

Conclusions on Turkey

(extract from the Communication from the Commission to the European Parliament and the Council "Enlargement Strategy and Main Challenges 2011-2012", COM(2011)666 final)

Turkey continues to sufficiently fulfil the **political criteria**. Free and fair parliamentary elections took place on 12 June 2011. Work on implementing the 2010 Constitutional reform package was launched by the government. The prevailing political climate lacks an adequate dialogue and spirit of compromise between political parties relations between key institutions are strained; this atmosphere hampered the continuation of the reform process. A new process to reform the constitution started after the elections. Significant further efforts are required to guarantee fundamental rights in most areas. This relates, in particular, to freedom of expression, where the number of court cases against writers and journalists, and the still frequent disproportionate website bans, raised serious concerns.

As regards **democracy and the rule of law**, the Ergenekon investigation and the probes into other alleged coup plans still provide an opportunity for Turkey to shed light on alleged criminal activities against democracy and, thus, to strengthen confidence in the proper functioning of its democratic institutions and the rule of law. There were, however, serious concerns over the conduct of investigations, judicial proceedings and the application of criminal procedures, which put at risk the rights of the defence and affected the legitimacy of the cases.

As regards *public administration reform*, there has been some progress in legislative reform. Attention needs to be paid to the establishment of the institution of the ombudsman. Increased political support is needed for public administration reform and decentralisation.

Good progress has been made in consolidating the principle of *civilian oversight of security forces*. In particular, civilian oversight of military expenditure was reinforced. Decisions of the Supreme Military Council were opened to civilian judicial review. Further reforms are still required in order to consolidate civilian oversight in the domestic security sector, in particular of the gendarmerie, and to continue progress in the area of the military justice system.

Progress has been made in the area of the *judiciary*. The adoption of legislation on the High Council of Judges and Prosecutors and on the Constitutional Court provides the framework for enhanced independence and impartiality of the judiciary. Measures have also been taken to improve the efficiency of the judiciary and address the increasing backlog of pending cases. Further steps are still needed in all areas, including the criminal justice system. Turkey has a large backlog of pending criminal serious cases while a large proportion of the prison population is not finally sentenced. In addition, implementation needs to be monitored, as measures taken to date have divided the country's legal community and civil society. Judicial proceedings are not sufficiently transparent. Courts and prosecution offices do not inform stakeholders or the public at large on issues of public interest. The judicial reform strategy needs to be revised with the participation of all stakeholders, the Turkish legal community and civil society.

The implementation of the strategy and the *anti-corruption* action plan is at an initial stage. Corruption remains prevalent in many areas. The lack of transparency of political party financing and the scope of immunities remain major challenges. Increased political support is needed in order to strengthen and implement the legislative framework on anti-corruption. As regards investigation into the charity association Deniz Feneri, concerning a fraud case in Germany, a former head of the Radio and Television Supreme Council (RTUK) and four

senior executives of television network Kanal 7 were detained. Turkey needs to develop a track record of investigations, indictments and convictions in the area of corruption.

Concerning *human rights and the protection of minorities*, limited progress has been made. Significant efforts are needed in most areas, in particular freedom of expression and freedom of religion.

As regards the *observance of international human rights law* some progress was made, notably through the ratification of the Optional Protocol to the UN Convention against Torture (OPCAT). A number of reforms have been outstanding for several years. Legislation on human rights' institutions needs to be brought fully into line with UN principles.

The positive trend on the prevention of *torture and ill-treatment*, as regards both the incidence and severity of ill-treatment by law enforcement officials, continued. Disproportionate force has still been used by these officials, in particular outside official places of detention. Credible allegations of physical ill-treatment were received, which concerned mainly excessive use of force during arrest. There is no progress on tackling *impunity*, including the processing of cases of alleged ill-treatment brought to the judiciary.

As regards *prisons*, the increase in the prison population is leading to serious overcrowding, which hampers attempts to improve the conditions of detention. An overhaul of the complaints system in prisons is overdue. Implementation of the OPCAT is expected to contribute to tackling some of these matters. Medical services for inmates, as well as the conditions for the detention of juveniles, are matters requiring special efforts.

With regard to *freedom of expression*, an open debate continued on topics perceived as sensitive, such as the Kurdish and Armenian issues, minority and cultural rights and the role of the military. However, the right to freedom of expression is undermined by the large number of legal cases and investigations against journalists, writers, academics and human rights defenders. This leads to self-censorship and, together with undue pressures on the media, raises serious concerns. Present legislation does not sufficiently guarantee freedom of expression in line with the ECHR and the case law of the ECtHR, and it permits restrictive interpretation by the judiciary. Frequent website bans are also a cause for serious concern. Overall, Turkey's legislation and judicial practice are obstacles to the free exchange of information and ideas.

As regards *freedom of assembly*, there has been progress on the ground: various demonstrations, including *Newroz* (the Kurdish New Year) and 1 May, took place peacefully. Demonstrations in the Southeast of the country and in other provinces related to the Kurdish issue, students' rights, the activities of the higher education supervisory board YÖK and trade union rights were marked by a disproportionate use of force.

Legislation on *freedom of association* is broadly in line with EU standards. Excessive controls and restrictive interpretation of the law still remain. There were no developments as regards the amendment of legal provisions on the closure of political parties.

There has been limited progress on *freedom of thought, conscience and religion*. Freedom of worship is generally respected. The dialogue with the Alevis and with the non-Muslim religious communities continued. Members of minority religions continued to be subject to threats by extremists. A legal framework in line with the ECHR has yet to be established, so that all non-Muslim religious communities and the Alevi community can function without undue constraints.

Protecting *women's rights*, promoting gender equality and combating violence against women remain major challenges. The legal framework guaranteeing women's rights and gender equality is broadly in place. Further substantial efforts are needed in order to turn this legal framework into political, social and economic reality. Legislation has yet to be implemented consistently across the country. Honour killings, early and forced marriages and domestic

violence against women remain serious problems. Further training and awareness-raising on women's rights and gender equality are required, in particular for the police.

With respect to *children's rights*, an adequate number of juvenile courts in line with the legislation in force have yet to be established. Children are not detained for the minimum necessary period of time or in appropriate conditions. Efforts, including on preventive and rehabilitative measures, need to be strengthened in all areas, such as education, combating child labour, health, administrative capacity and coordination.

Efforts to improve the situation of *socially vulnerable persons and/or persons with disabilities* continued. Further measures are still required in order to increase the participation of those persons in social and economic life.

Further efforts are required in the fight against *discrimination*. Comprehensive anti-discrimination legislation is lacking.

Many challenges remain in the area of *labour and trade union rights*. The current legal framework is not in line with EU standards and ILO Conventions. Persisting disagreements among social partners and lack of adequate political will, have prevented progress in this area. As regards *property rights*, a new piece of legislation amending the 2008 Law on foundations facilitates the return of immovable properties to non-Muslim religious communities.

Turkey's approach to *minorities* remains restrictive. Full respect for and protection of language, culture and fundamental rights, in accordance with European standards, has yet to be achieved. Turkey needs to make further efforts to enhance tolerance and promote inclusiveness vis-à-vis minorities. The comprehensive revision of existing legislation and the establishment of protection mechanisms or specific bodies to combat racism, xenophobia, anti-Semitism and intolerance are still outstanding.

Turkey has made progress on *cultural rights*, especially as regards the use of languages other than Turkish by all national radio and television stations, as well as the use of multiple languages by municipalities. The opening of a Kurdish Language and Literature Department in Muş Alparslan University has been authorised. Restrictions still remain on the use of languages other than Turkish in political life, in contacts with public services and in prisons. The legal framework on the use of languages other than Turkish is open to restrictive interpretation, and implementation remains inconsistent across the country.

There has been some progress as regards the *Roma*, in particular on amendment of discriminatory legislation. There is no comprehensive policy to address the situation of the Roma.

As regards the *East and Southeast*, the 2009 democratic opening was not followed through. The detention of elected politicians and human rights defenders raised concerns. The truth about extra-judicial killings and torture carried out in the Southeast in the 1980s and 1990s has yet to be established following the due process of law. Landmines and the village guard system are still causes for concern.

Terrorist attacks intensified. The PKK is on the EU list of terrorist organisations.

Compensation of *internally displaced persons* (IDPs) has continued. The overall effectiveness of the scheme has yet to be assessed. A national strategy, in order to better address IDP needs, has not been developed yet. Despite some improvements, the lack of a comprehensive legal framework for refugees and asylum-seekers is an impediment to the provision of adequate treatment. The general conditions in foreigners' detention centres need to be further improved.

With regard to *regional issues and international obligations*, Turkey reiterated its support to the negotiations between the leaders of the two communities under the good offices of the UN Secretary-General to find a comprehensive settlement to the *Cyprus problem*. However, despite repeated calls by the Council and the Commission, Turkey has still not complied with its obligation of full non-discriminatory implementation of the Additional Protocol to the Association Agreement and has not removed all obstacles to the free movement of goods, as

outlined in the declaration of the European Community and its Member States of 21 September 2005 and in the Council conclusions, including the December 2006 and December 2010 conclusions. There is no progress towards normalisation of bilateral relations with the Republic of Cyprus.

As regards *relations with Greece*, there are continued efforts to improve bilateral relations. The bilateral exploratory talks continued. A substantial number of formal complaints were made by Greece about continued violations of its territorial waters and airspace by Turkey, including flights over Greek islands.

Turkey has significantly intensified contacts in the *Western Balkans*, expressing a firm commitment to the promotion of peace and stability in the region.

The **economy** of Turkey is currently experiencing a robust economic recovery. Public finances are improving and confidence in a lasting transformation of the country's economic prospects and stability is increasing. Nevertheless, the rapid expansion of economic activity, driven by strong domestic demand, has led to significant and rising external imbalances that pose a threat to macroeconomic stability.

As regards the **economic criteria**, Turkey is a functioning market economy. It should be able to cope with competitive pressure and market forces within the Union in the medium term, provided that it accelerates the implementation of its comprehensive structural reform programme.

The economy expanded rapidly in 2010 and in the first half of 2011. Along with the high GDP growth, strong employment growth allowed for a decrease in unemployment. As a result of primarily higher cyclical revenues and a lower interest burden, the consolidation of public finances remained on track. The financial sector has shown considerable strength thanks to earlier reforms while the legal system continues to function relatively well. Moreover, the new law on State aid monitoring and the operation of the regulatory authority may increase transparency and lead to a reduction of State aid. The free interplay of market forces has been confirmed. Privatisation has accelerated. The EU remains Turkey's most important trade partner and investor.

However, trade and current account deficits have been rising and external imbalances are now significant. Monetary policy has been only mildly successful in curbing credit growth, which along with high commodity prices, continues to feed Turkey's growing current account deficit. More support from the fiscal side, and some specific and targeted micro-prudential measures are being elaborated, including by the banking regulator, in order to help engineering a soft landing of the economy and ease the burden placed on monetary policy. Turkey's price and cost export competitiveness has slightly worsened. Inflation has started to rise, in large part due to pressures stemming from energy and food inputs, buoyant economic activity and hikes in administrative prices. A more resolute implementation of structural reforms is awaited. Measures to increase fiscal transparency and better anchor fiscal policy were modest, while they could help Turkey to gain credibility in the markets. Market exit remains difficult and bankruptcy proceedings are still relatively cumbersome.

Turkey continued improving its **ability to take on the obligations of membership**. Progress was made in most areas. Alignment is advanced in certain areas, such as free movement of goods, anti-trust policy and State aid, energy, economic and monetary policy, enterprise and industrial policy, consumer protection, statistics, Trans-European Networks, and science and research. Efforts need to continue towards alignment in areas such as environment, public

procurement, freedom to provide services, social policy and employment and taxation. Enforcement needs to be strengthened in areas such as intellectual property rights and anti-money laundering. As regards the Customs Union and external relations, alignment needs to be completed, particularly in areas such as the general system of preferences. A number of longstanding trade irritants remain unresolved. It is essential that Turkey fully respects its commitments under the Customs Union. For most areas it is crucial that Turkey improves its administrative capacity to cope with the *acquis*.

As regards *free movement of goods*, legislative alignment is advanced, but limited progress was made in the reporting period. Technical barriers to trade continue to prevent free movement of goods in breach of Turkey's obligations under the Customs Union. Hardly any progress can be reported in the area of *freedom of movement for workers* where preparations for applying the *acquis* remain in the early stages. Alignment in the areas of *right of establishment and freedom to provide services* also remains at an early stage. No progress has been recorded in the field of right of establishment, freedom to provide cross border services, postal services and the mutual recognition of professional qualifications. As regards the *free movement of capital*, Turkey made some progress, in particular on capital movements and payments. There has been no progress in the gradual liberalisation of real estate acquisition by foreigners, where various obstacles remain. Restrictions on capital movements remain in place in a number of sectors, including on direct investments originating from the EU. The legal framework against financing of terrorism remains incomplete and the Financial Action Task Force has blacklisted Turkey for its strategic deficiencies in this area.

Limited progress can be reported in the area of *public procurement*. The institutional set-up is in place, but administrative capacity needs improvement. The draft alignment strategy with a time-bound action plan is ready but has yet to be adopted. Turkey still maintains derogations contradicting the *acquis*. It needs to further align its legislation, particularly on utilities, concessions and public-private partnerships. As regards *company law*, significant progress can be noted following adoption of the new Turkish Commercial Code, which is expected to promote openness, transparency and adherence to international accounting and auditing standards. The legal and institutional framework for auditing is not yet in place, nor is the necessary enhanced capacity of the commercial judiciary. Alignment on *intellectual property law* is relatively advanced but enforcement remains poor. The recently launched IPR Working Group with the Commission addresses a key element for the accession negotiations. The adoption of updated draft laws regulating intellectual and industrial property rights, including deterrent criminal sanctions, is still pending. Coordination and cooperation between the different IPR stakeholders and public bodies is essential, as are general awareness campaigns on the risks of IPR infringements.

On *competition policy*, Turkey's alignment record in the field of anti-trust and merger control is high. The Competition Authority enforces antitrust rules effectively, with a satisfactory level of independence. Good progress has been made in the area of State aid. In particular, the State Aid Monitoring Authority is now set up. However, a number of important State aid schemes remain to be aligned with the rules of the Customs Union.

There has been further progress in the area of *financial services*; in particular, the banking regulator took measures to strengthen financial stability. However, overall alignment with the *acquis*, in particular in the insurance sector, is not yet complete. With regard to *information society and the media*, some progress can be reported in the area of electronic communications and also good progress on audiovisual policy.

There is some progress to report in the area of *agriculture and rural development*. Significant progress has been made in the implementation of the Instrument for Pre-Accession Assistance for Rural Development (IPARD) programme, leading to the Commission Decision to confer the management of EU funds, as well as in preparations achieved for the second phase of the

IPARD programme. Agricultural support policy differs substantially from the CAP and there is still no strategy for its alignment. The failure to fully remove barriers to beef imports also constitutes a major shortcoming. As regards *food safety, veterinary and phytosanitary policy*, progress towards transposition and implementation of the *acquis* has been achieved. The restructuring of the Ministry of Agriculture and Rural Affairs is a positive step towards strengthening the official control system. The overall control system is still not fully in line with the EU *acquis*. Considerable effort is needed in the area of animal health and in bringing agri-food establishments into compliance with the EU hygiene and structural requirements. In *fisheries*, some progress can be reported overall. In particular some progress has been made on setting up administrative structures as well as on resource and fleet management. Turkey is expected to make further progress in other areas such as inspections and controls.

Some progress has been achieved in alignment of the *transport* sector, except for the railway sector. Alignment in maritime and land transport remains at an advanced level and air transport is following at a slower pace. The lack of communications between air traffic control centres in Turkey and the Republic of Cyprus continues to seriously compromise air safety. In the maritime sector, the Voluntary IMO Member State Audit Scheme is expected to create positive results for becoming a party to international conventions. The implementation capacity is limited, particularly for dangerous goods in land and maritime transport.

In the *energy* sector, progress has been uneven. There has been good progress on the internal market for electricity and on renewable energy. Measures are particularly needed in order to ensure the highest possible standards for nuclear safety, security, safeguards and non-proliferation. Developments on security of supply, the gas sector and energy efficiency also require further efforts.

On *taxation*, there has been limited progress on legislative alignment, particularly towards eliminating some discriminatory practices in the taxation of tobacco. The increase in excise duty on spirits contradicts the Action plan agreed with the Commission on that issue. Abolition of discriminatory practices in taxation is key to making further progress in this chapter. No progress can be reported on direct taxation.

Turkey has made some progress on *economic and monetary policy*. The Central Bank adopted a new policy mix to ensure financial stability, reducing policy rates while increasing reserve requirements for the banking sector. Turkey's alignment with *the acquis* on economic and monetary policy is not complete, particularly as regards the full independence of the Central Bank and the prohibition of privileged access of the public sector to financial institutions. The overall level of preparedness is advanced.

There has been good progress in the area of *statistics*, in which the overall level of alignment with the *acquis* is advanced. Further progress is needed, particularly in national accounts and in agriculture statistics.

Turkey made limited progress in the field of *social policy and employment*. Administrative capacity showed some improvement. Constitutional amendments regarding trade union rights have not resulted in further changes of the legislation aimed at granting full trade union rights in line with EU standards and ILO conventions. The reduction of large-scale undeclared work and the increase of female employment rates are still matters of concern. The scope of the labour law remains limited. Enforcement of health and safety at work legislation needs to be stepped up. The risk of poverty remains very high, especially for the rural population and for children. Legislation establishing an equality body has not yet been adopted.

Turkey has made further progress in the area of *enterprise and industrial policy*, where Turkey maintains a sufficient level of alignment with the *acquis*. The progress relates to the adoption of an Industrial Strategy and Action Plan covering the period 2011-2014, the wider availability of enterprise and industrial policy instruments, the adoption of sectoral strategies and alignment on combating late payment in commercial transactions.

Turkey has made progress in the area of *Trans-European networks*, in particular in the TEN transport area. Further efforts are needed as regards reliable transport data. There is also some progress to report in the TEN energy area.

Some progress was made in the field of *regional policy and co-ordination of structural instruments*. There are delays in establishing the bodies to take over the financial management and control responsibilities of pre-accession funds in this policy area. Although the institutional framework for implementation of pre-accession funds has been finalised and the administrative capacity has been improved, there is a need for further strengthening of this capacity and improved coordination between all relevant institutions in order to accelerate implementation.

Overall, progress has been made in the area of the *judiciary*.

With respect to *anti-corruption*, limited progress has been made as regards the implementation of the strategy and action plan on anti-corruption. The lack of transparency in political party financing and the scope of immunities remain major shortcomings. Turkey needs to develop a track record of investigation, indictments and convictions.

Progress achieved in the area of *justice, freedom and security* has been uneven. The adoption of the Law on Foreigners and International Protection remains a priority to ensure a sound legal basis for an efficient asylum and migration management system, as well as safeguards for the rights of migrants and refugees. There is only limited progress to report in the area of judicial cooperation in criminal and civil matters. Some progress can be reported in the area of drugs and organised crime. Limited progress can be reported in the area of police cooperation and terrorism. Limited progress has been achieved on visa policy and customs cooperation. Very limited progress can be reported in the area of border management where the key issues are the adoption of a law on the establishment of new Border Security Agency and inter-agency cooperation. Turkey remains an important country of transit and destination of irregular migrants. Efforts are needed to prevent irregular migration and to readmit irregular migrants.

Turkey is well prepared for accession in the area of *science and research*. Good progress has been made towards integration into the European Research Area and preparations for the Innovation Union. Overall, Turkey's participation and success rate in the EU Seventh Framework Programme are growing, but further efforts are needed in order to meet the excellence requirement and competitive participation in the EU research programmes.

In *education and culture* there has been progress, in particular in the area of *education and training*. Interest in the Community Programmes continued to grow. There has been some progress in the area of culture, but no progress on legislative alignment.

In the *environment* area, Turkey has made good progress on waste management, whereas only limited progress can be reported on horizontal legislation, air quality and industrial pollution control and risk management. Turkey made very limited progress on water quality, chemicals and on administrative capacity. No progress can be reported on nature protection. Regarding *climate change*, Turkey made limited progress on awareness-raising on EU climate requirements, but a more robust and ambitious climate policy, both domestically and internationally, has yet to be established. There is a need to enhance administrative capacity .

Some progress can be reported on *consumer and health protection*. In the area of consumer protection, revised framework laws for consumer protection and general product safety are still to be adopted. Improvement of market surveillance activities requires the allocation of further financial and human resources, while cooperation with consumer NGOs needs strengthening. In the area of public health, Turkey has not yet completed the legislative alignment process nor built up the administrative capacity to improve the enforcement of legislation in order to enhance the health and safety status of the population.

Turkey has achieved a high level of alignment in the field of *customs* legislation thanks to its Customs Union with the EU. Duty free status of the shops established at entry points and requirements for importers of products in free circulation in the EU to submit information of origin in any format prior to customs clearance is not in line with the Customs Union. Legislation on free zones, surveillance and tariff quotas are yet to be aligned. Improved risk-based controls and simplified procedures would facilitate legitimate trade by reducing the number of physical controls. There is still no effective enforcement of intellectual property rights at customs and measures to tackle counterfeit goods are still lacking.

Turkey has achieved a high level of alignment in the area of *external relations*, owing to the Customs Union. Some discrepancies still remain in areas such as the general system of preferences in terms of its geographical coverage.

Turkey's alignment with the EU's *common foreign and security policy* has continued; overall Turkish alignment with CFSP declarations fell during the reporting period and Turkey did not align with EU restrictive measures on Iran, Libya or Syria. Turkey has sought dialogue and consultation with the EU on various foreign policy issues. Turkey made efforts to normalise relations with its neighbouring countries, such as Iraq, including the Kurdish regional government. No progress was made in the normalisation of ties with Armenia. Relations with Israel further deteriorated since the Gaza Flotilla incident in 2010. After the publication of the independent UN report, Turkey downgraded relations with Israel and suspended military agreements with Israel.

Turkey is continuing to contribute to CSDP and is seeking greater involvement in CSDP activities. The issue of EU-NATO cooperation, which would involve all EU Member States beyond the "Berlin plus arrangements", remains to be resolved. Turkey has not aligned itself with the EU position on membership of the Wassenaar Arrangement.

There is some progress to report in the area of *financial control*, which already has a fairly advanced level of alignment. Legislation implementing the Public Financial Management and Control Law is fully in force. The Public Internal Financial Control Policy Paper and the action plan need to be revised. The adoption of the Turkish Court of Accounts Law was a significant step in further aligning external audit with relevant international standards. The Turkish Anti-Fraud Cooperation Structure needs to continue reinforcing its coordination function, its operational independence and its operational network.

There is limited progress to report in the area of *financial and budgetary provisions*. Administrative preparations for setting up the own resources system are at a very early stage.