



Baseline Measurement Report:

The Principles of Public Administration

TURKEY

April
2015

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LIST OF ABBREVIATIONS AND ACRONYMS

CAF	Common Assessment Framework
CHU	Central Harmonisation Unit
CoG	centre of government
CoM	Council of Ministers
CPI	Corruption Perceptions Index
CSL	Civil Service Law
EC	European Commission
EFQM	European Foundation for Quality Management
EI	European integration
EU	European Union
FMC	financial management and control
GAWP	Government Annual Work Plan
GDP	gross domestic product
HPC	High Planning Council
HRM	human resource management
HRMIS	Human Resource Management Information System
IA	internal audit
IACB	Internal Audit Co-ordination Board
IPA	Instrument for Pre-accession Assistance
ISO	International Organization for Standardization
IT	information technology
KPSS	Public Personnel Selection Examination (Turkish acronym)
MoDev	Ministry of Development
MoEU	Ministry for European Union Affairs
MoF	Ministry of Finance
MoJ	Ministry of Justice
MoL	Ministry of Labour and Social Security
MoST	Ministry of Science, Industry and Technology
MTBF	medium-term budgetary framework
MTFP	Medium-term Fiscal Plan
MTP	Medium-term Programme
NAP	National Action Plan for European Union Accession
NGO	non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
PAR	public administration reform

Turkey
List of Abbreviations and Acronyms

PFM	public financial management
PFMC	public financial management and control
PIFC	Public Internal Financial Control
PM	Prime Ministry
PP	Performance Programme
PPA	Public Procurement Authority
PPL	Public Procurement Law
PPP	public-private partnership(s)
RIA	Regulatory Impact Assessment
RoP	rules of procedure
SAI	Supreme Audit Institution
SP	Strategic Plan
SPA	State Personnel Administration
SSO	State Supply Office
TBB	Union of Municipalities (Turkish acronym)
TCA	Turkish Court of Accounts
TGNA	Turkish Grand National Assembly
TODAIE	Public Administration Institute for Turkey and the Middle East (Turkish acronym)
TRY	Turkish lira
UYAP	e-judiciary system (Turkish acronym)

OVERVIEW

The European Commission (EC) has strengthened its focus on public administration reform (PAR) in the “Enlargement Strategy and Main Challenges 2014-2015” by outlining six key issues of reform. Based on the Enlargement Strategy, *The Principles of Public Administration* were developed by SIGMA in co-operation with the EC¹. The Principles cover six areas: strategic framework for public administration reform, policy development and co-ordination, public service and human resource management, accountability, service delivery and public financial management (including public procurement). They define what good governance entails in practice and outline the main requirements to be followed by countries during the European Union (EU) integration process. The Principles also feature a monitoring framework enabling regular analysis of the progress made in applying the Principles and setting country benchmarks.

This Country Report sets the baseline values for the indicators included in the monitoring framework and provides analysis on where the country stands against the Principles. It covers the period from January 2014 to April 2015, which is shortened to April 2014 to April 2015 in areas where a SIGMA assessment was conducted in 2014. The analytical report is complemented by the Methodological Annex, which defines the indicators included in the monitoring framework.

General state of play in Turkey

After several years of operating without an up-to-date European integration (EI) plan, the Turkish Government adopted a new European Union Strategy and associated two-phase Action Plan which covers EI-related activities, in particular harmonisation-related actions up to 2019. As highlighted in his press statement in January 2015, the President of the European Council stressed that this Strategy and Action Plan shows the commitment of the Turkish Government to the accession process, but that implementation is key².

The delivery of tangible results for the PAR agenda, as well as properly implementing the *acquis communautaire*, is dependent on ownership of the reform process and adequate administrative capacity.

Turkey has a long-standing administrative tradition and a well-functioning public administration; however, several challenges remain.

The PAR agenda is extensively covered by various planning documents, and monitoring and reporting of reform objectives is executed through an institutional planning system. However, the management of PAR is decentralised and additional efforts are needed to enhance co-operation between key actors of PAR both at the administrative and political level.

Functioning of the centre of government and translating policy development structures and procedures into high-quality policies and legislative proposals suffer from some important shortcomings, especially as tools for evidence-based policy making are not fully utilised and the use of public consultation is not fully embedded.

The complexity of the Turkish public service system makes it difficult to address comprehensively issues such as defining the boundaries between politics and administrative positions, improving the merit-based system for recruitment, appraisal, promotion and mobility, and strengthening the central management unit for developing and monitoring public service policy and legislation.

¹ See *The Principles of Public Administration* and relevant background information on the SIGMA website: <http://www.sigmaweb.org/publications/principles-public-administration-november-2014.htm>.

² <http://avrupa.info.tr/en/resource-centre/news-archive/news-single-view/article/press-statement-by-president-donald-tusk-following-his-meeting-with-prime-minister-of-turkey-ahmet.html>.

Turkey Overview

An inventory of public services provides information on the scope and conditions for service provision. E-services are well developed, and have a high level of user satisfaction. The number of users of e-services is high, despite the fact that the percentage of citizens using the Internet in Turkey is low (less than 50% of the population). However, no Law on General Administrative Procedures is in place and principles of good administration are not fully covered under primary legislation.

Based on recent estimates for Turkey, public finances are on a sustainable path, although the “revolving funds”, which form a significant amount of public expenditure, are not transparent or subject to accountability procedures. There is a culture of financial managerial accountability and delegation in Turkey, the legal and operational framework for internal audit (IA) is established, but the IA function does not enjoy full support at the top managerial level in all institutions. The independence, mandate and organisation of the Turkish Court of Accounts (TCA) are well established, but the Parliament does not engage in full and comprehensive deliberation on individual reports from the TCA.

At present, public procurement regulations remain out of line with the *acquis* in several important respects, however, the recently adopted National Action Plan for EU Accession³ lays down a concrete timetable for the revision of the Public Procurement Law, as well as for other legislative alignment measures. In the field of public-private partnerships and concessions, the legislative and institutional framework is highly fragmented.

³ <http://www.abgs.gov.tr/files/pub/nap-ii-en.pdf>.



STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

Public administration reform (PAR)-related objectives and priorities are set out in key mid-term Government documents. The strategic framework for PAR is provided in the Tenth Development Plan⁴. Concrete activities for PAR implementation are set out in the 2014 Annual Programme⁵, which is implemented and costed through institutional planning documents that include Strategic Plans and Performance Programmes for individual institutions.

The monitoring and reporting of PAR progress and achievements is undertaken in a decentralised way by observing the Performance Programmes of individual institutions rather than compiling a single report on the implementation of the 2014 Annual Programme. A system for monitoring implementation of the 2014 Annual Programme is under development. While institutional reporting is a regular process based on performance indicators presented in the Performance Programmes of institutions, it does not provide summarised and organised information for the whole of government on progress in PAR-related areas.

The system of costing of activities is applied only in the case of the Performance Programmes of institutions. The 2014 Annual Programme and associated activities are not costed, so it is difficult to say whether the funds needed to implement reforms are ensured in the medium-term.

At a political level, PAR-related issues can be discussed at the High Planning Council (HPC) chaired by the Prime Minister, although so far PAR issues have not been actively discussed. The Ministry of Development (MoDev), is assigned the role of co-ordinating the implementation of the Tenth Development Plan and associated PAR-related objectives therein. Otherwise, the planning and implementation of PAR-related activities is decentralised.

1.2. Main developments

The 62nd Government Programme published in the Official Journal on 7 September 2014 puts forward important commitments (e.g. results-oriented management, transparency of public administration, political accountability, service-oriented approach and e-Transformation) in the area of PAR.

⁴ Republic of Turkey Ministry of Development (2013), *The Tenth Development Plan 2014-2018*, The Grand National Assembly of Turkey, Ankara.

⁵ Republic of Turkey (2013), *2014 Annual Programme*, Official Gazette No. 28802.

2. ANALYSIS

This analysis covers the five Principles for the area of strategic framework of public administration reform, grouped under two key requirements⁶. For each key requirement, baseline values for each indicator are provided on the monitoring framework of the Principles. The Principles cover analysis of government central planning, as well as specific PAR planning documents, including their links to government financial planning documents. The Principles also look into the set-up and operation of PAR management and co-ordination mechanisms, both at political and administrative levels.

2.1. Key requirement: The leadership of public administration reform is established and the strategic framework provides the basis for implementing prioritised and sequenced reform activities aligned with the Government's financial circumstances.

Baseline values

The leadership and strategic framework for PAR is examined through eight different indicators which aim to describe the country's general approach to defining reform objectives and actions, the comprehensiveness of the scope of PAR and links to financial planning, as well the rate of implementation. The PAR reporting and monitoring system is also assessed. Two out of the eight indicators are qualitative, while the rest are quantitative, based on the analysis of data and documents provided by the responsible institutions of the country.

In Turkey, objectives related to the PAR areas are set out in key government documents, except the accountability area, which is not covered by national planning documents. The monitoring and reporting of reform objectives is executed through an institutional planning system leading to decentralised PAR monitoring and reporting system. Information on the financial sustainability of PAR is not clearly identified in the financial planning documents.

	Principle No.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the scope of PAR central planning document(s) is complete.	2014	3
	2	Extent to which a comprehensive PAR reporting and monitoring system is in place.	2014	4
Quantitative	1	Ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently.	2014	60%
	1	Share of public administration development activities and reforms from all activities in PAR planning documents.	2014	85%
	2	Annual implementation backlog ⁷ of public administration development activities and reforms.	2014	Not available ⁸

⁶ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 9-17.

⁷ Note that the indicator looks at the implementation rate of public administration development activities and reforms within the particular year.

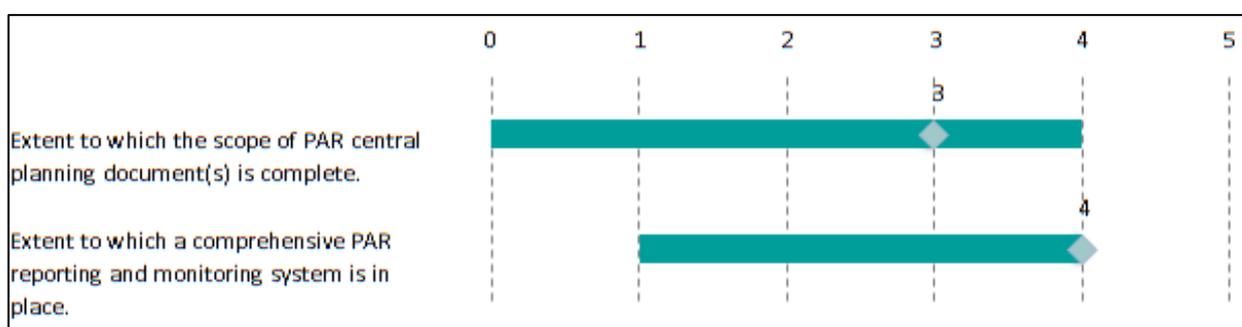
⁸ As the Annual Accountability Reports of Performance Programmes focus on achievement of targets rather than activities, it is impossible to calculate the backlog in their implementation.

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	2	Percentage of fulfilled PAR objectives.	2014	Not available ⁹
	3	Share of resourced and costed activities related to PAR measures.	2014	67%
	3	Ratio between planned PAR Instrument for Pre-accession Assistance (IPA) funding in the IPA sectoral programme and the national planning documents.	2014	0%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 1: The Government has developed and enacted an effective public administration reform agenda which addresses key challenges.

The central planning documents of the Government of Turkey, i.e. the 62nd Government Programme¹⁰, the Tenth Development Plan, the Medium-term Programme 2014-2016¹¹, the 2014-2016 Period Medium-term Fiscal Plan¹², and the National Action Plan for EU Accession¹³, acknowledge the need to pursue reforms related to the PAR policy area. They focus mostly on public management, public services (through use of information and communication technology and local government reform) and public financial management (PFM), but they do not explicitly cover the area of accountability. The documents are reasonably aligned with each other, and 60% of the Government's central planning documents coherently feature PAR-related priorities. PFM features as a priority in all Government planning documents. Strategic management appears in the 62nd Government Programme, the Tenth Development Plan and the Medium-Term Programme 2014-2016. The civil service and public services

⁹ Since not all PAR-related objectives in the Tenth Development Plan have quantifiable performance targets, it is not possible to calculate the percentage of fulfilled objectives.

¹⁰ 62nd Government Programme, 2014.

¹¹ Medium-term Programme (2014-2016), Official Gazette No. 28789, 08 October 2013. The Medium-term Programme, which has a three-year perspective and is prepared on a yearly rolling basis, takes into consideration recent developments in the domestic and foreign markets along with the Development Plan's perspective.

¹² Republic of Turkey (2013), 2014-2016 Period Medium-term Fiscal Plan, Ministry of Finance (MoF), Ankara. The Plan has been prepared by the MoF in line with the Medium-term Programme in such a way that it includes the central government budget total revenue and expenditure estimates, targeted deficit, borrowing, and appropriation proposal ceilings of public administrations for the coming three years. It has been finalised by the High Planning Council.

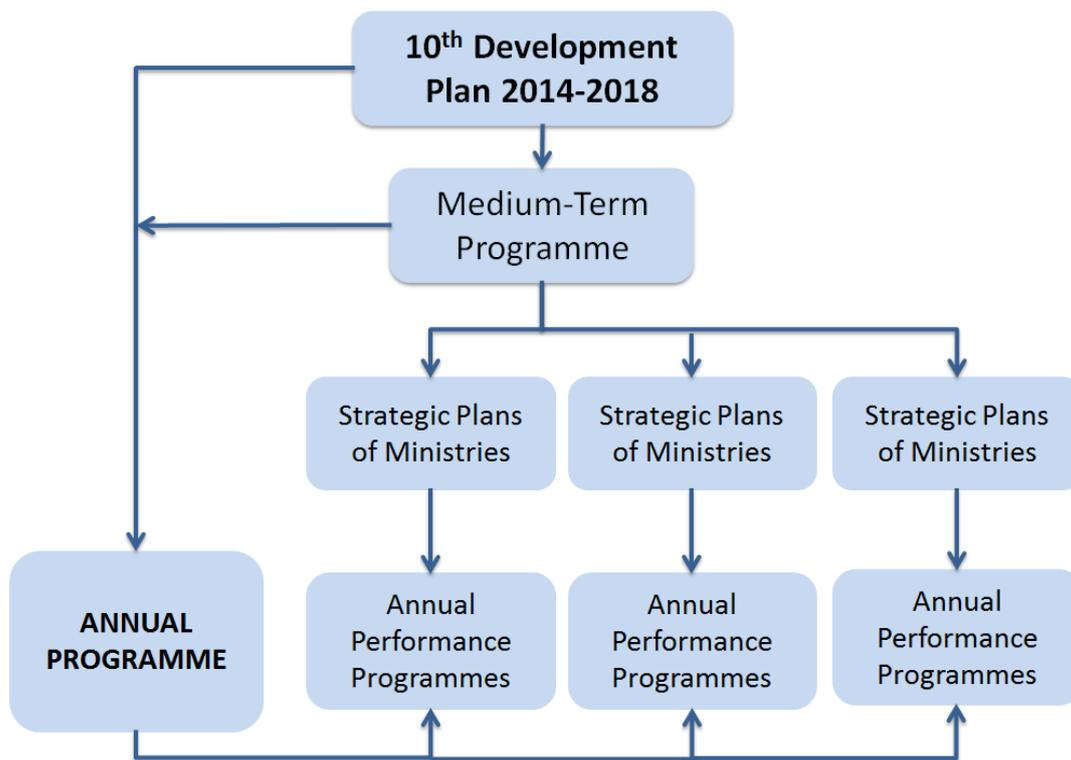
¹³ Republic of Turkey Ministry for EU Affairs (2014), *National Action Plan for EU Accession, Phase – I, November 2014 – June 2015*, Republic of Turkey, Ankara.

are provided for in the 62nd Government Programme and the Tenth Development Plan. The National Plan for EU Accession features only PFM as a priority.

In Turkey, there is no overarching planning document dedicated exclusively to PAR. However, the objectives, policies and analysis of areas related to PAR, i.e. policy management, civil service, public services and PFM, are detailed in the Tenth Development Plan. The indicator value defining the scope of coverage of PAR is therefore set at 3.

The implementation of the Tenth Development Plan, is realised through the Annual Programme, institutional Strategic Plans and Performance Programmes prepared by all institutions¹⁴. Ministry Strategic Plans are prepared to implement The Tenth Development Plan and other relevant planning documents, and contain objectives and targets to this end. The 2014 Annual Programme¹⁵ contains objectives from the Tenth Development Plan, policies and 52 activities, of which 85% are PAR reform measures. The Performance Programmes are annual documents prepared by all public institutions and provide annual targets and budget allocations. The objectives and targets of the Performance Programmes are aligned with Strategic Plans in terms of objectives and performance indicators. The implementation and monitoring of PAR activities is therefore decentralised through these Performance Programmes.

Figure 2. Strategic Planning Documents and links



Source: SIGMA

The 2014 Annual Programme and the Tenth Development Plan use performance indicators and targets, but not in a fully consistent manner (e.g. the area of e-government applications has five performance indicators and quantified targets, whereas the areas of strategic management and human resources (in

¹⁴ Law No. 5018 on Public Financial Management and Control, Article 9.

¹⁵ The Annual Programme is the document prepared annually by the Ministry of Development for the implementation of the Tenth Development Plan.

the public sector have no quantified targets). The Performance Programmes of institutions draw heavily on indicators, targets and costs¹⁶.

The key central planning documents demonstrate the Government's commitment to pursue objectives related to the PAR areas and to do so in a mainly coherent way. The strategic framework for PAR is established through the Tenth Development Plan and its 2014 Annual Programme and Strategic Plans of institutions, rather than a document dedicated exclusively to PAR.

Principle 2: Public administration reform is purposefully implemented; reform outcome targets are set and regularly monitored.

The implementation of policies and measures in the Tenth Development Plan, and by definition PAR-related objectives, is to be monitored and reported on an annual basis in the form of a single annual report on the 2014 Annual Programme prepared by the MoDev, to be presented to the Council of Ministers (CoM)¹⁷. However, the annual monitoring report on the 2014 Annual Programme has not yet been finalised, as the monitoring and evaluation system for the Annual Programme and the associated Tenth Development Plan is still being developed. Hence, included in the MoDev's Performance Programme for 2014, there is no evidence in the Annual Accountability Report for 2014 that the system has yet been created.

The monitoring and reporting of policies and PAR-related objectives is currently realised through the Performance Programmes, designed to implement tasks within the scope of the relevant institutions. Monitoring and reporting on the Performance Programmes is done on an annual basis through a separate system of Annual Accountability Reports¹⁸, which are produced by each institution and are made public. These reports are comprehensive documents, providing information on the achievement of objectives, performance targets and the execution of the Budget according to the medium-term Strategic Plan of institutions. The reports are sent to the Ministry of Finance (MoF) and the Court of Accounts, which in turn submit them, along with opinions, to the Turkish Grand National Assembly for consideration¹⁹.

Performance indicators provided in the Strategic Plans and Performance Programmes of the involved institutions can only be partially used to monitor and report on PAR implementation since they are designed to measure implementation of institutional, but not overarching, PAR objectives. The monitoring and evaluation system for the Annual Programme is also not yet in place. Thus, the value of the indicator describing the comprehensiveness of the monitoring system of PAR is calculated as 4.

It is not possible to determine the implementation success of the PAR-related activities, as the report on the Annual Programme has not yet been produced. As the Annual Accountability reports²⁰ focus on achievement of targets rather than activities, it is impossible to calculate the backlog in their implementation. The rate of implementation of selected PAR-related objectives also cannot be fully calculated, as the Tenth Development Plan does not include quantified performance targets for all PAR-related objectives. For this reason, the baseline value of the respective indicators is set as "not available".

There is an established and functioning performance measurement and monitoring system at the institutional level, based on performance indicators linked to objectives. However, the institutional accountability system does not produce an integrated and horizontal report on the implementation of the PAR agenda. The absence of a monitoring system for the Tenth Development Plan and 2014

¹⁶ 2014 Performance Programme of the Ministry of Development; 2014 Performance Programme of the MoF; 2014 Performance Programme of the Prime Ministry; and 2014 Performance Programme of the State Personnel Administration. Performance Programmes are approved by the respective heads of administrations.

¹⁷ Ministry of Development Annual Report 2014, p. 28.

¹⁸ Law No. 5018 on Public Financial Management and Control, Section 6.

¹⁹ Ibid., Article 41.

²⁰ For the purpose of the Baseline Measurement, the Annual Reports of the Ministry of Development, the MoF, the Prime Ministry and the State Personnel Administration were analysed.

Annual Programme is of concern, given the importance of the Tenth Development Plan for the planning system.

Principle 3: Financial sustainability of public administration reform is ensured.

The Tenth Development Plan and the 2014 Annual Programme for its implementation are not costed or resourced. The activities of the annual Development Programme are implemented through institutional Performance Programmes in which all activities are costed. The indicator measuring the proportion of activities costed is 67%, taking stock of activities from both documents. The drawback of such a decentralised approach towards cost estimation of the policy is that annual Performance Programmes reflect the functions performed by institutions and are more useful for the general budgeting process than for calculating the cost of specific reforms like PAR. As a result, it is very difficult to define the costs for the whole PAR policy.

The financial resources for the implementation of PAR are not provided for in the Medium-term Programme and Main Macroeconomic and Fiscal Targets document. The Annual Budget sets out the funds needed for the co-financing of Instrument for Pre-accession Assistance (IPA) projects, but IPA funding in total is not included. For this reason, it is not possible to determine if the European Union (EU) assistance required is in line with the IPA programme budget for the PAR sector. The value of the indicator for alignment of IPA support in the IPA and national planning documents is therefore 0%.

The financial resources for the implementation of PAR are not indicated in the medium-term and budget documents, despite the fact that costing of related activities is available in the annual Performance Programmes of individual institutions. It should also be noted that neither the Tenth Development Plan nor its 2014 Annual Programme present any costing for proposed PAR-related reforms.

Key recommendations

Short-term (1-2 years)

- 1) The MoDev should ensure that the Annual Programme contains necessary performance indicators and targets to monitor the progress achieved against PAR-related and other policy objectives.
- 2) The MoDev, in co-operation with the MoF, should develop requirements to apply the costing of measures for the Annual Programme, as well for the other planning documents, such as strategies and their actions plans.
- 3) The MoDev should establish a clear monitoring and evaluation system for the Development Plan and Annual Programme. The monitoring system should allow the implementation of measures, and achievement of performance indicator targets to be tracked.

Medium-term (3-5 years)

- 4) The MoF, together with the MoDev, should identify the total funds needed for the implementation of the Tenth Development Plan in the medium-term budget framework documents.

2.2. Key requirement: Public administration reform management enables guiding and steering reforms, determines the accountability for implementation and ensures the professional administration needed for reform implementation.

Baseline values

The functioning of the PAR management and co-ordination mechanism is examined through one qualitative and four quantitative indicators. These indicators provide information on the operations of the mechanism and also examine the capacity of the leading PAR unit to support the functioning of the PAR management and co-ordination mechanism.

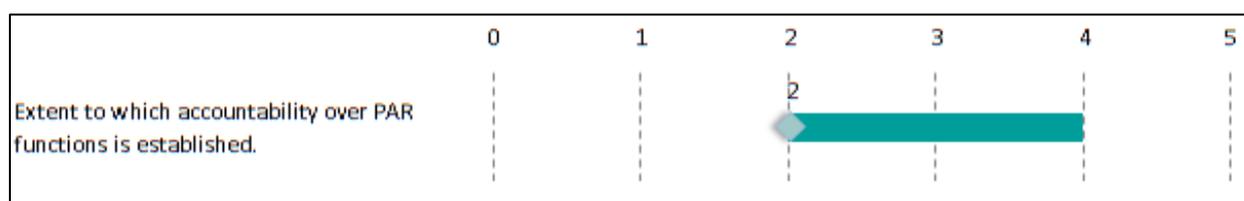
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The management and co-ordination arrangements for the implementation of PAR-related policies and activities are decentralised across four different institutions. Each of these has responsibility for the implementation of specific objectives and actions of PAR policy, as defined in the Tenth Development Plan and its Annual Programme. There is no evidence that the political-level co-ordination body, the HPC, met in 2014 to discuss PAR-related issues. At the administrative level, there is no specially designated co-ordination structure. There is no uniform or regular approach to the training of staff in responsible units to build capacity in the four key institutions involved in implementation of set PAR objectives.

	Principle No.	Indicator	Baseline year	Baseline value
Qualitative	5	Extent to which accountability over PAR functions is established.	2014	2
	4	Frequency of PAR-related political discussions.	2014	0 ²¹
Quantitative	4	Implementation rate of decisions made by political and administrative-level PAR co-ordination forums.	2014	Not available ²²
	5	Annual staff turnover in leading PAR unit.	2014	4% ²³
	5	Proportion of leading PAR unit staff that has undertaken at least two PAR-related trainings during the last year.	2014	9% ²⁴

The value of the qualitative indicator of the country is displayed below in comparison with the range of values for the same indicator in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 3. Country baseline value in comparison with the regional range



²¹ This value shows the total number of PAR-related discussions held during 2014. It is a quantitative and note a qualitative indicator, and therefore, should not be regarded as an indicator for scale.

²² Since there were no meetings of the High Planning Council devoted to discussing PAR in 2014, and no formalised administrative-level discussion forums related to PAR, it is not possible to calculate the indicator.

²³ This indicator includes: the Department of Institutional and Strategic Management of the Ministry of Development (16 total, 0 changed); the General Directorate of Budget and Fiscal Control of the MoF (323 total, 11 changed); the Directorate of Administration Development of the Prime Ministry (49 total, 0 changed); and the State Personnel Administration (10 total, 4 assistant experts changed).

²⁴ This indicator includes: the Department of Institutional and Strategic Management of the Ministry of Development (16 total, 10 received two or more trainings); the General Directorate of Budget and Fiscal Control of the MoF (323 total, 24 received two or more trainings); the Directorate of Administration Development of the Prime Ministry (49 total, 0 received two or more trainings); and the State Personnel Administration (10 total, 0 received two or more trainings).

Analysis of Principles

Principle 4: Public administration reform has robust and functioning co-ordination structures at both the political and administrative level to steer and manage the reform design and implementation process.

In Turkey, the HPC, which was established by the Law on the Organisation and Duties of the MoDev²⁵, can be regarded as the key co-ordination structure for the PAR at the political level. The HPC is chaired by the Prime Minister and includes cabinet ministers selected by the Prime Minister and the Minister of Development²⁶.

The duty of the HPC is to assist the CoM in setting economic, social and cultural policy targets, and to examine the plans and programmes which are prepared within the framework of agreed principles to determine whether they are sufficient or in conformity with the Government's previously established goals before submitting them to the CoM. However, the HPC does not have a clearly defined role, or function, in relation to the implementation and monitoring of individual policies. The HPC is technically supported by the Secretariat of Councils of the MoDev.

There is no evidence to indicate that the HPC met in 2014 to discuss issues related to the PAR agenda. Therefore, the indicator measuring the frequency of political discussions is 0. The rate of implementation of PAR-related decisions is set at a value of "not applicable" because of the lack of meetings held and decisions made to be analysed.

The functions relating to monitoring and reporting on the implementation of policies are devolved to heads of institutions who submit Annual Accountability Reports to the Court of Accounts and the MoF, in addition to reporting on the implementation of their institution's Development Plan and the Annual Development Programme. There is no specific co-ordination structure at the administrative level which would deal directly with the co-ordination of implementation of the PAR agenda. Also, there is no evidence that the four responsible institutions – the MoDev, the MoF, the Prime Ministry and the State Personnel Administration – meet on a regular basis to discuss the issues or progress related to the PAR.

In Turkey, there is a political-level body, the HPC, which is mandated to discuss policy development issues without being exclusively dedicated to the PAR agenda. However, there is no evidence that this body discussed PAR in 2014. There is no co-ordination structure at the administrative level specially designated for PAR.

Principle 5: One leading institution has responsibility and capacity to manage the reform process; involved institutions have clear accountability and reform implementation capacity.

There is no single lead institution responsible for managing and co-ordinating PAR due to a decentralised approach taken in Turkey. These tasks are divided among four different institutions, namely the Prime Ministry, the MoDev, the MoF and the State Personnel Administration²⁷. The functions of these four institutions are described in the establishing laws²⁸ and their Strategic Plans and Performance Programmes. Therefore, responsibility for the overall management and steering of a PAR-related agenda is not established. While the accountability for implementation of specific measures in the Annual Programme is defined, the PAR co-ordination and management mechanisms, as well as the

²⁵ Law No. 641 on the Establishment and Duties of the Ministry of Development, 2011.

²⁶ Ibid., Article 22.

²⁷ Law No. 5018 on Public Financial Management and Control, 2003. The Law stipulates that "the Ministers are responsible for implementing Government policy and for ensuring the compliance of the preparation and implementation of strategic plans and budgets of their ministries and those of the administrations affiliated, related or associated with the development plans and annual programs".

²⁸ Law No. 3056 on the Establishment of Duties of the Prime Ministry, 10 October 1984; Law No. 178 on the Establishment and Duties of the Ministry of Finance, 13 December 1983; Law No. 641 on the Establishment and Duties of the Ministry of Development, 03 June 2011; and Law No. 217 on the Establishment and Duties of the State Personnel Administration, 08 June 1984.

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procedures for co-operation among key involved institutions, are not defined. Taking the above into account, the value of the indicator on the extent to which an accountability function is established is 2.

A number of divisions in the ministries mentioned above are designated to perform functions in relation to policy co-ordination, civil service and financial management. These are the Directorate of Administration Development in the Prime Ministry, the Department of Institutional and Strategic Management in the MoDev, the General Directorate of Budget and Fiscal Control in the MoF, and the Department for Development of Organisation and Management in the State Personnel Administration.

The capacity of the institutions is strengthened through training, although in 2014, training for PAR-related capacity building was only organised for the staff of the relevant units in the MoDev and the MoF. The proportion of staff across all four applicable institutions that has undergone at least two PAR-related training events during the year is 9%. This suggests that some institutions (particularly the State Personnel Administration) involved in the implementation of PAR-related activities have not invested in efforts to build the capacity of their staff responsible for PAR.

There was also staff turnover in the institutions involved in the PAR management and co-ordination structure. This occurred in the MoF and State Personnel Administration, but not in the MoDev and the Prime Ministry. The aggregate value for the annual staff turnover indicator in all four institutions is 4%, indicating the sustainability of the staff dealing with PAR-related issues.

Overall, Turkey has taken a decentralised approach to PAR management and co-ordination, with four institutions responsible for different parts of PAR policy. While the accountability of each institution is defined, there is no PAR management and co-ordination mechanism or procedures at the administrative level to ensure co-ordination of reform efforts. There is capacity within the institutions involved, but there are few training activities provided to the staff of the responsible units within these institutions.

Key recommendations

Short-term (1-2 years)

- 1) The Government should use the HPC to ensure that the Development Plan, its Annual Programme and the PAR agenda are regularly discussed and that political-level steering provides agreed objectives.
- 2) The institutions in charge of PAR co-ordination, namely the MoDev, the MoF, the Prime Ministry and the State Personnel Administration, should organise regular meetings at the administrative level to discuss the implementation of PAR-related objectives and activities and to propose any necessary follow-up actions. These joint meetings should be supported by harmonised management and co-ordination procedures to ensure a uniform approach.

Medium-term (3-5 years)

- 3) The institutions involved in the implementation and co-ordination of the PAR agenda, namely the MoDev, the MoF, the Prime Ministry and the State Personnel Administration, should ensure regular PAR-related training for their staff in charge of PAR co-ordination.

2

Policy Development and Co-ordination

POLICY DEVELOPMENT AND CO-ORDINATION

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

Turkey has a long-standing administrative tradition and a well-functioning public administration. The legal framework for policy development and co-ordination, including for European integration (EI), is in place and does not require any substantial changes in the coming years. The country's administration performs particularly well in a number of areas, including establishment and fulfilment of EI-related functions. It has a well-embedded, though not fully formalised, interministerial consultation process. An easily accessible, comprehensive and up-to-date electronic registry of legislation is in place, containing all texts in consolidated format. However, several challenges remain with regard to both functioning of the centre of government (CoG) and translating policy development structures and procedures into high-quality policy legislative proposals. Annual plans are not developed for the whole of the government, and multiannual plans are not aligned with each other or with medium-term fiscal constraints. Forward-planning arrangements between the Government and the Parliament are not established. Comprehensive scrutiny of policy proposals is not ensured for all drafts, and tools for evidence-based policy making are not fully utilised. The use of public consultation is not fully embedded, particularly in the early stages of policy development.

1.2. Main developments

Since the summer of 2014, Turkey has had a new Prime Minister and Government and the Turkish Grand National Assembly (TGNA) has adopted the 62nd Government Programme, a multiannual statement of the priorities for the country.

After several years of operating without an up-to-date EI plan, the Turkish Government adopted a new European Union Strategy and associated two-phase Action Plan which covers EI-related activities, in particular harmonisation-related actions up to 2019.

2. ANALYSIS

The analysis covers the 12 Principles of the policy development and co-ordination area, grouped under four key requirements²⁹. For each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover a whole policy cycle and address functioning of the CoG; policy planning, co-ordination and monitoring; Government decision making; and development of policy and legislation. The Principles also cover the necessary arrangements for EI throughout the policy cycle.

2.1. Key requirement: Centre of government institutions fulfil all functions critical to a well-organised, consistent and competent policy making system.

Baseline values

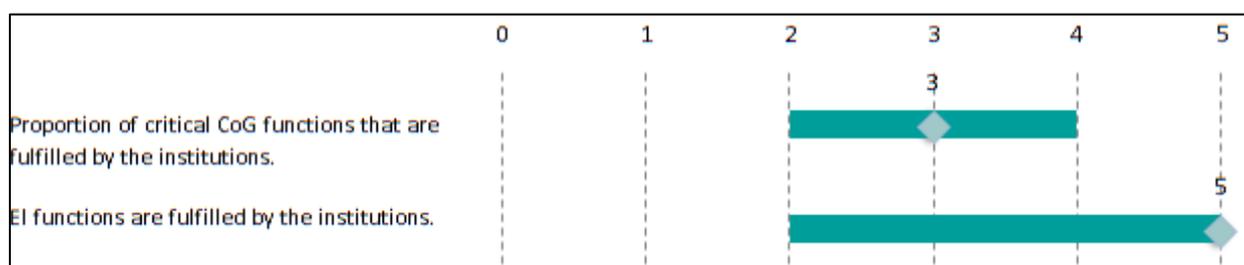
The functioning of the CoG is examined through two qualitative indicators. One indicator covers all nine critical functions defined in the Principles of Public Administration, while the other is a specific indicator to analyse how the key EI functions are implemented by the administration. These qualitative indicators analyse establishment of the functions and how they are implemented. Precise methodology and scales can be found in the Methodological Annex.

In Turkey, seven of the nine key functions critical to the functioning of the CoG are established. Co-ordination of preparation and approval of the Government's strategic priorities and work programme and the associated monitoring function are not currently in place. EI-related functions are all established and functioning.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Proportion of critical CoG functions that are fulfilled by the institutions.	2014	3
	2	EI functions are fulfilled by the institutions.	2014	5

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



²⁹ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 18-40.

Analysis of Principles

Principle 1: Centre of government institutions fulfil all functions critical to a well-organised, consistent and competent policy making system.

Five institutions fulfil the functions of the CoG in Turkey: 1) the Prime Ministry (PM)³⁰, which co-ordinates preparation of sessions of the Council of Ministers (CoM)³¹, checks the alignment with the priorities in the Government Programme³², ensures legal conformity³³ (a responsibility shared with the Ministry of Justice [MoJ]) and co-ordinates the Government's communication activities and its relationship with other state bodies; 2) the Ministry of Finance (MoF), which ensures affordability of proposals; 3) the Ministry of Development (MoDev), which advises the Government on economic, social and cultural policies, and prepares the development plan³⁴, medium-term programme, annual programmes and investment programmes; 4) the MoJ, which co-operates with the PM in ensuring legal conformity; and 5) the Ministry for EU Affairs (MoEU), which is responsible for co-ordination of EI-related matters.

A body of legislation³⁵ assigns all CoG functions to institutions clearly and comprehensively, with the exception of planning and subsequent monitoring of the work of the Government as a whole. The annual planning approach is currently not a feature of the Turkish administration for the whole-of-government³⁶. The Government's multiannual aims and the multiannual Development Plan serve as the basis for whole-of-government planning. There is no planning of work on an annual basis at Government level, but use of a medium-term and annual planning approach is strong in some policy areas, including development planning, as well as at an institutional level in the framework of performance planning/programming (which has strong budgetary alignments with a related monitoring process). In common with the whole Turkish administration, adequate staffing of CoG functions is assured, and fulfilment of tasks is exercised as expected. In light of all these factors, the baseline value for the indicator on the proportion of critical centre of government functions that are fulfilled by the institutions is 3.

Seven of the nine critical CoG functions are established in Turkey, and all are fulfilled at the expected level. While medium-term and strategic-development planning and monitoring are established at an institutional level, there is no whole-of-government approach to annual planning and monitoring of Government performance.

Principle 2: Clear horizontal procedures for governing national European integration process are established and enforced under the co-ordination of the responsible body.

The MoEU is positioned to fulfil all six key functions related to European Integration: 1) overall daily co-ordination of EI; 2) planning of EI, including costing of reforms; 3) monitoring the country's

³⁰ The Prime Ministry also functions as the responsible body for a wide range of sectoral and key horizontal matters, from approving rental decisions for government buildings to managing ethics within the public service. (Note: management of the public housing programme belongs to TOKİ, the lead official institution of Turkey on housing and settlement issues. TOKİ is outside the Prime Ministry, but reports directly to the Prime Minister.)

³¹ Prime Ministry Secretariat of the CoM.

³² 62nd Government Programme, September 2014.

³³ Prime Ministry General Directorate for Laws and Decrees.

³⁴ Under the framework for elaboration and monitoring of the Development Plan of Turkey.

³⁵ Prime Ministry Organisation Law No. 3056 (10/10/1984); Ministerial Decree on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005, 2003/6; Rules and Procedures Regarding Written Correspondence between Ministries No. 2014/7074; Organisational Law of the Ministry of Finance No. 178 of 13 December 1983; Organisational Law on the Ministry of Development No. 641 of 6 April 2011; Organisational Law of the Ministry of Justice No. 2992 of 29 March 1984; Organisational Law on the Ministry for EU Affairs No. 5916 of 9 July 2009.

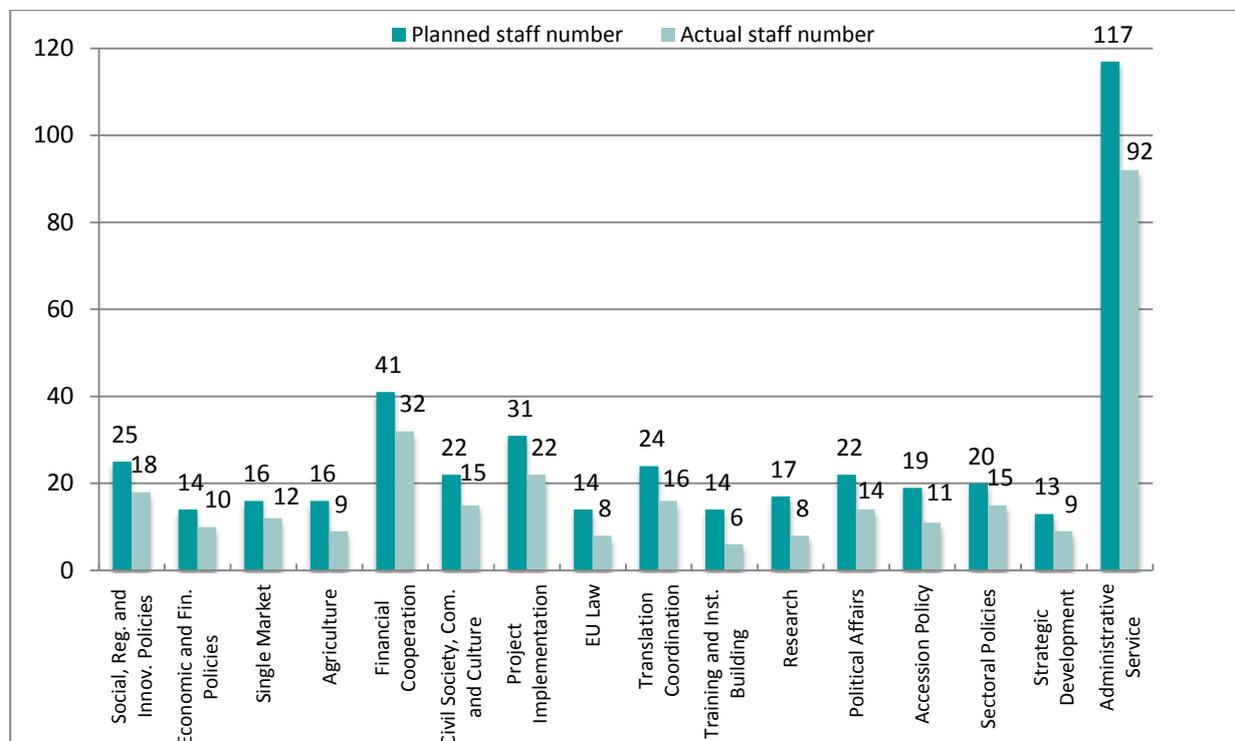
³⁶ The annual planning approach was a practice at the time of the 58th Government Programme and the Emergency Action Plan (2003).

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preparations for the EI process; 4) co-ordinating transposition of the *acquis*; 5) co-ordinating EU assistance; and 6) co-ordinating EI-related negotiations.

The upper limit for staffing in the MoEU is above 400 people, but even with only 300 staff in place, the capacity to satisfactorily deliver on all prescribed tasks is assured³⁷.

**Figure 2. Planned and actual staff numbers in the Ministry for EU Affairs
as of 1 December 2014 by Directorate**



Source: Ministry for EU Affairs.

There is also an EU-department within each ministry. As a general rule for *acquis* transposition, the line ministry prepares transposition materials in accordance with the National Action Plan for EU Accession (NAP), which is checked by the MoEU and the PM to ensure harmonisation and legal conformity.

The EU agenda is reviewed under its own heading at each session of the Council of Ministers, even though the pace of the negotiations has slowed. At the Assembly, the Ministry is frequently invited to provide an update on EI matters to a special committee dedicated to EI, the Committee on EU Harmonisation.

Based on the above analysis, the baseline value for the indicator “EI functions are fulfilled by the institutions” is 5.

EI co-ordination functions are established and the necessary legal framework is developed. The MoEU has the authority and capacity to carry out the functions assigned to it. Interministerial conflict resolution, as well as regular dialogue about EI-related matters, are ensured at all levels of decision making.

³⁷ Based on the minimal requirements in the Methodological Annex.

Key recommendations

Short-term (1-2 years)

- 1) The Government should re-establish the function of whole-of-government annual planning and monitoring by assigning responsibilities within the CoG for the development and monitoring of a whole-of-government annual work plan.
- 2) The Government should adjust the roles and responsibilities of the respective CoG bodies checking incoming proposals for deliberation by the CoM in order to include the assessment of proposals from the perspective of the annual workflow plans of the CoM.

Medium-term (3-5 years)

- 3) The Government should harmonise all planning and monitoring responsibilities from a whole-of-government aspect in order to streamline the processes of developing and monitoring plans that have impact on the workload of the CoM.

2.2. Key requirement: Policy planning is harmonised, aligned with the Government's financial circumstances and ensures the Government is able to achieve its objectives.

Baseline values

Six indicators are used to measure whether policy planning is harmonised. They cover the annual backlog of implementation of planned commitments; the annual backlog in developing sector strategies; the link between funds estimated in sector strategies and those taken up in the medium-term budgetary framework (MTBF); the completeness of financial estimates; the annual backlog of EI-related commitments; and the extent to which achieved outcomes are reported.

In Turkey, medium-term planning exists for the EI process³⁸, for finances and economic development and sectoral advancements³⁹ and within some specific sectors⁴⁰, but not for Government work as a whole. There is no comprehensive approach for medium-term planning and no clear alignment of medium-term policy documents with fiscal strategy. Reporting is not in place for all medium-term documents and when reports are published, they lack information on achieved outcomes. However, it is important to note that Turkey has a sophisticated annual performance planning and monitoring system at an institutional level which delivers annual reports to the public including information on achievement of policy objectives.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	3	Completeness of financial estimates in sector strategies ⁴¹ .	2014	1
	5	Extent to which reporting provides information on the outcomes achieved.	2014	2

³⁸ National Action Plan for EU Accession, Phase I of November 2014 and Phase II of December 2014.

³⁹ The Tenth Development Plan, the 2015-2017 Medium-term Programme and the Medium-term Fiscal Plan 2014-2016.

⁴⁰ Analysed on the basis of the five most recent sector strategies: Design Strategy and Action Plan; Intelligent Transport System Strategy and Action Plan; Lifelong Learning Strategy; Basin Management Strategy and Action Plan; National Recycling Strategy and Action Plan.

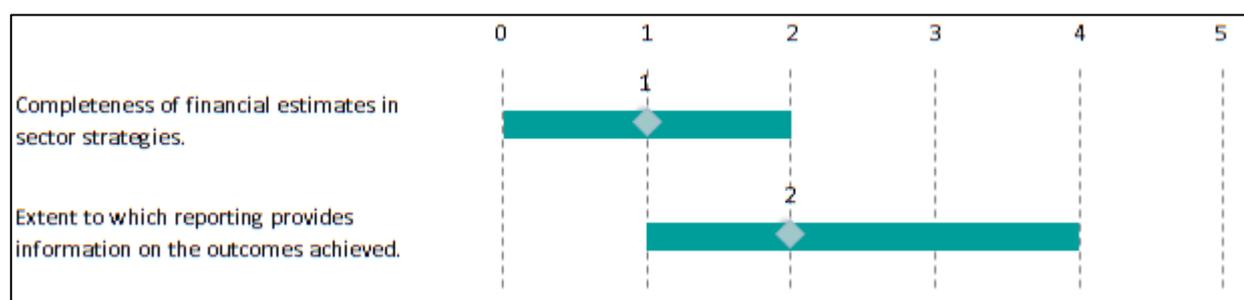
⁴¹ A sample of five recently adopted sectoral strategies is used.

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Quantitative	3	Annual implementation backlog of planned commitments in the central planning document(s).	2014	Not available ⁴²
	3	Annual backlog in developing sector strategies.	2014	0%
	3	Ratio between total funds estimated in the sectoral strategies and total funding identified for the corresponding sectors within the MTBF ⁴³ .	2014	0%
	4	Annual implementation backlog of EI-related commitments.	2014	Not available ⁴⁴

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 3. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 3: Harmonised medium-term policy planning, with clear whole-of-government objectives, exists and is aligned with the financial circumstances of the Government; sector policies meet the Government objectives and are consistent with the medium-term budgetary framework (MTBF).

The policy planning system of Turkey is characterised by the lack of a Government Annual Working Plan (GAWP), but the country does have a well-developed policy planning system, albeit specific to institutions.

At a horizontal, whole-of-government level, the Government Programme, which sets initial priorities, is adopted at the beginning of each Governmental cycle. A multiannual development plan, (currently the Tenth Development Plan) is established to determine development priorities. This plan is prepared by the MoDev and accepted by the TGNA. The medium-term budgetary framework is presented in two separate plans: the Medium-term Programme (MTP) contains plans for development and investment (capital expenditure) while the Medium-term Fiscal Plan (MTFP) addresses the operational budget (recurrent expenditure). The MTP is co-ordinated by the MoDev and adopted by the CoM, while the MTFP is co-ordinated by the MoF and accepted by the High Planning Council. Not only is responsibility

⁴² Turkey does not have a GAWP that can serve as the basis for calculating the backlog value.

⁴³ The ratio is calculated as a percentage (0% concurrence minimum and 100% concurrence maximum), illustrating the difference in planned funding in the last five strategies adopted and the MTBF. The outcome value of the indicator is the average of five cases. In the event, as it is not possible to make the calculation due to a lack of financial data in the MTEF and/or in all or some sectoral strategies, the ratio is determined as 0%.

⁴⁴ As the nature of the plan that could serve to calculate backlog has changed in 2014, it is not possible to compare it with previous plans to calculate a backlog value.

for the two medium-term budgetary framework documents assigned to different bodies, typically individual co-ordinators set separate procedures and issue separate guidelines. With regard to EU-matters, the NAP is the most important medium-term planning document. In the absence of a GAWP, it is not aligned with other planning documents or with the budget.

Another issue is that sectoral strategies play a relatively minor role in the Turkish planning system, as sectoral matters (except for institutional plans) are not planned separately. In 2014, five sectoral strategies were planned and adopted, while in 2013 there was only one. Therefore, the baseline value for the indicator on the backlog in developing sectoral strategies is 0%. Development of sectoral strategies is not regulated; there is no central co-ordination of their planning; common guidelines are not issued; no monitoring is required; and fiscal alignments are lacking⁴⁵. Since the analysed sector strategies did not include proper costing, the baseline value for the indicator on completeness of financial estimates in sector strategies is 1. Due to the lack of costing in the analysed sector strategies, the baseline value for the indicator on the ratio of alignment with the MTBF budget is also 0%.

However, on the basis of a shift toward strategic management in the Turkish system, the planning system places greater focus on strategies of institutions. The dichotomy seen at the whole-of-government level is also evident at the institutional level. Public institutions have to prepare two kinds of planning documents, a Strategic Plan (SP) co-ordinated by the MoDev and an annual Performance Programme (PP) co-ordinated by the MoF. The SP focuses on development issues, stating objectives and setting goals for the institution at the strategic level. While it is not closely aligned with the budget(s), the SP is monitored. The PP, the annual working document of an institution, sets operational targets for its units and is closely linked to the annual budget and monitored through Annual Accountability Reports.

Turkey has a multi-layer planning system which focuses on development and performance planning at institutional and whole-of-country levels. Clear guidance is in place for planning and monitoring of these plans. Performance planning is aligned with the budget. Sectoral strategy development is still evolving. Sectoral strategies do not have unified requirements and are not costed. There is an absence of whole-of-government operational work planning, from both an annual and a medium-term perspective.

Principle 4: A harmonised medium-term planning system for all processes relevant to European integration exists and is integrated into domestic policy planning.

Work on EI matters is planned in a detailed manner. The main medium-term planning document for EI is the NAP. The previous document, the National Programme for the Adoption of the *Acquis*, was regularly updated until 2008 but has since become outdated. A new strategy, Turkey's European Union Strategy, was adopted in October 2014, and the associated NAP was put in place in November 2014. Due to this recent development, it is not possible to calculate a backlog on implementation of EI-related commitments.

The MoEU co-ordinates development of the NAP⁴⁶. It set the framework and issued guidelines to line ministries for development of the new Action Plan. The NAP, based on the outcome of the screening process, lists activities in two phases. Phase I covers November 2014 to June 2015, while Phase II covers June 2015 to June 2019. It should be noted that activities are not costed in this document and alignment with the budget is not ensured⁴⁷. As Government work planning is still underdeveloped, EI planning is a stand-alone process which has no clear alignment with other planning documents,

⁴⁵ The five analysed strategies are: Design Strategy and Action Plan; Intelligent Transport System Strategy and Action Plan; Lifelong Learning Strategy; Basin Management Strategy and Action Plan; National Recycling Strategy and Action Plan.

⁴⁶ CoM Circular 2014/16, Official Gazette No. 29130.

⁴⁷ According to officials of the MoEU, the plan is also prioritised, as MoEU steered the process of allowing ample timing of activities to ensure proper speed of implementation on the basis of realistic resource planning.

although regular monitoring is expected on a quarterly basis. The MoEU also plans and regularly monitors allocation and use of IPA-funds.

After a delay of several years, a new EI mid-term plan is available, and a planning and monitoring system for EI is in place. The plan is based on screening and takes implementation resource needs of the administration into consideration, but it is not linked with the budget or any other medium-term planning documents.

Principle 5: Regular monitoring of the Government's performance enables public scrutiny and ensures that the Government is able to achieve its objectives.

In the absence of a formal GAWP, there are a number of shortfalls, including a lack of internal monitoring and regular public scrutiny of the Government's performance as a whole. A comprehensive annual monitoring and reporting system is in place for fiscal plans, EI matters and, to some extent, for institutional plans⁴⁸. However, sectoral strategic planning and monitoring are not as well developed. For this reason, sectoral strategy reports are scarce, even though public monitoring is available. Overall, most reports do not present achievements against policy objectives, although annual accountability reports at institutional level do provide an overview on progress against outcomes. Therefore, the baseline value for the indicator on the extent to which reporting provides information on the outcomes achieved is 2.

While a legislative framework for monitoring and reporting on Government performance is in place for various horizontal documents and reports are elaborated for some of the key planning documents, there is no whole-of-government work plan and no regular reporting on Government achievements. Reporting on execution of sectoral strategies is scarce. Most of the available reports provide no insight into achievements against policy objectives.

Key recommendations

Short-term (1-2 years)

- 1) The Government should develop a whole-of-government annual plan which translates Government priorities from the Government Programme into executable actions and legislation. This would allow for prioritisation and monitoring of the Government's work both internally and for the public.
- 2) The Government should develop a unified approach to a horizontal, whole-of-government medium-term planning model that converts the Government Programme into executable actions. All medium-term plans should be costed and aligned with other such plans and with medium-term fiscal plans that cover the activities.
- 3) The Prime Ministry, the MoDev and the MoF jointly should develop a monitoring system attached to the annual planning process to facilitate the CoG in continuously reviewing progress against planned commitments, on the levels of outputs delivered and progress against stated policy objectives. Regular monitoring reports should be discussed at various decision making levels, to ensure greater harmonisation in the pace of work across ministries and facilitate the Government in its constant drive for efficiency in use of resources for policy making. This would help to bring whole-of-government monitoring to the same level as the well-developed monitoring of individual institutional performance.
- 4) The Government should develop and implement a unified approach to monitoring execution of horizontal and sectoral strategic documents, with regular public reporting on the level of outcomes achieved, including objectives.

⁴⁸ Regular monitoring is provided on the Budget and the Medium-term Fiscal Plan. However, at the time of writing of this report (April 2015), no monitoring report had been developed for the Tenth Development Plan or the new EI plan.

Medium-term (3-5 years)

- 5) The Government should develop and enforce a unified approach for drafting and executing sectoral strategies so that they are linked to horizontal medium-term planning documents and are costed and aligned with the fiscal limits set in medium-term financial documents.
- 6) The Government should streamline medium-term fiscal plans and harmonise guidelines and adoption and monitoring processes to form a framework that is fully aligned from both expenditure and investment perspectives.

2.3. Key requirement: Government decisions and legislation are transparent, legally compliant and accessible to the public; the work of the Government is scrutinised by the Parliament.

Baseline values

Assessing whether government decisions and legislation are transparent, legally compliant, accessible to the public and scrutinised by parliament is measured based on six indicators distributed over two Principles. The indicators cover the ratio of regular agenda items submitted on time for government sessions; the transparency of government policy making; the number of laws with court rulings against the government in a given year; the ratio of laws initiated by the government and approved by parliament within a year; the extent to which a forward planning mechanism exists between the government and parliament; and the number of law or sectoral policy implementation reports discussed in parliament.

The Government decision making process broadly follows the established procedures. Co-operation between the Government and the Assembly is limited, with little attention to forward-planning. The TGNA does not exercise any role in supervision of law implementation reports.

	Principle no.	Indicator	Baseline year	Baseline value
Quantitative	6	Ratio of regular agenda items submitted on time ⁴⁹ by ministries to the Government session.	2014	Not available ⁵⁰
	6	Transparency of Government policy making ⁵¹ .	2014	4.43
	6	Number of laws with court rulings ⁵² against the Government during the year.	2014	35
	7	Ratio of laws initiated by the Government and approved by the Parliament no later than one year after submission.	2014	47%
	7	Extent to which forward planning mechanisms between the Government and the Parliament exist ⁵³ .	2014	Not available

⁴⁹ "On time" is understood as within the procedural criteria set by regulation(s).

⁵⁰ Data was not provided by the country, because this information is not collected in a systematic way and there is no regulation that specifies a time limit for submitting proposals to the CoM Secretariat before sessions of the CoM.

⁵¹ World Economic Forum, Competitiveness Index, minimum score of 1, maximum score of 7.

⁵² By the Constitutional Court.

⁵³ Its value cannot be based on the SEE2020 indicator on "forward-planning mechanisms between Government and national as well as sub-national parliaments", as, by definition, it does not cover Turkey.

	7	Number of law implementation reports discussed in the Parliament.	2014	0
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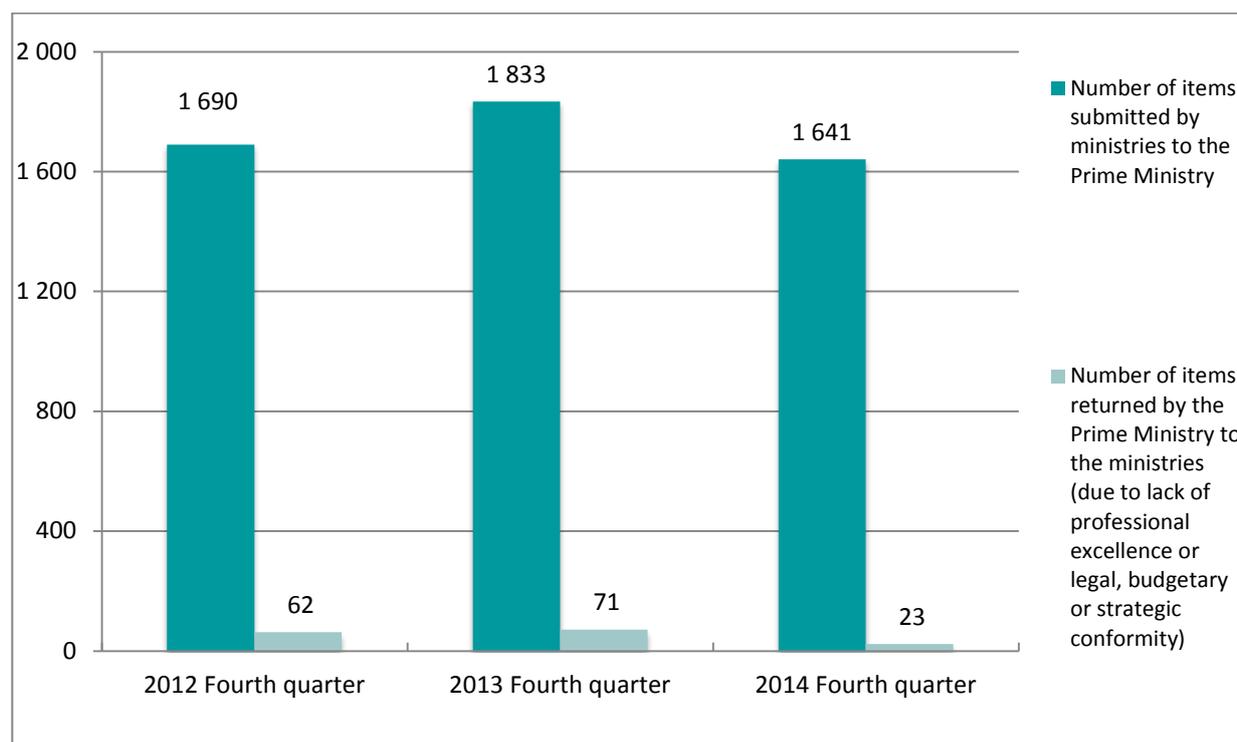
Analysis of Principles

Principle 6: Government decisions are prepared in a transparent manner and based on the administration's professional judgement, the legal conformity of the decisions is ensured.

The Prime Ministry Organisation Law⁵⁴ and the By-law on the Principles and Procedures for Drafting Legislation set out the key rules directing preparation of decisions of the CoM and the functions within the decision preparation process⁵⁵.

The Secretariat of the CoM co-ordinates and prepares CoM sessions. Requirements for proposing policy decisions are clearly set, and the PM has the power and capacity to ensure that the requirements are fulfilled. The General Directorate of Laws and Decrees has the right to reject drafts that do not meet quality criteria on professional excellence and legal, budgetary or strategic conformity. However, this only happens in a small minority of cases. In the fourth quarter of 2014, only 23 of 1 641 submissions were rejected.

Figure 4. Number of items submitted to and returned by the Prime Ministry in the last quarter of 2012, 2013 and 2014



Source: Prime Ministry.

The General Directorate of Laws and Decrees evaluates proposals from a number of perspectives, including conformity with existing legislation, constitutionality and compliance with legal techniques stipulated by the By-law on Drafting Legislation. In addition, it determines whether proposals are suitably aligned with Government priorities, as expressed primarily in the Tenth Development Plan and the 62nd Government Programme. The MoJ, the MoDev, the MoF⁵⁶ and the MoEU are also involved in

⁵⁴ Prime Ministry Organisation Law No. 3056 of 10 October 1984.

⁵⁵ Ministerial Decree on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005.

⁵⁶ Financial impacts are also considered by the Economic Co-ordination Board, which regularly meets on the same day as the CoM session. Financial impacts must be calculated when they are expected to be above TRY 10 Million. According

scrutiny and assist the PM in carrying out its functions. Opinions of the MoF and MoEU, (along with those of other bodies listed in the By-law on Law Drafting⁵⁷) should be obtained on topics under their responsibility. The PM can also seek opinions directly, and it does so with the ministries listed above in the course of preparing files for decision making. The PM also plays a central role in conflict resolution, which is exercised through bilateral, trilateral or multilateral meetings of the ministries concerned.

The By-law on Legislative Drafting clearly stipulates the timeframe for obtaining opinions, but it does not regulate provisions for decision preparation before meetings of the Government, and hence does not set a time limit for proposals to arrive at the Secretariat of the CoM before they are planned for the next CoM session. Therefore it is not possible to calculate the ratio of agenda items submitted on time to the sessions of the CoM. With regard to the indicator on the number of court rulings against the Government during the year, 35 laws initiated by the Government ended with an annulment, out of 199 cases for annulment before the Constitutional Court in 2014⁵⁸.

Agendas of formal sessions of the Council of Ministers are not available to the public in advance. The Spokesperson for the Government along with the Communications Office of the PM provide updates on Government decisions, mainly on the PM website and through press conferences.

The “Transparency of Government policy making” indicator of the Competitiveness Index of the World Economic Forum reflects the ease with which businesses can obtain information about changes in Government policies and regulations which affect their activities. On a scale of 7, Turkey was rated at 4.33, ranking 44 out of 144 countries.

Formal processes for preparation of Government decisions are in place. The procedure for checking legislation is clear and applied. Information on the agenda of formal Government sessions is not public.

Principle 7: The Parliament scrutinises government policy making.

The relationship between the Government and the Parliament of Turkey and the TGNA’s role in legal scrutiny are regulated by the Constitution, the Rules of Procedures of the TGNA and the By-law on the Principles and Procedures for Drafting Legislation.

Like the Government, the TGNA does not have an annual work plan. According to officials of the Assembly who were interviewed, the Assembly relies on the programme of the Government and the Tenth Development Plan for information on areas where new legislative initiatives or modification of existing legislation are envisaged⁵⁹. Apart from this, dialogue between the Assembly and the Government (handled by the Private Clerk of the PM, often through the members of the ruling party)

to our interviewees, around half of the proposals over the limit do not include calculation of financial impacts, but are not returned to proposers on that basis.

⁵⁷ Ministerial Decree on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005, Articles 6 and 7.

⁵⁸ According to the case-by-case analysis of the PM.

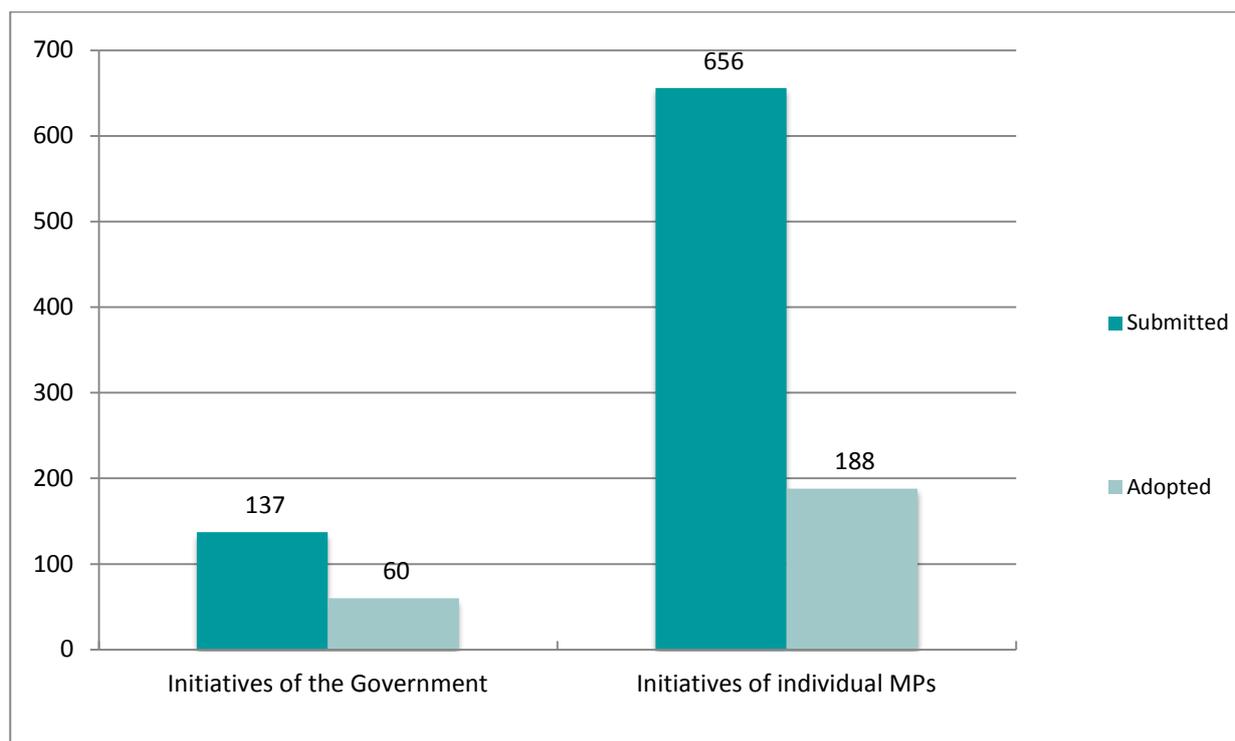
⁵⁹ At the TGNA, there are no formal regulations or practices concerning an annual work plan other than some common practices and rules related to the agenda designated in the RoP. However, a time span is set for the periodic political documents that define political priorities and measures. Development plans and annual programmes are good examples of this. Development plans prepared for five-year periods are the highest political documents (the most recent was published in the Official Gazette on 6 July 2013). Priorities defined in development plans are concretised in annual programmes. In the annual programmes, policies determined in the development plans are elaborated in terms of assessment of the current situation, primary goals, policy priorities and measures. Within the period of the 10th Development Plan, annual programmes for 2014 and 2015 are accepted by the CoM and published in the Official Gazette as cabinet decrees. In addition, many private members’ bills and Government bills become law but are not included in development plans and annual programmes.

helps to determine the agenda⁶⁰. In the absence of any formal forward-planning mechanism, up to half of the items submitted by the Government to the Assembly are not anticipated⁶¹.

The Assembly has 140-150 plenary sessions per year. According to the Rules of procedure (RoP) of the TGNA, Article 62, Paragraph 1 (entitled Representation of the Government)⁶², the Prime Minister or a relevant minister must be present at the general assembly sessions⁶³.

The Turkish Parliament fulfils its role in ensuring legal conformity and quality of proposed legislation mainly through a complex structure of committees. In 2014, 132 draft Government bills were put on the agenda of the Plenary and 60 were adopted. At the same time, 188 private member's bills became law.

Figure 5. Laws submitted to and adopted by the Parliament in 2014



Source: Turkish Grand National Assembly.

In terms of oversight of the Government's work, the Government answered 3 818 of 23 144 written questions on time and 4 418 with a delay. It did not answer 10 578 questions⁶⁴. This hindered execution of the oversight function of the TGNA⁶⁵. Reports on implementation of laws are not discussed by the TGNA, indicating that the Parliament is not exercising any such role in scrutinising the effects of legislation and policies.

Procedures for scrutiny of legislation in the Assembly are well defined. Members of the Government take part in the work of the Assembly on a regular basis. There is no formal mechanism for forward-planning in place between the Government and the Parliament. Reports on implementation of laws

⁶⁰ The plenary generally meets on Tuesdays, Wednesdays and Thursdays. Agenda items for a specific week are usually decided upon the suggestion of the governing party on Tuesdays. However, these items may change on the following days of the same week.

⁶¹ According to interviewees in the TGNA.

⁶² RoP of the TGNA.

⁶³ No statistics are kept on the fulfilment of this requirement.

⁶⁴ The rest of the questions were either in process or not accepted by the Office of the Speaker.

⁶⁵ Data provided by the TGNA.

are not discussed by the TGNA, indicating that the Assembly is not checking results of implementation of laws.

Key recommendations

Short-term (1-2 years)

- 1) The PM should develop a comprehensive timetable for preparation of drafts before submission to the CoM to ensure adequate forward-planning before sessions are convened.
- 2) The Prime Ministry in co-operation with other CoG bodies should ensure comprehensive checking of all aspects of drafts (including financial affordability of all proposals) before decisions are taken by the CoM.
- 3) The PM should publish agendas of formal Government meetings in advance of the sessions along with comprehensive reporting after each session on all decisions taken.
- 4) The Government should establish a forward-planning mechanism between the Government and the TGNA to allow for adequate planning of resources for proper quality control of legislation by the Parliament.

Medium-term (3-5 years)

- 5) The TGNA should establish a system to consider and report on results of implementation of major laws and carry this out regularly.

2.4. Key requirement: Inclusive, evidence-based policy and legislative development enables the achievement of intended policy objectives.

Baseline values

Assessing whether policy and legislative development are inclusive and evidence-based, and thus achieve the intended goals, is based on ten indicators. These cover the extent to which ministries are oriented towards policy development; the backlog of transposition; the number of annually transposed directives; the extent to which policy development makes best use of analytical tools; the extent to which public consultation is used; the extent to which the interministerial consultation process occurs; the ratio of staff participating in legal drafting training; the number of laws annulled due to legal inconsistency or unconstitutionality; the number of laws sent back to the Government by the Parliament; and the extent to which legislation is made publicly available. Precise methodology and scales for these indicators can be found in the Methodological Annex.

In Turkey, the basic foundations for policy development are established. However, challenges remain with regard to translating policy development structures and procedures into high-quality policy and legislative proposals. Turkey has a commendable system for publication of legislation, with all texts accessible online in consolidated format.

Turkey
Policy Development and Co-ordination

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	8	Extent to which ministries are oriented towards policy development.	2014	4
	10	Extent to which policy development process makes the best use of analytical tools.	2014	3
	11	Extent to which public consultation is used in developing policies and legislation.	2014	3
	11	Extent to which the interministerial consultation process occurs.	2014	4
	12	Extent to which primary and secondary legislation is made publicly available in a centralised manner.	2014	5
Quantitative	9	Backlog of transposition ⁶⁶ .	2014	Not available ⁶⁷
	9	Number of annually transposed directives.	2014	178
	12	Ratio ⁶⁸ of staff participating in legal drafting training or mentoring over the past year.	2014	Not available ⁶⁹
	12	Number of laws annulled on the basis of legal inconsistency or unconstitutionality in a given year.	2014	Not available ⁷⁰
	12	Number of laws sent back to the Government by the Parliament.	2014	0

⁶⁶ Backlog is analysed as the comparison of documents consisting of commitments (e.g. EI plan) from two consecutive years, taking into account items carried forward from one year to the next.

⁶⁷ As the nature of the plan that could serve to calculate backlog has changed in 2014, it is not possible to compare it with previous plans to calculate a backlog value.

⁶⁸ The ratio is calculated on the number of staff trained against the total number of ministerial staff dealing with legislative drafting

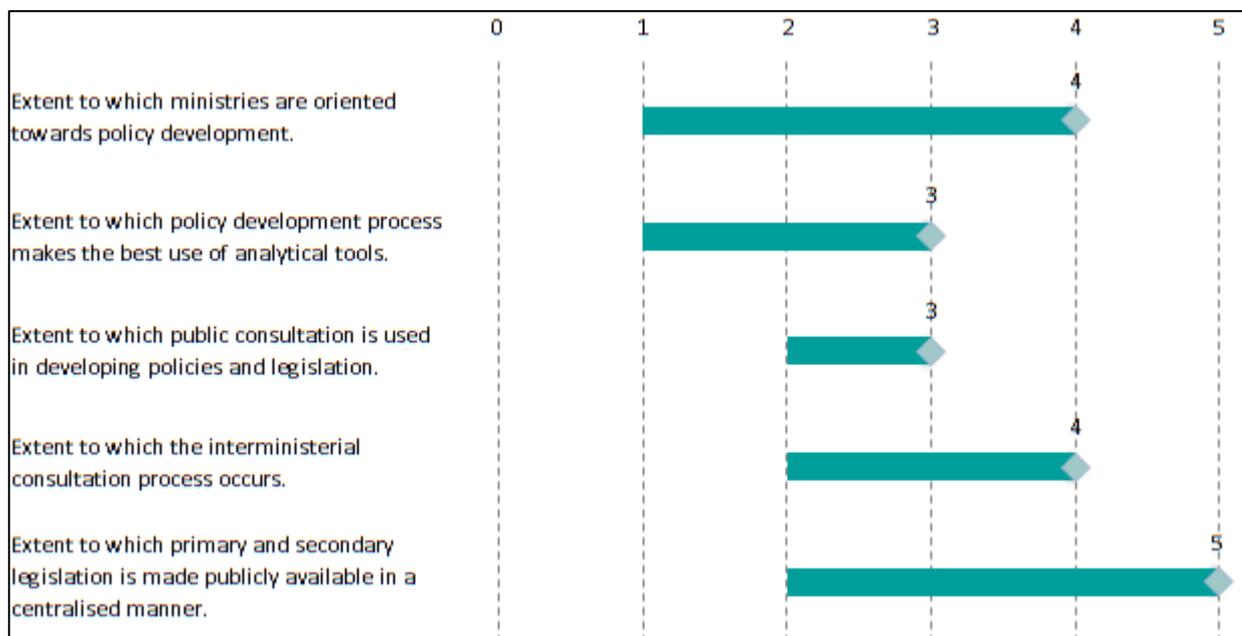
⁶⁹ No information was provided for the analysis by the Prime Ministry.

⁷⁰ Ibid.

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The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 6. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 8: The organisational structure, procedures and staff allocation of the ministries ensure that developed policies and legislation are implementable and meet Government objectives.

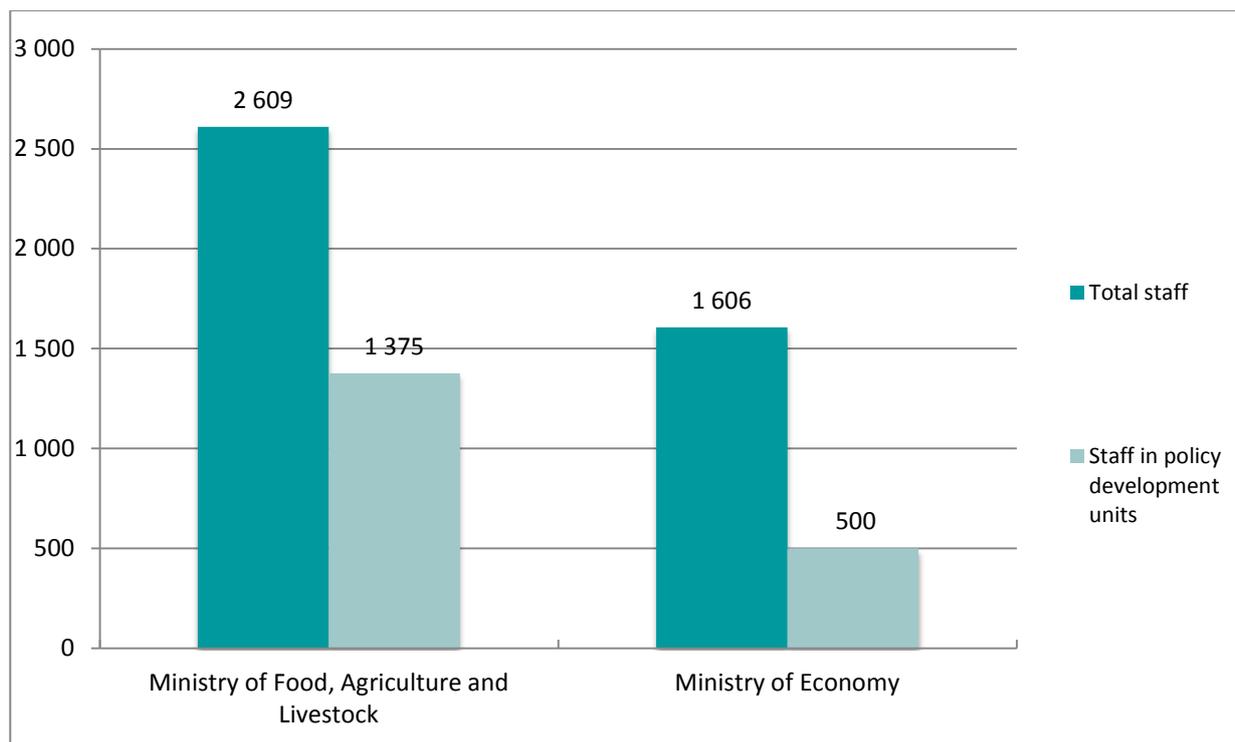
Turkey has 21 ministries. The structures and tasks of the ministries were established through the Law on the State Administration⁷¹. Separate decrees and laws further elaborate the purpose, scope and tasks of ministries. Under the policy development process in Turkey, policy units prepare legislative files and legal units transform policy and legislative demands into actual legislative proposals. As a general rule, responsibility for policy development is not transferred to subordinate bodies.

The indicator which measures the extent to which ministries are oriented towards policy development has a value of 4, as four out of the five elements required are in place⁷². There are no internal rules which regulate, in detail, the procedures and processes of policy development and legal drafting within the ministries.

⁷¹ Law No. 3046 of 27 September 1984.

⁷² See the Methodological Annex.

Figure 7. Staff allocated to policy development in sample ministries



Sources: Ministry of Food, Agriculture and Livestock, Ministry of Economy, SIGMA calculation.

Ministries have clear organisational structures, and policy responsibilities between ministries are clearly attributed. The overall system for policy development is supported by appropriate rules and practices. However, there are no internal rules describing the process of policy development and legal drafting.

Principle 9: The European integration procedures and institutional set-up form an integral part of the policy development process and ensure systematic and timely transposition of the acquis.

The EI framework and the roles and responsibilities of the different actors are defined. The legislative framework establishes rules for transposition of the *acquis*, including authority for quality control and supervision by the MoEU and translation⁷³. In 2014, Turkey reinforced the practice that draft legislation that aligns national rules with EU legislation must be submitted to the MoEU with a table of concordance⁷⁴. The MoEU has the authority to modify or reject drafts submitted by the responsible ministry. If necessary, agreement is reached under the direction of the PM. This process is informal in nature⁷⁵.

The legal framework and institutional structure for interministerial co-ordination and handling of EI issues in the ministries are robust. Ministry EI departments co-operate closely with other policy co-ordination and legal departments. The capacity of EI units within the line ministries is sufficient to cover EI activities⁷⁶. Tables of concordance are used. However, as indicated, costing is not always properly conducted for drafts on implementation of transposition activities. For conflict resolution, a two-layer system is established. Issues which are not resolved at expert level meetings (organised on a case-by-case basis) are transferred to the Internal Co-ordination and Harmonisation Committee, the

⁷³ Findings based on the Law on the Organisation and Duties of the Ministry of EU Affairs Law No. 5916 of 9 July 2009, the Decree of Council of Ministers N. 634 of 3 June 2011 and information provided by the Turkish administration.

⁷⁴ See also Circular 2014/16 on the Co-ordination of the Work related to the European Union of 25 September 2014.

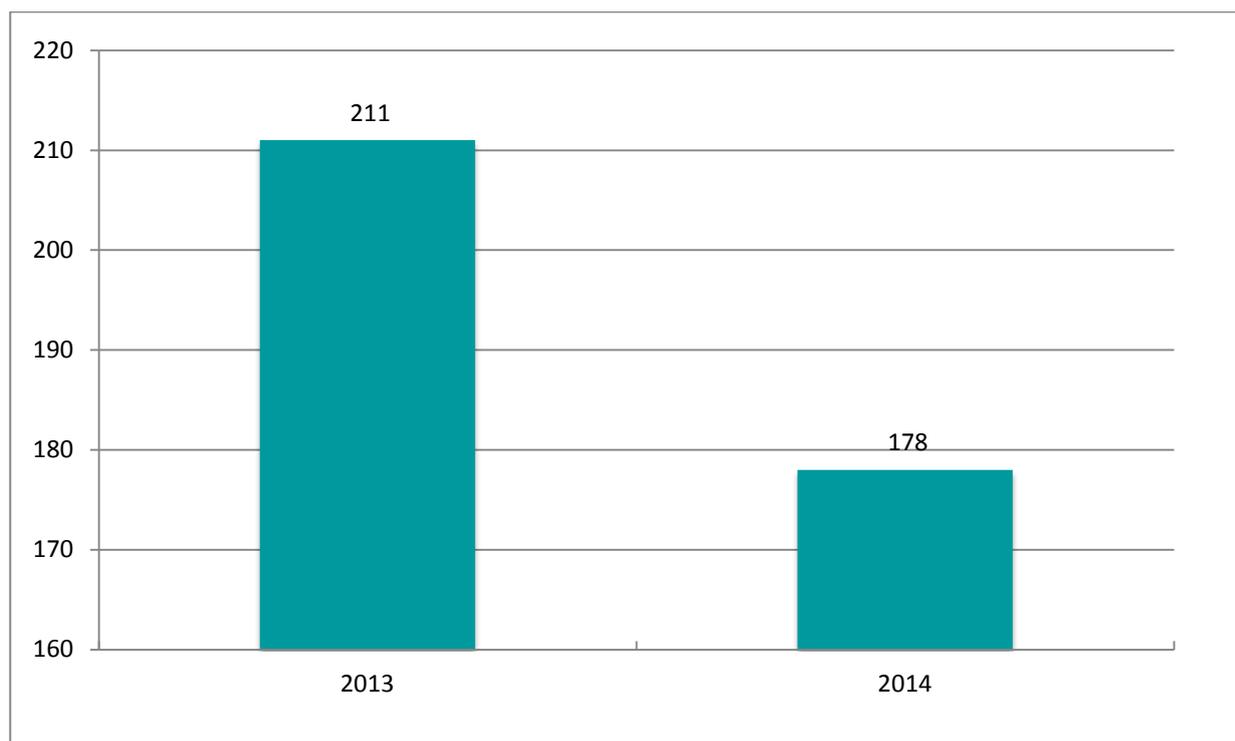
⁷⁵ Conclusions based on information provided by the Turkish administration.

⁷⁶ These findings are based on interviews and organisation charts of the Ministry of Economy (81 staff members in the EU Directorate) and the Ministry of Food, Agriculture and Livestock (207 staff members in the EU Directorate).

highest level interministerial instance of conflict resolution. On areas related to the Political Criteria of accession and to Chapters 24 and 25 of the accession negotiations, the Reform Action Group (previously Monitoring Action Group) is a special body to decide on issues that need political consideration.

The indicator on the annual implementation backlog of EI-related commitments could not be assessed, as Turkey only recently adopted its new EI Action Plan. However, according to the information provided, a total of 178 Directives were actually transposed in 2014. This includes both primary and secondary legislative items adopted for implementing EU legislation. In 2013, 211 Directives were transposed.

Figure 8. Number of annually transposed Directives



Source: Ministry for EU Affairs.

The procedural framework and the institutional set-up for EI are well defined, and conflict resolution arrangements are in place at both administrative and political levels. Proper costing is not always done for the transpositions.

Principle 10: The policy making and legal drafting process is evidence-based and impact assessment is regularly used across ministries.

The principle of using Regulatory Impact Assessment (RIA) is clearly embedded in the rules for legislative drafting⁷⁷. Specific RIA guidelines were adopted and published in 2007⁷⁸. Each proposal with effects expected to be above the level of TRY 10 million must be supported by a RIA. This threshold implies that a large number of draft laws should be supported by RIA. The PM is responsible for quality assurance of the RIA process.

However, the practice of undertaking RIA is not yet fully embedded within the Turkish administration. Some ministries produce RIA for nearly every proposal developed, while other ministries conduct no

⁷⁷ Various articles in the By-Law on the Procedures and Principles of Legislation Drafting refer to the obligation to apply RIA, in particular Article 24 and Appendices 1 and 2.

⁷⁸ Circular 2007/6 on RIA Studies.

RIA at all⁷⁹. In general, indications are that RIA is undertaken for only half of the files which require it under the existing rules⁸⁰. RIAs are not published and not sent to the TGNA with the proposals for which they are compiled. The quality of RIA is not checked rigorously⁸¹.

Three sample files were analysed for this assessment, of which one file dated back to 2012⁸². The level of analysis in the RIA shows that the Turkish administration does have high-quality policy data at its disposal and that sincere efforts are made to undertake RIA. However, the descriptions of problems do not cover all issues. Links are weak between the options presented and expected impacts. The analysis does not explain in detail the implementation aspects of the proposed measures. The two RIAs analysed were supported by substantial consultation, but description of the consultation process is unclear and incomplete. The shortcomings identified hinder the use of the RIA tool as a means of informing decision making and leads to a baseline value for the indicator on the extent to which the policy development process makes best use of analytical tools of 3.

The obligation to conduct RIA is embedded in the rules for policy and legislative development. However, RIA is unevenly applied within the administration and is not undertaken on all proposals for which it is required. The quality of the analysis and the presentation of findings are mediocre. The findings of the RIA are not published and not shared with the Assembly.

Principle 11: Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordinating perspectives within the Government.

General principles for consultation with external stakeholders are embedded in the rules that set out steps for drafting proposals to place on the Government's agenda⁸³. While ministries often conduct stakeholder consultation, they tend to focus on a limited number of key stakeholders⁸⁴. External stakeholders can be involved in the policy making process through the Scientific Committees. Public consultation of stakeholders varies in quality. Some proposals are opened to wide consultation during the development process, while others are only submitted for consultation at the end of the process⁸⁵. No institution is following the unified application of the envisaged requirements for public consultation.

The obligation to conduct public consultation is set in rules. Consultation is not held for all draft laws for which it is required⁸⁶, and oversight on the quality of consultation and its outcomes - comparable with RIA - is open for further improvement in terms of its institutionalisation. However, consultation outcomes are made public on the websites of ministries⁸⁷. The baseline value for the indicator on the extent to which public consultation is used in developing policies and legislation is 3.

The interministerial consultation mechanism is partially codified in legal rules⁸⁸. The mechanism functions well, and relevant ministries and organisations are consulted. A summary of this consultation

⁷⁹ Findings on the use of RIA by ministries are based on interviews.

⁸⁰ Based on information from officials of the Prime Ministry and analysis of four recently adopted bills: Draft Bill on the Retail Trade Law (without RIA); Draft Bill on the Organisation and Duties of the Ministry of National Education (without RIA); the Draft Bill on the Support of Research Infrastructure (with RIA); and Draft Bill on the Occupational Health and Safety Law (with RIA). Based on their content and impacts, all should be covered by RIAs.

⁸¹ Conclusions are based on interviews and comments in TR2010/0136.01-01/001, Technical Assistance for Improved Strategic Management Capacity, Gap Assessment Report of 23 August 2013, in particular p. 42, and analysis of the Draft Bill on the Retail Trade Law (without RIA) and the Draft Bill on the Organisation and Duties of the Ministry of National Education (without RIA).

⁸² Findings based on interviews and analysis of four recently adopted bills: Draft Bill on the Retail Trade Law (without RIA); Draft Bill on the Organisation and Duties of the Ministry of National Education (without RIA); the Draft Bill on the Support of Research Infrastructure (with RIA); and Draft Bill on the Occupational Health and Safety Law (with RIA).

⁸³ See also By-Law on the Procedures and Principles of Legislation Drafting, Article 6.

⁸⁴ Based on the analysis of sample recent laws, interviews with NGOs and sample ministerial websites.

⁸⁵ Findings based on analysis of the two RIAs mentioned under Principle 10 and interviews.

⁸⁶ Based on the sample provided for the analysis and confirmed by interviewed NGOs.

⁸⁷ Finding based on interviews with the Turkish administration.

⁸⁸ See also By-Law on the Procedures and Principles of Legislation Drafting, Article 6.

process must be submitted to the PM along with draft proposals⁸⁹. In the case of disagreements between ministries during the interministerial consultation process, the two ministries are expected to find a solution through informal meetings which can involve high-level civil servants if necessary. If no agreement can be found, the PM is informed and takes the lead in resolving the disagreement. This process for resolving conflicts is occasional and partially based on informal traditions⁹⁰, but it does have a base in regulation⁹¹.

Interministerial consultation takes place routinely, and the Government is informed of the outcomes. There are procedures for interministerial consultation, but they rely heavily on steering by the PM, and there are no regular forums for conflict resolution. However, *ad hoc* solutions are regularly utilised to resolve conflicts between ministries, if necessary under the auspices of the PM⁹². The baseline value for the indicator on the extent to which the interministerial consultation process occurs is 4.

External stakeholders are often consulted on draft proposals. Consultation practices vary widely in quality and depth, and the manner of consultation is not steered or monitored centrally. Interministerial consultation is well developed, but regular forums for conflict resolution are not established.

Principle 12: Legislation is consistent in structure, style and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available.

The Regulation on the Procedures and Principles of Legislation Drafting shows how a draft law should be structured. The PM and the MoJ share responsibility for scrutinising the quality of legislative drafting⁹³.

It is not possible to assess the ratio of staff trained on legal drafting, as training is organised in a decentralised manner by individual ministries and there is no central Human Resource Management Information System in place.

The indicator on the number of laws annulled on the basis of legal inconsistency or unconstitutionality in 2014 could not be assessed. However, the Constitutional Court rendered 35 decisions annulling laws initiated by the Government.

The baseline value for the indicator on the number of laws sent back to the Government by the Parliament is 0. The TGNA has the right to send a bill back to the Government, but it is not standard practice in the Turkish parliamentary system for the Assembly to actually send laws back to the Government⁹⁴.

Both the administration of the TGNA and non-governmental organisations (NGOs) raised concerns about the recent emergence of omnibus laws, which include changes to a series of laws in force in one decision making cycle, covering issues that are not linked to each other in any other way. Out of the 71 new Government-sponsored laws adopted by the TGNA in 2014, 7 were counted as omnibus laws. According to interviewees, this practice can make it very difficult to understand important legislation and can hamper the efficiency of legislative scrutiny.

⁸⁹ By-Law on the Procedures and Principles of Legislation Drafting, Article 9 and Annex 3.

⁹⁰ Findings based on interviews and information provided by the Turkish administration.

⁹¹ The By-Law on the Procedures and Principles of Legislation Drafting states that the PM should be involved and establish direct contact with ministries and other public institutions if a consensus cannot be reached on a bilateral basis. However according to Article 6, the PM can step into the interministerial process even if no conflict is detected.

⁹² Finding based on interviews and information provided by the Turkish administration.

⁹³ Within the PM, both the General Directorate of Laws and Decrees and the General Directorate of Legislation Development and Publication assess the quality of legislative proposals.

⁹⁴ Findings based on information provided by the TGNA and the Turkish administration.

All primary and secondary legislation is available electronically in consolidated versions⁹⁵. The baseline value for the indicator on the extent to which primary and secondary legislation is made publicly available in a centralised manner is 5.

Regulation clearly sets the requirements for legal drafting, and guidelines are also provided for the administration. The country has a long history and tradition of legislative drafting, and drafts are largely compliant with the requirements. However, due to lack of information, the quality of legislation cannot be fully assessed through the indicators. All legislation is available electronically in consolidated form.

Key recommendations

Short-term (1-2 years)

- 1) Ministries should develop their internal rules for steering and co-ordinating the policy development and legislative process internally.
- 2) The General Directorate of Laws and Decrees should evaluate its approach to RIA and assess whether the current impact threshold could be temporarily increased, how analysis and the presentation of findings could be improved, how quality assurance could be strengthened and how RIA can be further embedded in all line ministries.
- 3) The Government should evaluate its approach to stakeholder consultation and assess how to obtain the views of stakeholders earlier in the policy and legislative development process. The Government should ensure consistent approach and execution for public consultation, including publication of consultation outcomes. The Government should submit RIA and consultation reports to the TGNA together with the relevant proposals.
- 4) The Government should ensure that clarity of new legislation and easy access to it is not hampered by merging unrelated legislative matters into a single omnibus legislative draft.

Medium-term (3-5 years)

- 5) The MoEU, together with the MoF should ensure that all EU transpositions are fully costed.
- 6) The PM should evaluate whether establishing a formal conflict resolution mechanism consisting of high-level civil servants could improve the current informal practice of conflict resolution between ministries.

The General Directorate of Laws and Decrees should establish a RIA process in which all relevant proposals are supported by high-quality *ex ante* analysis.

⁹⁵ The official register of laws is the website at: <http://mevzuat.basbakanlik.gov.tr/>, but legislation is also easily accessible through the websites of ministries.

3

Public Service and Human Resource Management

PUBLIC SERVICE AND HUMAN RESOUCE MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

The public service is substantially covered under Law No. 657/1965 on Civil Servants (the Civil Service Law, or CSL). The total number of civil servants as of 1 January 2015 is 2.4 million, an increase of more than 42% in the last ten years (more than 750 000 positions). With the addition of judiciary staff, university teaching staff, military staff, contracted and temporary staff and labourers, the overall figure for public service staff is 3.2 million.

The complexity of the public service system makes it difficult to address comprehensively issues such as defining the boundaries between political and administrative positions, improving the merit-based system for recruitment, appraisal, promotion and mobility, strengthening the central management unit for developing and monitoring public service policy and legislation.

The recruitment system has significant shortcomings, even though it was reformed in 1999 when entry-level state examination was made mandatory. The large-scale conversions of contracted staff to permanent public servants (200 000 in 2011 and 100 000 in 2013) have been detrimental to the merit system. In addition, no competitive procedures are applied for the filling of senior managerial positions.

The changes made to homogenise remuneration in adopting Decree-law No. 375/2012 are a step forward. However, the average share of payments and compensations granted in addition to the base salaries of public servants was 40% in 2014, making the salaries unequal; this, in turn, affects the mobility and transfer of public servants within the administration in a negative way.

1.2. Main developments

No legislative or institutional reforms in the area of public service and human resource management (HRM) took place in 2014.

2. ANALYSIS

This analysis covers the seven Principles of the Public Service and HRM area, grouped under two key requirements⁹⁶. Under each key requirement, baseline values for the indicators of the monitoring framework of the Principles are provided. The Principles cover all elements relevant to the public service: the scope and legal framework of the public service; professionalism in recruitment, training and performance appraisal; fairness and transparency in the salary system; and the promotion of integrity as well as the prevention of corruption.

2.1. The scope of public service is clearly defined and applied in practice so that the policy and legal framework and institutional set-up for professional public service is in place.

Baseline values

The scope of the public service is examined through three qualitative indicators that refer to the scope covered by the current civil service legislation of Turkey, the coherence and professionalism of the policy and legal framework, and the institutional set-up enabling consistent HRM practices across organisations.

The horizontal scope of Turkey's public service⁹⁷ meets the minimum requirements. The material scope⁹⁸ establishes all general provisions relevant to the employment relations of public servants and the management of the public service; there are, however, some challenges to implementation in this area. As there are no legal criteria to define the boundaries between professional public servants and political appointees, the vertical scope⁹⁹ of the public service is not clear. The institutional set-up clearly divides responsibilities between decision-making and co-ordination, but it lacks a sound Human Resource Management Information System (HRMIS) to support the role of the State Personnel Administration (SPA).

⁹⁶ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 40-56.

⁹⁷ In [The Principles of Public Administration](#) and in the Baseline Measurement, a **narrow horizontal scope of public service** is applied, covering: 1) ministries and administrative bodies reporting directly to the Government, Prime Minister or Ministers, i.e. the civil service strictly speaking; 2) administrations of the Parliament, the President and the Prime Minister; 3) other administrative bodies at the level of the central administration if they are included in the scope of public service under the public/civil service law and they exercise public authority conferred by public law and are responsible for safeguarding the general interests of the state or other public bodies; and 4) independent constitutional bodies reporting directly to the Parliament.

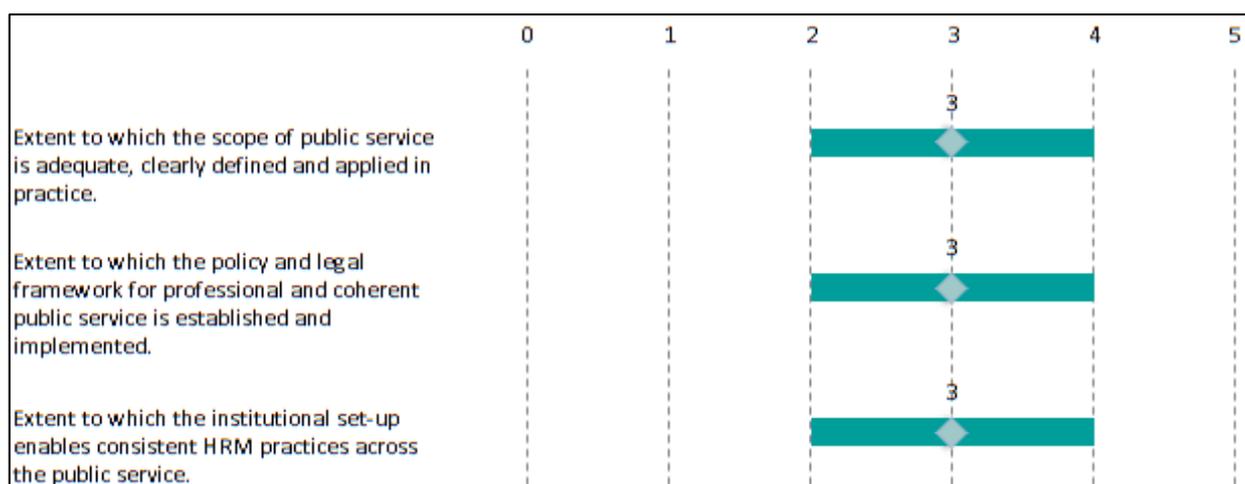
⁹⁸ In [The Principles of Public Administration](#), the **material scope of public service** means that the law on public/civil service establishes all general provisions relevant to the employment relations of public servants and the management of the public service. This includes the scope and principles of the civil service; classification; recruitment and selection, including of civil servants in senior managerial positions; the rights and obligations of civil servants, including the integrity system; remuneration (the main principles and components of the salary system); professional development, including performance appraisal, training, mobility and promotion; disciplinary procedures, including suspension of the civil service relationship; termination of employment, including demotion and redundancy; and the management and central co-ordination of the civil service.

⁹⁹ In [The Principles of Public Administration](#), the **vertical scope of public service** means that the law on public/civil service clearly determines the upper and lower division lines separating political appointees, public servants and support staff.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the scope of public service is adequate, clearly defined and applied in practice.	2014	3
	2	Extent to which the policy and legal framework for professional and coherent public service is established and implemented.	2014	3
	2	Extent to which the institutional set-up enables consistent HRM practices across the public service.	2014	3

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 1: The scope of public service is adequate, clearly defined and applied in practice.

The CSL was approved in 1965¹⁰⁰ and has been amended on numerous occasions over the years. Past attempts by the Government to comprehensively change the CSL have not led to any tangible results¹⁰¹.

The complex nature of the CSL comes from three elements. First, it covers a wide and heterogeneous range of categories of public servants that do not necessarily require the same type of legislation, or the same level of restrictions and protection, as the core public service¹⁰². Second, the material scope covers all general provisions relevant to employment relations in the public service but it is also

¹⁰⁰ Law on Civil Servants (CSL) No. 657/1965.

¹⁰¹ SIGMA (2011), "Assessment: Turkey", OECD Publishing, Paris.

¹⁰² The categories of public servants, according to the article 36 of the CSL No. 657/1965, are the following: 1) general administrative services; 2) technical services; 3) health and associated health services; 4) training and education services; 5) legal services; 6) religious services; 7) security services; 8) auxiliary services; 9) provincial administrative authorities; 10) national intelligence services.

complex, providing specific provisions for each HRM process for each of the ten categories. Third, the degree of regulation in the primary legislation is very high, which, in conjunction with hundreds of amendments, makes its implementation challenging.

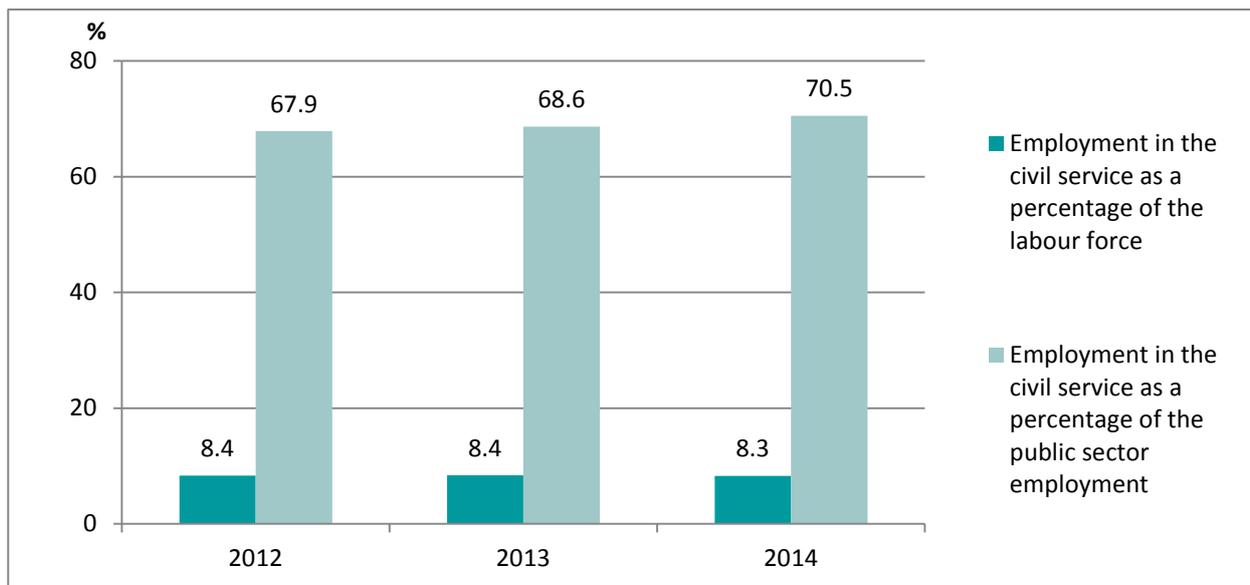
No legal criteria define the boundaries between professional (merit-based) public service positions and political appointees. For example, the CSL includes positions for which no examination is needed, leaving a gap in the vertical scope which does not conform to the Principles¹⁰³.

The overall staff population of the public service as defined in the CSL, including contracted and temporary staff and labourers, is 3.2 million¹⁰⁴. Of these, 2.4 million or 75% are civil servants. According to the Ministry of Finance (MoF), the total number of paid positions in the civil service was 2.2 million as of 31 December 2014¹⁰⁵, which is 200 000 less than reported by the SPA.

The civil service represents 70.5% of public sector employment¹⁰⁶ (3.44 million in 2014) and 8.3% of the total labour force¹⁰⁷ (29.2 million in 2014)¹⁰⁸.

The number of civil servants has increased by more than 42% in the last ten years (i.e. by more than 750 000 positions). Between 2007 and 2012, the number of service contracts and the number of civil servants increased by average annual rates of 7.3% and 3.5% respectively, with the avowed goal of reducing informal employment¹⁰⁹.

Figure 2. Employment in the civil service as a percentage of the labour force and of public sector employment, 2012-2014



Source: Turkish Statistical Institute, State Personnel Administration.

¹⁰³ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, p. 44.

¹⁰⁴ State Personnel Administration, Annual employment figures in the public service in Turkey, 01 January 2015, <http://www.dpb.gov.tr/>. The armed forces and local administration are excluded from this figure, but public enterprises and public banks are included.

¹⁰⁵ Ministry of Finance (MoF) of Turkey, 31 March 2015, Additional information and data requested by OECD/SIGMA from the MoF.

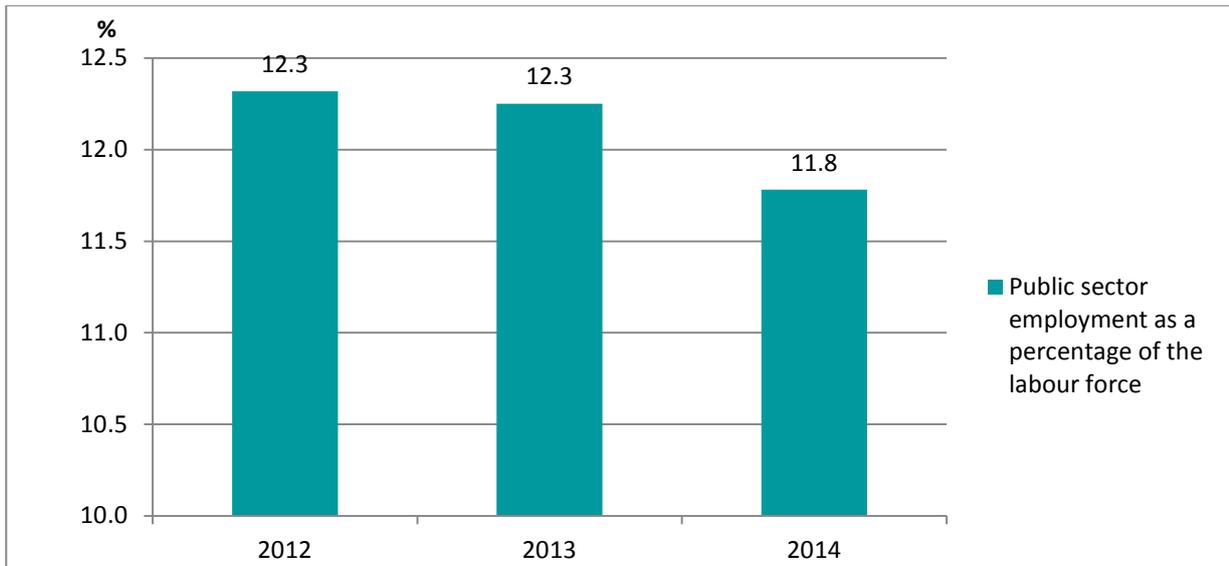
¹⁰⁶ Public sector employment includes persons employed in the following sectors: public administration, defence, compulsory social security, education, human health and social work.

¹⁰⁷ The labour force includes the country's working-age population that engages actively in the labour market, either by being employed or unemployed.

¹⁰⁸ Turkish Statistical Institute, www.turkstat.gov.tr.

¹⁰⁹ Tenth Development Plan (2014-2018), paragraph 548.

Figure 3. Public sector employment as a percentage of the labour force, 2012-2014



Source: Turkish Statistical Institute, State Personnel Administration.

In addition, insufficient data was provided to SIGMA for this evaluation in order to carry out analysis of the application of the public service scope, leading to a reduction in the value corresponding to this indicator.

Taking these factors into account in assessing the scope of public service in 2014, the baseline value is 3.

The horizontal scope of Turkey's public service covers all institutions exercising public authority. The material scope establishes all general provisions relevant to the employment relations of public servants and management of public service, but there are some challenges in implementation. The vertical scope does not clearly differentiate between politically appointed positions and those public servants recruited through competition.

Principle 2: The policy and legal framework for a professional and coherent public service is established and applied in practice; the institutional set-up enables consistent and effective human resource management practices across the public service.

The Tenth Development Plan of Turkey (2014-2018) is an overall framework for development, including that of the public service. The Development Plan lists a mix of strategic and operational objectives: the replacement of the registry with a personnel information system; the need to establish a recruitment and promotion system based on merit and objectivity; the need to carry out performance appraisal for civil servants; the introduction of in-service training; and the need to link the effectiveness and efficiency of the civil service to salaries¹¹⁰. The SPA has a lengthy Strategic Plan (2013-2017) which sets out the history of the institution, its legal mandate, and a succinct problem analysis focused on the SPA rather than on the whole system in general. The Strategic Plan has no quantitative analytical data and it presents a mixture of mainly activity-based objectives and a small number of results-based objectives. The correspondence between the challenges of the SPA and the strategic objectives is unclear¹¹¹.

¹¹⁰ Tenth Development Plan (2014-2018), paragraphs, 378, 380, 381, 384 and 386.

¹¹¹ The Strategic Plan also lacks any targets against which to measure future success.

Turkey
Public Service and Human Resource Management

The CSL does not explicitly mention the administrative law principles¹¹² as a guideline to interpret the legislation, the work of civil servants and the way in which civil servants are managed. One exception is the mention of the efficiency of civil servants as part of the evaluation of achievements¹¹³. However, there are some principles, such as openness and transparency, which are implicitly applied to some parts of civil service management (for instance, recruitment to enter the civil service¹¹⁴). At the same time, other principles such as efficiency and effectiveness are mentioned in framework documents¹¹⁵. This is not enough, however, since the principles should be embedded in the legislation so that civil servants and HR managers have clear routes to follow. Finally, there are some implementation issues that have subverted these principles. For instance, in April 2011, just before the general elections of June 2011, the Parliament¹¹⁶ approved a law allowing the Government to speed up the legislative process through decrees affecting appointments, transfers, recruitment, promotion, dismissal and retirement. Moreover, the CSL is subject to continuous amendments, some of them specific and others inserted in omnibus legislation¹¹⁷. The legislative procedure and continuous amendments undermine two core administrative law principles relating to legal certainty: reliability and predictability.

The political responsibility for public service lies mainly with the MoF and the Ministry of Labour and Social Security (MoL). The MoF is in charge of the salary policy but also influences several aspects of HRM through budgetary laws. For years, the budgetary laws have allocated quotas on the number of civil servants that can be recruited. The recruitment of contract staff requires the authorisation of the MoF.

The co-ordination of the public service is the responsibility of the SPA¹¹⁸, created in 1960 and currently subordinated to the MoL. The SPA plays a central role in the personnel policy of the central administration with a broad range of competencies, according to its establishment act¹¹⁹. However, there are no specific and regular fora where HRM challenges are discussed between the SPA and the HR managers of administrative bodies. Most communication is through circulars and there is no monitoring of the implementation of the guidelines from the circulars¹²⁰.

The central civil service registry, or HRMIS, is currently not in place to enable state bodies to update the individual records of their employees. This makes it very difficult to accurately interpret the evolution of personnel populations of different categories and classes of employees, and to prepare strategic decisions based on this information. The SPA is in charge of the central civil service registry, and has initiated a process replacing the current, non-functioning system with another one that can be used for decision-making purposes.

¹¹² The administrative law principles are reliability and predictability (legal certainty), openness and transparency, accountability, efficiency and effectiveness (SIGMA [2014], [The Principles of Public Administration](#), OECD Publishing, Paris, p. 45).

¹¹³ CSL No. 657/1965, Article 122, amended in 2011.

¹¹⁴ CSL No. 657/1965, Chapter 1.

¹¹⁵ Tenth Development Plan (2014-2018), paragraphs 381 and 384.

¹¹⁶ In accordance with Article 91 of the Constitution.

¹¹⁷ As an illustration, Omnibus Law No. 5917/2009 made an amendment to Article 4-B of CSL No. 657/1965 regarding contract personnel.

¹¹⁸ Decree-law No. 217/1984 on the Establishment and Duties of the State Personnel Administration.

¹¹⁹ According to Article 1 of the Decree-law No. 217/1984 on the Establishment and Duties of the State Personnel Administration, the responsibilities of the SPA are the following: a) to prepare regulations about the public personnel system and amend the legislation depending on the changing environment; b) to conduct research and analysis of the civil service; c) to ensure harmonisation and co-ordination among different personnel regimes, to correct the flaws which might occur in practice; d) to keep the central personnel registry; e) to provide pre- and in-service trainings and to monitor and supervise the practices in this regard; f) to implement all the work on legislation based on scientific and objective principles required for the evaluation and development of the current administrative procedures and methods, with the aim of conducting the public services in a regular, rapid, effective and economic manner.

¹²⁰ Interview with the SPA, 3 March 2015.

The baseline value of the qualitative indicator on the policy and legal framework for 2014 is 3, based on the analysis above and the limited information available on implementation across the public service.

As the institutional set-up has a clear distribution of responsibilities between authorities for decision making and co-ordination but there are challenges in implementation and no sound HRMIS to support the role of the central co-ordination unit (the SPA), the baseline value of the qualitative indicator for the extent to which the institutional set-up enables consistent HRM practices across the public service is 3.

The public service implicitly applies some of the administrative law principles, such as openness and transparency, for HR processes. However, the principles are not explicitly mentioned in the legislation and not all principles are observed in practice. The central co-ordination unit (the SPA) lacks the capacity to monitor the implementation of the policies and legislation in a coherent manner across the public service.

Key recommendations

Short-term (1-2 years)

- 1) The Council of Ministers (CoM), in co-ordination with the MoF, the MoL and the SPA, should put the HRMIS into operation to support the strategic management and development of the public service.
- 2) The SPA should increase its capacity and expertise for co-ordinating and monitoring the implementation of public service policies and legislation.

Medium-term (3-5 years)

- 3) The CoM, in co-ordination with all relevant stakeholders, should conduct a comprehensive review of the current public service legislation and improve the primary and secondary legislation, the institutional set-up and implementation practices accordingly.

2.2. Professionalism of public service is ensured by good managerial standards and human resource management practices.

Baseline values

Professionalism is examined through 8 qualitative and 16 quantitative indicators that refer to the merit-based recruitment and termination of employment in the public service, including senior public servants. These indicators also examine the fairness and transparency of the salary system, professional development and appraisal of public servants, and measures for promoting integrity and preventing corruption in the public service.

The baseline values reflect that objective criteria for recruitment and termination have been established, but the following concerns remain: the conversion of contract staff into permanent-status civil servants does not respect the merit-based procedures; political influence in the recruitment and dismissal of senior managerial positions is not prevented; the salary system tries to apply fairness through equal pay for equal jobs, but the average share of payments in addition to the salary can still be up to the equivalent of 40% of the basic pay; training strategies and plans exist, but they do not deliver a strategic view on how to enhance professionalism to face the service delivery challenges of the country; and performance appraisal is in place only in a minority of state authorities. Finally, there are several anti-corruption measures in place, but the perception of corruption is still high in the country; the disciplinary procedures are well regulated and implemented without major challenges.

Turkey
Public Service and Human Resource Management

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	3	Extent to which the recruitment of public servants is based on the merit principle in all its phases.	2014	4
	3	Extent to which the termination of employment of public servants is based on merit.	2014	3
	4	Extent to which political influence on the recruitment and dismissal of senior managerial positions in the public service is prevented.	2014	2
	5	Extent to which the remuneration system of public servants is fair and transparent and applied in practice.	2014	3
	6	Extent to which the training system of public servants is in place and applied in practice.	2014	2
	6	Extent to which the performance appraisal system of public servants is in place and applied in practice.	2014	1
	7	Extent to which the integrity and anti-corruption system of the public service is in place and applied in practice.	2014	3
	7	Extent to which the disciplinary procedures against public servants are established to promote individual accountability and avoid arbitrary decisions.	2014	4
Quantitative	3	Annual turnover of civil servants at the level of central administration.	2014	Not available ¹²¹
	3	Turnover of civil servants at the level of central administration within six months of a change of Government.	2014	Not available
	3	Percentage of vRop nt positions filled by external competition in the civil service at the level of central administration.	2014	Not available
	3	Percentage of vacant positions filled by internal competition in the civil service at the level of central administration.	2014	Not available
	3	Percentage of women in the civil service at the level of central administration.	2014	36.5%

¹²¹ "Not available", here and hereafter, means that the administration did not provide the respective data at SIGMA's request during the 2015 Baseline Measurement data collection.

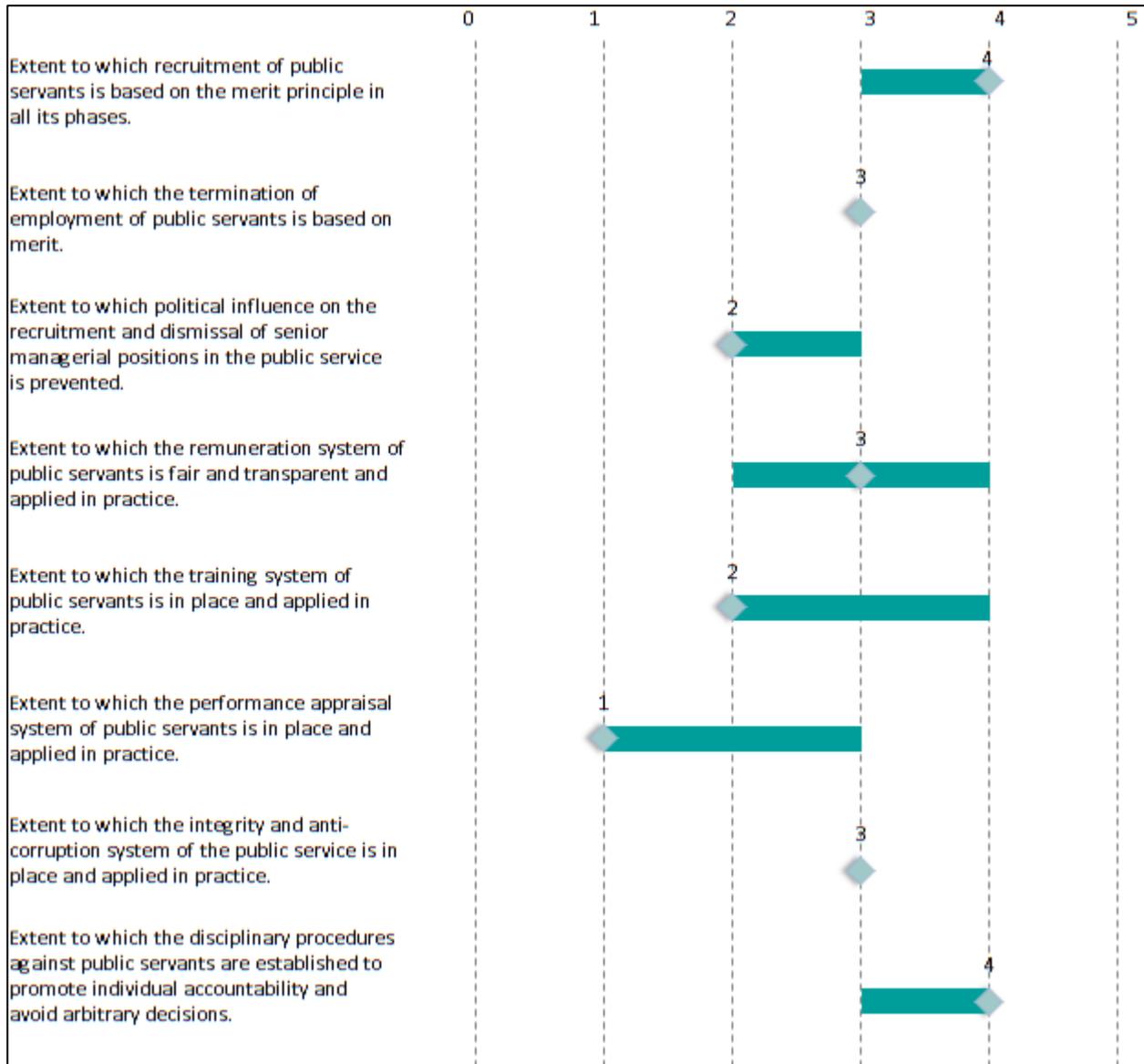
Turkey
Public Service and Human Resource Management

	Principle no.	Indicator	Baseline year	Baseline value
	3	Percentage of women in senior managerial positions in the civil service at the level of central administration.	2013	9.7%
	3	Percentage of civil servants at the level of central administration by different ethnic origin in relation to the general ethnic division in the country based on the last census.	2014	Not available
	4	Annual turnover of senior managerial civil servants at the level of central administration.	2014	Not available
	4	Turnover of senior managerial civil servants at the level of central administration within six months of a change of government.	2014	Not available
	4	Percentage of vacant senior managerial positions at the level of central administration filled by external competition.	2014	Not available ¹²²
	4	Percentage of vacant senior managerial positions at the level of central administration filled by internal competition.	2014	Not available
	5	Ratio of average annual compensation of central government senior and junior professionals to compensation of tertiary-educated workers.	2014	Not available
	5	Ratio of average annual compensation of central government senior public servants to compensation of tertiary-educated workers.	2014	Not available
	7	Transparency International Corruption Perception Index – the country score.	2014	45
	7	Citizens' perception of the integrity and trustworthiness of the public service.	2014	Not available
	7	Number of public servants who have been criminally convicted of corruption crimes.	2014	Not available

¹²² The total number of vacant positions in the senior public service is 2 211, 33% of all positions [6 709] in the highest group of public servants (the SPA).

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 4. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 3: The recruitment of public servants is based on merit and equal treatment in all its phases; the criteria for demotion and termination of public servants are explicit.

Merit-based recruitment for entry-level positions is implicit in the CSL¹²³. The recruitment system was reformed in 1999 with the introduction of a centralised exam, the KPSS (Turkish acronym for Public Personnel Selection Examination)¹²⁴.

The General Regulation of the KPSS points out the distinction between Group A and Group B positions in the civil service. Group A refers to assistant positions; after taking the KPSS exam and an additional

¹²³ CSL No. 657/1965, Chapter 1.

¹²⁴ KPSS – Kamu Personeli Seçme Sınavı.

entrance examination (consisting of an oral and a written part), and passing a compulsory training period, candidates will be appointed as assistants (e.g. assistant inspector, assistant expert) in different ministries or administrative bodies. Group B refers to positions in which candidates are appointed directly after the KPSS exam, i.e. without any additional examination (e.g. engineers, specialist servants).

For Group A positions, the number of candidates called to the written part of the KPSS exam is 20 times higher than the declared number of vacant positions. Those who are successful in the written exam, up to four times more candidates than vacant positions, will be invited to the oral part of the exam, organised by the administrative body which needs to fill the vacancy.

The scores obtained on the KPSS are valid for two years¹²⁵. The system is merit-based in compliance with the Principles¹²⁶.

In practice, the recruitment system has significant shortcomings. The large-scale conversions of contracted staff to permanent civil servants (200 000 in 2011¹²⁷ in the central administration; 100 000 in 2013¹²⁸ in central and local administrations¹²⁹) are detrimental to the merit system. The CSL originally intended contract staff¹³⁰ to be an exceptional and temporary form of employment for services which could not be carried out by civil servants. The contracts were originally for recruiting highly qualified/highly paid staff for projects or programmes for a specific period of time. They started to be renewed and became permanent due to different measures over the years; the contract staff perform the same services as civil servants, but with different features¹³¹. Law No. 5620/2007 introduced the need for an exam for contract staff under Article 4-B (based on KPSS scores), and Law No. 5917 introduced the idea of permanent (non-temporary) status, and this concept has been recurrent in the evolution of the legislation.

Termination of employment can happen during probation¹³²; otherwise, dismissals may occur as a consequence of a disciplinary sanction (clearly regulated)¹³³. Adverse performance appraisals or the restructuring of an organisation cannot be causes of dismissals¹³⁴. The data requested on implementation of termination regulations across the public service was not provided.

The right to appeal unfair recruitment or dismissal decisions is established in the legislation, but data on its implementation was not provided.

Considering the factors analysed above, the value for the qualitative indicator on recruitment for 2014 is 4, and that for the termination of employment of public servants is 3.

¹²⁵ With the exception of a large scandal in August 2010, in which several thousand candidates answered most of the questions correctly.

¹²⁶ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, p. 48.

¹²⁷ For instance, in 2011 the decree-law allowed for the conversion of temporary contractual public employees (under CSL No. 657/1965, Article 4-b) to be granted civil service status at a similar level in the hierarchy.

¹²⁸ There have been other previous conversions of 218 000 temporary workers under Law No. 5620/2007; see Sayan, I.O. and S.O. Albayrak (2011), "From exceptionality to generality, temporariness to continuity: 4/B contract personnel employment", *AMME IDARESI DERGISI*, Vol. 44, No. 3, p. 204.

¹²⁹ In 2014 large-scale conversions of contracted staff to permanent civil servants were not conducted, according to the SPA.

¹³⁰ They are commonly labelled as contract staff under CSL No. 657/1965, Article 4b.

¹³¹ Compared to civil servants, contract employees work on a position basis; the position's personal benefits are regulated by a Decision from the Council of Ministers (not the law), the employee receives his/her salary from the general budget or revolving funds from the authority involved, works on annual contracts, cannot be promoted without retaking the KPSS exams and achieving the required scores, and is not subject to the discipline regime. The evolution of this contract can be seen in: Sayan, I.O. and S.O. Albayrak (2011), "From exceptionality to generality, temporariness to continuity: 4/B contract personnel employment", *AMME IDARESI DERGISI*, Vol. 44, No. 3.

¹³² CSL No. 657/1965, Article 56.

¹³³ CSL No. 657/1965, Chapter VII.

¹³⁴ CSL No. 657/1965, Article 91.

The system of recruitment and termination in the public service is regulated by the CSL. However, the evolution of contract personnel and their conversion to civil service status through governmental decrees undermines the merit system in practice.

Principle 4: Direct or indirect political influence on senior managerial positions in the public service is prevented.

Access to the top posts in the public service, composed of 6 709¹³⁵ positions, is not merit-based. Appointments to particular positions within grades 1 to 4 (the highest-ranking officials) are not subject to open competition. There are some general requirements of qualifications and years of experience for each grade, but the appointing authority independently decides whom to appoint from the organisation (or other public authority, provided that the civil servant meets the requirements) without open competition¹³⁶. These are positions of discretionary appointment; although this category of senior public servant is established in the CSL, recruitment is not based on merit, equal opportunity or open competition, which makes the process incompatible with the Principles.

The criteria for termination of employment of senior public servants are established in the CSL, but data on implementation was not provided.

Given that political influence in the recruitment and dismissal of senior managerial positions is not prevented, the baseline value for 2014 is 2.

Senior managerial public servants have the status of civil servants, but they are discretionarily appointed and dismissed as political appointees.

Principle 5: The remuneration system of public servants is based on the job classification; it is fair and transparent.

The basic salaries of public servants are regulated by the CSL and are further concretised in the Budget Law¹³⁷. The original salary bases were the level of education and seniority for each grade. Over time, however, there has been a struggle between applying the principle of equal job for equal pay (for instance, regulation in 2012¹³⁸) and enabling different measures to grant different pay for equal jobs. Since the 1980s, salaries have been very fragmented and similar/same titles were paid differently in almost all institutions¹³⁹. Law No. 1327/1970 broke the uniformity of the salary system, since some civil servants (included in the first four grades of the General Administrative Service Class-I) could receive additional payment corresponding to a specified salary scale number. The additional payment would be determined by the CoM after receiving the opinion of the MoF and the SPA, and it was provided for in the budgetary law.

According to the MoF, the objective now is to apply the same salary to the same title. These efforts to make salaries more uniform could be undermined, however, by additional payments and allowances, which can reach the equivalent of 40% of the base salary of a civil servant for Category I of the public service (general administration)¹⁴⁰.

Certain revenue-earning ministries and agencies, including the Ministry of National Education and the Ministry of Family and Social Policies, continue to use the “revolving funds” to reward all staff in addition to their main salaries¹⁴¹, without having any clear criteria for this in the CSL. This situation

¹³⁵ The SPA.

¹³⁶ CSL No. 657/1965, Article 68.

¹³⁷ CSL No. 657/1965, Chapter V, amended by Law Nos. 1327, 2183 and 2595.

¹³⁸ Decree-law No. 375/2012.

¹³⁹ Onur Ender Aslan (2010), “Salary systems for civil servants in Turkey from fordism to post-fordism”, *TODAIE’s Review of Public Administration*, Vol. 4, No. 1, pp. 93-141.

¹⁴⁰ Additional information and data requested by OECD/SIGMA from the MoF, 31 March 2015.

¹⁴¹ Ibid.

creates differences in the take-home pay of civil servants, and in turn negatively affects the mobility and transfer of civil servants across the administration.

Insufficient data on implementation of the salary system across the public service was provided.

Given that the remuneration system of public servants is not fully transparent and fair, the baseline value of the qualitative indicator for 2014 is 3.

The principle of equal pay for equal jobs is formally applied to offer fair remuneration. However, the principle is undermined by regulations which permit allowances of up to the equivalent of 40% of the total salary in some public service positions.

Principle 6: The professional development of public servants is ensured; this includes regular training, fair performance appraisal, and mobility and promotion based on objective and transparent criteria and merit.

Training is regulated in the CSL¹⁴². However, in the sections on the duties and rights of civil servants¹⁴³ training is not recognised either as a right or a duty¹⁴⁴. Furthermore, education is not a key for promotion or salary increases within the civil service. This may partially explain why training has not traditionally occupied a central place in public administration¹⁴⁵.

The web of training programmes and institutions reflects the variegated nature and size of the public sector. Each institution normally has its own training plan and should report its training activities to the SPA. This institution is in charge of guiding the preparation and implementation of the training schemes in the administration¹⁴⁶.

The SPA created the General Plan for Training of State Employees in consultation with the MoF, the Ministry of National Education, the then State Planning Organisation and TODAIE (the Public Administration Institute for Turkey and the Middle East) in 1983. The Plan remained unchanged in 2014, although it acts rather as a by-law and has neither specific objectives nor evaluation mechanisms. The General Plan distinguishes three types of training for all new employees¹⁴⁷: basic training (on their public employee status); preparatory training (on the features of their organisation and position); and on-the-job training (practical training, typically of one month in the institution). The SPA does not use its central position to launch a strategic training plan across organisations, also as mandated by the CLS¹⁴⁸, to target the core civil service. The SPA Strategic Plan for 2013-2017 is currently limited to training activities carried out¹⁴⁹, or other training programmes that are of interest for the SPA.

Cross-organisational training is carried out by TODAIE for middle and top managers. This institute was established to provide general training programmes for civil servants as well as master's and PhD programmes for senior managerial civil servants. It also delivers more specialised training on public security, health, education and HR development. However, although the role of TODAIE in training and development is important, it lacks the centrality of the SPA to use the training data to consolidate a strategic training plan with other partners. Moreover, the Government has a system for sending civil

¹⁴² CSL No. 657/1965, Articles 214-225.

¹⁴³ CSL No. 657/1965, Chapters 2 and 3.

¹⁴⁴ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, p. 53.

¹⁴⁵ Acar, M. and H. Özgür (2004), "Training of civil servants in Turkey: Progress, problems and prospects", *International Journal of Public Administration*, Vol. 27, No. 3, p. 204.

¹⁴⁶ CSL No. 657/1965, Articles 219-220.

¹⁴⁷ Approximately 60 000 new civil servants are trained every year.

¹⁴⁸ CSL No. 657/1965, Article 217.

¹⁴⁹ Training in international organisations, in-service training programmes, the preparation of materials for probationary officers and support for the teaching of foreign language skills, as well as the programme of the SPA for "Enhancing Training of Competencies for Managers in the Public Sector" to be carried out by TODAIE.

servants for formal training abroad, for which there are quotas among the institutions regarding the number of scholarships¹⁵⁰.

Some individual state authorities, for example the Parliament, have developed their annual training programmes and there is a budget line allocated for training purposes¹⁵¹.

Accurate and systematised data on training across the public service is not available (neither in overall numbers nor regarding the Budget). Furthermore, it is unclear to what extent training needs assessment is approached in a systematic way.

Performance appraisal is minimally regulated by the CSL¹⁵² and is mentioned in the Tenth Development Plan (2014-2018). However, the Government has not launched an overall policy on performance appraisal to encompass all civil servants from Class I. Some individual state authorities have their own performance appraisal programme¹⁵³ and some of them have initiated a 360-degree performance appraisal, but there is no overall consistent and encompassing approach to the matter.

Data on the implementation of performance appraisal across the public service is not available.

Considering the factors analysed above, the baseline value of the qualitative indicator on training is 2, and the indicator on performance appraisal is 1.

Training does not occupy a central position in the public service system, and it is up to individual authorities to approach the matter. Since public servants have neither the right nor the duty of training, it is up to different institutions and organisations, such as TODAIE, to offer interesting courses. Performance appraisal is minimally considered in the CSL, it is not systematically implemented and there is no secondary regulation.

Principle 7: Measures for promoting integrity, and preventing corruption and ensuring discipline in the public service are in place.

There are several elements in place to fight corruption and encourage the ethical behaviour of public servants, but the perception of corruption in the country is high. The Corruption Perceptions Index (CPI) of Transparency International indicates that Turkey had a score of 45 (0 being “highly clean” and 100 “highly corrupt”) and was ranked 64th out of 174 positions¹⁵⁴.

The strategic framework for preventing corruption is provided by the 2010-2014 National Anti-Corruption Strategy and Action Plan.

The objectives of the Board of Ethics for Public Officials (Ethics Board), created in 2004¹⁵⁵, a major actor in promoting integrity and preventing corruption in the public service, are embedded in the Anti-Corruption Strategy. In 2014, the Ethics Board had 16 staff members, of which 10 are experts, and has a budget of TL 95 000 (EUR 35 185). Its budget is enough to cover its activities, since it only used 57.1% of the budget in 2014¹⁵⁶.

The focus of the Ethics Board is on the general directors of the departments, or positions above, within the administrative bodies in the public service. There are different types of functions performed by the Board. First, the Ethics Board is in charge of preparing regulations that identify the codes of ethics for public personnel (such as transparency, impartiality, integrity, accountability and care for public interest) and monitoring their implementation. The Ethics Board has given institutions some support in

¹⁵⁰ The Strategic Plan of the SPA 2013-2017.

¹⁵¹ The Training Plan 2015 of Turkey’s Grand National Assembly.

¹⁵² CSL No. 657/1965, Chapter 6. Article 122, the most important one, refers to the evaluation of success, not performance appraisal, since this is a topic of contention with the trade unions.

¹⁵³ The Performance Appraisal System of Turkey’s Grand National Assembly, 26 March 2013.

¹⁵⁴ <https://www.transparency.org/cpi2014>.

¹⁵⁵ Law No. 5176/2004 on the Council of Ethics.

¹⁵⁶ Prime Ministry Board of Ethics for Public Officials Accountability Report, 2014.

drafting codes of ethics, but its authorisation is not required for the codes of ethics to be approved, nor does the Ethics Board monitor the implementation of the codes. There is also a process of establishing ethics committees in public authorities, although this process is only at the initial design stage¹⁵⁷.

Second, another function of the Ethics Board is to organise training: in 2014 it organised ethics training for trainers thanks to Instrument for Pre-accession Assistance (IPA) funds; it was able to organise 48 seminars on ethics in public authorities and agencies, reaching 3 664 civil servants¹⁵⁸.

Third, the Ethics Board conducts investigations and inquiries based on the claims it receives. In 2014, the Ethics Board received 218 applications, but only 44 came under its scope. It rendered six decisions of violations relating to high-ranking civil servants, and 179 applications were rejected for non-compliance with the procedure¹⁵⁹. These decisions are no longer published in full, following a decision of the Constitutional Court in 2010. Since then, the Ethics Board sends copies of the report to the institutions but does not monitor the outcome. Furthermore, the Ethics Board cannot impose any sanctions. From 2015, however, the Ethics Board has been publishing its ethical violations decisions on its website without disclosing the personal data of the senior public officials under investigation.

In 2005 the Regulation on the Principles of Ethical Behaviour for Public Officials (the Code of Ethics) was adopted. This regulation applies to all public servants, but there is no central body overseeing its implementation across the administration. The Ethics Board is only responsible for overseeing implementation of the Code of Ethics among general directors and other higher-level officials, including governors, deputy governors and mayors of municipalities.

The Criminal Code criminalises active and passive bribery, attempted corruption and abuse of office, among other offences. No information was provided about the number of public servants who were criminally convicted of crimes of corruption in 2014.

The main principles and course of action of the disciplinary procedures in the public service are in place in the CSL. Furthermore, according to Law No. 6111/2011, all disciplinary sanctions are now subject to judicial review. The list of disciplinary sanctions offers an exhaustive gradation¹⁶⁰. Disciplinary sanctions are performed by internal auditors, and the number of cases for the period 2004-2014 reached 194 814¹⁶¹, which is remarkably high. However, the absolute numbers and the data requested on specific cases of disciplinary procedures were not provided.

Given the factors analysed above, the baseline value of the qualitative indicator on integrity for 2014 is 3, and for the indicator on disciplinary procedures the value is 4.

There are several elements in place for preventing corruption in the public service. A specialised Board of Ethics was established in 2004, but it only deals with high-ranking officials and it has limited powers and scope. Relevant elements like integrity plans are not in place in the state authorities.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should continue working on the transparency of the remuneration system and on reducing the proportion of allowances in the salaries of civil servants.
- 2) The CoM should enhance the powers of the Board of Ethics for Public Officials to allow it to carry out fully its relevant role in the system.

¹⁵⁷ The Board adopted Decision No. 2014/27 regarding the “Procedures and Principles of Ethics Committees”. The purpose of this Decision is to regulate the working procedures and principles of the ethics committees that are established in public administration institutions, and to make these committees effective. The Board is currently working on publishing these procedures and principles as a by-law.

¹⁵⁸ Prime Ministry Board of Ethics for Public Officials Accountability Report, 2014.

¹⁵⁹ Ibid.

¹⁶⁰ CSL No. 657/1965, Article 125.

¹⁶¹ The SPA.

Medium-term (3-5 years)

- 3) The SPA, in co-operation with the MoL, the MoF and other relevant stakeholders, should develop and adopt a policy to enhance the coherence of the professional training and development of core civil servants, including a thorough review of training needs based on a training needs assessment across institutions.
- 4) The SPA should propagate a culture of performance management and appraisal of civil servants using models of good practices from within the administration of Turkey and from European Union and Organisation for Economic Co-operation and Development(OECD) countries.
- 5) The CoM should introduce merit-based recruitment in the senior managerial positions of the civil service.



ACCOUNTABILITY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

The structure of the public administration is comprehensively regulated by law. A performance management scheme is in place and ministries are obliged to send accountability reports annually which include specific targets and indicators.

The legislative framework regulating access to public information is extensive but there are numerous exemptions from the right to access public information. No centralised monitoring of the pro-active provision of public information on institutions' websites is conducted.

The Ombudsman's Institution was established in 2012. Its remit and competences are broad. Challenges that remain include the fact that cases may not be investigated *ex officio* and the low level of recommendations implemented, although this latter situation is improving.

The right to judicial review of administrative acts is ensured. The efficiency of the Administrative Courts is high, and Turkey has an advanced information technology (IT) system to support the administration of the courts.

The Constitution guarantees all citizens the right to seek compensation for unlawful decisions, and liability cases fall under the jurisdiction of Administrative Courts. However, the effectiveness of the public liability system cannot be assessed as data on public liability is not available.

1.2. Main developments

Major amendments to the Law on the Justice Academy have been adopted¹⁶², under which the Ministry of Justice acquired the power to appoint vice-presidents of the Academy.

¹⁶² Information obtained from the High Council of Judges and Prosecutors during interviews.

2. ANALYSIS

This analysis covers the five Principles of Public Administration that serve as indicators of the key requirement for accountability¹⁶³. For this key requirement baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles refer to various dimensions of public accountability, including overall organisation of the government; arrangements regarding internal administrative appeal and administrative justice; and the functioning of independent oversight bodies. The Principles also cover the legislative framework and access to public information.

2.1. Key requirement: Proper mechanisms are in place to ensure accountability of state administration bodies, including liability and transparency.

Baseline values

The system of accountability for the institutions of state administration is examined through a mixed set of indicators, both quantitative and qualitative. They cover all areas of accountability, including the internal organisation of the state administration; oversight of administrative appeals and access to public information; status and activities of independent oversight institutions and Administrative Courts; parliamentary scrutiny; and public liability. The indicators developed for each Principle relating to accountability are intended to assess not only the legislative framework, but also its practical implementation.

The overall organisation of the state administration in Turkey is hierarchical and driven by detailed rules, accompanied by elements of performance management and results. Access to public information is guaranteed under the applicable legislation, but pro-active disclosure of public information is not centrally monitored. The current level of implementation of the Ombudsman's recommendations is low, but steps have been undertaken to increase it. The Administrative Courts operate efficiently and are supported by an advanced IT system. No evidence has been provided of the practical implementation of legislative guarantees of public liability.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the overall structure of ministries and other bodies subordinated to central government is rational and coherent.	2014	4
	2	Extent to which the right to access public information is enacted in legislation and applied in practice.	2014	3
	3	Extent to which the mechanisms are in place to provide effective checks and balances, and controls over public organisations.	2014	3
	5	Extent to which public authorities assume liabilities and guarantee redress.	2014	2

¹⁶³ SIGMA, [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 58-66.

Turkey
Accountability

Quantitative	1	Number of bodies reporting to the Council of Ministers, to the Prime Minister or to the Parliament.	2014	31 ¹⁶⁴
	1	Average number of hierarchical layers in a typical ministry.	2014	5 ¹⁶⁵
	2	Share of public information requests refused in a given year by the public authorities.	2014	3.2% ¹⁶⁶
	2	Share of public information requests refused in a given year by the supervisory authority.	2014	36.3% ¹⁶⁷
	2	Share of public information requests upheld by the courts.	2014	50% ¹⁶⁸
	2	Share of public authorities maintaining websites in line with regulatory requirements.	2014	Not available ¹⁶⁹
	2	Share of public authorities maintaining a document registry and database.	2014	Not available ¹⁷⁰
	3	Percentage of citizens who have trust in the ombudsman institution(s).	2014	Not available ¹⁷¹
	3	Share of oversight institutions' recommendations to state administrative bodies implemented within two years ¹⁷² .	2014	36.7% ¹⁷³
	4	Number of administrative court cases ruled per year per judge.	2014	297 ¹⁷⁴
	4	Number of complaints submitted to the administrative court in a given year.	2014	278 433 ¹⁷⁵

¹⁶⁴ The number of bodies reporting to the Prime Minister is 31. According to the methodology, constitutional bodies reporting to the Parliament are not included.

¹⁶⁵ Based on the sample of four ministries: the Ministry of Finance, Ministry of Development, Ministry of Transport, Maritime Affairs and Communications and the Ministry of Interior.

¹⁶⁶ Of 3 118 864 requests, 99 166 were refused, according to data provided by the Prime Ministry.

¹⁶⁷ Of 2 681 appeals, 974 of them were refused, according to the Board of Review of the Access to Information.

¹⁶⁸ Four appeals against Board decisions were accepted, 4 rejected and 10 are pending, according to Board of Review of the Access to Information.

¹⁶⁹ No data was received from the administration.

¹⁷⁰ Ibid.

¹⁷¹ No credible surveys/research were found.

¹⁷² Relates to the Ombudsman only.

¹⁷³ 40 recommendations were implemented and 69 were not; 10 partially implemented recommendations were excluded. Information from the Ombudsman

¹⁷⁴ Ministry of Justice. The indicator covers first instance administrative courts and tax courts. The number of completed cases was 167 559 in the first instance administrative courts and 102 128 in tax courts. The number of judges was 579 and 329 respectively.

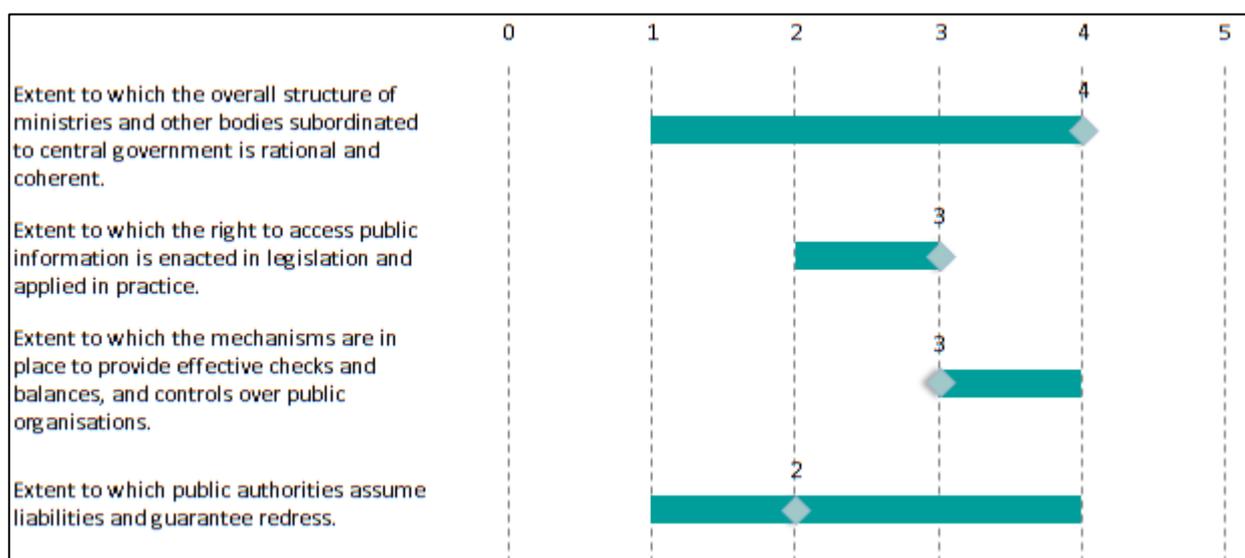
¹⁷⁵ Ministry of Justice. The indicator covers new cases and cases received upon reversal by first instance administrative courts (153 298 and 23 859) and tax courts (96 036 and 5 240).

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	4	Percentage of cases changed or returned for verification by the higher court.	2014	17.7% ¹⁷⁶
	4	Percentage of citizens who have trust in the court system ¹⁷⁷ .	2014	48%
	4	Backlog of administrative cases.	2014	138 801 ¹⁷⁸
	5	Share of complaints resulting in payment of compensation.	2014	Not available ¹⁷⁹

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 1: The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.

The structure of state administration and lines of hierarchical accountability are specified in the legislation¹⁸⁰. The legislative framework on the organisation of state administration is very detailed and follows a formalistic, centralised and hierarchical management model. The formalistic approach is

¹⁷⁶ Ministry of Justice. The indicator covers cases received upon reversal by first instance administrative courts (23 859) and tax courts (5 240). The denominator is the total number of rulings of the second instance administrative court (164 452). In the Turkish system, the second instance administrative court cannot completely change the judgement of the first instance court, however, it can approve the ruling of the first instance court, approve it with changes or reverse it.

¹⁷⁷ Gallup World Poll.

¹⁷⁸ Ministry of Justice. Number of cases carried over to the subsequent year at the end of 2014 in first instance administrative courts (92 271) and tax courts (46 530).

¹⁷⁹ No data was received from the administration.

¹⁸⁰ Law 3046 of 27 September 1984 on the Principles and Procedures regarding the Establishment, Organisation, Duties and Powers of the Ministries, Official Gazette, No. 18540/1984.

reflected in the detailed and uniform regulation of the internal structure of the ministries and other state administration bodies. Creation of new ministries or any changes in the structure of the ministries requires amendments to the legislation. The number of institutions reporting to the Prime Minister is 31. No institutions directly report to the Council of Ministers (CoM) (apart from ministries) or to the Parliament (apart from constitutional bodies). No mechanism is in place for regular evaluation of the rationality and cost-effectiveness of the structure of state administration. The inspection scheme is primarily oriented to the legality of administrative actions, but also includes monitoring performance¹⁸¹.

A well-established model of performance management in the state administration is set out under the Public Financial Management and Control Law¹⁸². All state administration bodies are required to prepare annual Performance Programmes specifying performance targets and indicators, as well as action that must be taken to implement the targets. The results of the implementation of the Performance Programmes are presented in the Annual Accountability Report of each institution. This Report places particular emphasis on the resources used to achieve the targets. It should be noted, however, that the Council of Ministers is not required to review the accountability reports, which would enhance the reports' importance.

The value for the indicator on the extent to which the overall structure of ministries and other bodies subordinated to central government is rational and coherent is 4.

The Turkish administration follows a hierarchical and legalistic pattern of organisation. A performance management scheme is in place, but there is no mechanism for regular review of cost-effectiveness and rationality of overall structure of state administration.

Principle 2: The right to access public information is enacted in legislation and consistently applied in practice.

Law 4982 on the Right to Information grants all citizens the right to access information and documents collected by public institutions and other bodies that perform public functions. Information is provided upon request and applicants are not required to justify their requests. A public body may demand a fee for access to information, calculated according to fixed rates. The fees are reasonable¹⁸³.

Selected categories of information are required to be published pro-actively on the websites of public bodies. This includes the inventory of the information and documents collected by the given institution and information on its organisational structure, and the tasks and services it provides¹⁸⁴. However, no single institution centrally monitors compliance in this matter.

The scope of exemptions from access to public information is extensive. Besides the standard grounds for refusal (e.g. protection of classified data), access may also be refused if the disclosure is harmful to the economic interests of the State. In addition, internal regulations, opinions and recommendations are not subject to disclosure. Furthermore, the application may be refused if handling it requires "additional or special work, research, examination or analysis"¹⁸⁵.

The Board of Review of the Access to Information acts as an appeal body when access to information is refused. It also has the power to issue binding recommendations and propose disciplinary action against civil servants for non-compliance with the legislation on access to information¹⁸⁶.

¹⁸¹ Law 3046, Article 23.

¹⁸² Law 5018 on Public Financial Management and Control, 10 December 2003, Official Gazette, No. 25326/2003.

¹⁸³ Law 4982, Article 22.

¹⁸⁴ Article 7 of the Regulation for the Basis and Procedures of the Implementation of the Right to Information Act.

¹⁸⁵ Law 4982, Article 12.

¹⁸⁶ Law 4982, Articles 29 and 42.

Table 1. Statistical data on requests for public information handled by state administration bodies

	2012	2013	2014
Number of requests for public information.	2 092 463	2 784 444	3 118 864
Share of requests refused by state administration bodies (%).	3.96	3.39	3.18
Share of appeals refused by the Board of Review of the Access to Information (%).	49.8	50.6	36.3

Source: Data received from the Board of Review of the Access to Information.

Each public institution is required to maintain a registry of all documents. The Directorate General of State Archives is responsible for auditing compliance in this matter¹⁸⁷. However, no data is available on the proportion of institutions which maintain registries in line with legislative requirements.

The level of exemptions regarding access to public information is broad and the pro-active provision of public information is not monitored. This results in a value of 3 for the indicator on public information.

The legislative framework for access to public information is complete and logically structured. However, the scope of exemptions governing access to information and the lack of mechanisms for centrally co-ordinating pro-active disclosure of public information hinder full implementation of the right to information.

Principle 3: Functioning mechanisms are in place to protect both the rights of the individual to good administration and the public interest.

The analysis below will focus on the Institution of Ombudsman as other oversight bodies and mechanisms for public service and public financial management are analysed in respective area chapters.

The institution of the Ombudsman, established under the Constitution, guarantees citizens the right to lodge complaints concerning the functioning of the administration. This is a fairly new Institution, created in 2012. The Ombudsman reports solely to the Joint Committee of the Turkish Grand National Assembly (TGNA), on an annual basis. The Ombudsman's budget is subject to appropriations co-ordinated by the Ministry of Finance on a quarterly basis, which limits the flexibility of its financial management¹⁸⁸.

The Law on Ombudsman stipulates that, in general, all actions of public institutions and private bodies providing public services are subject to the oversight of the Ombudsman Institution.

The Ombudsman has the right to request information and documents from all state administration bodies. However, the Ombudsman cannot examine the cases *ex officio*. The right of the Ombudsman to investigate cases on site is established in the secondary legislation¹⁸⁹.

The percentage of recommendations implemented remains low, but has increased in comparison to 2013. Initiatives have been launched to overcome this problem. The heads of institutions that do not implement the recommendations are invited to the TGNA to discuss them with Parliamentarians and

¹⁸⁷ Regulation No. 19816 on the State Archive Services of 16 May 1988.

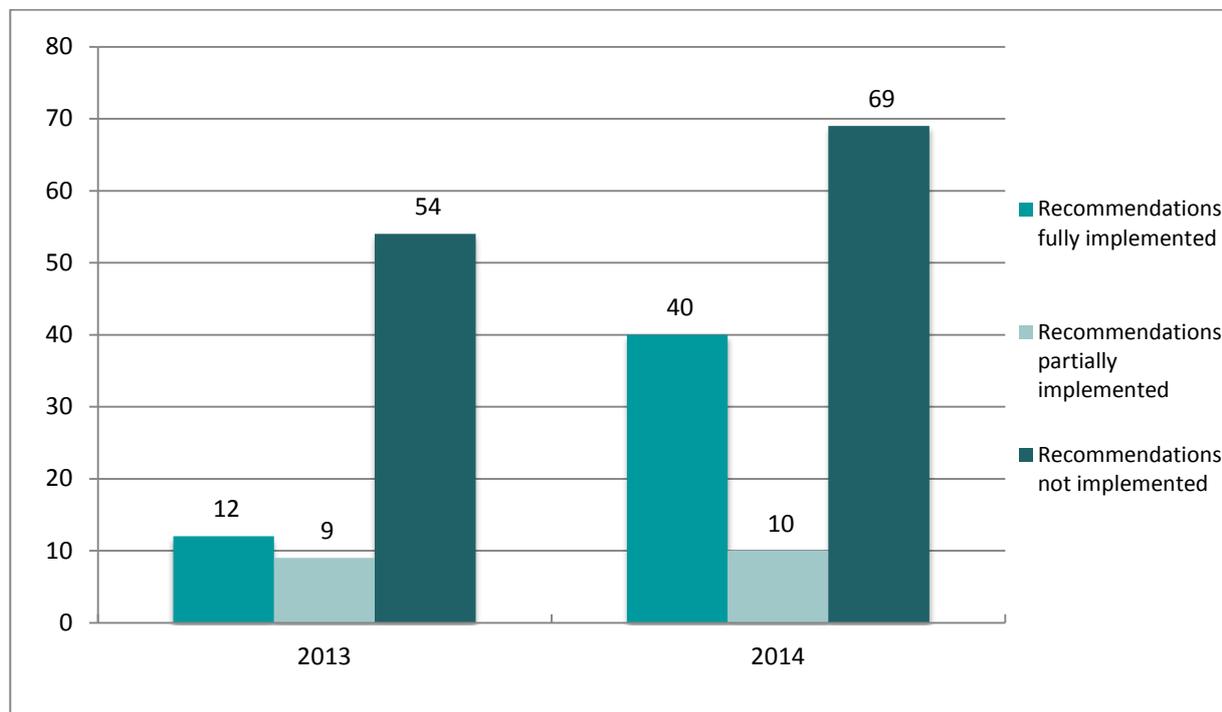
¹⁸⁸ Analysis of legal provisions provided by the Institution of Ombudsman.

¹⁸⁹ Regulation on Procedures and Principles concerning the Law on Ombudsman, Article 22, Official Gazette of 28 March 2013, No. 28601.

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the Ombudsman¹⁹⁰. In addition, the Ombudsman has started establishing contact points in each public institution to improve co-operation with public institutions¹⁹¹.

Figure 2. Statistical data on the activity of the Institution of Ombudsman¹⁹²



Source: Data received from the Ombudsman Institution.

The mechanism of external oversight of the state administration by the Ombudsman receives a value of 3 for the indicator on checks and balances.

The Ombudsman's Institution was created recently. Its remit and competences are broad. Remaining challenges include the lack of the right to investigate cases *ex officio* and the low level of recommendations implemented, although this is improving.

Principle 4: Fair treatment in administrative disputes is guaranteed by internal administrative appeals and judicial reviews.

According to the Code of Administrative Procedure¹⁹³, which regulates judicial reviews of administrative acts, the applicant may ask the superior authority to abolish or amend the act concerned. This provision establishes administrative appeal *sui generis*¹⁹⁴.

All administrative acts, except for decisions of the President and selected acts of the Supreme Military Council and Council of Judges and Prosecutors, are subject to judicial review by Administrative Courts and the Council of State¹⁹⁵. The time limit for bringing a case to the Administrative Court does not hinder access to administrative justice (60 days¹⁹⁶).

The efficiency of the Administrative Courts is high. The vast majority of cases are handled within one year and the average duration of administrative court cases is 136 days. The clearance rate in the first

¹⁹⁰ Information received during the interview with the representatives of Turkish Grand National Assembly.

¹⁹¹ Information received from the Ombudsman Institution.

¹⁹² Recommendations pending are not included.

¹⁹³ Code of Administrative Procedure, Official Gazette, No. 17580/1982.

¹⁹⁴ Code of Administrative Procedure, Article 11.

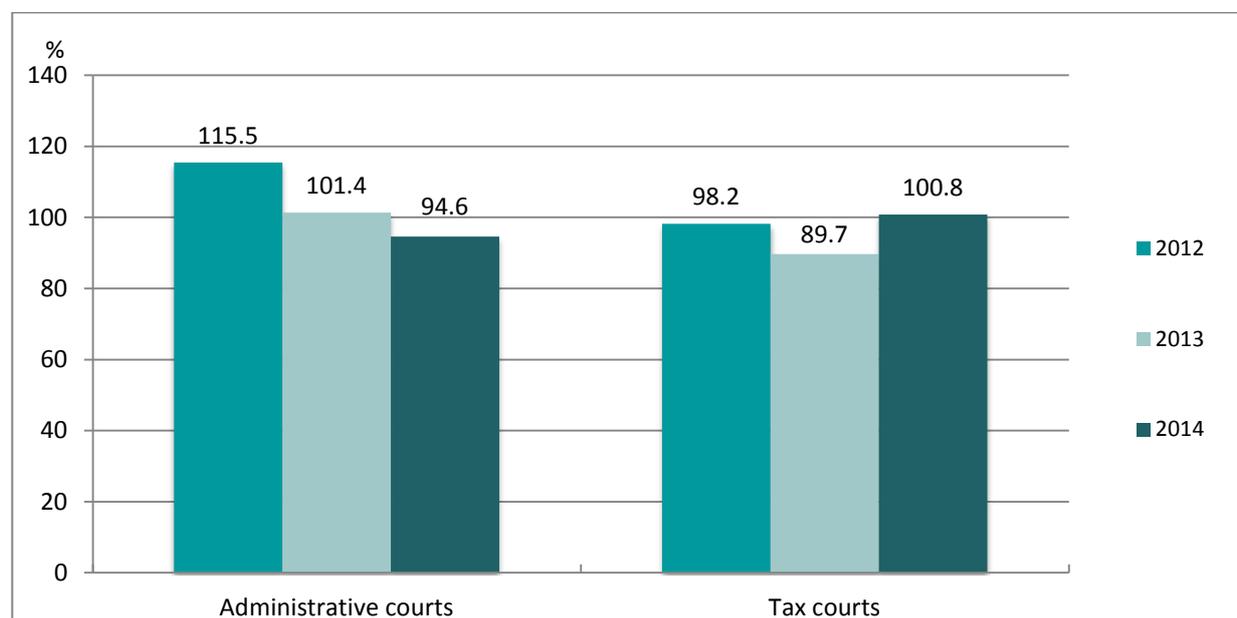
¹⁹⁵ The Council of State operates as a supreme Administrative Court and court of first instance in most serious cases.

¹⁹⁶ Code of Administrative Procedure, Article 7.

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instance administrative courts has been decreasing in recent years, but is at 94.6%. In the tax courts it has improved and, in 2014, it exceeded 100%, due to clearing both new cases and some from the previous backlog.

Figure 3. Clearance rate in first instance administrative courts and tax courts¹⁹⁷



Source: Ministry of Justice. Cases received upon reversal were added to new cases.

Less than 18% of the rulings of the first instance courts (administrative courts and tax courts) are reversed by the second instance court. Civil society organisations have voiced concerns about the effective enforcement of court rulings. Public trust in the judiciary was 48% in 2014¹⁹⁸.

Table 2. Statistical data on the length of Administrative Court procedures

Average duration of Administrative Court case (days).	136 days
Share of cases pending more than 1 year (%).	9.13
Share of cases pending more than 2 years (%).	1.15
Share of cases pending more than 3 years (%).	0.24

Source: Data received from the Ministry of Justice.

All courts, including Administrative Courts, are connected into an integrated and multifunctional e-judiciary system (UYAP, according to its Turkish acronym). This is one of the world's most advanced systems of electronic support for judicial bodies and it has received numerous international awards¹⁹⁹. UYAP operates as a case management system and platform for electronic communication across judicial institutions, and between courts and parties. It also makes it possible to monitor judges' workloads.

¹⁹⁷ This indicator is commonly used to measure the efficiency of the courts. According to the definition of the European Commission for the Efficiency of Justice (CEPEJ, 2014, Report on "European Judicial Systems – Edition 2014 (2012 data): Efficiency and Quality of Justice", Strasbourg, p. 191), the clearance rate is calculated by dividing the number of resolved cases by the number of incoming cases. If the clearance rate falls below 100%, the backlog at the end of a reporting period increases. In this case, new cases and cases received upon reversal were taken into account.

¹⁹⁸ Gallup World Poll.

¹⁹⁹ E.g. United Nations Public Sector Award, 2012.

Administrative cases are handled by judges specialised in this discipline. They are subject to regular performance appraisals carried out by inspecting judges. Administrative judges are provided with continuous education. In-service training is co-ordinated by the Justice Academy. After every training session, the Justice Academy conducts a survey to obtain feedback on the need for further training²⁰⁰. Under a new law, adopted in 2014²⁰¹, the Ministry of Justice acquired the power to appoint vice-presidents of the Academy.

A system of legal aid is in place, but access to it is limited because disadvantaged groups are not aware that they may have recourse to it²⁰².

Access to administrative justice is ensured and the Administrative Courts are efficient in terms of dealing with cases in a reasonable time. The judiciary is supported by advanced IT solutions.

Principle 5: The public authorities assume liability in cases of wrongdoing and guarantee redress and/or adequate compensation.

The Constitution guarantees all citizens the right to seek compensation from the State for unlawful treatment by public officials²⁰³. Requests for public liability may be lodged with the Administrative Courts. The burden of proof in these cases lies with the applicant. No criteria are in place for calculating the compensation. There is no requirement for a pre-judgement confirming that the unlawful treatment has occurred before initiating a public liability case.

The Criminal Code provides for stringent criminal liability of civil servants for wrongdoing²⁰⁴. However, its application is limited as, according to Article 129 of the Constitution, bringing an accusation against civil servants generally requires the authorisation of their superiors.

The scope of liability is not defined in detail, and it is not clear what types of actions and omissions of state administration bodies are subject to the right of compensation.

There is no data regarding the effectiveness of the system of public liability, and no institution is responsible for collecting the relevant data. It is thus not possible to assess the practical implementation of the legislative guarantees for public liability.

A legislative framework for public liability exists, but evidence of its application is not available, which is reflected in the value of 2 for the indicator on public liability.

The legislative framework for public liability is in place but its practical implementation could not be assessed due to lack of available information and data.

Key recommendations

Short-term (1-2 years)

- 1) The Prime Ministry should introduce centralised monitoring mechanisms of pro-active access to public information.
- 2) The CoM and the TGNA should continue to increase the level of implementation of the Ombudsman's recommendations by the state administration. The Ombudsman should increase public awareness of its work, for example through information campaigns.

Medium-term (3-5 years)

- 3) The Prime Ministry and the Ministry of Justice should review the existing regulations on public liability to ensure that they:

²⁰⁰ Information obtained from the Ministry of Justice.

²⁰¹ Law 4954.

²⁰² EU Progress Report, 2014.

²⁰³ Article 125 of the Constitution.

²⁰⁴ Article 257 of the Criminal Code.

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- a. are clear and easily accessible;
 - b. define a broad scope of public liability;
 - c. do not jeopardise the effective exercise of the right of action for compensation.
- 4) The Ministry of Justice and the Ministry of Finance should jointly introduce mechanisms to monitor court cases that result in the liability of the State, with the goal of improving administrative procedures and decisions and reducing cases of public liability in the future.



SERVICE DELIVERY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

The general principles of public service delivery are established in Government regulations. Several objectives for the development of e-services are also enshrined in the Tenth Development Plan. No mechanism exists to monitor regularly the administrative burdens of regulation on businesses and citizens.

Turkey has no Law on General Administrative Procedures. The lack of a general administrative legal framework makes it difficult to assess how far the principles of good administration are guaranteed.

Quality assurance tools are applied in central government bodies and in the Turkish Grand National Assembly, including the Common Assessment Framework (CAF) and the ISO²⁰⁵ 9000 Quality Management System. No comprehensive data exists, however, on the number of institutions that have already implemented such tools.

An inventory of public services provides information on the scope and conditions for service provision. E-services are well developed, and have a high level of user satisfaction. The number of users of e-services is high, despite the fact that the percentage of citizens using the Internet in Turkey is less than 50% of the population.

1.2. Main developments

New e-services have been developed and offered through the e-Government Gateway. The total number of registered users of the portal exceeds 20 million (a quarter of the country's population and more than half of all Internet users).

The new Information Society Strategy and Action Plan 2015-2018, prepared by the Ministry of Development, was adopted in March 2015.

²⁰⁵ International Organization for Standardization

2. ANALYSIS

This analysis covers the four Principles of the service delivery area, which are under one key requirement²⁰⁶. For this key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover the policy and practice of service delivery. Particular focus is placed on the strategic and legal framework for service delivery, and on the standards for access and quality of services. The Principles also refer to the procedural guarantees of good administrative behaviour applicable to service provision.

2.1. Key requirement: Administration is citizen-oriented; the quality and accessibility of public services is ensured.

Baseline values

The policy and practice of service provision is reviewed through a set of 14 quantitative indicators, complemented by 3 qualitative indicators. The qualitative indicators primarily analyse the implementation of the policies and legislation in the area of service delivery. Most of the quantitative indicators are based on data provided by the country and subsequently verified for the purposes of this assessment. Selected quantitative indicators are based on the international comparative studies *Doing Business*²⁰⁷ and *Global Competitiveness Report*²⁰⁸.

The main feature of Turkish policy on service delivery is the extensive scope of e-services provided and its advanced information technology (IT) infrastructure. Accessibility of services has been improved primarily through the development of an e-government portal. Some initiatives for service quality improvement have helped to enhance efficient delivery of important services, such as identity documents. However, the lack of a law on general administrative procedure undermines the protection of the principles of good administrative behaviour.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which citizen-oriented policy for service delivery is in place and applied.	2014	3
	1	Extent to which policy and administrative preconditions for e-service delivery are applied.	2014	4
	2	Extent to which the legal framework for good administration is in place and applied.	2014	1
Quantitative	1	Expenditure on general public services as a share of gross domestic product.	2014	6.2% ²⁰⁹
	2	Favouritism in decisions of government officials.	2014	3.2 ²¹⁰

²⁰⁶ SIGMA, [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 67-74.

²⁰⁷ World Bank.

²⁰⁸ World Economic Forum.

²⁰⁹ Ministry of Finance. Data covers the period January – September 2014.

²¹⁰ According to The World Economic Forum Competitiveness Index (on a scale from a minimum of 1 to a maximum of 7).

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	3	Percentage of users satisfied with public services ²¹¹ .	2013	71% ²¹²
	3	Proportion of institutions using quality assurance tools and techniques (e.g. European Foundation for Quality Management, Common Assessment Framework and other international standards).	2014	Not available ²¹³
	3	Share of public servants directly engaged in service delivery who received training in the last two years.	2014	Not available ²¹⁴
	3	Average time needed to acquire a personal identification document (passport or ID card) after submitting the application.	2014	5 days ²¹⁵
	3	Share of institutions where customer satisfaction surveys are conducted on a regular basis (at least every two years).	2014	Not available ²¹⁶
	3	Average number of days needed to set up a business.	2014	6.5 ²¹⁷
	3	Average cost of setting up a business.	2014	16.4% ²¹⁸
	4	Number of one-stop-shops that provide the services for more than three different public institutions.	2014	3 ²¹⁹
	4	Number of services provided through one-stop-shops.	2014	1067 ²²⁰
	4	Percentage of wheelchair-accessible institutions.	2014	Not available ²²¹
	4	Share of citizens who submitted paperless/electronic/digital income tax statements last year.	2014	99.2% ²²²

²¹¹ Relates to e-Government Gateway.

²¹² Data received from the Ministry of Transport, Maritime Affairs and Communications, relating to the e-Government Gateway.

²¹³ Data was not provided by the administration.

²¹⁴ Ibid.

²¹⁵ Five days for both IDs and passport, according to the Prime Ministry.

²¹⁶ Data was not provided by the administration.

²¹⁷ According to the World Bank "Doing Business Report".

²¹⁸ Percentage of income per capita, according to World Bank "Doing Business" Report.

²¹⁹ One-stop-shop for social welfare services, offline; business support centres, offline; e-Government Gateway.

²²⁰ Number of services accessible through the e-Government Gateway.

²²¹ Data was not provided by the administration.

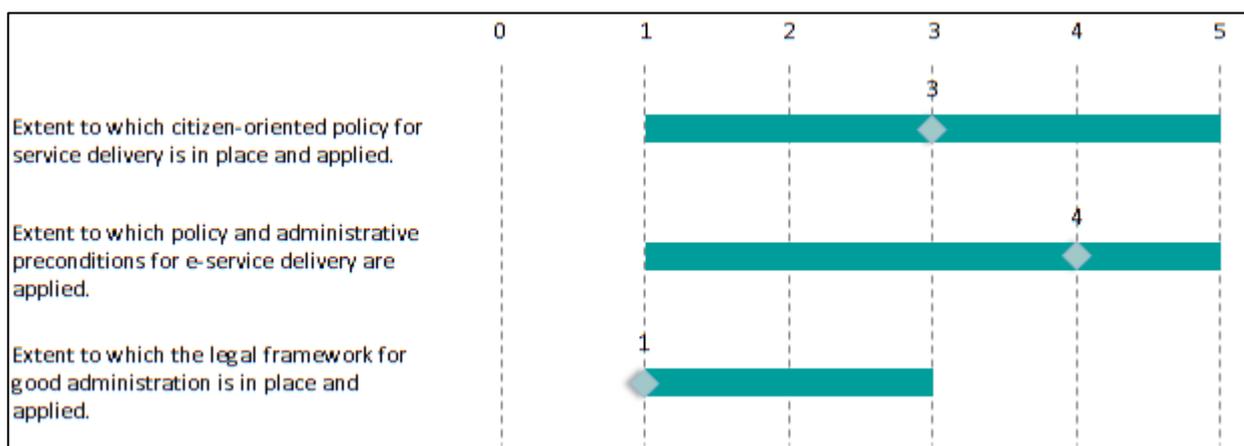
²²² Ministry of Finance. 1 843 790 taxpayers who submitted personal annual tax declarations online, out of 1 858 410 taxpayers who submitted personal annual tax declarations.

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	4	Share of companies that sent their tax declarations using the Internet.	2014	98.4% ²²³
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The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 1: Policy for citizen-oriented state administration is in place and applied.

The general framework for public service delivery is primarily set out in the Regulation on the Procedures and Principles of the Provision of Public Services²²⁴. This act establishes key principles governing the process of service provision. It requires public institutions to disseminate information about their services through a service inventory on their website. The format of the inventory is prescribed in the Regulation. Furthermore, the Regulation emphasises the need to improve digital services.

No mechanisms are in place for the regular monitoring of the administrative burden of regulation on citizens and businesses, despite significant initiatives for administrative simplification that have been successfully implemented in the past²²⁵. No policy or specific targets are in place on the reduction of red tape. The Regulation on the Procedures and Principles of the Provision of Public Services requires institutions to prepare public service inventory tables and service standard tables, which may be helpful in analysing and reducing administrative burdens.

The Government's guide on Regulatory Impact Assessment (RIA) requires analysis of draft legislation in terms of its potential impacts on businesses, including red tape²²⁶. Despite previous EU technical assistance projects to develop and implement the use of RIA for new legislation, the framework of RIA – from consideration of options, to analysis of impacts, to full public consultation and the subsequent

²²³ Ministry of Finance. 632 118 taxpayers who submitted annual corporate income tax declarations online, out of 642 415 taxpayers who submitted annual corporate income tax declarations.

²²⁴ Regulation of 29 June 2009 on the Procedures and Principles of the Provision of Public Services, Official Gazette 15169/2009.

²²⁵ See OECD, *The Call for Innovative and Open Government: An Overview of Country Initiatives*, 2011, OECD Publishing, Paris, pp. 273-276.

²²⁶ However, the analysed examples of draft legislation did not include analysis of the impacts of the draft law on red tape. SIGMA has analysed: Draft Law amending Mining Law – Draft No. 1/1012; draft Law on the Support of Research Infrastructure.

monitoring of legislation - is not consistently used by ministries or the Government to make informed decisions about legislative proposals. Therefore, also systematic analysis of the red tape can't be implemented.

The policy for service delivery is well established but does not include a systematic process for analysing and reducing the administrative burdens for both existing and new legislation. This results in a value of 3 for the indicator on citizen-oriented policy.

The Tenth Development Plan 2014-2018 and Information Society Strategy and Action Plan 2015-2018 envisage further development of e-services, with the goal of offering 3 000 e-services by 2018 through the e-Government Gateway. Particular emphasis has been placed on improving the interoperability of public institutions' information systems. Standards on interoperability have been established²²⁷ and the IT systems of many public institutions are linked within the e-government gateway platform.

An important obstacle to the development of e-government services is the low number of Internet users. In 2013, only 46.3% of citizens had Internet²²⁸ access. Given the rapidly increasing number of e-services, this raises concerns about a growing "digital divide".

Turkey has achieved significant progress in e-services development, as reflected in the value of 4 for the indicator on the policy and preconditions for e-service delivery.

The general policy on service delivery is in place, but leaves room for improvement, particularly in the area of considering and reducing the impacts of new and existing regulation on businesses and citizens. The policy and practice of e-services delivery is advanced, but the level of internet penetration across the country is low.

Principle 2: Good administration is a key policy objective underpinning the delivery of public service, enacted in legislation and applied consistently in practice.

The principle of legality as a cornerstone of good administration is established in the Constitution. However, there is no law on general administrative procedure to ensure implementation of the principles of good administrative behaviour in the majority of proceedings conducted by state administrative bodies. This means that administrative procedures are regulated by a variety of regulations, which obscures transparency. The Council of Ministers issued the Regulation on the Procedures and Principles of Public Service Delivery in 2009, which requires public institutions to provide information on services and to establish standards on the delivery of services²²⁹. However, it does not regulate in detail the relationship and procedures between citizens and the public administration. Moreover, the regulation is secondary legislation, which means that it can only be applied insofar as it does not conflict with primary laws²³⁰.

Based on information provided by the Prime Ministry, public authorities are not required to allow participants in administrative proceedings to present their opinions before reaching a final decision. Administrative acts do not contain reasoning, though the applicant may request an accounting of the basis for the decision through Law 4982 on the Right to Information²³¹. The fragmentation of the legislative framework does not allow for a comprehensive picture of the application of other principles of good administrative behaviour.

²²⁷ Regulation 2006/11249 of 16 November 2006 on Identity Sharing System; Decision 2006/10316 of 24 March 2006 on Establishing, Operating and Managing the E-Government Gateway.

²²⁸ According to United Nations statistics for 2013: <http://data.un.org/>

²²⁹ Regulation of 29 June 2009 on the Procedures and Principles of the Provision of Public Services, Official Gazette 15169/2009.

²³⁰ Constitution of the Republic of Turkey, Article 115.

²³¹ http://www.bilgiedinmehakki.org/en/index.php?option=com_content&task=view&id=7&Itemid=8

Some important principles of good administrative behaviour are not established in legislation and there is no general law on administrative procedures. This leads to a baseline value of 1 for the indicator on the extent to which the legal framework for good administration is in place and applied.

There is no general law on administrative procedure. The principle of legality is enshrined in the Constitution, but the lack of a general legislative framework for administrative procedure makes it difficult to evaluate comprehensively to what extent the principles of good administration are embedded in legislation.

Principle 3: Mechanisms for ensuring the quality of public service are in place.

User satisfaction surveys are not carried out on a regular basis, although some institutions acquire feedback from citizens. It should be noted that the Revenue Administration launched a project for regular taxpayer satisfaction surveys to be conducted every two years. The first round of the survey was conducted in 2013.

Various quality assurance tools are applied in central government bodies and in the Turkish Grand National Assembly, including the European Foundation for Quality Management (EFQM) and ISO 9000 Quality Management System²³². However, no institution is responsible for promoting quality assurance techniques, and no overall data exists on the number of institutions that have implemented such tools.

The Turkish administration is efficient in terms of the time taken to issue identity documents. The procedure for setting up a business is also relatively fast²³³.

There is no horizontal policy promoting quality assurance tools and measuring public satisfaction with services across the state administration, but initiatives in this area are being undertaken by various institutions. Several indicators show high levels of administrative efficiency in providing public services.

Principle 4: The accessibility of public services is ensured.

According to the Regulation on the Procedures and Principles of the Provision of Public Services²³⁴, public bodies are required to disseminate information on the standards of service provision on their websites and billboards, and using other tools of communication with citizens. Services to business and some services in the area of social welfare are provided by a network of one-stop shops established in every province²³⁵.

Significant progress has been achieved in e-services development. The number of services provided through the e-Government Gateway has doubled in the past two years. A steadily rising number of users (one quarter of the country's population at the end of 2014) and the high rate of citizen satisfaction with e-services demonstrate that the technical framework for e-government is fully operational. According to the EU e-Government Benchmark, Turkey greatly exceeds the average score of EU member states in terms of online availability and usability of e-services²³⁶.

²³² For example, EFQM was implemented in the Grand National Assembly and the Ministry of Health and ISO 9000 in the Ministry of National Defence, Undersecretariat of Treasury and the President's Office.

²³³ As stated in the Doing Business 2015 report, for the registration of a limited liability company it is necessary to notarize the Articles of Association and signature declaration of the manager, which costs in total around 1 371 TL (World Bank, Doing Business 2015, <http://www.doingbusiness.org/data/exploreconomies/turkey/#starting-a-business>). However, according to information provided by the Ministry of Finance, based on Law 492 on Fees, notarization of the Articles of Association and signature declaration in the process of establishment of joint stock, joint stock commandite and limited liability companies is exempt from notary fees.

²³⁴ Regulation of 29 June 2009 on the Procedures and Principles of the Provision of Public Services, Official Gazette 15169/2009.

²³⁵ Data provided by the Prime Ministry.

²³⁶ EU e-Government Report 2014 – Country Factsheets e-Government, May 2014.

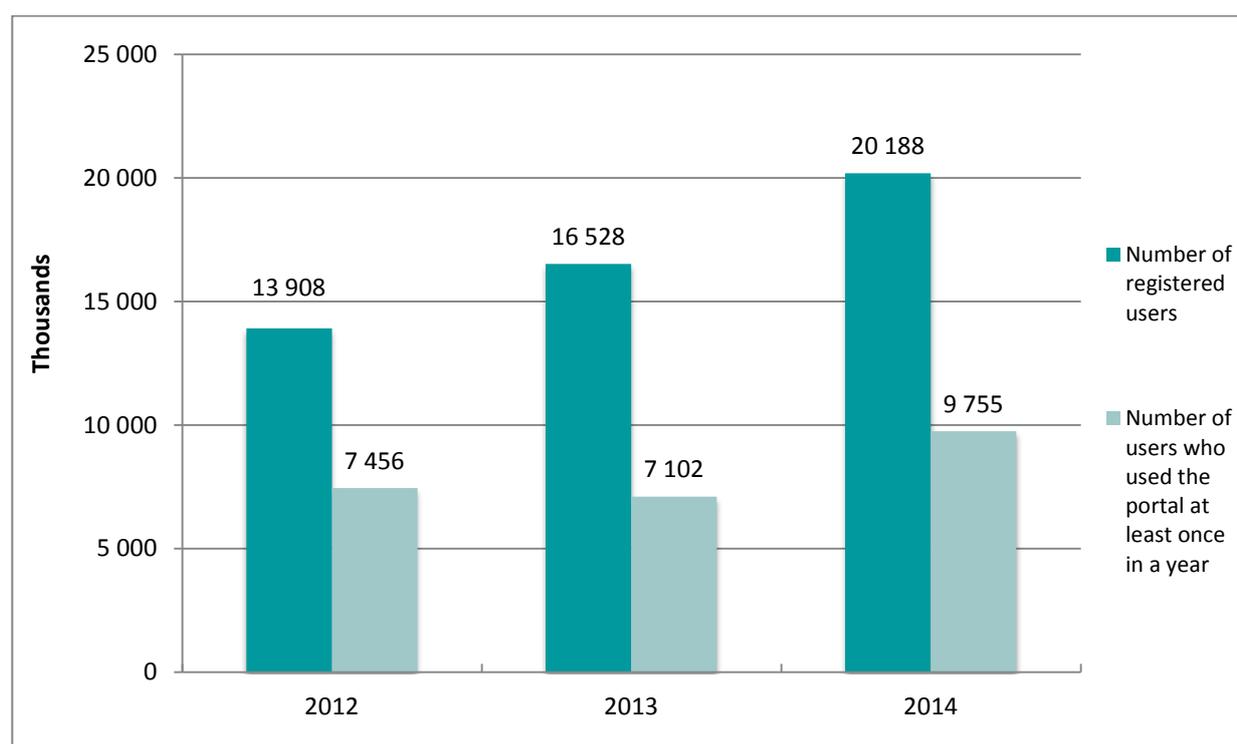
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Table 1. Services provided through the e-Government Gateway portal

	2012	2013	2014
Number of services provided through the e-Government Gateway at the end of the year.	547	889	1 067
Satisfaction rate of e-Government Gateway services (%).	75	71	Not available ²³⁷

Source: Data received from the Ministry of Transport, Maritime Affairs and Communications.

Figure 2. Number of users of the e-Government Gateway portal



Source: Data received from the Ministry of Transport, Maritime Affairs and Communications.

Some e-services are also offered outside the e-government portal. The revenue administration is one of the leaders in the implementation of e-services. It enables both individuals and businesses to complete all services concerning taxation online, including submitting tax declarations and obtaining information about tax debts. This is illustrated by the fact that almost all annual personal and corporate income tax declarations are submitted online. There are plans for integration of all e-services into the e-Government Gateway²³⁸.

The Law on Persons with Disabilities was adopted in 2005²³⁹. It requires the state administration to gradually improve the accessibility of public buildings for customers with disabilities. The initial deadline of July 2012 for ensuring accessibility of all public buildings was not met²⁴⁰. Additional

²³⁷ User satisfaction was measured by an online questionnaire until 2013. The new model for measuring user satisfaction is in preparation (but has not yet been implemented to provide data for this analysis).

²³⁸ Interview with representatives of the Ministry of Transport, Maritime Affairs and Communications.

²³⁹ Law of 1 July 2005 on Persons with Disabilities, Official Gazette No. 5378/2005.

²⁴⁰ [The Equal Rights Trust](#), Submission to the Human Rights Council at the 21st Session of the Universal Periodic Review.

regulation was adopted in 2013 to foster the monitoring and enforcement of this commitment²⁴¹. However, there is no information available on progress in ensuring the accessibility of public buildings.

Public services are widely accessible. In terms of the development of e-services, Turkey is positioned among Europe's leaders.

Key recommendations

Short-term (1-2 years)

- 1) The issue of the reducing administrative burdens, or red tape, and the use of RIA for new legislative proposals that will impact on businesses should be addressed in a systematic way by the Government, to ensure political commitment across the centre of government and line ministries. This should include a comprehensive review of existing regulatory requirements for business and more emphasis on the embedding of RIA analysis for draft legislation. Public service inventory tables and service standard tables should be used to assist with this analysis.
- 2) The Prime Ministry and the Ministry of Justice should carry out a comprehensive review of procedures regulating administrative proceedings, to assess how far they guarantee protection of the principles of good administrative behaviour. This review should serve as a reference point for the reform of the regulation of administrative proceedings. The Government should consider preparing a proposal for a general law on administrative procedures.

Medium-term (3-5 years)

- 3) Within the framework of implementation of the Information Society Strategy and Action Plan 2015-2018, the Ministry of Development should prioritise measures to improve Internet penetration.

²⁴¹ Regulation of 20 July 2013 on Monitoring and Supervision of Accessibility, Official Gazette 2871/2013.

6

Public Financial Management

PUBLIC FINANCIAL MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

The most recent estimates for Turkey show a general government deficit of 0.8% of gross domestic product (GDP) in 2014²⁴² and a general government debt ratio of 33.5% of GDP at the end of 2014²⁴³. The debt ratio has fallen from 39.1% in 2011 and is projected to fall further to 30.0% in 2016. Public finances are, therefore, on a sustainable path. Expenditure from the resources of public institutions – the “revolving funds” – accounted for just under 6% of general government expenditure in 2014 and is projected to remain at around 6% for the years 2015 to 2017. Although the Ministry of Finance (MoF) monitors these funds, they are not subject to the approval or oversight of the Turkish Grand National Assembly (TGNA), which means that a significant amount of public expenditure is not transparent and is not subject to accountability procedures.

There is a culture of managerial accountability and delegation, and the Central Harmonisation Unit for financial management and control (CHU/FMC) provides support for the implementation of internal control throughout the administration. The legal and operational framework for internal audit (IA) is established²⁴⁴, but the IA function is not established in several key institutions that have important responsibilities for public spending, including the Prime Ministry. This lack of support among top management is hindering further development of the IA function.

The process of alignment of Turkey’s public procurement legislation with the European Union (EU) *acquis communautaire* represents limited progress and requires further commitment and efforts. At present, procurement regulations remain out of line with the *acquis* in several important respects, namely through compulsory domestic price advantage for “medium and high-technology industrial products” and off-set requirements²⁴⁵. However, the recently adopted National Action Plan for EU Accession²⁴⁶ lays down a concrete timetable for the revision of the Public Procurement Law (PPL), as well as for other legislative alignment measures, and work is underway to align the PPL²⁴⁷ with the EU Utilities Directive²⁴⁸.

In the field of public-private partnerships (PPPs) and concessions, the legislative and institutional framework is highly fragmented.

The use of framework agreements and centralised purchasing is low. The e-procurement system is now being extended to goods procurement in general.

A lack of specific employment criteria for officials dealing with public procurement and a sometimes low level of professional skills are evident in the current system. However, these weaknesses are counteracted by the continuous commitment of the Public Procurement Authority (PPA) and other bodies (for instance, the Union of Municipalities [TBB]) in providing public procurement training and practical assistance to contracting authorities.

²⁴² Data supplied by the Ministry of Finance (MoF).

²⁴³ Undersecretariat of Treasury, Public Debt Management Report No. 116, March 2015, p. 17.

²⁴⁴ Public Financial Management and Control (PFMC) Law No. 5018, Articles 63-67.

²⁴⁵ European Commission (EC) (October 2014), *Turkey Progress Report*, EC, Brussels, Ch. 5, p. 29.

²⁴⁶ <http://www.abgs.gov.tr/files/pub/nap-ii-en.pdf>

²⁴⁷ Law No. 4374 of 22 January 2002, as repeatedly amended, Official Gazette No. 24648.

²⁴⁸ Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 co-ordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ L 134).

The independence, mandate and organisation of the Turkish Court of Accounts (TCA) are well established. The TCA has sufficient capacities and provides substantial resources for training. The institution has a strategic development plan with a detailed action plan in place. Following a decision of the Constitutional Court, legal restrictions on the scope of the TCA's work were lifted, and the full range of TCA reports was presented to the TGNA in 2014. However, the TGNA does not engage in full and comprehensive deliberation on the individual reports from the TCA.

1.2. Main developments

The most significant change has been the adoption of the Central Government Accounting Regulation, which became effective on 1 January 2015²⁴⁹. This has improved the quality of in-year financial reporting and provides a new format for end-of-year financial reporting. New regulations on debt management and external financing by the Government also have been introduced, but these are of a technical nature²⁵⁰.

Turkey's new EU strategy was published by the Ministry for EU Affairs on 18 September 2014²⁵¹ as a means for ensuring future compliance with the EU *acquis*. Phase II of the accompanying Action Plan (June 2015-June 2019)²⁵² envisages a number of legislative alignments and institutional capacity building measures, including in the area of public procurement.

A number of important amendments to the PPL were made in 2014²⁵³.

The legislation in the field of PPPs was supplemented by an implementing regulation for health sector PPPs (May 2014)²⁵⁴, as well as by a Regulation on undertaking of debt by the Undersecretariat of Treasury²⁵⁵ (a debt-assumption mechanism).

²⁴⁹ <http://www.resmigazete.gov.tr/eskiler/2014/12/20141227M1-1.pdf>.

²⁵⁰ Law No. 4749 on Regulations to Public Financing and Debt Management, Official Gazette, 19 April 2014, 25 December 2014 and 31 December 2014.

²⁵¹ Republic of Turkey Ministry for EU Affairs, *Turkey's new European Union Strategy: Determination in the Political Reform Process, Continuity in Socio-Economic Transformation, Effectiveness in Communication*, Republic of Turkey Ministry for EU Affairs, Bilkent http://www.abgs.gov.tr/files/pub/turkeys_new_eu_strategy.pdf.

²⁵² <http://www.abgs.gov.tr/files/pub/nap-ii-en.pdf>

²⁵³ Law No. 6518 of February 2014; Law No. 6552 of September 2014.

²⁵⁴ Regulation on the application of the PPP model by the Ministry of Health for the construction and renewal of facilities and Procurement of services (OJ No. 28995, 9 May 2014).

²⁵⁵ Official Gazette No. 28977, 19 April 2014.

2. ANALYSIS

This analysis covers the 16 Principles for the public financial management area, grouped under eight key requirements²⁵⁶. For each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles.

2.1. Key requirement: The Budget is formulated in compliance with transparent legal provisions and within an overall multi-annual framework, ensuring that the general government budget balance and debt-to-gross domestic product are on a sustainable path.

Baseline values

The development of both the multi-annual budget framework and the annual Budget is examined through three qualitative and five quantitative indicators.

The budget process in Turkey is well established, and there is a multi-annual framework within which the annual Budget is formulated. Turkey has neither a fiscal rule written in its legislation nor an independent fiscal council to monitor the Government's fiscal programme, but there is active monitoring of the Budget. With a low general government deficit and a declining GDP ratio, there is a political commitment to maintaining fiscal discipline. The qualitative and the quantitative indicators reflect this.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	MTBF strength index.	2014	3
	1	Fiscal rules strength index.	2014	1
	2	Extent to which the annual budget proposal includes full information at the time of presentation to the Parliament.	2014	3
Quantitative	1	Percentage differences between the planned budget revenue in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	2014	+6.2% ²⁵⁷
	1	Percentage differences between the planned budget expenditure in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	2014	+2.5% ²⁵⁸
	2	General government budget balance.	2014	-0.8%
	2	Percentage differences between the planned budget revenue (as approved in the	2014	+5.5%

²⁵⁶ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 75-109.

²⁵⁷ Central Government Revenue Annex, Table 4: Medium-term Programme 2013-2015 versus 2014 Outturn Public Debt Management Report, January 2015.

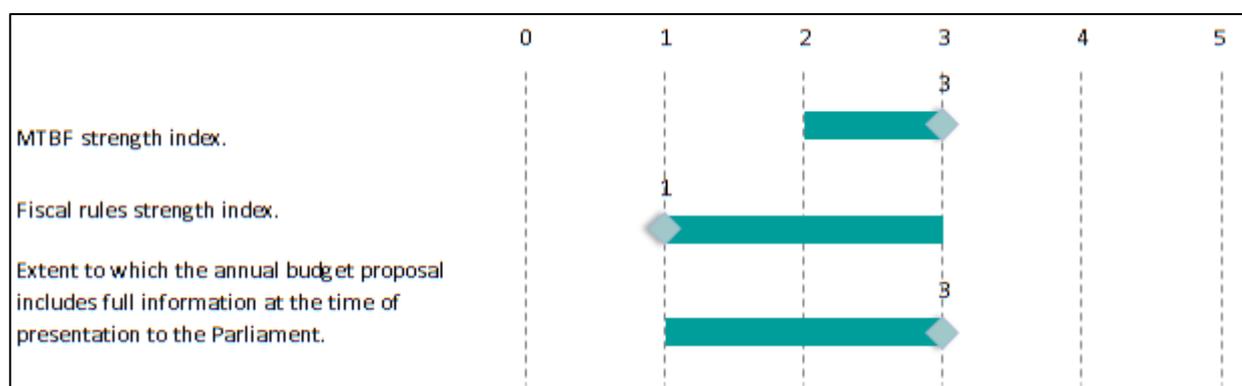
²⁵⁸ Central Government Expenditure Annex, Table 4: Medium-term Programme 2013-2015 versus 2014 Outturn Public Debt Management Report, January 2015.

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		Budget) compared to the outturn of the latest available year.		
	2	Percentage differences between the planned budget expenditure (as approved in the Budget) compared to the outturn of the latest available year.	2014	+2.8%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 1: The Government publishes a medium-term budgetary framework on a general government basis that is founded on credible forecasts and covers a minimum time horizon of three years; all budget organisations operate within it.

There are two medium-term documents published annually as part of the budget process: the Medium-term Programme (MTP), published by the Ministry of Development (MoDev)²⁵⁹, and the Medium-term Fiscal Plan (MTFP), published by the MoF²⁶⁰. The MTP sets the broad economic framework, although it also includes some public finance figures. The MTFP includes the targeted deficit and borrowing positions, and the total revenue and expenditure estimates for the following three years, in line with the MTP parameters, as well as figures on the debt and deficit for the years concerned. Estimates for the current year's outturn are included for comparison purposes. Instrument for Pre-accession Assistance (IPA) funds, although small, are only partially included in the medium-term plans (i.e. the domestic co-financing element is part of the spending forecasts). Neither of the medium-term plans contains a sensitivity analysis.

The system for developing the medium-term forecasts involves the MoF, which negotiates current spending plans with line ministries, and the MoDev, which negotiates capital investment funding and plans with line ministries. The Undersecretariat of Treasury supplies the debt forecasts. The MoF also publishes "ceilings of appropriation proposals" for the central government administrations as an annex to the MTFP. The multi-annual aggregate expenditure ceilings are supposed to be binding once they are approved by the Government. Bids from individual organisations often exceed the indicated

²⁵⁹ www.mod.gov.tr/Pages/MediumTermPrograms.aspx.

²⁶⁰ www.bumko.gov.tr/EN,2709/medium-term-fiscal-plan.html.

ceilings²⁶¹, but they must cite reasons for exceeding the limits²⁶². The total expenditure figure in the adopted Budget is always consistent with the overall expenditure figure in the MTFP, so the ceiling is respected at the aggregate level. The medium-term framework documentation is presented to the TGNA as supplementary information for the Budget.

Table 1. Central government expenditure forecast versus outturn

	Forecast for 2013 billion TRY	Outturn for 2013 billion TRY	Forecast for 2014 billion TRY	Outturn for 2014 billion TRY
MTP 2012-2014	381	408	409	448
MTP 2013-2015	404	408	437	448
MTP 2014-2016	N/A	N/A	436	448

Sources: Forecasts from MTP for the years 2012-2016; outturns from MoF monthly Budget Realisations Reports, <http://www.bumko.gov.tr/EN,2712/budget-realizations-reports.html>.

Table 2. Central government revenue forecast versus outturn

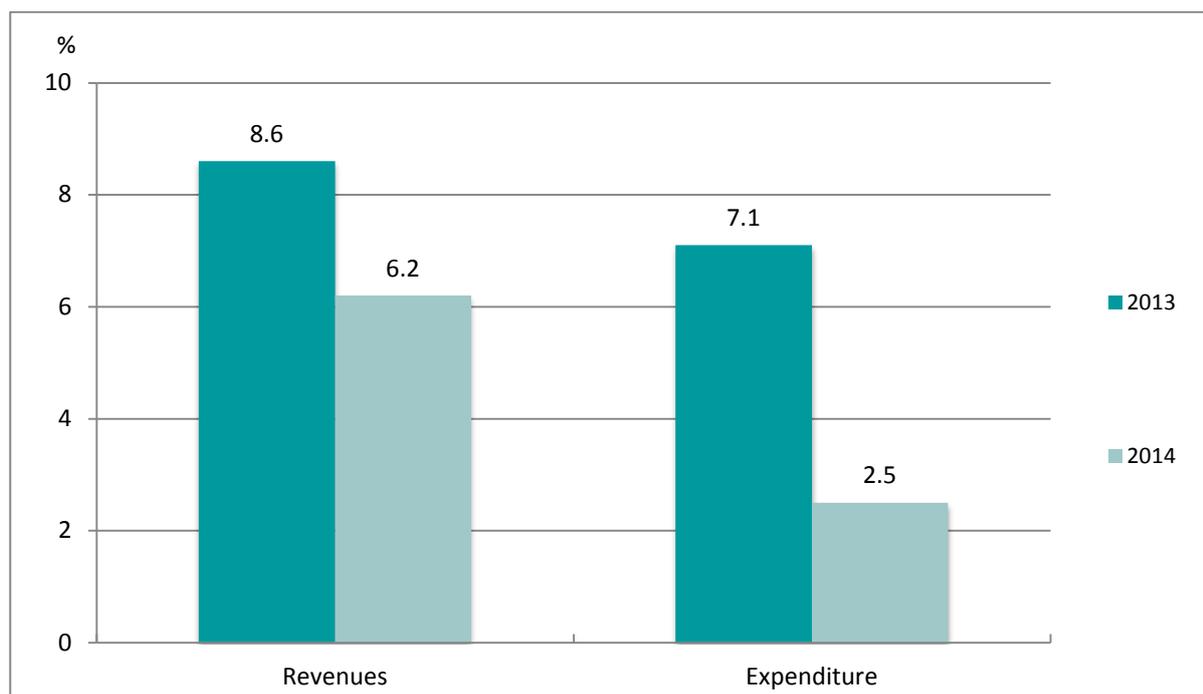
	Forecast for 2013 billion TRY	Outturn for 2013 billion TRY	Forecast for 2014 billion TRY	Outturn for 2014 billion TRY
MTP 2012-2014	359	390	391	426
MTP 2013-2015	370	390	401	426
MTP 2014-2016	N/A	N/A	403	426

Sources: Ministry of Finance, Central Directorate of Budget and Fiscal Control, Annual Budget Reports <http://www.bumko.gov.tr/EN,2712/budget-realizations-reports.html>. Forecasts from MTP for the years 2012-2016; outturns from MoF monthly Budget Realisations Reports,

²⁶¹ TR2010/0136.01-01/001, "Technical Assistance for Improved Strategic Management Capacity", Gap Assessment Report, p. 66.

²⁶² PFMC Law, Article 17.

Figure 2. Percentage difference between planned and actual revenue and expenditure, 2013 and 2014



Sources: Forecasts from MTP for the years 2012-2016; outturns from MoF monthly Budget Realisations Reports, <http://www.bumko.gov.tr/EN,2712/budget-realizations-reports.html>. For 2013, the actual expenditure and revenue are compared to MTP 2012-2014 forecasts. For 2014, the comparison is against the MTP 2013-2015.

Using the data in Tables 1 and 2, Figure 2 compares actual expenditure and actual revenue to the figures forecasted in the Medium-Term Programmes. With differences in expenditure of 7.1% (2013) and 2.5% (2014), and in revenue of 8.6% (2013) and 6.2% (2014), it could be argued that the medium-term projections are indicative. However, it is clear that there is strong monitoring and enforcement of overall targets. Therefore, the value of the indicator on the MTBF strength index is 3.

Turkey has neither a fiscal rule written in legislation nor an independent fiscal council to monitor the Government's fiscal programme, but there is active monitoring of the Budget. More importantly, the +2.8% difference between planned and actual Budget expenditure in 2014 being lower than the +5.5% difference between planned and actual Budget revenue, along with a low general Government deficit of 0.8% and a declining debt-to-GDP ratio, demonstrates a political commitment to maintaining fiscal discipline. The value of 1 for the indicator on the fiscal rules index indicator reflects the methodology used in the Assessment but it is also important that this strong commitment to fiscal discipline be acknowledged.

There is a well-established MTBF within which the annual Budget is formed. However, a sensitivity analysis is not included. There are no fiscal rules and no independent fiscal council to monitor the Government's fiscal targets. There is, however, a political commitment to fiscal discipline and active monitoring of the Budget.

Principle 2: The Budget is formulated in line with the national legal framework, with comprehensive spending appropriations that are consistent with the medium-term budgetary framework and are observed.

The annual Budget²⁶³ reflects the medium-term framework established by the MTP and the MTFP. The budget timetable is clearly set out in legislation²⁶⁴ and observed, with the annual Budget being presented to the TGNA in mid-October (16 October in 2014), which is close to the time period recommended by the Organisation for Economic Co-operation and Development (OECD) for budgetary consideration by a parliament²⁶⁵. The Budget is prepared by the MoF, and the Ministry issues guidelines to budget users, setting out the overall framework within which requests are made. The time allowed in the budget timetable for discussions between line ministries and other budget users is short, as the MoF issues its budget call in mid-September, even though the draft Budget must be presented by mid-October to the TGNA. However, discussions between the MoF and budget users usually begin in July, before the budget call is issued.

Capital investment projections are negotiated between the Ministry of Development and line ministries, and other budget users. Investment analysis is required for projects over TRY 5 million, although there are no central guidelines on the assumptions of appropriate investment analysis.

The Central Government Budget Law²⁶⁶ itself is not comprehensive, but it is sent to the TGNA²⁶⁷ with supporting documentation, so the TGNA's budget consideration is based on comprehensive information, including the underpinning macro-economic forecasts, MTP, MTFP, and information on local administrations and social security institutions. Comparative data at the level of individual institutions for the current budget year is provided and the link between the Government's policy objectives and expenditure allocations is evident. There is information on new policy initiatives, and non-financial performance information is available through the strategic plans and the annual performance programmes²⁶⁸, as well as in the annual accountability reports²⁶⁹ that the individual general government institutions are required to produce. The MoF does not publish information on fiscal risks or contingent liabilities and there are no European system of national and regional accounts (ESA)-based forecasts for the general government or long-term projections of revenue and expenditure. Therefore, the baseline value for the extent to which the annual budget proposal includes full information at the time of presentation to the TGNA is 3.

Revolving funds (funds that generate revenue for the budget user directly and which can be spent by the budget user without prior approval by the MoF) are included in the budget proposals submitted to the TGNA, but this is for information rather than for its approval. These funds accounted for just under 6% of general government expenditure in 2014²⁷⁰ and are projected to remain at around 6% for the years 2015 to 2017. This is a weakness in the system, as it reduces the role of the TGNA in giving prior approval to spending by budget users. The MoF has established a database that enables it to monitor the transactions of revolving funds, and draft legislation is being prepared that would bring revolving funds into the budgetary process. However, this has not yet been approved by the TGNA.

The greatest weakness in the annual Budget is that revolving funds are not subject to the approval of the TGNA, thereby reducing its overarching sanctioning role in the Budget. The budget timetable is enshrined in the Constitution and in the Public Financial Management and Control (PFMC) Law No. 5018, and the time allowed for the TGNA to consider the Budget is close to OECD best-practice

²⁶³ Central Government Budget Law of 26 December 2014, Official Gazette No. 29217.

²⁶⁴ Constitution, Article 161, and Public financial management and control (PFMC) Law No. 5018.

²⁶⁵ See "OECD Best Practices for Budget Transparency", Article 1.1.

²⁶⁶ Central Government Budget Law of 26 December 2014, Official Gazette No. 29217.

²⁶⁷ PFMC Law, Article 18.

²⁶⁸ PFMC Law, Article 9.

²⁶⁹ PFMC Law, Article 41.

²⁷⁰ MTP 2015-2017: Main Macroeconomic and Fiscal Targets, Tables 9 and 12.

recommendations. However, the time allowed for formal discussions between budget users and the MoF after the adoption of the budget framework in September is very short, although informal discussions take place much earlier in the process.

Key recommendations

Short-term (1- 2 years)

- 1) The Council of Ministers (CoM) should consider the adoption of a fiscal rule enshrined in legislation that would further strengthen the commitment to fiscal discipline.
- 2) The MoF should submit legislation to the CoM on integrating revolving funds into the budget process.
- 3) The MoDev should issue guidelines to budget users on appropriate investment analysis for capital projects over the TRY 5-million limit.
- 4) The MoF and the MoDev should ensure that when there are donor funds, such as IPA funds, they should be fully included in the medium-term forecasts.

Medium-term (3-5 years)

- 5) The CoM should establish an independent fiscal council.
- 6) The MoF and the MoDev should examine the feasibility of a revised budget calendar that would allow budget users more time to negotiate spending requests.
- 7) The MoF and the MoDev should consider how the Medium-term Programme and the Medium-term Fiscal Plan could be combined into one medium-term budgetary document and propose legislative changes to achieve this.
- 8) The MoF and the MoDev should examine the system of budget preparation and consider a more streamlined approach, so that only one ministry would be responsible for expenditure budget planning.

2.2. Key requirement: Accounting and reporting practices ensure transparency and public scrutiny over public finances; both cash and debt are managed centrally, in line with legal provisions.

Baseline values

The execution, monitoring and reporting of public finances is examined through two qualitative and four quantitative indicators.

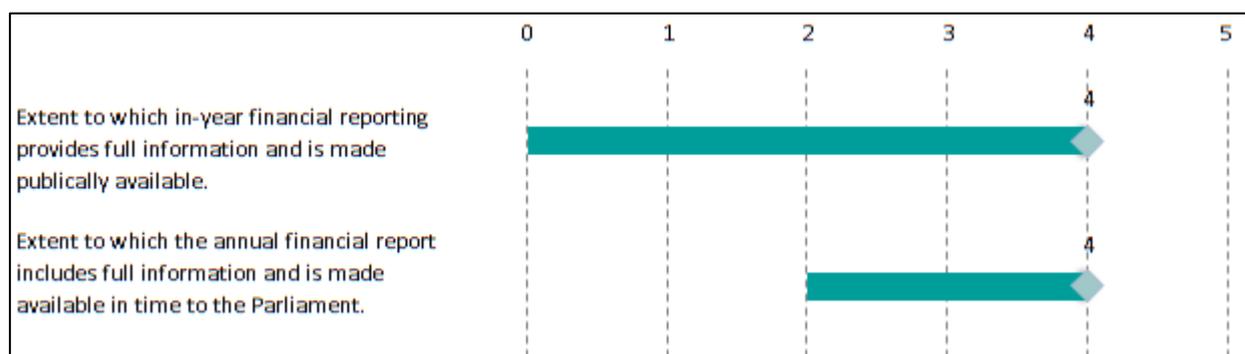
Both cash and debt are managed centrally, and there is a debt management strategy in place, although the operation of the treasury system does not cover revolving funds. Transparency regarding the public finances is good since the only significant omission from both the in-year and the annual reports on the public finances is an explanation of the differences between planned and actual monthly expenditure. The qualitative and quantitative indicators reflect this.

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	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	5	Extent to which in-year financial reporting provides full information and is made publically available.	2014	4
	5	Extent to which the annual financial report includes full information and is made available in time to the Parliament.	2014	4
Quantitative	3	Average percentage differences between cash flow projections and actual cash balance on a monthly basis	2014	Not available ²⁷¹
	3	Accumulated arrears for central government measured as a percentage of total expenditure at the end of the latest available calendar year.	2014	0 ²⁷²
	4	Public sector debt servicing costs as a share of gross domestic product.	2014	2.9%
	4	Difference of public-sector debt level outturn from target.	2014	Not available ²⁷³

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 3. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 3: The Ministry of Finance, or authorised central treasury authority, centrally controls disbursement of funds from the Treasury Single Account and ensures cash liquidity.

²⁷¹ Monthly cash flow projections are not published and data was not provided.

²⁷² There is no evidence of any accumulated arrear.

²⁷³ There were no projections or planned limits for the total stock of public debt for 2014.

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The PFMC Law²⁷⁴ provides for a central treasury account into which central government revenue is paid and spending requests are met. The cash management function is carried out by the Undersecretariat of Treasury and the account is held in the Central Bank of Turkey.

Budget users provide quarterly estimates of their cash needs for the upcoming quarter to the Undersecretariat. The Undersecretariat also estimates the monthly cash needs for the year on a rolling three-monthly basis, but these estimations are not published.

Expenditure is monitored on a daily basis. Reconciliations among the treasury information system, the accounting information system and the bank accounts take place daily. The system will automatically reject requests for cash advances unless the authorisation procedures are fully followed, which prevents budget users from exceeding budget allocations. The treasury system does not capture commitments, as it is cash-based, but a separate MoF system that monitors budget execution captures these. The two systems allow the MoF and the Treasury to have a clear and accurate view of developments in the Budget during the year. The weakness in this area is the exclusion of revolving funds from the treasury system.

There is a noticeable spike in spending in December each year. Table 3 shows that December spending is almost double the average for the other months when non-interest current and capital spending are combined²⁷⁵. Capital spending in December was nearly four times higher than the average of the other months and is symptomatic of a system in which budget users spend allocated monies rather than surrendering them back to the general Budget.

**Table 3. Comparison of December 2014 expenditure and monthly average expenditure,
January to November 2014**

TRY Million	Average Jan.-Nov. 2014	Dec. 2014	Dec. as a percentage of Jan.-Feb.
Current (excluding debt interest payments)	31 798	48 739	153%
Capital (including capital transfers)	3 752	14 410	384%
Total	35 730	63 149	178%

Source: Ministry of Finance monthly Budget Realisations Reports.

The system of treasury management of the cash flow is well organised. Cash flows are on a rolling three-month basis rather than monthly. The main concerns are the failure to integrate revolving funds into the Treasury Single Account and the significant December spike in spending.

Principle 4: There is a clear debt management strategy in place and implemented so that the country's overall debt target is respected and debt servicing costs are kept under control.

The responsibility for debt management lies with the Undersecretariat of the Treasury under the Law on Regulating Public Finance and Debt Management²⁷⁶. The Treasury is required to report quarterly and annually on debt management performance²⁷⁷, although it also publishes a comprehensive monthly report. The annual report is audited by the TCA, and contains a risk and sensitivity analysis. Clear benchmarks for the strategic management of the debt are set out in the annual and monthly reports. The annual and monthly reports also set out the stock of debt, including on a general

²⁷⁴ PFMC Law, Article 6.

²⁷⁵ Calculated using the [MoF monthly Budget realisations reports](#).

²⁷⁶ [Undersecretariat of Treasury's website](#).

²⁷⁷ Law No. 4749 on the Regulation of Public Financing and Debt management, Article 14.

government basis, as defined by European Union (EU) rules. On the EU basis, debt as a percentage of GDP has been reduced from 39.1% at the end of 2011 to 33.5% at the end of 2014²⁷⁸.

There are controls on borrowing by other state institutions. State enterprises and local authorities may not undertake foreign borrowing without approval, but they can undertake domestic borrowing. However, in terms of overall debt, the bulk of debt is undertaken by the Government, with other public borrowing accounting for far less. At the end of 2014, the stock of central government debt was TRY 612 132 million²⁷⁹ or about 96.5% of total debt, while the debts of other public institutions stood at TRY 21 826 million²⁸⁰ or about 3.5% of total debt.

Outstanding guarantees of the Government are detailed in the annual and monthly reports. Guarantees are low - the value of external debt guarantees at the end of 2014 was USD 10 213 million, which is TRY 23 829 million²⁸¹ or about 1.5% of GDP²⁸².

The aim of the debt strategy²⁸³ has been to reduce foreign borrowing and increase the share of domestic borrowing so as to reduce exchange-rate exposure. In 2014, 67.8% of debt was domestic, while 32.2% was foreign. Reducing exposure to interest rate changes has led to greater fixed-rate bond issues. External debt is mainly denominated in US dollars (64.6%) and euros (30.6%).

A debt management strategy is established. The overall debt target is respected and the debt to GDP ratio is on a downward path. The main concern is borrowing that does not require prior approval, undertaken by state enterprises and local authorities in the domestic market.

Principle 5: Budget transparency and scrutiny are ensured.

The MoF does not publish monthly profiles of forecasted expenditure and revenue at the beginning of the year, although it compiles these for internal use. Since profiles are not published, only the MoF can compare the difference between actual and planned expenditure and revenue. The Ministry only publishes monthly reports of total central government expenditure and revenue²⁸⁴. These are compiled from internal financial reports based on information from central government budget users recorded in their system. The published information is not broken down by budget user and there is no explanation of divergences from expected patterns, should they occur. However, under the Central Government Accounting Regulation, which became effective 1 January 2015, each central government institution is required to publish monthly financial statements on its website. The MoF monitors revolving funds separately through the Revolving Funds Financial Management System, which became operational in 2014.

The monthly publication²⁸⁵ of the Undersecretariat of Treasury shows figures for debt and for the cash flow of revenue and expenditure, but only the totals are provided. The expenditure data shows pay, non-pay and capital expenditure separately. There is no explanation of variations against expectations, and there is no information about commitments. Every quarter, the MoF publishes financial information from local administrations and the social security institutions²⁸⁶. While local administration data is broken down on a monthly basis, social security information is only available quarterly. The

²⁷⁸ Public Debt Management Report, March 2015, p. 17.

²⁷⁹ [Central Government Debt Stock, Undersecretariat of Treasury website.](#)

²⁸⁰ [General Government Debt Stock, as defined by the EU, Undersecretariat of Treasury website.http://www.treasury.gov.tr/default.aspx?nsw=EiIDPQez15w=-SgKWD+pQItw=&mid=691&cid=12&nm=763](#)

²⁸¹ USD 1 was TRY 2.33320 on 31 December 2014.

²⁸² Public Debt Management Report, March 2015, p. 19.

²⁸³ The strategic benchmarks for 2014 are set out in the Undersecretariat of Treasury's [Public Debt Management Report 2014](#).

²⁸⁴ [MoF monthly Budget realisations reports.](#)

²⁸⁵ Undersecretariat of Treasury, *Public Debt Management Report*.

²⁸⁶ [Ministry of Finance, General Directorate of Public Accounts website.](#)

published data includes current and capital expenditure, as well as payroll expenditure. Therefore, the qualitative indicator covering the extent to which in-year financial reporting provides full information and is made publicly available is valued at 4.

An annual financial report, the Draft Final Account Law, is submitted to the TGNA by the MoF before the end of June each year²⁸⁷. The draft law must have supporting information, including details of revenue and expenditure by institution, explanations of revenue and expenditure, and “other documentation required by the MoF”²⁸⁸. The annual accountability reports, though not part of the Draft Final Account Law, provide non-financial performance information. The MoF also sends a copy to the TCA and the TCA is required to audit the final account and the accounts of the individual institutions and submit this to the TGNA within 75 days of the Draft Final Account Law having been submitted²⁸⁹. The review of the Annual Report by the TGNA is considered in conjunction with the annual Budget²⁹⁰; this has the effect of reducing the time available to the TGNA for its consideration of any issues raised because more attention is reserved for the annual Budget.

Nearly all of the requirements for the transparency of the annual financial report are in place. The final account has no explanation of variations between budget projections and outturns, but it contains details at the individual administrative level, general government data, and information on contingent liabilities. Therefore, the qualitative indicator covering the extent to which the annual financial report includes full information and is made available in time to the Parliament is valued at 4²⁹¹.

The conditions for budget transparency and scrutiny are in place, and the annual financial statement is prepared within six months of the end of the calendar year. The adoption of the Central Government Accounting Regulation has improved the quality of in-year reporting, although the MoF monthly Budget realisations reports provide only aggregate data on revenue and expenditure. Explanations of variations from expectations are not given in the monthly or annual reports. Scrutiny of public finances is provided annually by the TCA.

Key Recommendations

Short-term (1-2 years)

- 1) The MoF should publish a monthly budget review comparing the actual outcomes each month against a projected monthly profile for each budget user, compiled at the beginning of the year and explaining variations that occur.
- 2) The MoF should develop a system to publish monthly data on revolving funds in line with recommendation 1 above.

Medium-term (3-5 years)

- 3) The MoF and the Undersecretariat of Treasury should bring forward new legislation to require all public institutions borrowing money to have the prior approval of the MoF and the Undersecretariat of Treasury.
- 4) The three main public financial institutions (the MoF, the MoDev and the Undersecretariat of Treasury) should review the guidelines for capital spending and examine whether a new system to allow a multi-annual grant to line ministries for approved projects with partial carry-over of funds from year to year would provide a more optimal outcome and avoid high spending in December.

²⁸⁷ Constitution, Article 164; PFMC Law, Article 42.

²⁸⁸ PFMC Law, Article 42.

²⁸⁹ PFMC Law, Article 43.

²⁹⁰ Constitution, Article 164.

²⁹¹ The format of the Draft Final Account Law and associated information will change in accordance with the provisions of the Central Government Accounting Regulation, which became effective 1 January 2015. However, it is too early to assess how the new format will comply with the Principles, since it has not yet been published.

- 5) The appropriate ministries and the TCA should consider revising the timetable for the presentation of the annual financial report to the TGNA, so that it can be considered by them in advance of the annual budget consideration.

2.3. Key Requirement: National financial management and control policy is in line with the requirements of Chapter 32 of European Union accession negotiations and is systematically implemented throughout the public sector.

Baseline values

The functioning of financial management and control (FMC) is examined through one qualitative indicator covering ten critical elements of an effective framework, complemented by three quantitative indicators to analyse how basic conditions of FMC are developing.

The overall framework for FMC is well established. Although timely data on actual implementation in first-level organisations is not available because it is not compiled by the MoF, the perception of the wastefulness of government spending, according to the Competitiveness index of the World Economic Forum, ranks Turkey at 37 out of 144 countries.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	6	Extent to which the operational framework for FMC is complete, in place and applied.	2014	4
Quantitative	7	Share of first-level budget organisations where budget structure is aligned with the organisational structure.	2014	Not available ²⁹²
	7	Share of first-level budget organisations where delegated budget holders below minister or secretary-general level receive at least monthly information on financial commitments and spending against the Budget within their part of the Budget.	2014	Not available ²⁹³
	7	Wastefulness of Government spending (The World Economic Forum).	2013/2014	3.7 ²⁹⁴

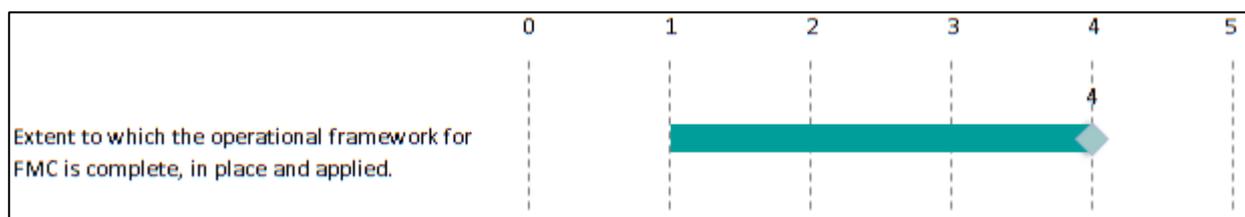
²⁹² The MoF does not compile this data.

²⁹³ Ibid.

²⁹⁴ World Economic Forum, [Global Competitiveness Report 2014-2015](#), p. 369.

The value of the qualitative indicator of the country is displayed below in comparison with the range of values for the same indicator in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 4. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 6: The operational framework for financial management and control defines responsibilities and powers, and its application by the budget organisations is consistent with the legislation governing public financial management and public administration in general.

The operational framework for the development and implementation of FMC is good. The PFMC Law No. 5018 applies to all public institutions and includes extra-budgetary funds and local governments. The Law also describes the responsibilities of the heads of public institutions, including managerial duties and the delegation of authority to authorising officers who are responsible for their own appropriations²⁹⁵.

The CHU/FMC has 15 staff working full-time on FMC development, up from 12 in 2013. It provides guidance to budget institutions and has published a detailed Communiqué on Public Internal Control Standards²⁹⁶ that reflects the Committee of Sponsoring Organisations'²⁹⁷ model. It meets the public institutions annually and is currently working on the development of risk registers with three pilot institutions. A strategy for FMC development is set out in the Public Internal Financial Control (PIFC) Policy Paper, 2012-2016, which will be updated in 2015²⁹⁸. In addition, the CHU/FMC has published a Public Internal Control Manual²⁹⁹ on the MoF website, which budget institutions use as a guide for developing FMC.

Although the MoF does not compile data such as the share of first-level organisations where the budget structure is aligned with the organisational structure or where delegated budget managers receive regular financial information on their spending, the annual performance programmes and the annual accountability reports provide evidence of the operational framework being applied. So too does Turkey being ranked at 37 out of 144 countries regarding the perception of the wastefulness of government spending, according to the competitiveness index of the World Economic Forum.

The main weakness in the operational framework is that, although the CHU/FMC conducts an annual survey on the implementation of PIFC and reports to the Government in the annual General Accountability Report³⁰⁰, the Government does not issue regular decisions requiring specific action for the implementation of FMC. For this reason, the value for the qualitative indicator covering the extent to which the operational framework for FMC is complete, in place and applied is 4.

The operational framework for FMC is good, with the only real weaknesses being the lack of direction from the Government for specific actions to implement FMC and also that the CHU does

²⁹⁵ Articles 11, 31 and 32.

²⁹⁶ [Communiqué on Public Internal Control Standards.](#)

²⁹⁷ Committee of Sponsoring Organisations of the Treadway Commission (COSO).

²⁹⁸ The MoF intends to present the paper to the Government for approval in early 2016.

²⁹⁹ <http://kontrol.bumko.gov.tr/Eklenti/6543,tr-fmc-manual-consolidated-en-final-draft-april-01-2011.pdf?0>.

³⁰⁰ The MoF submits the General Accountability Report in accordance with PFMC Law No. 5018, Article 41.

not compile data that would show the extent to which FMC is being applied in the first-level institutions.

Principle 7: Each public organisation implements financial management and control in line with the overall financial management and control policy documents.

All 1 713 institutions that are required to appoint a manager responsible for the implementation of FMC have done so³⁰¹. Of these, 1 453 have approved internal regulations and an approved plan for implementing FMC within their organisations. Of the 260 institutions which do not have internal regulations and a plan, 212 are at the local government level³⁰². The CHU/FMC organises an annual review of progress across all public sector organisations once a year.

Responsibilities within public institutions are clearly defined and there is a clear delegation of authority down to middle management levels³⁰³. Managers are aware of the need to ensure that new policy proposals are appropriately costed and that financial commitments are to be kept within budget limits³⁰⁴. Institutions maintain their own accounting systems and do not rely on the Treasury for this information. There is no evidence of arrears having accumulated³⁰⁵.

The strategic management and performance budgeting reforms, which require the institutions to publish five-year institutional strategic plans, one-year annual performance programmes and annual activity reports, have further enhanced managerial accountability. It must be noted that these reforms are in the early stages and that a 2013 Gap Assessment Report³⁰⁶ found that the introduction of these strategic management elements had yet to have a major impact on policy decision making. Nevertheless, the publication of the activity reports is an important step to more closely linking results and expenditure, and the MoF is working to revise the budget classification so that it will include programme classifications showing the outputs and outcomes of public services³⁰⁷. Furthermore, major organisations report annually on their compliance with internal control standards³⁰⁸.

The MoF monitors the revolving funds but they are treated as resources of the institutions to be used as the institutions consider appropriate. This means that subordinate institutions cannot be considered as being subject to robust governance arrangements by their parent organisations in accordance with the Principles. However, subordinate organisations that are classified as being part of central government or a local administration are legally required to follow FMC requirements³⁰⁹.

Public institutions implement FMC in line with the policy documents. The main weakness is that managers are not held accountable for the use of revolving funds, even though the MoF maintains a database on these funds.

³⁰¹ Data supplied by the MoF.

³⁰² Ibid.

³⁰³ Examination of annual reports on PIFC from three budget institutions (the Ministry of Transport, Maritime Affairs and Construction; the Ministry of Food, Agriculture and Livestock; and the General Directorate on State Highways) and from work done by CHU/FMC on risk management with three institutions (the Ministry of Science, Technology and Innovation; Ankara University; and Altindag Municipality).

³⁰⁴ On the basis that there are no arrears owing to commitments that cannot be paid, established budget limits are respected. Both the MoF and the Undersecretariat of Treasury confirmed this.

³⁰⁵ The question of arrears has never been raised as a concern by any international organisation or by the Turkish media.

³⁰⁶ See TR2010/0136.01-01/001, "Technical Assistance for Improved Strategic Management Capacity", Gap Assessment Report, p. 5.

³⁰⁷ The MoF publishes information in Turkish about performance budgeting on its website: <http://peb.bumko.gov.tr/>; this includes the Turkish-language circular [Performans Esaslı Bütçelemeye Geçiş Çalışmaları](#).

³⁰⁸ The sample of annual reports from three organisations (the Ministry of Transport, Maritime Affairs and Construction; the Ministry of Food, Agriculture and Livestock; and the General Directorate on State Highways) suggests that these are detailed reports.

³⁰⁹ PFMC Law No. 5018, Article 3a.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should submit the draft PIFC Policy Paper 2014-2019 with its related draft action plan for adoption by the CoM.
- 2) In its annual report on FMC development to the CoM, the MoF should request approval for specific actions that would further enhance managerial accountability.
- 3) The MoF should submit proposals amending legislation to include the revolving funds as part of the Budget, so that those budget institutions that have them will be accountable for how they are spent.
- 4) The MoF should compile data on the share of first-level organisations where the budget structure is aligned with the organisational structure and where delegated budget managers receive regular financial information on their spending

2.4. Key Requirement: The internal audit function is established throughout the public sector and internal audit work is carried out according to international standards.

Baseline values

The IA function in the public sector is examined through two qualitative and three quantitative indicators. The qualitative indicators cover elements of the legal and operational framework of IA and the quality of IA reports. All the data collected is supplemented by interviews.

All of the key IA functions have been established. The share of public administration organisations meeting national legal requirements for establishing and minimum staffing of IA units reflects partial implementation. However, information for two of the indicators, quality of internal audit reports and share of organisations with annual internal audit plans conforming to national legal requirements, has not been provided.

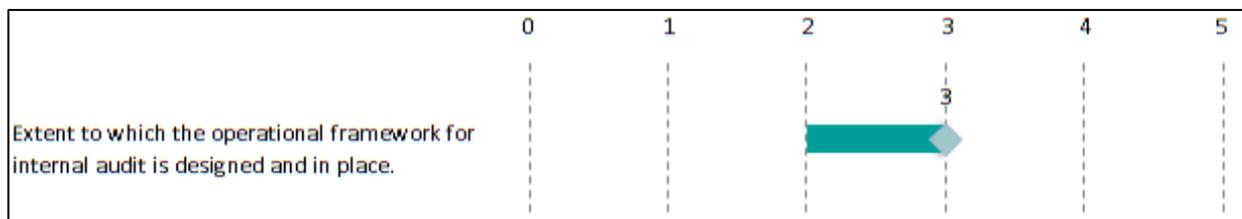
	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	8	Extent to which the operational framework for internal audit is designed and in place.	2014	3
	9	Quality of internal audit reports.	2014	Not available ³¹⁰
Quantitative	8	Share of public administration organisations meeting national legal requirements for establishing and minimum staffing of internal audit units.	2014	64%
	8	Share of internal auditors with a national or international internal audit certificate.	2014	100%
	9	Share of organisations with annual internal audit plans conforming to national legal requirements.	2014	Not available ³¹¹

³¹⁰ Only three of the ten IA reports requested were submitted, which is too small a sample to make an assessment of the quality of IA reports.

³¹¹ The CHU does not collect this data.

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 5. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 8: The operational framework for internal audit reflects international standards and its application by the budget organisations is consistent with the legislation governing public administration and public financial management in general.

The PFMC Law established IA as an activity which provides independent and objective assurance and consultancy³¹², in accordance with internationally accepted standards. Internal audit is a decentralised function and the Law requires internal auditors to report directly to the top managers of the institutions. The regulations for IA are aligned with regulations governing the civil service and public administration. Audit charters, including independence and reporting arrangements, are concluded with the heads of organisation for those IA units that are established.

The Law³¹³ also established an Internal Audit Co-ordination Board (IACB), affiliated to the MoF, to monitor the IA systems of public administrations and to serve as an independent and impartial body. The CHU for IA (CHU/IA), established in the MoF, facilitates the activities of the IACB and functions as a secretariat. The CHU/IA had 17 staff working full-time on IA development in 2014, an increase of four over 2013³¹⁴. The CHU/IA provides IA staff with training for the public sector IA certificate and, after certification, the CHU/IA also arranges regular professional development training for IA staff. Documents adopted by the IACB in 2014 include manuals for auditing, information technology and quality assurance, and a strategy for 2014 to 2016.

The number of public institutions required to introduce IA totalled 386 in 2014, of which only 246 (64%) have been established – a slight increase from 60% in 2013³¹⁵. Only 115 institutions have three or more IA staff, and the IA function has not been established in several key institutions, including the Prime Ministry³¹⁶. As the Prime Ministry has a strong influence over other public institutions and is also responsible for large areas of public spending, such as social housing, this sends a negative signal to other institutions regarding the importance of IA. The authorised staffing level is 2 000 for all institutions required to establish an IA function. However, only 941 staff (47%) were in post in 2014, although this was a significant increase over the 707 staff in post for 2013³¹⁷. All IA staff have passed the IA examination.

The annual General Government Internal Audit Report contains a significant amount of information on the audit process, including the number of internal auditors, a list of institutions with IA units, the number of IA reports produced, and details of training activities, although it does not demonstrate

³¹² PFMC Law No. 5018, Articles 63-65.

³¹³ PFMC Law No. 5018, Articles 66-67.

³¹⁴ Data supplied by the MoF.

³¹⁵ Ibid.

³¹⁶ Data supplied by the MoF.

³¹⁷ Ibid.

progress in the effectiveness of the IA function³¹⁸. There is no training needs assessment undertaken by the CHU/IA for the continuous professional development of IA staff, and the CHU/IA does not hold regular meetings with the heads of IA units to inform one another of developments or significant issues. The CHU/IA arranges quality assurance reviews of the IA function in public institutions; 18 were undertaken in 2012 and 8 in 2013, but none in 2014³¹⁹.

The IA function operates alongside the pre-existing budget inspection function. They are organisationally separate but the roles and responsibilities of each function risk duplication, as both functions are concerned with similar matters, particularly legal compliance issues.

Based on the above findings, the value for the indicator covering the extent to which the operational framework for IA is designed and in place is 3.

The legal and operational framework for the IA function has been established but, although there has been further progress in its development, it is not operational in all public institutions, including key institutions. The lack of quality assurance reviews in 2014 makes it difficult for the CHU/IA to assess the quality of the IA activities in those areas where the IA function has been established. Although the number of IA staff is increasing, there is still a significant shortfall in the number required for effective IA functioning.

Principle 9: Each public organisation implements internal audit in line with the overall internal audit policy documents as appropriate to the organisation.

The CHU/IA tries to monitor the activities of IA units to ensure that they undertake their audits in accordance with the regulatory framework and implement the specific planning, fieldwork and reporting requirements of the manuals. However, the CHU/IA does not know how many of the 386 organisations which are required to establish IA have approved audit plans that meet national requirements because it does not collect this data. Nor does it have information on the number of IA units for which the annual audit plan meets national legal requirements because approved IA plans are not submitted to the CHU/IA.

The IA reports requested for this part of the assessment have not been supplied by the institutions concerned, with the result that it is not possible to provide an assessment for this performance indicator.

Financial inspection exists and is decentralised. While it does not duplicate or overlap with functions of IA in the larger public institutions, which have separate units for the two activities, there is no definition of IA or inspection in existing legislation or documentation, which leaves scope for misunderstandings, especially at the level of smaller organisations.

The regulatory framework for the implementation of IA is in place, and IA staff have appropriate training and qualifications. The CHU/IA does not receive copies of approved IA plans from the institutions that have established IA units, with the result that effective oversight by the CHU/IA is not possible. The quality of internal auditing cannot be analysed, as the required information has not been provided.

Key recommendations

Short-term (1-2 years)

- 1) The Government should endorse an implementation schedule for IA units to ensure that the mandatory IA function is established and is operating effectively throughout the public administration, including within key institutions such as the Prime Ministry.

³¹⁸ The General Government Internal Audit Report 2013.

³¹⁹ Data supplied by the MoF.

- 2) The CHU/IA should re-introduce a structured programme of quality assurance reviews of IA in public institutions to improve the quality of the audits being undertaken within the institutions.

Medium-term (3-5 years)

- 3) The IACB and the CHU/IA should monitor overlap or duplication of budget inspection and IA functions, and should educate the staff of public institutions involved in these functions on their differing roles and responsibilities.

2.5. Key requirement: Public procurement is regulated by duly enforced policies and procedures that reflect the principles of the Treaty on the functioning of the European Union and the European Union *acquis*, and are supported by suitably competent and adequately resourced institutions.

Baseline values

The key requirement for harmonisation of public procurement regulations with the EU *acquis*, as well as the establishment of corresponding institutional structures and arrangements, is examined through six qualitative indicators. The first two describe the extent to which the legislation is complete and enforced, covering the eight main goals defined in Principle 10³²⁰ and the openness of public procurement policy making and monitoring. The next two indicators assess the development and implementation of the policy framework, and the existence and performance of a dedicated institution for central procurement functions. The last two indicators cover the effective monitoring of the public procurement system and the extent to which information about its workings is readily available to all interested parties.

The baseline values around the middle of the scale reflect discrepancies between public procurement carried out according to the procedures of the PPL and monitored by the PPA, and those that are exempt from the PPL or carried out according to a variety of other regulations and internal rules.

	Principle No.	Indicator	Baseline year	Baseline value
Qualitative	10	Extent to which legislation is complete and enforced.	2014	3
	10	Nature and extent of public consultations during the process of developing regulations for public procurement and monitoring their use and appropriateness.	2014	2
	11	Extent to which policy framework for public procurement is developed and implemented.	2014	4
	11	Extent of coverage by dedicated institutions of the central procurement functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources.	2014	3
	11	Comprehensiveness of systems for monitoring and reporting on public procurement proceedings and practices.	2014	4

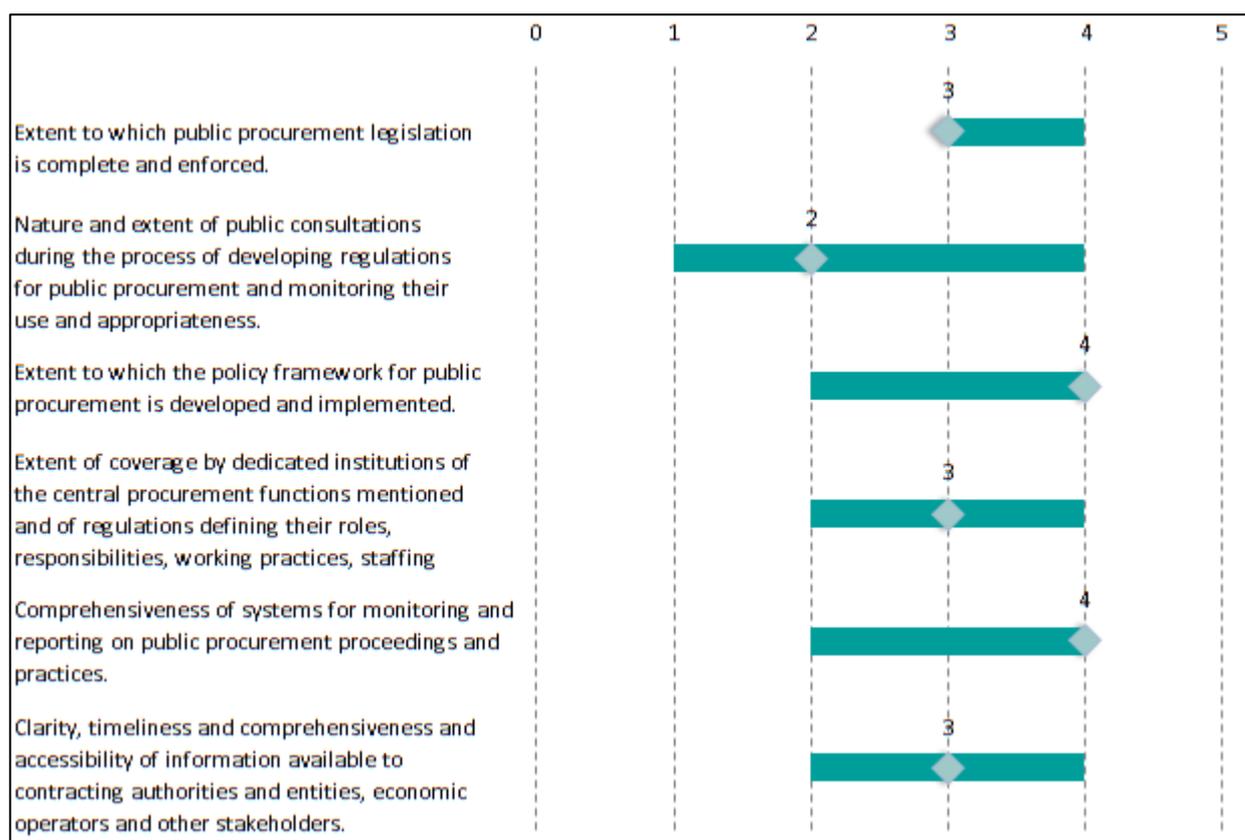
³²⁰ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, p. 96.

Turkey
Public Financial Management

	11	Clarity, timeliness, comprehensiveness and accessibility of information available to contracting authorities and entities, economic operators and other stakeholders.	2014	3
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The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 6. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 10: Public procurement regulations (including public-private partnerships and concessions) are aligned with the acquis, include additional areas not covered by the acquis, are harmonised with corresponding regulations in other fields, and are duly enforced.

The legislative framework in the field of PPPs and concessions lacks an integrated and harmonised approach. A large number of laws and regulations cover different sectors with different purposes, and are applied by a wide range of authorities³²¹. It is, therefore, difficult to assess their conformity with the EU Concessions Directive³²².

³²¹ In collaboration with the MoF, the Undersecretariat of Treasury, and other relevant public institutions, the MoDev has adopted a timetable for a Priority Conversion Programme, and started work to regulate PPPs in a uniform manner under a framework PPP law, in order to address current problems of regulating PPP projects via different PPP models and laws.

³²² Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94).

Turkey
Public Financial Management

The PPL³²³ regulates various aspects of notification, tendering and awarding of public contracts. Recent amendments to the PPL represent a certain regression in the process of aligning Turkey's public procurement rules with the requirements of EU law. Contrary to the EU public procurement *acquis*, Article 63(c) of the PPL now provides for a compulsory price advantage of up to 15% in favour of bidders offering domestic products in tenders for the procurement of goods listed in the list of medium- and high-technology products to be issued by the Ministry of Science, Industry and Technology (MoSIT). Another amendment to Article 3(u) of the PPL introduced the notion of off-set requirements, restrictive measures which go against the basic principles of the EU Treaty³²⁴.

The PPL still contains a long list of exemptions that go beyond the scope of contracts excluded from the reach of EU Directives 2014/24 and 2014/25. A number of authorities and institutions that are exempted from the PPL have their own procurement regulations. For example, defence and security procurement is exempted from the application of Turkey's public procurement rules according to Article 3(b) of the PPL and the requirements of EU Directive 2009/81³²⁵ have not been fully transposed. Consolidated information about these various other procurement regulations is not readily accessible at present.

The regulatory situation leads to a value of 3 for the indicator assessing the extent to which legislation is complete and enforced.

Regulatory development is supported by consultations organised by the PPA with selected authorities and private sector representatives on various issues of policy, procedures and practices in public procurement. However, consultations with civil society are not mandatory. In some cases, amendments to the PPL have been instigated by other ministries (such as the MoSIT in the cases mentioned above). The transparency of regulatory development is impeded by the increasingly frequent practice of amending laws through an omnibus law³²⁶, in which an amendment to a specific article in a particular law is put forward together with a very large number of other amendments.

Since formal consultations are held only with selected participants, and only when a draft regulation has already reached an advanced stage of preparation (i.e. not in the early stages of development or in the implementation phase), the indicator covering the nature and extent of public consultations receives a value of 2.

In Turkey, the legal and institutional framework for public procurement is detailed, although fragmented and with numerous exceptions, and there are several gaps in its conformity with the *acquis*. In the course of regulatory development, limited consultations are held with the authorities and with representatives of the economic operators concerned.

Principle 11: There is a central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently.

Public procurement policy management is the responsibility of the MoF. The Ministry is primarily responsible for co-ordinating policies and legislation through a unit with 11 staff in the General Directorate of Budget and Fiscal Control.

The PPA, established in 2002, is entrusted with tasks related to implementing, monitoring and training, in addition to its role as the review body. It also operates the e-procurement system. It is

³²³ Law No. 4734 of 22 January 2002, as repeatedly amended, Official Gazette No. 24648.

³²⁴ European Commission's [Guidance Note on Offsets](#) in the context of Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the co-ordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216),

³²⁵ Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the co-ordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216).

³²⁶ E.g. Law No. 6518 of 6 February 2014.

administratively and financially autonomous in that it is linked to the MoF but independent in the fulfilment of its duties³²⁷. Its large administrative resources (325 employees) allow it not only to prepare items of secondary legislation, but also to provide significant assistance for the preparation of primary legislation.

The PPA's monitoring activities have been broadened since June 2014 to include compulsory notifications from contracting authorities about the management of awarded contracts. A wide range of procurement data, generated when transactions are carried out or submitted by the contracting authorities, is available to PPA staff for analysis of the procurement market, to inform policy making and to provide public information on the PPA website, including yearly reports³²⁸. However, not all such data is readily available to interested external parties.

Other authorities with responsibility for some aspects of public procurement, like the MoSIT and defence-related institutions, have their own implementation and monitoring frameworks.

In the field of PPPs and concessions, no single authority is in charge of co-ordinating, supervising or monitoring such operations, except that all PPP projects have to receive a formal authorisation from the High Planning Council, which receives administrative support from the MoDev after an initial feasibility study has been carried out. Three entities are all involved to a varying degrees; the MoF for general policy and legislation co-ordination; the MoDev for strategic development management and implementation; and the Undersecretariat of Treasury for project feasibility evaluation and the debt-assumption mechanism. However, the operational responsibility for preparing and carrying out a PPP project lies with the line ministry or other authority concerned. Consequently, there is only a partial overview of PPP projects. A first step towards greater transparency of existing and future PPP projects was taken in late 2014, when the MoF issued a regulation requiring all budget users to report on any implied obligations in the form of off-take guarantees or the like in PPP contracts, in addition to any explicit guarantees or debt-assumption agreements taken on by any of the authorities concerned.

The wide distribution of responsibilities and the lack of a clear, comprehensive overview of public procurement policy implementation and monitoring mean that the indicator regarding the extent of coverage by dedicated institutions of the central procurement functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources receives a value of 3.

Correspondingly, despite the advanced reporting system of the PPA, the indicator covering the comprehensiveness of systems to monitor and report on public procurement obtains a value of 4. The limited availability of data in some fields leads to a value of 3 for the indicator covering the clarity, timeliness and comprehensiveness of information available about public procurement in general.

The MoF and the PPA together have the necessary capacity to manage the development, implementation and monitoring of public procurement where the PPL is applicable. Regular reports on public procurement under the PPL are prepared and published, and there is public on-line access to a wide range of up-to-date procurement information³²⁹. However, information about other public procurement is less available, and there is no unified approach to the management and monitoring of PPP operations.

Key recommendations

Short-term (1-2 years)

- 1) The PPA should facilitate wider access to its procurement database, so that all interested parties can carry out their own analyses and thereby contribute to the development of the public procurement system.
- 2) The Government should take measures to regulate and monitor all public procurement in

³²⁷ Public Procurement Law (PPL), Article 53.

³²⁸ <http://kik.gov.tr/>.

³²⁹ Website of the PPA: <http://ihale.gov.tr/>.

conformity with the EU *acquis*, in particular for eliminating discriminatory practices, such as exemptions, domestic preference and off-set requirements.

- 3) The Government should clarify the allocation of tasks among institutions in the field of PPPs, and strengthen the capacity of the MoDev to manage the PPP strategy development and implementation process, so that the PPP reform process is successful.
- 4) The Government should review policies and practices in all public procurement conducted outside the scope of the PPL, and propose measures to bring it under the PPL or to otherwise ensure its conformity with the EU *acquis*.

Medium-term (3-5 years)

- 5) The authorities in charge of defence and security should ensure the harmonisation of their procurement rules with both the PPL and the EU Defence Directive 2009/81, to align with the *acquis*.
- 6) The Government should ensure the sustainability of the future, coherent, single framework for PPPs and concessions, in order for it to fully serve its purposes.

2.6. Key requirement: In case of alleged breaches of procurement rules, aggrieved parties have access to justice through an independent, transparent, effective and efficient remedies system.

Baseline values

The key requirement for establishing an independent, transparent, effective and efficient remedies system is examined through six indicators. They describe the timeliness of the review procedure, the accessibility of the review system to economic operators, and the performance of the review body.

While complaints regarding procedures under the PPL are subject to review by the PPA, and its decisions are published, remedies in other public procurement procedures are normally available only through the court system, hence the values obtained.

	Principle No.	Indicator	Baseline year	Baseline value
Qualitative	12	Presence of procurement review and appeal bodies covering the functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources, including the integrity of their work.	2014	3
	12	Presence of user-friendly procurement review website including timely publication of decisions and statistics, with adequate search functions.	2014	4
Quantitative	12	Actual processing time of complaints related to procurement compared with maximum legal requirements.	2014	100% ³³⁰
	12	Number of cases in which the procurement review body exceeded the	2014	0

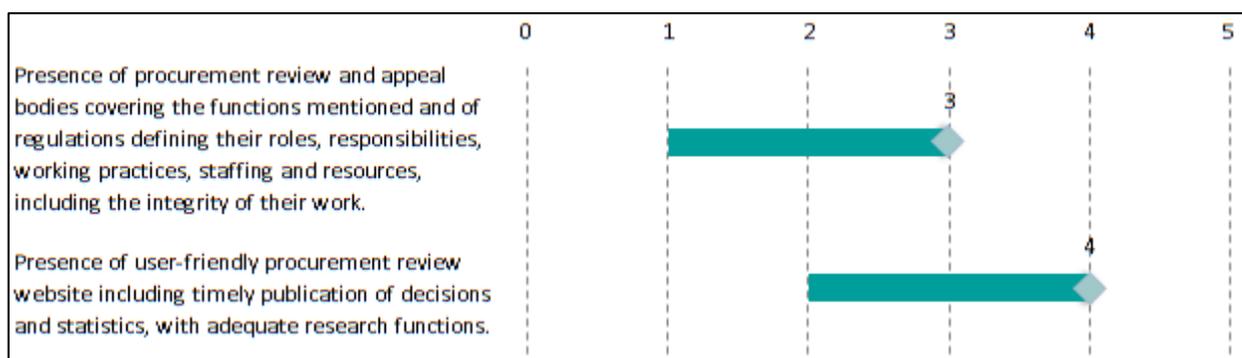
³³⁰ As stated by the PPA, the actual processing time of complaints is 20 days, the same as the maximum legal requirement.

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		legal maximum processing time in relation to the total number of complaints.		
	12	Number of complaints in relation to the number of tender notices published	2014	4.67%
	12	Share of complaints in procurement that are challenged to the next judicial level.	2014	21%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 7. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 12: The remedies system is aligned with acquis standards of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions.

By virtue of Articles 54 to 57 of the PPL³³¹, the review of decisions taken by the contracting authorities as regards contracts falling within the scope of the PPL comprises three stages: “complaint applications” submitted to the contracting authority itself; “appeal applications” submitted to the PPA; and appeals to the administrative court. Additionally, recent regulations for dealing with abnormally low tenders also contributed to decreasing the number of complaints.

A separate department in the PPA is dealing with the “appeal applications” mentioned. Elaborate administrative routines have been put into place in order to ensure the integrity of the review function and to address the inherent conflict with the other roles of the PPA³³². In 2014, the number of staff in the PPA handling complaints was increased to 168, from 130 in 2013. The PPA reviewed 4 251 complaints, a decrease from 5 093 in 2013. This drop coincided with a significant increase in the fees to be paid by complainants (the appeal submission fee for tenders with an approximate cost of up to TRY 500 000 has tripled to TRY 3000)³³³. This means that access to justice may be impacted, especially for low value proceedings.

Legal standing requirements laid down in the PPL³³⁴ allow “candidates, tenderers or potential tenderers” who claim to have suffered or are likely to suffer a loss of right or damage due to unlawful

³³¹ As supplemented by the implementing Regulation No. 25471 of 24 May 2004 on administrative applications against procurements.

³³² In the light of the requirements of the Remedies Directive for the “independence” of the review body.

³³³ PPL, 2014 amendments to Article 53, paragraph j, section 2.

³³⁴ PPL, Article 54, Article 5 of the Regulation on administrative applications against procurements.

procedures or actions within the tendering process to initiate review procedures. However, “potential tenderers” can do so only after purchasing the tender documents.

Under Article 56 of the PPL, all decisions are to be notified to the parties and published on the PPA website³³⁵ within five days from the notification. In practice, a decision is published, on average, within eight days from its adoption. There is a multi-option search engine. However, decisions on complaints related to public procurement that fall outside the PPL are not fully transparent, leading to a value of 4 for the indicator covering the presence of a user-friendly procurement review website, including timely publication of decisions and statistics, with adequate research functions.

In 2014³³⁶, 899 complaints were challenged to the next judicial level (773 in 2013). In 470 cases, the decision of the PPA was upheld (490 in 2013); in 172 cases, its decision was altered (223 in 2013).

The review procedure in the field of PPPs and concessions is not governed by the PPL; therefore, the PPA is not the competent review body. The various PPP regulations have no common approach to the matter. In principle, it is possible to submit an appeal to the Council of State (the highest administrative instance) after exhausting the review options available with the authority granting the concession and the competent administrative courts. The exception is when the civil courts are competent, which is the case for all PPP operations that are not governed by the Concessions Law No. 476 of 24 June 1910. Nevertheless, in view of the handling of reviews by the PPA, the indicator covering the presence of procurement review and appeal bodies and corresponding regulations is valued at 3.

For public contracts covered by the PPL, the remedies system is fully operational, as required by the Directives, except for some limitations in the eligibility to lodge complaints. However, for other public contracts and for concessions, the conformity with the EU *acquis* is difficult to assess, and access to justice is not subject to an integrated review system.

Key recommendations

Short-term (1-2 years)

- 1) The Government should take steps to eliminate restrictive requirements pertaining to the recognition of legal standing for “potential tenderers” so that challenges can be brought by anyone concerned.
- 2) The MoF and the PPA should examine the workings of the remedies system under the PPL, in particular so that the real and apparent independence of the PPA as the review body can be amply demonstrated to fully comply with the EU Remedies Directives.
- 3) The Government should examine current policies and practices for the review of all public procurement falling outside the scope of the PPL, and identify measures for bringing all review of public procurement decisions in line with the EU Remedies Directives.

Medium-term (3-5 years)

- 4) The Government should implement the measures identified above to bring all review of public procurement decisions in line with the EU Remedies Directives.

³³⁵ <https://ekap.kik.gov.tr/EKAP/Vatandas/KurulKararSorgu.aspx>.

³³⁶ As stated by the PPA.

2.7. Key requirement: Contracting authorities are adequately staffed and resourced and carry out their work in accordance with applicable regulations and recognised good practice, interacting with a supply market that is open and competitive

Baseline values

The key requirement for an efficient public procurement system, based on the availability of a professional, value-driven and integrity-conscious management function in contracting authorities, is examined through a set of quantitative indicators describing the performance of the public procurement market. Three more indicators describe the presence and performance of modern procurement tools, the existence and availability of guidelines, and the professionalisation of procurement officials.

The values reflect a very modest use of framework agreements and centralised purchasing, despite the presence of a comprehensive e-procurement system and a low level of professionalisation of officials.

	Principle No.	Indicator	Baseline year	Baseline value
Qualitative	13	Extent of use of modern procurement techniques and methods.	2014	3
	14	Nature and extent of clear, user-friendly guidelines and instructions, standard documents and other tools available to contracting authorities and procurement officials.	2014	3
	14	Professionalisation of procurement officials.	2014	2
Quantitative	13	Share of contracts already announced in published procurement plans or indicative notices.	2014	94.4 %
	13	Share of contracts awarded by competitive procedures.	2014	71.8 %
	13	Share of contracts awarded based on acquisition price only.	2014	57.4 %
	13	Share of contracts amended after award.	2014	0.2 %
	13	Share of contracts subject to formal post-evaluation.	2014	0 %
	13	Average number of tenders submitted per goods contract to be procured.	2014	4.2
	13	Average number of tenders submitted per works contract to be procured.	2014	7.1
	13	Average number of tenders submitted per services contract to be procured.	2014	3.6

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 8. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 13: Public procurement operators comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of public funds and making best use of modern procurement techniques and methods.

In 2014, public procurement amounted to a total contract value of TRY 113.5 billion (up from TRY 98.83 billion in 2013).

In Turkey, the application by contracting authorities of fundamental principles of PP, such as the principle of non-discrimination and transparency, is hampered by various exemptions and specific provisions in the PPL and other laws (see analysis under Principle 10 above).

With regard to the principle of non-discrimination, the PPL itself provides for optional and mandatory domestic preferences (Article 63 of the PPL). Even though some contracting authorities choose to set this preferential margin as low as 1%³³⁷, the consequence of such a provision is discrimination against foreign goods and services.

The numerous exemptions to the scope of the PPL, and the corresponding proliferation of procurement regimes that are specific to a particular authority or institution, have the effect of reducing the transparency of public procurement in general, as well as in individual cases.

Public procurement under the PPL has a rate of participation by economic operators that, on average, indicates a certain level of competition in the supply markets (4.5 tenders submitted on average per procedure).

The use of modern tools and mechanisms for public procurement are currently focused on the Electronic Public Procurement Platform (EKAP)³³⁸, which is managed by the PPA. The system covers all stages of the procurement cycle. Initially, the system was mainly used for medical supplies, although the PPA is now expanding its use to all goods procurement, using the open procedure. Nevertheless, all contracting authorities and a large number of economic operators are already registered in the system and using it. Registration is now compulsory for anybody wishing to participate in tenders.

³³⁷ As stated by the MoF and the Ministry of Health.

³³⁸ Electronic Public Procurement Platform: <https://ekap.kik.gov.tr/EKAP/Default.aspx?ReturnUrl=%2fEKAP>.

However, there is no single access point for information about public procurement opportunities falling outside of the PPL, nor any corresponding e-procurement facilities except for the example of the State Supply Office (SSO) e-procurement portal³³⁹.

Framework agreements under the PPL are very little used. In 2014³⁴⁰, only 46 such agreements were concluded, which represents a significant decrease from the already very low number (86) in 2013.

The instrument of centralised procurement is not well developed, with most public procurement being carried out by individual contracting authorities. The SSO³⁴¹ is the national central purchasing body in Turkey, although its operations cover only a small part of the public procurement market. Some centralised procurement is also carried out in the health sector. Amendments to the PPL in 2014 introduced the possibility for joint procurement by several contracting authorities; subsequently³⁴², 284 contracts for joint procurement were concluded in 76 tenders.

Between the high level of sophistication of the e-procurement system and the modest penetration of framework agreements and centralised purchasing, the indicator covering the extent of use of modern procurement techniques and methods receives a value of 3.

Public procurement carried out under PPL procedures is broadly in conformity with the basic principles of the *acquis*, except to the extent that domestic preference is applied. The e-procurement system allows procurement-related transactions regulated by the PPL to be carried out efficiently, and its use is increasing. However, little is known about public procurement falling outside of the PPL, and the use of framework agreements and centralised purchasing is limited.

Principle 14: Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle.

The legislation does not lay down any specific criteria for public procurement employment. Public procurement tasks are often exercised in addition to other duties. Changes in staff are frequent, according to the PPA's assessment, which has a negative influence on the accumulation of the relevant skills and expertise within the contracting authority.

The focus on skills development for procurement officials lies in tendering and award procedures. Training is not mandatory, but the PPA offers a wide range of training and advisory activities on demand through its training department. In 2014³⁴³, 7 602 officials received such training. Other organisations, like the TBB, also offer some basic public procurement training, often using experts from the PPA. The absence of formal procurement-related employment criteria and the limited extent of training available lead to a value of 2 for the indicator covering the professionalisation of procurement officials.

The e-procurement system has a comprehensive set of on-line guidance tools for users. In addition, a large call centre is available to provide immediate advice on the use of the system and on the corresponding regulations and their application.

The PPA also makes other training materials and guidelines available for contracting authorities. However, finding the applicable guidance document or standard form in the individual case is difficult, since they are often sorted by date of issue and it is not clear if and when they may have been superseded or if they match the latest amendment of the PPL³⁴⁴. The materials focus on the procedures prescribed in detail by the PPL, with less attention given to overarching issues of

³³⁹ www.dmo.gov.tr/ESatis/index.aspx.

³⁴⁰ As stated by the PPA.

³⁴¹ Historically established in 1926, currently operating as an autonomous state-owned enterprise affiliated to the MoF. Its activities are governed by Decree Law No. 233.

³⁴² As stated by the PPA.

³⁴³ As reported by the PPA.

³⁴⁴ See the example under Regulations at <http://ihale.gov.tr/Mevzuat.aspx>

procurement planning and preparation. Contract management is covered by the Law on Public Procurement Contracts³⁴⁵, complementing the PPL. The successful use of some specific instruments provided for in the PPL, such as framework agreements, requires additional practical guidelines that are not yet in place.

Authorities and institutions carrying out public procurement outside the scope of the PPL have their corresponding instructions and guidelines for staff. Here, again, the focus is typically on the prescribed award procedures.

For these reasons, the indicator covering the nature and extent of guidelines and instructions is valued at 3.

In the absence of formal qualification requirements, and with only a limited supply of education and training opportunities in public procurement, contracting authorities face challenges in recruiting adequately qualified procurement officials, and in maintaining and developing their skills. The observation of the tendering and award procedures prescribed in the PPL is facilitated by EKAP, while the supply of other guidelines and tools is less developed.

Key recommendations

Short-term (1-2 years)

- 1) The MoF, the PPA, the SSO and other centralised purchasing bodies should jointly examine the scope for enhanced use of framework agreements and centralised purchasing, and revise the existing regulations and the corresponding institutional set-up.
- 2) The PPA should regularly monitor the actual practices, operational skills and capacity of contracting authorities and their staff, identify possible gaps, and take measures for closing them in a sustainable manner.
- 3) The Government should, in consultation with the PPA and the contracting authorities, lay down appropriate professional qualification requirements for public procurement officials and put them into practice, so that recruitment and promotion can be made on a sound basis.
- 4) The Government, as well as the education and training institutions concerned, should ensure that basic and continuous education and training in public procurement are widely available, as required for meeting the qualification requirements for procurement officials.

Medium-term (3-5 years)

- 5) In the case of public procurement falling outside the scope of the PPL, the Government should ensure that practices and guidelines are harmonised with those under the PPL, and that they meet the standards of the *acquis*.

2.8. Key requirement: The constitutional and legal framework guarantees the independence, mandate and organisation of the Supreme Audit Institution to perform its mandate autonomously according to the standards applied for its audit work, allowing for high-quality audits that impact on public sector functioning.

Baseline values

The legal framework of the Supreme Audit Institution (SAI) is examined through one qualitative and four quantitative indicators that review the Constitution, the legislation governing the SAI, including internal rules and procedures, and other relevant documents. The functioning of the SAI is examined through one qualitative and three quantitative indicators that analyse the relevant documentation. All the data collected is supplemented by interviews.

³⁴⁵ Law No. 4735 of 5 January 2002, as variously amended.

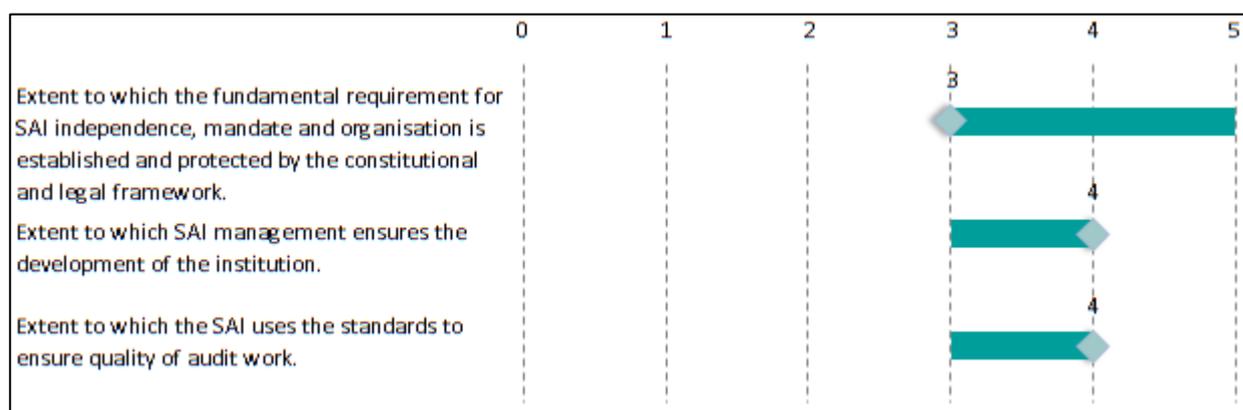
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The legal framework for external audit and all of the key functions, including those for European integration, are established. The values in the table below also reflect their degree of implementation.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	15	Extent to which the fundamental requirement for SAI independence, mandate and organisation is established and protected by the constitutional and legal framework.	2013	3
	15	Extent to which SAI management ensures the development of the institution.	2013	4
	16	Extent to which the SAI uses the standards to ensure quality of work.	2013	4
Quantitative	15	Difference between approved budget and realised expenditure of the SAI.	2013	-15.9%
	15	Share of SAI budget in the state Budget.	2013	0.04%
	15	Amount of resources used for mandatory audits compared with resources for audits selected independently by the SAI.	2013	100%
	16	Proportion of audit reports published on the SAI website compared with audit reports adopted.	2013	100%
	16	Share of audit recommendations accepted and implemented by auditees.	2013	Not available ³⁴⁶
	16	Share of timely audit reports.	2013	95.7%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 9. Country baseline value in comparison with the regional range



³⁴⁶ The TCA does not compile data on the share of audit recommendations accepted and implemented by auditees.

Analysis of Principles

Principle 15: The independence, mandate and organisation of the Supreme Audit Institution are established and protected by the constitutional and legal framework and are respected in practice.

The Constitution³⁴⁷ provides overall independence for the TCA. The TCA's operating costs are financed by a separate budget that it submits to the TGNA without intervention by the executive³⁴⁸. The TCA underspent its approved budget by 15.9% in 2013, after an under-spend of 14.3% in 2012. The audit mandate³⁴⁹ is exhaustive and incorporates 4 097³⁵⁰ public and statutory funds and resources, including municipal enterprises, state economic enterprises and EU funds. The TCA's audit coverage in 2013 amounted to 95.6% of the budgeted expenditure of the central administration, social security institutions and local administrations. The TCA also performs financial audits of political parties on behalf of the Constitutional Court³⁵¹. The TCA is empowered to undertake regularity (financial and compliance) audits and performance audits³⁵², in accordance with national and international auditing standards³⁵³.

In July 2012, the TGNA approved a Law³⁵⁴ which amended one article of the TCA Law³⁵⁵ by attaching limitations to the scope of the TCA to undertake regularity and performance audits. This amendment re-affirmed the priority of compliance audits. The amendment posed a major challenge to the TCA but, in April 2013, the Constitutional Court cancelled the provisions of the amending law, which might have been considered negative for the TCA. In 2014, the TCA, therefore, reported its findings to the TGNA, in accordance with the legal requirements³⁵⁶, which had pre-dated the changes brought about by the amending law.

The TCA has a strategic plan for the period 2014 to 2018³⁵⁷. Staff resources totalled 1 527 in 2013, of which 919 were audit staff. In 2014, the TCA also adopted a human resource and training strategy for 2015-2018³⁵⁸, which undertakes an extensive training programme to contribute to the professional development of staff. Neither plan was based on an external peer review of the organisation, but the annual activity report includes information on progress made in implementing the strategic objectives.

Based on the above findings, the value for the indicator covering the extent to which the fundamental requirement for SAI independence, mandate and organisation is established and protected by the constitutional and legal framework is 3. The value for the indicator covering the extent to which the SAI management ensures the development of the institution is 4.

The independence, mandate and organisation of the TCA are established and protected by the Constitution and the legal framework. The negative impact of the 2012 amending law on the activities of the TCA was resolved by a decision of the Constitutional Court in 2013. The TCA has a significant number of public institutions within its audit mandate. Although not all institutions are

³⁴⁷ Constitution, Articles 160, 164, 165 and 169.

³⁴⁸ TCA Law No. 6085, Article 62.

³⁴⁹ TCA Law No. 6085, Article 4.

³⁵⁰ TCA Accountability Report 2013, pp. 32-33.

³⁵¹ Law on Establishment and Rules of Procedures of the Constitutional Court, Law No. 6216.

³⁵² TCA Law No. 6085, Articles 2 and 5.

³⁵³ TCA Law No. 6085, Article 35.

³⁵⁴ Amending Law No. 6353.

³⁵⁵ TCA Law No. 6085, Article 35, General principles of auditing – the only Article amended through the amending law.

³⁵⁶ PFCM Law No. 5018, Article 43, General Conformity Statement; TCA Law No. 6085, Article 38, External Audit General Evaluation Report; Article 39, Accountability General Evaluation Report; Article 40, Financial Statistics Evaluation Report; Article 41, Statement of General Conformity; Article 42, Other Reports.

³⁵⁷ [Strategic Plan 2014-2018](#).

³⁵⁸ TCA Strategic Human Resources Management Plan, April 2015.

audited every year, this applies only to very small institutions and in 2013 nearly 96% of total expenditure was audited.

Principle 16: The Supreme Audit Institution applies standards in a neutral and objective manner to ensure high quality audits, which positively impact on the functioning of the public sector.

In 2014, the TCA adopted manuals covering regularity audits, the evaluation of accountability reports, the evaluation of financial statistics, and performance audits. The strategic development plan for 2014 to 2018³⁵⁹ includes an extensive situational analysis, performance indicators, and monitoring and evaluation processes.

The TCA has access to all institutions within its mandate and may examine all information it considers necessary. For 2013, the TCA completed 96% of its planned audits and published 491 audit reports on its website, of which 441 provided an audit opinion on the financial statements of the auditees within its mandate³⁶⁰. All audits were submitted within the statutory time limits. The TCA's audit reports are subject to an internal quality assurance review before they are adopted for publication. Since 2012, the TCA's work on performance audits has focussed on performance indicators, rather than on economy, efficiency and effectiveness issues. In 2013, the TCA adopted 22 reports related to the audit of performance indicators³⁶¹. During 2013, the TCA audited 98.6%³⁶² of the budget expenditure of central administrations and 95.6%³⁶³ of all budget expenditure. It also audited all public enterprises.

The TCA submits its audit reports on State Economic Enterprises (SEEs) to the State Enterprises Committee of the TGNA³⁶⁴. The Planning and Budget Committee of the TGNA makes use of the TCA reports as part of the hearings on the adoption of the state Budget for the following year. The TGNA applies formal discharge procedures for the financial statements of SEEs audited by the TCA but not to the report on the execution of the state Budget or the financial statements of the other publicly-funded institutions audited by the TCA.

The TCA does not maintain data on audit recommendations made in audit reports, owing to methodological changes and the introduction of new practices in financial auditing. The TCA reports are subject to a contradictory process³⁶⁵, including the agreement of recommendations with auditees. Also, as part of the audit process, the TCA monitors the progress made by auditees every year on the implementation of TCA recommendations.

The TCA identified an issue arising from the audit of the 2012 financial statements of central budget institutions, in which the TCA provided 47 "disclaimer" audit opinions³⁶⁶. The issue was resolved between the TCA and the MoF for the following year.

Based on the above findings, the value for the indicator covering the extent to which the SAI uses standards to ensure quality of work is 4.

The TCA submitted a range of audit reports to the TGNA in 2013, which provided comprehensive coverage of the audit mandate and addressed international auditing standards. These reports were fair, factual and timely. In 2013, the TCA performance audit reports related to the audit of performance indicators, not to the audit of their economy, efficiency and effectiveness.

³⁵⁹ [Strategic Plan 2014-2018](#).

³⁶⁰ Data supplied by the TCA.

³⁶¹ Data supplied by the TCA.

³⁶² TCA Accountability Report 2013, pp. 32-33.

³⁶³ TCA Accountability Report 2013, pp. 32-33.

³⁶⁴ TCA Law No. 6085, Article 43, Auditing and Reporting of State Economic Enterprises.

³⁶⁵ A contradictory process is where the auditee is allowed an opportunity to check facts and make comments but for the final report the TCA makes the final decision.

³⁶⁶ INTOSAI Auditing Standard - ISSAI 100 states that a "Disclaimed" audit opinion is used "where the auditor is unable to obtain sufficient and appropriate audit evidence due to an uncertainty or scope limitation which is both material and pervasive".

Key recommendations

Short-term (1-2 years)

- 1) The TCA should take steps to re-introduce audits of the economy, efficiency and effectiveness of public institutions, in addition to the current TCA audits of performance indicators.
- 2) The TCA should develop an audit strategy to ensure that all accounts within the mandate are audited on a regular basis, and it should develop a methodology for statistical sampling.
- 3) The TCA should hold awareness-raising events for TGNA members and auditees to educate stakeholders on the implications of the TCA's conclusions and recommendations and the importance of their implementation by auditees.
- 4) The TCA should establish effective arrangements with the TGNA for dealing with the number of issues and the broad range of public institutions covered by SAI audit reports.

Medium-term (3-5 years)

- 5) The TCA should reach an agreement with the TGNA on the implementation of formal discharge procedures for all publicly funded institutions and for consideration of all TCA reports by the TGNA.



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