

## Conclusions on Turkey

(extract from the Communication from the Commission to the Council and the European Parliament "Enlargement Strategy and Main Challenges 2010-2011", COM(2010)660 final)

Turkey continues to sufficiently fulfil the **political criteria**. The recent constitutional reforms created the conditions for progress in a number of areas, such as the judiciary and fundamental rights. They now need to be implemented in line with European standards. The democratic opening, aimed notably at addressing the Kurdish issue, did not yet meet the expectations.

The package of constitutional amendments approved in a referendum on 12 September is a step in the right direction. It addresses a number of priorities of the Accession Partnership in the area of the judiciary, fundamental rights and public administration. However, the drafting and adoption of the constitutional reforms was not preceded by a consultation process involving political parties and civil society at large. Implementation of the package, in line with European standards and in a transparent and inclusive way, will be key. Significant efforts are still needed on fundamental rights. The quantity of legal actions against journalists and undue pressure on the media undermine freedom of the press in practice. The democratic opening, announced by the government in August 2009 to address notably the Kurdish issue, was only partly followed through by the government. The decision of the Constitutional Court to close down the Democratic Society Party (DTP) and a surge in PKK terrorist attacks also undermined this policy.

As regards **democracy and the rule of law** in Turkey, the investigation of the alleged criminal network Ergenekon continued. This investigation and the probe into several other coup plans remains an opportunity for Turkey to strengthen confidence in the proper functioning of its democratic institutions and the rule of law. However, there are concerns as regards judicial guarantees for all suspects. Turkey still needs to align its legislation as regards procedure and grounds for closures of political parties with European standards.

As regards, *public administration reform*, some progress has been made with the adoption of the constitutional amendments, in particular towards the establishment of an Ombudsman institution, protection of personal data and access to information. Further efforts are needed in particular on reforming the civil service.

Progress has been made as regards the *civilian oversight of security forces*. The constitutional package limits the competence of military courts and opens the decisions of the Supreme Military Council to judicial review. However, senior members of the Armed Forces have continued to make statements beyond their remit, in particular on judicial issues. No progress was made in terms of parliamentary oversight over the defence budget.

In the area of the *judiciary* progress was achieved in the implementation of the judicial reform strategy. The adoption of the constitutional amendments on the composition of the High Council of Judges and Prosecutors is a positive step. However, the Minister of Justice still chairs the High Council and has the last word on investigations. During the preparation and adoption process of the implementing legislation, the establishment of an effective dialogue with all stakeholders will be needed. This would contribute to an implementation of these reforms in line with European standards, in a transparent and inclusive way.

Progress has been made as regards the development of a comprehensive anti-corruption Strategy and Action Plan. However, corruption remains prevalent in many areas. Turkey needs to develop a track record of investigations, indictments and convictions.

Concerning *human rights and the protection of minorities*, some progress has been made, in particular with respects to freedom of assembly and women's, children's and cultural rights. However, significant efforts are still needed in particular concerning freedom of expression and freedom of religion.

As regards the *observance of international human rights law*, the human rights institutions need to be brought fully in line with the UN principles.

The positive trend on the prevention of torture and ill-treatment continues. Some high profile cases of human rights violations have resulted in convictions. However, disproportionate use of force by law enforcement authorities continues to be reported and is of concern.

The implementation of the prison reform programme continues. However, the high proportion of prisoners in pre-trial detention remains one of the most significant problems. Health services in prison need to be improved.

Turkish law does not sufficiently guarantee *freedom of expression* in line with the ECHR and the ECtHR case law. The high number of cases initiated against journalists is of concern. Undue political pressures on the media and legal uncertainties affect the exercise of freedom of the press in practice. The frequent website bans are a source of concern.

As regards freedom of assembly, there has been some progress. Demonstrations which had stirred unrest in the past, such as the Newroz celebrations (the Kurdish new year) or 1<sup>st</sup> of May, took place peacefully this year and were well coordinated with the authorities. However, some demonstrations in the Southeast related to the Kurdish issue continued to be marked by excessive use of force by security forces.

The legal framework on *freedom of association* is broadly in line with EU standards. However, the authorities exercise excessive controls and continue to launch closure cases against LGBT associations.

As regards *freedom of religion*, freedom of worship continues to be generally respected. The implementation of the law on foundations has been continuing, albeit with some delays and procedural problems. The dialogue with the Alevis and non-Muslims continued but has not yet produced results. Members of minority religions continue 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 Alevi community can function without undue constraints, including the training of clergy.

The legal framework guaranteeing *women's rights* and gender equality is broadly in place. This framework has been strengthened through the constitutional amendment permitting the adoption of positive discrimination measures for women. However, sustained further efforts are needed to turn this legal framework into a political, social and economic reality. Ensuring women's rights and gender equality in practice remain key challenges for Turkey. Honour killings, early and forced marriages and domestic violence remain serious problems. Legislation needs to be implemented consistently across the country. Further education and awareness raising efforts on women's rights and gender equality are needed.

There has been progress with regards to *children's rights*. Turkey aligned its legal framework on juvenile justice with international standards. The gender gap in primary education continued to decrease, but persists in certain parts of the country. Drop-outs of children from schools remain a source of concern. Efforts need to be further strengthened in all areas including education, child labour, health, administrative capacity and coordination, and to build an effective juvenile justice system throughout the country

The Constitutional amendments broaden *trade union rights* in Turkey, notably for the public service. However, there are restrictive provisions in the current legal framework which are not in line with EU standards and ILO Conventions. Lack of consensus between social partners and government is an obstacle to the adoption of new legislation.

Turkey's approach to *respect for and protection of minorities and cultural rights* remains restrictive. Full respect for and protection of language, culture and fundamental rights, in accordance with European standards have yet to be fully achieved. Turkey needs to make further efforts to enhance tolerance and promote inclusiveness vis-à-vis minorities.

Some positive steps were taken to strengthen cultural rights, in particular in relation to Turkey's broadcasting policy in languages other than Turkish. However, restrictions remain, particularly on the use of such languages in political life, education and contacts with public services.

The issue of *Roma* has become more publicly debated and concrete measures to address some of their concerns are underway. However, in the absence of a comprehensive policy to advance social inclusion of Roma, the latter still frequently face discriminatory treatment in access to education, housing, health services and public services.

As concerns the *East and Southeast*, the government's democratic opening fell short of expectations as few measures have been put into practice. It is important that efforts addressing the Kurdish issue are sustained through broad consultation. The anti-terror legislation needs to be amended to avoid undue restrictions on the exercise of fundamental rights. The existence of numerous landmines continues to raise concerns. The village guard system still needs to be phased out.

There was a surge of PKK terrorist attacks since June, which claimed many lives. The PKK is on the EU list of terrorist organisations. Turkey and the EU enhanced dialogue on counter-terrorism.

Compensation of *internally displaced persons* (IDPs) has continued. However, implementation is not effective. The government has not developed an overall national strategy to address the IDP issue and needs to step up efforts to address IDPs' needs. The legal framework for refugees and asylum seekers and the implementation of circulars regarding procedures for applications need to be strengthened. Further improvements of the general conditions in foreigners' detention centres is important.

With regard to ***regional issues and international obligations***, Turkey continued to express public support for the negotiations between the leaders of the two communities under the good offices of the UN Secretary-General to find a comprehensive settlement of the *Cyprus problem*. However, despite repeated calls by the Council and the Commission, Turkey still has not complied with its obligations 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 2009 conclusions. It does not meet 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, including restrictions on direct transport links with Cyprus. There is no progress towards normalisation of bilateral relations with the Republic of Cyprus.

As regards *relations with Greece*, there is renewed impetus to improve bilateral relations. This has yielded some positive results in the area of trade, education, transport, energy, culture and environment. Bilateral exploratory talks have intensified on border disputes. A considerable number of formal complaints were made by Greece about continued violations of its airspace

by Turkey, including flights over Greek islands. Greece also made complaints about violations of its territorial waters.

The EU and Turkey held a dialogue on areas of common concern in the *Western Balkans*. Turkey took a number of initiatives in the region, including tripartite talks with Serbia and Bosnia and Herzegovina. Relations with Bulgaria remain positive.

The Turkish **economy** was hit hard by the global financial crisis, but quickly recouped its losses, as it started growing across the board at robust rates since the second quarter of 2009. The government budget and the central bank have successfully provided substantial support for aggregate demand, particularly via a significant easing of the fiscal and monetary stance. High growth rates are accompanied by rapidly widening trade and current account deficits, falling unemployment – though still higher than pre-crisis levels - and rising inflationary pressures. The exiting strategy from crisis-related intervention policies focuses on achieving strong, sustained and balanced growth. The design of a fiscal rule has been completed and has the potential of considerably improving the fiscal performance over time. However, its adoption by the Parliament has been delayed. Progress with respect to structural reform was mixed, but lower real interest rates and stronger economic fundamentals should provide scope for an acceleration of structural reforms.

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 continues implementing its comprehensive structural reform programme.

In the aftermath of the crisis, consensus on economic policy essentials has been preserved. The anti-crisis measures have cushioned the economic downturn although they have increased Turkey's fiscal deficit and debt stock. They are being phased out gradually. A timely, targeted and well anchored withdrawal of the stimuli remains a challenge in order to maximise the benefits from previous years of fiscal consolidation and overall medium-term fiscal sustainability, and to achieve strong, sustained and balanced growth. Privatisation has advanced, albeit at a slower pace due to the global economic environment. The financial sector has shown remarkable strength thanks to earlier reforms. Investment picked up strongly and some limited progress was made in upgrading the country's human and physical capital. Turkey was able to partly diversify its trade towards new markets, thereby alleviating to a certain extent the impact of the crisis. Trade and economic integration with the EU remained high.

However, external imbalances and financing needs have been growing significantly on the back of resuming growth and although access to external finance remained unproblematic. Inflationary pressures increased considerably, chiefly because of pressures stemming from energy inputs and buoyant economic activity. Making more progress with fiscal transparency, strengthening the inflation targeting framework and preserving financial stability remain key conditions in order to minimize the risks of a boom-bust scenario. The unemployment rate remains higher than its pre-crisis levels and demographic factors are expected to keep unemployment high in coming years. The low capacity to create new jobs is clearly linked to a skills-mismatch between labour demand and supply, as well as excessive labour market regulation. There are obstacles to market exit and bankruptcy proceedings are relatively cumbersome. The crisis has further complicated the access of SMEs to finance. The legal environment, and in particular court procedures, continue to pose practical challenges and create obstacles to a better business environment. The current product market regulation and

the persisting lack of transparency on the allocation of state aids are not conducive to improving the business climate. The informal economy remains an important challenge.

Turkey continued improving its **ability to take on the obligations of membership**. Progress, at times uneven, was made in most areas. Alignment is advanced in certain areas, such as the free movement of goods, intellectual property rights, anti-trust policy, energy, enterprise and industrial policy, consumer protection, statistics, Trans-European Networks, and science and research. Efforts need to continue to pursue alignment in areas such as environment, company law, public procurement and right of establishment and freedom to provide services. As regards the Customs Union, alignment needs to be completed. A number of longstanding trade irritants remain unresolved, such as conformity assessments checks, import and export licensing requirements, IPR effective enforcement, requirements for the registration of new pharmaceutical products and tax discriminatory treatment. It is essential that Turkey fully implements the Customs Union and removes a large number of obstacles affecting EU products that are in free circulation. For most areas it is crucial that Turkey improves its administrative capacity to cope with the *acquis*.

With regards to *free movement of goods* legislative alignment is quite advanced, but limited progress can be reported. Technical barriers to trade continue to exist hampering free circulation of goods and new barriers have been added. Little progress has been made in the area of *freedom of movement for workers*, for which alignment is at an early stage. Alignment in the areas *right of establishment and the freedom to provide services* is at an early stage. Very limited progress can be reported as regards mutual recognition of professional qualifications. No progress has been recorded in the fields of services and establishment. On *free movement of capital* progress was made, in particular on alignment with the *acquis* in the area of the fight against money laundering. The legal framework against financing of terrorism is still incomplete. Turkey made no progress on capital movement and payments or on payment systems.

Some progress can be reported in the area of *public procurement*, in particular on the institutional set-up and administrative capacity. The alignment strategy needs to be adopted and Turkey needs to further align its legislation, particularly on utilities, concessions and public-private partnerships. On *company law* limited progress can be noted. The new Commercial Code has not been adopted. Administrative capacity needs further strengthening and the legal and institutional framework for auditing is not yet in place. Alignment on *intellectual property law* is relatively advanced. Turkey's agreement to establish an Intellectual Property Rights (IPR) Dialogue with the Commission addresses a key element of the accession negotiations. However, the adoption of necessary IPR legislation, including on deterrent criminal sanctions, is pending. Coordination and cooperation on IPR needs to be improved.

On *competition policy*, alignment in the field of anti-trust is at a high level. Turkey enforces the competition rules effectively. In the area of state aid, the adoption of a State aid law establishing a monitoring authority is an important step forward. Now, this monitoring authority needs to become operational as soon as possible.

There has been some progress on *financial services*, as supervisory authorities introduced further prudential measures. Overall, Turkey's alignment with the *acquis* remains partial. With regard to *information society and the media* in the area of electronic communication and information technologies significant work has been achieved by the Telecommunications regulator as regards implementing regulations. In the area of audiovisual policy some progress can be reported. However, several obstacles to market development remain in place. The

legislation on electronic communications, information society services and audiovisual policy require further adjustments.

On *agriculture and rural development* there has been limited progress. Agriculture support policies showed only minor transition towards the Common Agricultural Policy (CAP). Initial steps have been taken for the development of an Integrated Administration and Control System. However, Turkey failed to fully remove technical barriers to trade in bovine products. Slippage in the timetable for accreditation of the IPARD structures also represent a shortcoming. Further progress is required on agricultural statistics, farm accountancy data network, quality policy and organic farming. Regarding *food safety, veterinary and phytosanitary policy* progress has been achieved, notably through the adoption of key framework legislation. The new alignment strategy should facilitate transposition and implementation of the relevant *acquis*. Concerning *fisheries*, some progress has been made on resource and fleet management, inspection and control and implementation of international agreements. Further progress needs to be made on legislative alignment, administrative structures and market policy, structural action and state aid.

Some progress has been achieved in alignment of the *transport sector*. Legislative alignment has reached an advanced level in the aviation, maritime and road sectors. No progress has been made regarding rail market opening and safety. 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, no progress has been made on becoming a party to international conventions. Administrative and implementation capacity remains limited.

In the *energy* sector, there has been good progress in alignment on electricity, renewable energy and energy efficiency, as well as on security of supply. Further efforts are needed in the fields of natural gas, nuclear energy, nuclear safety, radiation protection and state aid.

On *taxation*, there has been some progress on alignment, particularly towards eliminating discriminatory practices on tobacco. However, the increases in excise duty on alcoholic beverages contradict the action plan agreed with the Commission, a key requirement for making further progress in the accession negotiations. Efforts for reinforcing the tax administration, combating informal economy and increasing voluntary compliance were pursued. Hardly any progress can be reported on direct and indirect taxation.

On *economic and monetary policy*, the preparations are well on track. Efforts are needed for further alignment. This concerns in particular the full independence of the Central Bank and the prohibition of privileged access of the public sector to financial institutions.

There has been good progress in the area of *statistics*, in which the overall level of alignment is advanced. TurkStat further improved the coordination of the statistical system. Good progress has been made on the business register and on sector statistics. Further alignment is needed in national accounts and in agriculture statistics.

Turkey made some progress in aligning to the *acquis* in the field of *social policy and employment*. The Constitutional amendment package brings significant improvements in the area of social dialogue in the public sector and paves the way for positive discrimination towards women, children, elderly and disabled people. However, overall alignment remains limited and the administrative capacity needs strengthening. A reform to achieve full trade union rights in line with EU standards and ILO conventions is still pending. There are a number of concerns regarding undeclared work, low female employment rates, enforcement of the health and safety legislation. A general policy framework to combat poverty is also lacking.

Further progress was made in the area of *enterprise and industrial policy*, in which the level of alignment is sufficient. This progress relates to the Industrial Strategy and Action Plan, wider availability of enterprise and industrial policy instruments and adoption of sectoral strategies and roadmaps. Limited improvements can be reported on the business environment and continuing efforts on monitoring and evaluation.

Progress was made on *trans-European networks*. In particular, Turkey reached an advanced stage in negotiations for the future Trans-European Network for Transport. Some progress can be reported on energy networks.

Progress, albeit uneven, was made in the field of *regional policy and co-ordination of structural instruments*. In particular, the legislative and institutional framework for implementation of IPA components III and IV has been finalised. The involvement of sub-national stakeholders in preparing the project pipeline improved. At national level there is still a need to improve the administrative capacity of the institutions involved in the implementation of the pre-accession funds in order to achieve a more efficient use of pre-thereby also preparing Turkey for the use of structural funds.

Overall, there has been progress in the area of the *judiciary*. The adoption of the constitutional amendments on the composition of the High Council of Judges and Prosecutors is a positive step. This is also true for the limitation of the competence of military courts. During the preparation and adoption process of the enacting legislation, the establishment of an effective dialogue with all stakeholders and the civil society at large will be needed. The implementation of these reforms in line with European standards will be key. With respect to *anti-corruption*, progress was made as regards the development of a comprehensive anti-corruption strategy and an action plan. The development of a body to oversee and monitor their implementation also progressed. However, effective implementation is necessary and Turkey needs to develop a track record of investigation, indictments, and convictions.

Progress, albeit uneven, was made in the area of *justice, freedom and security*. Substantial progress was made towards finalising negotiations on an EU-Turkey readmission agreement. There is a necessity for clear institutional arrangements and sufficient resources on migration and asylum. Some progress can be reported in the area of drugs and customs cooperation. Limited progress can be reported in the area of external borders and Schengen and organised crime and terrorism. Little progress has taken place in the area of visa policy. No progress to be reported on judicial cooperation in criminal and civil matters. Overall, urgent adoption of draft legislation and ratification of signed international agreements is key.

Turkey is well prepared in the area of *science and research* and good progress has been achieved towards integration into the European Research Area. Overall, Turkey's participation and success rate in Framework Programmes are on the rise. Further efforts are required to maintain these rates all through the 7<sup>th</sup> Framework Programme for Research and Technological Development (FP7).

For *education and culture* there has been some progress, in particular in the area of *education*. The overall school enrolment continued to increase with slight gender-related improvements and Turkey continued to improve its performance against the EU common benchmarks. There has been some progress in the area of culture but no progress on legislative alignment.

Regarding *environment*, progress was made on further alignment. Turkey has made good progress on waste management whereas limited progress can be reported on horizontal legislation, air and water quality, industrial pollution, chemicals and administrative capacity.

However, Turkey has made very limited progress as regards climate change and no progress in the area of nature protection. Turkey made progress on administrative capacity by putting in place coordinating mechanisms. Investments need to be increased.

Some progress was made on aligning to the *acquis* on *consumer and health protection*. However, administrative capacity needs to be increased. More efforts are necessary on consumer protection, to strengthen the consumer movement and to ensure due enforcement. Coordination and cooperation between stakeholders remain weak. There is good progress at the level of alignment as concerns public health. However, enforcement remains insufficient.

On *customs*, the level of alignment is high, both with regards to legislation and administrative capacity. However, duty free shops at entry points and requirements for importers of products in free circulation in the EU to submit information on origin prior to customs clearance contradict the *acquis*. Legislation on free zones, surveillance and tariff quotas still need alignment. Further efforts are required to improve risk-based controls and simplified procedures in order to facilitate legitimate trade and reduce physical controls. Commitments to enforce effectively intellectual property rights and the fight against counterfeit goods need to be respected.

Turkey has achieved a high level of alignment in the area of *external relations*. However, further work remains to be done in many areas, in particular on the general system of preferences with regard to its geographical coverage.

Alignment with the EU's *common foreign and security policy* has continued. Turkey has sought dialogue and consultation with the EU on foreign policy issues. It did not align with the EU in the UN Security Council for additional sanctions against Iran. Turkey made efforts to improve further relations with neighbouring countries such as Iraq, including the Kurdish regional government, and Syria. Relations with Israel significantly deteriorated following the Gaza flotilla incident. The protocols signed with Armenia to normalise relations are still not ratified.

Turkey is contributing substantially to the Common Security and Defence Policy (CSDP) and seeking greater involvement in CSDP activities. The issue of EU-NATO cooperation involving all EU Member States beyond the 'Berlin plus arrangements' remains to be resolved. Turkey has not aligned with the EU position on membership of the Wassenaar Arrangement.

Limited progress can be reported in the area of *financial control*, which already shows a fairly advanced level of alignment. Legislation implementing the PFMC Law is in place, whilst the PIFC policy paper and action plan require revision. The revised law on the Turkish Court of Accounts, bringing external audit into line with relevant international standards, has not yet been adopted. The Turkish AFCOS has not yet evolved into an operational network. Permanent structures are required for contacts with the Commission on the protection of the euro against counterfeiting. Turkey's alignment with the basic principles and institutions of the *acquis* in the area of *financial and budgetary* provisions is well advanced, although preparedness in the area of the own resources *acquis* is at an early stage.