

EN

EN

EN



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 6.10.2004
COM(2004) 656 final

**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT**

Recommendation of the European Commission on Turkey's progress towards accession

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

Recommendation of the European Commission on Turkey's progress towards accession

1. INTRODUCTION

EU-Turkey relations have a long history. In 1963 Turkey and the EEC entered into an Association Agreement containing a membership perspective. In 1995, a customs union was formed and, in Helsinki in December 1999, the European Council decided that Turkey is a candidate for accession to the EU. The Copenhagen European Council in December 2002 concluded that "if the European Council in December 2004, on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the European Union will open accession negotiations with Turkey without delay". These conclusions were reaffirmed by the European Council in Brussels in June 2004.

For major periods of European history, Turkey has been an important factor of European politics. Turkey is member of all important other European organisations and has since the Second World War played an important role in contributing to the shaping of European policies.

Within the limits of the mandate received in Copenhagen in 2002, this Communication contains the recommendation from the Commission and, in annex, the conclusions of the Regular Report on Turkey. The Regular Report records Turkey's progress towards accession over the past twelve months. It also examines Turkey's track record in respect of the political and economic criteria for accession since the decision by the Helsinki European Council in 1999. The recommendation and the accompanying documents will provide a basis for a decision of the European Council of general political importance for the future of the European Union.

Furthermore, the Commission services have also prepared an assessment of issues arising from Turkey's membership perspective. Its findings are presented in this Communication.

On this basis, a strategy consisting of three pillars is presented. The first pillar concerns cooperation to reinforce and support the reform process in Turkey in particular in relation to the continued fulfilment of the Copenhagen political criteria. This will be based on a revised Accession Partnership, setting out priorities in particular for the reform process, and an upgraded pre-accession strategy. In the second pillar, the specific conditions for the conduct of accession negotiations with Turkey are proposed. A number of preliminary indications are provided for the preparation of accession negotiations, if such a decision is taken by the European Council in December. The third pillar suggests a substantially strengthened political and cultural dialogue bringing people together from EU Member States and Turkey. Turkey's accession would need to be thoroughly prepared in order to allow for a smooth integration which enhances the achievements of fifty years of European integration. This is an open-ended process whose outcome cannot be guaranteed

beforehand. Regardless of the outcome of the negotiations or the subsequent ratification process, the relations between the EU and Turkey must ensure that Turkey remains fully anchored in European structures.

2. ASSESSMENT OF THE POLITICAL CRITERIA

Following decades of sporadic progress, there has been substantial legislative and institutional convergence in Turkey towards European standards, in particular after the 2002 elections. The political reforms are mainly contained in two major constitutional reforms in 2001 and 2004 and eight legislative packages adopted by Parliament between February 2002 and July 2004. Civil-military relations are evolving towards European standards. Important changes have been made to the judicial system, including the abolition of the State Security Courts. Public administration reform is underway. As regards human rights, Turkey recognises the primacy of international and European law. It has aligned itself to a large extent with international conventions and rulings, such as the complete abolition of the death penalty and the release of people sentenced for expressing non-violent opinion. Although some practical restrictions still exist, the scope of fundamental freedoms enjoyed by Turkish citizens, such as freedom of expression and assembly, has been substantially extended. Civil society has grown stronger. Cultural rights for the Kurds have started to be recognised. The state of emergency has been lifted everywhere; although the situation is still difficult, the process of normalisation has begun in the Southeast. Finally, on the enhanced political dialogue, Turkish foreign policy is contributing positively to regional stability.

Turkey has substantially progressed in its political reform process, in particular by means of far reaching constitutional and legislative changes adopted over the last years, in line with the priorities set out in the Accession Partnership. However, the Law on Associations, the new Penal Code and the Law on Intermediate Courts of Appeal have not yet entered into force. Moreover, the decision on the Code of Criminal Procedure, the legislation establishing the judicial police and the law on execution of punishments and measures are still to be adopted.

Turkey is undertaking strong efforts to ensure proper implementation of these reforms. Despite this, implementation needs to be further consolidated and broadened. This applies specifically to the zero tolerance policy in the fight against torture and ill-treatment, and the strengthening and implementation of provisions relating to freedom of expression, freedom of religion, women's rights, trade union rights and minority rights.

In view of the overall progress of reforms, and provided that Turkey brings into force the outstanding legislation mentioned above, the Commission considers that Turkey sufficiently fulfils the political criteria and recommends that accession negotiations be opened.

The irreversibility of the reform process, its implementation, in particular with regard to fundamental freedoms, will need to be confirmed over a longer period of time. Moreover, the *acquis* related to the political criteria is developing, in particular as a result of the Constitution for Europe. Turkey should closely follow this evolution.

Turkey has and continues actively to support efforts to resolve the Cyprus problem; in particular, Turkey agreed to the solution put forward in the peace plan of the UN Secretary General. The European Council of June 2004 invited Turkey to conclude negotiations with the Commission on behalf of the Community and its 25 Member States on the adaptation of the Ankara Agreement to take account of the accession of the new Member States. The Commission expects a positive reply from Turkey to the draft protocol on the necessary adaptations transmitted in July 2004. Moreover, it should be noted that any accession negotiations are held in the framework of an Intergovernmental Conference consisting of all Member States of the EU.

The full conclusions of the Regular Report, covering also the progress made by Turkey in meeting the other criteria for membership, can be found in the *Annex: Conclusions of the Regular Report on Turkey*.

3. ASSESSING THE ISSUES ARISING FROM TURKEY'S MEMBERSHIP PERSPECTIVE

Accession of Turkey to the Union will be challenging both for the EU and Turkey. If well managed, it would offer important opportunities for both. As the assessment on the issues arising from Turkey's membership perspective shows, the necessary preparations for accession will last well into the next decade. The EU will evolve over this period, and Turkey should change even more radically. The *acquis* will develop further and respond to the needs of an EU at 27 or more. Its development may also anticipate the challenges and opportunities of Turkey's accession.

Based on current EU policies and knowledge, the Commission has identified the following main issues for further reflection and analysis over the coming years:

- Turkey's accession would be different from previous enlargements because of the combined impact of Turkey's population, size, geographical location, economic, security and military potential. These factors give Turkey the capacity to contribute to regional and international stability. The prospect of accession should lead to improving bilateral relations between Turkey and its neighbours in line with principle of reconciliation on which the European Union is founded. Expectations regarding EU policies towards these regions will grow as well, taking into account Turkey's existing political and economic links to its neighbours. Much will depend on how the EU itself will take on the challenge to become a fully fledged foreign policy player in the medium term in regions traditionally characterised by instability and tensions, including the Middle East and the Caucasus.
- Turkey is at present going through a process of radical change, including a rapid evolution of mentalities. It is in the interest of all that the current transformation process continues. Turkey would be an important model of a country with a majority Muslim population adhering to such fundamental principles as liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law.
- The economic impact of Turkey's accession on the EU would be positive but relatively small, both due to the modest size of the Turkish economy and to the degree of economic integration already existing before accession. Much will

depend on future economic developments in Turkey. The launch of accession negotiations should help the continued efforts of Turkey to ensure macroeconomic stability and promote investment, growth and social development. Under these conditions, Turkey's GDP is expected to grow more rapidly than the EU average.

- Accession of Turkey, a lower middle income country, would increase regional economic disparities in the enlarged EU in a way similar to the most recent enlargement, and would represent a major challenge for cohesion policy. Turkey would qualify for significant support from the structural and cohesion funds over a long period of time. A number of regions in present Member States benefiting from structural funds support could lose their eligibility on the basis of present rules.
- The integration of Turkey into the internal market would be beneficial. This depends, however, not only on the fulfilment of present obligations under the customs union but also on more horizontal reforms, such as strengthening corporate governance and regulatory frameworks, intensifying the fight against corruption, and significantly improving the functioning of the judiciary.
- With over three million, Turks constitute by far the largest group of third-country nationals legally residing in today's EU. Available studies give varying estimates of expected additional migration following Turkey's accession. Long transition periods and a permanent safeguard clause can be considered to avoid serious disturbances on the EU labour market. However, the population dynamics of Turkey could make a contribution to offsetting the ageing of EU societies. In this context, the EU also has a strong interest in that reforms and investments should be made in education and training in Turkey over the next decade.
- Agriculture is one of the most important economic and social sectors in Turkey and would need special attention. Continuous rural development efforts and an upgrading of administrative capacity would be required from Turkey to create as favourable conditions as possible to participate successfully in the common agricultural policy. Turkey would need considerable time to make a number of agricultural sectors more competitive in order to avoid substantial income losses for Turkish farmers. Under present policies Turkey would be eligible for substantial support. In the veterinary area, major efforts would have to be made to improve the animal health situation and controls at the eastern borders in order to avoid serious problems upon accession.
- Turkey's accession would help to secure better energy supply routes for the EU. It would probably necessitate a development of EU policies for the management of water resources and the related infrastructure. Because of their sometimes considerable trans-boundary effects, good implementation by Turkey of other EU policies in the fields of environment, transport, energy and consumer protection would also have considerable positive effects for EU citizens elsewhere.
- The management of the EU's long new external borders would constitute an important policy challenge and require significant investment. Managing migration and asylum as well as fighting organised crime, terrorism, trafficking of human beings, drugs and arms smuggling would all be facilitated through closer cooperation both before and after accession.

- The budgetary impact of Turkish membership to the EU can only be fully assessed once the parameters for the financial negotiations with Turkey have been defined in the context of the financial perspectives from 2014 onwards. The nature and amount of transfers to Turkey would depend on a number of changing factors, such as the EU's policies and any special arrangements agreed with Turkey in the negotiations as well as the budgetary provisions in place at that time, in particular the overall budgetary ceiling. However, it is clear that the budgetary impact on the basis of present policies would be substantial.
- As to the institutions, Turkey's accession, assessed on the basis of the Constitution for Europe, would significantly affect the allocation of European Parliament seats of current Member States, in particular the medium sized and large countries. In the Council, Turkey would have an important voice in the decision making process in view of its population share which would be reflected in the Council voting system. The impact in terms of the Commission would be less important given the planned reduction of the members of the Commission from 2014 onwards.

4. REINFORCING AND SUPPORTING THE REFORM PROCESS WITH TURKEY

Overall, implementation of reforms needs to be vigorously pursued. More specifically, the policy of zero tolerance towards torture should be implemented through determined efforts on all levels of the Turkish state to eradicate remaining instances of torture. Further development of civil society is important. The need to consolidate and broaden political reform also applies to the normalisation and development of the situation in the Southeast, including measures to improve the socio-economic situation, initiatives to facilitate the return of displaced people, and to allow for full enjoyment of rights and freedoms by the Kurds. The specific problems of non-Muslim religious communities and trade union rights also need further action.

In order to guarantee the sustainability and irreversibility of the political reform process, the EU should continue to monitor progress of the political reforms closely, on the basis of an Accession Partnership setting out priorities for the reform process. The Commission will, following the analysis in the Regular Report, propose to revise the Accession Partnership in spring 2005. On this basis, a general review of the way in which political reforms are consolidated and broadened will take place on a yearly basis starting from end 2005. To this end, the Commission will present a first report to the European Council in December 2005. The pace of the reforms will determine the progress in negotiations.

In line with the Treaty on European Union and the Constitution for Europe the Commission will recommend the suspension of negotiations in the case of a serious and persistent breach of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law on which the Union is founded. The Council should be able to decide on such recommendation by a qualified majority.

The enhanced political dialogue and the regular monitoring need to continue after the opening of accession negotiations. As in the past, it will go hand in hand with the

expert assistance undertaken by the Commission. The dialogue in the economic field will also need to be pursued, with a clear reference to the *acquis* and in particular the methods of economic policy coordination applied within the EU.

Building on the instruments developed over the past years, such as twinning, peer reviews and TAIEX, the EU should continue to assist Turkey to achieve the necessary legal and real convergence. The pre-accession strategy for Turkey should be upgraded in order to focus on the priorities outlined in the revised Accession Partnership which will be based on the Regular Report and the assessment of the issues raised by Turkey's prospective accession. Concrete initiatives need to be developed to address the socio-economic development in the Southeast, also through the mobilisation of a substantial part of the Community assistance to Turkey.

Until 2006, EU financial and technical assistance to Turkey's preparations will continue to be based on the dedicated pre-accession instrument for Turkey adopted by the Council in December 2001. The Commission has proposed to Council to create a new pre-accession instrument (IPA), from which Turkey would benefit from 2007 onwards, building on the present pre-accession instruments Phare, ISPA and SAPARD. In the context of the next financial perspective, the Commission will propose an increase in the amounts to be allocated to Turkey.

5. INDICATIONS FOR THE CONDUCT OF ACCESSION NEGOTIATIONS

The assessment summarised above has borne out the fact that both the EU and Turkey will need a considerable amount of time to create the conditions that will ensure a smooth integration of Turkey into the EU. Not only is it necessary to protect the cohesion and effectiveness of the Union, it would also protect Turkey from having to apply policies that may be unsuited for its level of development.

Accession negotiations will take place in the framework of an Intergovernmental Conference where decisions require unanimity. The framework for negotiations will need to reflect the specific challenges related to Turkey's accession. The precise parameters for the conduct of negotiations will be elaborated once the decision is taken to open negotiations, drawing on the broad indications given below.

Immediately after the formal opening of the accession negotiations, the Commission will organise a comprehensive process of examination of the *acquis*, called screening, in order to explain it and to obtain preliminary indications of the issues that may arise during the negotiations. The negotiations will be complex and reflect on the one hand difficulties encountered by Turkey to apply the *acquis* and on the other hand the need for provisions facilitating the harmonious integration of Turkey into the EU. The application in Turkey of the common agricultural policy and the cohesion policy are two examples. The rules regarding the free movement of persons are a third. It is likely that there will be, as in previous enlargement rounds, a need for substantial and specific arrangements and in some areas long transition periods. In the case of free movement of persons permanent safeguards can be considered. The Commission will refine its analysis in the course of negotiations before presenting a concrete approach for each of these issues.

The substance of the negotiations will be broken down into a number of chapters, each covering a specific policy area. The Commission will recommend to the Council to open negotiations on each specific chapter once it considers Turkey to be sufficiently prepared. As regards certain chapters with an economic dimension, the existence of a functioning market economy should be a prerequisite for opening negotiations.

Benchmarks for the provisional closure of each chapter and, where appropriate for the opening of chapters, will need to be defined ahead of the opening of negotiations for each chapter. These benchmarks could refer to legislative alignment and a satisfactory track record in implementation. In addition, existing legal obligations resulting from the Association Agreement and the customs union, in particular those mirroring the *acquis*, should be fulfilled before the opening of negotiations on related chapters.

Progress in the negotiations will depend not only on Turkey's convergence with the EU. The EU will need to prepare itself because, as stated by the European Council of June 1993, the Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries. The analysis conducted so far of Turkey's accession does not suggest that major adjustments would be needed in policies related to the internal market. The negotiations will be based, as always, on the existing *acquis*. However, the need for adaptations to the *acquis* before its accession may still arise. In any event, the EU will need to define its financial perspective for the period from 2014 before the financial implications of certain negotiating chapters can be tackled. Arrangements reflecting Turkey's specific circumstances may be necessary. Finally, the EU will need to reflect on strengthening policies in critical fields identified in the assessment on the issues arising from Turkey's membership perspective, such as external borders and foreign policy.

It is primarily by demonstrating determined implementation of continued reform that Turkey would be able to ensure a successful conclusion of the whole accession process. The conduct of negotiations and the prospect of accession should contribute to further political, social, cultural and economic reform in Turkey. The final outcome will require endorsement by the European Parliament and by the EU countries and Turkey.

6. STRENGTHENING THE DIALOGUE BETWEEN THE EUROPEAN UNION AND TURKEY

There is a clear need to strengthen the dialogue on a number of issues relating to EU-Turkey relations. Several pertinent questions, which do not immediately relate to the EU as such, need to be addressed. A number of fora should be created, bringing people together from Member States and Turkey, where concerns and perceptions can be discussed in a frank and open manner. This includes a dialogue on difference of cultures, religion, issues relating to migration, concerns on minority rights and terrorism. Civil society should play the most important role in this dialogue, which should be facilitated by the EU. The Commission will present proposals on how to support such a dialogue in future.

7. CONCLUSIONS AND RECOMMENDATIONS

In the light of the above, the Commission's conclusions and recommendations are the following:

- (1) Turkey has substantially progressed in its political reform process, in particular by means of far reaching constitutional and legislative changes adopted over the last years, in line with the priorities set out in the Accession Partnership. However, the Law on Associations, the new Penal Code and the Law on Intermediate Courts of Appeal have not yet entered into force. Moreover, the Code on Criminal Procedure, the legislation establishing the judicial police and the law on execution of punishments and measures are still to be adopted.
- (2) Turkey is undertaking strong efforts to ensure proper implementation of these reforms. Despite this, legislation and implementation measures need to be further consolidated and broadened. This applies specifically to the zero tolerance policy in the fight against torture and ill-treatment and the implementation of provisions relating to freedom of expression, freedom of religion, women's rights, ILO standards including trade union rights, and minority rights.
- (3) In view of the overall progress of reforms attained and provided that Turkey brings into force the outstanding legislation mentioned in paragraph 1, the Commission considers that Turkey sufficiently fulfils the political criteria and recommends that accession negotiations be opened. The irreversibility of the reform process, its implementation in particular with regard to fundamental freedoms, will need to be confirmed over a longer period of time.
- (4) A strategy consisting of three pillars should be followed. The first pillar concerns cooperation to reinforce and support the reform process in Turkey, in particular in relation to the continued fulfilment of the Copenhagen political criteria. In order to guarantee the sustainability and irreversibility of this process, the EU should continue to monitor progress of the political reforms closely. This will be done on the basis of a revised Accession Partnership setting out priorities for further reforms. A general review of progress of the political reforms will take place on a yearly basis starting from end 2005. To this end, the Commission will present a first report to the European Council in December 2005. The pace of the reforms will determine the progress in negotiations.
- (5) In line with the Treaty on European Union and the Constitution for Europe, the Commission will recommend the suspension of the negotiations in the case of a serious and persistent breach of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law on which the Union is founded. The Council would decide on such a recommendation with a qualified majority.
- (6) The second pillar concerns the specific way of approaching accession negotiations with Turkey. Accession negotiations will take place in the framework of an Intergovernmental Conference where decisions require

unanimity and with full participation of all EU Members. The negotiations will be complex. For each chapter of the negotiations, the Council should lay down benchmarks for the provisional closure and, where appropriate, for the opening of negotiations, including legislative alignment and a satisfactory track record of implementation of the *acquis*. Existing legal obligations in line with the *acquis* must be fulfilled before the opening of negotiations on related chapters. Long transition periods may be required. In addition, in some areas, such as structural policies and agriculture specific arrangements may be needed and, for the free movement of workers, permanent safeguards can be considered. The financial and institutional impact of Turkey's accession will be important. The EU will need to define its financial perspective for the period from 2014 before negotiations can be concluded. Furthermore, the Commission shall monitor during the negotiations the ability of the Union to absorb new members and to deepen integration taking fully into account Treaty objectives as regards common policies and solidarity.

- (7) The third pillar entails a substantially strengthened political and cultural dialogue bringing people together from EU Member States and Turkey. Civil society should play the most important role in this dialogue, which should be facilitated by the EU. The Commission will present proposals on how to support such a dialogue.
- (8) The Commission is convinced that the negotiation process will be essential in guiding further reforms in Turkey. By its very nature, it is an open-ended process whose outcome cannot be guaranteed beforehand. Regardless of the outcome of the negotiations or the subsequent ratification process, the relations between the EU and Turkey must ensure that Turkey remains fully anchored in European structures. Turkey's accession would need to be thoroughly prepared in order to allow for a smooth integration which enhances the achievements of fifty years of European integration.

Annex: Conclusions of the Regular Report on Turkey

When the European Council of December 1999 decided that Turkey is a candidate for accession, Turkey was considered to have the basic features of a democratic system while at the same time displaying serious shortcomings in terms of human rights and protection of minorities. In 2002, the Commission noted in its Regular Report that the decision on the candidate status of Turkey had encouraged the country to make noticeable progress with the adoption of a series of fundamental, but still limited, reforms. At that time, it was clear that most of those measures had yet to be implemented and that many other issues required to meet the Copenhagen political criteria had yet to be addressed. On that basis, the European Council decided in December 2002 to re-examine Turkey's fulfilment of the political criteria at the end of 2004.

Political reforms, in line with the priorities in the Accession Partnership, have been introduced by means of a series of constitutional and legislative changes adopted over a period of three years (2001-2004). There have been two major constitutional reforms in 2001 and 2004 and eight legislative packages were adopted by Parliament between February 2002 and July 2004. New codes have been adopted, including a Civil Code and a Penal Code. Numerous other laws, regulations, decrees and circulars outlining the application of these reforms were issued. The government undertook major steps to achieve better implementation of the reforms. The Reform Monitoring Group, a body set up under the chairmanship of the deputy Prime Minister responsible for Human Rights, was established to supervise the reforms across the board and to solve practical problems. Significant progress took place also on the ground; however, the implementation of reforms remains uneven.

On civil-military relations, the government has increasingly asserted its control over the military. In order to enhance budgetary transparency the Court of Auditors was granted permission to audit military and defence expenditures. Extra-budgetary funds have been included in the general budget, allowing for full parliamentary control. In August 2004, for the first time a civilian was appointed Secretary General of the National Security Council. The process of fully aligning civil-military relations with EU practice is underway; nevertheless, the armed forces in Turkey continue to exercise influence through a series of informal mechanisms.

The independence and efficiency of the judiciary were strengthened, State Security Courts were abolished and some of their competencies were transferred to the newly-created Serious Felony Courts. The legislation to establish Intermediate Courts of Appeal was recently adopted, but the draft new Code of Criminal Procedure, the draft Laws on the Establishment of the Judicial Police and on the Execution of Punishments still await adoption.

Since 1 January 2004, Turkey has been a member of the Council of Europe's Group of States Against Corruption (GRECO). A number of anti-corruption measures have been adopted, in particular by establishing ethical rules for public servants. However, despite these legislative developments, corruption remains a serious problem in almost all areas of the economy and public affairs.

Concerning the general framework for the respect of human rights and the exercise of fundamental freedoms, Turkey has acceded to most relevant international and European conventions and the principle of the supremacy of these international human rights conventions over domestic law was enshrined in the Constitution. Since 2002 Turkey has

increased its efforts to execute decisions of the European Court of Human Rights. Higher judicial bodies such as the Court of Cassation have issued a number of judgments interpreting the reforms in accordance with the standards of the European Court, including in cases related to the use of the Kurdish language, torture and freedom of expression. Retrials have taken place, leading to a number of acquittals. Leyla Zana and her former colleagues, who were released from prison in June 2004, are to face a further retrial, following a decision by the Court of Cassation.

The death penalty was abolished in all circumstances according to Protocol No 13 to the European Convention on Human Rights, which Turkey signed in January 2004. Remaining references to the death penalty in existing legislation were removed. Further efforts have been made to strengthen the fight against torture and ill-treatment, including provisions in the new Penal Code. Pre-trial detention procedures have been aligned with European standards, although detainees are not always made aware of their rights by law enforcement officers. The authorities have adopted a zero tolerance policy towards torture and a number of perpetrators of torture have been punished. Torture is no longer systematic, but numerous cases of ill-treatment including torture still continue to occur and further efforts will be required to eradicate such practices.

As regards freedom of expression, the situation has improved significantly, but several problems remain. The situation of individuals sentenced for non-violent expression of opinion is now being addressed and several persons sentenced under the old provisions were either acquitted or released. Constitutional amendments and a new press law have increased press freedoms. The new law abrogates sanctions such as the closure of publications, the halting of distribution and the confiscation of printing machines. However, in a number of cases journalists and other citizens expressing non-violent opinion continue to be prosecuted. The new Penal Code provides only limited progress as regards freedom of expression.

If adopted, the new Law on Associations, initially passed in July 2004 and then vetoed by the President, will be significant in terms of reducing the possibility of state interference in the activities of associations and will contribute towards the strengthening of civil society. Despite measures taken to ease restrictions on demonstrations, there are still reports of the use of disproportionate force against demonstrators.

Although freedom of religious belief is guaranteed by the Constitution, and freedom to worship is largely unhampered, non-Muslim religious communities continue to experience difficulties connected with legal personality, property rights, training of clergy, schools and internal management. Appropriate legislation could remedy these difficulties. Alevi are still not recognised as a Muslim minority.

As regards economic and social rights, the principle of gender equality has been strengthened in the Civil Code and the Constitution. Under the new Penal Code, perpetrators of “honour killings” should be sentenced to life imprisonment, virginity tests will be prohibited without a court order and sexual assault in marriage will qualify as a criminal offence. The situation of women is still unsatisfactory; discrimination and violence against women, including “honour killings”, remain a major problem. Children’s rights were strengthened, but child labour remains an issue of serious concern. Trade union rights still fall short of ILO standards.

As far as the protection of minorities and the exercise of cultural rights are concerned, the Constitution was amended to lift the ban on the use of Kurdish and other languages. Several Kurdish language schools recently opened in the Southeast of Turkey. Broadcasting in

Kurdish and other languages and dialects is now permitted and broadcasts have started, although on a restricted scale. There has been greater tolerance for the expression of Kurdish culture in its different forms. The measures adopted in the area of cultural rights represent only a starting point. There are still considerable restrictions, in particular in the area of broadcasting and education in minority languages.

The state of emergency, which had been in force for 15 years in some provinces of the Southeast, was completely lifted in 2002. Provisions used to restrict pre-trial detention rights under emergency rule were amended. Turkey began a dialogue with a number of international organisations, including the Commission, on the question of internally displaced persons. A Law on Compensation of Losses Resulting from Terrorist Acts was approved. Although work is underway to define a more systematic approach towards the region, no integrated strategy with a view to reducing regional disparities and addressing the economic, social and cultural needs of the local population has yet been adopted. The return of internally displaced persons in the Southeast has been limited and hampered by the village guard system and by a lack of material support. Future measures should address specifically the recommendations of the UN Secretary General's Special Representative for Displaced Persons.

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

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

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

Turkey has made further considerable progress towards being a functioning market economy, in particular by reducing its macroeconomic imbalances. Turkey should also be able to cope

with competitive pressure and market forces within the Union, provided that it firmly maintains its stabilisation policy and takes further decisive steps towards structural reforms.

Economic stability and predictability have been substantially improved since the 2001 economic crisis. Previously high inflation has come down to historic lows, political interference has been reduced and the institutional and regulatory framework has been brought closer to international standards. Thus, an important change towards a stable and rule-based economy has taken place. Key economic vulnerabilities, such as financial sector imbalances, have been tackled. Financial sector supervision has been strengthened. As a result, the shock resilience of the Turkish economy has significantly increased. Important progress has been achieved in increasing the transparency and efficiency of public administration, including public finances. Furthermore, important steps have been taken in facilitating the inflow of FDI and in improving the legal framework for privatisation.

In order to transform the current positive dynamics into sustained growth and stability, it is of crucial importance to continue the ongoing reform process. Maintaining a stability-oriented economic policy is a key element in this respect. In particular, fiscal imbalances have to be reduced and the disinflation process has to be maintained. The business climate would be improved by streamlining administrative procedures and strengthening the rule of law. Improving the efficiency of the commercial judiciary is of particular importance in this context. The banking sector's surveillance and prudential rules should continue to be aligned with international standards. The privatisation of state-owned banks and enterprises should be accelerated. Sufficient public and private investment and devoting particular attention to education are important to increase the competitiveness and the growth potential of the economy. The inflow of foreign direct investment has to be encouraged by removing remaining barriers.

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

On the *free movement of goods*, overall transposition of the *acquis* is advancing steadily, but is not complete, while implementation remains uneven. There has been progress in the area of horizontal and procedural measures, and sector specific legislation, in particular in new approach areas, where substantial progress has taken place concerning conformity assessment and market surveillance. The public procurement Law still contains discrepancies with the *acquis*. Turkey should speed up the efforts to remove technical barriers to trade, and to increase compliance with the Decision 1/95 of the Association Council establishing the Customs Union, and to take the necessary steps to implement free circulation of products in the non-harmonised areas.

No progress has taken place concerning the *free movement of persons*, and overall legislative alignment is still at a very early stage. The administrative capacity needs thorough upgrading. Concerning the *freedom to provide services*, some progress could be recorded for financial services, except for insurance, but no development took place in the area of non-financial services. Market access restrictions are in place in particular in the area of non-financial services. In the field of professional services, no progress has been made since the previous Report. The alignment with the *acquis* on personal data protection needs to be achieved. An authority dealing with personal data protection should be established and the independence of

the existing financial services supervisory authorities should be safeguarded. Limitations for foreigners should also be lifted. Alignment remains limited with the *acquis* on the *free movement of capital*. The priority should be the adoption of anti-money laundering provisions, and the removal of restrictions to investment by foreigners. Improvements in this area would contribute to facilitate inflow of foreign direct investment.

In the area of *company law*, the alignment with the *acquis* remains very limited. However, important efforts have been undertaken to fight piracy with regards protection of intellectual and industrial property rights, but insufficient administrative capacity prevents remains a constraint. Concerning *competition policy*, the alignment with the *acquis* on anti-trust legislation is significant and progress continues in a satisfactory manner. On the contrary, alignment with state aid *acquis* is very limited, in spite of its inclusion in the Customs Union. The adoption of the state aid Law and the establishment of the state aid monitoring authority are crucial issues. Further efforts are also necessary to prepare an acceptable restructuring programme for the steel sector.

Little progress can be recorded since the previous Report in the area of *agriculture*, and overall alignment with the *acquis* remains limited. Progress has taken place concerning in particular veterinary, phytosanitary and food, but transposition and administrative capacity are still insufficient to ensure effective implementation. Rural development, eradication of animal diseases and upgrading of the Administrations concerned should be regarded as priorities. Progress has been very limited concerning *fisheries*. It is necessary to increase the efforts concerning resources management, as well as to reinforce the inspection and control capacities.

Some progress could be recorded in all *transport* modes, excepted air transport, but overall alignment remains limited and all modes present problematic issues. Concerning in particular maritime transport, the detention rate remains much higher than the EU average, and Turkey remains in the black list of the secretariat of the Paris Memorandum of Understanding on Port State controls. Cypriot vessels or vessels having landed in Cyprus are still not allowed in Turkish ports. Transposition of the *acquis* should take place in parallel with adherence to international agreements. The staff and capacity of the Ministry of Transport needs to be strengthened substantially.

As regards *taxation*, there has been limited progress in the area of *indirect taxation*, while no progress could be reported on direct taxation, or administrative co-operation. Overall, the Turkish fiscal regime remains partly aligned with the *acquis*, and important efforts remain necessary on all areas under this chapter. Alignment is necessary in particular concerning VAT, the scope of exemptions and applied rates. With regards to indirect taxation, excise duties should not penalise imported products. Also, administrative capacity requires a substantial strengthening, in particular to improve tax collection.

No progress can be recorded concerning *economic and monetary union* since the previous Report, and the overall level of alignment is limited. The most important issues to be addressed are the independence of the central bank and the remaining possibilities of privileged access to the financial sector to finance the budget.

In the area of *statistics*, there has been steady progress, but the alignment remains still limited. Therefore substantial efforts are still needed concerning statistical development. To this end, the new Statistical Law should be given priority. On *social policy and employment*, progress has been made since the last report, in particular as concerns health and safety at work.

Nevertheless, the main problematic areas remain gender equality, labour law, anti discrimination, and social dialogue. Enforcement and full implementation of the legislation also appear as major challenges.

Turkey has made some progress in the *energy* chapter, while the degree of alignment remains limited and uneven across the different areas covered by the *acquis*. Effective implementation of the *acquis* requires a reinforcement of the administrative capacity. Sector restructuring including privatisation and the elimination of price distortions should continue.

In the area of *industrial policy*, there is a large alignment with the EC principles of *industrial policy*. Turkey has adopted an industrial strategy, but privatisation and restructuring are not progressing as planned. Steel sector and state owned banks in particular needs to be restructured. Despite progress in the framework legislation, foreign direct investment remains low. Concerning *small and medium sided enterprises*, access to finance has improved, and the Turkish policy is broadly in line with the EU enterprise policy. Nevertheless, further efforts remain necessary to improve SMEs' access to finance, and the business environment. In particular, a more effective treatment of the commercial court cases should be ensured. The definition of SME used by Turkey is not in line with the relevant Commission recommendations.

Some progress has been made in the area of *science and research*. The framework for co-operation is established, and representatives of Turkey participate as observers in the Committees preparing the 6th Framework Programme. To achieve full and effective participation to the Framework Programme requires that Turkey further upgrades its research-related administrative capacity. Similarly, some progress has been achieved concerning *education and training*, especially concerning the enrolment of girls in less favoured regions. The participation of Turkey to the EC programmes is satisfactory, but the investment remains below the EU average. Reforms and reinforcement of the training and education policies and institutions should continue, including the role of the High Education Board (YÖK), and the links between the labour market and the education should be improved.

In the *telecommunications* sector, fixed telephony services has been fully liberalised in 2004, and competition in internet services market has increased. There is overall a certain level of alignment with the *acquis*, but since the previous Report, very limited further progress has been made. Further efforts are in particular necessary to complete the legal framework and effectively implement the rules, including an adequate empowerment of the Telecom Authority, and to ensure an adequate level of competition in all telecommunication services.

Turkey's alignment with the *acquis* in *culture and audiovisual policy* remains limited, but some progress has been made through adoption of the regulation concerning radio and television broadcasts in languages and dialects used traditionally by Turkish citizens. The regulation has started to be implemented and broadcasts in Kurdish and other languages have started on national and regional basis. However, the conditions attached the regulation are still restrictive and substantial efforts continue to be necessary to achieve alignment with the *acquis*.

The *acquis* concerning *regional policy* is relevant for the implementation of Structural and Cohesion Funds. Very limited development has been made and the overall level of alignment with the *acquis* is limited. Substantial efforts would therefore be necessary to make appropriate use of the EU's structural instruments. Necessary institutions need to be created and administrative capacity to be reinforced.

Some progress has taken place concerning the *environment*, and the administrative capacity has been reinforced. However, the overall transposition of the environment *acquis* remains low. Administrative capacity needs further reinforcement and improved co-ordination among the administrations involved. The most intense efforts are needed for horizontal legislation, air and water quality, waste management, nature protection, industrial pollution and risk management.

In the area of *consumers and health protection*, efforts to align with the *acquis* have continued, in particular concerning market surveillance. Overall alignment is uneven throughout the different components of consumers protection, and is more advanced concerning non-safety related measures. The efforts to ensure an effective transposition and implementation of the *acquis* on product liability and to improve administrative capacity should be pursued.

Turkey has continued to make efforts to align with the *acquis* in the area of *justice and home affairs*. Nevertheless, progress is required in important areas such as the reform of the judiciary and the fight against corruption. Co-operation both at national level among all relevant administrative bodies and with the EU should be improved on issues such as illegal migration and trafficking, including through the negotiation of a readmission agreement. The geographic limitation to the Geneva Convention on refugees should be lifted and co-operation among the relevant institutions should be improved.

Concerning the *acquis* in the area of *customs union*, there has been some progress since the previous Regular Report, the administrative capacity has been further strengthened and the overall level alignment is high, with exceptions in specific areas. The alignment of non-customs provisions applied in free zones continues to diverge from the *acquis* and need to be corrected. The overall level of alignment concerning *external relations* is already high, and some further progress has taken place. The adoption of most of the EC Generalised System of Preferences in particular is a welcome development. Certain discrepancies with the *acquis* still exist, concerning special regimes under the GSP, and other derive from the difficulties met in the negotiations with certain third Countries. Turkey is encouraged to continue its efforts in this area. As regards, *common foreign and security policy*, Turkey's foreign policy continues to be broadly in line with that of the EU, though less so when Turkey's neighbouring countries are concerned. Turkey's track record could be improved by ensuring a higher alignment with EU positions in international fora, and by ensuring the applicability of the sanctions or restrictive measures agreed.

Some progress can be reported since last year's Report regarding *financial control*. In particular, the adoption of the Public Financial Management and Control Law constitutes a significant step but the law will only be entirely implemented as from 2008. Turkey should further reinforce its administration and the capacity to protect the financial interests of the EC. In addition, significant progress has taken place concerning national budget formulation and execution, in the area of *financial and budgetary provisions*. However, there has been no improvement in the application of provisions on own resources. Further efforts are therefore necessary concerning the adoption of the necessary legislation and its implementation.

Implementation of legislation formally aligned with the *acquis* continues to be insufficient. Administrative capacity in most areas needs to be strengthened to ensure that the *acquis* is implemented and enforced effectively. In some cases, administrative reform should entail the establishment of new structures, for example in the field of state aid and regional development. Where regulatory bodies have been set up, they should be adequately

empowered to perform their tasks, including adequate staffing and resources, and to ensure that their decisions are enforced. To this end, their autonomy should be safeguarded. Improved co-operation between the Commission and the Turkish administration in areas such as conformity assessment should be extended to other areas.