



SIGMA

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TURKEY

DEMOCRACY AND THE RULE OF LAW

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Democracy and the Rule of Law

Elections and polarisation of politics have dominated the agenda and have shifted attention away from decentralisation, administrative organisation and civil service reforms. However, there has been some reform progress in other public governance areas, especially in areas that are perceived in Turkey as being less politically sensitive, such as public expenditure management, or that are formally included in the negotiation process, such as public procurement and public internal financial control.

Constitution

Unless constitutional reform is carried out to address the sensitive issue of the organisation of the administration and its refocusing as a service to both the state and Turkish citizens, other needed reforms may be blocked. For instance, without constitutional reform the government's efforts to pass legislation aimed at reinforcing citizens' control over the state administration (e.g. creation of an ombudsman or adoption of a new administrative procedure legal framework) will face annulment by the Constitutional Court.

Parliament

The promising intentions expressed by the Turkish Grand National Assembly (TGNA) to strengthen its oversight role with regard to public expenditure, including scrutiny of budget implementation, are to be welcomed. However, the administrative and organisational capacity of the TGNA to play this role and to monitor performance is currently limited. A closer interactive dialogue and co-operation between the TGNA and the Turkish Court of Accounts (TCA) is also needed. The draft Law on the TCA, tabled four years ago, has still not been passed. This deadlock is the main reason for the lack of progress that can be observed with regard to the needed external audit reform. While awaiting the new law, the TCA could modernise its audit of the budget implementation.

Government

Initiatives have been taken to introduce the use of impact assessment methodology in the regulatory production system. However, important laws - such as those dealing with the budget reform and the public procurement system - tend to be amended too frequently. This instability impacts negatively on legal certainty and the coherence of the national legal framework. It can complicate further the implementation of laws and policies and it puts at risk the compatibility of Turkish norms with the *acquis communautaire*. This trend sheds light on the need to increase the *global quality of norms*. The centre of government has a key role to play in this respect by strengthening the overall regulatory and policy-making system.

Public Administration

The government is embarked on a comprehensive budget reform: towards a performance-based budget system in which line ministries will be responsible and accountable for implementation of the budget. There is increasing recognition that the transition from the previous system to the new one has to be managed over a long period of time with a phased approach. However, the mid-2010 target date for full implementation of the financial management and control arrangements and of internal audit remains optimistic. This reform has the potential to drive much wider administrative reform, which will be especially important given the blockages occurring elsewhere.

Limited progress took place in the public procurement area. Some administrative re-organisation and legislative changes to move towards the EU *acquis* are steps in the right direction, but more needs to be done, especially in concessions and public-private partnerships, irrespective of candidacy status.

Efforts have been made for years to improve the quality of public services, simplify and reduce red-tape and improve the predictability and legal certainty of administrative decision-making through a general law on administrative procedures. This would reduce the overwhelming number of special ad hoc procedures, which create severe burdens on business. A general law on administrative procedures

should also pave the way for the introduction of e-administration and the EU Services Directive. However, this reform is blocked pending constitutional reform.

No major change can be observed in the civil service area. Political neutrality and democratic responsiveness should be promoted in the public bureaucracy along with a new balance between well established values - such as of control, conformity and authority through the position and command control paradigm - and new values - such as accountability, openness and transparency. Improvements in these areas are necessary to align Turkish administrative values with those prevailing in the European administrative space. Training and social dialogue should be strengthened to support this change.

Judiciary

The reform of the judiciary is a priority. An integrated reform is needed, which would include case management, human resources management, information technologies and infrastructures along the lines that were defined in the 9th Reform Package. These reform plans should now be implemented.

Anti-corruption Policy

Corruption is still a problem, particularly in politics. Financing of political parties and campaigns is opaque. The lack of control and verification of asset declarations continues to be a weak point in protecting the integrity system in parliament and government, which shows the minor importance attached to this issue among politicians. Members of parliament and of the government are not subject to any employment restrictions after their term of office. The lack of regulation in such a sensitive area should be addressed.

However, improvements are noticeable in certain administrative areas, but systemic reforms and pro-integrity strategies have not progressed. The initiative of the Prime Ministry Inspection Board to propose a national strategy against corruption is commendable and should be encouraged as a way of making a large number of administrative bodies, inspectorates and management settings more engaged and responsible for reducing corruption.