



## Key findings of the 2019 Report on Turkey

Brussels, 29 May 2019

### Political criteria

The state of emergency introduced on 15 July 2016 in the aftermath of the attempted coup ended on 18 July 2018, when its last extension expired, but was immediately followed by the adoption by the Turkish parliament of a law that retained many elements of the emergency rule for further three years. The law limits certain fundamental freedoms, allowing in particular to dismiss public servants (including judges) and to prolong detentions, to restrict freedom of movement and public assembly, and extending powers for Government-appointed provincial governors.

The EU, which immediately and strongly condemned the attempted coup, reiterated its full support for the country's democratic institutions and recognised Turkey's legitimate need to take swift and proportionate action in the face of such a serious threat. However, the broad scale and collective nature of measures taken since the attempted coup under the state of emergency, such as widespread dismissals, arrests and detentions, continued to raise very serious concerns.

During the state of emergency, 36 decrees were issued constraining certain civil and political rights, as well as defence rights, expanding police powers and those of prosecutors for investigations and prosecutions as well as foreseeing the dismissal of more than 152 000 civil servants, including academics, teachers and public officials.

The Constitutional Court has ruled that it does not have a mandate to review the legality of decrees using legal powers issued during the state of emergency. The Parliament has reviewed 32 of them. In May 2017, the Turkish authorities established an Inquiry Commission on the State of Emergency Measures tasked to review all complaints individually.

As of May 2019, 126 600 applications had been made. Of these, the Inquiry Commission has reviewed 70 406 and only 5 250 have led to a reinstatement, while 65 156 complaints have been rejected. There are 55 714 applications pending. The rate of processing of applications raises concerns at whether each case is being examined individually. Since there are no hearings, there is a general lack of procedural guarantees for applicants and decisions are taken on the basis of the written files related to the original dismissal, all of which calls into question the extent to which the Inquiry Commission is an effective judicial remedy.

With the ending of the state of emergency, Turkey has withdrawn its derogations from the European Convention on Human Rights and from the International Covenant on Civil and Political Rights (ICCPR). However, the full monitoring procedure that the Parliamentary Assembly of the Council of Europe reopened in April 2017 remains in place.

Beyond the Inquiry Commission on the State of Emergency Measures, the capacity of Turkey to ensure an effective domestic legal remedy in the sense of the European Court of Human Rights has been further undermined. Several court rulings favourable to prominent defendants, including human rights defenders, were swiftly reversed by another or even by the same court, in some instances following comments from the executive.

Many human rights defenders, civil society activists, media, academics, politicians, doctors, lawyers, judges and lesbian, gay, bisexual, transgender and intersex (LGBTI) people, are still detained – sometimes without indictment, and are facing smear campaigns by the media and senior politicians. The space for civil society organisations working on fundamental rights and freedoms has further shrunk, notably exemplified by the introduction of further administrative obstacles. The rights-based organisations closed down under the state of emergency have not been offered any legal remedy in respect to confiscations. Since October 2018, following the amendment of the Parliament's rules of procedure, civil society organisations are excluded from the legislative consultation process at parliamentary committees. Inclusive mechanisms for consulting across society as widely as possible are not present.

Key recommendations of the Council of Europe and its bodies are yet to be addressed by Turkey.

Allegations of wrongdoing need to be established by transparent procedures and on an individual basis. Individual criminal liability can only be established with full respect for the separation of powers, the full independence of the judiciary and the right of every individual to a fair trial.

The new presidential system has centralised power in the hands of the executive and significantly curtailed the Parliament's legislative and oversight functions. Since July 2018, the Parliament has adopted 17 pieces of legislation, including controversial changes to its rules of procedure. Ministers no longer appear before Members of Parliament, who can ask only written questions.

Growing political polarisation, especially in the run-up to the March 2019 municipal elections continues to prevent constructive parliamentary dialogue. The marginalisation of the opposition, notably the People's Democratic Party (HDP) continues, and many HDP lawmakers are detained. The long-standing shortcomings of the system of parliamentary immunity have not been addressed.

The June 2018 presidential and parliamentary elections and the March 2019 municipal elections were marked by strong turnouts. Voters had a genuine choice despite the lack of conditions for contestants to compete on an equal basis. The ruling party enjoyed a notable advantage, also reflected in excessive coverage by government-affiliated public and private media. After the municipal elections, the Supreme Election Council declared four elected mayors and members of municipal councils ineligible to assume office in the south-east of Turkey, even though their candidacies had been validated before the elections. It also annulled the metropolitan mayoral elections in Istanbul and scheduled a re-run for 23 June. The decisions by the Supreme Election Council to re-run elections in Istanbul as well as to grant the mayorship of individual municipalities in the south-east to second-placed candidates are a source of serious concern regarding the respect of the legality and integrity of the electoral process and the institution's independence from political pressure. They go against the core aim of a democratic electoral process – that is to ensure that the will of the people prevails. The annulment of the metropolitan mayoral election in Istanbul and its re-scheduling were strongly contested by opposition parties.

The full entry into force of the presidential system has remodelled the executive and state administration. The presidential system, including the abolition of the position of Prime Minister and other functions such as Under Secretaries in Ministries, has led to greater politicisation of the public administration. The President now has the power to nominate the heads of the vast majority of public regulatory authorities.

Before the March 2019 municipal elections, continuing arrests and dismissals of local politicians and appointment of trustees as well as the arbitrary nature of these appointments deprived voters of political representation at local level, and seriously risked damaging local democracy.

The government has overhauled the legal framework governing the civil-military relations and increased the powers of the executive over the military significantly, thereby strengthening civilian oversight. As part of the constitutional amendments, high military courts were effectively abolished, but the military and intelligence services continue to lack sufficient accountability to the Parliament and security personnel continue to have wide-ranging legal protection. The parliamentary law enforcement oversight commission remained ineffective. The legal framework for overseeing military expenditure has not yet been improved.

The situation in the south-east has continued to be challenging, despite an improved security environment. The Government continued security operations against a background of the recurrent violent acts by the Kurdistan Workers' Party (PKK), which remains on the EU list of persons, groups and entities involved in acts of terrorism. While the Government has a legitimate right to fight terrorism, it is also responsible for ensuring this is done in accordance with the rule of law, human rights and fundamental freedoms. Anti-terror measures need to be proportionate. Despite some reconstruction, only few internally displaced persons have received compensation. There were no visible developments on the resumption of a credible political process to achieve a peaceful and sustainable solution.

Turkey is moderately prepared in the area of **public administration reform**, and there has been serious backsliding in the area of public service and human resources management, which has also affected policy developments and accountability. Changes to the civil service system have further increased the politicisation of the administration. Merit-based, competitive appointments for senior managerial positions remain the exception. Serious procedural shortcomings call into question the extent to which the Inquiry Commission on the State of Emergency Measures can be considered an effective remedy for dismissed public officials.

Turkey's **judicial system** is at an early stage of preparation. There has been further serious backsliding and the recommendations in the previous reports were not accepted or implemented. Political pressure on judges and prosecutors and transfers of a large number of judges and prosecutors against their will continued. This continues to have a negative impact on the

independence and overall quality and efficiency of the judiciary. The large scale recruitments of new judges and prosecutors under the current system are concerning because no measures were taken to address the lack of objective, merit-based, uniform and pre-established criteria for their recruitment and promotion. The Justice Academy of Turkey was re-established by Presidential Decree, after it had previously been closed under the state of emergency. The chilling effect of the dismissal and forced transfers of judges and prosecutors is still observed, and risk engendering widespread self-censorship. No measures were taken to restore legal guarantees to ensure the independence of the judiciary from the executive or to strengthen the independence of the Council of Judges and Prosecutors (CJP). A judicial reform strategy for 2019-2023 was announced in August 2018 but has not yet been adopted. Turkey consulted the Council of Europe and the European Commission on the draft strategy.

The country is at an early stage in the **fight against corruption**. There was backsliding since dismantled preventive bodies have not been replaced by an independent body, in line with the United Nations Convention against Corruption to which Turkey is a party. Both the legal and institutional frameworks continued to allow undue influence from the executive in the investigation and prosecution of high-profile corruption cases. The legislative amendments envisaged in previous anti-corruption strategies have not been implemented. Public procurement legislation remained incompatible with the EU *acquis* and the scope of the derogations to the public procurement law was increased further. The absence of a robust anti-corruption strategy and action plan is a sign of lack of political will to fight decisively against corruption. No permanent, functionally independent anti-corruption body exists and there is no specialised prosecution service to lead anti-corruption investigations and only few specialised courts. Overall, corruption is widespread and remains an issue of concern.

Turkey has some level of preparation in the **fight against organised crime** but progress is limited overall. The country needs to improve its legislation on cybercrime, assets confiscation and witness protections. Turkish data protection is still not in line with European standards and will have to be revised in order to ensure the implementation of the operational agreement with Europol currently being negotiated. Turkey should develop and implement a more comprehensive and coherent legal framework for the confiscation of the proceeds of crime and improve its capacity to manage frozen assets.

Turkey made good progress in the area of **migration and asylum policy** and remained committed to the effective implementation of the March 2016 EU-Turkey statement. The declining trend in irregular crossings from Turkey to the Aegean islands since the entry into force of the Statement was supported by intensified efforts by Turkey's law enforcement agencies. Turkey sustained its outstanding efforts to provide massive and unprecedented humanitarian aid and support to more than 3.6 million registered refugees from Syria and around 370 000 registered refugees from other countries, thus hosting the largest refugee community in the world. Turkey has set up seven working groups to carry out technical work on the outstanding benchmarks of the visa liberalisation dialogue. However, no progress has been made in the harmonisation of the Turkish visa policy with the EU common visa policy.

Serious backsliding remains in terms of **human and fundamental rights**. While the legal framework includes general guarantees of respect for human and fundamental rights, it still needs to be brought in line with the European Convention on Human Rights (ECHR) and the case law of the European Court of Human Rights (ECtHR). There has been serious backsliding in the areas of freedom of expression, assembly, and association and in procedural and property rights. No changes were made to the legislation introduced immediately after the lifting of the state of emergency, which removed crucial safeguards protecting civil society activists, human rights defenders, journalists, academics and others from abuses. The enforcement of rights is hindered by the fragmentation and limited independence of public institutions responsible for protecting those rights and freedoms as well as by the lack of an independent judiciary. Trade union rights continue to be under severe pressure. No steps were taken to investigate, prosecute or punish those involved in profound human rights violations during the state of emergency. There was a climate of intimidation across society as the state of emergency was used to narrow the space for dissenting or alternative views. As of December 2018, the total number of people in prison without indictment or pending trial is 57 000, more than 20% of the prison population. There is overcrowding and conditions are deteriorating. Severe restrictions on freedom of expression continued and the trend for prosecution of writers, social media users and other members of the public, even children, for insulting the President has dramatically increased. The lack of transparency as to media ownership continues to cast doubt on the independence of editorial comment. Roma<sup>[1]</sup> continue to live in very poor housing, often lacking basic public services and relying on social benefits. The urban renewal projects continue to affect primarily their settlements, forcing the displacement of entire families. The rights of the most vulnerable groups and of persons belonging to minorities need better protection. Gender-based violence,

discrimination, hate speech against minorities, hate crime and violations of human rights of LGBTI persons are still a matter of serious concern.

Turkey welcomed the UN's renewed efforts to consult stakeholders as to a possible resumption of negotiations regarding Cyprus. Tensions in the region around the prospect of hydrocarbon exploration off the coast of Cyprus increased, due to Turkey's actions and statements challenging the right of the Republic of Cyprus to exploit hydrocarbon resources in the Cyprus Exclusive Economic Zone. In May 2019, Turkey sent a drilling platform accompanied by military vessels to the Republic of Cyprus' Exclusive Economic Zone, escalating tensions further. The European Commission recalls the European Council statement of March 2018 strongly condemning Turkey's continued illegal actions in the Eastern Mediterranean and the Aegean Sea. It also recalled Turkey's obligation to respect international law and good neighbourly relations and called on Turkey to respect the sovereign rights of Cyprus to explore and exploit its natural resources in accordance with EU and International Law. In March 2019, the EU called on Turkey to refrain from any such illegal acts, to which it would respond appropriately and in full solidarity with Cyprus.

The EU has repeatedly stressed the sovereign rights of EU Member States, which include entering into bilateral agreements and exploring and exploiting their natural resources in accordance with the EU *acquis* and international law, including the UN Convention on the Law of the Sea. Turkey has still not fulfilled its obligation to ensure full and non-discriminatory implementation of the Additional Protocol to the EU-Turkey Association Agreement and has not removed all the obstacles to the free movement of goods, including restrictions on direct transport links with Cyprus. There was no progress on normalising bilateral relations with the Republic of Cyprus.

Operational cooperation with Greece on migration further continued. However, tensions in the Aegean Sea and Eastern Mediterranean were not conducive to good neighbourly relations and undermined regional stability and security. Bilateral relations with several individual EU Member States in particular with Austria, Germany and the Netherlands improved. The Netherlands and Turkey normalised relations. There were repeated and increased violations of the territorial waters and airspaces of Greece and Cyprus by Turkey. Another source of serious concern was the six-month detention of two Greek soldiers who had been patrolling the land border but relations improved significantly on their release in August 2018 and following the Greek Prime Minister's visit to Turkey in February.

In this context, the EU has expressed once again serious concern and urged Turkey to avoid any kind of threat or action directed against a Member State, or any source of friction or actions that would damage good neighbourly relations and the peaceful settlement of disputes.

### **Economic criteria**

Serious backsliding continued in the Turkish economy, leading to deeper concerns over the functioning of the country's market economy. In 2018, a sharp deterioration in the external financing conditions exposed vulnerabilities built up over years. In response, the Turkish authorities took a range of policy actions that have negatively influenced the functioning of markets, more importantly, by interfering with price formation and introducing constraints on the free use of foreign exchange. Concerns regarding the independence of key economic institutions have deepened. The current account deficit reached a peak in the first half of 2018 before a strong correction set in as a result of the weakening economy and the fall in the lira. The inflation rate jumped far above the upper band of the target range following the currency crisis and years of high credit growth, high money growth and low real interest rates. There was no progress in improving the transparency of state aid.

Turkey has made some progress and has a good level of preparation to cope with competitive pressures and market forces within the EU. Turkey is well-integrated with the EU market in terms of both trade and investment. Improvements were made in the energy sector, as well as some advances in spending on research and development, education and physical capital. However, there are persistent problems with the quality of education and gender equality.

### **EU legislation**

Turkey has continued to align with the *acquis*, albeit at a limited pace. There have been more instances of backsliding regarding a number of key aspects in the areas of free movement of capital, public procurement, competition, information society, economic and monetary policy, and external relations. Turkey is well advanced in the areas of company law, trans-European networks and science and research and it has achieved a good level of preparation in the areas of free movement of goods, intellectual property law, financial services, enterprise and industrial policy, consumer and health protection, customs union and financial control. Turkey is moderately prepared on public procurement as important gaps remain in its alignment. Turkey is also moderately prepared in the area of free movement of capital, statistics, energy, taxation, economic and monetary union, regional policy, education and culture, Common Foreign and Security Policy and transport policy where

further significant efforts are needed across the board. Turkey has reached some level of preparation on competition, agriculture, food safety, veterinary and phytosanitary policy, social policy and employment, environment and climate change where more ambitious and better coordinated policies still need to be established and implemented. In all areas, more attention needs to be given to enforce legislation whilst many areas require further significant progress to achieve legislative alignment with the EU *acquis*, strengthen the independence of regulatory authorities and build the administrative capacities.

#### **Key dates**

**September 1959:** Turkey applies for associate membership of the European Economic Community (EEC).

**September 1963:** Signature of the Association Agreement, aiming at enhancing economic cooperation and achieving a Customs Union between Turkey and the EEC.

**April 1987:** Turkey presents its formal application for membership of the European Economic Community.

**January 1995:** EU-Turkey Agreement creating a customs union.

**December 1999:** The European Council recognises Turkey as a candidate country.

**December 2004:** The European Council agrees to start accession negotiations with Turkey.

**October 2005:** Start of accession negotiations.

**December 2006:** The Council decides that eight negotiating chapters cannot be opened and no chapter can be closed until Turkey meets its obligation of full, non-discriminatory implementation of the additional protocol to the Association Agreement.

**May 2012:** European Commission and Turkey start the implementation of the Positive agenda for Turkey.

**December 2013:** The EU-Turkey readmission agreement is signed in parallel with the launching of the visa liberalisation dialogue.

**October 2014:** The EU-Turkey readmission agreement enters into force.

**March 2015:** The European Commission and Turkey launch a high-level energy dialogue.

**May 2015:** The European Commission and Turkey agree to modernise the 20-year-old Customs Union Agreement and to enhance EU-Turkey bilateral trade relations.

**November 2015:** On the occasion of the EU-Turkey Leaders' Meeting, both sides agree on the activation of a Joint Action Plan aiming at ending the irregular migration from Turkey to the EU, in full compliance with EU and international standards.

**December 2015:** Chapter 17 on economic and monetary policy is opened.

**January 2016:** The EU-Turkey high-level political dialogue and high-level energy dialogue take place.

**March 2016:** The EU and Turkey agree on a joint Statement on the basis of the Joint Action Plan of November 2015.

**April 2016:** The first EU-Turkey high-level economic dialogue takes place; the first Report on the implementation of the EU-Turkey Statement of 18 March 2016 is published.

**May 2016:** The third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap is published.

**June 2016:** Chapter 33 on financial and budgetary provisions is opened.

**September 2016:** The EU-Turkey high-level political dialogue takes place.

**December 2016:** The European Commission adopts a recommendation for opening of negotiations with Turkey on the modernisation of the Customs Union.

**May 2017:** EU-Turkey Leaders' meeting takes place in Brussels.

**July 2017:** The EU-Turkey high-level political dialogue takes place.

**November 2017:** The first high-level EU-Turkey dialogue on transport takes place.

**December 2017:** The EU-Turkey high-level economic dialogue takes place.

**March 2018:** EU-Turkey Leaders' meeting takes place in Varna, Bulgaria.

**April 2018:** The 77th EU-Turkey Joint Parliamentary Committee takes place in Brussels.

**November 2018:** The EU-Turkey high-level political dialogue takes place in Ankara.

**December 2018:** The 78th EU-Turkey Joint Parliamentary Committee takes place in Ankara.

**January 2019:** The EU-Turkey high-level dialogue on transport takes place in Brussels.

**February 2019:** The EU-Turkey high-level economic dialogue takes place in Istanbul.

**March 2019:** The 54th EU-Turkey Association Council takes place in Brussels.

#### **For More Information**

[Turkey Report 2019](#)

[Enlargement Package 2019](#)

[1] In line with the terminology of European institutions, the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.

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