



KOMISIJA EVROPSKIH SKUPNOSTI

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**SPOROČILO KOMISIJE SVETU IN EVROPSKEMU PARLAMENTU**

**Priporočilo Evropske komisije o napredku Turčije za pristop**

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#### **1. UVOD**

Odnosi med EU in Turčijo imajo dolgo zgodovino. Leta 1963 sta Turčija in EGS sklenili pridružitveni sporazum z možnostjo članstva. Leta 1995 je bila vzpostavljena carinska unija in Evropski svet je decembra 1999 v Helsinkih odločil, da je Turčija kandidatka za članstvo v EU. Evropski svet je decembra 2002 v Københavnu sklenil, da bo Evropska unija, če Evropski svet decembra 2004 na podlagi poročila in priporočila Komisije odloči, da Turčija izpolnjuje politične kriterije iz Københavna, nemudoma začela pristopna pogajanja s Turčijo“. Te sklepe je potrdil Evropski svet junija 2004 v Bruslju.

V pomembnih obdobjih evropske zgodovine je Turčija igrala pomembno vlogo v evropski politiki. Turčija je članica vseh drugih pomembnih evropskih organizacij in igra od druge svetovne vojne naprej pomembno vlogo pri oblikovanju evropskih politik.

V okviru omejitev pristojnosti iz Københavna 2002 vsebuje to sporočilo priporočilo Komisije in zaključke rednega poročila o Turčiji v Prilogi. Redno poročilo beleži napredek Turčije v smeri pristopa v zadnjih dvanajstih mesecih. Prav tako preučuje prejšnje dosežke Turčije pri spoštovanju političnih in gospodarskih kriterijev za pristop od sprejetja sklepa Evropskega sveta v Helsinkih 1999. Priporočilo in spremljajoči dokumenti bodo služili kot podlaga za splošno politično pomembni sklep Evropskega sveta o prihodnosti Evropske unije.

Poleg tega so službe Komisije pripravile tudi oceno vprašanj glede možnosti članstva za Turčijo. Njihove ugotovitve so predstavljene v tem sporočilu.

Na tej osnovi je predstavljena strategija treh stebrov. V prvem stebru gre za sodelovanje za krepitev in podporo procesu reform v Turčiji, še posebej v zvezi z nadaljevanjem izpolnitve kopenhagenskih političnih kriterijev. Temeljit bo na popravljenem pristopnem partnerstvu, ki določa prioritete predvsem pri procesu reform, in na dopolnjeni predpristopni strategiji. V drugem stebru se predlagajo posebni pogoji za izvedbo pristopnih pogajanj s Turčijo. Podanih je veliko predhodnih navedb za pripravo pristopnih pogajanj, če bo Evropski svet decembra sprejel takšen sklep. Tretji steber predlaga precej okrepljen politični in kulturni dialog za združevanje ljudi iz držav članic EU in Turčije. Pristop Turčije bi moral biti temeljito pripravljen, da bi se omogočila gladka integracija, ki bi poudarila dosežke petdesetih let evropske integracije. To je odprt proces in njegovega izida se ne da vnaprej zjamčiti. Ne glede na izid pogajanj ali kasnejšega ratifikacijskega procesa morajo odnosi med EU in Turčijo zagotoviti, da ostane Turčija trdno zasidrana v evropskih strukturah.

## 2. OCENA POLITIČNIH KRITERIJEV

Po desetletjih sporadičnega napredka se je Turčija zakonodajno in institucionalno precej približala evropskim standardom, predvsem po volitvah 2002. Politične reforme so v glavnem zajete v dveh velikih ustavnih reformah iz leta 2001 in iz leta 2004 ter v osmih zakonodajnih paketih, ki jih je sprejel parlament med februarjem 2002 in julijem 2004. Civilno-vojaški odnosi se razvijajo v smeri evropskih standardov. Sodni sistem se je pomembno spremenil, vključno z ukinitvijo sodišč državne varnosti. Reforma javne uprave poteka. Turčija glede človekovih pravic priznava prevlado mednarodnega in evropskega prava. V veliki meri se je prilagodila mednarodnim konvencijam in sodbam, na primer glede popolne ukinitve smrtne kazni in izpustitve ljudi, obsojenih zaradi izražanja nenasilnega mnenja. Čeprav nekatere praktične omejitve še obstajajo, se je obseg temeljnih svoboščin turških državljanov precej razširil, na primer s svobodo izražanja in zbiranja. Civilna družba se je okrepila. Kulturne pravice Kurdov se začenjajo priznavati. Vsepopovsod je bilo preklicano izredno stanje; čeprav je položaj še vedno težek, se je na jugovzhodu začel proces normalizacije. Končno, z okrepljenim političnim dialogom turška zunanja politika pozitivno prispeva k regionalni stabilnosti.

Turčija je precej napredovala v procesu političnih reform, predvsem s pomočjo daljnosežnih ustavnih in zakonodajnih sprememb, sprejetih v zadnjih letih v skladu s prioritetami iz pristopnega partnerstva. Vendar zakon o združenjih, novi kazenski zakonik in zakon o srednjestopenjskih prizivnih sodiščih še niso stopili v veljavo. Poleg tega je treba sprejeti še odločitev o zakoniku o kazenskem postopku, zakonodajo o vzpostavitvi sodne policije in zakon o izvršitvi kazni in ukrepov.

Turčija si močno prizadeva za zagotovitev pravilne implementacije teh reform. Kljub temu je treba implementacijo še bolj konsolidirati in razširiti. To se posebej nanaša na politiko nobenega popuščanja v boju proti mučenju in zlorabam in na krepitev ter izvedbo določb o svobodi izražanja, o svobodni veri, o pravicah žensk, o pravicah sindikatov in o pravicah manjšin.

Komisija, v luči splošnega napredka reform in če bo Turčija uveljavila zgoraj omenjeno manjkajočo zakonodajo, meni, da Turčija zadostno izpolnjuje politične kriterije, in priporoča, da se začnejo pristopna pogajanja.

Nepovratnost reformnega procesa, njegova izvedba, še posebej pri temeljnih svoboščinah, se bo morala potrditi v daljšem časovnem obdobju. Poleg tega se razvija *acquis* v zvezi s političnimi kriteriji, predvsem kot rezultat Ustave za Evropo. Turčija bi morala ta razvoj pazljivo spremljati.

Turčija je podpirala in še naprej aktivno podpira napore za rešitev ciprskega vprašanja; predvsem Turčija se je strinjala z rešitvijo, predlagano v mirovnem načrtu generalnega sekretarja ZN. Evropski svet je junija 2004 povabil Turčijo k zaključku pogajanj s Komisijo v imenu Skupnost in njenih 25 članic o prilagoditvi sporazuma iz Ankare, da bi le-ta upošteval pristop novih držav članic. Komisija pričakuje pozitiven odgovor od Turčije glede osnutka protokola o potrebnih prilagoditvah, poslanega julija 2004. Poleg tega je treba omeniti, da se vsa pristopna pogajanja odvijajo v okviru medvladne konference, ki jo sestavljajo vse države članice EU.

Podrobne ugotovitve rednega poročila, ki pokrivajo tudi napredek Turčije pri doseganju drugih kriterijev za članstvo, so v *Prilogi: Ugotovitve rednega poročila o Turčiji*.

### 3. OCENJEVANJE VPRAŠANJ V ZVEZI Z MOŽNOSTJO ČLANSTVA TURČIJE

Pristop Turčije v Unijo bo izziv tako za EU kot za Turčijo. Če bo dobro izpeljan, bo obema prinesel pomembne priložnosti. Kot je pokazala ocena vprašanj v zvezi z možnostjo turškega članstva, bodo potrebne priprave na pristop trajale dolgo v naslednje desetletje. EU se bo v tem obdobju razvila, zato bi se morala Turčija še bolj radikalno spremeniti. *Acquis* se bo še bolj razvil in odgovarjal na potrebe EU 27 ali več članic. Njegov razvoj lahko prinese tudi izzive in priložnosti za turški pristop.

Na podlagi trenutnih politik in poznavanja EU je Komisija ugotovila naslednja glavna vprašanja za nadaljnji premislek in analizo v prihodnjih letih:

- Pristop Turčije bi se razlikoval od prejšnjih širitev zaradi skupnega učinka števila turškega prebivalstva, velikosti države, zemljepisnega položaja, gospodarskega, varnostnega in vojaškega potenciala. Zaradi teh dejavnikov je Turčija sposobna prispevati k regionalni in mednarodni stabilnosti. Možnost pristopa naj vodi k boljšim dvostranskim odnosom med Turčijo in njenimi sosedami v skladu z načelom sprave, na katerem temelji Evropska unija. Pričakovanja glede politik EU o teh regijah bodo prav tako rasla ob upoštevanju obstoječih turških političnih in gospodarskih vezi s sosedami. Veliko bo odvisnega od tega, kako se bo sama EU spopadla z izzivom postati polnopravni akter v zunanji politiki na srednji rok v regijah, v katerih obstajajo tradicionalne nestabilnosti in napetosti, tudi na Bližnjem vzhodu in na Kavkazu.
- V Turčiji poteka zdaj proces radikalnih sprememb, tudi v hitrem razvoju mentalitet. V interesu vseh je, da se zdajšnja preobrazba nadaljuje. Turčija bi bila pomemben zgled države z večinskim muslimanskim prebivalstvom, ki pripada temeljnim načelom svobode, demokracije, spoštovanja človekovih pravic in temeljnih svoboščin ter pravne države.
- Gospodarski učinek turškega pristopa v EU bi bil pozitiven, vendar relativno majhen tako zaradi skromnega obsega turškega gospodarstva kot zaradi stopnje gospodarske integracije že pred pristopom. Veliko bo odvisnega od bodočega gospodarskega razvoja v Turčiji. Začetek pristopnih pogajanj naj bi pripomogel k nadaljevanju naporov Turčije za zagotovitev makroekonomske stabilnosti in za spodbujanje naložb, rasti ter razvoja. Pod temi pogoji se pričakuje, da bo BDP Turčije rasel hitreje od povprečja EU.
- Pristop Turčije, države z nizkim ali največ s srednje visokim prihodkom, bi povečal regionalne gospodarske razlike v povečani EU podobno kot pri najnovejši širitvi in bi predstavljal velik izziv za kohezijsko politiko. Turčija bi bila upravičena do precejšnje podpore iz strukturnih skladov in kohezijskega sklada v daljšem časovnem obdobju. Veliko regij v sedanjih državah članicah, ki prejemajo podporo iz strukturnih skladov, bi lahko izgubilo svoj status upravičenosti na podlagi trenutnih pravil.

- Integracija Turčije na notranji trg bi bila koristna. To pa je odvisno ne le od izpolnitve trenutnih obvez iz carinske unije, temveč tudi od bolj horizontalnih reform, kot so krepitev upravljanja podjetij in uredbenih okvirov, krepitev boja proti korupciji in precejšnje izboljšanje delovanja sodstva.
- Več kot tri milijone Turkov, danes živečih v EU, predstavlja daleč največjo skupino državljanov tretje države, živečih v EU. Dostopne študije posredujejo različne ocene pričakovanega dodatnega preseljevanja po pristopu Turčije. Lahko se premisli o dolgi prehodni obdobji in o stalni varovalni klavzuli, da bi se izognili resnim motnjam na trgu delovne sile EU. Vendar bi lahko dinamika turškega prebivalstva prispevala k uravnoteženju starajočih se družb v EU. V tem smislu ima EU tudi velik interes, da se izvedejo reforme in naložbe v izobraževanje in usposabljanje v Turčiji v naslednjem desetletju.
- Kmetijstvo je eno od najpomembnejših gospodarskih in socialnih sektorjev v Turčiji in bi potrebovalo posebno pozornost. Od Turčije bi se zahtevali stalni napor za razvoj podeželja in dopolnjevanje upravnih zmogljivosti, da bi se ustvarili najugodnejši možni pogoji za uspešno sodelovanje v skupni kmetijski politiki. Turčija bi potrebovala veliko časa, da bi izboljšala konkurenčnost več kmetijskih sektorjev in se tako izognila precejšnjim izgubam dohodka turških kmetov. Po trenutnih politikah bi bila Turčija upravičena do precejšnje podpore. Na veterinarskem področju bi bili potrebni veliki napor za izboljšanje položaja v zvezi z zdravjem živali in z nadzorom na vzhodnih mejah, da bi se izognili resnim problemom pri pristopu.
- Pristop Turčije bi pomagal zagotoviti boljše dobavne poti energije v EU. Verjetno bi bilo treba razviti politike EU za upravljanje z vodnimi viri in s povezano infrastrukturo. Zaradi čezmejnih učinkov drugih politik EU na področjih okolja, prometa, energije in varstva potrošnikov, ki so včasih obsežni, bi imela dobra izvedba teh politik v Turčiji precejšnje pozitivne učinke na državljane EU drugod.
- Upravljanje dolge nove zunanje meje EU bi predstavljalo pomemben izziv politike in bi zahtevalo precejšnje naložbe. Upravljanje migracij in azila ter boj proti organiziranemu kriminalu, terorizmu, trgovanju z ljudmi, tihotapljenju drog in orožja bi bila olajšana prek tesnejšega sodelovanja tako pred pristopom kot po njem.
- Proračunski učinek turškega članstva v EU se lahko v celoti oceni šele potem, ko se opredelijo parametri za finančna pogajanja s Turčijo v smislu finančnih perspektiv od leta 2014 dalje. Narava in količina transferjev v Turčijo bi bila odvisna od številnih spremenljivih dejavnikov, na primer od politik EU in posebnih dogovorov s Turčijo v pogajanjih ter takrat veljavnih proračunskih določb, zlasti skupne zgornje omejitve proračuna. Vendar je jasno, da bi bil proračunski učinek na podlagi trenutnih politik precejšen.
- Glede institucij bi turški pristop, ocenjen na podlagi Ustave za Evropo, precej vplival na dodeljene sedeže trenutnih držav članic v Evropskem parlamentu, zlasti na sedeže srednje velikih in velikih držav. Turčija bi imela v Svetu pomemben glas pri odločanju glede na delež prebivalstva, ki bi se odražal v glasovalnem sistemu Sveta. Učinek na Komisijo bi bil manj pomemben zaradi načrtovanega znižanja števila članov Komisije od leta 2014 dalje.

#### 4. KREPITEV IN PODPIRANJE PROCESA REFORM V TURČIJI

Na splošno je treba vztrajati pri izvedbi reform. Bolj nazorno, treba bi bilo izvesti politiko nobenega popuščanja do mučenja prek odločnih naporov na vseh ravneh turške države, da bi se iztrebili vsi preostali primeri mučenja. Nadaljnji razvoj civilne družbe je pomemben. Potreba po konsolidiranju in širjenju političnih reform se nanaša tudi na normalizacijo in razvoj položaja na jugovzhodu, vključno z ukrepi za izboljšanje socialno-gospodarskega položaja, s pobudami za omogočanje vrnitve razseljenih ljudi in za omogočanje polnega uživanja pravic in svoboščin Kurdiv. Tudi posebni problemi nemuslimanskih verskih skupnosti in sindikatov zahtevajo nadaljnje ukrepe.

Da bi zagotovili trajnost in nepovratnost procesa političnih reform, naj EU še naprej podrobno spremlja napredek političnih reform na podlagi pristopnega partnerstva, ki določa prioritete v reformnem procesu. Komisija bo na podlagi analize iz rednega poročila predlagala popravke k pristopnemu partnerstvu spomladi 2005. Na tej podlagi se bo letno izvajal splošni pregled, kako se konsolidirajo politične reforme, od konca leta 2005 dalje. V ta namen bo Komisija predstavila prvo poročilo Evropskemu svetu decembra 2005. Hitrost reform bo določila napredek pri pogajanjih.

V skladu s Pogodbo o Evropski uniji in z Ustavo za Evropo bo Komisija priporočila prekinitev pogajanj v primeru resnega in vztrajnega kršenja načel svobode, demokracije, spoštovanja človekovih pravic in temeljnih svoboščin ter vladavine prava, na katerih temelji Unija. Svet naj bi odločal o takšnem priporočilu s kvalificirano večino.

Poglobljen politični dialog in redno spremljanje se morata po odprtju pristopnih pogajanj nadaljevati. Kot v preteklosti se bosta dopolnjevala s strokovno pomočjo Komisije. Treba bo izvajati tudi dialog na gospodarskem področju ob jasni navezavi na *acquis* in zlasti na metode usklajevanja gospodarske politike v uporabi v EU.

Na osnovi instrumentov, razvitih v preteklih letih, kot so twinning, medsebojni pregledi in TAIEX, naj bi EU še naprej pomagala Turčiji pri doseganju potrebnega pravnega in realnega približevanja. Predpristopna strategija za Turčijo naj bi se nadgradila in osredotočila na prednostne naloge, orisane v popravljenem pristopnem partnerstvu, ki bo temeljilo na rednem poročilu in na oceni vprašanj glede možnega turškega pristopa. Treba je razviti konkretne pobude v odgovor na socialno-gospodarski razvoj na jugovzhodu, tudi prek mobilizacije precejšnjega dela pomoči Skupnosti Turčiji.

Do leta 2006 bo finančna in tehnična pomoč EU turškim pripravam še naprej temeljila na predpristopnem instrumentu, namenjenemu Turčiji, ki ga je Svet sprejel decembra 2001. Komisija je Svetu predlagala, da ustvari nov predpristopni instrument (IPA), iz katerega bi od leta 2007 dalje črpala Turčija, na podlagi trenutnih predpristopnih instrumentov Phare, ISPA in SAPARD. V smislu naslednje finančne perspektive bo Komisija predlagala povišanje zneskov za Turčijo.

## 5. NAVEDBE ZA IZVEDBO PRISTOPNIH POGAJANJ

Zgoraj povzeta ocena je pokazala, da bosta tako EU kot Turčija potrebovali precej časa za vzpostavitev pogojev za gladko integracijo Turčije v EU. Čas je potreben ne le za zaščito kohezije in učinkovitosti Unije, temveč tudi zato, da Turčiji ne bo treba izvajati politik, ki bi bile morda neprimerne za njeno stopnjo razvoja.

Pristopna pogajanja bodo potekala v okviru medvladne konference, na kateri se odloča s soglasjem. Okvir za pogajanja bo moral odražati posebne izzive, povezane s turškim pristopom. Podrobni parametri za izvedbo pogajanj bodo dodelani na podlagi širših navedb, podanih spodaj, po sprejetju sklepa za začetek pogajanj.

Takoj po uradnem začetku pristopnih pogajanj bo Komisija organizirala temeljit pregled *acquisa*, imenovan „screening“, v obrazložitev in za pridobitev predhodnih navedb vprašanj, ki se lahko pojavijo med pogajanj. Pogajanja bodo zapletena in bodo po eni strani odražala težave Turčije pri prevzemu *acquisa* in po drugi strani potrebo po določbah za lažjo usklajeno integracijo Turčije v EU. Dva primera tega sta uporaba skupne kmetijske politike in kohezijske politike v Turčiji. Tretji primer so pravila o prostem pretoku ljudi. Verjetno je, da bo obstajala kot pri prejšnjih širitvah potreba po precejšnjih in posebnih dogovorih ter po dolgih prehodnih obdobjih na nekaterih področjih. V primeru prostega pretoka ljudi se lahko preučijo trajne varovalke. Komisija bo med pogajanj dodelala svojo analizo, še preden bo predstavila konkreten pristop k vsakemu vprašanju.

Vsebina pogajanj bo razdeljena v več poglavij, tako da bo vsako pokrivalo eno od področij politike. Komisija bo Svetu priporočila, da začne pogajanja v zvezi z vsakim posameznim poglavjem, ko bo menila, da je Turčija dovolj pripravljena. Pri nekaterih poglavjih gospodarskih razsežnosti naj bo obstoj delujočega tržnega gospodarstva predpogoj za začetek pogajanj.

Merila uspešnosti za začasno zaprtje vsakega poglavja in, če je to ustrezno, za odprtje poglavij bodo morala biti opredeljena vnaprej pred začetkom pogajanj o vsakem poglavju. Ta merila bi se lahko nanašala na usklajevanje zakonodaje in na zadovoljive rezultati pri njenem izvajanju. Poleg tega je treba izpolniti obstoječe pravne obveze iz pridružitvenega sporazuma in carinske unije, zlasti tiste, ki odražajo *acquis*, pred začetkom pogajanj o povezanih poglavjih.

Napredek pri pogajanjih ne bo odvisen le od turškega približevanja k EU. EU se bo morala pripraviti, ker je pomembno upoštevati pri splošnem interesu tako Unije kot držav kandidat – kot je sklenil Evropski svet junija 1993 – sposobnost Unije sprejeti nove članice in hkrati obdržati zagon evropske integracije. Dosedanja analiza turškega pristopa ne kaže, da bi bile potrebne velike prilagoditve pri politikah v zvezi z notranjim trgov. Pogajanja bodo kot vedno temeljila na obstoječem *acquisu*. Vendar se še vedno lahko izkaže potreba po prilagoditvi *acquisu* pred pristopom. V vsakem primeru bo EU morala opredeliti svojo finančno perspektivo za obdobje od 2014 dalje, še preden se lahko obravnavajo finančne posledice nekaterih pogajalskih poglavij. Morda bodo potrebni dogovori v zvezi s posebnimi okoliščinami Turčije. Končno bo EU morala premisliti o okrepitvi politik na kritičnih področjih, opredeljenih v oceni o vprašanjih ob možnem turškem članstvu, recimo na področjih zunanjih mej in zunanje politike.

Predvsem s prikazom odločnega izvajanja nadaljnjih reform bi Turčija lahko zagotovila uspešen zaključek celotnega pristopnega procesa. Izvajanje pogajanj in možnost članstva bi lahko prispevala k nadaljnjim političnim, socialnim, kulturnim in gospodarskim reformam v Turčiji. Končni izid bodo morali potrditi Evropski parlament, države EU in Turčija.

## **6. KREPITEV DIALOGA MED EVROPSKO UNIJO IN TURČIJO**

Obstaja jasna potreba po krepitvi dialoga o več vprašanjih glede odnosov med EU in Turčijo. Treba je obravnavati več ustreznih vprašanj, ki se ne nanašajo neposredno na EU. Treba je vzpostaviti več forumov za združevanje ljudi iz držav članic in Turčije, v katerih se lahko odkrito in odprto razpravlja o skrbih in mnenjih. To vključuje dialog o razlikah med kulturama, o veri, o vprašanjih preseljevanja, o skrbih o pravicah manjšin in o terorizmu. Civilna družba naj igra najpomembnejšo vlogo v tem dialogu, ki ga naj omogoča EU. Komisija bo predstavila predloge o tem, kako podpirati tak dialog v prihodnosti.

## **7. SKLEPI IN PRIPOROČILA**

V zvezi z zgoraj omenjenim so zaključki in priporočila Komisije naslednji:

- (1) Turčija je precej napredovala v procesu političnih reform, predvsem s pomočjo daljnosežnih ustavnih in zakonodajnih sprememb, sprejetih v zadnjih letih v skladu s prednostnimi nalogami iz pristopnega partnerstva. Vendar zakon o združenjih, novi kazenski zakonik in zakon o srednjestopenjskih prizivnih sodiščih še niso začeli veljati. Poleg tega je treba sprejeti še zakonik o kazenskem postopku, zakonodajo o vzpostavitvi sodne policije in zakon o izvršitvi kazni in ukrepov.
- (2) Turčija si prizadeva zagotoviti pravilno izvedbo teh reform. Kljub temu je treba zakonodajo in izvedbene ukrepe še bolj konsolidirati in razširiti. To še zlasti velja za politiko nepopuščanja v boju proti mučenju in zlorabam ter za izvrševanje določb o svobodi izražanja, o svobodi veroizpovedi, o pravicah žensk, o standardih ILO, vključno s pravicami sindikatov, ter o pravicah manjšin.
- (3) Komisija glede na splošni napredek doseženih reform in pod pogojem, da bo Turčija uveljavila manjkajočo zakonodajo, navedeno v odstavku 1, meni, da Turčija zadostno izpolnjuje politične kriterije, in priporoča, da se začnejo pristopna pogajanja. Nepovratnost reformnega procesa, njegova izvedba, zlasti pri temeljnih svoboščinah, se bo morala potrditi v daljšem časovnem obdobju.
- (4) Sledi naj se strategiji treh stebrov. V prvem stebru gre za sodelovanje pri krepitvi in podpori procesu reform v Turčiji, zlasti v zvezi z nadaljevanjem izpolnjevanja kopenhagenskih političnih kriterijev. Da bi zagotovili trajnost in nepovratnost tega procesa, naj EU še naprej tesno spremlja napredek političnih reform. To bo storjeno na podlagi popravljenega pristopnega partnerstva, ki bo določal prednostne naloge za nadaljnje reforme. Splošni pregled napredka političnih reform bo opravljen enkrat letno od konca 2005



dalje. V ta namen bo Komisija predstavila prvo poročilo Evropskemu svetu decembra 2005. Hitrost reform bo določila napredek pri pogajanjih.

- (5) V skladu s Pogodbo o Evropski uniji in z Ustavo za Evropo bo Komisija priporočila prekinitev pogajanj v primeru resnega in vztrajnega kršenja načel svobode, demokracije, spoštovanja človekovih pravic in temeljnih svoboščin ter pravne države, na katerih temelji Unija. Svet bi se o takem priporočilu odločal s kvalificirano večino.
- (6) Drugi steber se nanaša na poseben način pristopa k pristopnim pogajanjem s Turčijo. Pristopna pogajanja bodo potekala v okviru medvladne konference, kjer se odloča s soglasjem in s sodelovanjem vseh članic EU. Pogajanja bodo zapletena. Za vsako poglavje iz pogajanj naj Svet določi merila uspešnosti za začasno zaprtje in, če je primerno, za odprtje pogajanj, vključno z usklajevanjem zakonodaje in zadovoljivimi rezultati izvajanja pravnega reda. Obstoječe pravne obveze v skladu s pravnim redom je treba izpolniti pred odprtjem pogajanj o ustreznih poglavjih. Morda bodo potrebna dolga prehodna obdobja. Poleg tega bodo morda potrebni na nekaterih področjih, kot so strukturne politike in posebni dogovori v kmetijstvu, pri prostem pretoku delavcev pa bodo morda potrebne trajne varovalke. Pomembne bodo finančne in institucionalne posledice pristopa Turčije. EU bo morala opredeliti svojo finančno perspektivo za obdobje od 2014 dalje, še preden se lahko zaključijo pogajanja. Poleg tega bo med pogajanjem Komisija spremljala sposobnost Unije sprejeti nove članice in poglobiti integracijo ob polnem upoštevanju ciljev Pogodbe glede skupnih politik in solidarnosti.
- (7) Tretji steber vsebuje precej okrepljen politični in kulturni dialog za združevanje ljudi iz držav članic EU in Turčije. Civilna družba bi morala igrati najpomembnejšo vlogo v tem dialogu, ki bi ga morala omogočati EU. Komisija bo predstavila predloge o tem, kako podpirati takšen dialog.
- (8) Komisija je prepričana, da bo proces pogajanja odločilen pri usmerjanju nadaljnjih reform v Turčiji. Že po svoji naravi je to odprt proces in njegovega izida se ne da zjamčiti vnaprej. Ne glede na izid pogajanj ali kasnejšega ratifikacijskega procesa morajo odnosi med EU in Turčijo zagotoviti, da ostane Turčija trdno zasidrana v evropskih strukturah. Pristop Turčije bi moral biti temeljito pripravljen, da bi se omogočila gladka integracija, ki bi poudarila dosežke petdesetih let evropske integracije.

## **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. Alevis 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 6<sup>th</sup> 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.