to the copyright in the information society, *sui generis* database protection, public lending, artist's resale rights and rental rights. The work on implementing regulations has to be accelerated.

Piracy and counterfeiting remains a serious problem in Turkey. The level of piracy was for example reported by private industry sources to be 58% in the field of software in 2001 and 30% in the field of music piracy. Furthermore, the legislation and border enforcement of the *acquis* in this field is still insufficient. In this context, it is crucial that Turkey ensures the application of appropriate remedies and sanctions in case of infringements of copyright and related rights.

Turkey has established an institute on intellectual property rights as well as courts specialised in intellectual property matters in Istanbul. A project on IPR aiming to train eight judges and providing for equipment and the setting up of a database is in the process of being executed. Other training such as specialised programmes for the Ministry of Culture, Finance and Interior is also being carried out. Turkey is also intensifying its efforts on awareness raising campaigns. These measures are appreciated, but both legislative and border enforcement must be further strengthened.

Data protection in the field of pharmaceuticals is not sufficient. A Decision of the Association Council foresees obligations in this field, which Turkey did not implement.

Training of judges and prosecutors has started in order to enable the Government to establish eight more specialised courts.

In its Report of 1998, the Commission noted that a considerable amount of harmonisation had already been achieved as regards industrial and intellectual property rights. As regards company law, it noted that a certain level of harmonisation had been achieved and that completing it would not represent any difficulties. It added that effective implementation of legislation deserved special attention. Although alignment was well advanced, the administrative capacity and enforcement of legislation continued to be insufficient. The fight against piracy was still not sufficiently effective and remained a matter of concern. More capacity-building and training as well as more inter-institutional co-operation by the police, customs offices and courts was required.

Since 1998, Turkey has made significant progress with respect to its legislation on IPRs. However, alignment with the *acquis* concerning company law as such as well as accounting remains limited. Moreover, the enforcement and monitoring capacity of the competent authorities in the field of IPRs, customs authorities, police and judiciary should be further strengthened. Border controls and the fight to combat piracy and counterfeiting must be substantially improved.

Turkey should focus further efforts on accelerating work concerning the alignment of company law and accounting. Concerning intellectual property rights, Turkey is encouraged to establish an Intellectual Property Rights Institute similar to the structure of the Turkish Patent Institute (TPI). This Institute will prepare the necessary legislation in the field of intellectual property rights, establish a registry system, provide information to the related milieus including the establishment of a copyright information centre, take measures to combat piracy and other infringements and represent the country in international fora. Further efforts are needed to align industrial property rights, especially

in the area of industrial designs. Supplementary protection certificates for medicinal products and plant protection products in accordance with the *acquis* are not in place.

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

### *Progress since the last Regular Report*

Since the last Regular Report, Turkey has made progress, notably concerning the enforcement of anti-trust rules. No progress can be registered concerning state aids.

Concerning **anti-trust**, no new legislation has been adopted. The Competition Authority concluded a total number of 121 cases and opened 178 new cases in 2001. Five cases out of a total number of 60 concerning restrictive agreements were concluded as prohibitions with fines. In four out of 18 cases concerning abuse of dominant position, fines were imposed and the actions of the enterprises concerned were prohibited. The Competition Authority imposed conditions for the approval of four mergers and acquisitions in 2001.

No progress has been made on the adoption of state aid legislation, or on the establishment of a **state aid** monitoring authority. This is leading to delay in the adoption of the Association Council Decision on the implementation of competition rules.

A welcome development has been the completion of the work on the definition of a provisional map for regional development purposes according to the NUTS 2 classification. This will provide for a differentiation of maximum aid intensities, thus serving as a more targeted approach to alleviate regional disparities.

The difficulties concerning the position of the TEKEL monopoly reported in the previous Regular Report persist. The legislation adopted in 2001 can not be considered a progress and its entry into force is delayed by the lack of practical arrangements.

### *Overall assessment*

Turkey has aligned substantial parts of its legislative framework in the anti-trust area with the *acquis* and the obligations deriving from the Association Council Decision establishing the Customs Union. Further alignment concerning block exemptions remains necessary.

The Turkish Competition Authority has adopted a considerable amount of implementing legislation, in particular in the area of block exemption regulations. However, the Turkish block exemption system on vertical restraints follows the old EC system that was changed in 1999. There is separate implementing legislation in place that regulates the system of block exemption for vertical restraints, namely exclusive distribution, exclusive purchasing, motor vehicle distribution and franchising agreements.

In Turkey, there is no implementing legislation on rules for agreements of minor importance, which do not appreciably restrict competition. Furthermore, no implementing legislation exists concerning horizontal restraints, in particular Technology Transfer and Research and Development Agreements. Further efforts are needed to align the Turkish competition legislation with the EC *acquis* in this field.

The independent Competition Authority consists of an 11-member Board and has a total staff of 319 (7 managers, 90 experts and 222 auxiliary staff). The income of the Competition Authority is mainly composed of an appropriation within the total budget of the Ministry of Trade and Industry and a 25% share of the fines that the Competition Authority imposes.

Due to incomplete legal alignment, the Competition Authority does not enjoy the appropriate powers and competence to effectively apply competition law to public enterprises, state monopolies and companies having special rights. There is a need to empower the Competition Authority to intervene effectively against competition infringements by public enterprises, state monopolies and companies having special rights.

Furthermore, a large number of specific sectoral laws, in particular on services, contradict the Turkish Competition Act, and de facto prevent the Competition Authority from enforcing the Competition Act. The Competition Authority should interpret the definition of “undertakings” in a broader way in cases involving public entities, and more frequently use its ex officio competence to apply the competition provisions to the publicly controlled sectors. Legislative amendments to sectoral regulations, which contradict the Competition Act (in particular legislation granting special and exclusive rights) are needed in order to ensure the efficient enforcement of competition rules.

Moreover, the Competition Authority should engage more actively in promoting greater competition both in the privatisation process and in the regulated infrastructure sectors. In this respect, closer co-ordination between the Competition Authority and special regulatory authorities such as the Energy Markets Regulatory Authority (BRSA) and the Telecommunications Authority should be ensured.

The Competition Authority has imposed substantial fines in cases concerning violations of anti-trust rules. But slow processing of appeals against the decisions of the Competition Authority by the Supreme Administrative Court (Danıştay) delays effective implementation of the competition rules. Administrative fines to ensure compliance with competition rules and procedures do not act as a deterrent due to the high inflation. Up to now, no final decision has been taken by the Council of State on appeal cases. In the event of an appeal, the Competition Act does not allow fines to be collected before the Council of State takes a final decision.

In the area of state aid, despite Turkey’s obligation under the Customs Union to align its legislation and set up the necessary administrative body for state aid monitoring, the legislation concerning state aid control based on EC principles and criteria is still not adopted. Turkey has to align its legislative framework with the *acquis* and the obligations of the Customs Union, and to establish a state aid monitoring authority.

The Report of 1998 recognised that Turkey had made great efforts to align with Community competition law. It is vital that this work is completed. This will require a major restructuring effort, in particular as regards ensuring that commercial monopolies comply with Community legislation. The Report of 1999 repeated largely the same conclusions noting additional progress in the area of undertakings. In 2000 the need to establish a state aid authority was raised. In 2001 the same conclusions were drawn again.

Since 1998, Turkey has continued making good progress in the field of anti-trust policy, but very limited progress in the areas of state aids control and adaptation of state

monopolies. No progress has been made on adjusting the TEKEL tobacco, alcohol and salt monopoly. TEKEL has been transformed into a State Economic Enterprise (SEE) while maintaining exclusive rights. Besides, TEKEL is not subject to the Competition authority. Overall Turkey is partially in line with the EC requirements as regards legislative alignment, administrative capacity and enforcement, with the exception of alignment and implementation as regards state aid and public monopolies, where alignment is limited.

Turkey should sign, as a matter of priority, the draft Decision of the Association Council on implementing competition rules. Turkey should focus further efforts on setting up an independent authority in charge of monitoring state aids.

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

### *Progress since the last Regular Report*

Limited progress in aligning legislation has been made.

Agriculture in Turkey accounted for 12,1 % of gross value added in 2001<sup>15</sup>, as compared to 13.6% in 2000. Just over one third (35.4%) of the Turkish labour force worked in the agricultural sector in 2001<sup>16</sup>. This figure is similar to that of last year.

In 2001, overall agricultural trade<sup>17</sup> between Turkey and the EC showed mixed tendencies. EC imports of agricultural products originating in Turkey increased by 14 % to € 2,188 million. EC exports to Turkey decreased by 24 % to € 771 million. The trade balance in favour of Turkey amounted to € 1,417 million compared to € 903 million in 2000. EC imports were dominated by fruit and nuts. Raw hides and skins, cotton, essential oils and fats, beverages, spirits and vinegar were the main export goods from the EC.

The Turkish Government has continued to implement the agricultural policy reform, which started in 2000. This reform consists of the replacement of many agricultural price support systems with a system of direct income supplements; an 'Alternative Crop Project' aimed at the substitution of tobacco, tea and hazelnut production; the restructuring of the agriculture sales co-operatives and co-operative unions; the phasing out of input and credit subsidies; and the privatisation of state-owned enterprises such as food industries.

In 2002, the State budget for agricultural policies amounts to approximately €1,690 million. Out of the total agricultural budget for 2002, €875<sup>18</sup> million finances direct support schemes to farmers and €815 million is devoted to general support measures.

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<sup>15</sup> The source for all agricultural statistics is EUROSTAT unless otherwise specified.

<sup>16</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 gain a significant part of their income from agriculture.

<sup>17</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).

<sup>18</sup> An additional amount of €312.5 million has been transferred from the 2001 budget to the relevant 2002 budget lines. This is not reflected in the above amount.

State support to agriculture, including rural development, represents about 2.76% of the State budget. Input support measures have been abolished as of 2001.

The Government has been implementing a nation-wide farmer and land registration system. Approximately 2.2 million farmers (approximately 60% of the total), as well as about 11.8 million hectares of farmland (50%) have been registered. Electronic cross checks are made using title deeds, farmers' IDs and plot numbers.

Cadastral work on rural areas has been progressing. It now covers about 85% of the rural areas. 10% of cadastral maps are now digitised. Furthermore, Turkey has enacted a law changing inheritance rules, with the aim of reducing farmland fragmentation.

### **Horizontal issues**

As regards preparations for the implementation of measures relating to the *European Agricultural Guarantee and Guidance Fund (EAGGF)* and the *Integrated Administration and Control System (IACS)*, no progress can be reported.

No progress can be reported on *quality policy* (protected designation of origin, protected geographical indications and certificates of special character), or the establishment of a *Farm Accountancy Data Network (FADN)*.

Turkey's state of alignment as regards the implementation of *trade mechanisms* falls within the Customs Union Decision of 1995 (*see Chapter 25 - Customs Union and Chapter 26 - External Relations*).

### **Common Market Organisations**

The Government continued to implement a direct income support scheme. It has made approximately €1 billion available to farmers.

No progress can be reported with respect to common market organisations concerning *arable crops* and *animal products*.

With regard to *specialised crops*, a *tobacco* law was adopted in January 2002. It aims to end state-subsidised tobacco purchases as of 2002, and to introduce auction sales, individual purchasing contracts between producers and buyers and the liberalisation of the market. No other progress can be reported.

As regards *sugar*, two pieces of implementing legislation relating to the sugar law were adopted in 2002. They relate to the rules and procedures of the Sugar Board and to sugar quotas. The latter lays down principles and procedures for the determination, allocation, cancellation and transfer of companies' quotas as well as for the new quota allocations.

### **Rural development and forestry**

No developments can be reported in this area.

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

The registration of bovines has continued. Approximately 4.5 million animals have been ear-tagged and registered, of which 3.0 million cattle and 0.4 million animal holdings

have been recorded in a database. The current regulation is under review with a view to complying with the *acquis*.

As regards the **veterinary sector**, animal disease remains a matter of serious concern (foot and mouth disease, blue tongue, *peste des petits ruminants*, sheep and goat pox, and brucellosis).

Since 2002, a new BSE surveillance system is in place in Turkey. It consists of inspection and monitoring of samples randomly taken from cattle which died or were slaughtered after showing neurological symptoms, and cattle slaughtered at 30 months and above. In total, 3000 different BSE diagnostic tests have been carried out.

Seven implementing regulations were adopted following the adoption of the animal breeding law in March 2001. These regulations relate to embryo and sperm production facilities, to equidae studbooks, animal gene resources, registration of animal species, herdbook and pre-herdbook activities, animal breeding associations, and the principles of a national committee of animal breeding.

As regards *animal welfare* and *animal-waste treatment*, no progress can be reported.

The competent authority has made some efforts to strengthen the control of animal diseases and animal health. Monitoring programmes have been introduced in the border regions. Control of animal and animal product movement is carried out in 11 transport control centres established in different regions. A law on animal health and control has been amended to increase the penalties for the transgression of animal control regulations. Disease-specific information manuals have been produced and distributed.

In the area of public health protection, a regulation has been adopted to authorise private veterinarians to carry out public inspections and controls in slaughterhouses and meat processing plants. A regulation on veterinary homeopathic preparations entered into force in February 2002.

On *animal nutrition*, progress is limited to the publication of a circular withdrawing the authorisation for use of anti-coccidiostats as additives in animal feed.

As regards the **phytosanitary sector**, the plant disease situation has not changed.

There is limited progress in harmonising Turkish legislation with the *acquis* in the area of *plant health (harmful organisms)*, *pesticides* and *plant hygiene*. An amendment to the list of diseases and harmful organisms subject to quarantine as well as a regulation concerning methods of sampling and analysis of chemical fertilisers have been adopted.

As regards seeds, propagating materials and plant variety rights, the regulation on registration of plant varieties was amended in January 2002, resulting in the inclusion of new varieties. Turkey is preparing legislation for the establishment of a national system of plant variety protection.

As of 2002, all quarantine offices are linked to a database where information and statistics are recorded.

As regards **food safety** (*see chapter 1 - Free Movement of Goods*), a number of pieces of implementing food-safety legislation have been adopted. These concern honey, sampling



and analysis methods for certain contaminants in foodstuffs and maximum residue limits of veterinary medicinal products in foodstuffs of animal origin. The list of entry and exit customs offices designated for the import and export of foodstuffs has been amended.

The Government has drawn up an action plan to fight aflatoxin in hazelnuts, pistachio and dried figs. A number of official food inspectors have been trained and seminars held.

Some progress on controlling *food safety* has been achieved. Nation-wide sector diagnostic surveys (covering milk, meat and meat products and the fish processing industry) have been launched to assess the current situation with respect to the *acquis* requirements. Six in-service training programmes have been held and 213 food inspectors trained on food control and inspection. Furthermore, sampling devices and equipment have been purchased and related training programmes held.

### *Overall assessment*

A direct income support system is under implementation. All crops are currently eligible for the per-hectare payment, the only criterion being that the land has been cultivated. Farmers must have at least 5 hectares to be eligible; farms of fewer than 5 hectares will be aggregated so that they can benefit from the direct income support system. Aid is limited to a maximum of 20 hectares per farmer.

With respect to **horizontal issues**, the Government should focus on completing the land/farmer registration system and on establishing the key elements of the Integrated Administration and Control System. Turkey is also encouraged to continue its work on the preparation of the EC's organic farming system.

As regards the implementation of trade mechanisms, work is needed to improve market access of agricultural and food products (*see Chapter 1 - Free Movement of Goods and Chapter 25 - Customs Union*).

As regards **common market organisations**, the new *tobacco* law is a step in the right direction, through the introduction of an auction system and individual purchasing contracts between producers and buyers. The provisions on market access, of tobacco products and monopolistic control over imports are not in conformity with the rules of the Customs Union (*see Chapter 1 - Free movement of goods*).

As regards sugar, the new law has some similarity with the common market organisation in the field.

Turkey is encouraged to adopt the legal basis and implementation mechanisms for the establishment of common market organisations. Turkey is encouraged to press ahead with the establishment of appropriate and efficient administrative structures, including those for effective monitoring of agricultural markets.

Regarding **rural development**, Turkey is encouraged to finalise the assessment of the EC legislation and continue plans to develop a comprehensive rural development strategy, with appropriate administrative structures to support restructuring and development of the agricultural and rural sectors.

Concerning the **veterinary field**, Turkey is still in an initial phase of transposition and therefore it is encouraged to step up its preparatory work in order to align with the Community *acquis*. The rapid adoption of a Framework Law would be a welcome step.

Turkey is also asked to step up implementation efforts concerning animal disease control (including finalisation of the preparatory studies). In particular, it is necessary to establish OIE standards in diagnosis and test methods, to increase analysis capacity of veterinary laboratories and to achieve their accreditation. Improvements in vaccine quality control and production are also required. Studies concerning contingency plans for OIE List A diseases need to be completed and tested. Disease surveillance and eradication programmes and epidemiological capacity should be strengthened and extended, through upgrading of equipment and training of veterinarians and other staff. Turkey is furthermore encouraged to establish a national plan for upgrading agri-food establishments on the base of the relevant *acquis*.

The veterinary border inspection points and border control in Turkey should be modernised in terms of facilities and equipment (including laboratory and information technology) and strengthened with sufficient numbers of trained veterinary officers, technicians and auxiliary staff in order for them to be operated in conformity with the *acquis* requirements.

In the **phytosanitary sector** the acceleration of the adoption of pending legislation concerning harmful organisms, pesticides and plant variety protection would be a welcome development.

The administrative capacity to enforce existing and new legislation to monitor and control diseases needs to be upgraded. Turkey is encouraged to establish new, or to refurbish existing, plant health laboratories within the most important 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 implementing **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 accelerate adoption of legislation on HACCP and GMP controls.

As regards institutional reform, the number of the authorities overseeing agriculture, forestry and rural development, their organisational complexity and the diverse geographic coverage of their respective decentralised offices result in cumbersome structures where responsibilities are dispersed and often shared between different entities. This situation renders the definition and implementation of the common agricultural and rural development policies difficult. A phased and gradual inter-institutional reorganisation is required to make these authorities more efficient.

**Food safety** controls in Turkey require much reinforcement. Existing control procedures do not sufficiently ensure that food complies with the food safety standards established in the *acquis*. More training of responsible officials, harmonisation and standardisation of sampling and testing procedures are needed. Key areas of food safety and control in Turkey which are essential for progress to be achieved in practice are the establishment and implementation of rapid alert systems, risk assessment, technical and hygienic improvement of food processing establishments through the setting up of food safety

systems, particularly GMP and HACCP. Public health laboratories need to be equipped and procedures for accreditation need to start.

In its Report of 1998, the Commission encouraged Turkey to reform its agricultural policy, to align its agricultural policy on the CAP and to achieve free movement of agricultural products.

Since then, Turkey has made progress in its agricultural reforms by reducing state intervention through the introduction of a switch from agricultural price support and agricultural input subsidies to the establishment of a flat rate direct income support scheme per hectare. No progress has been made on liberalisation of agricultural trade. Progress on alignment with the *acquis* in the field of agriculture is limited. In general, progress in terms of alignment with the *acquis* in agriculture, forestry and rural development policies has been limited.

Turkey should focus further efforts on continuing its agricultural policy reform process, in particular the implementation of the direct income support scheme and the crop substitution scheme, as well as the restructuring of co-operatives, and the privatisation of state owned enterprises. It should take forward the establishment of basic mechanisms for the implementation of agricultural policies (registration of land, farmers and bovines). Work should start on the establishment of a plant passport system. The alignment of veterinary and plant health legislation, including the establishment of appropriate administrative structures, with the *acquis* should be accelerated.

## ***Chapter 8: Fisheries***

### *Progress since the last Regular Report*

No progress has been made with regard to **resource management, inspection and control, structural actions, market policy, state aids and international fisheries agreements**.

Concerning fleet registration, Turkey has continued the implementation of the pilot vessel registration system started in 2001. The transfer of fishermen and vessel licenses to a database is complete and the fishing records of the vessels are being used for statistical purposes. The system is still not in line with EC requirements.

### *Overall assessment*

Turkey has made scant progress in the alignment of its fishery policies with the *acquis*. It should make more resources available to finalise preparatory work in this field.

Turkey is a member of the General Fisheries Commission for the Mediterranean (GFCM). Its application for membership of the International Commission for the Conservation of Atlantic Tuna (ICCAT) is still pending, but Turkey applies its recommendations on fisheries management. Turkey is supporting the efforts to set up a Regional Fisheries Commission for the Black Sea Region.

Turkey has to step up efforts to reform its inspection and control bodies and train and upgrade human resources and equipment. It has to modernise and align its fishing vessel register.

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

The Report of 1998 mentioned that Turkey had a well-established fishing industry, and that weaknesses in the sector include enforcement of health standards and inefficient processing methods. It also added that in the absence of detailed information about the organisation of the market for fishery products in Turkey, structural policy and the management and conservation of fish stocks, it was difficult to assess the country's capacity to apply the *acquis* in this sector.

Since 1998, no progress has been achieved in aligning legislation with the *acquis*. 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.

Turkey should focus further efforts on modernising the fleet registration system, on establishing producer organisations and on aligning with the *acquis* in this field. Administration, inspection and control systems should also be improved. More resources should be made available to finalise preparatory work in this field.

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

### *Progress since the last Regular Report*

Since the last Regular Report, only limited progress has been made in this area.

There have been no developments regarding **Trans-European Transport Networks**.

As concerns **land transport**, no developments have taken place in the *road transport* sector. Also regarding *railways* and *combined transport*, no progress has been made.

There have been no particular developments to note as regards **air transport**.

In the field of **maritime transport**, no concrete developments took place in terms of adoption of legislation transposing the *acquis*. 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 reserved solely for Turkish-flagged vessels.

According to 2001 statistics under the Paris Memorandum of Understanding, the percentage of Turkish flag vessels detained following Port State control was 24.5%, a further increase compared with 2000 (23.8%) and comparable to the level of 1999 (24.5%). This compares with an average for EU-flagged vessels of 3.1% in 2001.

No developments could be reported in respect of administrative capacity in the transport sector.

## *Overall assessment*

In road transport, ratification and implementation of international conventions is not sufficient and needs to be complemented with adequate transposition and implementation of the relevant road transport *acquis*. Adoption of an action plan, within a clear timeframe, for the transposition of the road transport *acquis* into Turkish legislation is recommended.

The conditions prevailing in the part of the road transport market engaged in international transport operations are very different from those for domestic operations. The regime applying to 'international road transport' is already substantially aligned with the EC requirements on market access, environmental norms, tachographs and speed limitation devices. However, such legislation does not fully apply to the domestic part of the fleet. Although the legislative exercise aimed at establishing a general regulatory framework for road transport in Turkey sets out to achieve a unified regime for both parts of the fleet, it should not only focus on access to market and admission to the profession (rules for which were adopted in 1996 but which have never been implemented), but also address other aspects of the road transport *acquis*, particularly the fiscal, technical and safety *acquis*.

As concerns social legislation, Turkey became a signatory of the AETR Agreement on driving times and rest periods in 2001. There still exists a number of differences between Turkish and EC legislation in this area, and the legislation is applied fully only for vehicles engaged in international transport operations. As concerns technical and safety legislation, alignment with the *acquis* should be completed, in particular as concerns the transport of dangerous goods by road, where Turkey's alignment is at a very preliminary stage. There is no legislation in Turkey for technical roadside inspections of the roadworthiness of commercial vehicles.

State aids provided to the Turkish transport sector need to be brought into line with the relevant *acquis*, in particular on municipal subsidies to bus operators.

As for the rail sector, considerable further efforts are necessary in order to allow for transposition and implementation of the revised railway *acquis*. Legislative alignment needs to be continued, and special attention should be paid to how the essential functions of infrastructure management are organised and carried out. The restructuring and modernisation of the sector should be continued in order to make rail transport more competitive and cost-effective. The railway administration needs to be strengthened.

In the field of air transport, Turkey needs to continue legislative alignment with the *acquis* in the sector and also to continue with the gradual implementation of the Joint Aviation Requirements. Turkey aims to create a civil aviation authority, which will contribute to further improvement of competition.

On maritime safety, substantial parts of the *acquis* still need to be transposed and further efforts need to be made in the implementation of the *acquis* with a view to improving the flag state performance of the Turkish fleet. Turkey needs to enhance maritime safety and considerably intensify its efforts to decrease the detention rates for inspected ships: the Turkish flag is still on the Black List of the Secretariat of the Paris Memorandum of Understanding on Port State Control. Flag State obligations remain the highest priority for Turkey.

Ratification of the IMO conventions to which Turkey is a party should be completed. Turkey is encouraged to take further steps to sign and ratify other major IMO conventions. However, this can only be considered as a very first step in the preparation for accession: in the maritime sector, Turkey's preparation has been limited only to the signature and ratification of International Conventions. This is insufficient and the additional transposition and implementation of the EC *acquis*, which does not follow automatically from it, has to be a priority. The Turkish authorities should adopt and properly implement an action plan with the aim of improving maritime safety in Turkey.

In all transport sectors, particularly in the field of maritime safety, further strengthening of the administrative capacity for effective implementation of the legislation is indispensable.

In the road transport sector, although the Ministry of Transport is responsible for regulation of the industry, including adoption and implementation of regulations and international agreements, certain fundamental elements of the *acquis* are the responsibility of other public administrations. Co-ordination between the different Turkish administrations responsible for various aspects of road transport needs to be strengthened in order to ensure not only the preparation and adoption of legislation, but also its effective implementation and enforcement.

The Under-Secretariat of Maritime Affairs is the administrative authority for all maritime transport matters, including maritime safety and ship registration. Currently, ten classification societies (nine IACS members together with the Turkish Lloyd) have been authorised by this administration to carry out inspection, survey and certification of ships. It employs approximately 900 staff at the headquarters and seven port administrations. The total number of ship surveyors and port state control officers are 65 and seven, respectively. Taking into account the work load of the port authorities (which is heavier than that in most of the Member States since all services and formalities are provided by these authorities free of charge), the number of staff is insufficient to properly cover all tasks of the port authorities.

On maritime transport, no action plan has been adopted, and no progress has been made on strengthening maritime administration. Maritime safety legislation has been based on international (particularly IMO) conventions and not the EC *acquis*, with which alignment has not yet even begun. Furthermore, no developments can be reported concerning the elimination of existing restrictions applied to Cyprus-flagged vessels and vessels serving the Cyprus trade.

In its 1998 Report, the Commission concluded that Turkey was a long way from applying the *acquis* in the transport sector.

Since 1998, progress has overall been limited: no overall strategic legislative programme has been developed. A large number of legislative texts are under preparation, but detailed implementation depends on the content of implementing legislation. In many sectors (road and maritime transport in particular), alignment is very partial, and results from the transposition of international Conventions and not the EC *acquis*. This has created, in the road transport sector, a growing gap between the international and domestic parts of the industry.

Turkey should focus further efforts on bringing its legislation in line with the Community transport *acquis* in all transport sectors - beyond international texts and conventions.

However, legislative preparation also needs to be accompanied by the means to implement and enforce the *acquis*, particularly the necessary administrative structures.

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

### *Progress since the last Regular Report*

Since the last Regular Report, Turkey has made substantial progress with aligning its tax legislation with the *acquis* in the area of indirect taxation.

In the field of indirect taxation, a law on VAT was adopted in December 2001. It eliminated double taxation on the supply of services in connection with imports where the value of such services is included in the taxable amount, thus providing for alignment with the *acquis* in this respect. However, the implementing arrangements for the principles laid down in the law have not yet been laid down. Turkey has also introduced a provision allowing for VAT refunds to foreign taxable persons not established within Turkey, on a reciprocal basis. The VAT rates of 26% and 40% were abolished, in accordance with the *acquis*.

In June 2002 an amendment to the excise duty legislation was introduced, whereby the scope of excise duties was aligned, and a specific duty for mineral oils and ad valorem duties for tobacco products and alcoholic products were introduced. Concerning mineral oils, this amendment represents substantial alignment with the *acquis*, and the rates applied to these products are largely in line with the EC minimum. Concerning alcoholic beverages, the amendment constitutes an improvement but further alignment is needed as concerns the structure and scope of the duty. Moreover, the duty may be increased substantially for certain products, which may result in discrimination against certain products.

In the fields of **direct taxation, administrative capacity, and mutual assistance** no progress can be reported.

### *Overall assessment*

Turkey has achieved substantial progress on indirect taxation, in particular as regards the abolition of the 26 and 40% VAT rates and the introduction of a specific excise duty on mineral oils. Nevertheless, further efforts to align are still needed on both VAT and excise duties, with regard to the scope and rates. The introduction of a system with personal tax numbers and the successive extensions of its use have helped improve efficiency in the collection of taxes and therefore constitutes a welcome development. Turkey now needs to ensure its effective application.

Concerning **direct taxation**, following amendments introduced in 2000, the Turkish legislation is partially aligned with the EU *acquis*. However, further efforts are needed to ensure full alignment with the *acquis*.

The Commission's Report of 1998 pointed out the limited alignment with the *acquis*, in particular in the area of indirect taxation, both for VAT and for the scope and rate of excise duties and consumption taxes.

Since 1998, substantial progress has been achieved in the area of VAT and excise duties with regard to the structure and rates as well as concerning direct taxation, in particular as regards the capital gains deriving from mergers, break-ups and exchanges of shares. Overall, alignment with the *acquis* in the field of direct and indirect taxation is partial.

Turkey should focus further efforts on the alignment of the structure and rates of VAT and excise duties, and on ensuring full alignment in the area of direct taxation. Furthermore, its tax administration needs to be modernised and strengthened, in order to increase the compliance of taxpayers.

## ***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 B-2. Therefore, the present 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 before 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*.

Turkey has made some progress in the adoption of the EMU-related *acquis*.

The Law on Public Sector Financing and Debt Management was adopted in April 2002. It defines the rules and the limits for borrowing, and defines the provisions for payments to be made with state guarantees and on activities of negotiable credits. The report on “Restructuring of Public Fiscal Management and Transparency in Public Accounting” by the International Monetary Fund was taken into consideration during the preparation of the law.

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 progress has taken place 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*

Turkey will participate in EMU upon accession with the status of a country with derogation under Article 122 of the EC Treaty, and it will need to implement the necessary changes to its institutional and legal framework by the date of accession.



Turkey has started to implement the Central Bank law. The law is a major step forward in so far as it grants increased independence to the Central Bank of Turkey. However, the determination of the inflation target is still decided in agreement with the Government.

As regards the prohibition of direct public sector financing by the Central Bank, the new Central Bank law includes a general prohibition of direct public sector financing. However, in exceptional cases, such as for the financing of the state's expenses in bailing out banks taken over by the SDIF, this possibility still remains.

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. These reserves may only consist of certain domestic assets, and foreign assets are excluded. Therefore insurance companies are discouraged to invest their assets abroad. As domestic financial markets in Turkey are dominated by debt papers, this constitutes a mean of privileged access to financial institutions by the public sector.

The Commission Report of 1998 stated that the Central Bank of Turkey (CBT) was not independent of the Government. Under the CBT Act, most policy decisions on monetary matters were being taken by the Government or jointly with the Government. Nor was Turkey complying with the Treaty on the issue of Central Bank financing of the Government. No institutional provision was preventing this source of financing, and monetary creation had been a source of deficit financing. Since 1998, the situation has improved markedly, in particular concerning the independence of the Central Bank and direct financing of the budget by the Central Bank. Nevertheless, limits on the operations of insurance companies provide the public sector with preferential access to financing through the private sector.

Turkey should focus further efforts on further aligning the Central Bank law with the *acquis* as far as the determination of the inflation target concerned. Other amendments are also 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. Although they are not applied, the provisions allowing direct financing of the budget by the Central Bank should be removed.

## ***Chapter 12: Statistics***

### *Progress since the last Regular Report*

Turkey has made progress over the last year but much still remains to be done.

In the field of **statistical infrastructure**, the State Institute of Statistics (SIS) is well staffed and the IT equipment is of good quality.

As regards **classifications**, the SIS has started, this year, to produce monthly and quarterly production data using PRODCOM (Products of the European Community). Eurostat has approved the Turkish proposal for the definition of a provisional map for regional development purposes according to the Nomenclature of Territorial Units for Statistics (NUTS). Preparatory work for moving from the SIS national nomenclature of

activities and commodities based on the International Standard Industrial Classification (ISIC) to the General Industrial Classification of Economic Activities in the European Communities (NACE) is ongoing.

Concerning **demographic and social statistics**, the SIS has recently made some amendments to minimise differences between ILO and Eurostat variables in the Labour Force Survey. A continuous household income and consumption survey is being carried out.

In the area of **macro-economic statistics**, a decision has been taken to move the compilation of Government and Finance statistics to the Ministry of Finance. As regards **business statistics**, the SIS, as of this year, is using a new questionnaire for its industrial production surveys. The preparation of the 2003 general census on industry and business establishments, which is to be carried out in accordance with EC requirements, is well advanced. 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 census of industry and the new household income and consumption expenditure survey, is ongoing.

Concerning **external trade**, there have been no recent substantial changes.

In **agricultural statistics**, the 2001 general agriculture census is to provide a wealth of information on the detailed structure of the agricultural sector in Turkey. The related list of agricultural holdings and the project of a periodically updated farm register will improve the quality of agricultural statistics.

### *Overall assessment*

In legislative terms, 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 and to ensure the full independence and autonomy of the SIS in methodological matters, techniques and procedures for producing and disseminating data.

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 the efforts in setting 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-1995). Better co-operation between the Ministry of Finance, the Central Bank, the State Planning Organisation and the SIS is a pre-requisite for improving government finance statistics. Weighting and coverage of the Harmonised Consumer Price Index (HICP) need to be improved further.

The SIS is strengthening its co-operation with the Ministry of Finance, the Central Bank of Turkey, the Ministry of Agriculture and other public producers of statistics. Staff capacity is sufficient, but more efforts have to be deployed for training. In many areas, the

IT system needs to be upgraded. The regional statistics network has to be maintained for coping with coming challenges.

In its 1998 Report, the Commission noted that, while progress had been made with regard to the transposition of the EC *acquis*, little progress had been made in enforcing legislation and it concluded that Turkey still had to make substantial efforts to meet the requirements of the European Statistical System.

Since then, 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 many areas substantial efforts are still needed.

Turkey should focus further efforts on the implementation of the European System of Accounts (ESA 95) methodology and the setting up of a reliable business register in particular. Efforts are also needed to move from the current system of annual experts' estimates to actual agricultural holding surveys, as recommended by European standards.

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

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

Overall, only limited progress can be reported since the last Regular Report.

In the area of **labour law**, no concrete progress was made. However, a scientific committee has been set up to prepare a revision of the Turkish Labour Code.

As regards **equal treatment for women and men**, the amended Civil Code, which entered into force in January 2002, introduced some essential improvements. It abolished the concept of 'the head of family', giving women the right to have a say in decisions concerning the children or the family home. Husbands no longer have the right to decide unilaterally where a couple will live or grant permission to their wives to take up a job. Women are now entitled to file for divorce if their husbands commit adultery. The revised Code also improves the financial position of women in case of divorce, guaranteeing that all assets accumulated during the union are equally shared. Men will be in a position to request alimony if their former wives are financially in a better position. The new Code sets a legal separation period of six months before couples can file for divorce. It increases the legal age for marriage to 18 for both men and women. The code also decreases the legal age for adopting children from 35 to 30 and allows a single parent to adopt children. In addition, out-of-wedlock offspring are at present granted the same inheritance rights as others.

Concerning equal treatment for women and men in working life, limited progress has been made in transposing the EC *acquis*. The Job Security Act, which was adopted in August 2002, includes a provision regarding 'burden of proof in cases of discrimination based on sex'.

In the area of **health and safety at work**, minimum safety and health requirements for improved medical treatment on board vessels were adopted in November 2001.

In the field of **public health** very limited progress was made in transposing the *acquis* with regard to tobacco products. The tobacco law adopted in January 2002 is not in line with the *acquis*. The Ministry of Health's already low share of the overall state budget decreased to 2.4% in 2002 from 2.66% in 2001.

As regards **social dialogue**, Turkey has repealed the provision on the ten-year ban on strikes, lock-outs and mediation in free trade zones in the framework of the reforms adopted in August 2002.

Major problems continue to exist with regard to employment. Average **unemployment** rose from 6.6% in 2000 to 8.5% in 2001 due to the latest economic developments. Female unemployment stood at 7.9% in 2001, whereas male unemployment was at 8.8%. Employment rates are very low, especially for women. The overall employment rate in 2001 was 46.8%. The female employment rate was particularly low at 25%, while the male employment rate was 68.4%. Low employment rates 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 (*see Part B for further details*).

The Turkish Employment Organisation (İŞKUR) started to work on the background study for the Employment Policy Review. This will form the basis of a Joint Assessment Paper to be drawn up jointly with the European Commission.

As a follow-up to the Gothenburg European Council, where the EU invited the candidate countries to translate the EU objectives into their national policies, the Commission and Turkey are in the process of preparing a joint co-operation exercise to prepare for future participation in the EU **social inclusion** process after accession. This exercise consists in a joint identification of the social exclusion challenges and relevant policy responses. The Statistical Office of Turkey co-operates with Eurostat to produce data on poverty and social exclusion. Preliminary figures suggest that overall income disparities seem to be rather high.

As regards **social protection**, the unemployment insurance scheme became operational in April 2002. As a result, unemployment benefits were paid out for the first time. The system covers insured employees who lose their jobs. The resulting loss of income is covered in proportion to the premiums paid.

There has been no development in the field of **disabled people**.

As regards the fight against **discrimination** little progress can be reported concerning equal treatment between persons irrespective of racial or ethnic origin and equal treatment in employment. The Job Security Act, which was adopted in August 2002, includes a provision that work contracts shall not be cancelled on the basis of reasons related to sex, race, marital status, family obligations, pregnancy, religion, political views, ethnicity and social roots.

As regards **administrative capacity**, a Labour Market Information Board, including the relevant public institutions and social partners, has been set up. The Directorate General of Occupational Health and Safety is engaged in a reform process to establish autonomous occupational health and safety councils, including social partners at sectoral level. The aim of this reform is to ensure the establishment of internal labour inspection

mechanisms. The Labour Inspection Board recruited 100 assistant inspectors in order to increase the low capacity of the inspection system; 86 were appointed and started their job in 2002. They have received additional training on national and Community health and safety rules. The social security system is currently undergoing administrative reform, which aims at ensuring integration and harmonisation of four separate social security institutions under a single administration. This would result in the collection of more accurate information, increase the effectiveness revenue collection, complete the legal framework for a privately funded pension system and reform the health insurance scheme.

As regards the administrative capacity of public health related institutions, re-arrangements regarding the duties and organisational structure of the Ministry of Health are continuing. The qualifications and the staff needed within the system will be determined based on an ad hoc study, which is underway, to lay down the functions, duties and requirements of each position.

### *Overall assessment*

In the field of labour law, progress is required with regard to collective redundancies, transfers of undertakings, insolvency, working time, fixed-term and part-time work, young people at work and posting of workers, health and safety in fixed-term and temporary employment, European Works Councils, and with regard to the obligation to inform employees on conditions of their contract or employment relationship. Turkey will have to transpose the latest *acquis* related to the involvement of workers in the European Company and to information and consultation of workers.

Child employment (12-17 age group) fell by 17.3% in December 2001 compared with December 2000 figures, and was estimated at 893000 children. The fact that the number has decreased in spite of the economic situation is encouraging. However, the current figure is still a matter of concern and Turkey should continue acceleration of its reform efforts. The institutional and administrative capacity of the Child Bureau needs to be strengthened to perform the duties assigned to it. A draft law on child labour has been prepared aiming at a partial transposition of the Community *acquis* on the protection of young people at work.

In the field of equal treatment for women and men, the new Civil Code represents an important landmark in establishing women's rights. Effective enforcement of its provisions is now needed. As regards access to employment, vocational training and promotion and working conditions, Turkey needs to lift the existing gender-based restrictions in accessing certain jobs. Further steps to transpose the relevant *acquis* should be taken, including recent developments in relevant case law of the Court of Justice. Turkey still needs to transpose the Community *acquis* related both to statutory and to occupational social security schemes.

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

In the field of public health, there has been substantial progress in the control of communicable diseases. There have been no reported cases of polio in Turkey for the past three years as a result of the polio eradication strategies implemented since 1989.

Turkey's efforts will contribute to the certification of the European Region as poliovirus free in the year 2002 as part of the Global Polio Eradication Initiative. As regards the fight against HIV/AIDS, the Ministry of Health is following the World Health Organisation (WHO) control strategies. In 2001, 40 AIDS and 144 HIV positive cases were reported. These figures are higher than in previous years indicating an improvement in the reporting system. Similar progress was observed in the cancer control efforts. More progress is needed to improve the health and safety status of the population, which is much lower than the EU average, and resources devoted to health need to be increased. Despite the efforts, harmonisation with the *acquis*, i.e. setting up a network for the epidemiological surveillance and control of communicable diseases as well as an early warning and rapid response system, remains slow and should be accelerated.

As regards social dialogue, despite improvements for trade union rights in free trade zones, further progress 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*. Turkey should make rapid progress towards establishing full trade union rights that includes elimination of restrictive thresholds for forming a trade union branch and requirement of 10% threshold for a trade union to be eligible for collective bargaining at company level. The law on public servants' trade unions, which was adopted in June 2001 and which is not in line with the Community *acquis* and the relevant ILO Conventions ratified by Turkey, has not been amended. The law contains a number of provisions which entail significant constraints on the right to organise in the public sector. Notably, there are restrictive provisions relating to the exclusion of the right to strike and to collective bargaining. 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 Community *acquis* at enterprise level.

At national level, the Economic and Social Council has not yet met, thus showing the poor 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. The Government should promote the social partners' capacity to assume the role they will be called on to play in the future in the social dialogue at EU level as well as in common European policies.

Turkey should speed up its efforts to develop a national employment policy in line with the European Employment Strategy. In this context, it is disappointing that the restructuring law of İŞKUR has not been re-enacted following the cancellation of the relevant decree by the Constitutional Court. 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.

Much remains to be done in the field of social protection. The most important 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 should take the necessary measures to ensure financial stability of the social security system and effective co-ordination among the different social security institutions.

Further work remains to be done to improve the situation of disabled people. Great importance should be attached to strengthening the administrative capacity of the Directorate General for Disabled People.

As regards discrimination, measures are still required to align with the relevant *acquis* to combat discrimination on the grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation. In addition, steps should be taken to establish an Equality Body as provided for in the *acquis*.

Turkey should look into and take the necessary measures to enhance the administrative capacity of the following institutions: the Ministry of Labour, the Turkish Employment Organisation, the Administration for Disabled People, the Child Bureau and its social security institutions.

In its 1998 Report, the Commission concluded that it was hard to assess the degree of alignment achieved by Turkey in the field of health, social security, labour and equal opportunities legislation mainly because of the lack of relevant information.

Since 1998, Turkey has achieved limited progress. Measures have been adopted to promote equal treatment between woman and men. Other developments have taken place in the field of social protection and social dialogue. Administrative capacity has also been strengthened. However, the process of transposition of the *acquis* is still at a very early stage.

Turkey needs to focus further efforts on aligning its legislation with the relevant *acquis*, in particular in the field of social dialogue and health protection. Promoting social inclusion and developing a national employment strategy in line with the European Employment Strategy is a matter of priority.

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

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

Turkey has made important progress in further aligning its legislation with the *acquis* in this area particularly in the internal energy market.

No particular developments can be reported with respect to alignment with the *acquis* on **security of supply and oil stocks**.

As to the general policy for strengthening of the energy supply security, Turkey has taken steps to further diversify its supply resources and to strengthen its role as a transit country for the east-west transportation of oil and gas. The gas transportation pipeline that connects Turkey and Iran has been completed and gas deliveries to Turkey started in December 2001. The construction of the Blue Stream gas pipeline connecting Turkey with Russia via the Black Sea is ongoing and scheduled to be operational by the end of this year. With respect to the Caspian-Mediterranean oil pipeline, the engineering works are still continuing. Construction is estimated to start in the second half of 2002. In March 2002, the formerly state-owned company, BOTAŞ, and its Greek counterpart, DEPA, signed a Memorandum of Understanding (MoU) for the interconnection of their gas networks and delivery by Turkey of 500000-m<sup>3</sup>/year of gas to Greece in 2005. Another MoU was signed between the two countries for the interconnection of the Turkish and Greek electricity transmission networks.

In the oil sector, public ownership in the oil products' distribution company (POAS) has been reduced to 25.8% through further privatisation of 16.5% of the shares in March 2002. A timetable has also been set for further privatisation of the refinery company (TUPRAS) with a view to going beyond the 50% free float in the stock exchange market.

Regarding competitiveness and the internal **energy market** important progress was made in the reporting period. On the basis of the 2001 Electricity Market Law, the **electricity market** was opened in September 2002 for consumers directly connected to the transmission system or with a minimum annual consumption of 9 GWh (this corresponds to around 20% of the market). However, limitations on the possibility of eligible customers to import from producers outside Turkey, as well as for generators to export power to customers outside Turkey, have not been lifted.

August and September 2002 saw the adoption of implementing legislation concerning tariffs, licensing, eligible consumer, import and export, determination of transmission and distribution connection charges, regulation of distribution system revenue, regulation of retail service revenue and retail prices, regulation of transmission system and transmission system operation revenue.

Following the unbundling of the Turkish Electricity Generation and Transmission Corporation (TEAS), three newly established companies (generation, transmission and wholesaler companies) began to operate on the market. The wholesaler company took over the existing electricity purchasing contracts of the TEAS. The new transmission company will remain as the sole electricity transmission company in the sector.

The Government decided to postpone for a period of six months, until November 2002, the opening of the market in the **gas sector**. This period, due to end on 2 May 2002, was extended by the Council of Ministers for a further six months upon the request of the EMRA. Consequently, the deadline was postponed to November 2002. Implementing legislation on Gas Market Licensing was issued in September 2002.

The 2001 Gas Market Law sets the minimum annual consumption limit for being qualified as an eligible consumer to 1 million cubic metres. This corresponds to a market opening of almost 80%. The market will be opened to competition for eligible consumers and for consumers directly connected to the transmission system. Transmission and distribution tariffs will be set by the Energy Market Regulatory Authority (EMRA).



As regards administrative capacity, the Board of the Energy Market Regulatory Authority was appointed in November 2001, with several months' delay on the deadlines fixed in the Law. The EMRA is accountable to the Ministry of Energy and Natural Resources.

A total of 426 staff is foreseen. Some 100 people (most of them technical specialists) have so far been recruited through temporary assignments from a number of public administrations, including the Ministry of Energy and Natural Resources, BOTAS, the former TEAS, the Treasury and public banks. Overall personnel, including the supporting staff, totalled 165 by mid 2002. The budget for 2002 is approximately € 8 million.

No particular developments can be reported with regard to **solid fuels, energy efficiency or renewable energies**.

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*

Turkey has made important progress in preparing an Internal Energy Market and in aligning with the corresponding *acquis*. However, very few developments can be reported with regard to the rest of the energy *acquis*.

As concerns security of supply, Turkey already maintains the required levels for stocks of crude oil and petroleum products, although Turkish legislation in this domain is not yet in conformity with the *acquis*. Alignment with the *acquis* in this area has not yet started.

Completion of the necessary regulatory framework and strengthening of the administrative capacity needed for the establishment of a properly functioning internal energy market for the electricity and gas sectors is of high priority. After last year's adoption of the Electricity and Gas Market Laws, important steps towards alignment with the Electricity and Gas Directives were taken through the adoption of implementing legislation to complement and implement these Laws. These need to be followed by further and appropriate implementing legislation in order to make the markets fully operational.

For the electricity market, the methodology for transmission and distribution tariffs has not been developed, and cross-subsidies still exist in the electricity sector. A timetable for phasing out these existing cross-subsidies should be set. There is still no specified timeframe for market opening beyond the foreseen 20% level. EMRA will take this issue into consideration only when implementing legislation is in place and in light of market experience.

In addition, the details of licensing procedures, market operation and rules, and tariff mechanisms have been left to implementing legislation, which has been adopted in August. Competition in the electricity market may be slow to emerge due to the dominant role of the existing state generation and trading company (which will need to be strictly regulated by the EMRA to restrict its uncompetitive behaviour in the wholesale and electricity balancing market). There will not be much excess capacity available in the near future as the dominance of the wholesaler company is diminished by new entries. Furthermore, issues of the recovery of the stranded costs that arise from investment under

the previous regulatory regime and the privatisation of generation assets need to be addressed. In addition, current restrictions on cross-border trading will need to be lifted.

The initially envisaged level of 80% gas market opening is ambitious. This issue will also be decided by the EMRA at a later stage. According to the Law, all implementing legislation needs to be issued by November 2002. As in the electricity market, cross-subsidies granted to BOTAS are a matter of concern. No timetable has been set for their removal.

The Gas Market Law also envisages the privatisation of the gas distribution sector. According to the 2002 privatisation programme, this will start in the fourth quarter of 2002, followed by the distribution system owned and operated by municipalities/municipality-owned companies (after the conclusion of the repayment of their loans under Treasury guarantee).

Turkey's energy policy envisages increased use of gas in power generation and for heating purposes. Gas demand has risen swiftly over the last decade. Further steps need to be taken in order to achieve an established gas market in Turkey. Further strategic decisions need to be taken with respect to the implementation of a gas release programme for the phased divestment of the existing long-term import contracts of BOTAS. The EMRA should closely regulate the access to the transmission system operated by BOTAS.

With regard to the administrative capacity of the regulatory authority, the budgeting, staffing and salary levels are crucial elements. Due consideration should be given to the full independence of the Authority. Any link between the staff of the Authority and the other sectors of the public administration should be avoided. Additional qualified staff needs to be recruited. The Government's restriction on employment of new personnel prevented the Authority from recruiting new staff from the private sector. The competence of the staff should be improved, in particular as regards market regulation matters.

With the establishment of the EMRA, the role of the Ministry of Energy and Natural Resources has been 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. The problem of unpaid electricity bills, which is an important problem in certain regions, should be addressed. 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.

Turkey should continue to give energy efficiency due attention. It should take appropriate steps to exploit the existing energy conservation potential, which is estimated to be 40%. Priority should be given to the construction sector. In particular, the adoption of new norms for insulation standards and for new buildings will contribute to this effort. Turkey postponed the construction of a nuclear power plant for an indefinite period of time. Within the scope of ensuring compliance by Turkey with Euratom requirements and procedures, due attention should continue to be given to the preparation of the implementation of Euratom nuclear safeguards, in particular regarding the reporting of nuclear material flows and inventories made directly by the persons or undertakings that operate nuclear installations or store nuclear material. This includes small holders like

universities, hospitals and medical practices. It should be noted that Turkey has concluded a Full Scope Safeguards Agreement with the IAEA.

In its 1998 Report, the Commission concluded that no specific measures to achieve the approximation of laws in this sector had yet been worked out and that a first step would be to draw up a detailed inventory of the existing legislation in this sector.

Since 1998, Turkey has made important progress (particularly in the last two years), notably in aligning with the internal energy market, particularly the electricity and gas sector. This has been complemented by subsequent implementing legislation and by the creation of the energy market regulatory authorities.

Turkey should focus further efforts on completing the legislative, administrative and economic framework for the single energy market with further implementing legislation, ensuring its implementation and enforcement. Considerable efforts need to be devoted to preparing for accession for the rest of the energy sector: establishing the legal framework for maintaining security of supply and promoting energy efficiency; and strengthening the administrative capacity of the regulatory bodies while ensuring their independence.

### ***Chapter 15: Industrial policy***<sup>19</sup>

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

There has been limited progress since the last Regular Report.

The Government has continued to concentrate its efforts on stabilising Turkey's macroeconomic situation. The economic crisis and the recession have impacted adversely on the **industrial sector**, in particular small and medium-sized enterprises. Difficulties in access to credit and the contraction of internal demand have led capacity utilisation to plunge.

Due to the economic crisis of 2001-2002 and adverse international conditions, only limited progress can be recorded in the area of **privatisation**. Turkey has not been able to stick to the established time frame. In the oil sector, public ownership of the Petroleum Distribution Company (POAS) has been reduced to 25.8%. This was achieved through privatisation a further of 16.5% of state shares through public offering in March 2002.

The restructuring of the public sector and the reduction of overstaffing are prerequisites for further successful privatisations. Some progress can be reported in this area. Supported by a Prime Minister's circular issued in December 2001, which sets forth a voluntary retirement scheme for public-sector workers, the number of redundant workers was reduced by one third by the end of June 2002 in state-owned enterprises.

In 2002, also because of the difficult economic situation, Turkey did not succeed in attracting foreign direct investment (FDI), and domestic investment also contracted significantly.

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<sup>19</sup> Developments concerning Industrial policy should be seen in relation to the overall enterprise policy, including the SME policy (see also Chapter 16 - *Small and medium-sized enterprises*).

With the expiry of the ECSC Treaty in July 2002, the ECSC-Turkey free trade agreements of 1996 need to be adapted. A decision of principle has been made to include coal and steel products in the Customs Union.

With regard to Turkey's steel **restructuring** process, the transfer of the steel company Isdemir to Erdemir, another State-owned company, was completed in January 2002. The ultimate aim of this transaction is to modernise Isdemir's plants and to convert from iron and steel bar production to the production of flat products. Erdemir will invest USD 700 million over a period of two years to ensure a total output of 2.5 million tonnes per year. 2 million tonnes will be flat products.

In January 2002, the Law on Industrial Zones, amending the previous Law on Industrial and Organised Trade Zones, was adopted. The law concerns the creation of industrial zones within the country in order to promote domestic and foreign investment by offering incentives and easing administrative procedures for investors.

### *Overall assessment*

Turkish industrial policy is by and large 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 the last years. The Turkish Government is working on an industrial policy paper, which should be finalised including an action programme and time frames. It is recommended that the paper be given a more formal status.

As a result, Turkish industries continue to suffer from macroeconomic and political instabilities, difficulties in access to finance, insufficient infrastructure investments, insufficient support for innovation, and inadequate quality and certification services and support. These problems have increased with the economic crisis.

The low level of Foreign Direct Investment (FDI) remains a cause for concern. This is primarily caused by macroeconomic and political instability, the complex legislative framework and the impossibility for foreign investors to acquire the majority of the company in certain sectors. The Turkish Government is making promising efforts to improve the FDI regulatory framework. Technical working groups have been set up on sectoral issues such as company registration, employment of foreigners, sectoral licensing, taxation and state aids, land access and site development, customs procedures and technical standards, FDI legislation and promotion. Turkey has indicated plans to establish a Foreign Investment Promotion Agency as a step towards promoting the country as an investor destination. However, no concrete progress can be reported yet.

The Report of 1998 stated that Turkey's industrial policy had benefited from the entry into force of the Customs Union. The Turkish market had opened and privatisation had begun and had gained momentum as of 1997. Further measures were recommended to promote Turkish industry.

Since 1998, some progress was made. Although hampered by the macro-economic crisis in the following years, industrial development continued and some progress could be achieved in the area of privatisation. However, Turkey has not been successful in attracting foreign investment, and has not completed the restructuring of state companies.

Turkey should focus further efforts on restructuring state owned enterprises and on preparing them for privatisation. Turkey and the European Community will finalise discussions on the inclusion of ECSC products in the Customs Union as a matter of priority. Support for Turkish industry still needs to be reinforced. Quality and legal metrology infrastructures need to be developed. Research, innovation and technology transfers need to be further promoted.

## ***Chapter 16: small and medium-sized enterprises<sup>20</sup>***

### *Progress since the last Regular Report*

Since the last Regular Report, Turkey has made limited progress in this area.

On the development of an **SME policy**, in April 2002, Turkey endorsed the European Charter for Small Enterprises as the basis for its actions to support and develop small enterprises. The European Charter, adopted by the European Council in June 2002, is the reference document in the field of enterprise policy within the socio-economic strategy set up at the Lisbon European Council. The reporting process on the implementation of the European Charter in Turkey started in May 2002.

As for the identification and exchange of best practice together with benchmarking, Turkey participated in the preparation of the CC BEST Report that mirrors the "Report on the Implementation of the Action Plan to Promote Entrepreneurship and Competitiveness". Turkey in September 2002 ratified the Framework Agreement for participation in the Community programme for SMEs, the Multiannual Programme on Enterprise and Entrepreneurship (MAP) for 2001-2005. In the context of the eEurope+ Initiative, the Turkish Government launched the eTurkey Initiative and established, in particular, a sub-working group on SMEs and eCommerce to work on eBusiness/eCommerce awareness campaigns. Other efforts concern the establishment of a business dialogue web site, the improvement of technical and administrative business environments on eCommerce, etc. The Euro-Info Centre Correspondent has expanded its Internet access points and increased the number of training centres for SMEs (Internet Houses). It has also improved its SME portal (KOBINET) as a "one-stop Internet shop for enterprises" in collaboration with public and private institutions and in line with the GoDigital initiative of the EC.

No particular developments can be reported regarding simplification in the **business environment**, despite the fact that easier access to information through web sites and Internet-based databases has been promoted. These tools constitute positive and important steps towards the improvement of the business environment.

Access to finance remains an important obstacle to the development of Turkish SMEs. There have been limited efforts to improve the functioning of venture capital funds in the private banking sector.

No specific developments can be noted regarding the alignment of the **SME definition** to the EC Recommendation since the last Regular Report.

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<sup>20</sup> Developments concerning SME policy should be seen in relation to overall enterprise policy, including industrial policy (see Chapter 15 – Industrial policy).

## *Overall assessment*

Further efforts are needed to improve the business climate for SMEs, particularly after the recent economic crisis. In this climate, it is particularly important to develop a national SME strategy, including an action plan. This action plan is also crucial in the implementation of the European Charter. During the reporting period, the budget for supporting SMEs has decreased in real terms. Various policies have an implicit or explicit impact on the development of SMEs, but there appears to be insufficient co-ordination among them. Following recognised practice in other candidate countries, the establishment of an SME Task Force, consisting of public and private stakeholders and donors, is recommended. Its main task could be the follow-up of the implementation of the strategy and the co-ordination of the action plan. The Public Agency for the Development of SMEs KOSGEB under the Ministry for Industry and Commerce could take a leading role in pursuing this.

Complex administrative procedures remain a major 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 and administrative barriers to SMEs should be made and a plan to eliminate unnecessary bureaucracy and red tape should be implemented. The impact of measures should be assessed in close cooperation with business associations.

High interest rates and lack of 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.

There is a need to develop a common SME definition aligned with the *acquis*. The coming transposition of the SME definition will have to take into account the presently discussed amendments to the EU definition. The employment and financial criteria in the “Decision concerning State Aids to SME Investments” have been amended according to the criteria in the EC Recommendation.

In 1998 the Commission reported that SMEs accounted for 95% of the Turkish manufacturing sector. They faced problems due to outmoded production methods, lack of access to modern technology, qualified work force and credit, and a poor understanding of foreign markets.

Since then, Turkey has taken steps to improve the business environment, but the main problems that hinder SMEs' competitiveness remain acute. They are access to finance, lack of access to investment of capital, outmoded production methods and lack of access to modern technology.

Turkey should focus further efforts on promoting more actively the competitiveness of SMEs' and supporting their internationalisation. Turkey is encouraged to develop a national SME strategy, including an Action Plan, which would increase the synergy between the numerous stakeholders.

## ***Chapter 17: Science and Research***

### *Progress since the last Regular Report*

Some developments can be reported in this area.

In June 2002, the Turkish Grand National Assembly approved the Law to allow full participation in the Sixth EC Framework Programme on Research and Technological Development. Following its approval by the Council of Ministers, it was published in the Turkish Official Journal on 1 September 2002. The Turkish Scientific and Technological Council (TÜBİTAK) is acting as the national contact point to carry out information and awareness-raising activities, and to provide advice, assistance and training for potential participants in the Sixth EC Framework Programme on Research and Technological Development.

Turkey continues to participate in the Fifth Framework Programme on a project-by-project basis.

### *Overall assessment*

The level of gross domestic expenditure in research and development as a percentage of GDP continues to be low, less than one third of the EU average. The number of researchers corresponds to one tenth of the EU average. Universities and public research institutions remain the main catalysts in scientific and research activities, as the role of the private sector and SMEs continues to be limited.

In its 1998 Report, the Commission noted that co-operation with the Community in this field was long established. It concluded that the main problems of the research sector in Turkey seemed to derive from a lack of adequate financial and human resources, and from the fact that industry made too little use of technology transferred from abroad.

Since 1998, progress has been slow.

Turkey should focus further efforts on increasing the level of activity and spending in the RDT sector, and fostering the involvement of the private sector in science and research activities.

## ***Chapter 18: Education and Training***

### *Progress since the last Regular Report*

Progress has been achieved in the area of education and training.

In January 2002 a Decree of the Council of Ministers established a Department for the European Union Education and Youth programmes within the State Planning Organisation. Seven staff members have been appointed and seconded by various ministries. This Department is planned to become a Centre which will act as the future National Agency responsible for the three **Community programmes** Socrates, Leonardo da Vinci and Youth. An amendment to the Law on the establishment and mission of the

State Planning Organisation is under preparation to give it legal status and the required operational efficiency.

No developments can be reported concerning the transposition of the **Directive concerning education of children of migrant workers**.

As regards **reform of the education and training system**, the Government started implementing measures to increase the length of compulsory education to twelve years by 2005 and the duration of secondary education to four years by the academic year 2002/2003.

With regard to administrative capacity, Turkey has a rather centralised education system. The Government started implementing the provisions of the law adopted in June 2001, with a view to decentralising the management of the education and training systems. In an effort to strengthen tri-partite co-operation and consultation among all the relevant stakeholders, work has started on the creation of vocational educational regions consisting of clusters of vocational high and secondary schools and the creation of Vocational Education Councils at national and provincial levels.

### *Overall assessment*

As regards Community programmes, the establishment of a Department within the State Planning Organisation to deal with preparatory measures for the Socrates, Leonardo da Vinci and Youth programmes is a first positive step. It should now be completed by the adoption of the planned amendment to the law on SPO, and provisions relating to the relationship between the national authorities and the future National Agency and their respective responsibilities. The work plans for preparatory measures should be rapidly finalised with a view to speeding up Turkey's full participation in the programmes in 2004.

Turkey still needs to transpose the Directive concerning education of children of migrant workers.

The principles of the Turkish education system are generally consistent with those in the EU. However, regional disparities in the provision of education and in terms of achievement are still striking. Moreover, half of the girls leave the educational system before completing the fifth grade. Improving the provision of education to students from poor families, in particular girls, is of the utmost importance. Turkey should continue and step up efforts to improve the attendance rate of poorer pupils, in particular in disadvantaged regions.

The Government should pursue its efforts for effective implementation of reform measures in both basic education and vocational training. For this purpose, increasing the institutional capacity of the Ministry of Education, decentralising the management of the education system, reviewing both curricula and teaching methods, and strengthening links between the requirements of the labour market and the skills acquired by the graduates of the vocational schools remain the major issues to be addressed to increase the efficiency of the education system.



In its 1998 Report, the Commission noted that despite Turkey's efforts to bring the general level of education up to EU standards, it still faced shortcomings in training provision, classes, teaching staff and personnel generally.

Since the 1998 Report, progress has been limited. Turkey should continue to focus its efforts on the transposition of the *acquis* in this field. With regard to administrative capacity, the reform process, including decentralisation, should be accelerated.

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

### *Progress since the last Regular Report*

Turkey has made little progress since the last Regular Report.

Concerning the **liberalisation of the telecommunications market**, there has been no further progress as competition for fixed voice telephony will not be implemented before January 2004.

The development of the sector is progressing slowly in spite of the high digitisation rate (93%) of the fixed network. In the fixed and mobile networks, penetration rates of not more than 28% and 27% respectively have been achieved. The percentages of the population with access to the Internet and of households with cable television connection are the lowest of the candidate countries (4% and 5% respectively). Universal service has only partially been implemented.

The GSM market has further developed in Turkey. A regulation on the settlement of disputes concerning national roaming agreements between GSM mobile telephony operators was adopted in March 2002. National roaming has been an issue of court dispute between the Telecommunications Authority and the GSM operators Turkcell and Telsim, which object to providing national roaming service to the new market entrants Aria and Aycell.

As regards the **regulatory framework**, a Decision of the Council of Ministers on minimum fees for licences and general authorisation for seven telecommunications services was adopted in October 2001. A Regulation on the price cap method for the tariffs to be applied to Türk Telekom's telecommunications services was issued in January 2002. On licences, a Regulation on principles and procedures for granting second-type telecommunications licences and general authorisations was adopted in February 2002. Two licences for Global Mobile Personal Communications by Satellite (GMPCS), thirteen licences for Internet service providers, one licence for satellite platform services and four licences for satellite telecommunication services have so far been granted.

As regards numbering, a Decision of the Telecommunications Authority on the allocation of the emergency call number "112" and the international code "00" was adopted in March 2002.

Further to the launch of eEurope+ in June 2001, policy studies and projects related to the Information Society have gained new impetus in Turkey, and resulted in the e-Turkey initiative. This initiative was developed with the support of the public, private and non-

governmental sectors. Co-ordination is ensured by the Prime Ministry. A Turkey Informatics Council held its first meeting in May 2002.

There has been no progress on the liberalisation of the markets for **postal services**.

### *Overall assessment*

With regard to market liberalisation for mobile telephony, the refusal by the incumbent GSM operators Turkcell and Telsim to interconnect with new market entrants is a major obstacle to the implementation of the *acquis* in mobile communications. The present situation discourages potential investors from investing in the Turkish telecommunications sector. The adoption in March 2002 of the Regulation on the settlement of disputes concerning national roaming agreements between GSM mobile telephony operators was not sufficient, the relevant provisions of the Telecommunications Law of February 2000 need to be amended in order to solve this issue.

On licensing, individual licences should be kept to a minimum in order to reduce obstacles to market entry. Special attention should be paid to the duration of licensing agreements, which as a minimum should include a review clause. It is not clear whether the Decision on Licence Fees of October 2001 is in line with the *acquis*, in that fees must be proportionate to the administrative cost of the service incurred by the Telecommunications Authority for the licensing activities.

On the issue of tariffs, the implementation of the Tariffs Regulation of September 2001 and of the Price Cap Regulation of January 2002 raises a number of important questions. All operators having significant market power, in particular Türk Telekom, should introduce state-of-the-art cost-accounting systems with the objective of achieving cost-orientation of tariffs to the benefit of consumers.

As regards numbering, call-by-call carrier selection and carrier pre-selection services are not available. No regulation exists for number portability in the landline and mobile telephone markets. The single European Emergency Call Number “112” has only been implemented for calls to public hospitals. All elements of numbering should be taken into consideration in the current review of the national numbering plan.

Although there is no regulation for universal service in Turkey, this concept was introduced as “minimum service” in the existing legislation. It is recommended that in drafting such a regulation on universal service obligations, the new Directive on universal service and users’ right should be taken into consideration.

The administrative capacity of the Telecommunications Authority is insufficient to cope with the requirements of a timely implementation of the *acquis*. Delays in the appointment of new members of the board have had a negative impact on the performance of the Authority. Although additional staff has been allocated to deal with the regulatory issues, there is still a lack of experience with legal and economic aspects of regulation.

An independent national regulatory authority for the postal market has yet to be established. There are currently no plans in this respect. Major efforts are needed in this area to fully comply with the *acquis*.

In its 1998 Report, the Commission concluded that the telecommunications sector had made considerable strides, particularly in the area of mobile telephony. However, it noted that there had been no significant progress in the alignment of Turkish laws with the *acquis*. The Commission stressed that the liberalisation process had been slow, thus preventing the creation of the infrastructure needed to establish an information society in Turkey.

Since 1998, Turkey has made some progress in preparing for the liberalisation of the telecommunications market and adopting the necessary measures for the development of the mobile telephone market.

Turkey should now focus further efforts on preparing for the liberalisation fixed voice telephony in 2004; providing for national roaming in mobile telephony; completing the regulatory framework in the field; of protection of personal data, numbering and universal service; and starting the liberalisation of the postal services market. Turkey should also transpose the updated telecommunications *acquis*.

## ***Chapter 20: Culture and Audio-Visual Policy***

### *Progress since the last Regular Report*

Some progress has been made with respect to Turkey's legislative alignment with the *acquis* in this field.

In the field of **audio-visual policy**, the Law amending the broadcasting law (RTÜK Law), which was vetoed by the President in June 2001, was re-adopted unchanged by the Turkish Parliament in May 2002. The law was approved by the President, who brought it before the Constitutional Court. In June 2002, the Constitutional Court issued an order to suspend the enforcement of some articles before making a final decision (*see also Part B.1 – Political Criteria*). The law was subsequently amended by the Parliament in August 2002 as part of the third reform package. A new paragraph added to the law provides that there may be broadcasts in the different languages and dialects used traditionally by Turkish citizens in their daily lives. This provision paves the way for broadcasting in languages such as Kurdish, Laz or Circassian. This new provision is subject to the adoption of implementing measures.

Another positive aspect is the new article in the law, which allows for the retransmission of broadcasts. This provision is also subject to the adoption of implementing legislation. The retransmission of BBC and Deutsche Welle programmes has recommenced. Apart from these developments, the content of the law remains identical to that of the law adopted last year, and which was commented upon in the Commission's 2001 Regular Report. The law includes provisions on sanctions, the Internet, and the composition of the High Audio Visual Board as well as on ownership, mergers and acquisitions in this area. The law also introduces basic principles that any broadcasting activity must comply with. Examples of these principles are the prohibition on broadcastings which "violate the existence and independence of the Turkish Republic, the territorial and national integrity of the State, the reforms and principles of Atatürk", or which "instigate the community to violence, terror or ethnic discrimination". As regards the Internet, the law introduces new restrictions.

No further progress has been made in aligning with the provisions of the Television without Frontiers Directive.

In terms of administrative capacity, the new procedure related to the composition of the High Audio Visual Board (RTÜK) provides for a reduction in the role of the Parliament, while the influence of the National Security Council over the Board has been strengthened.

### *Overall assessment*

The amendment to the broadcasting law (RTÜK Law) concerning broadcasting in languages other than Turkish is a positive development that brings Turkey closer to EU standards. It is important that the implementing measures are defined quickly, to ensure concrete benefit for all Turkish citizens regardless of their ethnic origin. Similarly, the authorisation of retransmission of foreign broadcasts constitutes a step in the right direction. In spite of these positive aspects, the broadcasting law also presents various discrepancies.

The re-adoption of this law is a matter of particular concern as it disregards the need to comply with international standards and recommendations on television and radio broadcasting, for example those of the Council of Europe. In this area, the discrepancies between the Turkish legislation and Community *acquis* remain.

The law is problematic in terms of definitions, jurisdiction, freedom of reception, discrimination on the grounds of nationality, major events, promotion of European and independent works, advertising and teleshopping, protection of minors and restrictions on the share of foreign capital in radio and television enterprises.

The definition of programming standards goes far beyond the terminology of the Television Without Frontiers Directive and the Council of Europe Convention on Transfrontier Television, thus creating legal uncertainty and potentially limiting editorial freedom. The sanctions laid down by the law are excessive. This contradicts the principle of proportionality of fines and represents an indirect infringement of the principles of pluralism, especially as regards local and regional TV channels and radio stations.

The reference made in the Law to ‘national and moral values of society’ as well as to ‘general moral social order and family structure’, are rather vague and might be subject to various interpretations, thus jeopardising editorial freedoms and pluralism of views.

Serious concerns are raised by the provisions of the law related to retransmission since, under Article 4 of the European Convention on Transfrontier Television, ratified by Turkey, the retransmission of foreign programme services cannot be restricted if they comply with the minimum standards contained in the Convention. Furthermore, the criteria for the retransmission of broadcasting services originating in foreign countries should comply with the requirements of Article 10 of the European Convention on Human Rights, which guarantees ‘freedom to receive and impart information and ideas ... regardless of frontiers’. The restrictions applied to foreigners are incompatible with the *acquis*.

The law does not take into account the *acquis* in the audio-visual sector. Turkey should focus on aligning its legislation with the Television without Frontiers Directive and

ensure that the implementation of this legislation benefits from the existence of an independent regulatory framework.

Moreover, the contradictions between Turkey's international commitments in the GATS/WTO framework and those that arise from its commitment to full implementation of the Community *acquis* remain.

In its 1998 Report, the Commission concluded that it was difficult to assess the extent of the harmonisation achieved by Turkey in the field of culture and audio visual policy mainly due to the lack of relevant information.

Since 1998, Turkey has achieved further progress. However, alignment with the *acquis* in this area remains limited. While the new amendment to the broadcasting law (RTÜK) includes very positive aspects, in particular on the use of languages, important discrepancies remain.

Turkey should focus further efforts on aligning its legislation with relevant EC and international standards and in particular, on amending its broadcasting law (RTÜK).

## ***Chapter 21: Regional Policy and co-ordination of structural instruments***

### *Progress since the last Regular Report*

Limited progress has been achieved in preparing for the implementation of a regional policy in line with EC structural policies.

Regarding **territorial organisation**, the definition by Turkey of a provisional map for regional development purposes according to NUTS classification criteria has been approved by the Commission and by the Turkish Council of Ministers. This represents a first substantial step towards comparability of Turkish regional statistics with statistics from other regions in Europe.

No developments can be reported concerning the adoption of the **legislative framework**, which would facilitate the implementation of the *acquis* under this chapter.

No further progress has been made as regards **institutional structures, programming, monitoring and evaluation, and financial management and control**.

### *Overall assessment*

Turkey still needs to develop the structures necessary for the organisation and the implementation of the structural policies. Since combating regional disparities in Turkey should be a major objective, a more comprehensive, long-term strategy should be made to strengthen internal socio-economic cohesion.

The provisional NUTS map should be used for regional development purposes, in particular at NUTS 2 level, for regional statistics, inter-provincial co-ordination, preparation for integrated regional development plans, regional breakdown of public investment, and the definition of priority areas for regional subsidies, in accordance with EC competition rules.

Priority should be given to the formulation of an efficient and modernised regional policy that complies with Community standards and addresses the major issues in regions lagging behind. This would imply:

- drawing up a preliminary national development plan for 2003-2005, including integrated regional development plans, at NUTS 2 level for provinces lagging behind. These provinces represent more than half of the country's area and more than a third of its population, and have an average GDP per capita of 56% of the national average (19% of the Community average);
- preparations for the next five-year development plan (2006-2010) should include a regional component drafted according to Community standards, as requested in the relevant *acquis*.

In addition, enhancing regional policy will require a significantly higher level of public investment in the regions lagging behind, aiming, *inter alia*, at reducing infrastructure disparities, creating a favourable environment for improving living conditions, developing private investment, and boosting human resource development.

For this purpose, Turkey should strengthen its administrative structures for managing regional development by developing inter-ministerial co-ordination and integrating partnership principles at all levels of planning, both at central and regional levels (i.e. by setting up regional development authorities at NUTS 2 level).

Implementation of the *acquis* under this chapter implies the establishment of a fully-fledged regional policy at national and regional levels.

As regards administrative capacity, Turkish regional policy is still carried out in the framework of a centralised planning system, for which the State Planning Organisation (SPO) is 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. Turkey should develop a comprehensive approach to reduce regional disparities, in particular to improve the situation in the South-East.

In its 1998 Report, the Commission concluded that it was difficult to assess Turkey's performance in the field or the compatibility of its instruments with Community policies, mainly because of the lack of relevant information. However, it noted that Turkey had important efforts to make in this area. It stated that despite the existence of an administrative structure in charge of regional development policy, Turkey's global and regional GDP/cap lagged well behind the Community average, and recommended that an effective structural policy should be implemented.

Since 1998, very limited progress has been achieved.

Turkey should focus further efforts on developing an integrated regional planning system, to be set up for each NUTS 2 unit, by improving inter-ministerial co-ordination at national level and by establishing inter-provincial co-ordination at NUTS 2 level. In setting up any new system, Community requirements should be taken into account. Turkey should improve its management capacity to prepare for the implementation of pre-accession and structural funds in the area of regional development.

## ***Chapter 22: Environment***

### *Progress since the last Regular Report*

Turkey has started to make progress in terms of transposition of the EC environmental *acquis*. Notable progress has been achieved as regards the improvement of administrative capacities.

With regard to the **integration of environmental considerations into other policies**, according to the new Public Procurement Law, adopted in January 2002, a positive Environmental Impact Assessment Report (EIA) is now required before launching public procurement procedures. A similar obligation has been introduced for investors in industrial zones through an amendment to the Law for Establishment of Industrial Zones and Organised Industrial Areas adopted in January 2002.

In the field of **horizontal legislation**, a new EIA regulation was adopted by the Parliament in June 2002. This regulation transposes almost fully the provisions of the Directive on Environmental Impact Assessment.

As regards **waste management, air and water quality**, no progress can be reported.

In the field of **nature protection**, the Regulation on the Implementation of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES Convention) was adopted in December 2001. As a result, the Ministry of Environment is now responsible for the overall co-ordination and definition of measures to implement the Convention. Implementing legislation to complement the trade aspects of this Regulation (i.e. Communiqués on the Import of Restricted and Prohibited Goods) was amended in April 2002. A CITES Convention species list concerning international trade in endangered species of wild flora and fauna has entered into force. A Regulation on the Conservation of Wetlands was adopted in January 2002. This Regulation partially complies with the provisions of the Birds, Water Framework and Habitat *acquis*.

Progress has been made with regard to transposition of the *acquis* on **industrial pollution** through the adoption, in December 2001, of a Regulation on Soil Pollution Control.

In the field of **genetically modified organisms and chemicals**, the Regulation on Dangerous Chemicals was amended in March 2002. It partially transposes the relevant *acquis* in the field.

As regards **noise and nuclear safety** no particular developments can be reported.

Turkey has taken important measures to strengthen its **administrative capacity**. A law on the redefinition of the functions of the main departments in the Ministry of Environment was adopted. This law should enhance proper implementation and enforcement of environmental legislation at local level. Following its adoption, the number of Environment Directorates at provincial level increased from 30 to 81.

A new Regulation on Environmental Inspection (REI) entered into force in January 2002. It represents a positive step towards increasing Turkish administrative capacity to implement the *acquis*. It defines the roles and responsibilities of each institution involved

in environmental inspections, and introduces administrative penalties. Moreover, the REI details the obligations related to internal environmental inspection for public and private holdings (except for the obligations defined under the Law establishing the Turkish Atomic Energy Institution and under the Occupational Health and Safety Statute). According to the REI, each holding will have to produce its own annual inspection reports and provide data on wastes and disposal. An Environmental Inspectorate Department was established at central level with 13 new staff.

Furthermore, REI gives inspection responsibilities to the Presidency of the Inspectorate Committee, to the General Directorate for Environmental Pollution Abatement and Control, to the General Directorate for Environmental Impact Assessment, to the Environment Directorates at provincial level and to the Authority for Special Protected Areas.

An Environmental Reference Laboratory started to function effectively in 2001 in Ankara. The number of laboratory staff was increased from 17 to 39 and additional new equipment was installed.

### *Overall assessment*

Steps have been taken in the field of horizontal legislation, nature protection and at the level of administrative capacity. However, Turkey needs to accelerate its efforts as regards water quality, industrial pollution and risk management, air quality, noise, genetically modified organisms, waste management and nuclear safety and radiation protection.

Turkey has not yet ratified the Kyoto protocol.

In the field of air quality, Turkish legislation needs to be aligned with the *acquis*, and the Turkish air quality monitoring system needs to be upgraded.

Although the Turkish legislation in the field of waste management is largely in line with the *acquis*, further efforts are needed with respect to implementation. Sufficient financial resources should be allocated to the sector.

As regards water quality, the 7<sup>th</sup> and 8<sup>th</sup> Five Years Development Plans stress the need for a new framework law on water resources and for bringing drinking water standards and wastewater discharge into line with the *acquis*.

Despite the adoption of a number of regulations related to nature protection, full harmonisation has still not been achieved. A framework law on nature protection and implementing legislation transposing the provisions of the Birds and Habitat *acquis* should be adopted.

On chemicals, further efforts should be made to achieve full harmonisation. A general inventory of chemical substances has yet to be established.

With regard to pollution control, while some progress has been made, full alignment will require further efforts.

The principle of integration requires continuous attention both at national and at Community level. Turkey needs to continue integrating environmental protection



requirements into the definition and implementation of all other sectoral policies so as to promote sustainable development.

The Ministry of Environment (MoE) made significant progress in strengthening its administrative capacity. However, it is too early to assess the impact of the measures taken on the actual enforcement of environmental legislation. Several institutions are involved in the management of environmental policies. Efforts towards effective implementation of environmental rules, including training of specialised staff and purchase of equipment, are needed.

Considerable investments need to be secured, also in the medium-term, to ensure the implementation of the environment *acquis*.

In its 1998 Report, the Commission noted that despite progress made in the adoption of legislation, conservation schemes and institutional machinery, the standard of environmental protection in Turkey remained a matter of concern, especially with regard to industrial and urban pollution and sustainable management of the coastline and natural resources. It was pointed out that while the Turkish law differed from the *acquis* in a number of important areas, efforts could be noted with regard to waste, air and water protection, nature conservation and environmental impact assessments. It was indicated that implementation of the law had met serious obstacles.

Since the 1998 Report, Turkey has made limited progress in transposing the Community *acquis* in the field of environment. The main progress is linked to the adoption of a new Environment Framework law amending the existing framework legislation of 1983. Furthermore, progress has been noticed in the field of administrative capacity since a law that re-defines the responsibilities and organisation of the Ministry of Environment was adopted. In a few sectoral areas, such as chemical legislation, some limited progress can be reported. In 2002, progress was more substantial as described above.

Turkey should focus further efforts on the transposition and implementation of the environment *acquis*, particularly in the areas of Air quality, Waste Management, Water quality, Industrial Pollution, Nature protection and Horizontal legislation.

## ***Chapter 23: Consumer Protection and Health***

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

There has been very limited progress since the last Regular Report.

On **safety related measures**, a law on the preparation and implementation of technical legislation on products entered into force in January 2002 together with an implementing regulation relating to the **market surveillance** and the inspection of products. The purpose of these measures is to adopt the relevant *acquis* in the area of general product safety. Turkey is not a member of the TRAPEX network, and there has been no progress in this direction. A Fourth Consumer Court has been established in Ankara, in addition to three set up previously.

### *Overall assessment*

On market surveillance, the administrative structure is not yet in place and operational, although the law on the preparation and implementation of technical legislation on products was adopted in January 2002. The relevant Governmental bodies need training to implement the new market surveillance requirements. No accredited laboratories are yet available to date for market surveillance.

The Directorate General for the Protection of Consumers and Competition established under the Ministry of Trade and Industry is the authority with primary responsibility concerning consumer issues. It employs 77 staff.

Regarding consultative structures, the Consumer Council meets once a year, and provides a forum for discussions on general consumer policy. Representatives from public institutions, universities, professional chambers and consumer organisations are involved in this work.

A total of 35 consumer organisations exist in Turkey of which the two largest are TUKODER and THD. TUKODER's development has been supported through a European project within MEDA Programme, which ended in October 2001.

Arbitration Committees for Consumer Problems have been established in 931 locations (81 provinces and 850 districts), and they have started settling disputes between consumers and suppliers. The representatives of consumer organisations participate in the Committees. The decisions of the Committees are binding for disputes up to a maximum of € 250. Disputes of over € 250 are dealt with by Consumer Courts, which have been established and are operating in the provinces of Istanbul, Ankara and Izmir. As for the other provinces, the Commercial Courts and General Civil Courts are provisionally authorised to act until specialised consumer courts have been established.

Up to 150 complaints have been received by the Board of Advertisement since October 2001 and a total of approximately € 2 million in fines has been collected. The Board has been operational for 7 years and sets the principles for commercial advertisements and announcements, examines and monitors advertisements within the framework of these principles, penalises those which contravene the Law and orders the immediate cessation of the publication or broadcasting of such advertisements and announcements. The Board, which consists of 18 members representing public institutions, universities, professional chambers and consumer organisations, convenes once a month.

The Report of 1998 stated that the adoption of outline consumer protection legislation in 1995 was a significant step towards alignment with the *acquis*. However, a list of directives had only been partially transposed whereas others had not been transposed at all. The Report added that further harmonisation was not expected to pose any particular problems. Since 1998, Turkey's transposition of the *acquis* in the fields covered by consumer protection has proceeded at a slow pace in almost all areas and substantial work still needs to be done. Overall, alignment of the Turkish consumers' legislation with the *acquis* remains limited and the implementation capacity is insufficient.

Turkey should focus further efforts on aligning the legal framework with the *acquis* and developing implementation infrastructure and capacity. This is particularly the case for market surveillance instruments. Furthermore, an effort should be made to raise awareness among consumers of their rights.

## ***Chapter 24: Co-operation in the field of justice and home affairs***

### *Progress since the last Regular Report*

Overall, some progress has been achieved during the past year.

On **data protection**, no progress can be reported in legal or administrative terms.

Regarding **visa policy**, Turkey has made progress on harmonisation with the EU visa regime. In September Turkey introduced visa requirements for six countries: Bahrain, Qatar, United Arab Emirates, Kuwait, Saudi Arabia, and Oman.

On **external borders**, the extension of the responsibilities of the Land Forces Command in the protection of green borders to the south and south-east of the country has continued, thus replacing the Gendarmerie. The remaining 83 km of Turkey's green borders with Syria and 300 km of Turkey's borders with Iran have been transferred from the Gendarmerie to the responsibility of the Land Forces Command. Thus, the responsibility for the protection of 387 km of the Iraqi border and the remaining 90 km of the Iranian border remains with the Gendarmerie.

Turkey has recently established a working group within the Ministry of the Interior composed of representatives from several ministries and law enforcement agencies. This working group is to prepare a comprehensive strategy and timetable for the harmonisation of Turkish law and practice with the *acquis* in the areas of border management, asylum and migration.

Some training activities have been carried out in order to prepare for compliance with the **Schengen** requirements. No other significant development has taken place in this area.

Turkey has continued to install optical readers at entry and exit points for the detection of counterfeit and falsified documents.

In the area of **migration**, following the entry into force of the agreement between Turkey and Greece on co-operation in combating crime, terrorism, illicit drug trafficking and illegal migration in July 2001, a protocol on readmission implementing Article 8 of the agreement was signed in November 2001. The protocol was ratified by Turkey and Greece respectively in April and in August. For third country nationals, this protocol gives the parties 14 days to inform each other of the number of persons to be returned after the date of illegal entry. For nationals of the two countries the authorities can make use of simplified procedures. Co-operation on the return of illegal migrants started in February and according to official sources, Turkey has so far readmitted some 100 migrants. However, the total number of applications for readmission related to 6175 illegal migrants, which underlines the difficulties that Turkey experiences in applying the provisions of the protocol. This protocol does not prejudice the obligation assumed in the second paragraph of the same Article to conclude an agreement on readmission.

Transit arrangements have been concluded between a number of Member States and Turkey. This was carried out indirectly through the Anatolian Development Foundation and the International Organisation for Migration (IOM) and concerns the return of rejected Iraqi asylum seekers. 22 Iraqi asylum seekers have been successfully returned to

Iraq, but the Member States concerned have recently reported difficulties in the application of these arrangements.

Turkey is an important transit and destination country for illegal migration flows, which have continued steadily in the last year. The authorities acknowledged having apprehended 92364 illegal migrants in 2001, as compared to 94514 in 2000. In the first six months of 2002, 40006 illegal migrants were apprehended.

There is some progress with regard to readmission. Apart from the November 2001 protocol on readmission between Turkey and Greece, bilateral negotiations with a number of countries, both of destination and origin, for readmission agreements are underway. The readmission agreement signed with Syria in September 2001, which has not yet been ratified by Turkey, has nonetheless been put into effect. Turkey has returned 178 migrants and has admitted 6 migrants back in this framework. Draft agreements were submitted to a number of countries during spring 2002 (April-May), including Egypt, the Russian Federation, Belarus, Georgia, Israel, Sudan, Nigeria, Ethiopia, Morocco, Tunisia, Libya, Algeria, Jordan, Lebanon, Kazakhstan, Uzbekistan, Kirghizstan and Mongolia.

Turkey started participating in the CIREFI Early Warning System and sharing and exchanging information with CIREFI countries in May 2002. Two Turkish liaison officers have been appointed for the system and statistical data is sent regularly to CIREFI Centre.

A number of initiatives have been taken in the fight against illegal migration.

The number of law enforcement staff working in border provinces and at busy border checkpoints has been increased. Turkey also continued to provide specialised training to staff appointed to border checkpoints and on forgery of visas and travel documents. In addition to 800 staff members trained in 2001, 550 staff members of the Ministry of the Interior were trained on illegal migration, asylum and forgery issues in the first eight months of 2002.

Turkey has established control checkpoints to monitor movements from the East to the West throughout the country and contact points are open for 24 hours in order to monitor movements at sea. The controls on the movement of vessels have been strengthened. At the same time some limited equipment has been installed at sea contact points and border checkpoints. Neighbouring countries have been contacted to establish an early warning system. It is reported that Turkey's Coast Guards allocate 70% of their resources to fighting illegal migration.

Turkey has also continued intensively to train sniffer dogs to detect humans hidden in ships and cargoes and has carried out some successful operations by this means.

Turkey has signed, but not yet ratified, the international conventions relating to combating illegal migration and trafficking in human beings, in particular the 2000 UN Convention against Transnational Organised Crime and its three protocols.

In the field of **asylum**, the working group mentioned above is responsible for developing a new strategy in accordance with the *acquis*.

The Ministry of the Interior issued a circular to governors in July 2002 related to the provision of health care to asylum seekers recognised as such by the Turkish authorities.

Since July 2002 these asylum seekers have gradually been provided with “green cards” for medical expenses (diagnosis, treatment and medicine).

Training activities on issues related to asylum and refugee law in co-operation with the UNHCR for mid-level police and gendarmerie officers have been continued successfully in 2002.

Regarding **police co-operation and fight against organised crime**, in August Parliament adopted two amendments to the Penal Code, which made smuggling and trafficking in human beings criminal offences. Greater penalties are to be imposed for these crimes when committed in an organised manner.

The authorities arrested 1155 members of organised trafficking gangs in 2001. Of those arrested, 134 were foreign nationals.

Turkish sources report that as a result of the increased fight against illicit trafficking of goods, around € 102 million worth of smuggled goods, fuel oil, drugs, cigarettes and motor vehicles were seized in 2001. In the first eight months of 2002, seizures amounted to some € 48 million. These figures apply to both organised and individual traffic of goods. In terms of administrative capacity, a working group on harmonisation with the *acquis* on Europol has been established under the coordination of the office of the Legal Advisor at the Ministry of the Interior. However, the working group is not yet fully operational.

With regard to the **fight against terrorism**, in January 2002 Turkey ratified the UN Convention for the Suppression of the Financing of Terrorism as well as the UN Convention for the Suppression of Terrorist Bombings.

Turkey responded quickly to the UN Resolution, signed on 27 September 2001, on the suppression of financing of terrorism. It issued a government decree in December 2001 on the implementation of this UN Resolution. The decree lists all terror organisations, individuals and institutions whose finances and properties must be taken over or be frozen in Turkey. The decree has been updated regularly since then.

Regarding the **fight against fraud and corruption**, a new Public Procurement Law was adopted in January 2002 (*see also Chapter 1 - Free movement of goods*).

In January 2002 a government decree was issued on an Action Plan for Enhancing Transparency and Good Governance in the Public Sector, which aims to improve public sector management. Consequently, five ministers were appointed by a second government decree in May 2002 authorised to implement the Action Plan. The Action Plan provides for an improved co-ordination between the public and the private sector, civil society and the judiciary to combat corruption. It also lays down the basic paths to improve the efficiency of the fight against corruption (*see also section B.1.1. - Political criteria*).

In the area of **drugs**, Turkey has joined the negotiations for participation in the activities of the European Monitoring Board on Drugs and Drug Addiction (EMCDDA) and attends the meetings of the European Information Network on Drugs and Drug Addiction (REITOX). The National Focal Point has been transferred from the Family Research Institute to the Department of Anti-Smuggling and Organised Crime at the Ministry of

the Interior. It will be based at the Turkish International Academy against Drugs and Organised Crime (TADOC).

Turkey is preparing to sign an agreement with the EU on precursors and chemical substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances. The agreement is aimed at enhancing the international fight against the production and trade of certain drugs through exchange of information and monitoring of trade flows.

As for administrative capacity, the revision of the national drug strategy is being completed under the co-ordination of the Family Research Institute in order to comply with the EU Drugs Strategy.

As regards **money laundering**, Turkey has a functioning Financial Intelligence Unit (FIU) called the Financial Crimes Investigation Board with a staff of over 1000. The FIU investigated 279 files in 2001 and 156 files in the first eight months of 2002. In 2001, 30 legal cases were opened and three were opened in the first eight months 2002.

In the context of the implementation of the Law on Prevention of Money Laundering, in February 2002 Turkey included predicate offences related to terrorism in the list of suspicious transactions that need to be reported to the authorities.

On **customs co-operation**, in May 2002 Turkey launched the GUMSIS (Security System Project for Customs Checkpoints), currently monitoring ten land border gates and one sea checkpoint from a command and control centre set up in Ankara. GUMSIS will be able to command and control all 77 land, sea, airport and railway checkpoints against illicit trafficking in narcotics, human beings, motor vehicles, historical artefacts and nuclear and radioactive material.

The aim of this system is to establish closed TV circuits, satellite and cryptographic communication, vehicle and container scanning, cargo and parcel identification, narcotics and explosives detection, nuclear substances detection, chemical and biological warfare substances detection, observation systems for transit vehicles, and vehicle registration.

Turkey co-operates with the Southeast European Co-operative Initiative (SECI) in Bucharest on customs related matters, especially in relation to the fight against cross-border crime and corruption, through the Undersecretariat for Customs.

Turkey intensified its efforts to conclude administrative co-operation agreements on customs related matters with EU Member States and non-European countries.

On the institutional side, Turkey has started improving the infrastructure at a number of customs gates on the western and eastern borders. The modernisation of these customs gates is to be completed by the end of 2002 (*see also Chapter 25 - Customs union*).

In the area of **judicial co-operation in criminal and civil matters**, a new Civil Code and a new Code of Civil Procedure entered into force in January 2002. The competence of the State Security Courts was revised in December 2002. The jurisdiction of the State Security Courts was limited by removing their right to hear cases involving organised crime and major fraud in the banking sector. In August 2002 a number of amendments to the Penal Code and the Code of Penal Procedure were introduced (*see section B.1.1 - Political criteria*).

With regard to strengthening the impartiality and independence of the judiciary, no concrete steps can be reported. The same applies to the creation of professional associations and the increase in the number of Juvenile Courts.

With respect to **human rights** instruments, in April 2002 Turkey ratified the UN Convention on the Elimination of All Forms of Racial Discrimination. In May 2002 Turkey ratified the optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. In August 2002 Turkey ratified the optional protocol to the Convention on the Elimination of Discrimination against Women.

In January 2002 Turkey withdrew its reservation to Article 5 of the European Convention on Human Rights concerning the right to liberty and security with respect to provinces under emergency rule.

### *Overall assessment*

In the area of **data protection** (*see also Chapter 3 - Freedom to provide services*), no concrete developments have yet taken place. Turkey still has to ratify the 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, signed by Turkey in 1981. Turkey also needs to establish an independent data protection supervisory authority.

As regards **visa policy**, Turkey has initiated preparatory work to align with the EU visa regime and adopted a gradual approach for alignment with the EU common visa lists. There is a discrepancy of 21 countries between the EU visa obligations list and that of Turkey.

A number of practices, such as the granting of visas at borders and transit visas at airports, are not in line with the *acquis*. Turkey is continuing its preparations for the introduction of new visa stickers with a view to harmonising with EU standards.

In terms of administrative capacity, Turkey has a national visa register unit functioning under the Directorate-General for Security at the Ministry of Interior. There is also a functioning online link between the central authorities, border gates and most of the consular services abroad.

Regarding **external borders**, recent developments aimed at developing an integrated border management strategy are an important step forward. This strategy needs to take into account the February 2002 Schengen Catalogue.

In the area of **migration**, a number of positive initiatives have been taken. However, the outstanding signing of a readmission agreement between Turkey and the EU, is a matter of the utmost significance.

Notwithstanding the recent adoption of amendments to the Penal Code, Turkey does not meet the minimum standards for the elimination of trafficking in human beings.

Concerning administrative capacity, Turkey needs to strengthen its efficiency in the fight against illegal migration and trafficking in human beings as well as co-operation with Member States and third countries. Despite the existence of co-operation agreements

with some Member States in the field of illegal migration, the implementation of these agreements needs to be improved considerably.

Turkey needs to enhance its capacity to handle readmission in preparation for the implementation of the draft agreements submitted to a large number of countries, for which Turkey is either a transit or a destination country, as well as expulsions, including to remote countries of origin. According to official sources, in 2001, 77515 illegal migrants were expelled on grounds of violating the law, mostly for illegal entry. In the first six months of 2002, 29067 illegal migrants were expelled. With respect to readmission, Turkey needs to improve its existing cooperation with Member States of the EU, in particular the implementation of the readmission protocol with Greece.

In the area of **asylum**, time limits imposed on asylum seekers for filling in an application and identification requirements continue to be a problematic issue in the current law. The government is encouraged to create a professional body, and the necessary institutional and technical capacity, to carry out refugee status determination.

As far as European refugees are concerned, an improved and systematic application of the 1951 Convention, especially as regards work permits, should be encouraged.

It is advisable that the envisaged new legislation on work permits for foreigners should include the extension of equivalent treatment to persons entering Turkey from non-European countries who fulfil the criteria of the refugee definition according to the Geneva Convention. Likewise, the new legislation could provide for the inclusion of minimum standards regarding the employment rights of refugees as set forth in the 1951 Convention.

With a view to identifying asylum seekers among detained illegal immigrants, the establishment of a nation-wide screening mechanism continues to be an important issue. It is important to ensure that genuine asylum seekers are not deported among irregular migrants. It is also important that access to asylum procedures is improved and the coverage of screening is extended not only to people presenting themselves to the authorities, but also to people arrested as illegal immigrants.

As regards administrative capacity, the setting up of an independent appeal procedure continues to be an important requirement.

In the area of **police co-operation and the fight against organised crime**, Turkey is encouraged to ratify the 2000 UN Convention Against Transnational Organised Crime (Palermo Convention) and its three Protocols. Although a number of successful police operations have been carried out, in particular in the area of drugs, Turkey needs to improve its overall fight against organised crime. The Code of Criminal Procedure should be revised to ensure, *inter alia*, enhanced co-operation between the different law enforcement bodies.

Statistical instruments for measuring crime rate should be improved, while new methods of technical crime investigation, including development of forensic investigation should be developed.

As for the **fight against terrorism**, Turkey's legislative initiatives to suppress the financing of terrorism and Turkey's efforts to enhance its institutional capacity in this area are well advanced.



With regard to the **fight against fraud and corruption**, Turkey is encouraged to ratify the Council of Europe 1999 Civil Law and Criminal Law Conventions, which were signed in September 2001. Turkey is also encouraged to accelerate its preparations for the adoption of legislation aimed at implementing the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which was ratified in 2000.

Turkey should start to prepare the alignment of its legislation with the 1995 Convention on the Protection of the European Communities' Financial Interests and its Protocols. As an initial step towards 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*)

Turkey should pay more attention to the fact that prevention through transparency and accountability standards are as important as repressive tools.

In the area of **drugs**, Turkey is reviewing its national policy on drugs and has started the negotiations for accession to the EMCDDA.

Turkey is encouraged 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. Similarly, the ratification of the 1972 Protocol Amending the 1961 Single Convention on Narcotic Drugs would be a step in the right direction.

The establishment of a "mini-Dublin Group" in Ankara on drug-related issues is once more recommended. 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, Turkey is encouraged to accelerate the completion of its national drug strategy in line with the EU Drug Strategy 2000-2004. It should also appoint a National Drug Co-ordinator.

The National Focal Point should be strengthened in terms of expertise and administrative capacity to enable it to fully participate in the REITOX network.

As regards **money laundering**, since 1991 Turkey has been a member of the Financial Action Task Force on Money Laundering (FATF).

Turkey needs to review the Law on Prevention of Money Laundering to extend the definition of money laundering offences in line with the *acquis* (*see also Chapter 4 - Free movement of capital*)

In addition, Turkey still has to ratify the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

On **customs co-operation**, Turkey has largely completed automation of all customs operations at customs gates following a project of computerised customs activities (*see also Chapter 25 – Customs union*).

In the area of **judicial co-operation in criminal and civil matters**, Turkey should take further measures to ensure implementation of the Community instruments in the area of judicial cooperation in civil matters, notably as regards mutual recognition and

enforcement of judicial decisions. Direct contacts between competent judicial authorities should be made possible.

Turkey needs to further align its legislation, in particular as regards its accession to a number of international conventions related to mutual assistance and co-operation in criminal matters, such as the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the Agreement on Illicit Traffic by Sea Implementing Article 17 of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Turkey is encouraged to fully implement the relevant international and bilateral conventions, to which it has acceded. Turkey still has to sign the first Additional Protocol to the European Convention on Extradition .

Turkey is advised to continue the process of strengthening the administrative capacity of the Ministry of Justice, the establishment of the Justice Academy and the creation of a Court of Appeal. Substantially more work is needed to strengthen the impartiality and independence of the judiciary and the juvenile justice system, including increasing the number of juvenile courts and reviewing the age limits under the jurisdiction of juvenile courts. The setting up of professional associations is another issue that requires attention.

Regarding administrative capacity, further training and enhanced human resources are necessary to ensure adequate implementation of international conventions included in the *acquis*. No regular contacts exist even with neighbouring countries on matters of judicial co-operation.

On **human rights** instruments, Turkey still has to ratify, *inter alia*, the 1981 Council of Europe Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data and Protocols 4 and 7 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocol 6 concerning the abolition of the death penalty of 1983.

In its 1998 Report, the Commission called on Turkey to develop active cooperation with the European Union on immigration, to lift its geographical reservation on the 1951 Geneva Convention and to adopt a number of legislative provisions on criminal law.

Since that time, Turkey has taken encouraging steps to intensify its fight against illegal migration and has improved its cooperation with the European Union and Member States in this area. Turkey still retains its geographical reservation on the Geneva Convention on refugees, although some steps have been taken in the area of asylum. In the context of the October 2001 constitutional reform and subsequent legislative changes, amendments were introduced to the Penal Code and related legislation. Overall, Turkey is still in the initial stages of alignment with the *acquis* in the field of justice and home affairs.

Turkey should concentrate further efforts on aligning its legal framework on data protection, on enhancing its fight against illegal migration, on strengthening border controls and on adopting the *acquis*, in particular in the area of asylum and migration. Turkey should also focus on improving co-ordination between law enforcement bodies, and on continuing the reform of its judicial system.

## ***Chapter 25: Customs Union***

### *Progress since the last Regular Report*

Some progress has been achieved in the field of customs since the last Regular Report.

As regards alignment of Turkey's legislation with the **customs *acquis***, the Government has adopted in December 2001 a Decree introducing Community-aligned rules on the origin of goods under the Generalised System of Preferences. Another decree was adopted in February 2002 concerning certification including provisions on cumulation applicable in this context. The implementing regulations aligning the preferential rules of origin of the Turkey-Romania and Turkey-Bulgaria Free Trade Agreements to those of the agreements between other members of the system of pan-European cumulation of origin were also adopted.

The latest EC proposal for an agreement on precursors was accepted.

Concerning **administrative capacity**, the project on the modernisation of the Turkish Customs is progressing. Certain Customs offices are being modernised. Work is underway on the modernisation of the Customs Training Centre in Ankara. Following the introduction of the new computerised control system, 120 small customs offices were merged or closed down; the number of Regional Directorates in Turkish Customs was decreased from 36 to 16. The GÜMSIS (Security Systems for Customs Checkpoints) project was launched in November 2001 to improve facilities at customs posts, *inter alia*, for controlling trade in motor vehicles and cultural goods and detecting nuclear materials. Budgetary appropriations necessary for the purchase of two customs enforcement boats have been provided. Preparations are under way to renovate customs laboratories and a number of training courses are ongoing.

Regarding *customs ethics*, the Decree on an Action Plan for Enhancing Transparency and Good Governance in the Public Sector of January 2002, providing a basis for combating corruption, also applies to the customs service.

As of December 2001, the customs administration carried out visits to traders' premises to enforce controls on the issue of EUR1 certificates for products exported from Turkey. Previously, controls were carried out only rarely and on a documentary basis.

As far as computerisation is concerned, the Customs Automation Project (GIBOS) was finalised with the introduction throughout the country of the Computerised Customs Activities system (BILGE), a software program developed to carry out all real-time customs formalities by IT methods. Software for data collection and risk analysis was developed in 2001 and is being deployed in automated customs offices.

### *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 Custom Tariff and the customs legislation is largely aligned with the Community customs legislation. However, further work remains to be done with respect to free zones and customs procedures with economic impact. Furthermore, tariff

preferences are not fully aligned as free trade agreements have not yet been concluded with all the same partner countries as the Community. .

Regarding administrative and operational capacity, the customs administration has carried out an extensive restructuring and rationalisation programme over the past three years, and has significantly reduced the number of customs offices. The introduction of post-clearance audit as a control technique constitutes a significant improvement in the control of certification of free circulation status and/or preferential origin under the Customs Union Agreement. In addition, the Turkish authorities have sought to improve measures for identifying materials of different origins used in the production of certain products (“traceability”), with a view to improving the control of certification of their status. Efforts have concentrated in particular on agricultural and fisheries products. However, in this area there are still problems related to the origin of agricultural and fisheries products. Flaws in the legislation and insufficient implementation and controls have undermined the good functioning of the system. In particular, controls by the customs authorities have been insufficient. The deduction system is not operational, and does not therefore allow for the registration and tracing of products.

In the area of counterfeit and cultural goods, the enforcement of legislation outside the competence of the Ministry of Culture is insufficient. Administrative restructuring and further co-ordination initiatives are necessary for effective enforcement.

Good progress has been made in the area of computerisation, as a major part of the customs formalities are already conducted electronically

The Report of 1998 concluded that Turkey had made serious efforts to apply legislation in line with Community legislation in the customs field. However, various other problems were identified such as the treatment of free zones and procedures having an economic impact. The lack of alignment for provisions outside the customs code was also highlighted, implying lack of progress for counterfeited goods, cultural goods, precursors, and provisions of the WCO/ECE Conventions.

Since 1998 substantial progress has taken place in several areas. A new Customs Code, largely in line with the *acquis*, has been adopted. However, the effective application of provisions in line with the *acquis* continues to be hampered by the non-customs legislation, which is often conflicting with the former.

Turkey should focus further efforts on aligning legislation on the customs aspects of control of dual-use goods, counterfeits and pirated goods, and cultural goods. Efforts are also needed on aligning non-customs legislation relevant to the application of customs provisions on free zones and customs procedures with economic impact (areas of shared competence of customs, trade and external relations departments). Regarding administrative capacity, further efforts should focus on improving administrative structures and modernising the customs service. It is important to ensure effective co-ordination in view of proper controls on counterfeits and cultural goods. Turkey should also step up efforts to improve border management and the fight against customs irregularities in general and reinforce the control of the use by traders of the Customs Union Agreement. Turkey should also continue its efforts to combat corruption within the administration and to combat customs fraud and economic crime by improving co-ordination with other enforcement bodies and co-operation with the authorities of Member States.

## ***Chapter 26: External Relations***

### *Progress since the last Regular Report*

Further progress was made in this area.

Turkey's **commercial policy** is largely aligned with the EC common commercial policy. 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 customs regime, including free trade agreements and autonomous regimes.

Since the last Regular Report Turkey has continued to align with the *acquis* on common commercial policy and to co-ordinate positions and policies within the World Trade Organisation (WTO) with the EU, in particular with regard to the Doha Development Agenda negotiations.

Concerning **bilateral agreements with third countries**, Turkey is in the process of negotiating free trade agreements with Tunisia, Morocco, Egypt, the Palestinian Authority and the Faeroe Islands.

No developments can be reported on the conclusion of a Free Trade Agreement between Turkey and Cyprus.

A Free Trade Agreement with Croatia was signed in March 2002. The first joint technical committee meeting for concluding a free trade agreement with Morocco was held in February 2002. Similar agreements have been concluded with Malta, Jordan, Mexico and South Africa.

Two regulations have been adopted allowing for the implementation of bilateral agreements between Turkey and Romania and Bulgaria respectively concerning rules of origin and methods for administrative co-operation.

A regulation has been adopted in order to align Turkey's application of its Generalised System of Preferences (GSP) regime with that of the EC. However, this regulation is not in line with the *acquis* and needs substantial revision. Discussions with the Commission are taking place in order to progress in this area, notably on how Turkey should gradually integrate the benefits granted by the current EC GSP scheme, into its national legislation.

There have been no developments in the area of GATS.

In the field of **development aid** and **humanitarian aid**, Turkey has contributed to international stability through the provision of humanitarian assistance. According to Turkey's State Institute of Statistics, Turkey granted about € 1,987,000 official aid in 2000, whereof € 410,000.00 in the form of grants. € 234,000 of this amount was destined for developing countries as grant aid and € 34,000 to countries in transition to a market economy. € 20,600 has been spent in 2000 as emergency aid and € 24,200 as project and programme aid.

### *Overall assessment*

A large degree of convergence exists between the EC and Turkey in the area of external commercial policy, deriving from the obligations set out in the Decision of the Association Council establishing a Customs Union. However, 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 could not be initiated despite the efforts made by Turkey.

The EU and Turkey have established a framework for co-operation regarding WTO issues both at ministerial and at departmental level. Turkey has been supportive of EU policies and positions within the WTO framework, in particular also during the preparation for and the launching of the Doha Development Agenda. This close co-operation should continue.

Co ordination is needed to ensure the alignment of Turkey's GATS commitments with the EC's commitments and MFN exemptions. With regard to the WTO Agreement on Trade in Textiles and Clothing (ATC), co ordination has taken place within the third stage of integration under the ATC to align Turkey's integration programmes with those of the EC, although some points are still outstanding.

Turkey is a signatory to the WTO agreement on Information Technology and has observer status in the Government Procurement and Civil Aircraft Agreements. Turkey is supportive of EU policies and positions in the WTO.

The preferences granted by Turkey's scheme of generalised tariff preferences (GSP) should gradually be put in line with those granted by the EC scheme. To achieve this goal, Turkey should make more efforts to implement the EC scheme along a pre-defined period and set of criteria.

The application of a generalized system of preferences (GSP) regime remains different from the one of the EU, and efforts to comply with EU rules should be accelerated.

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 and Croatia. A consultation mechanism has been established between the EU and Turkey in order to improve communication and information flows on trade policy. On medium and long term export credits, Turkey has reached a good level in aligning its regulations with the *acquis*. On export credits to companies, Turkey still has to align its legislation with the EU *acquis*.

Turkey's administrative capacity related to customs services are addressed under the chapter on Customs Union (*see also Chapter 25 - Customs Union*).

In its 1998 Report, the Commission concluded that Turkey had demonstrated its ability to apply the Community commercial policy in full, and that completing the alignment of its preferential policy on the Community policy should not pose any problems. The Commission added that Turkey should refrain from negotiating preferential agreements with countries, which have no agreement linking them to the Union in accordance with the Customs Union decision.

Since 1998, some further progress has taken place in further aligning Turkey's commercial policy with that of the EC.

Turkey should focus further efforts on ensuring alignment with the regime of the Generalised System of Preferences.

## ***Chapter 27: Common foreign and security policy***

### *Progress since the last Regular Report*

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 pre-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.

Turkey is monitoring closely the development of the European Security and Defence Policy (ESDP) as part of the CFSP, and has actively participated in exchanges on this subject with the EU, in both EU + 15 format (i.e. non-EU European NATO members and candidates for accession to the EU) and EU + six format (i.e. non-EU European Members of NATO). The issue of Turkey's modalities for participation in decisions on EU-led operations using NATO assets as part of the European Security and Defence Policy has remained unresolved.

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 associated itself with an **EU joint action** concerning the EU's contribution to combating the destabilising accumulation and spread of small arms and light weapons. It has also associated itself with several EU common positions, including on the Federal Republic of Yugoslavia.

Bilateral relations between Turkey and Greece have continued to improve. As last year, positive developments were initiated by the foreign ministers of both countries and a framework of co-operation has been put in place.

Several bilateral co-operation agreements between Turkey and Greece have entered into force in various fields. A set of five co-operation agreements was signed in November 2001 in areas such as culture, environment and academic co-operation. Moreover, the Memorandum of Understanding for the establishment of a joint Hellenic Turkish Standby Disaster Response Unit, which could operate under the UN umbrella, was signed in September 2002.

Some confidence building measures have been adopted such as the cancellation of military exercises in the Aegean. The foreign ministers of both countries paid a joint visit to the Middle East in April 2002.

In the framework of the peaceful settlement of border disputes, exploratory contacts between officials of both foreign ministries were launched in March 2002 about the

Aegean. Discussions have continued at the level of experts including the Political Directors of the foreign ministries. Several meetings took place in the course of 2002.

Another significant development is the decision to start cooperation between the intelligence agencies of Turkey and Greece.

Turkey's border with Armenia is still closed. However, positive developments have taken place in bilateral relations. Bilateral meetings between the Turkish and the Armenian foreign ministers took place on several occasions. The Armenian foreign minister visited Turkey to attend the Black Sea Co-operation Council in Istanbul in June 2002. Visa requirements for Armenian citizens entering Turkey by plane from Armenia have been simplified.

Several initiatives have taken place at the grass root level of civil society to promote closer co-operation between the two countries. The activities of the Turkish Armenian Business Council (TABC) are worth mentioning in this context.

During the reporting period, Turkey played an active role in the international campaign on the fight against terrorism. In January 2002, Turkey ratified the International Convention for the Suppression of the Financing of Terrorism, enacted it by a law in February 2002 and adopted the related implementing legislation.

Turkey has continued to support the Stability Pact for the Balkans, where it assumed the co-chairmanship of Working Table II in 2000 and of Working Table I in the first half of 2002.

As regards defence co-operation, Turkey has participated in a series of UN-SFOR/KFOR (Bosnia, Kosovo, Macedonia and Albania) and OSCE peacekeeping and observer operations. In this context, Turkey currently has over 1,253 troops on peacekeeping duties in the Balkans. It took over the command of the International Peacekeeping Force in Afghanistan in July 2002.

In February, Turkey organised the EU-OIC forum on the harmony of civilisations in Istanbul. This forum has played an important role in promoting dialogue and mutual understanding between EU countries and Muslim countries across the world.

### *Overall assessment*

Turkey continues to participate in regional cooperation schemes, such as the Stability Pact for the Balkans. In addition, it has developed bilateral defence cooperation agreements with Israel and Afghanistan.

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 and Middle East) and has taken a number of initiatives within this role.

Turkey has sought to improve its bilateral relations with neighbouring 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. Steps have been taken to improve relations with Iran. A military agreement has been signed



with Syria accompanied by the implementation of a number of confidence-building measures.

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.

In its 1998 Report, the Commission concluded that: "There are a number of contentious issues in the Aegean area between Turkey and an EU Member State, Greece, including disputes about demarcation of the continental shelf. Turkey also challenges sovereignty over various islets and rocks. The boundaries of the two territorial waters and airspace are also problematic. Turkey is not involved in any other territorial dispute with neighbouring countries." And furthermore "There are recurrent strains in relations with Syria and Iraq, particular over water rights and the Kurdish question. It should be noted that on 20 October 1998 Turkey and Syria signed an agreement on security committing Syria to ending all support for the PKK."

Since the 1998 Report, Turkey has taken significant steps in aligning with the CFSP *acquis*. Political dialogue with the EU has been intensified. Relations with neighbours have developed positively. Bilateral relations with Greece have improved and exploratory talks on the Aegean have started.

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 finalising 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.

The outstanding issues as regards the modalities for participation by Turkey in the decision making process as regards EU-led operations using NATO assets need to be resolved as a matter of priority.

## ***Chapter 28: Financial control***

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

Since last year's Regular Report, Turkey has made little progress in this area.

Concerning **Public Internal Financial Control (PIFC)**, a new budget management and control act (the Public Financial Management and Financial Control Law) has been submitted to Parliament. The negative prevailing trend as far as **external control** is concerned, whereby the audit of certain regulatory authorities is excluded from the mandate of the Turkish Court of Accounts, was unfortunately repeated in the new Law on the Banking Regulatory and Supervisory Board adopted in January 2002. On the other hand, external control is being extended to the remaining extra-budgetary funds by the Law on Public Financial Management and Financial Control, mentioned above and reported in the following chapter. Efforts are also being undertaken to restructure the Court in accordance with the principles laid down in the Lima Declaration for Supreme Audit Institutions and to make it solely responsible for external audit.

Turkey has made limited progress in the area of **control over structural action expenditure**. Agreement was reached on the roles and responsibilities of the relevant institutions in Turkey under the decentralised implementation system for the pre-accession financial assistance programme with the signature in February 2002 of two Memoranda of Understanding between the Turkish Government and the European Commission. There have been no further developments as regards the protection of **the Communities' financial interests**.

### *Overall assessment*

A significant gap remains between Turkey's traditional public management and control structures and the criteria required of such systems by the EU. This gap is particularly visible in the absence of managerial accountability, the absence of modern internal audit and 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 Accounts carry out extensive *ex ante* controls: the *ex ante* control function of the Ministry of Finance is restricted to commitments and disbursements but all financial decisions, including disbursements, are also controlled *ex ante* by the Turkish Court of Accounts.

The public internal financial control system has not changed legally or structurally since the 2001 Regular Report. Nevertheless, a policy paper on the issue has been prepared and a Law on Public Financial Management and Financial Control submitted to Parliament. 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 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 audit – 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 the audit of their respective institutions and of the assessment of the financial management and control systems thereof, should be introduced into all budget centres (line ministries or 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 more focused on its *ex ante* control functions of all budget payment orders rather than on its external audit functions. The Court should introduce INTOSAI standards into the performance of its audits. Appropriate legislative amendments, both primary and

implementing, will be required to implement reforms of both PIFC and the external control regime. 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.

With regard to control over structural action expenditure, agreement has been reached on the responsibilities of individual institutions responsible for managing pre-accession financial assistance under the decentralised implementation system. Nevertheless, Turkey will need to restructure its existing 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. More urgently, the appropriate administrative steps will need to be taken to ensure that the decentralised implementation system for managing pre-accession assistance is operational before the end of the year.

With a view to ensuring effective protection of the Communities' financial interests, Turkey needs to put in place the legislation necessary to allow the competent authorities to carry out on-the-spot checks, if necessary jointly with the Commission, and must develop adequate administrative capacity to implement the *acquis*. Furthermore, Turkey needs to designate an operationally independent anti-fraud co-ordinating structure or service that will be responsible for the coordination of all legislative, administrative and operational aspects of the protection of the Communities' financial interests.

The Commission did not report on financial control provisions in its Reports on Turkey before 2000.

Nevertheless, it can be stated that although the Government has identified the inadequacies and weaknesses in the present financial management and control systems and has drafted a comprehensive Act on public internal financial control in accordance with EU practice, little concrete progress has been made in addressing this area since the first Regular Report was prepared.

Turkey should focus further efforts on enacting the Law on Public Financial Management and Financial Control and subsequently ensuring its effective implementation, and on reinforcing the legislative framework and administrative capacity to protect the Communities' financial interests.

## ***Chapter 29: Financial and budgetary provisions***

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

Turkey has made some progress in this area since the last Regular Report.

Further progress has been achieved concerning the **national budget**. At the time of writing an additional 589 revolving funds, used by local institutions to supplement budget allocations, had been closed with some 1400 remaining.

In March 2002 the Turkish Parliament passed the Law on Public Debt Management, which defines clear borrowing rules and limits for the public sector and incorporates into the budget the on-lending and debt guarantee operations of the Treasury.

In March 2002 the Ministry of Finance published implementing legislation on budget implementation, implementing the new budget code structure for six pilot agencies in 2002. The new code structure will be applied to all other public entities, including budgetary, extra-budgetary and revolving funds, in 2004. In preparation for this and on a pilot basis the accounting and coding reforms are being extended to all consolidated budget agencies and general government units in the 2003 draft budget, as set out in the Ministry of Finance's budget implementation circular.

No major developments can be reported with regard to **own resources**.

### *Overall assessment*

Turkish budgetary practices have in many respects been inconsistent with standards generally applicable in the EU. There are 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. In addition the Turkish Parliament is currently considering an amendment to legislation governing the five remaining extra-budgetary funds (the Social Aid and Solidarity Fund, the Defence Fund, the Promotion and Publicity Fund, the Savings Deposit and Insurance Fund and the Privatisation Fund) which would provide for the approval of their budgets by Parliament and the external audit and monthly reporting of their accounts (the proposed Law on Public Financial Management and Financial Control).

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. Greater realism is 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 comprehensive public sector reform programme reported in the previous Regular Report should continue. Implementing legislation should be prepared to support the new Law on Public Debt Management. Procedures for preparing and approving the budget for capital expenditure should be fully integrated with those for recurrent expenditure. A medium-term perspective should be built into the budgetary process with improved forecasts for revenue and expenditure.

Fiscal reporting should be timely, comprehensive, and reliable and identify deviations from the budget. The Turkish Government has identified a series of steps to be taken in this context. It will monitor and address commitments on a regular and timely basis and conduct surveys of commitments in excess of appropriations twice a year (as of end-June and end-December), with the aim of having the results available within six weeks of the end of each period.

As far as own resources are concerned, Turkey has made progress in aligning its legislation concerning indirect taxation with the *acquis*. Improvements have also been made to Turkey's capacity in the field of statistics. Turkey should adopt further necessary legislation compatible with EC standards and reinforce the accompanying administrative bodies responsible for implementation. The 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 GNP and VAT resource based calculations, and managing the VAT collection system. But additional alignment will be necessary for the proper calculation of VAT and GNP resources. In particular, the current system of national accounts compiled by the State Institute of Statistics is based on earlier international standards. There is a need for improved integration of the three approaches used for calculating GNP (production, expenditure and income based). The quality of quarterly estimates could also be improved, and greater systematic cooperation with other compilers of statistics would be beneficial.

As regards traditional own resources, Turkish customs legislation is already largely in line with the EC *acquis* and being applied in accordance with the EC Customs Code. However, with regard to the control of future EC own resources, Turkey should strengthen its administrative capacity for the collection of VAT and customs duties and establish effective instruments to combat fraud.

In addition to the need for central coordination for proper collection, monitoring and payment of funds to and from the EC budget, administrative capacity should be strengthened in the context of the relevant policy areas described elsewhere in this report, such as in those chapters dealing with Financial Control, Agriculture, Customs and Taxation. Turkey should establish a co-ordination unit responsible for administrative preparations related to the own resources system.

The Commission did not report on financial and budgetary provisions in its Report on Turkey before 2000.

Nevertheless, since the first Regular Report was prepared significant progress has been made in improving the scope and transparency of the budget, in particular reducing the number of budgetary, extra-budgetary and revolving funds, and in reforming budget classification and public liability management. On the other hand, no major improvements can be reported with regard to own resources.

Turkey should focus further efforts on continuing to improve budget transparency and accounting standards, in particular implementing the new budget code structure.

### **3.2. General evaluation<sup>21</sup>**

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.

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<sup>21</sup> See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

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.



## C. Conclusion<sup>22</sup>

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 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.

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<sup>22</sup> See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

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<sup>23</sup>, 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.

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

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<sup>23</sup> In its Report of 1998, the Commission concluded that: "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 give 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-eastern Turkey, particularly since many of the violations of civil and political rights observed in the country are connected 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 these problems, Turkey must make a constructive contribution to the settlement of all disputes with various countries by peaceful means in accordance with international law." Issues such as civilian control over the military, persistent human rights violations, torture as well as lack of protection for cultural rights have been mentioned in the subsequent reports.

Union, but is still undergoing the consequences of the two deeply destabilising financial crises.

After several attempts to stabilise the economy, the current reform programme is producing positive results and growth has resumed. Fiscal discipline has improved and the transparency of public sector accounts has increased markedly, while inflationary pressures are declining. Political interference, a main source for Turkey's economic instability, has been reduced and structural weaknesses, such as a fragile and distorted banking sector, are being addressed. Financial market regulation and supervision have been strengthened. Important steps have been taken to liberalise key markets, such as agriculture and energy.

To improve the functioning of its markets and its competitiveness, Turkey needs to continue the present reform process in order to achieve macroeconomic stability and fiscal sustainability. Further reducing chronically high inflation and maintaining fiscal discipline are important pre-conditions to this end. Prudential and accounting standards in the banking sector have to be brought in line with international norms. The privatisation of state banks and enterprises has to be accelerated and the market deregulation completed. Increasing investment into productive uses and devoting particular attention to education is important to increase the competitiveness and the growth potential of the economy. The inflow of FDI has to be encouraged by simplifying bureaucratic procedures and by removing remaining barriers.

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.

## **D. Accession Partnership and National Programme for the Adoption of the *Acquis*: Global assessment**

The purpose of the Accession Partnership is to set out in a single framework:

- the priority areas for further work identified in the Commission's Regular Report;
- the financial means available to help candidate countries implement these priorities;
- the conditions which will apply to this assistance.

Each candidate country has been invited to adopt a National Programme for the Adoption of the *Acquis*. This sets out how the country in question 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 Partnerships and the National Programmes 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.

In the following, progress in addressing each of these priorities is reported. For ease of reference and to avoid repetitions, wording from the *Accession Partnerships* is rendered in italics.

### **1. Accession Partnership**

#### *Short-term priorities*

#### **Enhanced political dialogue and political criteria**

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*. The EU has repeatedly emphasised the need for Turkey to encourage the Turkish Cypriot leadership to work towards reaching a settlement on the Cyprus issue.

Following the constitutional reforms aimed at strengthening the right to *freedom of expression, freedom of association and freedom of peaceful assembly*, three sets of legislation were adopted in February, March and August 2002. Changes were made to Articles 159 and 312 of the Turkish Penal Code, easing the restrictions on the freedom of expression. Other changes to the Anti-Terror Law, the Press Law, the Law on Political Parties and the Law on Associations eased certain restrictions on association, the press and broadcasting. The law on associations has been modified and some restrictions lifted. Various grounds for banning associations are still applicable, next to the generally restrictive character of the Law on Associations. Nevertheless, the impact of the reforms is still limited, and there are as yet few clear signs of consistent interpretation and implementation of the new provisions.

The issue of the *situation of persons imprisoned for having expressed non-violent opinions* has not been addressed. There have been a number of initiatives to improve the dialogue with *civil society*. Legal provisions have been strengthened *to reinforce the fight against torture*. Some measures have been adopted to deter torture practices, but there is limited evidence of prosecution of officials suspected of torture. Legal procedures



concerning *pre-trial detention* (i.e. police custody) have been further aligned with the European Convention on Human Rights (ECHR) and with the recommendations of the Committee for the Prevention of Torture. However, incommunicado detention is still possible for prisoners convicted under State Security Courts. In January 2002 the Government withdrew its reservation to Article 5 of the European Convention on Human Rights (right to liberty and security) with respect to provinces under emergency rule. There are still concerns related to the application of Decree 430 which applies a derogatory regime in the South East. The amendment of the law on State Security Courts has improved detainees' rights.

There has been progress on strengthening the provisions for *legal redress* against violations of human rights. Legislation has been amended to allow for retrial in the event of convictions that have been found contrary to the ECHR. These measures, however, will only apply to rulings of the European Court of Human Rights in relation to applications made after August 2003. New administrative bodies have been set up to monitor human rights violations. *Training courses in human rights* have taken place for judges and law enforcement officials. The duration of training at Police Academies has been extended from 9 months to 2 years. Initiatives have been taken to strengthen the *efficiency of the judiciary*, and the scope of the competence of *State Security Courts* has been amended. However the functioning of State Security Courts is still not in line with international standards. The *de facto* moratorium on *capital punishment* has been maintained during the reporting period. The constitutional reform which removed *the provision forbidding the use by Turkish citizens of their mother tongue* has been implemented through the lifting of the ban on Radio/TV broadcasts in languages other than Turkish. Insufficient information makes it difficult to assess the impact of the action plan for the *South East*.

The process to meet these priorities has started and mixed progress can be reported.

### **Economic criteria**

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 the IMF requirements. The process of *restructuring the financial sector* has been further consolidated through the IMF reforms. The implementation of the new banking law has contributed to strengthening the banking sector. Several banks have been brought under the management of the SDIF (State Deposit Insurance Fund). Some state-owned banks have been privatised. Political influence over the public banks has been reduced. 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 has initiated the process of *structural agricultural reforms*. *The registration of land and of live bovine animals has started. An alignment strategy concerning veterinary and plant health is under development.* The progress in the area of *privatisation* in the economic and agricultural sectors has been limited. Little progress has been made on the transposition, implementation and enforcement of EC legislation in the veterinary and phytosanitary sectors. The state monopoly on production, import, pricing and distribution of alcoholic beverages and tobacco remains an important matter of concern. These priorities have been partially met.

## **Ability to assume the obligations of membership**

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

Concerning *free movement of goods*, the Framework Law adopted in 2001 has entered into force. Various pieces of implementing legislation have been adopted across the full range of sectors. Harmonisation should continue. Substantial work also remains to be done to establish and improve the functioning of various bodies (especially, in the areas of Market Surveillance; Standardisation; Accreditation and Conformity Assessment). Despite the adoption of the Framework Law, pre-market surveillance is still in force, instead of in-market surveillance. Current efforts focus on training staff and improving the standard of equipment of the relevant bodies. *Technical barriers to trade* remain. On *public procurement*, a new law was adopted in January 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*. The Accession Partnership priorities in the area of free movement of goods have been partially met.

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

As regards alignment of *intellectual property* legislation and the *fight against piracy* and counterfeiting, some efforts have been made. Steps should be taken to complete the legislative framework in this field. Implementation and enforcement capacity need to be drastically strengthened. The Turkish Patent Institute needs to be fully independent. The Accession Partnership priorities related to state aid have been partially met.

### **Chapter 6: Competition**

As regards *competition*, no legislation has been adopted to ensure an effective *state aid control* policy based on EC principles and criteria. A national control authority has not been established. Other priorities include a further strengthening of the enforcement record in the *antitrust* field, increased awareness raising among market participants, as well as training of the judiciary in competition matters. The Accession Partnership priority related to competition has not been met.

### **Chapter 7: Agriculture**

On *agriculture*, the Government has started the registration of land and of live bovine animals. Preparations for a *plant passport system* have not yet started. A further restructuring of the Ministry is being prepared. Other elements of this priority have not been addressed. Concerning *veterinary and plant health*, an alignment strategy is being developed. No *upgrading of enforcement capacity* has taken place. The Accession Partnership priorities related to agriculture have been partially met.

### **Chapter 8: Fisheries**

On *fisheries*, few concrete actions have been taken, for example, to enable the implementation of a *resource management policy* and to modernise the *fishing fleet register*. This priority has not been met.

## **Chapter 9: Transport**

Concerning the transport sector, no overall strategic legislative *programme* has been developed. A large number of legislative texts are under preparation. Detailed implementation will depend on the content of implementing legislation. On *maritime safety*, Turkey is aware of the steps that need to be taken urgently. The overall safety of the Turkish fleet (rated ‘very high risk’ in the Black List of the Paris MoU) needs to be improved drastically. However, no action plan has been adopted. The only steps taken to date concern the adoption of international conventions (principally IMO). On *maritime transport*, no *action plan* has been adopted. No progress has been made on *strengthening the maritime administration*. A new Port State Control Board has not been established, and no new inspectors have been recruited. The Accession Partnership priorities in the area of transport have not been met.

## **Chapter 10: Taxation**

*Alignment of excise duties and VAT* have started, and progress has been achieved with respect to rates, taxable scopes and the tax structure. However, further efforts are still needed in the area of indirect taxation. This priority has been only partially met.

## **Chapter 12: Statistics**

On statistics, co-operation between the Turkish authorities and Eurostat started recently. A first annual *work plan* was prepared in 2001. Substantial work remains to be done. No progress can be reported with setting up a *business register*. This priority has been partially met.

## **Chapter 13: Social policy and employment**

On *employment and social affairs*, Turkey has not started to prepare a sector-specific transposition *programme*. *Child labour*, though declining, remains widespread in Turkey. The institutional and administrative capacity of the Child Bureau needs to be strengthened to perform the duties assigned to it. On *trade union rights*, the law on Public Employees’ Trades Unions does not recognise collective bargaining nor the right to strike but only collective consultation for public employees. The new law on the Economic and Social Council fails to create the conditions for a genuine *social dialogue*. The new Economic and Social Council has a multilateral rather than a tripartite character and has not yet met. Trade union activities continue to be impeded by the 10% threshold requirement for a trades union to be eligible for collective bargaining. There is no information on support efforts to assist the *social partners* in their *capacity -building efforts*. The Accession Partnership priorities in the area of social policy and employment have been partially met.

## **Chapter 14: Energy**

Concerning *energy*, a systematic *programme* has not been developed for the alignment with the *acquis*. Progress has been made in establishing an *independent regulatory authority for the electricity and gas sectors* (the Energy Regulatory Board), although this needs to be granted further resources, and particularly personnel. Two framework laws to implement the *internal energy market* and to *unbundle the energy utilities* were adopted: the Electricity Market Law in February 2001 and a Natural Gas Market Law in March 2001. Subsequent secondary legislation has complemented this. Some further efforts to

align are necessary, and implementation, according to an adopted timetable, will ensure the establishment of the principles in line with the *internal energy-market*. The Electricity Market Law is expected to be fully operational by 2003. The Accession Partnership priorities in the area of energy have been partially met.

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

Concerning the *liberalisation* of the telecommunications market, there has been no progress with privatising Türk Telekom. New legislation has been adopted in the field of *licensing, interconnection and universal service*. Further work needs to be done to ensure alignment of the provisions with the *EU acquis*. Further efforts are needed to improve the *administrative capacity of the Telecommunications Authority*, in particular in relation to human resources and training. Its independence is not fully guaranteed, as the major part of its budget is financed from the treasury, which collects the licence and frequency fees. The Accession Partnership priorities in the area of telecommunications have been partially met.

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

Turkey has started to *align with the acquis in this field*. The RTÜK law has been amended and the ban on broadcasting in languages other than Turkish has been lifted. However, the new law does not take the *acquis* into consideration and important discrepancies remain. This priority has not been met.

### **Chapter 21: Regional policy and co-ordination of structural instruments**

The preparation of a *NUTS classification* has been completed and approved by EUROSTAT. However, the NUTS map has not yet been used for regional development purposes, in particular at NUTS 2 level, for regional statistics, inter-provincial co-ordination, preparation for integrated regional development plans, regional breakdown of public investment, and the definition of priority areas for regional subsidies, in accordance with EC competition rules. No *effective regional policy strategy* in line with EU standards has been developed, addressing the major issues in regions lagging behind. Turkey has not started to introduce the *EU policy selection criteria* for projects under its regional policy. The Accession Partnership priorities related to regional policy and co-ordination of structural instruments have not been met.

### **Chapter 22: Environment**

A strategy to transpose the *acquis* has been developed and a framework law adopted. Legislation to align with the *Environmental Impact Assessment directive* has been adopted. As regards developing a *plan for financing investments*, Turkey is carrying out the studies needed for the preparation of such a plan. The Accession Partnership priorities in the area of the environment have been partially met.

### **Chapter 24: Justice and Home Affairs**

*Information and awareness programmes on the legislation and the practices in the EU in the field of Justice and Home Affairs* have been further developed, in particular in the areas of asylum and illegal migration. Efforts have been made to enhance the *fight against organised crime, drugs trafficking and corruption and to strengthen capacities to deal with money laundering*. The legal basis for combating trafficking in human beings

has been established. The Accession Partnership priorities in the area of justice and home affairs have been partially met.

### **Chapter 25: Customs union**

Concerning *aligning legislation on free zones*, no progress has been made. Initiatives have been taken to *ensure enforcement of the new Customs Code and its implementing provisions*. Administrative capacity in the Customs field needs to be further upgraded. This priority has been partially met.

### **Chapter 28: Financial Control**

A new law related to internal financial control has been prepared but not yet adopted by Parliament. No central organisation has yet been designated to harmonise internal audit or control functions. Internal audit units have not been established in individual spending centres and auditors' 'functional independence' has not yet been established. An audit manual has not been prepared. There is a lack of clarity within the Turkish administration concerning *financial management and control functions*, internal audit activities and external audit functions. Although a Public Financial Management and Internal Control Law has been prepared, there are no signs of immediate change in the external control regime. Turkey also needs to designate an operationally independent anti-fraud co-ordinating service. The necessary administrative steps have been taken to establish the devolved implementation system for the management of EC programmes, and Memoranda of Understanding have been signed with the Commission regarding the responsibilities of the agencies concerned. A number of legal and other steps have still to be taken and no audit manuals have been produced. The Accession Partnership priorities related to financial control have not yet been met, except as regards the management of EC funds, where some initial steps have been taken.

### *Medium-term Priorities*

#### **Enhanced political dialogue and political criteria**

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. With respect to the Aegean, exploratory contacts between the two foreign ministries have started.

Legislative steps have been taken to promote the *full enjoyment by all individuals, without any discrimination, of fundamental rights and freedoms*. The principle of non-discrimination and gender equality is enshrined in the new Civil Code. The respect for the principle of freedom of religion has been enhanced through the modification of the Law on Foundations. Certain non-Muslim minorities are now entitled to enjoy property rights, subject to permission from the Council of Ministers. Nevertheless religious minorities continue to face difficulties on the issues of legal personality, property rights, training of clergy and education.

The *Turkish Constitution* has been partially amended in respect of fundamental rights and freedoms, and a number of legislative amendments have been introduced. However, these constitutional and legislative reforms contain a number of significant limitations on the full enjoyment of fundamental rights and freedoms. Important restrictions remain,

notably to the freedom of expression, the freedom of peaceful assembly, the freedom of association, the freedom of religion and the right to legal redress. *Capital punishment* has now been abolished, except in case of war. The *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights* have not been *ratified*. *Detention conditions* in prisons have been further *adjusted*, although they are not fully in line with the UN Standard Minimum Rules for the Treatment of Prisoners and other international norms. Problems remain in areas still covered by the emergency rule. The constitutional role of the *National Security Council* has been amended, so that it is now, in principle, an advisory body. Changes in its composition, including an increase in the number of civilians, have not so far modified the way in which the National Security Council operates in practice. The *state of emergency* was lifted in two provinces in the South East in July 2002 with the exception of Diyarbakir and Şirnak, where it is due to be lifted before the end of 2002. There has been progress in *ensuring cultural diversity* and cultural rights, including in the field of education. Some provisions preventing the enjoyment of these rights such as the ban on broadcasting and education in languages other than Turkish have been abolished. Nevertheless, there has been limited improvement in practice in the ability of members of ethnic groups, to express their linguistic and cultural identity. In terms of legislation, progress can be reported in complying with a number of medium-term priorities. However, further legislative changes are needed. A sustained effort in terms of implementation and actual improvement of the situation on the ground is needed.

### **Economic criteria**

Limited progress has been achieved with the *process of privatisation*. Although some steps were taken in 2001, the process slowed down considerably in 2002. *The reform of the financial sector* is well underway and substantial progress has been achieved. In *agriculture*, the reform process has not been completed. Some limited progress has been achieved in the area of land and animal registration. There has been no progress on the modernisation of food-processing establishments. There has been only limited *improvement of the general level in education and health*. There has been progress on ensuring the *sustainability of the pension and social security system*. These priorities have not been met.

### **Ability to assume the obligations of membership**

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

As for the *strengthening of existing certification, market surveillance and conformity-assessment structures*, substantial progress is still needed. On *public procurement*, the legislation is not fully in line with the *acquis*. This priority has been partially met.

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

Restrictions on *foreign investments* still persist in some sectors. This priority has not been met.

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

The legislation in the area of *company law* and *data protection* is still not fully in line with the *acquis*. This priority has not been met.

## **Chapter 6: Competition**

The alignment of *state aid* legislation with the *acquis* is only beginning. The same applies to the area of *monopolies and companies benefiting from special rights*. This priority has not been met.

## **Chapter 7: Agriculture**

The alignment with the *acquis* has not been completed. Some steps have been taken to *modernise food processing establishments*. This priority has not been met.

## **Chapter 8: Fisheries**

The alignment with the *acquis* has not been completed. Efforts need to be made to *improve overall quality and safety of fish products*. This priority has not been met.

## **Chapter 9: Transport**

*Legislative alignment* in all sectors is at a very preliminary stage, as is *implementation and enforcement* of this legislation. No visible results can be seen, particularly as regards *maritime safety*. Turkey's *transport fleets* are only partially prepared for accession – with no progress having been made in the past few years beyond the implementation of international norms. This priority has not been met.

## **Chapter 10: Taxation**

Substantial progress has been achieved in the area of *direct taxation*. However, *alignment* has not been completed and substantial discrepancies remain. This priority has been partially met.

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

Turkey does not participate in the *European System of Central Banks*. The *independence of the Central Bank* is nearly achieved. These priorities have been partially met.

## **Chapter 12: Statistics**

With regard to *administrative capacity*, the State Institute of Statistics is well staffed and the IT equipment is of good quality. The relevant tools to bring official *statistics in line with EU requirements* are being set up. However, in many areas, such as *macroeconomic statistics*, substantial efforts are still needed. This priority has been partially met.

## **Chapter 13: (Social policy and employment) Employment and Social Affairs**

The Law on Job Security includes a provision regarding the ‘burden of proof in cases of discrimination based on sex’. Further progress is needed in the field of *labour law, equality of treatment between men and women, anti-discrimination, occupational health and safety, social dialogue and public health*. Further efforts are needed to strengthen the *administrative structures* and to ensure *effective implementation and enforcement of the social policy and employment acquis*. In the field of *social protection*, Turkey should take the necessary measures to ensure financial stability of *the social security system*. Turkey should speed up its efforts to develop a *national employment policy* in line with the European Employment Strategy. This priority has been partially met.

## **Chapter 14: Energy**

Turkey has established a calendar to *restructure energy utilities and to open up sectors*; this calendar and programme are being implemented. The *electricity market* was opened up in September 2002 while the gas market will be opened in November 2002. The Turkish Electricity Generation and Transmission Corporation (TEAS) has been unbundled, and BOTAS, whose monopoly for many activities has been abolished, has also begun restructuring, which will lead to the privatisation of the distribution network. Turkey's progress in developing the legislative, administrative and economic framework for the single energy market, which should nevertheless be completed through further secondary legislation, contrasts with the lack of progress in aligning Turkish legislation with the rest of the *energy acquis*. This priority has been partially met.

## **Chapter 19: Telecommunications (and information technologies)**

The *transposition of the acquis* has not been completed. A *comprehensive policy for the entire communications sector* has not been developed. This priority has not been met.

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

With regard to the *administrative capacity of the television/radio regulatory authority*, the new procedure related to the composition of the High Audio-Visual Board (RTÜK) foresees a smaller role of the Parliament, while the influence of the National Security Council over the Board has been strengthened. This could undermine the independence and accountability of the regulatory authority. This priority has not been met.

## **Chapter 21: Regional policy and co-ordination of structural instruments**

A *national policy for economic and social cohesion, including pluri-annual budgeting procedures* has not yet been developed and *monitoring structures* have not been established. This priority has not been met.

## **Chapter 22: Environment**

No progress can be reported as regards the medium-term priorities. This priority has not been met.

## **Chapter 24: Justice and Home Affairs**

*Training programmes on Community law and the Community acquis* have been developed, in particular in the areas of asylum and illegal migration. There have been some developments towards strengthening *JHA institutions with a view, in particular, to ensure the accountability of the police*, namely through the amendment of the Law on the Duties and Competencies of the Police. There has been no progress on alignment with the EU *acquis* in the field of *data protection*. *Alignment of visa legislation and practice with those of the EU* has started. In the area of *migration*, some efforts were made to adopt the EU *acquis*, namely on readmission. There have been some initiatives on *strengthening border management, but no preparations were made for full implementation of the Schengen Convention*. *The geographical reservation to the 1951 Geneva Convention* has not been lifted. In the field of *corruption, fight against drugs, organised crime, money laundering and judicial co-operation in criminal and civil matters*, efforts have been made to implement and enforce the *acquis*. These priorities have been partially met.



## **Chapter 25: Customs union**

No progress can be reported on this priority. This priority has not been met.

## **Chapter 28: Financial Control**

A new law related to internal financial control has been prepared but not yet adopted by parliament. It will have some limited effects on the external control regime. No central organisation has yet been established to harmonise internal audit or control functions. Internal audit units have not been established in individual spending centres and auditors' 'functional independence' has not yet been established, although much depends on the passage of the draft public financial management and internal control law. An audit manual has not been prepared. This priority has not been met.

## **2. National Programme for the Adoption of the Acquis**

The Turkish National Programme for the Adoption of the Acquis (NPAA), adopted in March 2001, has served as a useful tool for the Turkish authorities to transpose the *acquis*. The three harmonisation packages concerning the political criteria adopted in February, March and August 2002 have been partially based on the NPAA. As regards the *acquis*, the NPAA served as a checklist for the various legislative initiatives. The NPAA made it possible for the relevant Turkish authorities to have an overview of what has been done and what remains to be done in view of the adoption of the relevant legislation.

The NPAA has not been revised during the reference period. Turkey's NPAA is part of an ongoing process under the pre-accession strategy. Turkey is encouraged to revise the document in order to update it to the latest developments and strengthen its planning character, to ensure better prioritisation of actions including clear timetables and deadlines, as well as the establishment of budgets necessary for investments. The priorities of the Accession Partnership should be fully taken into account during the revision of the document.

## **Annexes**

***Human Rights Conventions ratified by the Candidate Countries,  
15 September 2002***

<i>Adherence to following conventions and protocols</i>	<b>BG</b>	<b>CY</b>	<b>CZ</b>	<b>EE</b>	<b>HU</b>	<b>LV</b>	<b>LT</b>	<b>MT</b>	<b>PL</b>	<b>RO</b>	<b>SK</b>	<b>SI</b>	<b>TK</b>
<b>ECHR (European Convention on Human Rights)</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
Protocol 1 (right of property)	X	X	X	X	X	X	X	X	X	X	X	X	X
Protocol 4 (freedom movement et al.)	X	X	X	X	X	X	X	X	X	X	X	X	O
Protocol 6 (death penalty)	X	X	X	X	X	X	X	X	X	X	X	X	O
Protocol 7 (ne bis in idem)	X	X	X	X	X	X	X	O	O	X	X	X	O
<b>European Convention for the Prevention of Torture</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>European Social Charter</b>	O	X	X	O	X	X	O	X	X	O	X	O	X
<b>Revised European Social Charter</b>	X	X	O	X	O	O	X	O	O	X	O	X	O
<b>Framework Convention for National Minorities</b>	X	X	X	X	X	O	X	X	X	X	X	X	O
<b>ICCPR (International Covenant on Civil and Political Rights)</b>	X	X	X	X	X	X	X	X	X	X	X	X	O
Optional Protocol to the ICCPR (right of individual communication)	X	X	X	X	X	X	X	X	X	X	X	X	O
Second Optional Protocol to ICCPR (death penalty)	X	X	O	O	X	O	X	X	O	X	X	X	O
<b>ICESCR (International Covenant on Economic, Social and Cultural rights)</b>	X	X	X	X	X	X	X	X	X	X	X	X	O
<b>CAT (Convention against Torture)</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>CERD (Convention on the Elimination of All Forms of Racial Discrimination)</b>	X	X	X	X	X	X	X	X	X	X	X	X	O
<b>CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
Optional Protocol to the CEDAW	O	X	X	O	X	O	O	O	O	O	X	O	O
<b>CRC (Convention on the Rights of the Child)</b>	X	X	X	X	X	X	X	X	X	X	X	X	X

**X** = Convention ratified

**O** = Convention **NOT** ratified

BG=Bulgaria; CY=Cyprus; CZ=Czech Republic; EE=Estonia; HU=Hungary; LV=Latvia; LT=Lithuania; MT=Malta; PL=Poland; RO=Romania; SK= Slovak Republic; SV=Slovenia; T=Turkey

## Statistical data

	1997	1998	1999	2000	2001
<b>Basic data</b>	<b>in 1000</b>				
Population (average)	63,989	65,145	66,304	67,469	68,618
Total area	<b>in km<sup>2</sup></b>				
	769,604	769,604	769,604	769,604	769,604
<b>National accounts</b>	<b>In 1000 Billion Turkish Lira</b>				
Gross domestic product at current prices	28,835.88	52,224.94	77,415.27	124,583.46	181,408.56
	<b>In 1000 Mio ECU/euro</b>				
Gross domestic product at current prices	168	178	173	217	165
	<b>ECU/euro</b>				
Gross domestic product per capita a) at current prices	2,700	2,800	2,700	3,200	2,400
	<b>% change over the previous year</b>				
Gross domestic product at constant prices (nat. currency)	7.5	3.1	-4.7	7.4	-7.4
Employment growth	:	:	:	:	:
Labour productivity growth	:	:	:	:	:
	<b>in Purchasing Power Standards</b>				
Gross domestic product per capita a) at current prices	5,600	5,800	5,600	5,600	5,200
Structure of production	<b>% of Gross Value Added b)</b>				
- Agriculture	13.8	16.5	14.5	13.6	12.1
- Industry (excluding construction)	24.1	21.7	22.0	22.6	23.8
- Construction	5.8	5.7	5.3	5.0	4.8
- Services	56.3	56.2	58.2	58.8	59.3
Structure of expenditure	<b>as % of Gross Domestic Product</b>				
- Final consumption expenditure	80.3	81.9	87.4	85.6	86.5
- household and NPISH	68.0	69.2	72.3	71.5	72.3
- general government	12.3	12.7	15.2	14.1	14.2
- Gross fixed capital formation	26.4	24.6	21.9	22.4	17.8
- Stock variation c)	-1.3	-0.4	1.5	2.2	-1.3
- Exports of goods and services	24.6	24.3	23.2	24.1	33.2
- Imports of goods and services	30.4	27.9	26.9	31.5	30.8
<b>Inflation rate</b>	<b>% change over the previous year</b>				
Consumer price index h)	85.7	84.9	64.2	57.3	57.6
<b>Balance of payments</b>	<b>Mio ECU/euro</b>				
- Current account	-2,326	1,770	-1,280	-11,510	3,792g
- Trade balance	-13,543	-12,684	-9,802	-26,232	:
Exports of goods	28,788	27,848	27,516	37,118	:
Imports of goods	42,331	40,532	37,318	63,350	:
Goods and services, net	9,583	12,007	6,985	13,288	:
Net income	-2,657	-2,663	-3,319	-4,691	:
- Net current transfers	4,291	5,108	4,856	6,125	:
-of which: government transfers	277	142	340	251	:
- FDI (net) inflows	710	838	735	1,151	3,647g
<b>Public finance</b>	<b>in % of Gross Domestic Product</b>				
General government deficit/surplus	-13.4	-11.9	-18.7	-6.0	-28.7p
General government debt	55.6	50.1	65.9	56.4	102.5p

<b>Financial indicators</b>	<b>in % of Gross Domestic Product</b>				
Gross foreign debt of the whole economy d)	38.3	38.0	48.0	47.7	:
	<b>as % of exports</b>				
Gross foreign debt of the whole economy d)	155.9	156.0	206.6	200.3	:
Monetary aggregates	<b>1000 Mio ECU/euro</b>				
- M1	7.0	7.0	7.8	10.8	8.8
- M2	47.1	55.3	73.7	89.8	83.2
- M3	49.2	56.9	75.6	92.6	85.0
Total credit	33.8	30.8	30.7	43.3	26.9
Average short-term interest rates	<b>% per annum</b>				
- Day-to-day money rate	70.3	74.6	73.5	56.7	92.0
- Lending rate	99.4	79.5	86.1	51.2	78.7
- Deposit rate	79.5	80.1	78.4	47.1	74.6
ECU/EUR exchange rates	<b>(1ECU/euro=..Turkish Lira)</b>				
- Average of period	171,848	293,736	447,237	574,816	1,102,430
- End of period	226,634	365,748	544,641	624,267	1,269,500
	<b>1994=100</b>				
- Effective exchange rate index	26.8	15.4	9.9	7.1	3.8
Reserve assets	<b>Mio ECU/euro</b>				
-Reserve assets (including gold)	17,706	17,880	24,280	25,107	22,652
-Reserve assets (excluding gold)	16,721	16,943	23,225	24,017	21,483

  

<b>External trade</b>	<b>Mio ECU/euro</b>				
Trade balance	-19,866	-17,019	-13,387	-29,262	-11,172
Exports	23,340	24,130	24,964	30,182	35,071
Imports	43,206	41,149	38,351	59,444	46,243
	<b>previous year=100</b>				
Terms of trade	104.4	100.0	98.8	91.4	97.7
	<b>as % of total</b>				
Exports with EU-15	46.6	50.0	54.0	52.2	51.6
Imports with EU-15	51.2	52.4	52.6	48.8	44.6

  

<b>Demography</b>	<b>per 1000 of population</b>				
Natural growth rate	16.5	16.3	16.0	15.6	15.2
Net migration rate (including corrections)	1.6	1.5	1.5	1.5	1.5
	<b>per 1000 live-births</b>				
Infant mortality rate	42.4	41.2	40.3	39.7	38.7
Life expectancy :	<b>at birth</b>				
Males:	65.7	65.9	66.1	66.2	66.4
Females:	70.3	70.5	70.7	70.9	71.0

  

<b>Labour market (Labour Force Survey) e)</b>	<b>% of population</b>				
Economic activity rate (15 - 64)	54.9	54.9	55.4	51.8	51.3
Employment rate (15-64), total	51.2	51.1	51.0	48.2	46.8
Employment rate (15-64), male	74.7	74.1	72.8	71.0	68.4
Employment rate (15-64), female	27.5	27.9	29.1	25.3	25.0
	<b>in % of total</b>				
Average employment by NACE branches					
- Agriculture and forestry	40.8	40.5	41.5	34.5	35.4
- Industry (excluding construction)	17.8	17.5	16.8	18.2	18.3
- Construction	6.3	6.2	6.1	6.4	5.3
- Services	35.1	35.9	35.8	40.9	41.0
	<b>% of labour force</b>				
Unemployment rate. total	6.7	6.8	7.7	6.6	8.5
Unemployment rate. males	6.3	6.8	7.7	6.6	8.8
Unemployment rate. females	7.8	6.9	7.5	6.5	7.9
Unemployment rate of persons < 25 years	14.3	14.2	15.3	13.2	16.6
	<b>as % of all unemployed</b>				
Long-term unemployment share	39.9	38.1	27.1	20.2	20.7

<b>Infrastructure</b>	<b>in km per 1000 km<sup>2</sup></b>				
Railway network	11.2	11.2	11.3	11.3	11.3
	<b>km</b>				
Length of motorways	1,528	1,726	1,749	1,773	1,851p
<b>Industry and agriculture</b>	<b>previous year=100</b>				
Industrial production volume indices	111.5	101.3	97.5	103.4	94.5
Gross agricultural production volume indices	97.7	110.6	94.7	104.2	93.5
<b>Standard of living a)</b>	<b>per 1000 inhabitants f)</b>				
Number of cars	55.8	58.9	61.4	65.5	66.1
Main telephone lines	246.0	260.3	272.3	272.6	275.5
Number of subscriptions to cellular mobile services	23.2	51.9	114.1	221.9	284.2
Number of Internet subscriptions	:	3.5	6.6	24.1	23.6p

E=estimate

p=provisional figures

- 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) These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.
- d) Series break after 1997.
- e) National LFS data, not yet harmonised with the EU's LFS
- f) Data for 2001 are provisional. Data for 2000 were calculated according to provisional results of population census of year 2000.
- g) Source: Website of the National Bank
- h) Index not yet harmonised.

Note: Provisional mid-year population projections.

## Methodological Notes

### Inflation rate

National CPI is given, no proxy HICP exists so far, but is in preparation.

### Finance

*Public finance:* The government deficit and debt statistics of the Candidate Countries are provisional, in the sense that they do not yet fully comply with EU methodological requirements. Broadly speaking, the general government deficit / surplus refers to the national accounts concept of consolidated general government net borrowing / net lending of ESA95. General government debt is defined as consolidated gross debt at end-year nominal value. The series are available from 1997; the 1996 data are an approximation derived from the IMF's GFS methodology.

*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). The data for 2000 are Eurostat estimates, based on joint OECD/IMF/BIS/World Bank series.

*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 the Turkish series M2Y). M3 means M2 plus certain placements in a less liquid or longer-term form (corresponding to the Turkish series M3Y). Not all countries produce an M3 series. 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 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. Trade data includes direct re-exports, trade in services and trade with customs free zones as well as licences, know-how and patents. 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 force**

Turkey's LFS is not yet harmonised with that of the EU.

*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.

## **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 motorway.* 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.

### **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.

### **Sources**

Total area, demography, external trade, labour market, infrastructure, industry and agriculture, standard of living: National sources.

National accounts, inflation rate, balance of payment, public finance, finance: Eurostat