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Monitoring Report:

The Principles of Public Administration

TURKEY
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LIST OF ABBREVIATIONS AND ACRONYMS

ANKÜSEM	Ankara University Continuous Education Center
ATASEM	Atatürk University Continuous Training Application and Research Center
BIMER	Prime Ministry Communication Centre System
CHU	Central Harmonisation Unit
CIMER	Communications Centre of the Presidency
CIO	Chief Information Officer
CoG	centre of government
CoM	Council of Ministers
CoS	Council of State
CPI	Corruption Perceptions Index
EI	European integration
EKAP	Electronic Public Procurement Platform
EU	European Union
FETÖ	Fethullahçı Terrorist Organisation
FMC	financial management and control
HPC	High Planning Council
HR	human resources
HRM	human resource management
HRMIS	Human Resource Management Information System
IA	internal audit
IACB	Internal Audit Co-ordination Board
IIA	Institute of Internal Auditors
IMF	International Monetary Fund
IPA	Instrument for Pre-accession Assistance
ISO	International Organization for Standardization
ISSAIs	International Standards of Supreme Audit Institutions
IT	information technology
KAYSIS	Electronic Public Information Management System
KPSS	Public Personnel Selection Examination (Turkish acronym)
LCS	Law on Civil Servants
LGAP	Law on General Administrative Procedures
MERSIS	Central Trade Registry System (Turkish acronym)
MoDev	Ministry of Development
MoE	Ministry of Economy

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List of Abbreviations and Acronyms

MoEU	Ministry for European Union Affairs
MoF	Ministry of Finance
MoJ	Ministry of Justice
MoL	Ministry of Labour and Social Security
MoSIT	Ministry of Science, Industry and Technology
MTBF	medium-term budgetary framework
MTFP	Medium Term Fiscal Plan
MTMC	Ministry of Transport, Maritime Affairs and Communications
MTP	Medium Term Program
NAP	National Action Plan for European Union Accession
NPAA	National Programme for the Adoption of the <i>Acquis</i>
OHAL	<i>Olağanüstü Hâl</i> (state of emergency, Turkish acronym)
PAR	public administration reform
PFM	public financial management
PFMC	public financial management and control
PIFC	public internal financial control
PM	Prime Ministry
PPA	Public Procurement Agency
PPL	Public Procurement Law
PPP	public-private partnership
RAC	Regional Administrative Courts
RPFDM	Regulating Public Finance and Debt Management
RIA	Regulatory Impact Assessment
SAI	Supreme Audit Institution
SEPSIS	The National e-Government Strategy 2016-2019 and Action Plan Monitoring and Evaluation System
SOE	state-owned enterprise
SPA	State Personnel Administration
SSO	State Supply Office
TBB	<i>Türkiye Belediyeler Birliği</i> (Union of Municipalities, Turkish acronym)
TCA	Turkish Court of Accounts
TGNA	Turkish Grand National Assembly
TODAIE	Public Administration Institute for Turkey and Middle East (Turkish acronym)
TRY	Turkish lira
TSA	treasury single account
UYAP	electronic court management system (Turkish acronym)
WCAG	Web Content Accessibility Guidelines

INTRODUCTION

SIGMA developed the Principles of Public Administration in 2014 to support the European Commission's reinforced approach to public administration reform (PAR) in the European Union (EU) Enlargement process. In 2017, the Principles¹ were updated and a new methodological framework developed to improve clarity, without changing the substance of the conceptual framework. The Principles define what good public governance entails in practice and outline the main requirements to be followed by countries during EU integration. The monitoring framework enables regular analysis of progress made in applying the Principles and setting country benchmarks.

In 2015 SIGMA undertook comprehensive Baseline Measurement assessments for the seven EU Enlargement candidate countries and potential candidates against the Principles and has continued to monitor subsequently the progress of PAR. Monitoring reports were also published in 2016 for assessments in selected priority areas of PAR.

This 2017 Monitoring Report, for the period May 2015 to June 2017, covers the six key areas of reform: strategic framework for public administration reform, policy development and co-ordination, public service and human resource development, accountability, service delivery and public financial management, including public procurement and external audit.

The first part of the Report sets out major developments and progress made since 2015, based on the indicators and methodology used in the Baseline Measurement Reports. The analysis of individual Principles is further enhanced through the introduction of a new set of monitoring indicators and sub-indicators, described in the *Methodological Framework for the Principles of Public Administration*². The indicator values, based on the points allocated to each sub-indicator, are indicative and should not be used nor interpreted on their own without the context of the full qualitative analysis provided under each Principle.

The Report also contains short- and medium-term recommendations to help the administration take concrete actions for tackling some of the most important challenges. These include recommendations from the 2015 SIGMA Baseline Measurement Report³ which have not been implemented yet and are still relevant.

The analytical findings and recommendations in this Monitoring Report are also designed to inform the policy dialogue and discussions between the EC and the administration about priority areas for reform and potential support.

¹ OECD (2017), *The Principles of Public Administration*, OECD, Paris: <http://www.sigmaweb.org/publications/Principles-of-Public-Administration-Edition-2017-ENG.pdf>

² OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

³ OECD (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>.

OVERVIEW

The Turkish public administration has operated in a rather turbulent environment during the assessment period. The Government formed after snap general elections in November 2015 was reform-oriented, including in the area of public administration. A new Government was formed in June 2016 but was soon followed by a military coup attempt on 15-16 July. This resulted in a country-wide state of emergency and the introduction of significant legislative amendments by decree that were still in force when this assessment was conducted. The extraordinary measures applied after the coup also impacted the assessment of some indicators in this report. A constitutional referendum was held on 16 April 2017 on 18 proposed amendments to the Turkish Constitution, including abolition of the office of the Prime Minister and replacing the existing parliamentary system of government with a presidential system. The amended Constitution will take effect in 2019.

EU accession negotiations have stopped since the 2015 assessment. Despite this, the formal special co-ordination mechanisms are in place at both the political and administrative levels, but co-ordination bodies do not meet on a regular basis.

Despite having a long-standing administrative tradition and a well-functioning public administration, several challenges highlighted in SIGMA's 2015 Baseline Measurement Report remain. For example, PAR is not unified as there is still neither a single planning document nor a special co-ordination mechanism devoted to the area. Therefore PAR related goals are found in different key central and institutional planning documents and strategies, although they are well-aligned in terms of objectives, ambition levels and implementation time frames.

This report identifies the following key PAR-related priority areas for Turkey:

- Strengthening the co-ordination mechanisms of PAR both at the political and administrative levels.
- Developing a systematic approach to the whole-of-government planning, monitoring and reporting. Providing central guidance for the sector strategies.
- Reducing the excessive use of extraordinary procedures for adoption of laws, improving the use of evidence-based policy making and systematic public consultation.
- Conducting a comprehensive review of current public service legislation, the institutional set-up and implementation practices, and developing a strategic roadmap of civil service reform.
- Ensuring that the regulation of administrative procedures is transparent and consistently applied to all public institutions and legislation so that the principles of good administrative behaviour are applied uniformly.
- Amending the legislation to integrate revolving funds into the annual budget process.
- Strengthening reporting on internal control and alignment of internal control processes applied for national systems and those applied for EU-funded programmes.
- Taking measures to regulate and monitor all public procurement, in conformity with the *acquis*. Reviewing policies and practices in all public procurement, including that outside the scope of the Public Procurement Law (PPL), and proposing measures to bring all procurements under the PPL or to otherwise ensure their conformity with the *acquis*.
- Ensuring a sustainable and coherent single framework for Public and Private Partnerships (PPP) and concessions.

1

Strategic Framework of Public Administration Reform

STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM

1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

1.1. State of play

Turkey has a well-developed planning system in which the key central planning and institutional planning documents, including government programmes⁴, acknowledge public administration reform (PAR) as one of the priorities. However, the understanding of PAR is not unified and fully aligned with the Principles of Public Administration⁵. There are clearly traceable links among the strategic objectives of the long- and medium-term planning documents⁶, and more operational objectives indicated in the institutional planning documents. Planning documents also include performance objectives, performance indicators and target values that are later used for monitoring and evaluation. All PAR-related activities indicated in institutional planning documents are costed, and the documents provide information on budgetary and non-budgetary expenditures as well as breakdowns by economic codes. On the contrary, actions indicated in the 2017 Annual Programme⁷ for implementation of the Tenth Development Plan (TDP) are not costed. Monitoring the implementation of PAR-related objectives and activities is ensured through internal systems in the case of key planning documents – the Development Plan, and Medium Term and Annual Programmes – while information on implementation of Performance Programmes is made public in Annual Accountability Reports.

Since there is no single planning document for PAR in Turkey, there is no special co-ordination mechanism devoted to overseeing its implementation. There are two high-level co-ordination bodies that review, among other topics, implementation of PAR-related objectives: the High Planning Council (HPC) chaired by the Prime Minister, and the Reform Co-ordination and Monitoring Board chaired by one of the Deputy Prime Ministers. Information on the work of these co-ordination structures is not publicly available. The Ministry of Development (MoDev) is assigned the role of co-ordinating implementation of the TDP and its PAR-related objectives. Otherwise, planning and implementation of PAR-related activities is decentralised.

1.2. Main developments

The following sections describe key changes in the public administration for each key requirement and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement Reports.

The 64th Turkish Government was formed after the election in late 2015, but the Government changed again in mid-2016, and a new 65th Government Programme was adopted⁸. The new Programme maintained the previous one's comprehensive section on improving the public governance system, however, and execution of the 64th Government Action Plan⁹ continued during 2016.

⁴ Both the 64th and the 65th Government Programmes have sections devoted to governance issues (64th Government Programme, pp. 32-36; 65th Government Programme, pp. 25-28).

⁵ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf

⁶ The Tenth Development Plan 2014-2018, Turkish Grand National Assembly Decision No. 1041 of 2 July 2013; Medium Term Programme 2017-2019, Council of Ministers (CoM) Decision No. 2016/9300 of 7 September 2016; Medium Term Fiscal Plan 2017-2019; the 65th Government Programme, Republic of Turkey, Ankara, 24 May 2016; 2017 Pre-Accession Economic Reform Programme, High Planning Council Decision No. 2017/1 of January 2017.

⁷ 2017 Annual Programme, adopted by the CoM Decision No. 2016/9368 of 3 October 2016.

⁸ 65th Government Programme, Republic of Turkey, Ankara, 24 May 2016.

⁹ 64th Government Action Plan for 2016: Actions and Reforms, 10 December 2015.

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The 65th Government Programme includes a special section on governance and highlights PAR as one of six priority areas and, along with the Medium Term Programme 2016-2018, includes references to accountability-related reforms. As a result of this, the value for the indicator 'Extent to which the scope of PAR central planning document(s) is complete' has risen from 3 to 4.

No progress can be identified in implementation of the short-term recommendations of the 2015 SIGMA Baseline Measurement Report¹⁰, as the Medium Term and Annual Programmes do not provide target values for performance indicators of the PAR-related objectives identified in the TDP; there are also no publicly available monitoring system or implementation reports for these central planning documents. In addition, there is no information about specifically PAR-focused discussions at the political or administrative level. The institutions involved implement PAR-related objectives and activities within their own domains, without centralised direction.

Although the share of public administration development activities and reforms has decreased slightly, there has at the same time been a substantial increase in the share of resourced and costed PAR measures. However, a negative development is that the Strategic Plan of the Prime Ministry 2011-2015 expired at the end of 2015 and a new one has not been prepared. Also, there is no Performance Programme of the Prime Ministry for 2016 or 2017. Despite this, the Prime Ministry (PM) has prepared an Annual Accountability Report for 2016¹¹.

Table 1: Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports¹²

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which the scope of PAR central planning document(s) is complete.	3	4
	Extent to which a comprehensive PAR reporting and monitoring system is in place.	4	4
Quantitative	Ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently.	60%	60%
	Share of public administration development activities and reforms from all activities in PAR planning documents.	85%	69%
	Annual implementation backlog ¹³ of public administration development activities and reforms.	Not available ¹⁴	Not available ¹⁵

¹⁰ OECD (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, pp. 12 and 15, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>.

¹¹ 2016 Annual Accountability Report of the Prime Ministry, Republic of Turkey, Ankara, 2017.

¹² OECD (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>

¹³ The indicator evaluates the implementation rate of public administration development activities and reforms within the year.

¹⁴ As the Annual Accountability Reports of Performance Programmes focus on achievement of targets rather than activities, it is impossible to calculate the implementation backlog.

¹⁵ Ditto.

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	Percentage of fulfilled PAR objectives.	Not available ¹⁶	27% ¹⁷
	Share of resourced and costed PAR measures.	67%	100%

¹⁶ 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.

¹⁷ Calculation based on information from the 2016 Annual Accountability Reports of the MoDev, Ministry of Finance (MoF), Ministry of Transport, Maritime Affairs and Communications (MTMC), and the SPA. Only PAR-related objectives were selected and performance information (planned and actually achieved target values of performance indicators) were analysed.

2. ANALYSIS

This analysis covers four Principles for the strategic framework of public administration reform area, grouped under one key requirement. It includes a summary analysis of the indicator used to assess against each Principle, including sub-indicators¹⁸, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

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

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

There is no overarching planning document dedicated exclusively to PAR. At the same time, all the key planning documents stress the importance of PAR. The TDP, the 65th Government Programme¹⁹, the Medium Term Programme 2017-2019²⁰ and the Medium Term Fiscal Plan 2017-2019, as well as the 2017 Pre-Accession Economic Reform Programme²¹ and the National Action Plan for European Union (EU) Accession 2016-2019 identify either a general need to improve public administration, or focus on particular aspects of it such as public service delivery to citizens and businesses, policy development and strategic planning, or improving public financial management (PFM), especially public expenditure. Importantly, the 65th Government Programme identifies changes in public administration as one of the six areas in which it envisages intensified efforts²², signalling the political importance of PAR. Although the key medium-term PAR planning documents are aligned in terms of objectives, ambition

¹⁸ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

¹⁹ 65th Government Programme, Republic of Turkey, Ankara, 24 May 2016.

²⁰ Medium Term Programme 2017-2019, Council of Ministers Decision No. 2016/9300 of 7 September 2016.

²¹ 2017 Pre-Accession Economic Reform Programme, High Planning Council Decision No. 2017/1 of January 2017.

²² 65th Government Programme, Republic of Turkey, Ankara, 24 May 2016, p. 11.

levels or implementation time frames, the absence of an annual legislative plan makes it impossible to assess the coherence of planning documents with legislative PAR-related activities.

Almost all aspects of PAR are comprehensively covered by key planning documents. The highest-level central planning document, the TDP, explicitly covers the areas of policy development, public service and human resource management, service delivery and PFM. In addition, the Medium Term Programme states that three out of five growth axes – development of human capital, increasing capacity of technology and innovation, and improving institutional quality – include PAR-related activities²³. The Medium Term Fiscal Plan and the Pre-Accession Economic Reform Programme largely repeat the priority statements of the Medium Term Programme. Accountability is the only area with limited coverage. However, in comparison with the 2015 Baseline Measurement assessment²⁴, more attention has been devoted to it, especially in the 65th Government Programme²⁵ and the Medium Term Programme²⁶.

In addition to the key planning documents, there are some sectoral PAR strategies, for example the Increasing Transparency and Strengthening Fight with Corruption Action Plan²⁷, the Information Society Strategy and Action Plan²⁸, and the National e-Government Strategy and Action Plan²⁹. Sectoral strategies are not, however, the key implementation planning tools for overarching PAR objectives.

PAR objectives are implemented through the institutional planning system regulated by the Public Financial Management and Control (PFMC) Law³⁰. The system is based on medium-term strategic plans of institutions, implemented through annual Performance Programmes and then reported on through Annual Accountability Reports³¹. The institutional planning documents of the PM, the MoDev, the Ministry of Finance (MoF), the Ministry of Transport, Maritime Affairs and Communications and the State Personnel Administration (SPA) form the core structure for implementing PAR-related objectives and reforms. While valid Strategic Plans and Performance Programmes exist for all institutions, the latest available strategic plan of the PM covers the 2011-2015 period, and there is no new strategic plan in place. Also, the PM has not prepared Performance Programmes for 2016 and 2017; there is, however, an Annual Accountability Report for 2016 based on the outdated strategic plan. The lack of valid strategic plans and performance programmes is a direct breach of the PFMC Law No. 5018.

The content of the institutional planning documents is well developed: in addition to situation analysis and strategic objectives and activities linked to the key planning documents, they include performance indicators (both output and outcome levels) and their targets, as well as financial information linked to activities. Monitoring and reporting on activities and indicators are done through annual Accountability

²³ Medium Term Programme 2017-2019, Council of Ministers Decision No. 2016/9300 of 7 September 2016, pp. 12 and 22-33 of the chapter “Fiscal Policy” that details reform activities such as public spending reviews (paragraph 115); ensuring compliance between strategic plans and other planning documents (paragraphs 122, 160, 161 and 164); improving the quality of public services (paragraph 125); and developing a performance evaluation system for public employees (paragraph 162).

²⁴ OECD (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, p.9, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>, describing Principle 1 analysis.

²⁵ 65th Government Programme, Republic of Turkey, Ankara, 24 May 2016, pp. 25-28 of chapter on governance issues, covering aspects of institutional reorganisation and enhancement of overall public administration effectiveness, as well as implementation of principles such as participation, transparency, accountability and effectiveness.

²⁶ For example, Medium Term Programme 2017-2019, CoM Decision No. 2016/9300 of 7 September 2016, paragraphs 68 and 69.

²⁷ PM Circular No. 2016/10 on Increasing Transparency and Strengthening Fight with Corruption Action Plan, Republic of Turkey, Ankara 2016.

²⁸ Information Society Strategy and Action Plan 2015-2018, Republic of Turkey, Ankara, March 2015.

²⁹ National e-Government Strategy and Action Plan, 2016-2019, Republic of Turkey, Ankara, 2016.

³⁰ PFMC Law No. 5018 of April 2012.

³¹ *Idem*, Articles 9 and 16.

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Reports that are made public³². Analysis of activities from the Performance Programmes of the institutions listed above shows that 69% of all actions are reform-oriented, while the rest tend to be process-oriented and recurrent.

During 2016 the 64th Government Action Plan for 2016³³ was prepared and included also some PAR-related activities. The Action Plan remained valid and its implementation continued also after the change of Government in mid-2016. The approach was discontinued in 2017 and there is currently no government-wide planning document for implementation of the Government Programme that would include information on the execution of political PAR-related statements mentioned in the 65th Government Programme.

A major downside of Turkey's institutional planning system is that most planning documents in the PAR area are elaborated within the administration, without formal requirements or regular practice to undertake public consultations. The most important exception is the TDP, which is prepared through a participatory approach involving representatives of civil society organisations³⁴.

Coverage of PAR in high-quality planning documents is almost fully comprehensive, and PAR is regarded as a priority in the key horizontal planning documents. But coherence of legislative planning is not ensured in the absence of an annual government legislative plan and there is limited involvement of external stakeholders in the planning process. As a result, the value for the indicator 'Quality of the strategic framework of public administration reform' is 4.

Quality of the strategic framework of public administration reform						
This indicator measures the quality of the strategy for public administration reform (PAR) and related planning documents (i.e. to what extent the information provided is comprehensive, consistent and complete), including the relevance of planned reforms.						
A separate indicator measures financial sustainability and cost estimates in detail.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Coverage and scope of PAR planning documents	4/5
2. Prioritisation of PAR in key horizontal planning documents	2/2
3. Coherence of PAR planning documents	2/4
4. Presence of minimum content of PAR planning documents	7/7
5. Reform orientation of PAR planning documents	1/3
6. Quality of consultations related to PAR planning documents	0/2
Total³⁵	16/23

There is no single planning document for PAR in Turkey. However, the key long- and medium-term planning documents include objectives and reform targets covering all PAR areas except accountability. The objectives are further elaborated and implemented through a well-developed institutional planning system. The drawback of this approach is that planning documents are

³² For example, see the 2016 Annual Accountability Report of the Prime Ministry (http://www.basbakanlik.gov.tr/docs/KurumsalHaberler/Basbakanlik_2016_Faaliyet_Raporu.pdf) and the 2016 Annual Accountability Report of the MoDev (<http://www.kalkinma.com.tr/yillik-faaliyet-raporlari.aspx>).

³³ 64th Government Action Plan for 2016: Actions and Reforms of 10 December 2015.

³⁴ The Tenth Development Plan 2014-2018, Turkish Grand National Assembly Decision No. 1041 of 2 July 2013, paragraph 11.

³⁵ Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-23=5.

developed, monitored and evaluated without the participation of civil society organisations. At the same time, however, civil society can scrutinise the published institutional Annual Accountability Reports.

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

The key planning documents – the TDP, the Medium and Annual Programmes and the 65th Government Programme – as well as institutional planning documents, include PAR-related objectives and activities. Most of these documents also include performance targets and indicators (historic and target values) for monitoring and evaluation. There is no detailed description available on the exact content, method or responsibility for measurement of the performance indicators used for monitoring. Performance indicators include both output and outcome-level measurement; hence some are linked more to numerical delivery of activities while others are better linked to the attainment of the set objectives.

While the annual Performance Programmes and the Annual Accountability Reports of institutions are all publicly available, information obtained during interviews with representatives of the MoDev indicates that the Development Plan and the Medium Term and Annual Programmes are monitored through internal systems, but no public reports are available. Furthermore, there are no provisions for obligatory political-level annual reporting on implementation of PAR-related objectives and activities specifically. Also, civil society organisations are not involved in either the monitoring or evaluation processes of PAR.

In contrast, the institutional planning system has a developed performance reporting system regulated by the PFMC Law³⁶, which mandates annual reporting on implementation of the institutional Performance Programmes. In addition to being published, these reports are sent to the MoF and the Court of Accounts.

Strategic Plans and Performance Programmes are institutionally based, and PAR-related objectives and activities are therefore included under various strategic objectives. Analysis of the 2016 Performance Programmes and Annual Accountability Reports of institutions most connected with implementation of PAR-related objectives and activities³⁷ reveals that 27% of performance objectives related to PAR were fully achieved. Since the institutional Performance Programmes and Accountability Reports focus on performance indicator targets that also cover several generally or specifically described activities, the most accurate account of PAR-related activity achievement can be obtained by analysing implementation of the performance indicator targets attached to the respective activities. In 2016, 54% of all PAR-related performance indicator targets were met or exceeded.

As the outcome-level indicators for measuring the progress of PAR-related planning documents are not described in detail and civil society is not involved in PAR monitoring, and because there are limitations in the fulfilment of PAR-related objectives and activities, the value for the indicator ‘Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting’ is 2.

³⁶ PFMC Law No. 5018, Section 6, of April 2012.

³⁷ The MoF, the MoDev, the MTMC and the SPA. The PM has neither a valid Strategic Plan nor a Performance Programme covering 2016, but it does have a 2016 Annual Accountability Report.

Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting

This indicator measures the track record of implementation of PAR and the degree to which the goals were reached. It also assesses the systems for monitoring and reporting of PAR.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
1. Comprehensiveness of PAR reporting and monitoring systems	5/8
2. Implementation rate of PAR activities (%)	1/4
3. Fulfilment of PAR objectives (%)	2/4
Total³⁸	8/16

In its institutional planning documents, Turkey has a well-developed structure of PAR-related objectives and activities that are monitored annually and provide information on both output and outcome-level performance indicator values. Whole-of-government planning documents include information on performance indicators, but monitoring information is not made publicly available. The implementation rate of PAR-related performance objectives and activities during 2016 was mediocre.

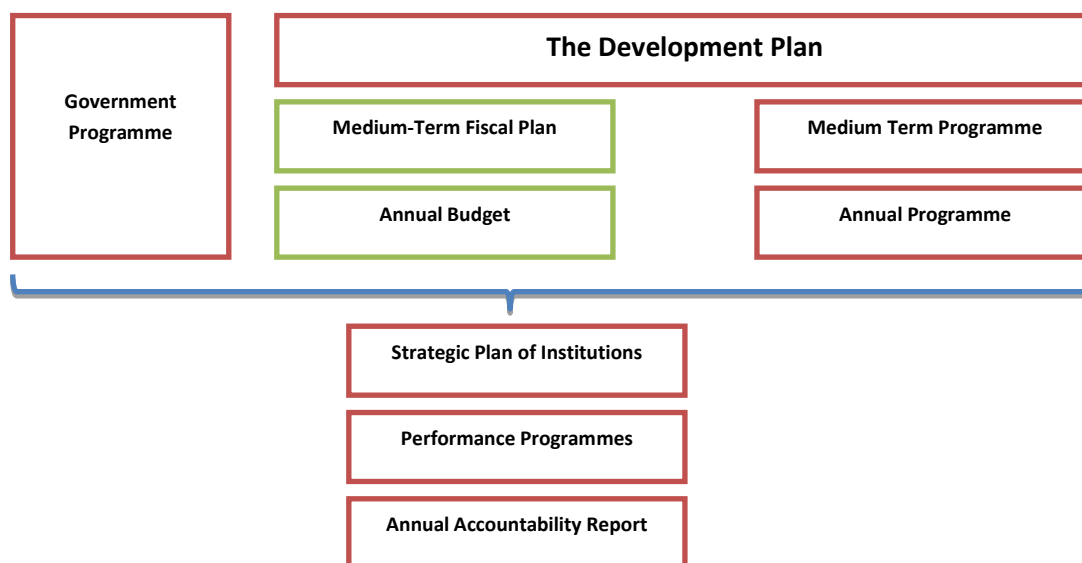
Principle 3: The financial sustainability of public administration reform is ensured.

Financial calculations for implementation of PAR-related objectives and activities are included in the institutional planning documents, while the key whole-of-government planning documents, the TDP and the Medium Term and Annual Programmes, as well as the 64th and 65th Government Programmes, do not include explicit information on financial estimates linked to PAR-related objectives and activities.

The long-term objectives of the TDP in the field of PAR are linked to the Medium Term Programme, which is in turn connected with the medium-term fiscal projections set out in the Medium Term Fiscal Plan. These planning documents are all taken into consideration and transposed into institutions' Strategic Plans and Performance Programmes.

³⁸ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

Figure 1. Schematic linkage between central planning and institutional planning systems



Source: SIGMA, based on relevant legislation and information from interviews with the administration.

All the PAR-related activities indicated in the Performance Programmes of involved institutions are costed, with information provided for the current year and the medium term, broken down into economic codes as well as split between the budget and external sources. Some occasional mentions of the Instrument for Pre-accession Assistance (IPA) and other donor funding can also be found in the Performance Programmes, and special tables in the Strategic Plans and Performance Programmes link objectives and activities with available financing, illustrating both the strategic and operational aspects of implementation. The only financial information missing is the identification of which costs are recurrent and which are temporary.

Comparisons of planned financial inputs for PAR-related activities with actual annual budget appropriations are limited, as the annual budget is presented on an institutional basis rather than by programme. However, because the annual budget is based on institutional Performance Programmes³⁹, financial coverage of PAR-related activities is fully ensured. Furthermore, the correspondence between expenditures and outcomes can be determined through analysis of the Annual Accountability Reports, revealing how allocations over time influence the achievement of set target values of the performance indicators used in both Strategic Plans and Performance Programmes.

As PAR-related activities are all costed and only the differentiation between recurring and one-off costs is missing from the costing, and as the financial sustainability of activities is ensured through the annual institutional budgets, the value for the indicator 'Financial sustainability of PAR' is 4.

³⁹ Analyses of the 2017 Performance Programmes of the MoF, MoDev, SPA and MTMC show that their projected total budgets are fully aligned with their planned budgets in the 2017 Annual Budget.

Financial sustainability of PAR						
This indicator measures to what extent financial sustainability has been ensured in PAR as a result of good financial planning.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Costed PAR activities (%)	3/3
2. Completeness of financial information in PAR planning documents	3/4
3. Actual funding of the PAR agenda	3/3
Total⁴⁰	9/10

The institutional planning practice ensures a straightforward system for linking PAR-related objectives and activities with short- and medium-term funding. There is an almost full breakdown of costs for the financing of planned PAR activities, and they correlate completely with annual budget appropriations.

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

There is no single PAR co-ordination mechanism in Turkey, and the fragmented structure of PAR planning documents also impacts the various co-ordination mechanisms and their functioning. According to legal provisions⁴¹, the PM and the MoDev are the central institutions for co-ordinating PAR efforts and supporting political and administrative co-ordination bodies. However, a lack of evidence prevents confirmation of this in practice.

According to Article 2 of the Establishment Law of the PM⁴², the PM is responsible for establishing principles for the effective and productive functioning of public administration, as well as for monitoring implementation of the Government Programme, development plans and annual programmes. Also, according to Prime Ministry Circular No.2015/16⁴³, the PM is responsible for supporting the Reform Co-ordination and Monitoring Board in monitoring implementation of the Government Action Plan for 2016⁴⁴ and its reforms in the area of PAR.

Furthermore, Article 16 of the Establishment Law of the Prime Ministry⁴⁵ mandates that the PM's Administration Development Department is "to be in touch with responsible organizations regarding the improvement of public administration and to ensure co-ordination among these organizations". Thus, there are legal provisions for co-ordination, monitoring and reporting functions in the field of PAR, but there is no evidence that these functions are being performed, with the exception of monitoring of the 2016 Government Action Plan.

⁴⁰ Point conversion ranges: 0=0, 1-3=1, 4-5=2, 6-7=3, 8-9=4, 10=5.

⁴¹ The establishment laws of the PM and the MoDev, i.e. the Law amending the Decree Law on the Organisation of the Prime Ministry No. 3056 of 10 October 1984 and the Decree Law on the Organisation of the Ministry of Development No. 641 of 3 June 2011.

⁴² Law amending the Decree Law on the Organisation of the PM No. 3056 of 10 October 1984, Articles 2(b) and 2(e).

⁴³ PM Circular No. 2015/16 on the Reform Co-ordination and Monitoring Board of 12 December 2015.

⁴⁴ 64th Government Action Plan for 2016: Actions and Reforms of 10 December 2015.

⁴⁵ Law amending the Decree Law on the Organisation of the PM No. 3056 of 10 October 1984, Article 16(b).

Turkey
Strategic Framework of Public Administration Reform

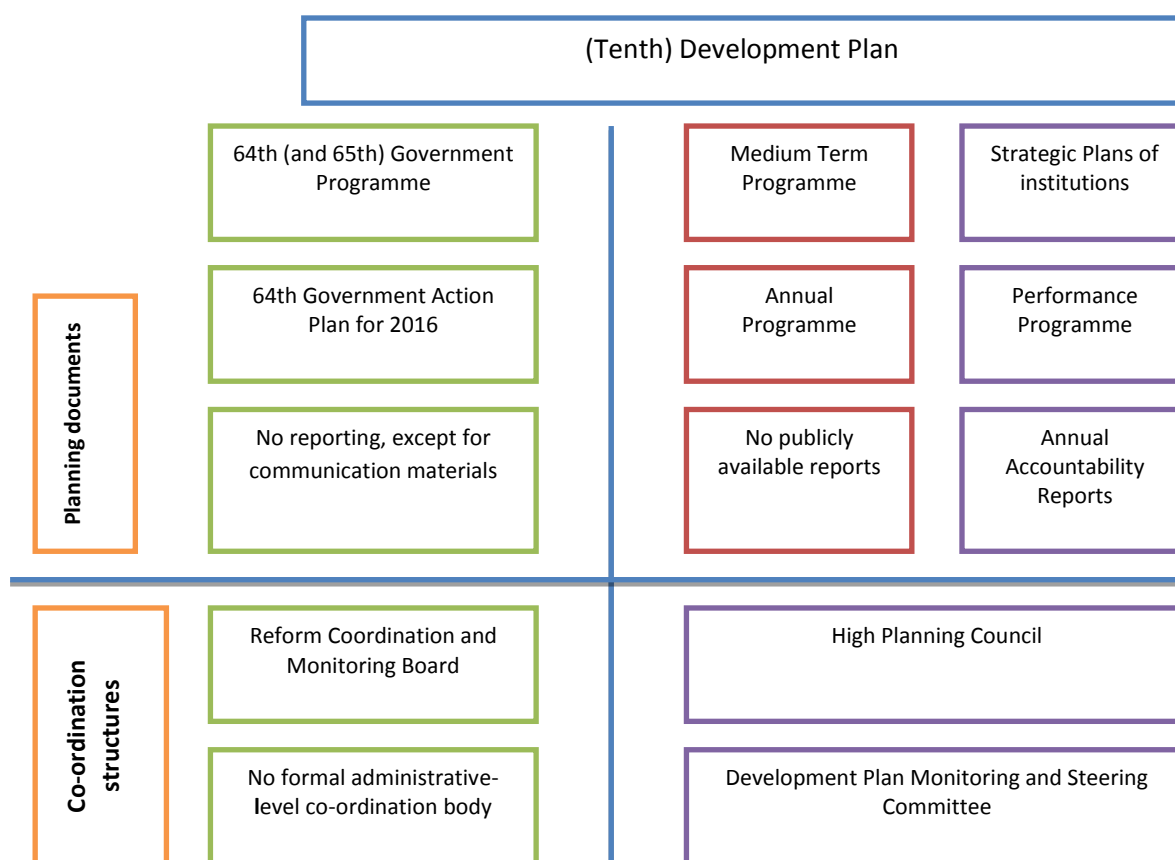
In Article 2 of the Establishment Law of the Ministry of Development⁴⁶, the MoDev has a similar obligation “to monitor the implementation of development plans and annual plans and to co-ordinate, evaluate and make changes, if necessary, in accordance with the procedures in development plans and annual programs”. Structural units of the MoDev (e.g. the General Directorate of Annual Programs and Evaluation, and the General Directorate of Economic Models and Strategic Researches) are also, according to its Establishment Law⁴⁷, tasked with monitoring, co-ordinating and providing advice to other public institutions on implementing development plans and annual programmes.

No individual or managerial responsibilities are assigned for each PAR-related activity indicated in the 2016 Government Action Plan or the Performance Programmes of ministries responsible for implementing PAR-related objectives of the TDP.

In practice, there are two parallel systems of co-ordination structures, each supported by different public administration bodies. One is intended to support the Reform Co-ordination and Monitoring Board in monitoring the implementation of reforms envisaged by the Government Programme, and is led by the PM. The second system supports the work of the HPC in monitoring implementation of development plans and medium-term and annual programmes, with the MoDev providing secretarial support.

No evidence was provided to demonstrate that any of these co-ordination structures met during 2016, or discussed or made decisions regarding PAR at either the political or administrative level. Also, no evidence was provided that the administrative-level Development Plan Monitoring and Steering Committee has been established and is operational.

Figure 2. Co-ordination structure of different planning documents



Source: SIGMA, based on information from planning documents and interviews with the administration.

⁴⁶ Decree Law on the Organisation of the MoDev No. 641 of 3 June 2011, Article 2(f).

⁴⁷ For example, the Decree Law on the Organisation of the MoDev No. 641 of 3 June 2011, Articles 7(c) and 8(e).

Table 2. Composition of political and administrative-level co-ordination bodies.

Reform Coordination and Monitoring Board ⁴⁸	High Planning Council ⁴⁹	Development Plan Monitoring and Steering Committee ⁵⁰
Deputy Prime Minister (chair)	Prime Minister (chair)	Under-Secretary of the Ministry of Development
Deputy Prime Minister	Deputy Prime Minister	Should be “comprised of high level administrators from related ministries” ⁵¹ that are not specified in the Tenth Development Plan itself.
Minister of Justice	Deputy Prime Minister	
Minister of Development	Minister of Development	
Minister of Finance	Minister of Finance	
Minister of Labour and Social Security	Minister of Energy and Natural Resources	
Minister of EU Affairs	Minister of Transport, Maritime Affairs and Communication	
Minister of Economy	Minister of Forestry and Water Works	
Minister of Interior		
Secretariat functions filled by		
Prime Ministry	Ministry of Development	Ministry of Development

Source: SIGMA aggregated information based on document review.

None of the co-ordination bodies include representatives of non-governmental organisations, and they are also not involved in monitoring activities of the planning documents, with the exception of the TDP, which explicitly describes the participatory manner in which it was created⁵².

As there is no individual or managerial accountability attached to the implementation of individual PAR-related activities in the planning documents, and especially because there is no information about the functioning of PAR co-ordination forums, the value for the indicator ‘Accountability and co-ordination of PAR’ is 1.

⁴⁸ PM Circular No. 2015/16 on the Reform Coordination and Monitoring Board, 12 December 2015.

⁴⁹ PM Circular No. 2016/13 on Government Members Who will Take Part in Boards, 27 May 2016.

⁵⁰ The TDP, Turkish Grand National Assembly Decision No. 1041, Ankara, 2 July 2013, paragraphs 15 and 16.

⁵¹ *Ibid.* The TDP foresees the provision of further details in the Cabinet Decree on Application, Co-ordination and Monitoring of Annual Programmes, but this Decree was not provided for analysis.

⁵² The TDP, Turkish Grand National Assembly Decision No. 1041 of 2 July 2013, paragraph 11.

Accountability and co-ordination in PAR						
This indicator measures the extent to which leadership and accountability in PAR are established, the regularity and quality of co-ordination mechanisms at both the political and administrative levels, and the performance of the leading institution.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Establishment of organisational and managerial accountability for PAR	4/6
2. Co-ordination mechanisms for PAR	0/10
Total⁵³	4/16

There is no single PAR co-ordination mechanism in Turkey. Two institutions, the PM and the MoDev, are responsible for co-ordinating two sets of planning documents that include, among other things, PAR-related objectives and actions. Co-ordination bodies created for these two sets of documents also convene separately, with two separate political-level co-ordination mechanisms. No evidence is available concerning their meetings, issues discussed or decisions taken in regard to PAR.

Key recommendations

Short-term (1-2 years)

- 1) The MoDev should ensure that the Annual Programme contains the necessary performance indicators and targets to monitor the progress achieved against PAR-related and other policy objectives.
- 2) The MoDev should establish a clear monitoring and evaluation system for the Development Plan and the Annual Programme. The monitoring system should support the implementation of PAR measures, and achievement of performance indicator targets should be tracked.
- 3) 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 is directed towards agreed objectives.
- 4) The institutions in charge of PAR co-ordination – the MoDev, the MoF, the PM and the SPA – 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 and should also include civil society representation.

Medium-term (3-5 years)

- 5) The MoDev and the MoF should review institutional Performance Programmes to ensure that they focus sufficiently on reform measures and do not contain a large number of recurring non-reform activities.
- 6) The MoDev and the MoF should develop systematic requirements for including civil society in monitoring and evaluation of PAR-related activities.

⁵³ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

2

Policy Development and Co-ordination

POLICY DEVELOPMENT AND CO-ORDINATION

1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

1.1. State of play

Turkey has a long-standing administrative tradition. The legal framework of the centre-of-government (CoG) institutions almost fully covers the critical functions defined by the Principles of Public Administration⁵⁴. The functions and procedures governing the European integration (EI) process under the leadership of the Ministry for EU Affairs (MoEU) are equally well defined. While the country's administration performs well in a number of areas – including legal scrutiny of drafts, the consistency and availability of regulation, transposition of the European Union (EU) *acquis* – several challenges remain concerning the functioning of the CoG, and the translation of policy-development structures and procedures into high-quality policy proposals. No government-wide policy-planning system exists allowing implementation and follow-up of whole-of-government priorities, nor are there regulations defining sectoral planning through specific sector strategies. Turkey does have a well-developed and functioning planning system at the institutional level, with mostly well-established monitoring of planning documents; however, with the exception of Annual Accountability Reports, implementation reports are not publicly available. Implementation of EU-related commitments is weak, as indicated by a major backlog of implementation of the National Action Plan for EU Accession⁵⁵ (NAP). Relations between the Government and the Parliament are not formalised, but this does not prevent the Parliament from scrutinising the Government in several ways, particularly through written and oral questioning. Comprehensive scrutiny of all draft policy proposals is not ensured, and tools for evidence-based policy making are not sufficiently utilised. The use of public consultation is not systematically embedded, particularly in the early stages of policy development.

1.2. Main developments

The following section describes the key changes in the public administration for each key requirement and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement Reports.

Overall, no significant changes were made in the policy co-ordination and development area. Despite some positive developments in planning the work of the Government, the key challenges remained unresolved. However, the Turkish administration's strong functioning, including well-developed institutional planning and monitoring, intensive interministerial consultation practice and easy access to legislation, also remained unchanged.

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

The assignment of critical CoG functions has not changed. However, a change in practice did take place in 2016, with the elaboration of the Government Action Plan⁵⁶ for the implementation of the whole-of-government priorities indicated in the 64th Government Programme⁵⁷. Due to this change, the 2017 value for the indicator measuring critical CoG functions has increased from 3 to 4. Re-establishment of whole-of-government annual planning and monitoring was one of the short-term recommendations of

⁵⁴ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

⁵⁵ National Action Plan for EU Accession 2016-2019.

⁵⁶ 64th Government Action Plan for 2016: Actions and Reforms, 10 December 2015.

⁵⁷ 64th Government Programme, 25 November 2015.

the 2015 SIGMA Baseline Measurement Report⁵⁸. However, the practice has not continued in 2017. While the Prime Ministry (PM) still co-ordinates and monitors key governmental reforms, the process itself is not formalised, systematically planned or monitored.

The MoEU is still responsible for implementing all of the critical EI functions. For this reason, the value for the indicator has not changed.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports⁵⁹

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Proportion of critical CoG functions that are fulfilled by the institutions.	3	4
	EI functions are fulfilled by the institutions.	5	5

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

No significant changes have taken place since 2015, except for the elaboration of the 2016 Government Action Plan for the implementation of the 64th Government Programme, which listed reforms and actions to be implemented within three months, six months and by the end of 2016. Implementation of the Plan continued throughout 2016, despite the change of Government and approval of the 65th Government Programme⁶⁰. This approach was discontinued and no formal whole-of-government annual Action Plan exists for 2017. The PM still co-ordinates the main reforms on an informal, *ad hoc* basis. It also produced reports on the first 100 days and the annual implementation of the 2016 Government Action Plan, but they did not include information on either output or outcome-level indicators. Both reports were produced for communication purposes, rather than to provide detailed analysis on achievements in reaching Government objectives. In this sense, the 2015 Baseline Measurement recommendation on the unified monitoring system has only been partially implemented.

The annual report on the State budget and the 2016 implementation report of the NAP provide basic information on achievements. However, no NAP implementation report was developed in 2015.

Financial estimates are still not being provided in sector strategies. No formal requirements or guidelines exist on preparing sector strategies, except those pertaining to the general costing requirements for policy drafts⁶¹. Moreover, the 2016 Government Action Plan did not include any cost estimates, contrary to the recommendation provided in the 2015 Baseline Measurement Report.

The value for the indicator measuring the annual implementation backlog in central planning documents cannot be established, as the Government Action Plan does not contain the necessary information for calculation. However, the value for the indicator measuring the backlog related to EI commitments is set at 62%, as the revisions of the NAP offer an opportunity to compare similar plans.

⁵⁸ OECD (2015), *Baseline Measurement Report: Turkey*. OECD Publishing, Paris, p. 21, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>.

⁵⁹ OECD (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>.

⁶⁰ 65th Government Programme, 24 May 2016.

⁶¹ As set in the Public Financial Management and Control Law No. 5018 of April 2012 and in the By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005.

Table 2. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Completeness of financial estimates in sector strategies ⁶² .	1	1
	Extent to which reporting provides information on the outcomes achieved.	2	2
Quantitative	Annual implementation backlog of planned commitments in the central planning document(s).	Not available ⁶³	Not available ⁶⁴
	Annual backlog in developing sectoral strategies.	0%	Not available ⁶⁵
	Ratio between total funds estimated in the sectoral strategies and total funding identified for corresponding sectors within the MTBF ⁶⁶ .	0%	0%
	Annual implementation backlog of EI-related commitments.	Not available ⁶⁷	62%

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.

This key requirement has seen no significant changes since 2015; however, one positive change is that some committees of the Turkish Grand National Assembly (TGNA) have started to discuss reports on the implementation of major policies. There is still no regulation setting a minimum time for submitting items to sessions of the Council of Ministers (CoM).

The ratio of laws initiated by the Government and adopted by the Parliament in under 12 months is 45%, only slightly lower than the 2015 baseline value, indicating there has been no change in the Parliament's handling of Government-sponsored draft laws. This indicator value also confirms that the short-term recommendation for establishing forward-planning between the Government and the TGNA to ensure better resource planning by the Parliament to perform legislative quality control has not been implemented.

⁶² A sample of five recently adopted sector strategies is used.

⁶³ Turkey does not have a Government Annual Work Plan that can serve as the basis for calculating the backlog value.

⁶⁴ The Government Action Plan for the implementation of the 64th Government Programme does not contain information that can serve as the basis for calculating the backlog value.

⁶⁵ Ditto.

⁶⁶ The ratio is calculated as a percentage (0% being the minimum and 100% the maximum), illustrating the differences in planned funding in the last five strategies adopted and the medium-term expenditure framework (MTEF). The outcome value of the indicator is the average of the five cases. In the event it is not possible to make the calculation due to a lack of financial data in the MTEF and/or in all of some sector strategies, the ratio is determined as 0%.

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

Table 3. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Quantitative	Ratio of regular agenda items submitted on time ⁶⁸ by ministries to the government session.	Not available ⁶⁹	Not available ⁷⁰
	Ratio of laws initiated by the government and approved by the parliament no later than one year after submission.	47%	45%
	Number of law implementation reports discussed in the parliament.	0	1

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

No significant progress was made in 2016 compared to 2015. Policy development continues to be supported by a comprehensive regulatory framework and a high number of relevant staff. Interministerial co-ordination functions well. Legislative drafting, consistency and accessibility continue to be the strongest components of legislative development. Applying the measurement methodology also used in 2015, the only indicator showing a value change measures the extent to which public consultation is used in developing policies and legislation. The lower value does not stem from any systematic deterioration; rather, the samples provided in 2017 did not provide the same insight into the results of public consultation as during the baseline year. Nevertheless, the lack of a systematic focus on public consultation, and recognition of its importance in the legislative process, are serious shortcomings.

In March 2016, the regulation on Regulatory Impact Assessment (RIA) was amended⁷¹, removing the threshold for partial RIA and increasing the threshold for full RIA, as well as strengthening the process and co-ordination of impact analysis. While the practical implications of these new requirements and rules cannot yet be seen, the quality of analysis needs to be significantly improved and the RIA quality-control function rigorously fulfilled in practice. While budgetary impacts are the only impacts regularly assessed in domestic matters, they are missing in the *acquis* alignment documents. Except for partial coverage of the recommendation on enhancing the RIA approach, other short-term recommendations made by SIGMA in 2015⁷² have not been followed.

⁶⁸ "On time" is understood as within the procedural criteria set by regulation(s).

⁶⁹ Data was not provided by the country, because this information is not collected in a systematic way, and there is no regulation specifying a time limit for submitting proposals to the CoM Secretariat before CoM sessions.

⁷⁰ Ditto.

⁷¹ Council of Ministers Decree on the Amendment of the Regulations on the Principles and Procedures for Drafting Legislation No. 2016/8590 of 14 March 2016.

⁷² SIGMA (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, p. 36, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>.

Table 4. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which ministries are oriented towards policy development.	4	4
	Extent to which the policy development process makes the best use of analytical tools.	3	3
	Extent to which public consultation is used in developing policies and legislation.	3	2
	Extent to which the interministerial consultation process occurs.	4	4
	Extent to which primary and secondary legislation is made publicly available in a centralised manner.	5	5

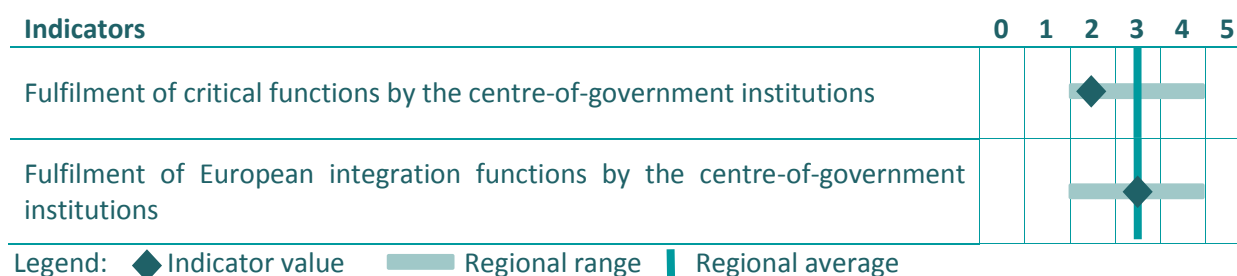
2. ANALYSIS

Policy planning and co-ordination

This analysis covers 12 Principles for the policy development and co-ordination area grouped under 4 key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators⁷³, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

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

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

The critical functions of the CoG in Turkey are well defined in the Decree Laws of the PM⁷⁴, the Ministry of Justice⁷⁵ (MoJ), the Ministry of Finance⁷⁶ (MoF) and the Ministry of Development⁷⁷ (MoDev). The PM is responsible for: 1) preparing the CoM sessions; 2) ensuring the legal conformity of drafts, together with the MoJ; 3) ensuring co-operation among the ministries to implement the Government Programme; 4) communicating Government activities and decisions; and 5) managing the relationship with the Parliament. The MoDev is responsible for leading the preparation of key planning documents (e.g. the Development Plan⁷⁸ and the medium-term and annual programmes) and monitoring their implementation. The MoF is in charge of co-ordinating public-sector resource planning and ensuring that Government policies are affordable.

The Turkish administration performs most of the critical CoG functions. For example, it prepares the annual work plans and reports on implementation of the medium-term and annual programmes; develops sector strategies; and executes public consultation without systematically embedding these in practice through detailed regulation and guidelines. However, as the example of whole-of-

⁷³ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

⁷⁴ Law Amending the Decree Law on the Organisation of the Prime Ministry No. 3056 of 10 October 1984.

⁷⁵ Decree Law on the Organisation of the Ministry of Justice No. 2992 of 29 March 1984.

⁷⁶ Decree Law on the Organisation of the Ministry of Finance No. 178 of 13 December 1983.

⁷⁷ Decree Law on the Organisation of the Ministry of Development No. 641 of 3 June 2011.

⁷⁸ The Tenth Development Plan, 2014-2018, Ankara 2014.

government annual work planning shows⁷⁹, practices can vary over time. Detailed written regulation exists covering legal drafting and conformity.

No formal mechanism exists for co-ordination and co-operation among the CoG institutions. This results not only in a lack of consolidated opinions on draft policy proposals submitted by ministries⁸⁰, but also in a failure to follow joint practices on key planning processes from a whole-of-government perspective.

As a result of the lack of guidelines and institutionalised co-ordination arrangements within the CoG, the value for the indicator ‘Fulfilment of critical functions by the centre-of-government institutions’ is 2.

Fulfilment of critical functions by the centre-of-government institutions						
This indicator measures to what extent the minimum requirements for functions critical to a well-organised, consistent and competent policy-making system are fulfilled by the centre-of-government (CoG) institutions.						
As this indicator is used to assess the fulfilment of the minimum requirements, it does not measure outcomes or include quantitative sub-indicators. The outcomes of some of these critical functions are captured by other indicators on policy development and co-ordination.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Critical functions are assigned to CoG institutions by legislation	8/8
2. Availability of guidelines	0/4
3. Institutionalisation of co-ordination arrangements between the CoG institutions	0/4
Total⁸¹	8/16

All critical functions of the CoG are clearly assigned to specific institutions. However, most of the processes are not in writing and systematically embedded in detailed regulation and guidelines. Formalised co-ordination mechanisms among, and within, the CoG institutions are not in place.

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

EI-related functions are clearly attributed to the MoEU. Its Decree Law No. 634 on the Organisation of the Ministry for EU Affairs, adopted on 3 June 2011, states that it is responsible for: 1) overall EI co-ordination and planning; 2) monitoring the implementation of such plans and preparing reports on the achieved progress; 3) ensuring alignment of national legislation with the *acquis*, by providing opinions on all legal drafts linked to the EI process; and 4) co-ordinating the planning of EU assistance.

As with other whole-of-government functions, few guidelines exist to establish a common approach to these processes. While all institutions can follow existing guidelines on legislative harmonisation, translation of the *acquis* and EU-assistance planning and monitoring, no such helping tool is provided to the ministries for planning and reporting on the EI process or preparing negotiation positions.

The ministries responsible for implementing the EI processes undertake almost all key functions. The MoEU prepares specific EI plans. After a gap of several years after the last National Programme for the

⁷⁹ Further details on the Turkish administration’s planning practices can be found under the analysis of Principle 3 in this report.

⁸⁰ Opinions on the drafts are not consolidated or co-ordinated within the PM itself.

⁸¹ Point conversion ranges: 0-2=0, 3-5=1, 6-9=2, 10-12=3, 13-14=4, 15-16=5.

Adoption of the *Acquis* (NPAA) was adopted in 2008⁸², a new medium-term EI planning document, the National Action Plan for EU Accession (NAP) has been in place since 2014. The most recent medium-term EI plan is the NAP 2016-2019⁸³, which sets out the concrete steps, deadlines and responsible institutions for harmonising the national legislation by negotiation chapters. The document is to support the harmonisation process in line with Turkey's European Union Strategy⁸⁴. While the monitoring and reporting of NPAA implementation was required by regulation⁸⁵ that is not the case for the NAP. Although a report on implementation of the NAP was developed for 2016, none was produced for 2015⁸⁶. The CoM has also mandated the MoEU to provide opinions on all EI-related legislative proposals before their approval⁸⁷, which is also carried out in practice.

The EU agenda is reviewed under its own heading at each session of the CoM, although the pace of EU-accession negotiations has slowed. Formal special co-ordination mechanisms are in place at both the political and administrative levels, but these bodies did not meet on a regular basis in 2016. For example, the Reform Action Group (the political-level co-ordination body) last convened on 8 December 2015, while the administrative-level co-ordination bodies (i.e. the Internal Coordination and Harmonization Committee, and the Sub Committee for Political Affairs) only convened once each in 2016⁸⁸.

Turkey lacks detailed regulation or guidelines for several key EI functions, and the key EI co-ordination forums at the political and administrative levels were not functional in 2016. The value for the indicator the 'Fulfilment of European integration functions by the centre-of-government institutions' is 3.

⁸² Council of Ministers Decision on Co-ordination and Implementation of the National Programme of Turkey on the Supervision of the European Union *acquis* No. 2008/14481 of 31 December 2008.

⁸³ NAP, 2016-2019. This NAP continues the EI planning process that began with the NAP Phase I, November 2014-June 2015, and continued with the NAP Phase II, July 2015-July 2019, compiling all unfulfilled obligations into one planning document.

⁸⁴ Turkey's New EU Strategy: Determination in the Political Reform Process, Continuity in Socio-Economic Transformation, Effectiveness in Communication, announced by the Minister for EU Affairs on 18 September 2014.

⁸⁵ Article 8 of the Council of Ministers Decision on Co-ordination and Implementation of the National Programme of Turkey on the Supervision of the European Union *acquis* No. 2008/14481 of 31 December 2008. Part 2 of Article 2 foresees monthly progress reporting of the Secretary General to the CoM.

⁸⁶ According to representatives of the MoEU this is due to the transition and updating process from the NAP Phase I and Phase II to the new NAP in 2015.

⁸⁷ Council of Ministers Decision on Co-ordination and Implementation of the National Programme of Turkey on the Supervision of the European Union *acquis* No. 2008/14481 of 31 December 2008, Article 7; PM Circular on Co-ordination of the Work related to the European Union No. 2014/16 of 25 September 2014, point 2; and By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005, Article 6, part f.

⁸⁸ Information provided by the MoEU.

Fulfilment of European integration functions by the centre-of-government institutions

This indicator measures to what extent the minimum criteria for European integration functions are fulfilled by the CoG institutions.

As this indicator is used to assess the fulfilment of the minimum criteria, it does not measure outcomes or include quantitative indicators. The outcomes of some of these critical functions are captured by other indicators on policy development and co-ordination.

Overall indicator value	0	1	2	3	4	5
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Sub-indicators	Points
1. Proportion of the EI functions that are assigned to the CoG institutions by law	6/6
2. Availability of guidelines to line ministries and other government bodies	1/4
3. Government's capacity for co-ordination of EI	4/8
Total⁸⁹	11/18

EI functions and processes are established and operational; however, not all of them are supported by detailed regulation or guidelines. While political and administrative-level EI co-ordination forums are established, they were not functional in 2016. EI monitoring is not continuously ensured.

Key recommendations

Short-term (1-2 years)

- 1) The Government should regulate and implement a systematic approach to the development and monitoring of a whole-of-government annual work plan, thereby embedding the practice.
- 2) The PM should ensure that it develops joint opinions of the key CoG institutions and bodies when reviewing the policy drafts submitted by ministries.
- 3) The Government should fully utilise the political and administrative-level co-ordination forums for EI co-ordination.
- 4) The MoEU should ensure regular and systematic reporting on the NAP and all EI-related activities.

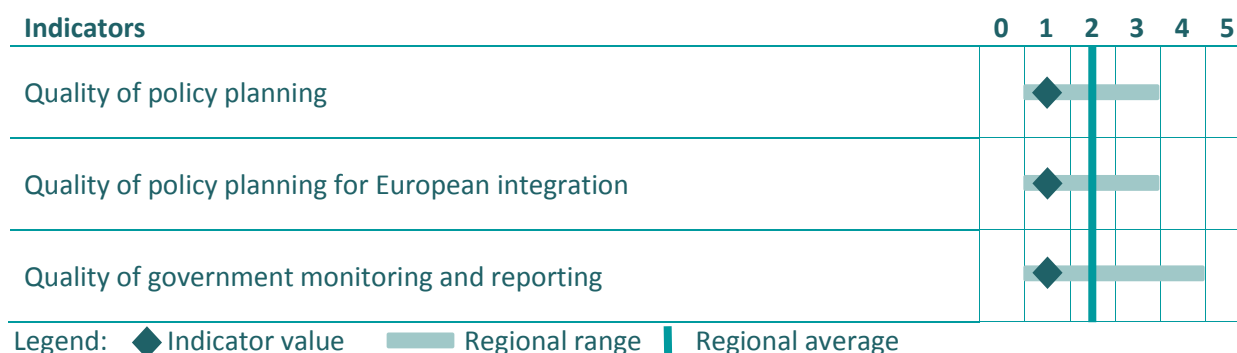
Medium-term (3-5 years)

- 5) The Government should harmonise all planning and monitoring responsibilities from a whole-of-government perspective, to streamline the processes of developing and monitoring plans that impact on the workload of the CoM.
- 6) The Government should develop further guidelines or detailed regulation covering all critical CoG functions, to ensure their consistent application over time.

⁸⁹ Point conversion ranges: 0-2=0, 3-5=1, 6-9=2, 10-13=3, 14-16=4, 17-18=5.

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

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

Principle 3: Harmonised medium-term policy planning is in place, with clear whole-of-government objectives, 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.

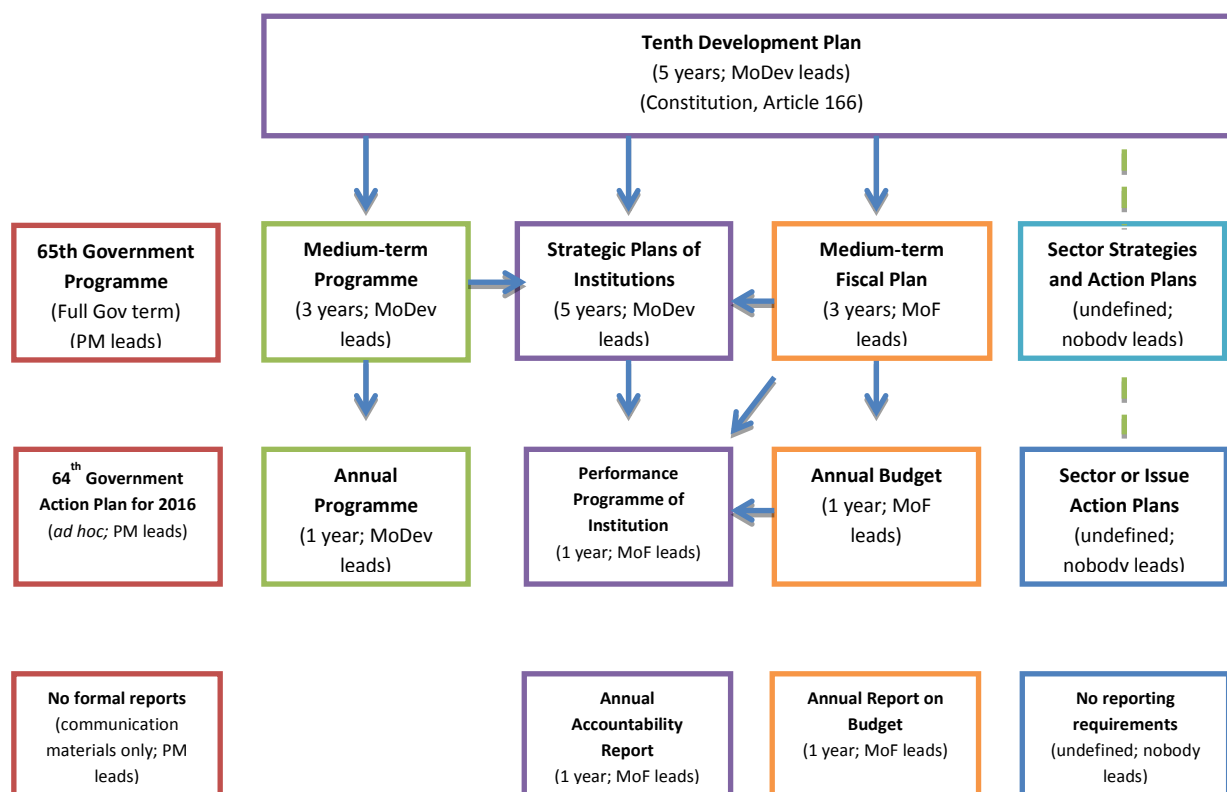
Several levels of medium-term and annual planning exist, as defined in separate legislative acts⁹⁰, and are co-ordinated by the different public institutions detailed below. The main planning document is the development plan⁹¹, as defined in the Constitution⁹². A good system is in place for medium-term and annual development and financial planning, establishing a clearly regulated status and hierarchical relationship between the planning documents. The major downsides are the lack of formalised annual whole-of-government planning (including detailed legislative planning) and of a systematic approach towards sector strategies.

⁹⁰ The key regulations are included in the Constitution of the Republic of Turkey No. 17863 of 18 October 1982 and the Public Financial Management and Control Law No. 5018 of April 2012.

⁹¹ Currently the Tenth Development Plan, 2014-2018, TGNA Decision No. 1041 of 2 July 2013.

⁹² Constitution of the Republic of Turkey No. 17863 of 18 October 1982, Article 166.

Figure 1. Overview of key planning and reporting documents, and their mutual relationship



Source: SIGMA, based on legislative analysis and interviews with the administration. In the brackets the timeframe and responsible lead institution attached are being explained.

The most advanced planning mechanism is the institutional planning system regulated by the Public Financial Management and Control Law⁹³. The Law clearly regulates the process of preparing the medium-term and annual programmes⁹⁴ for implementing the national development plan. It also covers the preparation of the medium-term Strategic Plans, the annual Performance Programme and the annual Accountability Reports⁹⁵ of every institution that allows the tracking of progress in implementing the plans' objectives through the Medium Term Fiscal Plan, as the medium-term budget of Turkey does not include outcome-level indicators. The country's medium-term and annual budgets need to be taken into account during the drafting of these documents⁹⁶, whose development is supported by guidelines and guidance provided by the MoDev⁹⁷ and the MoF⁹⁸.

A positive development is the adoption in late 2015 of the Government Action Plan for the implementation of the 64th Government Programme. This planning document defined the key actions to be implemented by the Government during the first three months, six months and by the end of 2016. Implementation of the Government Action Plan also continued during the 65th Government. Since the end of 2016, planning of key government reforms and major projects has continued, but the approach has changed and there is no similarly designed Government Action Plan for 2017⁹⁹. The PM has not developed any written guidance supporting either the development, continuation or

⁹³ Public Financial Management and Control Law No. 5018 of April 2012.

⁹⁴ Public Financial Management and Control Law No. 5018, Article 16.

95 *Idem*, Article 9.

⁹⁶ *Idem*, Article 16.

⁹⁷ For example, Letter of the Ministry of Development to all ministries on Preparations for the Medium-term Programme 2017-2019 and Annual Programme 2017 No. B.22.0.YPK.0.03.00.00602.02.00 of 18 July 2017.

⁹⁸ For example, the MoF budget-preparation guide, 2017-2019.

⁹⁹ According to representatives interviewed at the PM, the Plan is now being reviewed and modified on a rolling basis as needs emerge. The new Plan is not shared with the public, as was previously the case.

monitoring of the Government Action Plan – which is also not supported by outcome-level indicators measuring achievement of Government objectives. However, the key priorities laid out in the Government Action Plan and the Medium Term Fiscal Plan are fully aligned. The quick change of approach to whole-of-government work planning, combined with the lack of outcome-level indicators and proactive guidance for planning and monitoring, make it difficult to compare the plans, including to assess the ratio of the original plan carried forward into the next plan. This affects the respective indicator values.

Sectoral strategic planning is performed *ad hoc*, without any regulation or guidelines supporting a unified approach. None of the last five sector strategies adopted by the CoM in 2015 and 2016 and analysed for this report¹⁰⁰ featured any fiscal assessments or costing information. In addition, no CoG institution has a mandate for quality control of sector strategies. As a result, it is not possible to determine the financial sustainability of sectoral plans and their alignment with medium-term budgetary limitations. Moreover, in the absence of both a whole-of-government plan spelling out Government priorities and a detailed legislative plan, the alignment of key central-planning documents, including sector strategies, cannot be established.

Due to the lack of a systematic approach to whole-of-government planning and monitoring, the limited support provided to line ministries through central planning guidelines and the lack of systematic sectoral strategic planning with clear financial alignment to budgetary limitations, the value for the indicator ‘Quality of policy planning’ is 1.

Quality of policy planning						
This indicator measures the legislative, procedural and organisational set-up established for harmonised policy planning and the quality and alignment of planning documents. It also assesses the outcomes of the planning process (specifically the number of planned legislative commitments and sector strategies carried forward from one year to the next) and the extent to which the financial implications of sectoral strategies are adequately estimated.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the legal framework for policy planning	4/7
2. Availability of guidance to line ministries during the policy-planning process	1/4
3. Alignment between central policy-planning documents	2/6
4. Planned commitments carried forward in the legislative plan of the government (%)	0/4 ¹⁰¹
5. Planned sectoral strategies carried forward (%)	0/4 ¹⁰²
6. Completeness of financial estimates in sector strategies	0/5
7. Alignment between planned costs in sector policy plans and medium-term budget (%)	0/3
Total¹⁰³	7/33

¹⁰⁰ The following sector strategies adopted by the CoM during 2015 and 2016 were analysed: 1) Information Society Strategy and Action Plan (2015-2018); 2) Strategy and Action Plan for Small and Medium-sized Businesses (2015-2018); 3) Productivity Strategy and Action Plan (2015-2018); 4) Turkey Industry Strategy (2015-2018); and 5) Turkey Entrepreneurship Strategy and Action Plan (2015-2018).

¹⁰¹ The sub-indicator value is set at 0 due to the fact that there are no comparable legislative plans.

¹⁰² The sub-indicator value is set at 0 due to the fact there are no comparable plans for strategy development.

¹⁰³ Point conversion ranges: 0-5=0, 6-11=1, 12-17=2, 18-23=3, 24-29=4, 30-33=5.

Turkey has a well-developed institutional-planning system linked to the medium-term and annual budgets, as well as key medium-term and annual development plans. However, it lacks a systematic practice of whole-of-government planning that would bring together and prioritise all the different commitments, with outcome indicators attached to Government objectives. While institutional reporting with outcome-level progress measurement is in place, whole-of-government monitoring and reporting are not practised. Sector strategies lack regulation and guidance, and contain no costing information.

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

The CoM Decision on co-ordination and implementation of the NPAA¹⁰⁴ and the PM Circular on EI co-ordination¹⁰⁵ establish the legal framework for medium-term EI planning. As the NPAA had become outdated since 2008, the harmonisation tasks were reviewed in 2014 with the introduction of the NAP, to “steer the EU harmonisation efforts and to accelerate the work in all chapters, whether politically blocked or not”¹⁰⁶. The CoM Decision defines the general principles for the implementation, updating and co-ordination of the NPAA, as well as the approach to harmonising national legislation with the *acquis*. The PM Circular does not provide the same level of details on these matters, but reinforces the general principles in a more condensed manner.

The current NAP is the third iteration¹⁰⁷ of the medium-term planning document prepared under the general EU Strategy¹⁰⁸, announced by the Minister for EU Affairs in September 2014.

The NAP is structured around the negotiation chapters. It details the concrete legislative and non-legislative commitments against particular *acquis*, the planned implementation deadlines, the institutions responsible for implementation, and the general objectives and current status for each chapter. It does not include information on the costs of harmonisation efforts. Given the lack of a whole-of-government legislative plan, alignment between national and European commitments cannot be identified.

Analysis of the latest EI planning documents reveals a major implementation backlog: nearly two-thirds of the commitments in the NAP Phase II, 2015-2019 stipulating 2015 deadlines were carried over into the NAP, 2016-2019, indicating an unrealistic or overoptimistic approach towards planning.

Based on the latest available implementation information for 2016, the overall implementation rate of EI-related legislative commitments in the NAP, 2016-2019 was only 33%, since only 19 of the planned 58 EI-related draft laws were adopted by the CoM in 2016.

Alignment of a legislative plan with the NAP cannot be established owing to the absence of a whole-of-government legislative plan. Furthermore, the NAP does not include costing of the planned activities, and there is a very high backlog and low implementation rate of planned EI-related commitments. As a result, the value for the indicator ‘Quality of policy planning for European integration is 1.

¹⁰⁴ CoM Decision on Co-ordination and Implementation of the National Programme of Turkey on the Supervision of the European Union *acquis* No. 2008/14481 of 31 December 2008.

¹⁰⁵ PM Circular on Co-ordination of the Work Related to the European Union No. 2014/16 of 25 September 2014.

¹⁰⁶ Turkey’s New EU Strategy: Determination in the Political Reform Process, Continuity in Socio-Economic Transformation, Effectiveness in Communication, announced by the Minister for EU Affairs on 18 September 2014, p. 5.

¹⁰⁷ The latest version of this document is the NAP, January 2016-December 2019. It was preceded by the NAP Phase I, November 2014-June 2015, followed by the NAP Phase II, June 2015-June 2019. According to the information received from the MoEU during the interviews, all previously unimplemented commitments were moved to the current version of the NAP.

¹⁰⁸ Turkey’s New EU Strategy: Determination in the Political Reform Process, Continuity in Socio-Economic Transformation, Effectiveness in Communication, announced by the Minister for EU Affairs on 18 September 2014.

Quality of policy planning for European integration

This indicator analyses the legislative set-up established for policy planning of the European integration (EI) process and the quality and alignment of planning documents for EI. It also assesses the outcomes of the planning process (specifically the number of planned legislative EI-related commitments carried forward from one year to the next) and the implementation rate of planned EI-related commitments.

Overall indicator value 0 **1** 2 3 4 5

Sub-indicators	Points
1. The legal framework enables harmonised planning of EI	2/2
2. Quality of planning documents for EI	2/6
3. EI-related commitments carried forward	0/4
4. Implementation rate of the government's plans for EI-related legislative commitments (%)	0/4
Total¹⁰⁹	4/16

A comprehensive legal framework exists for EI planning and legislative harmonisation with the *acquis*. The major shortcoming is unrealistic planning, demonstrated by a high backlog and low implementation rate.

Principle 5: Regular monitoring of the government's performance enables public scrutiny and supports the government in achieving its objectives.

The legal framework stipulates reporting on the budget¹¹⁰ and for the NPAA¹¹¹, as well as on the key institutional medium-term and annual plans¹¹² (i.e. institutional strategies and performance programmes). However, no formal provisions exist for monitoring and reporting of whole-of-government work (i.e. the Government Programme or Government Action Plan), the NAP or the sector strategies. While institutions are developing their own internal monitoring and reporting systems, these are not applied uniformly. Furthermore, except for the budget report and the Annual Accountability Reports, there is no requirement for the reports – if they have been developed – to be made public.

There is no evidence of a systematic progress report taking stock of all the activities described in the 2016 Government Action Plan and sector strategies. However, in 2016, the PM developed two publications on the implementation of the Government Action Plan. One report focused on the first 100 days, and the second on the whole of 2016. Neither publication reports on pre-set indicators (since the 2016 Government Action Plan features none). These reports are based on information gathered by the PM through monitoring activities of the line ministries. The PM operates a dedicated monitoring and reporting website¹¹³ for the 2016 Government Action Plan and currently monitors *ad hoc* reforms. While this enables operational monitoring, it does not provide a systematic approach towards assessing achievements in terms of outcomes or impacts. The 2016 NAP implementation report features information on the outputs of the EI process, listing the approved primary and secondary

¹⁰⁹ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

¹¹⁰ Public Financial Management and Control Law No. 5018 of April 2012, Articles 7 (Fiscal Transparency), 42 (Final Account Law) and 43 (General Conformity Statement).

¹¹¹ Council of Ministers Decision on Co-ordination and Implementation of the National Programme of Turkey on the Supervision of the European Union *acquis* No. 2008/14481 of 31 December 2008, Article 8.

¹¹² Public Financial Management and Control Law No. 5018 of April 2012, Article 41 (Accountability Reports).

¹¹³ <http://www.reformlar.gov.tr>

legislation and providing short explanations for each negotiation chapter. However, this report has not been published, and no such NAP implementation report was developed in 2015¹¹⁴. It should be noted that only the Annual Accountability Reports assess progress made in achieving objectives against pre-defined outcome-level indicators.

Turkey has a well-established practice of performing outcome-based institutional monitoring that is publicly available. However, there is no regulation requiring reporting on the Government Action Plan, the NAP or the sector strategies, and most of the reports are not publicly available. Therefore, the value for the indicator 'Quality of government monitoring and reporting' is 1.

Quality of government monitoring and reporting						
This indicator measures the strength of the legal framework regulating reporting requirements, the quality of government reporting documents and the level of public availability of government reports.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. The legal framework enables good monitoring and reporting	1/8
2. Quality of reporting documents	2/12
3. Public availability of government reports	1/5
Total¹¹⁵	4/25

The monitoring and reporting system on Government work is mainly institution-based. It is performed through the framework of the publicly available Annual Accountability Reports, which also include information on the attainment of the objectives set in the planning documents. Only the results pertaining to budget execution are reported publicly. No systematic approach exists for annual reporting on whole-of-government work or monitoring of the NAP and sector strategies.

Key recommendations

Short-term (1-2 years)

- 1) The Government should embed its positive initial practice of whole-of-government annual planning and monitoring, by regulating and implementing a systematic approach to the development and monitoring of a whole-of-government annual work plan.
- 2) The Government should develop a unified approach to a horizontal, whole-of-government medium-term planning model, converting the Government Programme into executable actions. All medium-term plans should be costed and aligned with other such plans, as well as with the medium-term fiscal plans covering the activities.
- 3) The Government should develop and implement a unified approach to monitoring the execution of horizontal and sectoral strategic documents, including the EI plan. This approach should also include regular public reporting on the level of outcomes, including the objectives, achieved.

Medium-term (3-5 years)

- 4) The Government should develop and enforce a unified approach to drafting and executing sector strategies, so that they are linked to horizontal medium-term planning documents, and are costed and aligned with the fiscal limits set in the medium-term financial documents.

¹¹⁴ According to representatives of the MoEU, this is due to the transition and updating process from the NAP Phase I and Phase II to the new NAP in 2015.

¹¹⁵ Point conversion ranges: 0-3=0, 4-7=1, 8-12=2, 13-17=3, 18-21=4, 22-25=5.

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.

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



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.

No unified rules of procedure exist to regulate Government work and decision making. The Decree Law on the Organisation of the Prime Ministry¹¹⁶ and the By-law on the Principles and Procedures for Drafting Legislation¹¹⁷ regulate key aspects for preparing CoM decisions, as well as some key steps in the decision-making process. However, these regulations do not cover all the details of the decision-making process. Most notably: they do not stipulate the timeframe for submission of policy proposals for deliberation by the CoM¹¹⁸; no CoG body is granted the authority to oversee the policy development and consultation processes, to ensure compliance with the set standards; and no unified standards exist on public consultation or the wider policy-development process, except for legal drafting and the RIA process¹¹⁹. While regulation¹²⁰ gives a mandate to the PM to send back drafts that do not meet the formal requirements, it does not explicitly extend this rule to cover the drafts' policy content. However, the PM has a wide legal mandate and an extensive practice of organising meetings with state institutions on their policy proposals¹²¹.

According to the Decree Law on the Organisation of the Prime Ministry, the CoM Secretariat is responsible for preparing the agendas, taking the minutes of CoM sessions, as well as ensuring that decisions of the CoM are followed by the ministries¹²². However, the agendas, minutes and decisions of these meetings are not publicly available, and the Government Spokesperson only provides the media

¹¹⁶ Law Amending the Decree Law on the Organisation of the Prime Ministry No. 3056 of 10 October 1984.

¹¹⁷ By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005.

¹¹⁸ On the other hand, the By-law on Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005 sets deadlines for the provision of opinions in Article 7 and introduces the "silence-is-consent" approach if opinions are not provided on time.

¹¹⁹ PM Circular on Regulatory Impact Studies No. 2007/6 of 2 April 2007 and By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005, Article 24.

¹²⁰ Law Amending the Decree Law on the Organisation of the Prime Ministry No. 3056 of 10 October 1984 and By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005.

¹²¹ As a general rule, the Prime Ministry does not provide opinions on submitted policy drafts, but organises such meetings and discusses the relevant matters in person.

¹²² Article 26 of the Law on Amending the Decree Law on the Organisation of the Prime Ministry No. 3056 of 10 October 1984.

with official statements on the key decisions taken¹²³. The Press Consultancy of the PM is responsible for informing the media and society on key Government decisions¹²⁴.

The General Directorate of Laws and Decrees of the PM is in charge of examining and providing legal scrutiny (along with the MoJ) of all the drafts submitted for decision of the CoM¹²⁵, as well as supplementary documentation, including the RIAs. Article 6 of the By-law on the Principles and Procedures for Drafting Legislation lists the other CoG institutions charged with providing an opinion on various policy proposals. These include the State Personnel Presidency, for drafts on public employees and organisation; the MoF, for draft laws and regulatory actions governing financial issues, and/or impacting on the public income and spending; and the MoEU, for drafts concerning alignment with the EU legislation¹²⁶. An analysis of dossiers of sample draft laws¹²⁷ shows that they were scrutinised from a legal and financial perspective, and the completeness of the submitted files was checked. However, there was no evidence of a systematic review of policy proposals against set Government priorities and existing policies, or of a quality RIA performed by the initiating ministry.

Perception about the clarity of regulation is favourable: 63% of the responding businesses in the 2017 Balkan Barometer survey¹²⁸ strongly agree or tend to agree that laws and regulations affecting their companies are clearly written, not contradictory and do not change too frequently.

The legal framework does not comprehensively regulate the policy decision-making process, and the information available to the public on CoM decisions is limited. Therefore, the value for the indicator 'Transparency and legal compliance of government decision-making' is 3.

¹²³ For example, <http://www.ensonhaber.com/kurtulmustan-bakanlar-kurulu-sonrasi-aciklamalar-2017-02-27.html>.

¹²⁴ Law Amending the Decree Law on the Organisation of the Prime Ministry No. 3056 of 10 October 1984, Article 24, part c).

¹²⁵ Law Amending the Decree Law on the Organisation of the Prime Ministry No. 3056 of 10 October 1984, Article 8, part a).

¹²⁶ It should also be noted that while part 2 of Article 6 and part 2 of Article 7 of the By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005 state that the relevant local administrations, universities, trade unions and professional organisation acting as public institutions and non-governmental can be consulted, no formal rules oblige ministries to obtain such opinions in every case.

¹²⁷ Dossiers of laws analysed included: 1) the Law Amending the Law on Promotion of Research and Development Activities and Other Laws and Decrees Having the Force of Law No. 6676 of 16 February 2016 (approved by the CoM in January 2016); 2) the Draft Law on Industrial Property Rights No. 6769 of 22 December 2016 (approved by the CoM in March 2016); 3) the International Work Force Law No. 6735 of 28 July 2016 (approved by the CoM in June 2016); 4) the Law Amending the Individual Retirement and Investment System No. 6740 of 10 August 2016 (approved by the CoM in August 2016); and 5) the Law on Personal Data Protection No. 6698 of 24 March 2016 (approved by the CoM in January 2016).

¹²⁸ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

Transparency and legal compliance of government decision making

This indicator measures the legal framework established for ensuring legally compliant decision making, the consistency of the government in implementation of the established legal framework, the transparency of government decision-making, and businesses' perception of the transparency of government policy making.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
1. The legal framework establishes procedures for government sessions	3/5
2. Consistency of the CoG in setting and enforcing the procedures	3/4
3. Timeliness of ministries' submission of regular agenda items to the government session (%)	0/3
4. Openness of government decision-making process	1/4
5. Perceived clarity and stability of government policy making by businesses (%)	3/4
Total¹²⁹	10/20

The roles and requirements for preparing CoM meetings are stipulated in regulations, but they lack provisions on the required timeframe. Procedures exist and are observed for scrutinising draft decisions of the CoM, but not for examining the policy content against set priorities and existing policies. Public information on CoM meetings is limited to formal press statements.

Principle 7: The parliament scrutinises government policy making.

The Turkish Constitution¹³⁰, the RoP of the TGNA¹³¹ and the By-law on the Principles and Procedures for Drafting Legislation¹³² regulate the relationship between the Government and the Parliament, including ways in which the TGNA scrutinises the work of the Government. Separate interviews with representatives of the TGNA and the PM confirmed that both sides use the approach towards legal drafting stipulated in these documents.

The RoP of the TGNA¹³³ explicitly describe how the TGNA, its committees and individual members exercise their Government oversight function, mainly through written and oral questions to Government members. While most of the verbal and written questions are accepted for further deliberation, a large proportion of these questions remain unanswered (Table 5). Other available oversight mechanisms, such as Parliamentary Inquiry and Investigation Motions, and Motions for General Debate, are less frequently used¹³⁴.

¹²⁹ Point conversion ranges: 0-1=0, 2-5=1, 6-9=2, 10-13=3, 14-17=4, 18-20=5.

¹³⁰ Constitution of the Republic of Turkey No. 17863 of 18 October 1982.

¹³¹ Rules of Procedure of the Grand National Assembly of Turkey, TGNA Resolution No. 584 of 5 March 1973.

¹³² By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005. In addition to this By-law, in July 2011 the TGNA published a Legislative Manual that also provides guidelines on legal drafting, as well as an in-depth explanation of some aspects of the TGNA RoP, thus supplementing the By-law.

¹³³ See Part 6 of the RoP of the TGNA, defining oversight methods.

¹³⁴ According to the information provided by the Secretariat of TGNA, 1 371 Parliamentary inquiry motions were submitted in 2016, of which 1 281 were accepted for further deliberation but only 9 were discussed and accepted. Two Parliamentary investigation motions were also submitted, but both were returned. In addition, 13 motions for general debate were submitted, of which 12 were put into process and 1 is still under review for eligibility.

Table 5. Overview of verbal and written questions posed by the members of TGNA

Verbal questions			Written questions		
Total during 2016	Accepted	Answered during 2016	Total during 2016	Accepted	Answered during 2016
574	514	43	10 038	8 731	3 783

Source: Information provided by the Turkish Grand National Assembly Secretariat.

As there is no legislative plan or any other systematic information on what legislative initiatives are expected from the CoM, there is no systematic planning interaction between the TGNA and the CoM. No regular meetings take place at the senior administrative level between the PM and the Secretariat of the TGNA; co-ordination occurs only through informal channels¹³⁵.

The supporting material (i.e. the justification statement) foreseen by the RoP of the TGNA¹³⁶ accompanies all legal drafts submitted for review by the TGNA. It should be noted that RIAs and other supporting documentation are provided to TGNA members only upon request¹³⁷. Moreover, the RoP of the TGNA¹³⁸ state that ministers and ministry representatives are expected to participate in the plenary sessions and committee meetings where the respective draft laws are reviewed. While the TGNA sends all private-members' bills¹³⁹ to the PM and the ministry concerned¹⁴⁰, there is no evidence that the CoM systematically reviews and prepares formal opinions on TGNA legal initiatives¹⁴¹, even though this is a responsibility of the General Directorate of Laws and Decrees of the PM¹⁴².

The RoP of the TGNA explain the Parliament's decision-making process in great detail, including the maximum time allocated to parliamentary committees to review draft bills. Article 37 of the RoP of the TGNA states that the committees should review Government bills within 45 days of submission, but only 59% of the laws submitted by the Government to the TGNA in 2015 were adopted within one year of submission¹⁴³. Moreover, extraordinary procedures are widely used: in 2016, 83% of the Government-sponsored draft laws were reviewed and adopted through the expedited procedure¹⁴⁴.

¹³⁵ According to interviews with representatives of the PM, a deputy Speaker of the TGNA is assigned to be the key contact point between TGNA members and the Government.

¹³⁶ RoP of the TGNA, Article 73.

¹³⁷ According to information provided by the TGNA Secretariat, in 2016, only the Committee on Industry, Trade, Energy, Natural Resources, Information and Technology requested RIAs for the Draft Law Amending the Law on Promotion of Research and Development Activities and Other Laws and Decrees Having the Force of Law No. 6676 of 16 February 2016, and the Draft Law on Industrial Property Rights No. 6769 of 22 December 2016.

¹³⁸ See Articles 30 and 31 of the RoP of the TGNA relative to participation in committee meetings and Article 62 for participation in plenary sessions.

¹³⁹ According to the website of the TGNA: "The right to introduce bills belongs to the deputies and the Council of Ministers. The bills introduced by the deputies are described as "private members' bills." Private members' bills may be introduced by one or more than one deputy. The bills introduced by the government are called "government bills." Government bills must contain the signatures of the Prime Minister and all ministers." <https://global.tbmm.gov.tr/index.php/en/yd/icerik/27>

¹⁴⁰ According to the information obtained during interviews with representatives of the TGNA Secretariat.

¹⁴¹ According to the information obtained during interviews at the PM. A review of three sample proposals submitted by private members was also conducted to determine whether the Government had developed an opinion on the proposals.

¹⁴² Law on Amending the Decree Law on the Organisation of the Prime Ministry No. 3056 of 10 October 1984, Article 8.

¹⁴³ The Government submitted close to 350 drafts for adoption in the year of analysis. However, laws approving the ratification of international agreements were not included in the ratio calculation. The TGNA adopted only 9 out of 22 substantive laws sent by the Government in 2015 within one year of submission.

¹⁴⁴ See Article 91 of the RoP of the TGNA for more details on the expedited procedure.

Table 6. Overview of draft laws adopted by the TGNA in 2016¹⁴⁵

Issuer of the proposal			
MPs		Government	
8		30	
Adoption procedure			
Ordinary/budget procedure	Expedited procedure	Ordinary/budget procedure	Expedited procedure
5	3	5	25

Source: Information provided by the Turkish Grand National Assembly Secretariat. Those questions accepted but not answered are pending and vast majority of them are breaching legal deadlines.

Despite the lack of a generally applicable and explicit legal framework, some TGNA committees (particularly the Human Rights Inquiry Committee, the European Union Harmonisation Committee, and the Committee on Equal Opportunity for Women and Men) have started preparing annual reports on progress in their field¹⁴⁶, which include information on the implementation of new laws. While none of the reports have yet been reviewed by the Plenary, they have been debated in the committee meetings¹⁴⁷.

Turkey has a comprehensive framework for parliamentary scrutiny, but lacks co-ordinated planning of the legislative agenda. There is also limited review of parliamentary bills by the CoM and mediocre processing of drafts in the TGNA. Moreover, a large share of bills are adopted in expedited procedures. In light of these combined factors, the value for the indicator 'Parliamentary scrutiny of government policy making' is 2.

¹⁴⁵ The listed laws adopted by the TGNA in 2016 do not include laws ratifying international agreements; 74 such laws were adopted in 2016.

¹⁴⁶ Based on the rules set in the laws governing them: Law on the Human Rights Inquiry Committee No. 3686 of 5 December 1990, Articles 4 and 6; Law on the European Union Harmonisation Committee No. 4847 of 19 April 2003, Articles 3 and 5; Law on the Committee on Equal Opportunity for Women and Men No. 5840 of 24 March 2009, Articles 3 and 5.

¹⁴⁷ According to information provided by the TGNA Secretariat.

Parliamentary scrutiny of government policy making						
This indicator measures the extent to which the parliament is able to scrutinise government policy making. The legal framework is assessed first, followed by an analysis of the functioning of important parliamentary practices and outcomes.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Strength of regulatory and procedural framework for parliamentary scrutiny of government policy making	4/5
2. Completeness of supporting documentation for draft laws submitted to the parliament	3/3
3. Co-ordination of governmental and parliamentary decision-making processes	0/2
4. Systematic review of parliamentary bills by government	0/1
5. Alignment between draft laws planned and submitted by the government (%)	0/2
6. Timeliness of parliamentary processing of draft laws from the government (%)	0/2
7. Use of extraordinary proceedings for the adoption of government-sponsored draft laws (%)	0/5
8. Government participation in parliamentary discussions of draft laws	2/2
9. Basic parliamentary scrutiny of the implementation of policies	2/2
Total¹⁴⁸	11/24

Procedures governing parliamentary scrutiny of legislation and CoM work are well defined. Government members and ministry representatives regularly participate in the work of the TGNA. There is no co-operation in terms of legislative planning, and the Government does not undertake a systematic review of legislative initiatives by the TGNA. The majority of government-sponsored drafts are adopted in expedited procedures. Some TGNA committees have initiated post-legislative overviews examining the implementation and impact of the adopted laws.

Key recommendations

Short-term (1-2 years)

- 1) The PM should develop a comprehensive timetable for preparing the drafts before submission to the CoM, to ensure adequate forward-planning before sessions are convened.
- 2) The PM should publish agendas of formal Government meetings in advance of the sessions and undertake comprehensive reporting on all the decisions taken at each session.
- 3) The Government should duly analyse and issue opinions on proposals emanating from the Parliament.

Medium-term (3-5 years)

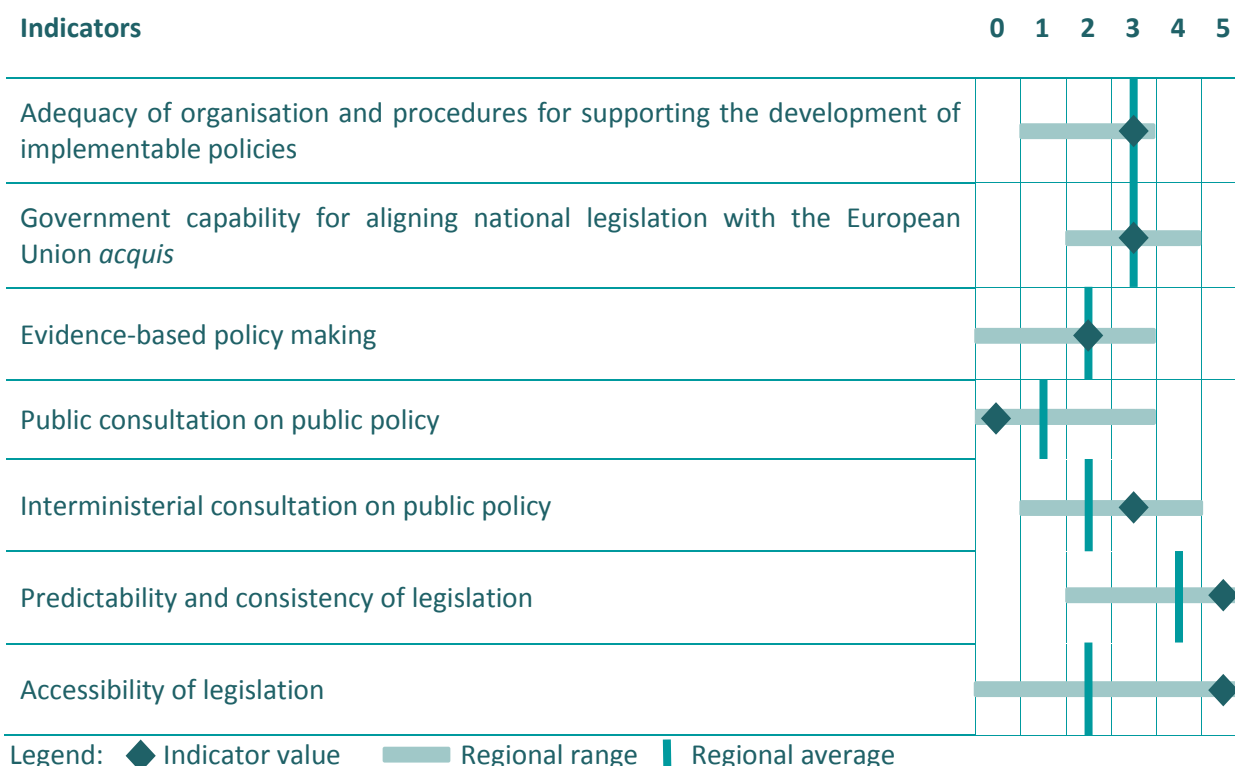
- 4) The Parliament should enhance and extend the practice of post-legislative overview of major laws and policies across other policy areas.
- 5) The Government should share additional information (especially the RIAs developed for new laws) with the Parliament, as part of the standard set of information shared with the legislative branch.

¹⁴⁸ Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-16=3, 17-20=4, 21-24=5.

Policy development

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

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



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.

The regulatory framework for effective policy making is in place in Turkey, and the structure and functions of ministries and ministerial departments are well established in regulation¹⁴⁹. Responsibility for policy development and legislative drafting is clearly allocated to the ministries¹⁵⁰, with the higher managerial levels taking the lead. Ministers are ultimately responsible for all activities and proceedings within the competence of their respective ministry¹⁵¹. According to the interviews conducted¹⁵² and the sample draft laws analysed¹⁵³, policy development and legislative drafting are not delegated to

¹⁴⁹ See Law on the Functions and Structures of Ministries No. 3046 of 9 October 1984, as well as specific decree laws covering individual ministries.

¹⁵⁰ Constitution of the Republic of Turkey No. 17863 of 18 October 1982, Article 112; Law on the Functions and Structures of Ministries No. 3046; By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005.

¹⁵¹ Law on the Functions and Structures of Ministries No. 3046, Article 21.

¹⁵² Interviews with representatives of: 1) the PM; 2) the Ministry of Family and Social Policies; 3) the Ministry of Economy; and 4) the Ministry of Food, Agriculture and Livestock.

¹⁵³ The five last new laws from 2016 provided for review were: 1) the Law Amending the Law on Promotion of Research and Development Activities and Other Laws and Decrees Having the Force of Law No. 6676 of 16 February 2016

subordinate bodies. Indeed, the share of staff working in the policy-development departments of sample ministries is high¹⁵⁴.

As is characteristic of the Turkish administrative tradition, the internal policy-development process and required steps in the law-drafting process within individual ministries are not set down in writing, and none of the sample ministries¹⁵⁵ have internal rules detailing the process. Nevertheless, officials from the analysed ministries indicated that the relevant knowledge is spread through the hierarchy, and internal co-ordination is embedded in practice¹⁵⁶. The lack of relevant examples provided for analysis, however, means that SIGMA could not verify the practice followed in the sample ministries or confirm that all relevant internal departments are consulted during the policy-development process.

Given the lack of samples allowing an analysis of internal policy-development procedures and the absence of written rules directing the process within the ministries, the value for the indicator 'Adequacy of organisation and procedures for supporting the development of implementable policies' is 3.

Adequacy of organisation and procedures for supporting the development of implementable policies						
This indicator measures the adequacy of the regulatory framework to promote effective policy making, and whether staffing levels and the basic policy-making process work adequately at the level of ministries.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for effective policy making	3/4
2. Staffing of policy-development departments (%)	2/2
3. Adequacy of policy-making processes at ministry level in practice	2/6
Total¹⁵⁷	7/12

Policy making within ministries is supported by a comprehensive regulatory framework and a high number of dedicated staff. Regulation clearly establishes the structure and functions of ministries and ministerial departments. Subordinate bodies do not send policy-making documents and draft laws independently to the CoM. There is no tradition of internal rules or guidelines describing the policy-development and legal-drafting processes within ministries. The practice of inclusive internal policy development cannot be confirmed, owing to the lack of samples provided for analysis.

(approved by the CoM in January 2016); 2) the Draft Law on Industrial Property Rights No. 6769 of 22 December 2016 (approved by the CoM in March 2016); 3) the International Work Force Law No. 6735 of 28 July 2016 (approved by the CoM in June 2016); 4) the Law Amending the Individual Retirement and Investment System No. 6740 of 10 August 2016 (approved by the CoM in August 2016); and 5) the Law on Personal Data Protection No. 6698 of 24 March 2016 (approved by the CoM in January 2016).

¹⁵⁴ Staff allocated to policy-development departments ranged from 47% to as high as 68% in four sample ministries: the Ministry of Food, Agriculture and Livestock; the Ministry of Economy; the Ministry of Family and Social Policies; and the Ministry of Environment and Urbanisation.

¹⁵⁵ The Ministry of Food, Agriculture and Livestock; the Ministry of Economy; the Ministry of Family and Social Policies; and the Ministry of Environment and Urbanisation.

¹⁵⁶ For example, representatives of the Ministry of Economy said that once a draft reaches the Legal Department of the ministry preparing the draft, it is accompanied by a cover letter with signatures from all consulted ministerial units.

¹⁵⁷ Point conversion ranges: 0=0, 1-2=1, 3-5=2, 6-8=3, 9-10=4, 11-12=5.

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 European Union acquis.

Turkey has a well-established and functional legal framework for *acquis* transposition. The MoEU is responsible for planning, co-ordinating and monitoring the *acquis* alignment process and translation¹⁵⁸.

The interministerial EI co-ordination and conflict-resolution mechanism was established in 2009 through the Internal Coordination and Harmonization Committee established by the Secretariat General for EU Affairs¹⁵⁹. The Committee comprises representatives from all relevant ministries and has a conflict-resolution mandate in cases where expert-level meetings do not suffice. In practice, however, only one Committee meeting took place in 2016¹⁶⁰.

By-law No. 2005/9986 of 19 December 2005 on the Principles and Procedures for Drafting Legislation, enacted on 19 December 2005, applies equally to domestic drafting and *acquis* alignment, and includes the requirements for RIAs, as well as public and interministerial consultation. Thus, the rules governing the processes do not differ, except that the MoEU has a central function in the *acquis*-alignment process, and has the authority to modify or reject drafts submitted by other ministries¹⁶¹.

Tables of concordance are obligatory¹⁶² and consistently used in practice; all the analysed samples¹⁶³ were accompanied by a table of concordance. However, the Turkish *acquis*-alignment process suffers from a large backlog. Based on the comparison of the last two consecutive medium-term EI plans¹⁶⁴, 58 of the 91 EI-related legislative commitments (both laws and by-laws) for 2015 were postponed to 2016 or later. Correspondingly, the implementation rate of the EI-related transposition is very low, at only 23%, with only 51 of the planned 225 draft laws and by-laws approved by the Government in 2016.

Although the legal framework for harmonisation with the *acquis* is comprehensive and followed in practice, Turkey has a very large backlog and low implementation rate in transposition. As a result, the value for the indicator 'The government's capability for aligning national legislation with the European Union *acquis*' is 3.

¹⁵⁸ Decree Law on the Organisation and Duties of the Ministry for EU Affairs No. 634 of 3 June 2011.

¹⁵⁹ Based on the Regulation on the Principles and Procedures of the European Union General Secretariat on Internal Coordination and Harmonization Committee, Law. No. 5916 of 24 June 2009.

¹⁶⁰ Information provided by the MoEU.

¹⁶¹ By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005, Article 6(1)(f); PM Circular on Co-ordination of the Work related to the European Union No. 2014/16 of 25 September 2014, point 1; CoM Decision on Co-ordination and Implementation of the National Programme of Turkey on the Supervision of the European Union *acquis* No. 2008/14481 of 31 December 2008.

¹⁶² PM Circular on Co-ordination of the Work related to the European Union No. 2014/16 of 25 September 2014, point 2.

¹⁶³ The samples analysed are: 1) By-law on the Protection of Waters Against Pollution Caused by Nitrates From Agricultural Sources No. 29779 of 23 July 2016; Law Amending Labour Law and Turkish Employment Agency Law No. 6715 of 20 May 2016; 2) Communiqué on the Preparation and the Presentation of Applications and the Assessment and the Authorisation of Feed Additives, Official Gazette No. 2972 of 27 May 2016; and 3) By-law on Prevention of Violence and Monitoring Centres No. 29656 of 17 March 2016.

¹⁶⁴ The NAP Phase II, June 2015 - June 2019 and the NAP, January 2016 - December 2019.

The government's capability for aligning national legislation with the European Union *acquis*.

This indicator measures the adequacy of the legal framework for the *acquis* alignment process, the government's consistency in using the tables of concordance in the *acquis* alignment process and the availability of the *acquis* in the national language. It also assesses the results of the *acquis* alignment process, focusing on the planned *acquis* alignment commitments carried forward from one year to the next and how the government is able to achieve its *acquis* alignment objectives.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
1. Adequacy of the regulatory framework for the <i>acquis</i> alignment process	5/5
2. Use of tables of concordance in the <i>acquis</i> alignment process (%)	2/2
3. Translation of the <i>acquis</i> into the national language	2/2
4. <i>Acquis</i> alignment commitments carried forward (%)	0/4
5. Implementation rate of legislative commitments for <i>acquis</i> alignment (%)	0/4
Total¹⁶⁵	9/17

The legal framework for *acquis* transposition is well established and functional. Conflict-resolution mechanisms have been created, but are rarely used. Tables of concordance are both obligatory and used in practice. The drafting, analytical and consultation requirements for the *acquis*-alignment drafts are the same as for domestic drafting. Turkey suffers from a very low implementation rate and significant backlog in EI-related legislative commitments.

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

Turkish regulation clearly stipulates the obligation to conduct RIAs, including budgetary assessments¹⁶⁶. The Directorate General of Laws and Decrees of the PM is in charge of RIA-development activities and quality control¹⁶⁷. In 2016, new RIA rules¹⁶⁸ were adopted. Previously, RIAs were required for proposals with an expected impact above TRY 10 million. Under the new rules, a partial RIA is required for all proposals, and a full RIA is required for proposals with an expected impact above TRY 30 million¹⁶⁹. The PM can also require full RIAs for drafts below the estimated impact threshold and partial RIAs irrespective of any estimated financial impact, as well as require RIAs to measure the impact of existing laws. SIGMA was provided with no information indicating whether the PM has started to exercise these extended powers. Under the old rules, RIAs were not required for national security issues and national budget drafts; the new rules add emergency situations and international agreements to these

¹⁶⁵ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-17=5.

¹⁶⁶ By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of December 19 2005, Article 24.

¹⁶⁷ *Idem*, Article 25. Interview with the representatives of the General Directorate of Laws and Decrees of the Prime Ministry.

¹⁶⁸ Council of Ministers Decree on the Amendment of the Regulations on the Principles and Procedures for Drafting Legislation No. 2016/8590 of 14 March 2016.

¹⁶⁹ The aspects to be covered in partial and full RIAs are the same, but under the new rules, full RIAs require more detailed information. The aspects to be covered during an RIA are: 1) rationale of regulation; 2) assessment of alternative options; 3) analysis of possible costs and benefits; 4) estimated amount, if the regulation is expected to cause an additional budgetary burden; 5) annual total impact of the regulation; 6) contribution of the regulation to reducing red tape; and 7) consultation information.

exemptions. RIAs are not published or sent to the TGNA with the proposals for which they are compiled.

An RIA Guideline¹⁷⁰ adopted in 2007 is publicly available, but has not yet been updated in light of the new regulation. While the Guideline describes the steps to be taken during an RIA and the right questions to be asked under the different impact categories, it does not feature practical information on good examples and best practices, or propose methodologies for conducting an RIA.

The effect of the new rules is not yet visible, and RIAs continue to be formal – rather than substantive – exercises. Even though four out of the five samples analysed¹⁷¹ were accompanied by an RIA, the documents only provided a basic description of the proposal's budget impact and the problem to be regulated. Except for the Industrial Property Law (which to some extent detailed the following components), broad RIAs featuring a strong economic, social and environmental impact analysis were not conducted. RIAs performed did not assess alternative policy options, support the statements (if available) about costs and benefits with analytical data, or highlight the implementation, monitoring or evaluation aspects. The sample law submitted without any RIA was the Law on Personal Data Protection. Given the sensitive topic, it is of particular concern that decision makers were not provided with any written analysis to support the proposed policy direction¹⁷². No documentation was provided for any of the analysed sample laws that would demonstrate that the PM performed its RIA quality-control function, or that any steps were taken to enhance the RIA practice.

Despite the requirements for evidence-based policy development, the impact assessments performed are weak, and the body in charge of ensuring the quality of RIAs is not sufficiently fulfilling its mandate. Hence, the value for the indicator 'Evidence-based policy making' is 2.

¹⁷⁰ Circular of the Prime Ministry General Directorate of Personnel and Principles, 7 April 2007: https://www.basbakanlik.gov.tr/genelge_pdf/2007/2007-0010-006-03896.pdf.

¹⁷¹ The five last new laws from 2016 provided for review were: 1) the Law Amending the Law on Promotion of Research and Development Activities and Other Laws and Decrees Having the Force of Law No. 6676 of 16 February 2016 (approved by the CoM in January 2016); 2) the Draft Law on Industrial Property Rights No. 6769 of 22 December 2016 (approved by the CoM in March 2016); 3) the International Work Force Law No. 6735 of 28 July 2016 (approved by the CoM in June 2016); 4) the Law Amending the Individual Retirement and Investment System No. 6740 of 10 August 2016 (approved by the CoM in August 2016); and 5) the Law on Personal Data Protection No. 6698 of 24 March 2016 (approved by the CoM in January 2016).

¹⁷² Even if, according to the representatives of the General Directorate Laws and Decrees, the draft is a result of several years of preparation and the practice is that the proposing minister presents the drafts for adoption in detail at the CoM session.

Evidence-based policy making						
This indicator measures the functioning of evidence-based policy making. It assesses the legal requirements and practice regarding the use of basic consultative processes, budgetary impact assessment and broad impact assessment. Moreover, it assesses the availability of training and guidance documents for impact assessment, the establishment of the quality control function, and the quality of analysis supporting the approval of draft laws.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Use of basic analytical tools and techniques to assess the potential impacts of new draft laws	2/2
2. Use of budgetary impact assessment prior to approval of policies	2/3
3. Use of broad Regulatory Impact Assessments	1/3
4. Availability of guidance documents on RIAs	1/2
5. Quality control of RIAs	0/3
6. Quality of analysis in RIAs	2/15
Total¹⁷³	8/28

RIAs are an obligatory step in the policy-making and legislative-drafting processes. While the PM is responsible for RIA development and quality control, RIAs remain a formal exercise. Hence, the policy-making and legal-drafting processes cannot be considered sufficiently evidence-based. The RIA quality-control and support-and-development functions are not properly fulfilled.

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

The general obligation for public consultation is established by very vague regulation requiring lawmakers only to consult the relevant institutional stakeholders; involving the wider public is undertaken only if the proposing ministry deems it necessary¹⁷⁴. Guideline documents for assisting public officials in the engagement process exist¹⁷⁵, but following them is far from the norm¹⁷⁶. The regulation does not stipulate any obligation to inform relevant stakeholders beforehand about the upcoming consultation. In addition, there are no rules stipulating that a draft law and the relevant documents accompanying it (such as the RIA and the explanatory letter) must be opened for public comment¹⁷⁷. Instead of a minimum duration, a maximum duration of 30 days is established for public consultation¹⁷⁸. Overall, responsible ministries have wide discretionary power to decide whether or not to publish a draft law, whom to consult, and when and how to inform stakeholders and the public about the consultation. Nevertheless, ministerial representatives noted that, in practice, external

¹⁷³ Point conversion ranges: 0-2=0, 3-7=1, 8-12=2, 13-18=3, 19-23=4, 24-28=5.

¹⁷⁴ By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of December 19 2005, Articles 6 and 7.

¹⁷⁵ "Principles of participation: Application guide for designing, implementing and managing participatory work", Ministry of Development, 2012: http://www.sp.gov.tr/upload/Sayfa/18/files/Katilimciligin_Ilkeleri.pdf; "Stakeholder Surveys - Stakeholder survey preparation in strategic management processes; Application and analysis guide", Ministry of Development, 2012: http://www.sp.gov.tr/upload/Sayfa/18/files/Paydas_Anketleri_Rehber.pdf.

¹⁷⁶ Based on the samples provided for analysis.

¹⁷⁷ This was also confirmed by representatives of the PM.

¹⁷⁸ By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005, Article 7(2). During the interviews, the number of ministries said that both shorter and longer deadlines have been used in practice.

stakeholders are engaged, and channels of dialogue do exist¹⁷⁹. The process is not transparent or predictable, and there was very limited proof of external consultation for the five new laws analysed¹⁸⁰.

While quality assurance in public consultation is not explicitly stipulated, the PM should ensure that drafts are prepared in accordance with the Ministerial Decree on the Principles and Procedures for Drafting Legislation, which means that the public consultation aspects should be checked¹⁸¹. However, the analysis of the five new laws did not show any evidence of quality control.

Even though the lead ministry is required to report the outcome of public consultation and feedback received when submitting the draft to the Government¹⁸², the sample laws analysed did not include such reports. In addition, there is no obligation to make the reports available to the relevant stakeholders and the public.

The procedure for interministerial consultation is clearly established in regulation¹⁸³. The CoG bodies and all other affected government bodies must be engaged in the process and fulfil this obligation in practice. The evidence given in the five samples analysed showed that all CoG bodies were consulted. It was also clear that the PM has a well-established tradition of organising frequent meetings with the relevant ministries to discuss the drafts.

As with public consultation, a maximum duration rather than a minimum duration is set for written interministerial consultation. However, the samples did not provide information on the deadlines given to ministries, and thus did not allow verification of whether this practice was followed.

The conflict-resolution mechanism is well established, and includes conflict-resolution meetings at the senior administrative level, with the PM assisting line ministries in finding a compromise¹⁸⁴. While the Government must be kept informed of the outcomes of the interministerial consultation process, the documentation prepared for Government sessions does not include the table of opinions¹⁸⁵. All in all, interministerial consultation is functional, and the affected ministries are fully engaged in the practice.

The requirements for inclusive and systematic public consultation in Turkey are not sufficiently detailed, and the sample laws analysed do not provide information about the consultation practice. Hence, the value for the indicator 'Public consultation on public policy' is 0.

Interministerial consultation is deeply rooted in the Turkish administrative tradition and practice. However, the regulation on interministerial consultation sets no minimum duration, and information about the consolidated opinions on drafts provided through consultation is not systematically reviewed and shared with the Government. Therefore, the value for 'Interministerial consultation on public policy' is 3.

¹⁷⁹ Interviews with representatives of the PM, the Ministry of Family and Social Policies, the Ministry of Economy and the Ministry of Food, Agriculture and Livestock.

¹⁸⁰ In the case of the Industrial Property Law, some information was included in the RIA document about the external consultation meetings. Otherwise, none of the five new laws analysed contained any details about the consultation process, opinions given by external stakeholders, or any other aspect of stakeholder engagement.

¹⁸¹ By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005, Article 25.

¹⁸² *Idem*, Article 9.

¹⁸³ *Idem*, Article 6.

¹⁸⁴ *Idem*, Articles 9 and 25. This was also confirmed during interviews with the PM.

¹⁸⁵ Based on an analysis of the five new laws and confirmed through interviews with representatives of the PM.

Public consultation on public policy

This indicator measures the implementation of public consultation processes in developing policies and legislation. It assesses the regulatory framework, the establishment of the quality control function on public consultation and the consistency in publishing draft laws for written public consultation online, and tests whether minimum standards for public consultations were upheld for approved drafts laws.

Overall indicator value 0 1 2 3 4 5

Sub-indicators	Points
1. Adequacy of the regulatory framework for an effective public consultation process	3/10
2. Quality assurance of the public consultation process	1/3
3. Regularity in publishing draft laws for written public consultation	0/4
4. Test of public consultation practices	0/24
Total¹⁸⁶	4/41

Interministerial consultation on public policy

This indicator measures the adequacy of the regulatory framework for the interministerial consultation process and tests the system in practice for five draft laws.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
1. Adequacy of the regulatory framework for an effective interministerial consultation process	7/9
2. Test of interministerial consultation practices	6/12
Total¹⁸⁷	13/21

The regulatory framework gives ministries wide discretion to choose whether, whom and how to consult, and whether to provide feedback on submitted opinions. Therefore, the consultation process is neither predictable nor transparent. The quality-assurance function is not clearly established or practised. Interministerial consultation and conflict resolution are functional, but written information on the results of interministerial consultation is not systematically shared with the Government.

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

Turkey has a long tradition of legal drafting and an exemplary accessibility of legislation. The guidance for legal drafting is described in detail in comprehensive, up-to-date regulation¹⁸⁸. The quality of legal drafting is assured by rule and in practice by the PM and the MoJ, and the PM has the final word in

¹⁸⁶ Point conversion ranges: 0-6=0, 7-13=1, 14-20, 21-27=3, 28-34=4, 35-41=5.

¹⁸⁷ Point conversion ranges: 0-2=0, 3-6=1, 7-10=2, 11-14=3, 15-18=4, 19-21=5.

¹⁸⁸ By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005.

case of conflict¹⁸⁹. All five new law samples analysed were reviewed by both bodies. None of the new laws adopted in 2015 were amended within one year of adoption, which also demonstrates the quality of legal drafting.

While the PM provides training on legal drafting at the request of line ministries, this is not a regular practice¹⁹⁰. In 2016, for example, the General Directorate of Legislation and Publication of the PM provided training sessions on legal drafting to the Ministry of National Education, the Ministry of Environment and Urbanisation, the Central Bank of the Republic of Turkey and the Radio and Television Supreme Council¹⁹¹.

According to the 2017 Balkan Barometer survey¹⁹², 63% of the responding businesses strongly or mostly agreed that laws and regulations affecting their companies are clearly written, not contradictory and do not change too frequently.

The procedure for publishing legislation is clearly stipulated. The responsibility for publication is allocated to the PM General Directorate of Legislative Development and Publication¹⁹³. The laws must be published in the Official Gazette within 15 days of their submission to the President¹⁹⁴. Both primary law and secondary regulation are available and easily accessible in consolidated format, free of charge, through the central Online State Gazette¹⁹⁵. The PM has the obligation to consolidate regulation¹⁹⁶.

According to the 2017 Balkan Barometer survey, 57% of the responding businesses strongly or mostly agreed it is easy to obtain information from the Turkish authorities about laws and regulations affecting their companies.

Given Turkey's strong legislative tradition, regulatory requirements and quality assurance, the value for the indicator 'Predictability and consistency of legislation' is 5.

The value for the indicator 'Accessibility of legislation' is 5 as well.

¹⁸⁹ By-law on the Principles and Procedures for Drafting Legislation No. 2005/9986 of 19 December 2005, Articles 6 and 25. Interviews with officials of the PM and the MoJ.

¹⁹⁰ Interview with the Directorate General of Laws and Decrees of the PM.

¹⁹¹ Information received from the PM.

¹⁹² Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

¹⁹³ Law on the Prime Ministry Organisation No. 3056 of 10 October 1984, Article 2(d); By-Law on the Preparation and Publication of the Official Gazette No. 5335 of 22 June 1927; Law on the Regulations to be Published in the Official Gazette No. 3011 of 1 June 1984.

¹⁹⁴ <https://global.tbmm.gov.tr/index.php/en/vd/icerik/32>.

¹⁹⁵ <http://www.resmigazete.gov.tr/default.aspx>.

¹⁹⁶ Law Amending the Decree Law on the Organisation of the Prime Ministry No. 3056 of 10 October 1984, Article 10.

Predictability and consistency of legislation

This indicator measures the predictability and consistency of legislation. It assesses the availability of training and guidance along with the establishment of the quality control function. The consistency of laws is assessed based on the ratio of laws amended one year after adoption, and predictability is assessed through the perceived consistency of interpretation of business regulations.

Overall indicator value 0 1 2 3 4 **5**

Sub-indicators	Points
1. Availability of guidance documents on legal drafting	2/2
2. Quality assurance on legal drafting	3/3
3. Laws amended one year after adoption (%)	3/3
4. Perceived clarity and stability of government policy making of laws and regulations by businesses (%)	1 / 2
Total¹⁹⁷	9/10

Accessibility of legislation

This indicator measures both the regulatory framework for making legislation publicly available and the accessibility of legislation in practice, based on the review of the availability of legislation through the central registry and as perceived by businesses.

Overall indicator value 0 1 2 3 4 **5**

Sub-indicators	Points
1. Adequacy of the regulatory framework for public accessibility of legislation	6/6
2. Accessibility of primary and secondary legislation in practice	8/8
3. Perceived availability of laws and regulations affecting businesses (%)	1/2
Total¹⁹⁸	15/16

Regulatory guidance for legal drafting is detailed and up-to-date. The quality of drafting is assured both by the PM and the MoJ. All primary law and secondary regulation is available in consolidated format online.

Key recommendations

Short-term (1-2 years)

- 1) Ministries should develop internal rules for steering and co-ordinating the internal policy-development and legislative processes.
- 2) The PM should strengthen and conduct rigorous quality control of RIAs and public consultation for both domestic lawmaking and *acquis* alignment, as well as provide relevant assistance and training to line ministries to embed practical application of the requirements.

¹⁹⁷ Point conversion ranges: 0=0, 1-2=1, 3-4=2, 5-6=3, 7-8=4, 9-10=5.

¹⁹⁸ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

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- 3) The Government should improve the regulatory framework for public consultation. The framework should establish a minimum duration for public consultation, stipulate the obligation to publish drafts and accompanying documents (including draft RIAs) in an easily accessible manner, and require lawmakers to report to both decision makers and the public on the feedback received.

Medium-term (3-5 years)

- 4) The PM should establish a monitoring-and-evaluation system covering individual laws and policies and analysing the functioning and rules of legislative development, including on drafting, RIAs and public consultation.
- 5) The PM, together with the MoEU and the MoF, should ensure that all legislation, including on *acquis* transposition, is properly costed.

3

Public Service and Human Resource Management

PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015-JUNE 2017

1.1. State of play

The Turkish civil service is a career system with a wide horizontal scope¹⁹⁹ that includes all institutions from the central government (except for the Administration of the President), along with many other bodies which are usually not considered part of the core civil service. The Law on Civil Servants (LCS)²⁰⁰ contains detailed basic provisions, and each ministry uses its own secondary legislation. This results in the application of many different human resources (HR) mechanisms across the civil service.

Legislation is in place to ensure professional and competitive external recruitment for entry-level positions. This consists of a general exam for all candidates and more specific exams according to the regulation of each public authority. However, the lack of merit-based selection for senior civil-service positions remains an issue of concern.

The salary system is not transparent. It is difficult for the public to know what civil servants earn, as this information does not appear on government websites. Furthermore, salaries include many different elements and supplements, which make the system too complex.

Although central institutions, such as the Public Administration Institute for Turkey and Middle East (TODAIE) and the State Personnel Administration (SPA), offer training or are responsible for some aspects of training policy, Turkish authorities lack sufficient instruments to foster the professional development of civil servants. There is no updated general strategy for training, and individual institutions seldom deploy strategic planning for training based on a needs analysis. Furthermore, professional development cannot be fostered through performance appraisal, as there is no detailed secondary legislation or guidance on performance appraisal.

Legislation on integrity and disciplinary sanctions is also in place. While bribes to front-office staff in public administration bodies are perceived by citizens as very rare, a considerable proportion of business people think that additional payments or gifts are needed to “get things done”, according to a survey carried out in 2017 by the Balkan Barometer²⁰¹.

To assess the practice of HR policies, SIGMA assesses anonymised individual files or quantitative data on civil servants from selected public authorities. It is necessary to have the full co-operation of individual institutions to assess the application of processes such as recruitment, promotion and integrity cases. SIGMA requested such information from five public institutions: the General Directorate of Forestry, the Ministry of Family and Social Policies, the Ministry of Economy (MoE), the Social Security Administration and the Revenue Administration. Only the last three of these institutions provided the information requested, and it was sometimes incomplete. This limited participation of public bodies has resulted in lower point allocations for many sub-indicators and, as a result, lower values for some indicators.

¹⁹⁹ See definitions of horizontal, vertical and material scopes of the civil service in OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, p.41, <http://sigmaweb.org/publications/Principles-of-Public-Administration-Edition-2017-ENG.pdf>.

²⁰⁰ LCS No. 657/1965.

²⁰¹ Balkan Barometer, annual survey conducted by the Regional Cooperation Council, <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>.

The assessment of three indicators related to the dismissal of civil servants and senior civil servants, and disciplinary procedures was not conducted because of the declaration of the state of emergency²⁰² from July 2016, which introduced extraordinary measures related to dismissals. SIGMA's assessment methodology was not designed to assess the functioning of such measures.

1.2. Main developments

The following section describes key changes in the public administration for each key requirement²⁰³ and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement Reports.

Key requirement: 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 are in place.

There have been no significant developments under this key requirement since 2015.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports²⁰⁴

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	Extent to which the scope of public service is adequate, clearly defined and applied in practice.	3	3
	Extent to which the policy and legal frameworks for professional and coherent public service are established and implemented.	3	3
	Extent to which the institutional set-up enables consistent HRM practices across the public service.	3	3

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

There is no evidence that the recommendations of the 2015 Baseline Measurement Report have been taken on board: the transparency of the remuneration system has not increased; the powers of the Council of Ethics for Public Officials have not been expanded; the coherence of professional training has not been enhanced; and senior civil servants have not been recruited using merit-based criteria.

Under decrees issued during the state of emergency 98 459 civil servants have been dismissed, not including 1 299 who were later reinstated to work²⁰⁵. A centralised commission has been created to consider appeals against dismissals, but is not yet operational (as of 30 June 2017).

²⁰² Council of Ministers Decision No. 2016/9064 on the Declaration of State of Emergency of 21 July 2016, Official Gazette, No. 29777 of 21 July 2016.

²⁰³ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Principles-of-Public-Administration-Edition-2017-ENG.pdf>.

²⁰⁴ OECD (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>.

²⁰⁵ <http://www.memurlar.net/haber/664803/son-khk-sonrasinda-toplam-ihrac-sayisi-102-bin-oldu.html>. The article dates to 2 May 2016, but there were no new dismissals based on state of emergency decrees between May and 30 June 2017.

Minor progress has been achieved in the area of performance appraisal, as the SPA has produced draft guidelines.

The value for the qualitative indicator ‘Extent to which the integrity and anti-corruption system of the public service is in place and applied in practice’ has decreased, as there has been no anti-corruption strategy in force, since 2014.

Regarding the qualitative indicator ‘Extent to which the remuneration system of public servants is fair and transparent and applied in practice’, the agreement signed by the Government and the Confederation of Public Servants Trade Unions (*Memur-Sen*) ensures that pay increases will not be below the inflation rate²⁰⁶.

Table 2. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which the recruitment of public servants is based on the merit principle in all its phases.	4	4
	Extent to which the termination of employment of public servants is based on merit.	3	Not assessed
	Extent to which political influence on the recruitment and dismissal of senior managerial positions in the public service is prevented.	2	Not assessed
	Extent to which the remuneration system of public servants is fair and transparent and applied in practice.	3	3
	Extent to which the training system of public servants is in place and applied in practice.	2	2
	Extent to which the performance appraisal system of public servants is in place and applied in practice.	1	1
	Extent to which the integrity and anti-corruption system of the public service is in place and applied in practice.	3	2
	Extent to which the disciplinary procedures against public servants are established to promote individual accountability and avoid arbitrary decisions.	4	Not assessed
Quantitative	Annual turnover of civil servants at the level of central administration.	Not available ²⁰⁷	Not available
	Percentage of vacant positions filled by external competition in the civil service at the level of central administration.	Not available	Not available

²⁰⁶ Collective Bargaining Agreement, Official Gazette No. 29454 of August 2015.

²⁰⁷ Here and hereafter, “not available” means that the administration did not provide the data SIGMA requested during the data collection period.

Turkey
Public Service and Human Resource Management

	Percentage of women in senior managerial positions in the civil service at the level of central administration.	9.7% ²⁰⁸	7.8%
	Annual turnover of senior managerial civil servants at the level of central administration.	Not available	Not available
	Percentage of vacant senior managerial positions at the level of central administration filled by external competition.	Not applicable	Not applicable

²⁰⁸

According to new data provided by the SPA in 2017, the percentage of women in senior civil service positions in 2014 was 6.7% (of the total of 1 021 positions filled at senior civil service level, 69 were women).

2. ANALYSIS

This analysis covers seven Principles for the public service and human resource management area grouped under two key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators²⁰⁹, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

Public Service and Human Resource Management

Key requirement: The scope of public service is clearly defined and applied in practice so that the policy and legal frameworks and institutional set-up for professional public service are in place.

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

The LCS, approved in 1965²¹⁰ and amended on several occasions, covers a wide range of categories of public servants (general administration, judiciary, health, education, security, intelligence and religious services) and regulates all general provisions relevant to employment relations in the public service. Political appointments, or their equivalent in the Turkish system of “exception positions”, are clearly delimited in the legislation, but many provisions of the LCS also apply to those positions. This blurs the distinction between discretionary positions and civil servants²¹¹. Furthermore, the vertical scope of the LCS presents some weaknesses at the bottom of the hierarchy, as some ancillary and support tasks can be performed by both civil servants²¹² and staff working under a labour contract. By-law No. 318/1988²¹³ establishes that cleaning of service premises and hospitals, maintenance and management of facilities and other similar services may be entrusted to third parties via tenders.

In terms of the horizontal scope of the public service, analysis of special legislation (complementing the LCS) related to selected institutions²¹⁴ shows that merit principles are applied in most institutions when

²⁰⁹ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

²¹⁰ LCS No. 657/1965.

²¹¹ *Idem*, according to Article 61, all provisions of the LCS apply to “exception positions”, apart from recruitment, examinations, and grade and step advancements.

²¹² *Idem*, Article 36 includes these auxiliary positions.

²¹³ By-Law No. 318/1988 of 28 March 1988, Article 1, Official Gazette No. 19771.

²¹⁴ Sample institutions: 1) Ministry of Foreign Affairs; 2) Ministry of Customs and Trade; 3) Tax Administration; 4) Social Security Administration; 5) Directorate General of Forestry; 6) Turkish Grand National Assembly; 7) Administration of

they recruit civil servants. However, in some institutions the special legislation does not include the right to appeal recruitment decisions to a higher administrative instance (but appeal to courts is ensured)²¹⁵. Officials working in the General Secretariat of the President are not selected through merit-based recruitment²¹⁶.

The LCS covers all the relevant aspects of the material scope²¹⁷ of the civil service according to the Principles of Public Administration²¹⁸.

The value for the indicator ‘Adequacy of the scope of public service’ is 3, mainly because some categories of civil servants should not be included in the civil service (e.g. lower auxiliary positions), and some positions for which appointment is discretionary enjoy many of the same rights as civil servants. Moreover, application of the merit principle in key HR processes is uneven in the bodies selected for analysis, because there is special civil service legislation for each public body.

Adequacy of the scope of public service						
This indicator measures the extent to which there is a legal framework establishing an adequate horizontal, vertical and material scope for the public service ²¹⁹ , and whether it is consistently applied across the public sector.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Clarity in the legislative framework of the scope of the civil service	2/2
2. Adequacy of the horizontal scope of the public service	4/6
3. Comprehensiveness of the material scope of civil service legislation	2/2
4. Exclusion of politically-appointed positions from the scope of the civil service	0/2
5. Clarity of the lower division line of the civil service	0/1
Total²²⁰	8/13

the President; 8) Administration of the Prime Minister (PM); 9) Regulatory Board of the Energy Market; 10) Directorate General of Civil Aviation; 11) Information and Communication Technologies Authority; 12) Turkish Court of Accounts; and 13) Ombudsman Institution.

²¹⁵ Analysis of the sample showed that the special laws of the following three bodies do not ensure the right of administrative appeal (but the appeal to courts is ensured): Directorate General of Forestry; Turkish Grand National Assembly; and Information and Communication Technologies Authority.

²¹⁶ LCS No. 657/1965, Article 59.

²¹⁷ LCS No. 657/1965: description and classification of posts (Articles 32-39); eligibility criteria to enter the civil service (Article 48); recruitment and selection (Articles 46-53); professional development (Article 55); disciplinary regime (Articles 146-186).

²¹⁸ SIGMA (2017) *The Principles of Public Administration*, OECD Publishing, Paris, Principle 1, sub-principle 4, in the area of Public Service and Human Resources Management, p. 41, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

²¹⁹ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf. SIGMA clarifies that it applies the narrow scope of public service covering: 1) ministries and administrative bodies reporting directly to the government, prime minister or ministers (i.e. the civil service, strictly speaking); administrations of the parliament, the president and the prime minister; 2) other administrative bodies at the level of the central administration, if they are responsible for safeguarding the general interests of the state or other public bodies; and 3) independent constitutional bodies reporting directly to the parliament. The scope of public service thus does not cover institutions at the level of the sub-national administration and special types of public service, elected and politically appointed officials, or support and ancillary personnel in the administrative bodies.

²²⁰ Point conversion ranges: 0-3=0, 4-5=1, 6-7=2, 8-9=3, 10-11=4, 12-13=5.

The Turkish civil service is a career system with a wide horizontal scope that includes all institutions from the central government (except for the Administration of the President), along with many other bodies which are usually not considered part of the core civil service. The vertical differentiation between civil service positions and positions subject to discretionary appointments is blurred. Maintenance workers are not clearly excluded from the scope of civil service. The LCS contains detailed basic provisions, and each ministry uses its own secondary legislation. This results in the application of many different HR mechanisms across the civil service.

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

Political responsibility for the civil service lies mainly with the Ministry of Finance (MoF) and the Ministry of Labour and Social Security (MoL). The MoF is in charge of salary policy, but it also influences several aspects of human resource management (HRM) through budgetary laws. Co-ordination of the public service is the responsibility of the SPA²²¹, subordinated to the MoL. Each public authority has its own HR unit, which may be decentralised across the territory according to the size of each authority. These units are in charge of all HR activities within their institution, from planning to disciplinary procedures. The SPA is mandated to: 1) give non-binding opinions on the regulations affecting HR in the individual authorities; 2) monitor and evaluate HR-related principles and procedures; 3) standardise job descriptions and titles; 4) keep public personnel records; 5) ensure the cohesion of the system; and 6) assist in drafting HR plans²²².

The SPA plays a relatively passive role. It is not performing some functions which could help to improve cohesion in the system. It does not have an overall strategic plan or issue an overall report on implementation of civil service policy and monitoring of application of the LCS²²³. It does not promote regular forums to co-ordinate HRM issues, except for occasional one-off events²²⁴, and it does not play a strategic role in the planning of training.

Regarding the HR management in individual bodies, there was insufficient evidence provided to conclude if the level of professionalisation of HR units in public bodies is high or that they produce data to support policy decisions.

There is no strategy for the whole civil service that sets out clear objectives, quantifiable targets, specific activities and a clear timeline. Some strategic documents mention the civil service, but only in an unspecific way. The Tenth Development Plan (TDP) of Turkey (2014-2018) does include the public service, mentioning a number of areas where improvement is needed: 1) replacing the registry with a personnel information system; 2) establishing a recruitment and promotion system based on merit and objectivity; 3) carrying out performance appraisal for civil servants; 4) introducing in-service training; and 5) linking effectiveness and efficiency in the civil service to salaries. But the Plan does not set specific, quantifiable targets and timelines²²⁵. The SPA's activity report provides some information on the achievement of these measures²²⁶. Its Strategic Plan (2013-2017) focuses on the SPA itself, rather than on the whole public service system, presenting mainly activity-based objectives without concrete targets, assigned responsibilities or clear timelines. Individual public authorities do not have HR-specific strategic documents. Some HR-related objectives are included in the general plans of the

²²¹ Decree-Law No. 217/1984 on the Establishment and Duties of the SPA.

²²² *Idem*, Article 3.

²²³ The SPA produces a three-page report on the measures from the TDP for which it is responsible. It does not produce a report monitoring the civil service issues considered relevant to the Principles.

²²⁴ Such as the Workshop on the Evaluation of the Public Personnel System of 21-23 October 2016, Bursa.

²²⁵ TDP (2014-2018), paragraphs, 378, 380, 381, 384 and 386, [http://www.mod.gov.tr/Lists/RecentPublications/Attachments/75/The%20Tenth%20Development%20Plan%20\(2014-2018\).pdf](http://www.mod.gov.tr/Lists/RecentPublications/Attachments/75/The%20Tenth%20Development%20Plan%20(2014-2018).pdf).

²²⁶ As noted above, the SPA produces a three-page report on the measures from the TDP for which it is responsible.

public authorities, but as those plans do not contain any diagnosis, it is difficult to assess how accurately they reflect the actual situation in each authority²²⁷.

Public authorities have their own civil service registries, but there is no fully operational central civil service registry for management purposes. This makes it difficult to assess the evolution of the size of the different categories and classes of personnel and employees to support strategic decisions based on this type of information. Furthermore, the datasets of individual institutions do not cover all the main data required for HRM, and their structure is not standardised²²⁸. According to the SPA's annual monitoring report of the goals assigned to it in the TDP (2014-2018), some steps were taken in 2016 to improve the Human Resource Management Information System (HRMIS), related to updating of the information and linking it to the Social Security databases. Despite those improvements the SPA has informed SIGMA that there is no operational central HR database (personnel registry) for the civil service. Since the introduction of the state of emergency from July 2016, the SPA was entrusted to register all dismissals as a consequence of investigations carried out during the state of emergency²²⁹.

The value for the indicator 'Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service' is 1. This is mainly because insufficient evidence was provided to SIGMA to demonstrate the existence of professional HR units and the availability and use of data on the civil service to support policy decisions, and also because the structure of the HRMIS is not standardised across the public service.

Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service						
This indicator measures the extent to which the policy, legal framework and institutional capacities are in place and enable consistent human resource management (HRM) practices across the public service, and assesses whether policies and laws are implemented to ensure proper management of the civil service, for example a functioning civil service database, availability and use of data, etc.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Establishment of political responsibility for the civil service in the legal framework	2/2
2. Quality of public service policy documents	1/4
3. Implementation and monitoring of public service policy	1/4
4. Right balance between primary and secondary legislation	0/2
5. Existence of a central, capable co-ordination body	3/4
6. Professionalism of HRM units in civil service bodies	0/2 ²³⁰
7. Existence of a functional HR database with data on the civil service	0/4
8. Availability and use of data on the civil service	0/5
Total²³¹	7/27

²²⁷ Analysis of HR-related objectives for a sample of three institutions: the Revenue Administration, the MoE and the Social Security Institution.

²²⁸ An analysis of a sample of three institutions (the Revenue Administration, the MoE and the Social Security Institution) shows that the level of detail of their datasets varies, with different structures and some modules missing (such as those related to professional development of employees).

²²⁹ Document provided by the SPA: 2016 report.

²³⁰ Information from only three bodies out of the five requested was provided, which influenced the value of the sub-indicator.

²³¹ Point conversion ranges: 0-3=0, 4-8=1, 9-13=2, 14-18=3, 19-23=4, 24-27=5.

The HR function is performed by the individual authorities. Co-ordination of the system is entrusted to the SPA, which plays a limited role to foster cohesion. There is no civil service policy-making document which would fulfil all the strategic criteria (e.g. measurable and time-bound objectives and costing). The central HRMIS is still not operational, and the databases in different bodies are not standardised.

Key recommendations

Short-term (1-2 years)

- 1) The SPA should play a more proactive role in HRM in the civil service, at least in relation to the government administration, including organising the network of HR professionals, producing guidelines and influencing training policy to a greater extent.
- 2) The SPA should continue its efforts to build an IT system enabling it to effectively monitor HRM in the civil service.

Medium-term (3-5 years)

- 3) The Council of Ministers (CoM), in co-ordination with all relevant stakeholders, should conduct a comprehensive review of current public service legislation in order to improve the primary and secondary legislation, the institutional set-up and implementation practices. Based on this comprehensive review of the current legislation, the CoM should develop a strategic roadmap of civil service reform.

Human resource management

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

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



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 and the use of competitions in recruitment are well-established principles in the LCS²³². However, it was not possible to assess the application of merit in recruitment in practice, since only three of the five institutions from which SIGMA sought relevant information provided a response, and those files and statistics were incomplete. Civil servants can achieve career progression both horizontally (by moving to a higher grade in the same position) and vertically (by being promoted to a higher-level position)²³³. Most of the items that shape a merit-based civil service are present in the legislation (e.g. the obligation to create staffing plans, job classifications and the composition of selection committees). However, the provisions of the LCS are general and must be analysed along with the special legislation developed separately for all public bodies. It is important to note that, in some individual authorities, there is no right to appeal recruitment decisions to an administrative instance²³⁴. Furthermore, the way in which vacancies are announced is not fully aligned with the principle of competitive recruitment. Recent legislation mandates the publication of vacancies on the websites of both the recruiting authority and the SPA²³⁵, and some improvements were introduced in relation to sorting the vacancies²³⁶. However, there is no way to subscribe to announcements of new vacancies.

The external competition for a vacancy is divided into two parts. The first part consists of written KPSS²³⁷ tests, which are centrally organised for the whole central Administration in 55 clusters, each giving different weight to some of the 16 specific exam areas²³⁸.

Each individual institution may then require candidates to achieve a minimum threshold according to its own legislation. Specific by-laws from individual institutions for Category A²³⁹ positions may require candidates to do an additional written and/or oral exam. Of the three institutions that sent information to SIGMA (of the five from which it was requested), only the MoE and the Social Security Administration sent complete files which demonstrated that they comply with the principles of merit-based recruitment²⁴⁰.

In place since 1999, the KPSS exams are generally considered to be an anonymous merit-based instrument for civil service recruitment. However, there have been instances of collective cheating on

²³² LCS No. 657/1965, Article 3 (merit principle) and Articles 49-51.

²³³ *Idem*, Articles 36-38.

²³⁴ In a sample of eight groups of institutions, three do not include the right to appeal: the Information and Communication Technologies Authority, the Turkish Grand National Assembly and the Directorate General of Forestry. The eight groups of institutions are: 1) ministries; 2) customs administration; 3) tax administration; 4) foreign service; 5) the three institutions with the highest number of civil servants reporting directly to the Government, the PM or a minister, and which are not a ministry; 6) the Administration of the Parliament, the Administration of the President and the Administration of the PM; 7) the three regulatory agencies responsible for energy, aviation and telecommunications; and 8) the Supreme Audit Institution and the Ombudsman Institution. Appeal rights to courts are ensured.

²³⁵ Circular of the PM No. 4/2014, which mandates uploading all job vacancy announcements on the SPA website.

²³⁶ SPA website: <http://www.dpb.gov.tr>.

²³⁷ Public Personnel Selection Examination (Turkish acronym).

²³⁸ Specific exam areas are: general skills, general culture, foreign languages, educational sciences, law, economy, business, finance, accounting, labour economy and industrial relations, econometrics, statistics, public administration, international relations, educational area information, and religious service areas 1 and 2, http://www.dpb.gov.tr/F/Root/dosyalar/KPSSPUANTURUTABLOSU_06012017.docx.

²³⁹ Civil servants, as defined by article 4A of the LCS: "Staff appointed by the State and the other legal public entities, notwithstanding the current institutional structure, who are assigned to carry out the essential and permanent public services, to be performed in accordance with the general administrative principles shall be classified as civil servants". Staff authorised and assigned for the determination of general policies, research, planning, programming, administration and auditing in organisations not defined above shall also be classified as civil servants."

²⁴⁰ The Revenue Administration provided incomplete information.

these exams in the past, on which the State was slow to react. For example, there were allegations that people had unlawfully obtained the exam questions before or during the examinations held in July 2010²⁴¹, but those exams were not cancelled until August 2016²⁴², although the investigation had taken place much earlier.

The value for the indicator ‘Meritocracy and effectiveness of recruitment of civil servants’ is 1, mainly due to the lack of data or insufficient number of documents provided to enable SIGMA to assess how recruitment is implemented in practice. The complete files SIGMA received from two bodies indicate that recruitment organised by those bodies was merit-based. However, those files could not be taken into account in establishing of the value for the indicator ‘Merit-based termination of employment and demotion of civil servants’ because they represented less than 50% of the bodies selected for analysis.

The assessment of the indicator related to the termination of employment of senior civil servants was not conducted because of the introduction of the state of emergency²⁴³ from July 2016, which introduced extraordinary measures related to dismissals. SIGMA’s assessment methodology was not designed to assess the functioning of such measures. Thus, the text below describes only the legal and actual situation during the assessment period.

The termination of employment is regulated in the LCS. According to the LCS, apart from natural causes or the willingness of a civil servant to quit his/her job, termination of a contract could be the result of disciplinary sanctions, which follow disciplinary procedures²⁴⁴. Civil servants have the right of defence and the right to appeal to the Administrative Court. Reasons for termination of employment are stipulated in the LCS²⁴⁵. Performance appraisal results or organisational restructuring cannot lead to dismissal²⁴⁶, and dismissals based on the LCS do not occur in large numbers (there were 355 in 2016²⁴⁷).

However, under the state of emergency, the Government enacted 25 *Olağanüstü Hâl* (OHAL)²⁴⁸ decrees (12 in 2016 and 13 in 2017)²⁴⁹.

An analysis of those decrees in relation to termination of employment reveals a number of common features: 1) most decrees contain a list of people who are dismissed from office and the notification of dismissal in the same decree; 2) as the basis for dismissals, the allegation of belonging to, or having contact or affiliation with the “Fethullahçı Terrorist Organisation (FETÖ)”²⁵⁰ is included²⁵¹; 3) the listed civil servants are dismissed without any further process or notification²⁵²; and 4) some decrees contain a list of those admitted back into the civil service²⁵³.

²⁴¹ A 2015 news report on the investigation asserts that there were 2 893 suspects out of 3 227 students who got 100 or more points on the exam in the field of educational sciences, <http://www.timeturk.com/tr/2015/04/03/kpss-de-supheli-sayisi-2-bin-893.html>.

²⁴² By-Law No. 670 of 15 August 2016, Article 6.

²⁴³ Council of Ministers Decision No. 2016/9064 on the Declaration of State of Emergency of 21 July 2016, Official Gazette, No. 29777, 21 July 2016.

²⁴⁴ LCS 657/1965, Articles 124-136. Situations that may lead to dismissal are defined in Article 125(e) of the LCS.

²⁴⁵ *Idem*, Articles 94-98.

²⁴⁶ *Idem*, Article 91.

²⁴⁷ Information provided by the SPA. The information on dismissals does not include the number of civil servants dismissed as result of the decrees issued during the state of emergency.

²⁴⁸ Turkish acronym. *Olağanüstü Hâl* means “state of emergency”.

²⁴⁹ The numbers provided reflect the situation on 30 June 2017.

²⁵⁰ The term is quoted in the way it was used in the decrees.

²⁵¹ For instance, decree No. 670 of 15 August 2016, Article 2.

²⁵² For instance, decree No. 679 of 2 January 2017.

²⁵³ For instance, decree No 683. As of 5 April 2017, a total of 669 civil servants were reinstated according to the Information provided by the SPA on 5 April 2017. Unofficial data from 2 May 2017 shows that this number increased to 1 299, <http://www.memurlar.net/haber/664803/son-khk-sonrasinda-toplam-ihrac-sayisi-102-bin-oldu.html>.

A seven-member National Commission was established in January 2017²⁵⁴ to replace previous administrative appeal procedures carried out by *ad hoc* ministerial commissions. Among other duties, the National Commission evaluates application of the procedures for dismissals from the public service as a consequence of decrees under the state of emergency, as well as the closure of non-public sector organisations²⁵⁵. During the period of assessment, the Commission was not operational.

Meritocracy and effectiveness of recruitment of civil servants						
This indicator measures the extent to which the legal framework and the organisation of civil service recruitment support merit-based and effective selection of candidates wishing to join the civil service and whether this ensures the desired results in terms of competitive, fair and non-discretionary appointments that enhance the attractiveness for job-seekers and performance of the public sector.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework and organisation of recruitment	
1. Adequacy of the legislative framework for merit-based recruitment for civil service positions	15/18
2. Application in practice of recruitment procedures for civil service positions	1/18 ²⁵⁶
Performance of recruitment practices	
3. Time required to hire a civil servant	0/2 ²⁵⁷
4. Average number of eligible candidates per vacancy	0/4 ²⁵⁸
5. Effectiveness of recruitment for civil service positions	0/4 ²⁵⁹
6. Retention rate of newly hired civil servants (%)	0/4 ²⁶⁰
Total²⁶¹	16/50

Merit-based termination of employment and demotion of civil servants	
This indicator measures the extent to which the legal framework and the human resource management practices support fair termination of employment in the civil service and fair demotion of civil servants wherever it is envisioned in the legislation. The indicator does not deal with the termination of employment and demotion of senior civil servants.	
Overall indicator value	Not assessed

Legislation is in place to ensure professional and competitive external recruitment for entry-level positions. This consists of a general exam for all candidates and more specific exams according to the

²⁵⁴ By-Law No 685 on the Creation of the Commission for the Processes Related to the State of Emergency of 23 January 2017.

²⁵⁵ *Idem*, Article 2.

²⁵⁶ An insufficient number of files was received to allow analysis and conclusions. Three bodies of the five from which SIGMA requested information did share their files, but the files were complete for only two of those three bodies.

²⁵⁷ Only data from two bodies was provided and, in both cases, the duration of selection exceeded three months.

²⁵⁸ No data was provided.

²⁵⁹ Ditto.

²⁶⁰ Insufficient data was provided to enable assessment.

²⁶¹ Point conversion ranges: 0-7=0, 8-16=1, 17-25=2, 26-35=3, 36-43=4, 44-50=5.

regulation of each public authority. However, since SIGMA did not have access to a sufficient number of files of selected institutions, it has not been possible to assess their degree of compliance with the professional principles for recruitment of the LCS.

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

The assessment of the indicator related to recruitment and dismissal of senior civil servants was not conducted because of the introduction of the state of emergency²⁶² from July 2016, which introduced extraordinary measures related to dismissals. SIGMA's assessment methodology was not designed to assess the functioning of such measures. Thus, the text below describes only the legal and actual situation during the assessment period.

The senior civil service is not regulated separately in the Turkish civil service legislation. However, there are differentiated rules for recruitment and dismissal for two groups of positions: 1) heads of units and above them (hereafter termed "senior positions")²⁶³; and 2) political appointees which are known as "exception positions". For these two groups, there has been no change since the last assessment in 2015, except for the OHAL decrees and the list of dismissals described under Principle 3. The number of senior civil servants rose from 1 021 in 2014 to 1 053 in 2016 (in Categories I and II)²⁶⁴. The number of senior civil service vacancies rose in the same time from 472 to 563²⁶⁵. The proportion of women in this group is 7.8%, up from 6.7% in 2014.

Access to senior civil service positions is not competitive. It is based on fulfilment of specific criteria, with appointments made from among civil servants²⁶⁶. The minister discretionarily appoints heads of units (*daire başkanı*) and above, and the President (with countersignatures of the PM and the minister) appoints incumbents to the so-called exception positions²⁶⁷.

The turnover rate for these senior positions has been very high in the past (28.6% in 2015)²⁶⁸. Data for 2016 was not provided to SIGMA.

At the end of 2015, the Prime Minister centralised the process for some decisions affecting senior officials²⁶⁹. For a few months, all appointments and transfers between institutions at the level of *daire başkanı* and above (many of which had only required the approval of the minister) also required the approval of the Prime Minister²⁷⁰. The circular in which that decision was announced also mandated the end of acting positions. However, in 2016, the Prime Minister abolished these new provisions, and the appointment process resumed the same rules as in the past²⁷¹.

The general provisions related to dismissal of senior civil servants are the same as those for other civil servants, as described under Principle 3. The introduction of the decrees under the state of emergency

²⁶² Council of Ministers Decision No. 2016/9064 on the Declaration of State of Emergency of 21 July 2016, Official Gazette, No. 29777, 21 July 2016.

²⁶³ Typical hierarchy of senior civil service positions: 1) Undersecretary (*Müsteşar*); 2) Deputy Undersecretaries (*Müsteşar Yardımcıları*); 3) General Directors (*Genel Müdürler*); 4) Deputy General Directors (*Genel Müdür Yardımcıları*); 5) Head of Units (*Daire Başkanları*) (in some organisations there are also deputy heads of units, but that is atypical); 6) Division Directors (*Şube Müdürleri*); and) Chiefs (*Şefler*).

²⁶⁴ Information received from the SPA. Category I refers to General Administrative Services and Category II to Technical Services, LCS, 657/1965, Article 36.

²⁶⁵ SPA.

²⁶⁶ Specific requirements for qualifications and years of experience are set for each grade, LCS, 657/1965, Article 68.

²⁶⁷ LCS, 657/1965, Article 59.

²⁶⁸ Source: OECD (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, p.8, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>.

²⁶⁹ Circular of the Prime Minister No. 13/2015, Official Gazette No. 29559 (*Mükerrer*), of 2 December 2015.

²⁷⁰ This excludes the exception positions of LCS 657/1965, Article 59. For those appointments, the signatures of the PM, the Minister and the President are required.

²⁷¹ Circular of the Prime Minister No. 5/2016, Official Gazette No. 29632 of 22 February 2016.

highlighted in the previous Principle has also affected the termination of employment for senior civil servants (although there is no data on the exact numbers affected).

Merit-based recruitment and dismissal of senior civil servants	
<p>This indicator measures the extent to which the legal framework and the organisation of recruitment and tenure conditions of the senior civil service support a professional senior management, free from undue political influence in access or termination of employment in senior civil service positions. This indicator relates to all competitions for senior positions, both external and internal.</p> <p>Recruitment and dismissal in senior positions is treated under a separate indicator due to the importance of the role of this group of civil servants and the increased risk of politicisation and favouritism. High priority accorded to merit and competitiveness in the recruitment process reduces the possibility of political influence in appointments to such positions.</p>	
Overall indicator value	Not assessed

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

The salary system is regulated in the LCS²⁷², with detailed rules related to setting salaries. However, there are no rules to determine how to assign positions to relevant grades or how to analyse the content and value of positions. Salary scales are based on steps (from 4 to 9, depending on the grade) and grades (15) for 10 functional categories of the civil service²⁷³. Most issues on salary policy are determined by the MoF, and salary increases are agreed upon by the Government and the most representative civil service unions for each category. The basic salaries of the public service are regulated in the LCS and further indexed in the Budget Law²⁷⁴. The average monthly gross total salary is TRY 3 078. The compression rate between the highest and the lowest base salary is 1 to 3²⁷⁵. That is quite low, but comparable to some European Union member countries²⁷⁶. However, it may be misleading to draw conclusions based on this value, as a large share of total pay in the Turkish civil service consists of supplements. The various supplements include compensation for special service, training and education, and religious service, as well as allowances for foreign language knowledge, children and other generic supplements. These supplements are regulated in different pieces of legislation, which limits the transparency of the system.

Very few civil servants receive bonuses: just 1.1% in Categories I and II²⁷⁷. The only remaining bonus is one that was abolished in 2012, but which is maintained for some civil servants who had acquired this right before then²⁷⁸. The absence of bonuses suggests that managerial discretion is very limited.

Salary information is not transparent in at least two regards. The information on the salary of particular positions is not accessible on the websites of the government institutions, and published job vacancy postings do not include salary information. In addition, SIGMA did not have access to comparative analysis showing how salaries in the civil service compare with positions in other sectors or access to official reports containing salary data broken down by gender.

²⁷² LCS, No. 657/1965, Articles 146-186.

²⁷³ *Idem*, Article 43.

²⁷⁴ *Idem*, Articles 36 and 155 and the current Budget Law.

²⁷⁵ LCS, Article 43, Table 1.

²⁷⁶ Wage Compression Data, http://databank.worldbank.org/data/download/catalog/wage_compression_data.xls.

²⁷⁷ Information provided by the MoF. Category I refers to General Administrative Services. Category II refers to Technical Services. LCS, 657/1965, Article 36.

²⁷⁸ Decree-Law No. 375/2012. This refers to the *tesvik ikramiye* incentive.

The low compression ratio indicates that the salary system provides limited incentives for civil servants to seek promotion, but is at a level comparable to some EU countries.

Given the low level of transparency of the system, the lack of a job evaluation scheme, and the lack of proper comparisons of civil service salaries with those in other sectors for management purposes, the value for the indicator 'Fairness and competitiveness of the remuneration system for civil servants' is 2.

Fairness and competitiveness of the remuneration system for civil servants						
This indicator measures the extent to which the legal framework and the organisation of the civil service salary system support fair and transparent remuneration of civil servants, in terms of both the legislative and organisational preconditions and the performance and fairness of the systems in practice.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework and organisation of the remuneration system	
1. Legal obligation to base salaries on job classifications	2/2
2. Comprehensiveness, clarity and transparency in legal definitions of salary, criteria and procedures for allocation	2/2
3. Availability of salary information	0/3
Performance and fairness of the remuneration system in practice	
4. Fairness in the allocation of base salaries in the job classification system	0/4 ²⁷⁹
5. Base salary compression ratio	2/2
6. Managerial discretion in the allocation of bonuses	2/2
7. Motivational character of bonuses (%)	1/2
8. Competitiveness of civil service salaries (%)	0/3 ²⁸⁰
Total²⁸¹	9/20

The salary system is not transparent. It is difficult for the public to know what civil servants earn, as this information does not appear on government websites. Furthermore, salaries include many different elements and supplements, which make the system too complex.

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.

The LCS regulates training²⁸², but training is not considered to be either a duty²⁸³ or a right²⁸⁴ of civil servants. Participation in training courses is not directly linked to promotion or salary increases within the civil service, since those advancements are based on other criteria, such as seniority, performance reports and exams.

²⁷⁹ SIGMA was not able to find any provisions regulating how positions are allocated between grades (job evaluation methodology). Moreover, SIGMA was not provided with any reports that present salary statistics with gender breakdowns, and no data was provided on the number of civil servants broken down by grades. A breakdown of positions according to hierarchical levels in classification was also not provided.

²⁸⁰ No data was provided.

²⁸¹ Point conversion ranges: 0-3=0, 4-7=1, 8-10=2, 11-13=3, 14-16=4, 17-20=5.

²⁸² LCS No. 657/1965, Articles 214-225.

²⁸³ *Idem*, Articles 6-16.

²⁸⁴ *Idem*, Articles 17-25.

At the central level, the SPA does not play an active strategic role in training for professional development. According to legislation that dates back to 1983²⁸⁵, the functions of the SPA regarding training include authorisation of training plans of the different institutions, organisation of in-service training, and the training programme for civil servants who go abroad for professional development²⁸⁶. The SPA does not use its central position to put in place a strategic training plan across organisations to target the core civil service, as is also mandated by the LCS²⁸⁷.

In a sample of three institutions²⁸⁸, the analysis of how training is organised (based on different documents) shows that only one institution (the Social Security Administration) applies the whole process of training analysis, planning and evaluation, in alignment with the Principles of Public Administration²⁸⁹. The Social Security Administration uses a questionnaire to identify training needs and to evaluate courses. The other two institutions offer a less strategic view of training, offering a list of courses of interest to the organisation without any clear indication of their diagnosis. In general, all three institutions approach professional training with classical training modules, but their plans do not include other techniques, such as secondment, mentoring and exchanges with other organisations.

TODAIE carries out cross-organisational training for middle and top managers and also for civil servants from other countries in the region. It offers general training programmes, as well as masters' and doctoral programmes for senior civil servants, but it does not have any role in co-ordinating training policy across the administration.

Precise and systematised data on the volume and budgets of training programmes across the public service is not available, so it is not possible to assess the relevance of training in the civil service. In general, training has not occupied a central place in the public administration²⁹⁰, and it appears that a decision on the elaboration of training plans issued by the CoM in 1983 has never been updated²⁹¹.

Performance appraisal is regulated by the LCS²⁹² and mentioned in the TDP (2014-2018) as a task to be developed by the SPA²⁹³. However, the Government has not launched an overall policy on performance appraisal to encompass all civil servants in Categories I and II. The SPA had developed a draft document on the matter, but it is still under consultation²⁹⁴. Some individual state authorities have their own performance appraisal programmes²⁹⁵, but the application of performance appraisal has been contested in the constitutional tribunal (unsuccessfully), in attempts to abolish the article of the LCS that deals with the matter²⁹⁶. This controversy shows that more detailed regulation and guidance are required from the centre in order to properly apply performance appraisal. Data on implementation of performance appraisal across the public service is not available.

Secondary legislation regulates promotion within the civil service, except for positions at the level of head of unit (*daire başkanı*) and above, since their appointment is subject to discretionary decisions.

²⁸⁵ Decree of CoM No. 83/6061 of 21 February 1983.

²⁸⁶ Decree-Law No. 217 of 8 June 1984 on the SPA. Article 3 establishes its tasks. Sections H and I refer to its responsibilities on training. Also, LCS, 657/1965, Articles 219-220.

²⁸⁷ LCS No. 657/1965, Article 217.

²⁸⁸ SIGMA received data and documents from three bodies, the Social Security Administration, the Revenue Administration and the MoE. The other two selected bodies, the General Directorate of Forestry and the Ministry of Social Affairs did not provide any information, and no replacement was found.

²⁸⁹ SIGMA (2017) *The Principles of Public Administration*, OECD Publishing, Paris, Principle 6, sub-principles 6.3 and 6.4, p. 49, http://www.sigmaxweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

²⁹⁰ 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, pp. 197-218.

²⁹¹ Decision of CoM No. 83/6854 of 25 July 1983.

²⁹² LCS No. 657/1965, Article 122, refers to the evaluation of success, not performance appraisal.

²⁹³ TDP (2014-2018), paragraphs, 378 and 380.

²⁹⁴ Draft Regulation for Performance Evaluation prepared by the SPA.

²⁹⁵ Performance Appraisal System of Turkey's Grand National Assembly of 26 March 2013.

²⁹⁶ Constitutional Court Decree No. 188/2016 of 14 December 2016.

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Regular promotions require candidates to fulfil different criteria: educational levels, number of years in office, permanence in the same institution and results of an exam relevant to the promotion²⁹⁷. In principle, this qualifies as merit-based and competitive promotion. A 2016 regulation²⁹⁸ has replaced the written exam with an oral exam.

Considering the factors analysed above, the value of the indicator related to professional development is set at 1. This is mainly because the approach to performance appraisals and training is not strategic and the data needed for several sub-indicators was not provided.

²⁹⁷ Decision of CoM No. 12647/1999, Articles 5, 8 and 11.

²⁹⁸ Decision of CoM of 22 October 2016, Official Gazette No. 29865.

Professional development and training for civil servants						
This indicator measures the extent to which the legal framework and the organisation of training, performance appraisal, mobility and promotion support fair professional development in the civil service.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework and organisation of professional development	
1. Recognition of training as a right and a duty of civil servants	0/2
2. Co-ordination of the civil service training policy	2/3
3. Development, implementation and monitoring of training plans	0/3 ²⁹⁹
4. Evaluation of training courses	0/2 ³⁰⁰
5. Professionalism of performance assessments	0/4 ³⁰¹
6. Linkage between performance appraisals and measures designed to enhance professional achievement	0/4 ³⁰²
7. Clarity of criteria for and encouragement of mobility	2/2
8. Adequacy of legislative framework for merit-based vertical promotion	2/2
9. Absence of political interference in vertical promotions	0/2 ³⁰³
10. Right of civil servants to appeal against performance appraisal decisions	0/2 ³⁰⁴
11. Right of civil servants to appeal mobility decisions	2/2
Performance of professional development practices	
12. Training expenditures in proportion to the annual salary budget (%)	0/4 ³⁰⁵
13. Participation of civil servants in training	0/5 ³⁰⁶
14. Perceived level of meritocracy in the public sector (%) ³⁰⁷	4/5
Total³⁰⁸	12/42

Although central institutions, such as TODAIE and the SPA, offer training or are responsible for some aspects of training policy, the administration lacks sufficient instruments to foster the professional development of civil servants. There is no updated general strategy for training, and individual institutions seldom deploy strategic planning for training based on a needs analysis. Furthermore, professional development cannot be fostered through performance appraisal, as there is no detailed secondary legislation or guidance on performance appraisal.

²⁹⁹ Most of the documents provided to SIGMA did not qualify as training plans.

³⁰⁰ Insufficient data was provided to enable assessment.

³⁰¹ Detailed secondary legislation on performance appraisals is missing.

³⁰² Ditto.

³⁰³ Insufficient data was provided to enable assessment.

³⁰⁴ Article 118 of the LCS introduces the right to appeal only to the superior who was the appraiser, which is not sufficient.

³⁰⁵ No data was provided.

³⁰⁶ Ditto.

³⁰⁷ Balkan Barometer, annual survey conducted by the Regional Cooperation Council, <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>.

³⁰⁸ Point conversion ranges: 0-6=0, 7-13=1, 14-21=2, 22-29=3, 30-36=4, 37-42=5.

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

Several pieces of legislation are in place to address corruption and promote ethical behaviour among civil servants, but the system lacks an updated strategic plan (the last plan covered the period from 2010-2014³⁰⁹). Furthermore, there is no report monitoring implementation of the main measures related to the integrity of civil servants. The Activity Reports of the Council of Ethics for Public Officials, which was established in 2004, reflect the activities of that organisation but do not cover all of the integrity system. In particular, the Council focuses on the positions of director general of departments or above.

The Council performs a number of different functions. First, it is in charge of preparing regulations on creating the codes of ethics for public personnel (covering such issues as transparency, impartiality, integrity, accountability and care for public interest). The Council has provided support in drafting institutional codes of ethics, but its authorisation is not required for their approval, and it does not monitor their implementation. Second, the Council organises ethics training for different groups of civil servants and for trainers³¹⁰. Third, the Council conducts investigations and inquiries based on the complaints that it receives. In 2016, the Council received 159 complaints of which 38 were determined to be within its mandate³¹¹. In 2016, the Council rendered 12 decisions of violations, without sanctions³¹², (up from 6 in 2014³¹³) relating to high-ranking civil servants.

There are some loopholes in the legislation, including the absence of protection for whistle blowers, and some important provisions are missing in the Criminal Code, particularly in relation to general and financial fraud. It was not possible to assess how the integrity mechanisms are applied because the authorities did not provide the decisions SIGMA requested on breaches of integrity.

Although some anti-corruption measures are in place, businesses perceive that corruption is relatively high. The Corruption Perceptions Index (CPI) of Transparency International gives Turkey a score of 41 (on a scale where 0 = highly clean and 100 = highly corrupt) and a rank of 75 out of 176 countries³¹⁴. This negative perception can be further analysed through two other indicators. On the one hand, according to the 2017 Balkan Barometer survey³¹⁵, only 3.4% of citizens admitted to having paid a bribe in any form³¹⁶ to public authorities³¹⁷ and in that regard, citizens feel that the system is fair and that civil servants would not take money for giving advantage to some citizens. On the other hand, and more in line with the CPI score of Transparency International, 32% of the business people interviewed for the 2017 Balkan Barometer survey agree or strongly agree with the statement that in their line of business it is common to pay some irregular “additional payment or gift” “to get things done”³¹⁸.

³⁰⁹ 2010-2014 National Anti-Corruption Strategy and Action Plan.

³¹⁰ Council of Ethics for Public Officials, Accountability Report, 2015.

³¹¹ Council of Ethics for Public Officials, Accountability Report, 2016, Tables 5 and 8.

³¹² The Council of Ethics Board cannot impose sanctions.

³¹³ OECD (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf.

³¹⁴ Transparency International (2016), *Corruption Perceptions Index 2016*, Transparency International, Berlin, http://www.transparency.org/news/feature/corruption_perceptions_index_2016.

³¹⁵ Balkan Barometer, annual survey conducted by the Regional Cooperation Council, <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>.

³¹⁶ The question, posed in relation to several areas of government services, was formulated as follows: “In your contact or contacts with the institutions, have you or anyone living in your household paid a bribe in any form in the past 12 months?”

³¹⁷ The scope of bodies encompassed the police, registry and permit services, utilities, tax services, land services or any other government agency.

³¹⁸ The question was formulated as follows: “Thinking about officials, to what extent would you agree with the following statement: It is common for firms in my line of business to have to pay some irregular ‘additional payments/gifts’ to ‘get things done’?”.

The value for the indicator ‘Integrity of civil servants’ is 1, mainly because of the lack of documents that would enable SIGMA to assess the implementation of the mechanisms in practice, the lack of an overall integrity strategy, and the negative perception of the level of bribery by companies in Turkey.

The assessment of the indicator related to disciplinary procedures was not conducted because of the introduction of the state of emergency³¹⁹ from July 2016, which introduced extraordinary measures related to dismissals. SIGMA’s assessment methodology was not designed to assess the functioning of such measures. Thus, the text below describes the legal provisions and actual situation during the assessment period.

The main principles of disciplinary procedures in the public service are in place in the LCS³²⁰, and the list of disciplinary sanctions offers an exhaustive gradation³²¹: warning (8 539 cases in 2016); reprimand (5 337 cases in 2016); salary penalty (5 127 cases in 2016); non-promotion (1 145 cases in 2016); and dismissal (355 cases in 2016). The information on dismissals does not include the number of civil servants dismissed as result of the decrees issued during the state of emergency³²².

The presumption of innocence and the right to be heard during the appeal procedure are not explicit in the legislation.

Integrity of public servants						
This indicator measures the extent to which legislation, policies and organisational structures promote public sector integrity, whether these measures are applied in practice and how the public perceives the level of corruption in the public service. The indicator does not address the internal administrative proceedings related to integrity, as that is covered by a separate indicator on disciplinary procedures.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework and organisation of the public sector integrity	
1. Completeness of the legal framework for public sector integrity	1/5
2. Existence of a comprehensive public sector integrity policy and action plan	0/4
3. Implementation of public sector integrity policy	0/3
Public sector integrity in practice and public perceptions	
4. Use of investigations in practice	0/4 ³²³
5. Perceived level of bribery in the public sector by businesses (%)	0/4 ³²⁴
6. Bribery in the public sector by citizens (%)	3/4 ³²⁵
Total³²⁶	4/24

³¹⁹ Council of Ministers’ Decision No. 2016/9064 on the Declaration of State of Emergency of 21 July 2016, Official Gazette, No. 29777, 21 July 2016.

³²⁰ LCS, 657/1965, Articles 129 and 135.

³²¹ *Idem*, Article 125.

³²² Information provided by the SPA.

³²³ No data was provided.

³²⁴ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

³²⁵ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>

³²⁶ Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-24=5.

Quality of disciplinary procedures for civil servants

This indicator measures the extent to which the legal framework and the organisation of disciplinary procedures support individual accountability, professionalism and integrity of civil servants and safeguard civil servants against unfair and arbitrary disciplinary cases.

Overall indicator value

Not assessed

While bribes to front-office staff in public administration bodies are perceived by citizens as very rare, a considerable proportion of business people think that additional payments or gifts are needed to “get things done”, according to a survey carried out in 2017 by the Balkan Barometer. Due to the absence of evidence, it was not possible to assess how the procedures related to corruption are carried out.

Key recommendations

Short-term (1-2 years)

- 1) The Government should adopt an Anti-Corruption Strategy.

Medium-term (3-5 years)

- 2) 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 professional training and development for core civil servants.
- 3) The CoM should introduce merit-based recruitment to senior managerial positions of the civil service.
- 4) The MoF should continue working on the transparency of the remuneration system and on reducing the proportion of allowances/supplements in the salaries of civil servants.



ACCOUNTABILITY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

1.1. State of play

The central government is organised according to a uniform management scheme that combines basic mechanisms of bureaucratic accountability with an advanced, results-oriented performance management system. Most of the executive bodies of the government are formally embedded into the organisational structures of the ministries, but they enjoy extensive autonomy in operational management.

Extensive public information is published proactively on the websites of public institutions, despite the lack of a legal obligation to do so in the Law on Right to Information and the absence of monitoring mechanisms. The Law on Right to Information allows for some unjustified exceptions related to citizens' right to public information, but apart from this the legal framework is solid and appeal mechanisms function.

The rate of implementation of the Ombudsman's recommendations increased compared to 2014, but it still remains at a moderate level. The remit of powers of the Ombudsman is not fully in line with international standards, given a number of limitations. For example, he/she does not have the right to investigate cases *ex officio*.

Although the legislation on the Turkish Court of Accounts (TCA) is fully in line with the Principles of Public Administration³²⁷, an assessment of the effectiveness of the system is difficult due to a lack of collection of data on the implementation of its recommendations.

Administrative justice is well organised – with an excellent information technology (IT) case management system – and is effective, with low disposition time and a clearance rate below 100%. An assessment of the independence of the courts was not conducted because, under the state of emergency, from July 2016³²⁸, extraordinary measures were introduced related to the dismissal of judges and prosecutors. SIGMA's assessment methodology was not designed to assess the functioning of such measures.

No specific piece of legislation regulates public liability in detail, but general provisions are in place. A full assessment of the application in practice of public liability is not possible due to a lack of necessary data.

1.2. Main developments

The following section describes key changes in the public administration for each key requirement and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement Reports.

There have been no major developments since 2015, except that, under the state of emergency, extraordinary measures were introduced related to employment relations of civil servants in public bodies, including the courts and independent public bodies responsible for oversight functions of the administration.

³²⁷ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

³²⁸ Council of Ministers Decision No. 2016/9064 on the Declaration of State of Emergency of 21 July 2016, Official Gazette, No. 29777 of 21 July 2016.

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

Since 2015, there have been no new developments in the organisation of the administration.

Reform of the administrative justice system³²⁹ was introduced on 20 July 2016³³⁰. It shifted the responsibility for second-instance court appeals to regional Administrative Courts, while unburdening the Council of State (CoS)³³¹, which is – in general – the third instance. Despite a high clearance rate in 2016, the backlog of cases increased slightly compared with 2014, as did the number of cases submitted to the courts.

The rate of implementation of the Ombudsman's recommendations increased compared to 2014, but it still remains at a moderate level. The lack of presentation by the Ombudsman of his annual reports in the Parliament during plenary sessions indicates that insufficient attention is paid to the functioning of the Ombudsman. On 2 March 2017, the "friendly dispute settlement"³³² of cases at early stages was introduced in legal practice (it was an informal practice before). Solving cases through negotiations between parties with the active engagement of an Ombudsman helped to increase the number of resolved complaints without moving to the examination and investigation stage.

Table 1. Complaints resolved through the friendly dispute settlement procedure

	2017 (January-30 June)	2016 (January -December)
Total number of complaints resolved by friendly dispute settlement procedure	979	80

Source: The Ombudsman Office.

Some shortcomings related to the limitation of access to public information persist in the legislation. These relate to the lack of a centralised monitoring mechanism of proactive access to public information, mentioned in the 2015 report, but a detailed check of the availability of specific pieces of information on public bodies' websites shows that the level of active provision of public information in practice is high. The number of refusals to grant the right to access to public information by supervisory body doubled compared with 2014.

Recommendations from 2015 related to public liability mechanisms were not addressed, and no concrete actions were taken.

³²⁹ General Directorate of International Law and Foreign Relations (n.d.), *The Judicial System of Turkey and Organisation of the Ministry of Justice*, (International Law Research Center, Republic of Turkey, Ministry of Justice, Ankara, http://www.uhdigm.adalet.gov.tr/THE_JUDICIAL_SYSTEM_OF_TURKEY_AND_ORGANISATION_OF_THE_MINISTRY_OF_JUSTICE.pdf, pp. 10 and 14.

³³⁰ The Law to amend the Turkish Criminal Code and some Acts, No. 6545 of 18 June 2014, https://www.tbmm.gov.tr/develop/owa/kanunlar_sd.durumu?kanun_no=6545. The regional administrative courts started to function as appellate courts on 20 July 2016.

³³¹ The Turkish judicial system does not have a single court (such as a supreme court), which is the ultimate decision maker on constitutional, criminal and administrative matters. In that regard, the Council of State is a high court taking its basis from the Turkish Constitution and the appeals court in the administrative area. It acts as the final decision maker in disputes which are subject to appellate review.

³³² Amendment changing the Regulation About Methods and Principles Related to the Implementation of Ombudsman Institution Law, Official Gazette No. 29995 of 2 March 2017.

Table 2. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports³³³

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which the overall structure of ministries and other bodies subordinated to central government is rational and coherent.	4	4
	Extent to which the right to access public information is enacted in legislation and applied in practice.	3	3
	Extent to which the mechanisms are in place to provide effective checks and balances, and controls over public organisations.	3	3
	Extent to which public authorities assume liabilities and guarantee redress.	2	2
Quantitative	Number of bodies reporting to the Council of Ministers, to the Prime Minister or the Parliament.	31 ³³⁴	28 ³³⁵
	Share of public information requests rejected in a given year by the supervisory authority.	36.3% ³³⁶	72.7% ³³⁷
	Share of oversight institutions' recommendations in state administrative bodies implemented within two years ³³⁸ .	36.7% ³³⁹	45.16 ³⁴⁰
	Number of complaints submitted to the administrative court in a given year.	278 433 ³⁴¹	386 216 ³⁴²

³³³ OECD (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf

³³⁴ The number of bodies reporting to the Prime Minister is 31. According to the methodology, constitutional bodies reporting to the Parliament are not included.

³³⁵ There are 28 central government organisations reporting to the Council of Ministers and the Prime Minister, and no non-constitutional body is subordinated to the Parliament.

³³⁶ Of 2 681 appeals, 974 were refused, according to the Board of Review of the Access to Information.

³³⁷ Of 1 682 appeals, 1 223 were refused and 459 were accepted, according to the Board of Review of the Access to Information.

³³⁸ Relates to the Ombudsman only.

³³⁹ Some 40 recommendations were implemented and 69 were not; 10 partially implemented recommendations were excluded. Information from the Ombudsman's Office.

³⁴⁰ Out of 93 recommendations, 42 were implemented. Information from the Ombudsman's Office.

³⁴¹ Ministry of Justice (MoJ). The indicator covers new cases initiated in 2016 and cases received upon reversal by first-instance administrative courts (153 298 + 23 859 = 177 157) and by tax courts (96 036 + 5 240 = 101 276).

³⁴² MoJ. The indicator covers new cases initiated in 2016 and cases received upon reversal by first-instance administrative courts (258 072 + 18 005 = 276 077) and by tax courts (104 410 + 5 729 = 110 139).

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	Percentage of cases changed or returned for verification by the higher court.	17.7% ³⁴³	12.1% ³⁴⁴
	Backlog of administrative cases.	138 801 ³⁴⁵	156 205 ³⁴⁶

³⁴³ MoJ. 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 in 2014 cannot completely change the decision of the first-instance court; however, it can approve the ruling of the first-instance court, affirm it with changes or overturn it.

³⁴⁴ MoJ. The total number of resolved cases by the second-instance courts (Regional Administrative Courts) in 2016 was 195 772. The number of cases overruled by the higher-instance courts (both Regional Administrative Courts and Council of State) related to decisions of tax courts was 5 729. The number of cases overruled by the higher-instance courts (both Regional Administrative Courts and Council of State) related to decisions of administrative courts was 18 005.

³⁴⁵ MoJ. The 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).

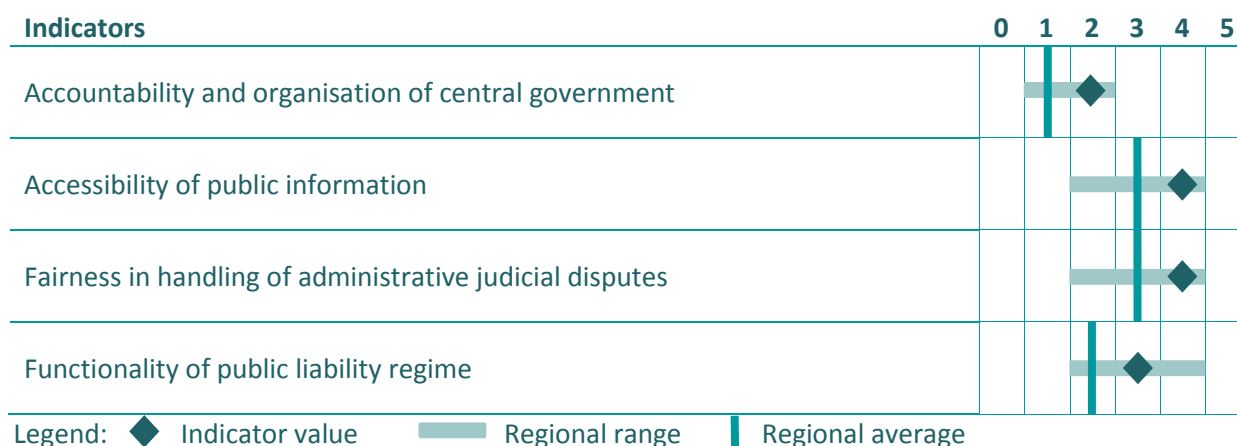
³⁴⁶ MoJ. The number of cases carried over to the subsequent year at the end of 2016 in first-instance administrative court (114 153) and tax courts (42 052).

2. ANALYSIS

This analysis covers five principles for the accountability area grouped under one key requirement. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators³⁴⁷, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

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

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



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.

Ministries play a central role in the institutional architecture of the Government, established by the Law on the Principles and Procedures regarding the Establishment, Organisation, Duties and Powers of the Ministries, No. 3046³⁴⁸. According to this Law, a ministry consists not only of the central ministerial office, but also of provincial and overseas organisations, as well as affiliated and related bodies performing administrative functions. Affiliated and related bodies are the organisations that are integrated into the ministry, but separate from the central office of the ministry. Law No. 3046 lacks a clear definition of both bodies³⁴⁹, but their status is similar to agencies subordinated to the ministries. As a result, both policy-making functions and executive tasks are largely integrated under the organisational umbrella of the ministry. Formal integration of affiliated and related bodies into the organisational structure of the ministry is mitigated by the extensive financial autonomy granted to bodies within the ministries (affiliated and related bodies) by the Law on Public Financial Management

³⁴⁷ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

³⁴⁸ Law No. 3046 on the Principles and Procedures regarding the Establishment, Organisation, Duties and Powers of the Ministries, Official Gazette, No. 18540/1984.

³⁴⁹ Law No. 3046, Articles 10 and 11.

and Control (PFMC Law)³⁵⁰. They operate under separate budgets, and heads of those institutions make spending decisions independently within the budgetary framework.

No non-constitutional body reports to the Parliament. Control over agencies is thus centralised in the hands of the executive. However, quite a large number of agencies (28) report directly to the Prime Minister³⁵¹.

The typology of bodies included in the organisational structure of the ministry does not follow clear functional criteria. In particular, the distinction between affiliated and related bodies is based on vague grounds, as they both perform similar executive functions of the Government³⁵². Law No. 3046 does not specify criteria for the creation of affiliated or related bodies, and lacks guidelines for the selection of the most suitable organisational form of new administrative bodies. In addition, no institution in the central government performs regular reviews of the rationality and cost-effectiveness of existing organisational structures. There is no government-wide plan for improvements in the institutional architecture (typology, governance scheme, accountability measures) of the central administration.

Some elements of the bureaucratic accountability of bodies subordinated to ministries are established in the general legislative framework. Ministers are explicitly assigned responsibility for the overall performance of ministries, including affiliated and related bodies³⁵³. This responsibility is complemented by the general mandate of the ministry to conduct inspections on all activities of the related and affiliated bodies³⁵⁴.

A uniform and comprehensive results-oriented performance management scheme covers the entire state administration. It is integrated into the public finance management system established by the PFMC Law. It requires all administrative bodies to prepare annual performance programmes, providing for a matrix of objectives, activities, performance indicators and targets. These are combined with performance-based budgeting (i.e. linking budgetary allocations with the policy objectives and showing the actual costs of implementation of public policies and delivering of public services). This planning scheme is accompanied by annual accountability reports demonstrating the progress towards objectives and targets specified in the annual programmes. All these arrangements create a comprehensive and advanced performance management system, presented in the figure below. During the assessment, however, one of the annual performance plans requested was not made available to SIGMA³⁵⁵.

³⁵⁰ PFMC Law No. 5018, Official Gazette, No. 25326/2003.

³⁵¹ Information provided by the Prime Ministry (PM).

³⁵² Law No. 3046, Articles 10 and 11.

³⁵³ *Idem*, Article 21 and PFMC Law No. 5018, Article 10.

³⁵⁴ Law No. 3046, Article 19a.

³⁵⁵ The performance programme was not available for one of the eight analysed bodies, the Directorate General for Sports.

Figure 1. Key components of the performance management system in the Turkish Government



Sources: Drawn on the basis of the Law No. 3046; analysis of relevant documents of selected ministries; and Sevil Çatak and Canan Çilingir (2010), "Performance Budgeting in Turkey", *OECD Journal on Budgeting*, Vol. 10/3. <http://dx.doi.org/10.1787/budget-10-5km4d794l142>.

The only weakness of the performance management system relates to the centralised model of governance. According to the PFMC Law, the performance programmes and budgetary proposals (as well as annual accountability reports) of all administrative bodies are submitted directly to the Ministry of Finance (MoF) and line ministries do not have direct influence on their content, though the ministers remain formally responsible for the performance of subordinated institutions (affiliated or related bodies)³⁵⁶. However, the secondary regulations and practice show that ministers are engaged in the process³⁵⁷.

The performance management scheme is supported by the rules of internal management of the ministries, promoting a clear division of accountability for results. The PFMC Law introduces a well-defined distribution of powers and responsibilities between ministers and top career public officials³⁵⁸, ensuring that ministers are focused on strategic steering and policy-making functions, while top-level

³⁵⁶ PFMC Law, Articles 9 and 41.

³⁵⁷ Annex 1 attached to "Bylaw on the Accountability Reports to be prepared by Public Administrations" regulates the format of Accountability Reports. In accordance with this Bylaw and the Performance Program Preparation Guide, the line ministries and each public administration affiliated or related to a ministry add presentation speeches of the minister to their performance programmes and accountability reports. In addition, as stipulated in Article 11 of the Bylaw, top managers are held accountable for the content of accountability reports and accuracy of the information in the reports to their ministers. In the local administrations, top managers are held accountable to their councils. Moreover, analysis of some performance programmes and accountability reports indicated that the relevant minister was involved in the process, as introductory speeches of ministers were added to the documents, and SIGMA was informed that the budget of subordinated bodies is usually presented by the minister in the Parliament.

³⁵⁸ PFMC Law, Articles 10 and 11.

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civil servants are responsible for operational management. According to the answers SIGMA received, the vast majority of operational decisions related to day-to-day management of the ministries (e.g. decisions regarding financial or staff management) are delegated to the level of senior civil servants³⁵⁹ and do not require the engagement of ministers. However, the files were not shared with SIGMA to demonstrate how decentralisation works in practice.

Analysis of mergers, abolishment or creation of new bodies was not possible, due to insufficient evidence provided to SIGMA.

The value for the indicator 'Accountability and organisation of the central government' is 2, due to a lack of evidence on delegation of powers within ministries and insufficient rules related to the establishment, merger and abolishment of public bodies.

³⁵⁹ Based on responses from the PM. Law No. 3046, Article 38 allows for delegating downwards signing of the documents.

Accountability and organisation of central government						
This indicator measures the extent to which the governance model of central government upholds lines of accountability and contributes to increasing the state's capacity, which is defined as the ability of the administrative apparatus of the state to implement policies, deliver services to citizens and support decision makers with policy advice. This includes assessing the legal and institutional framework for overall organisation of central government, as well as its implementation in practice.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Policy and legal framework for central government organisation	
1. Clarity and comprehensiveness of official typology of central government bodies	3/5
2. Adequacy of the policy and regulatory framework to manage central government institutions	1/5
3. Strength of basic accountability mechanisms between ministries and subordinated bodies	4/5 ³⁶⁰
4. Managerial accountability mechanisms in the regulatory and legislative framework	5/5 ³⁶¹
Central government's organisation and accountability mechanisms in practice	
5. Consistency between practice and policy in government re-organisation	0/4 ³⁶²
6. Number of public bodies subordinated to the parliament (%)	4/4
7. Accountability in reporting between central government bodies and parent ministry	2/4 ³⁶³
8. Effectiveness of basic managerial accountability mechanisms for central government bodies	1/4 ³⁶⁴
9. Delegation of decision-making authority within ministries	0/4 ³⁶⁵
Total³⁶⁶	20/40

The central government is organised according to a uniform management scheme that combines basic mechanisms of bureaucratic accountability with an advanced, results-oriented performance management system. Most of the executive bodies of the government are formally embedded into organisational structures of ministries, but they enjoy extensive autonomy in operational management.

³⁶⁰ The analysis was conducted on a smaller sample of bodies than required by the methodology, because the Ministry of the Economy (MoE) has no subordinated bodies. The rules are uniform, however, so the results of the analysed bodies can be extrapolated to the bodies subordinated to other ministries.

³⁶¹ Ditto.

³⁶² Insufficient data was provided to enable assessment

³⁶³ As there are no subordinated bodies under the MoE, as a replacement, documents related to two subordinated bodies under the Ministry of Youth and Sport were analysed: the General Directorate of Sport and the General Directorate of Higher Education Credit-Dormitories. However, the performance plan of the former was not made available to SIGMA.

³⁶⁴ Ditto.

³⁶⁵ Insufficient data was provided to enable assessment.

³⁶⁶ Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-40=5.

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

All public institutions, agencies and professional organisations³⁶⁷ are required to provide access to public information and documents³⁶⁸. The definition of public information is broad³⁶⁹. There are several justified restrictions³⁷⁰ related to access to public information and to documents pertaining to state secrets and economic interests of the state, state intelligence, and judicial investigations and proceedings. Public institutions or agencies may also reject applications for any information or documents that require separate or special work, research, examination or analysis³⁷¹. This leaves too much room for discretionary decisions.

Generally, everyone has the right to access public information without providing any justification. However, foreign residents and foreign legal entities may exercise their rights only if they demonstrate that the information they request is related to them or to their specific field of activity³⁷². The statutory deadline to provide information is 15 working days, but it can be extended to 30 working days when the preparation of a requested document requires additional action. In such cases, the applicant shall be notified of the extension in writing³⁷³.

The Board of Review of Access to Information, established by the PM, is responsible for considering appeals filed against a refusal to provide access to public information. Filing an appeal is free of charge. In 2016, 1 682 appeals were filed against administrative bodies' decisions rejecting applications. Of these, 1 223 decisions were upheld or the appeals were rejected and 459 appeals were accepted³⁷⁴. This reflects a sharp increase in public information requests rejected by the supervisory body compared to 2014 (73% rejections in 2016 compared to 36% in 2014), and is coupled with a decreasing number of appeals related to public information requests (a decline from 2 681 appeals in 2014 to 1 682 in 2016). Moreover, the total number of requests for public information decreased by half in 2016 compared to 2014. At the same time, the share of rejected requests increased significantly from 3% to 8%. This means that the provision of public information on request has decreased significantly. Public bodies may demand a fee³⁷⁵ for access to information. The fees, calculated according to fixed rates, are transparent and predictable, with the first ten pages of the requested documentation provided free of charge³⁷⁶.

³⁶⁷ Law on Right to Information No. 4982, Article 2, Official Gazette No. 25269.

³⁶⁸ *Idem*, Article 5.

³⁶⁹ Constitution of Turkey, Article 74; Law No. 4982, Article 3, Law No. 4299 on Regulation on the Working Procedures and Principles of the Review Board of Access to Information, Official Gazette No. 26191.

³⁷⁰ Law No. 4982 on Right to Information, Articles 16-18 and 20.

³⁷¹ *Idem*, Article 7.

³⁷² *Idem*, Articles 4 and 6.

³⁷³ *Idem*, Article 11.

³⁷⁴ Data provided by Board of Review of Access to Information through the PM.

³⁷⁵ Law on the Regulation for the Basis and Procedures of the Implementation of Right to Information Act, No. 4299, Article 22, Official Gazette No. 25445.

³⁷⁶ Regulation on Tariffs of Access to Information and Documentation, Official Gazette No.26080 of 14 February 2006.

Table 3. The practice of appeals related to access to public information

	2014	2016
Number of requests for public information	3 298 465	1 552 721
Share of public information requests rejected by public bodies	3.00%	8.01%
Share of rejected appeals by the Board on Access to Public Information	36.3%	72.7%

Source: Data received from the Board on Access to Public Information.

The Law on Right to Information defines the scope of public information that may be disclosed proactively for public view, but proactive provision is not obligatory³⁷⁷ for public bodies³⁷⁸. The problem is compounded because there are no evaluation mechanisms to monitor the application of the legal provisions related to active provision of information. However, an analysis of the websites of selected public bodies shows that all of them disclose basic information such as: organisational structure, annual plans, contact details, contact details of heads of organisational units, tasks and competencies of the body. Most of them also disclose annual reports and the budget³⁷⁹. Moreover, an analysis of official web pages shows that government-wide information (e.g. on consolidated primary laws, the state budget, government work plans and government reports) is disclosed publicly. Citizens appreciate the accessibility of public information: more than 60%³⁸⁰ of them say that public information is accessible. Although 54% of respondents from business organisations acknowledge that public information is granted in a timely manner, less than half of them think that the information provided is complete, pertinent and granted at reasonable cost³⁸¹.

Statistical data on requests for access to information and decisions is aggregated and published by each public body. The Prime Ministry Communication Centre System³⁸² (BIMER) is an IT portal allowing requests for public information to be submitted electronically. This simplifies and standardises access to information nationwide and makes it possible to centrally monitor all requests. Apart from this, the Communications Centre of the Presidency (CIMER)³⁸³ has a parallel function, but is managed by the Presidential Administration.

The Board of Review of Access to Information supervises the implementation of the provision of public information by public institutions³⁸⁴; however, no documents proving inspections were implemented

³⁷⁷ Law on the Regulation for the Basis and Procedures of the Implementation of Right to Information Act, No. 4299, Article 7.

³⁷⁸ However, special sectoral legislation contains the obligation to publish specific pieces of public information online, for example: PFMC Law, Article 53; By-Law on the Performance Programs to be Prepared by Public Administrations, Article 7(6), Official Gazette No. 26 927 of 5 July 2008; and By-Law on the Preparation of Accountability Reports of Public Administrations.

³⁷⁹ SIGMA analysed the following web pages: MoE, MoF, Revenue Administration, Ministry of Education, Ministry of Interior, MoJ, Social Security Administration, Directorate General for Forests and TCA.

³⁸⁰ Balkan Barometer, annual survey conducted by the Regional Cooperation Council, (RCC) <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer> <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>.

³⁸¹ Ditto.

³⁸² www.bimer.gov.tr

³⁸³ www.tccb.gov.tr.

³⁸⁴ Regulation on the working procedures and principles of the Review Board of Access to Information, Official Gazette 26191, Article 4.

were made available to SIGMA. Officials and other civil servants who negligently or recklessly obstruct the application of the right to information are subject to disciplinary sanctions³⁸⁵.

Despite some shortcomings related to the legislation, the value for the indicator 'Accessibility of public information' is 4.

Accessibility of public information						
This indicator measures the extent to which the legal and institutional framework regarding access to public information is established, promoting timely responses to public information requests free of charge or at a reasonable cost. It also covers the practical application of these legal requirements, with particular focus on proactive disclosure of public information and perceptions of availability of public information.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal and institutional framework for access to public information	
1. Adequacy of legislation on access to public information	6/10
2. Comprehensiveness of monitoring on the implementation of legislation on access to public information	3/5
Citizens' level of access to public information	
3. Proactivity in disclosure of information by state administration bodies on their websites (%)	4/5
4. Proactivity in disclosure of datasets by the central government (%)	5/5
5. Perceived accessibility of public information by the population (%) ³⁸⁶	2/2.5
6. Perceived accessibility of public information by businesses (%) ³⁸⁷	1.5/2.5
Total ³⁸⁸	21.5/30

Extensive public information is published proactively on the websites of public institutions, despite the lack of a legal obligation to do so and the absence of monitoring mechanisms. The Law on Right to Information allows for some unjustified exceptions related to citizens' right to public information, but apart from this, the legal framework is solid and appeal mechanisms function.

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

The independence of the institution of the Ombudsman is not explicitly enshrined in the Constitution, but in the Law on Ombudsman³⁸⁹. It states that no authority, organ, institution or person may issue orders, instructions, circulars or advice to the Ombudsman in the exercise of their duties. According to

³⁸⁵ Law No. 4982 on Right to Information, Article 29.

³⁸⁶ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>.

³⁸⁷ Balkan Barometer, annual survey conducted by the RCC, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

³⁸⁸ Point conversion ranges: 0-5=0, 6-10=1, 11-15=2, 16-20=3, 21-25=4, 26-30=5.

³⁸⁹ Law on Ombudsman No. 6328, Article 12; Constitution of Turkey, Article 74.

the Turkish Constitution³⁹⁰, everyone has the right to file a request or lodge a complaint with the Ombudsman, which is established under the Grand National Assembly of Turkey and examines complaints on the functioning of the administration.

The Ombudsman's independence from the executive is ensured. Among its revenues are funds allocated from the budget of the Parliament³⁹¹. The Ombudsman does not present his annual reports in parliamentary plenary sessions.

There are several limitations on the activities of the Ombudsman. One of them is the obligation of all legal or natural persons to first exhaust all mandatory administrative remedies before filing an application to the Ombudsman. A positive legal practice is that even when all legal remedies are not exhausted, the Ombudsman forwards claims to the respective administrative institution for adjudication instead of returning it to applicants³⁹². Moreover, the Ombudsman is not in a position to examine cases *ex officio*³⁹³ and does not have the right to challenge the constitutionality of legal acts at the Turkish Constitutional Court. The Ombudsman is allowed to inspect detention facilities.

Procedural aspects of the investigations conducted by the Ombudsman are exhaustively regulated³⁹⁴. State administration bodies are required to co-operate with the Ombudsman by immediately providing the requested documentation (scanned versions by e-mail) and then, within the following 30 days, by submitting original paper versions³⁹⁵. It is worth mentioning that on-line claim forms submitted to the Ombudsman have become increasingly common: the share of applications submitted in this way increased from 58.05% in 2015 to 65.8% in 2016 and 75.53% in the first half of 2017³⁹⁶. A new web page for online submission of applications was launched on 3 June 2017, which contained numerous features to make it more customer-friendly, for example integrated SMS services to increase security and to inform citizens about the progress of their applications³⁹⁷.

The backlog of cases that the Ombudsman transferred to the subsequent year increased in 2016 by 72% over 2015 (Table 4).

Table 4. Applications to Ombudsman and their handling in 2015 and 2016

	2015 ³⁹⁸	2016
Number of new registered applications	6 055	5 519
Number of decided applications	5 897 ³⁹⁹	4 819
Number of applications transferred to the following year	977	1 677

Source: The Ombudsman Annual Reports from 2015 and 2016.

390 Constitution of Turkey, Act No. 5982, Article 74. The provision was added on 12 September 2010.

391 Law on the Ombudsman, No. 6328, Article 29, "Budget - ARTICLE 29 - (1). The revenues of the Institution are as follows: The Treasury funds to be allocated from the budget of the Grand National Assembly of Turkey."

392 *Idem*, Article 17, paragraph 4 in reference to "Law on Administrative Trial Procedure, No. 2577" of 6 January 1982, Official Gazette No. 17580 of 20 January 1982.

393 Law on the Ombudsman, Article 7, paragraph 1, lit. a-i.

394 Regulation on Procedures and Principles Concerning the Implementation of Law on the Ombudsman Institution, Official Gazette of 28 March 2013, No. 28601.

395 Law on the Ombudsman, No. 6328, Article 23, paragraph 1.

396 2015 and 2016 Annual Reports of the Ombudsman; 2017 Biannual Accountability Report of the Ombudsman Institution, <https://www.ombudsman.gov.tr/alti-aylik-raporlar/>.

397 Ditto.

398 Annual 2015 Ombudsman Institution Report, pp. 40-49.

399 *Idem*, Table 11, p. 49.

The rate of implementation of the Ombudsman's recommendations increased compared to 2014, but it still remains at a moderate level (45%). To increase the level of implementation of the Ombudsman's recommendations, a parliamentary commission occasionally invites bodies and institutions that are not implementing Ombudsman recommendations to discuss and review this issue⁴⁰⁰. Moreover, in 2017, a new unit was established in the Ombudsman Office tasked with the follow-up of recommendations and their implementation by the administration.

An assessment of the independence of the courts was not conducted because, under the state of emergency from July 2016⁴⁰¹, extraordinary measures were introduced related to the dismissal of judges and prosecutors: 4 092 judges and prosecutors (excluding those who were later returned to their positions) were dismissed between the introduction of the state of emergency and May 2017⁴⁰². SIGMA's assessment methodology was not designed to assess the functioning of such measures.

The legislation on the TCA meets all of the standards set by the Principles of Public Administration. This is a body recognised by the Constitution, independent from the executive and having a broad mandate⁴⁰³. It enjoys the right of access to documents, information and premises in the course of auditing activities⁴⁰⁴. However, the TCA does not collect information on implementation of the recommendations made in its audit reports, which makes it more difficult to assess its effectiveness.

In general, citizens perceive oversight institutions as independent⁴⁰⁵: between 53% and 55% of respondents perceived oversight institutions as independent, and between 57% and 61% of respondents have trust in them.

The value of the indicator 'Effectiveness of scrutiny of public authorities by independent oversight institutions' is 3. This is mainly due to the lack of collection of information on the implementation of the TCA's recommendations, the moderate level of implementation of the Ombudsman's recommendations and some shortcomings in the legislation related to the Ombudsman.

⁴⁰⁰ Information based on a meeting held on 16 March 2017 with the Turkish Grand National Assembly Committee. The latest such meetings, with seven selected institutions, were held on 14-15 March 2017.

⁴⁰¹ Council of Ministers Decision No. 2016/9064 on the Declaration of State of Emergency of 21 July 2016, Official Gazette, No. 29777 of 21 July 2016.

⁴⁰² <http://www.memurlar.net/haber/664803/son-khk-sonrasinda-toplam-ihrac-sayisi-102-bin-oldu.html>.

⁴⁰³ Law on the TCA, No. 6085, Articles 4 and 14.

⁴⁰⁴ *Idem*, Article 9.

⁴⁰⁵ Balkan Barometer, annual survey conducted by the RCC, <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>.

Effectiveness of scrutiny of public authorities by independent oversight institutions						
This indicator measures the extent to which there is a functioning system of oversight institutions providing independent and effective supervision over all state administration bodies. The strength of the legislative framework is assessed, as well as the effectiveness of oversight institutions in changing practices in the state administration and building trust among the population.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal and institutional framework for oversight institutions	
1. Legislative safeguards for the independence and adequate mandate of the ombudsman institution	7/10
2. Legislative safeguards for the independence and adequate mandate of the SAI	8/10
3. Legislative safeguards for the independence of courts and judges	Not assessed
Effectiveness of oversight institutions	
4. Implementation of ombudsman recommendations (%)	4/8
5. Implementation of SAI recommendations (%)	0/8 ⁴⁰⁶
6. Perceived independence of oversight institutions by the population (%)	3/5
7. Trust in oversight institutions by the population (%)	4/5
8. Perceived ability of oversight institutions and citizens to effectively hold the government accountable (%)	4/5
Total⁴⁰⁷	30/51

The implementation rate of the Ombudsman's recommendations increased compared to 2014, but still remains at a moderate level. The remit of powers of the Ombudsman is not fully in line with international standards, given a number of limitations. For example, the Ombudsman does not have the right to investigate cases *ex officio*.

Although the legislation on the TCA is fully in line with the Principles of Public Administration⁴⁰⁸, an assessment of the effectiveness of the system is difficult due to a lack of collection of data on the implementation of its recommendations. An assessment of the independence of the courts was not conducted.

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

The administrative judicial system of Turkey consists of Administrative and Tax Courts, Regional Administrative Courts (RACs) and the CoS. Judgements of Administrative and Tax Courts may be appealed to the RACs (from 20 June 2016) and to the CoS⁴⁰⁹.

Before 20 July 2016, the appeal function was performed mainly by the CoS⁴¹⁰. A two-tier system was in place. Minor cases were appealed to RACs, with cases heard by one judge and final decisions of the

⁴⁰⁶ The TCA does not collect information on the implementation of the recommendations made in its audit reports.

⁴⁰⁷ The original point conversion ranges were: 0-10=0, 11-20=1, 21-30=2, 31-40=3, 41-50=4, 51-61=5. However, because SIGMA was not able to assess one of the sub-indicators, the conversion ranges were re-calculated as follows: 0-8=0, 9-16=1, 17-25=2, 26-34=3, 35-43=4, 44-51=5.

⁴⁰⁸ OECD (2017), The Principles of Public Administration, OECD Publishing, Paris, www.sigmaweb.org/publications/Principles-of-Public-Administration-Edition-2017-ENG.pdf

⁴⁰⁹ Appeals to the CoS are called "*temyiz*", whereas appeals to the RACs are called "*istinaf*". The scope and nature of both appeals is different, the common term "appeal" will be used.

⁴¹⁰ See the explanatory paper of a draft Law No. 6545 that was submitted to the Turkish National Assembly on 12 May 2014, <http://www.tbmm.gov.tr/d24/1/1-0918.pdf>.

Administrative and Tax Courts stipulated in the Law on Administrative Trial Procedure⁴¹¹. All other cases were appealed to the CoS.

Since 20 July 2016, RACs have become appeal courts in the Turkish Administrative Judiciary System⁴¹². All judgements of the Administrative and the Tax Courts may be appealed before the RACs⁴¹³, except the final judgements⁴¹⁴ of the Administrative Court that are not subject to appeal and judgements delivered according to expedited judicial proceedings⁴¹⁵.

Some RAC rulings (those exceeding a value of TRY 100 000⁴¹⁶) and 13 other categories of cases enumerated in Article 46 of the Law on Administrative Trial Procedure⁴¹⁷ can be appealed to the CoS. All other RAC decisions are final.

The Administrative Court has the legal power to redress an unlawful act or action of the administration⁴¹⁸. Direct acts of the President of the Republic are outside the scope of administrative judicial review⁴¹⁹.

The administration must implement the acts, take the steps required by the rulings and execute orders given by Administrative Courts without delay. Under no circumstances may this period exceed 30 days⁴²⁰.

The Civil Procedure Code⁴²¹ provides exemption from court fees and sets basic regulations on free legal-aid service to ensure the protection of constitutional principles⁴²². In addition, the Advocacy Law⁴²³ and the Legal Aid Regulation of the Union of Bar Associations of Turkey⁴²⁴ regulate this issue⁴²⁵.

The efficiency of the Administrative Courts is strong in terms of the low number of reversed decisions of first-instance rulings by appellate courts. Only 5.2% (5 729) of first-instance Tax-Court cases and 6.7% (18 005) cases of Administrative Courts have been overruled by a higher-instance court in 2016. The disposition time of cases in 2016 was 139 days for Tax Courts and 154 days for Administrative Courts of the first instance, which is a good result. Even with clearance rates of around 100% (98% for Administrative Courts and 100.3% for Tax Courts in 2016), the backlog slightly increased⁴²⁶ (Table 5). In

⁴¹¹ Law on Administrative Trial Procedure, Law No. 2577, Article 45, paragraph 1, lit. a-e. http://www.legalisplatform.net/hukuk_metinleri/2577%20Nr.%20Code.pdf.

⁴¹² On 18 June 2014, Law No. 6545 was enacted, amending several provisions of Laws No. 2576 (Law on Establishment and Duties of District Administrative Courts, Administrative Courts and Tax Courts) and Law No. 2577 (Law on Administrative Trial Procedure), the pillars of the administrative judiciary. These amendments came into force as of 20 July 2016.

⁴¹³ Law on the Amendments on the Turkish Criminal Code and Certain Other Codes, No. 6545; Law on Establishment and Duties of District Administrative Courts, Administrative Courts and Tax Courts, No. 2576. Official Gazette, 20 January 1982, No. 17580 and on Administrative Trial Procedure, Law No. 2577.

⁴¹⁴ Judgements concerning pecuniary disputes shall be final and not be subject to any appeal where the value of the subject matter of the dispute does not exceed TRY 5 000 (approximately EUR 1 244, according to the exchange rate of Turkish Central Bank as of 3 July 2017), Law No. 2577, Article 45 paragraph 1.

⁴¹⁵ Amended Law No. 2577, Article 45, paragraphs 1 and 8.

⁴¹⁶ Equivalent of approximately EUR 24 843, as of 3 July 2017.

⁴¹⁷ Law on Administrative Trial Procedure, Law No. 2577.

⁴¹⁸ *Idem*, Articles 49 and 50.

⁴¹⁹ *Idem*, Article 2, paragraph 3.

⁴²⁰ *Idem*, Article 28.

⁴²¹ Civil Procedure Code No. 6100, Articles 334-335, Official Gazette No. 27836 of 4 February 2011.

⁴²² Constitution of the Republic of Turkey, Article 36.

⁴²³ Advocacy Law, No. 1136, Articles 176-181 of 19 March 1969, Official Gazette No. 13168 of 7 April 1969.

⁴²⁴ Legal Aid Regulation of the Union of Bar Associations of Turkey, Official Gazette No. 24583, 14 November 2001.

⁴²⁵ http://www.hukukiyardim.gov.tr/legal_aid/sayfalar/legalaid.pdf.

⁴²⁶ The clearance rate, expressed as a percentage, is obtained when the number of resolved cases is divided by the number of incoming cases and the result is multiplied by 100. A clearance rate close to 100% indicates the ability of the court or a judicial system to resolve more or less as many cases as the number of incoming cases within the given time period, so the backlog is not increasing.

addition, the number of cases filed in Administrative Courts increased sharply (by 40%) in 2016, compared to 2015⁴²⁷.

Table 5. Efficiency of Administrative and Tax Court judges in 2016

	Administrative Courts	Tax Courts
Disposition time in days	154 ⁴²⁸	139 ⁴²⁹
Clearance rate (%)	98 ⁴³⁰	100.3 ⁴³¹

Source: the Prime Ministry.

Court rulings are available via the electronic court management system⁴³² (UYAP) for parties of the proceedings only. Selected CoS rulings are published on the Internet.

The workload of judges is analysed, and general statistics of incoming and outgoing cases and judicial performance can be prepared on UYAP, which is efficient and practical in operation.

Judges working in Administrative Courts are specialised in administrative justice. They are not supported by legal assistants, which negatively influences their efficiency and effectiveness. An unusual practice is direct access by citizens to judges adjudicating their cases, which on the one hand makes the justice system more accessible but on the other increases the risk of corruption.

The Judicial Academy provides training courses for judges and conducts programmes in conjunction with the Ministry of Justice (MoJ)⁴³³. Training courses are prepared on a massive scale for 100 to 300 judges per event in training centres across Turkey.

The value for the indicator 'Fairness in handling of administrative judicial disputes' is 4, mainly due to the high efficiency of the court system.

⁴²⁷ There were 183 983 new cases filed into first-instance administrative courts in 2015, compared to 258 072 in 2016.

⁴²⁸ Some 270 434 cases were resolved in 2016, and 114 153 remained unresolved at the end of the year.

⁴²⁹ Some 110 519 cases were resolved in 2016, and 42 052 remained unresolved at the end of the year.

⁴³⁰ Some 270 434 cases were decided in 2016. Incoming cases: 258 072 new cases and 18 005 reversed cases; 108 510 cases transferred from the previous year were not taken into account.

⁴³¹ Some 110 519 cases were decided in 2016. Incoming cases: 104 410 new cases and 5 729 reversed cases; 42 432 cases transferred from the previous year were not taken into account.

⁴³² <https://vatandas.uyap.gov.tr/vatandas/index.jsp?v=2017>.

⁴³³ Information provided by the MoJ.

Fairness in handling of administrative judicial disputes

This indicator measures the extent to which the legal framework and the organisation of courts support fair treatment in administrative judicial disputes. It covers the main criteria for an effective judiciary in efficiency, quality (including accessibility) and independence. Outcomes, in terms of case flow and public perceptions of independence are also measured.

Overall indicator value 0 1 2 3 **4** 5

Sub-indicators

Points

Legal framework and organisation of the judiciary

1. Adequacy of the legislative framework for administrative justice	6/6
2. Accessibility of administrative justice	3/4
3. Effectiveness of remedies against excessive length of proceedings in administrative cases	1/2
4. Use of an electronic case-management system	1/1
5. Public availability of court rulings	0/2
6. Organisation of judges handling administrative justice cases	4/5
Performance of the administrative justice system	
7. Perceived independence of the judicial system by the population (%)	4/5
8. Calculated disposition time of first-instance administrative cases	5/5
9. Clearance rate in first-instance administrative courts (%)	4/5
10. Cases returned for retrial by a higher court (%)	5/5
Total⁴³⁴	33/40

Administrative justice is well organised, with an excellent information technology case management system, and is effective, with low disposition time and a clearance rate below 100%.

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

The Constitution and Law on Civil Servants⁴³⁵ stipulate the general principle of liability. Operations and acts of the administration are subject to judicial review⁴³⁶. Damages caused by unlawful administrative, physical acts or negligence of executive organs during the exercise of state authority should be fully remedied⁴³⁷, and damages incurred to people may be compensated through Administrative Court decisions. Anyone alleging a violation of rights due to administrative action or inaction should first file with the administration and claim compensation for damages⁴³⁸.

A compensation case may be brought to the CoS⁴³⁹ or to first-instance Administrative Court, based on the territorial jurisdiction concerned, for pecuniary and non-pecuniary damages caused by an alleged

⁴³⁴ Point conversion ranges: 0-6 = 0, 7-13 = 1, 14-20 = 2, 21-27 = 3, 28-34 = 4, 35-40 = 5.

⁴³⁵ Law on Civil Servants, No. 657, Article 13 of 14 July 1965, Official Gazette No. 12056 of 23 July 1965.

⁴³⁶ Turkish Constitution, Article 129, paragraph 5.

⁴³⁷ The Law on Administrative Trial Procedure No. 2577, Article 2, paragraph 1, sub-paragraph (b).

⁴³⁸ Decree Law on the Implementation of Legal Services in Public Administrations within General Budget and Administrations with Private Budgets No. 659, Article 12, Official Gazette No. 28103 of 2 November 2011.

⁴³⁹ Law on CoS, No. 2575, Article 23, lit. b, and Article 24, para. 1, of 6 January 1982, Official Gazette No. 17580 of 20 January 1982 and Law on the Constitution and Functions of the Regional (in other translations District) Administrative Courts, Administrative Courts and Tax Courts No. 2576, Article 5 of 6 January 1982, Official Gazette No. 17580 of 20 January 1982.

failure of the administration to implement acts and to take action. In the case of a public servant's failing to fulfil the requirements of court decisions within the designated time limit, the compensation case may be brought against the relevant administration only⁴⁴⁰, in accordance with the procedure and conditions prescribed by law. The time limit for public liability claims is one year after the claimant could have become aware of the damage and no longer than five years after the alleged administrative action causing the damage⁴⁴¹.

There is no explicit rule on the nature and scope of compensation.

In 2016, Administrative Courts rendered 15 191 decisions in public liability cases and the Tax Courts rendered 147 decisions⁴⁴². The efficiency and fairness of the procedure for seeking compensation is difficult to assess, due to a lack of reliable data. Likewise, data on the number and value of payments from the state budget in public liability cases is not available.

The value for the indicator 'Functionality of public liability regime' is 3, due to the lack of detailed provisions regulating this subject and unavailable data on compensation paid by the state.

Functionality of public liability regime						
The indicator measures the extent to which there is a functioning system guaranteeing redress or compensation for unlawful acts and omissions of public authorities. It examines the strength of the legislative framework for public liability and whether it is applied in practice. Wrongful acts of the state against civil servants are excluded.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework for public liability	
1. Comprehensiveness of the scope of public liability	1/1
2. Coverage of the public liability regime to all bodies executing public authority	1/1
3. Non-discrimination in seeking the right to compensation	1/1
4. Efficiency and fairness of the procedure for seeking compensation	2/3
Practical implementation of the right to seek compensation	
5. Application of the public liability mechanism in the court in practice	3/3
6. Proportion of entitled applicants receiving payments	0/3 ⁴⁴³
Total⁴⁴⁴	8/12

No specific piece of legislation regulates public liability in detail, but general provisions are in place. A full assessment of the application in practice of public liability is not possible, due to a lack of necessary data.

⁴⁴⁰ The Law on Administrative Trial Procedure No. 2577, Article 28, paragraph 3.

⁴⁴¹ *Idem*, Article 13, paragraph 1.

⁴⁴² Data provided by the MoJ.

⁴⁴³ No data is available.

⁴⁴⁴ Point conversion ranges: 0-2 = 0, 3-4 = 1, 5-6 = 2, 7-8 = 3, 9-10 = 4, 11-12 = 5.

Key recommendations

Short-term (1-2 years)

- 1) The Parliament should strengthen the Institution of the Ombudsman by enhancing the legal framework, including granting the right to examine cases *ex officio*. The Parliament should discuss the Ombudsman's reports in its plenary sessions.

Medium-term (3-5 years)

- 2) The Ministry of Justice should ensure that the work of administrative judges is supported by legal assistants, to further increase judges' effectiveness.



SERVICE DELIVERY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

1.1. State of play

The general principles of public service delivery are established in Government regulations, and the objectives for the development of e-services are also enshrined in the National e-Government Strategy and Action Plan 2016-2019. The implementation of the Plan has thorough monitoring mechanisms through an electronic information system, the Strategy and Action Plan Monitoring and Evaluation System (SEPSIS).

Different aspects of the service delivery area are co-ordinated by one of three organisations: the Prime Ministry (PM), the Ministry of Development (MoDev) and the Ministry of Transport, Maritime Affairs and Communications (MTMC). An ongoing project, the Electronic Public Information Management System (KAYSIS), gathers information on the main service parameters from all services and processes. This feature should further serve the purpose of re-engineering processes that cut across different institutions. However, there are no monitoring instruments to regularly assess progress in reducing administrative burdens on businesses and citizens, determine digital uptake and per unit costs of public services and assess utilisation of the interoperability framework. In addition, there are no shared standards for evaluating the quality of service delivery.

The growth in the number of citizens who have Internet access, from 53% in 2015 to 76% in 2016, potentially increases the demand for e-government services. Nevertheless, the number of citizens interacting with Government services online has not increased accordingly.

Turkey has no Law on General Administrative Procedures (LGAP). The lack of a general administrative legal framework makes it difficult to assess to what extent the principles of good administration are guaranteed. An analysis of a sample of laws does not provide evidence in this area. Apart from problems of transparency, there is a risk that processes are not treated consistently across government areas.

Quality assurance tools and consultation are utilised in several central government bodies. No comprehensive data exists, however, on the number of institutions that have already implemented such tools. Furthermore, there is no central policy or co-ordination mechanism for improving the quality of services.

1.2. Main developments

The following section describes key changes in the public administration for each key requirement⁴⁴⁵ and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement Reports.

There have been a few considerable developments since the 2015 Baseline Measurement. Mid- and long-term objectives in the service delivery area have been set in different strategic documents, although it is unclear to what extent they are systematically applied across public authorities. Moreover, there are insufficient procedural guarantees with regard to service delivery and the administrative decisions that directly affect citizens, and the legal mechanisms defined in the Principles of Public Administration are not in place.

⁴⁴⁵ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf

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Compared with 2015, there has been a positive evolution in the policy and administrative preconditions for e-service delivery. The increased value for the indicator is attributable to two factors: 1) the adoption of the National e-Government Strategy and Action Plan 2016-2019; and 2) the progress in the Internet penetration rate (from 46% in 2013 to 76.3% in 2016). Of those Internet users, 61.8% interacted with public authorities online (up from 53.3% in 2014-2015).

The situation between 2015 and 2017 has not varied much as regards the quantitative indicators. The average time needed to start a business remains at 6.5 days, and the average cost is 16.4% of income per capita. The percentage of personal and corporate taxes submitted online is still well above 90%.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports⁴⁴⁶

	2015 Baseline Measurement indicator	2014 value	2017 value
Qualitative	Extent to which citizen-oriented policy for service delivery is in place and applied.	3	3
	Extent to which policy and administrative preconditions for e-service delivery are applied.	4	5
	Extent to which the legal framework for good administration is in place and applied.	1	1
Quantitative	Expenditure on general public services as a share of gross domestic product.	6.2% ⁴⁴⁷	5.8% ⁴⁴⁸
	Proportion of institutions using quality assurance tools and techniques (e.g. European Foundation for Quality Management, Common Assessment Framework and other international standards).	Not available ⁴⁴⁹	Not available ⁴⁵⁰
	Average time needed to acquire a personal identification document (passport or ID card) after submitting the application.	5 days ⁴⁵¹	5-7 days ⁴⁵²
	Share of institutions where customer satisfaction surveys are conducted on a regular basis (at least every two years).	Not available ⁴⁵³	Not available ⁴⁵⁴
	Average number of days needed to set up a business.	6.5 ⁴⁵⁵	6.5 ⁴⁵⁶

⁴⁴⁶ OECD (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>.

⁴⁴⁷ Ministry of Finance (MoF) data; covers the period January-September 2014.

⁴⁴⁸ MoF data for 2016.

⁴⁴⁹ Data was not provided by the administration.

⁴⁵⁰ This information is not processed by any central authority.

⁴⁵¹ Five days for both passports and other ID, according to the PM.

⁴⁵² <https://epasaport.egm.gov.tr/hakkinda/sikcasorulansorular.aspx>.

⁴⁵³ Ditto.

⁴⁵⁴ This information is not processed by any central authority.

⁴⁵⁵ According to World Bank *Doing Business Report* for 2015 and 2017.

⁴⁵⁶ Ditto.

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	Average cost of setting up a business.	16.4% ⁴⁵⁷	16.4% ⁴⁵⁸
	Share of citizens who submitted paperless/electronic/digital income tax statements last year.	99.2% ⁴⁵⁹	94.95% ⁴⁶⁰
	Share of companies that sent their tax declarations using the Internet.	98.4% ⁴⁶¹	99.4% ⁴⁶²

⁴⁵⁷ According to the World Bank *Doing Business* Report.

⁴⁵⁸ Ditto.

⁴⁵⁹ MoF data.

⁴⁶⁰ Data from the Revenue Administration.

⁴⁶¹ MoF data.

⁴⁶² Ditto.

2. ANALYSIS

This analysis covers four Principles for the service delivery area grouped under one key requirement. It includes a summary analysis of the indicator used to assess against each Principle, including sub-indicators⁴⁶³, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

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



Analysis of Principles

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

The general framework for public service delivery is set out in several regulatory and strategic documents: the Regulation on the Procedures and Principles of the Provision of Public Services⁴⁶⁴; the Tenth Development Plan (2014-2018)⁴⁶⁵; the 64th Government Action Plan for 2016, with goals and assigned responsibilities⁴⁶⁶; and the Council of Ministers Decision on the Procedures and Principles of the Provision of Public Services⁴⁶⁷. The strategic framework is more explicit and systematic for the e-government-related objectives. The Tenth Development Plan 2014-2018 and Information Society Strategy and Action Plan 2015-2018 envisage further development of e-services through the e-Government Gateway⁴⁶⁸. Furthermore, the Government has launched the National e-Government

⁴⁶³ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

⁴⁶⁴ Regulation on the Procedures and Principles of the Provision of Public Services of 29 June 2009, Official Gazette, No. 15169.

⁴⁶⁵ [www.mod.gov.tr/Lists/RecentPublications/Attachments/75/The%20Tenth%20Development%20Plan%20\(2014-2018\).pdf](http://www.mod.gov.tr/Lists/RecentPublications/Attachments/75/The%20Tenth%20Development%20Plan%20(2014-2018).pdf).

⁴⁶⁶ Some examples as regards to service delivery, are: 1) the elderly (Action 49 on Ageing National Plan); 2) health (Action 51 to provide service integrity and satisfaction in service delivery, Action 52 by restructuring family health centres to interest patients); and 3) education (Action 41 for a new Higher Education Law that focuses on quality and autonomy and Action 45, which focuses on training support to private vocational and technical training elementary schools to be opened outside the Organised Industrial Zones).

⁴⁶⁷ Decision No. 15169, from 2009, Official Gazette, No. 27305; Articles 5 and 6 mandate the provision of an inventory of public services as well as the use some service standards according to Annexes 1-3.

⁴⁶⁸ The e-Gateway (<https://www.turkiye.gov.tr/>) was regulated in 2006 in the 10316 Council Decree of 24 March 2006, Official Gazette No. 26145.

Strategy and Action Plan for 2016-2019⁴⁶⁹, with links to the other general and sectoral plans that have e-government-related strategies and actions. Particular emphasis has been placed on improving the interoperability of public institutions' information systems through common standards⁴⁷⁰.

Different institutions hold different responsibilities as regards service delivery policies for citizens. Within the PM, the Department for Administrative Development focuses on legal issues and service standards that relate to administrative procedures and administrative simplification⁴⁷¹. They collect service delivery-related information through several databases, gathered in the web-based database KAYSIS⁴⁷². The MoDev is responsible for co-ordinating the activities related to the Information Society Strategy⁴⁷³, including the funding of large-scale information technology (IT) projects related to the information society. The MTMC is responsible for e-government-related activities: co-ordinating the implementation of the e-Government Strategy, administering the e-Government Gateway and managing the interoperability framework⁴⁷⁴.

The SEPSIS, administered by the MTMC⁴⁷⁵, assesses the implementation of the National e-Government Strategy 2016-2019. Its metrics focus on the attainment of objectives based on specific performance indicators. The objectives are framed as activities and are not results-based. When results are cited, they are output-oriented rather than outcome-oriented. The MTMC reports biannually on the implementation of the e-Government Strategy.

Central co-ordination of digital government projects is limited. There is no institution that can be considered the Government's Chief Information Officer (CIO), nor is there a compulsory central review process to examine the purpose of government IT projects in place. The MTMC overviews only projects related to the e-Government Gateway and the MoDev funds projects related to the Information Society Strategy and national investment programmes⁴⁷⁶.

Regulatory Impact Assessment (RIA), which requires an analysis of draft legislation in terms of its potential burden on businesses or citizens, is mandatory⁴⁷⁷. However, the analysis of five sample laws showed that this tool is not systematically used for these purposes⁴⁷⁸.

The strategic plans include objectives related to decreasing the administrative burden of regulation on citizens and businesses⁴⁷⁹. The Regulation on the Procedures and Principles of the Provision of Public

⁴⁶⁹ Abridged version in English: <http://www.edevlet.gov.tr/wp-content/uploads/2016/07/2016-2019%20National-e-Government-StrategyAnd%20Action-Plan.pdf>; full version in Turkish: <http://www.edevlet.gov.tr/2016/07/25/2016-2019-ulusal-e-devlet-stratejisi-ve-eylem-planl/>.

⁴⁷⁰ The MoDev prepared this framework in 2005, and a second version in 2009. The PM Circular No. 4 from 2009 mandates the use of the guidelines on Interoperability Principles, with specification of the standards to be used for spreadsheets, documents, compressed files, Internet access protocols, file and directory transfer access protocols, and the like.

⁴⁷¹ Law No. 3056 on the Organization of the Prime Minister Office, Official Gazette, No. 18550. Article 2(e), Article 16 on Department of Administrative Development.

⁴⁷² <https://www.kaysis.gov.tr/>

⁴⁷³ Government Decree No. 641, 2011 Official Gazette, No. 27958, Articles 2/, b, c, d, especially 2/d. In terms of its remits regarding investment projects, Articles 9/c, 10/b, 13.

⁴⁷⁴ Government Decree No. 655, 2011 Official Gazette, No. 28102, Article 2/f, Article 13, especially 13/ç.

⁴⁷⁵ <http://www.edevlet.gov.tr/e-devletstratejisi-ve-eylem-planidurum/>.

⁴⁷⁶ In 2016, it funded 233 IT projects with a total budget of TYR 4.5 billion, <http://www.bilgitoplumu.gov.tr/yatirim/>.

⁴⁷⁷ By-Law on Principles and Procedures of Drafting Legislation, issued on 17 February 2016, which requires RIA, and PM Circular No. 6 on RIA of 2 April 2007, Article 4.

⁴⁷⁸ The Policy Development and Co-ordination chapter of this report provides more comprehensive analysis of the use of RIA.

⁴⁷⁹ The 64th Government Action Plan for 2016 contains specific actions aiming at simplification in seven areas: 1) foreign trade (15); 2) operation of labour courts (26); 3) tax procedure (57); 4) business licences (76); 5) energy licenses (77); 6) establishment and liquidation of companies (78); and 7) revenue and artisan taxes (198). A more specific approach is outlined at: <http://www.igb.gov.tr/HaberGoster.aspx?ID=1112>, under Section 4 for the period 2014-2019.

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Services⁴⁸⁰ requires public authorities to prepare service inventories and standards tables in order to analyse and reduce administrative burdens⁴⁸¹. The PM compiles an Annual Simplification Plan based on the plans collected from ministries⁴⁸² and has provided related guidelines⁴⁸³. Responsibilities related to the co-ordination of administrative simplification are assigned, but there is no evidence that the tasks have been monitored recently. No specific targets are in place for the reduction of red tape.

According to an external evaluation⁴⁸⁴, online availability of services scored 91 out of 100 in 2015, usability (interactivity) scored 92, and ease of use scored 67, all well above the EU28 average. Speed of use, with a score of 58, was in line with the EU28 average.

The policy framework for citizen-oriented service delivery is in place to a large extent. Systematic central co-ordination of government IT projects is missing, and the RIA's potential for administrative simplification is not used. However, as the performance of main government services is good, the value for the indicator 'Citizen-oriented service delivery' is 4.

⁴⁸⁰ Regulation on the Procedures and Principles of the Provision of Public Services of 29 June 2009, Official Gazette, No. 15169, Articles 5 and 6.

⁴⁸¹ <https://envanter.kayis.gov.tr/>

⁴⁸² MS Excel-based Administrative Simplification Plan 2017, shared by the PM.

⁴⁸³ PM (2017) Administrative Simplification Guidelines, v3.

⁴⁸⁴ EU e-Government Report 2016, Country Factsheets - e-Government Benchmark Report 2016, October 2016, <https://ec.europa.eu/digital-single-market/en/news/country-factsheets-egovernment-benchmark-report-2016>.

Citizen-oriented service delivery						
This indicator measures the extent to which citizen-oriented service delivery is defined as a policy objective in legislation or official government plans and strategies. It furthermore measures the progress of implementation and evaluates the results achieved, focusing on citizens and businesses in the design and delivery of public services. Implementation and results are evaluated using a combination of quantitative and perception-based metrics.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Policy framework for citizen-oriented service delivery	
1. Existence and extent of application of policy for service delivery	6/8
2. Existence and extent of application of policy for digital service delivery	8/8
3. Existence of central co-ordination for digital government projects	0/4
4. Established policy for administrative simplification	8/12
Performance of citizen-oriented service delivery	
5. Perceived quality of public service delivery by citizens (%)	4/6 ⁴⁸⁵
6. Renewing personal identification document	4.5/6
7. Registering a personal vehicle	3/6
8. Declaring and paying personal income taxes	6/6
9. Perceived quality of public service delivery and administrative burdens by businesses (%)	3/6 ⁴⁸⁶
10. Starting a business	4/6
11. Obtaining a commercial construction permit	3/6
12. Declaring and pay corporate income taxes	6/6
13. Declaring and pay value added taxes	5/6
Total⁴⁸⁷	60.5/86

The general policy on service delivery is in place, and key services provided to citizens and businesses are well-developed. In the areas of RIA and the simplification of bureaucracy, the regulation is in place and there are plans to further simplify the bureaucracy. There is no evidence, however, that RIA and simplification processes are applied systematically to reduce the bureaucracy.

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

Since the SIGMA 2015 Baseline Assessment, there has not been considerable progress on the uniform regulation of administrative procedures. No LGAP exists, only limited secondary regulation from 2009⁴⁸⁸, to ensure implementation of good administrative behaviour in the proceedings that state

⁴⁸⁵ The 2017 Balkan Barometer Survey shows that 58% of respondents are satisfied or completely satisfied with the quality of public service delivery. Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>.

⁴⁸⁶ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

⁴⁸⁷ Point conversion ranges: 0-14=0, 15-28=1, 29-42=2, 43-56=3, 57-70=4, 71-86=5.

⁴⁸⁸ Regulation of 29 June 2009 on the Procedures and Principles of the Provision of Public Services (Official Gazette, No. 15169) is very limited in terms of regulating administrative procedures.

administrative bodies conduct. This means administrative procedures are controlled by a variety of regulations, which obscures transparency and hampers the consistency with which public authorities deal with citizens. The existing legislation does not regulate in detail the relationships and procedures between citizens and the public administration. An analysis of three samples of regulation⁴⁸⁹ offered limited evidence on the implementation of the guarantees that administrative procedures must contain as a sign of good administration. The sample did not cover specific references to procedural legislation or to the guarantees. The analysis of sample regulations showed that the principles of good administrative behaviour are not clearly and uniformly established in the legislation across different areas to ensure the due administrative process.

The 2017 Balkan Barometer survey shows that public perception on the efficiency of administrative procedures in public institutions is rather high, with a 68% approval rate⁴⁹⁰. The quality of administrative procedures is also reflected in the low rate (7%) of repeals of decisions made by administrative bodies by the Administrative Court .

Due to the absence of a LGAP and the fragmented nature of the legislation regulating administrative procedure, the value for the indicator 'Fairness and efficiency of administrative procedures' is 3.

Fairness and efficiency of administrative procedures						
The indicator measures the extent to which the regulation of administrative procedure is compatible with international standards of good administration and good administrative behaviour. This includes both the legal framework for administrative procedure and its practical applications.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework for administrative procedure	
1. Existence of legislation on administrative procedures of general application	0/3
2. Adequacy of law(s) on administrative procedures to ensure good administration	4/7
Fairness and efficiency of administrative procedures	
3. Perceived efficiency of administrative procedures in public institutions by citizens (%)	4/4
4. Repeals of or changes to decisions of administrative bodies made by the administrative courts (%)	4/4
Total⁴⁹¹	12/18

There is no general law on administrative procedures, and the analysis of a sample of legal acts does not clearly show that procedural guarantees are fully applied when the administration issues decisions that affect citizens and businesses.

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

In line with the e-Government Strategy outlined in Principle 1, there is an interoperability framework for public services that establishes common standards and exchange protocols between state authorities. The lack of monitoring reports on the issue, however, does not allow an assessment of the

⁴⁸⁹ The Value Added Tax Law No. 3065, Official Gazette, No. 18563 of 25 October 1984; the Zoning Law No. 3194 of 5 September 1985, Official Gazette, No. 18749; and the Law on the Right to Information of 22 October 2013, Official Gazette, No. 25269.

⁴⁹⁰ Percentage of respondents answered "tend to agree" or "totally agree" to the question: "Do you agree that the administrative procedures in public institutions in (country) are efficient?"

⁴⁹¹ Point conversion ranges: 0-3=0, 4-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

effectiveness of the framework. Four critical registries⁴⁹² are digital and exchange data on the interoperability framework.

There is no uniform approach or overall policy for quality management. Each institution has the autonomy to establish its own methodology. Central government organisations apply various quality assurance tools, including the European Foundation for Quality Management, International Organization for Standardization (ISO) 9001 Quality Management System and the Common Assessment Framework⁴⁹³.

There is no system to monitor the routine performance of service delivery across public-sector institutions. The information available from the Turkish Institute of Statistics refers to the percentage of Internet users who have interacted with public authorities, with no data on the concrete services they used. Also, central analytics showing the cost of transactions in different channels is missing. The MTMC, which runs the e-government portal, has a very detailed overview⁴⁹⁴ of user statistics for the services provided through its portal. However, these cover a relatively small share of the services that government provides, and they do not include comparative data for the same services provided through other means.

Some institutions also apply feedback techniques⁴⁹⁵. Individual authorities use different techniques to elicit users' opinions, and there is no clear policy on engagement or guidelines that different institutions could apply uniformly. There is a centralised consultation framework, located in KAYSIS⁴⁹⁶, which can be seen as a complaint and suggestion management tool rather than as a user engagement feedback environment⁴⁹⁷.

The equivalence of the electronic and handwritten signature⁴⁹⁸ is important to increase the introduction of digital services. The application for a digital signature can be achieved through a certified company on the same day as the application⁴⁹⁹. The annual cost (TRY 109 [equivalent to EUR 27]⁵⁰⁰), however, may discourage citizens' use of e-services. Another limitation of the e-signature is that it is not compatible with the EU eIDAS⁵⁰¹ regulation⁵⁰².

Central mechanisms for monitoring service delivery performance and quality management are absent. Digital signature is operational but neither compatible with the eIDAS regulation nor free. The value for the indicator 'Existence of enablers for public service delivery' is 3.

⁴⁹² The population register, business register, vehicles register and land register.

⁴⁹³ Based on information from the PM from a sample of ten institutions, the following authorities applied a quality management framework: the Ministry of Health, the Ministry of Education and the Ministry of Interior.

⁴⁹⁴ On-site presentation of the system at the MTMC.

⁴⁹⁵ Based on the information from the PM from a sample of ten institutions, the following public authorities employed user engagement techniques in 2016: the Ministry of Health, the Ministry of Education, the Ministry of Interior, the Revenue Administration and the National Statistical Office.

⁴⁹⁶ KAYSIS is a public information management system that aims to integrate e-government applications by merging information on the provision of the service and on the legislative bases of those services. KAYSIS is nurtured by several systems and databases (registry of state organisations, service inventory, legislation system, service standards and public satisfaction survey), <https://www.kaysis.gov.tr/>.

⁴⁹⁷ For instance, the system does not allow anonymous feedback; all users must identify themselves through log-on.

⁴⁹⁸ Law No. 5070 on Electronic Signature, Article 5, Official Gazette, No. 25355 of 15 January 2004.

⁴⁹⁹ <http://pttkep.gov.tr/sayfalar/e-imza>

⁵⁰⁰ The full costing scheme can be found at: <http://pttkep.gov.tr/ucretler>. A three-year e-signature costs TRY 189.

⁵⁰¹ <https://ec.europa.eu/futurium/en/content/eidas-regulation-regulation-eu-ndeg9102014>.

⁵⁰² Regulation No. 910/2014 on Electronic Identification and Trust Services for Electronic Transactions in the Internal Market (there are plans to achieve this by the end of 2017).

Existence of enablers for public service delivery

This indicator measures the extent to which citizen-oriented service delivery is being facilitated by the existence and implementation of enabling tools and technologies, such as public service inventories, interoperability frameworks, digital signatures and user feedback mechanisms. It evaluates how effective the central government is in establishing and using those tools and technologies to improve the design and delivery of public services.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
Central and shared mechanisms to better enable public service provision	
1. Central monitoring of service delivery performance	0/3
2. Interoperability infrastructure in place	3/3
3. Existence of common standards for public service delivery	3/3
4. Legal recognition and affordability of electronic signatures	1/3
Performance of central and shared mechanisms for public service delivery	
5. Use of quality management tools and techniques	1/4
6. Adoption of user engagement tools and techniques	3/4
7. Interoperability of basic registers	4/4
Total⁵⁰³	15/24

An interoperability framework is established, although there is no data on how widely it is used across the administration. There is no central co-ordination or guidance on quality management, and individual institutions may choose the tools they prefer in accordance with their own needs. Furthermore, no co-ordination or monitoring mechanism exists to assess the implementation of quality management policies or the use of consultation instruments to improve public services. An e-signature is used, but the high cost hinders its take-up.

Principle 4: The accessibility of public services is ensured.

Several plans and pieces of legislation cover the territorial accessibility of public services⁵⁰⁴, the concentration of service transactions in single entry points⁵⁰⁵ and the reduction of barriers to the access to services by citizens with disabilities⁵⁰⁶. However, there is no clear and uniform policy as

⁵⁰³ Point conversion ranges: 0-4 = 0, 5-8 = 1, 9-12 = 2, 13-16 = 3, 17-20 = 4, 21-24 = 5.

⁵⁰⁴ The Tenth Development Plan, 2014-2018, has several paragraphs as regards to territorial policies: Paragraph 262 (p. 41) mentions regional inequality in relation to childhood and youth; paragraph 388 (p. 53) establishes legal arrangements to encourage working in low-income regions, as well as to foster experienced civil servants in those areas; paragraph 647 (p. 88) refers to the unbalanced regional distribution of manufacturing activity; paragraph 832 (p. 110) refers to the planning and investments of logistics centres across Turkey, by taking into account regional inequalities; paragraphs 894 and 895 (p. 117) focus on regional disparities. Section 2.3.1 is devoted to regional development and regional competitiveness. Other relevant strategic documents include the 2015-2018 Information Society Strategy and Action Plan (Section 31) and the 2016-2019 National e-Government Strategy and Action Plan (e.g. Objective 3.4).

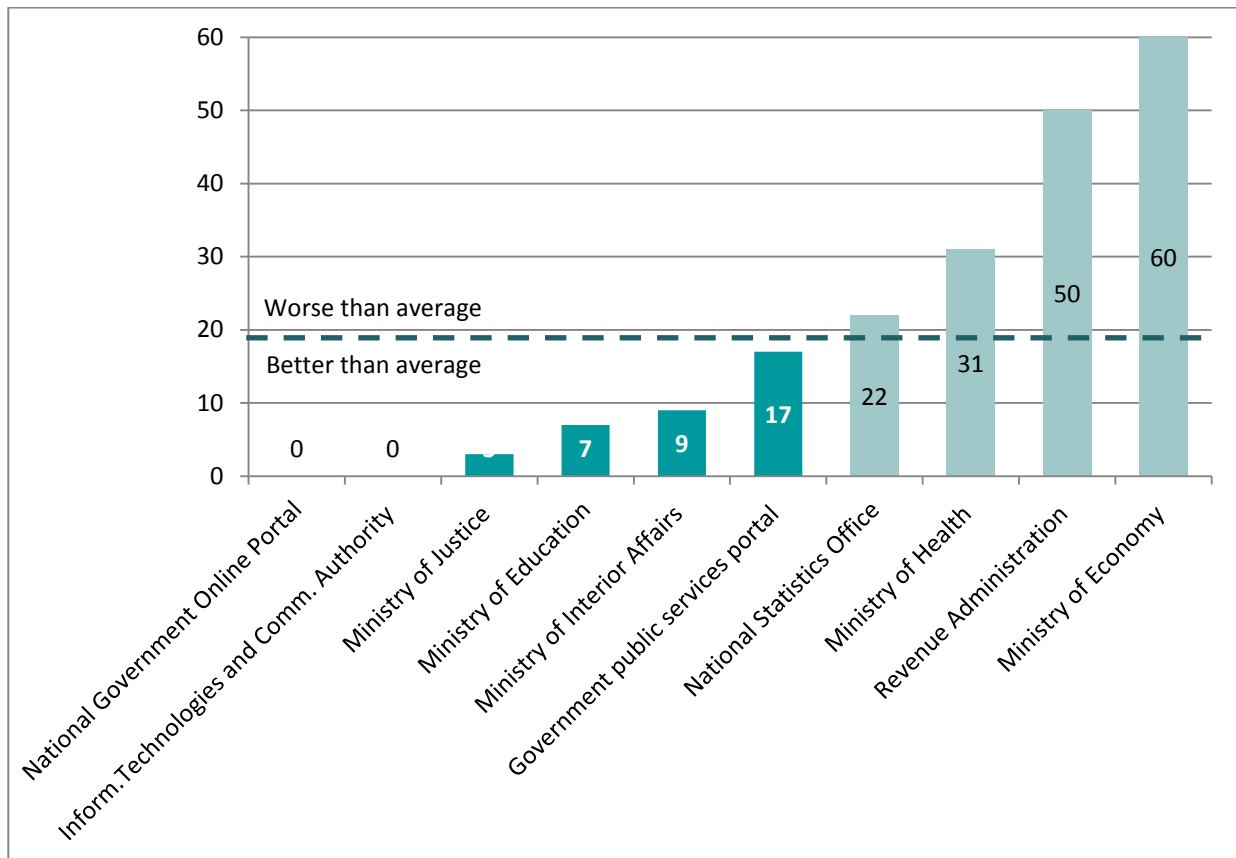
⁵⁰⁵ PM's Circulars from 2006 and 2008: PM Decision No. 35, 22 October 2006, Official Gazette No. 26354, and PM Decision No. 10, 3 June 2008, Official Gazette No. 26895.

⁵⁰⁶ The Tenth Development Plan, 2014-2018, paragraph 226 (p. 38) refers to gender equality and disadvantaged groups. The Law on Persons with Disabilities No. 5378 of 1 July 2005, Official Gazette No. 25868, Article 4(c) establishes equal access opportunities to services and in decision making regarding service provision for disabled. Furthermore, accessibility standards are ensured in Article 7, especially in three areas: buildings, public and private transportation,

regards to service accessibility beyond the mandates and statements dispersed in the legislation and strategic plans. Furthermore, inequalities and imbalances in these areas are not necessarily considered from the point of view of access to services. This is also reflected in the absence of relevant statistics in areas like access limitations to education, healthcare and to general administrative services.

Accessibility of the website and digital services is good. There is a central point where all services can be accessed through an intuitive website⁵⁰⁷ and the websites of ministries. The Web Content Accessibility Guidelines 2.0 AA standard (ISO 40500) is mandated for all public institutions, although accessibility tests show an unequal distribution of errors on government websites⁵⁰⁸.

Figure 1. Accessibility tests to ministerial websites



Source: Test of the government websites⁵⁰⁹.

The Regulation on the Procedures and Principles of the Provision of Public Services⁵¹⁰ mandates public bodies to disseminate information on the standards of service provision through different

and access to information and information technologies. Finally, PM Decision No. 15169 of 29 June 2009, Official Gazette No. 27305 of 31 July 2009, Article 7, refers to the need to provide accessible services for people with disabilities.

⁵⁰⁷ <https://www.turkiye.gov.tr/>

⁵⁰⁸ A sample of 10 institutions showed an average of 27 errors of accessibility with high dispersion between individual organisations, e.g. with 0 and 1 errors respectively in the regulatory agency Information Technologies and Communications Authority (<https://www.btk.gov.tr/tr-TR/>) and in the MTMC (<http://www.ubak.gov.tr/>) and 50 and 79 errors, respectively, in two institutions with a high number of users, the Ministry of Culture and Tourism - <https://www.kultur.gov.tr/>, and the Revenue Administration - <http://www.gib.gov.tr/>.

⁵⁰⁹ Average: 19.9 errors. 1) National Government Online Portal (<https://www.turkiye.gov.tr/>): 0 errors; 2) Government Public Services Portal (<https://www.kaysis.gov.tr/>): 17 errors; 3) Ministry of Health (<http://www.saglik.gov.tr/>): 31 errors; 4) Ministry of Education (<http://www.meb.gov.tr/>): 7 errors; 5) Ministry of Justice (<http://www.adalet.gov.tr/>): 3 errors; 6) Ministry of Interior Affairs (<https://www.icisleri.gov.tr/>): 9 errors; 7) Ministry of Economy (<http://www.ekonomi.gov.tr/>): 60 errors; 8) Revenue Administration (<http://www.gib.gov.tr/>): 50 errors; 9) National Statistics Office (<http://www.turkstat.gov.tr/>): 22 errors; and 10) Information Technologies and Communications Authority (<https://www.btk.gov.tr/tr-TR/>): 0 errors.

communication tools, including websites and billboards. This information is also centralised in the KAYSIS system.

A development in the implementation of one-stop shops is the Central Trade Registry System (MERSIS), which reduces the number of visits of entrepreneurs who wish to open a business⁵¹¹.

The Law on Persons with Disabilities was adopted in 2005⁵¹². It requires the state administration to gradually improve the accessibility of public buildings for citizens with disabilities. Additional regulations were adopted in 2009⁵¹³ and in 2013⁵¹⁴ to foster the monitoring and enforcement of the commitments established in 2005. Furthermore, in 2016⁵¹⁵, the Minister for Family and Social Policies launched a circular connected to the 2005 Act, with a plan to monitor and supervise accessibility to public buildings and public transportation and to issue “Accessibility Certificates” following a successful inspection. The continuous need to launch legislation in this area reflects the limited impact that the policy on accessibility has had thus far. For this assessment, there is no information available on progress in ensuring the accessibility of public buildings, although a recent circular (2017) mandates the Ministry of Family and Social Policies to monitor accessibility to services for people with disabilities⁵¹⁶.

However, because the policy framework for accessibility of public service is, to a large extent, in place and operational, the value for the indicator ‘Accessibility of public services’ is 4.

⁵¹⁰ Regulation on the Procedures and Principles of the Provision of Public Services of 29 June 2009, Official Gazette No. 15169.

⁵¹¹ MERSIS, <https://mersis.gtb.gov.tr/Portal/Home/Index>. According to Article 13 of the Regulation of Trade Registry published in Official Gazette No. 28541 of 27 January 2013, trade registration transactions shall be fulfilled through MERSIS (Central Registration Recording System). As of 29 February 2016, potential tax identification number can be obtained online through the MERSIS system (www.doingbusiness.org/data/exploreeconomies/turkey#starting-a-business).

⁵¹² Law on Persons with Disabilities of 1 July 2005, Official Gazette No. 5378, 2005, establishes equal access opportunities to services in Article 4(c) and in decision-making regarding service provision for the disabled. Furthermore, accessibility standards are ensured (Article 7) especially in three areas: buildings, public and private transportation, and access to information and information technologies.

⁵¹³ PM Decision No. 15169 of 29 June 2009, published in Official Gazette No. 27305 of 31 July 2009. Article 7 refers to the need to provide accessible services for people with disabilities.

⁵¹⁴ Regulation of 20 July 2013 on Monitoring and Supervision of Accessibility, Official Gazette No. 28713.

⁵¹⁵ Circular No. 7, 2016, “Forms on Accessibility Monitoring and Inspection”.

⁵¹⁶ Circular No. 3, 2017 on Monitoring of Accessibility and Control Plan of 26 February 2017.

Accessibility of public services

This indicator measures the extent to which the access to public services is promoted in policy formulation and implementation. It evaluates whether this policy framework leads to measurably easier access for citizens, measures citizen perceptions of accessibility to public services and tests the actual accessibility of government websites. Dimensions covered are territorial access, access for people with disabilities and access to digital services.

Overall indicator value 0 1 2 3 **4** 5

Sub-indicators	Points
Policy framework for accessibility	
1. Existence of policy for the accessibility of public services	2/3
2. Availability of statistical data on accessibility to public services	2/3
3. Adequacy of policy framework for public service users with special needs	3/4
4. Existence of common guidelines for government websites	2/2
Government performance on accessibility	
5. Compliance of government websites with Web Content Accessibility Guidelines (WCAG)	2/3
6. Perceived satisfaction with public services across the territory by population (%)	2/3
7. Perceived accessibility of digital public services by population (%)	2/3
8. Perceived time and cost of accessing public services by population (%)	2.5/3
Total⁵¹⁷	17.5/24

The accessibility of public services is reflected in different government plans and strategies, but progress is uneven across different areas. Legislation to enhance uniform territorial accessibility of public services is in place, but a coherent policy in the area is lacking. There is a commitment to reduce barriers in access to services for people with disabilities, but progress cannot be measured as the monitoring system has been announced only recently. In e-government services, websites are reasonably accessible, although quality varies across institutions.

Key recommendations

Short-term (1-2 years)

- 1) The PM should put RIA into more proactive use in order to minimise the burden of regulation on businesses and citizens.
- 2) The PM should ensure that concrete plans for process re-engineering and administrative simplification are produced, based on the inventories of public services.
- 3) The Government should ensure that the regulation of administrative procedures is transparent and consistently applied to all public institutions and legislation so that the principles of good administrative behaviour can be applied uniformly. The Government should consider enacting an LGAP.

Medium-term (3-5 years)

- 4) The Government should put into place monitoring instruments, with statistics publicly available, in order to supervise the delivery of public services in terms of usage, timeliness and unit cost, as well

⁵¹⁷ Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-24=5.

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as the accessibility of public services across different channels (particularly regional data and data on people with disabilities).

- 5) The Ministry for Family and Social Policies should create a system to monitor access to services for people with disabilities and produce a publicly available progress report.
- 6) The PM should ensure that quality management and consultation techniques are used more systematically in the delivery of all services and should provide central guidance on this.



PUBLIC FINANCIAL MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015-JUNE 2017

1.1. State of play

Following a move to expansionary fiscal policy in 2016, the latest published data shows a general government deficit of 1.3% in 2016⁵¹⁸, with a general government debt-to-GDP ratio of 28.1% at the end of 2016⁵¹⁹. Overall, public finances remain broadly robust. Revolving funds expenditure remained at 6% of overall spending in 2016 and is projected to stay at that ratio over the medium term. Although this expenditure is monitored by the Ministry of Finance (MoF), it is not subject to approval by the Turkish Grand National Assembly (TGNA). There has been a recent increase in contingent liabilities, particularly in relation to rising debt incurred by non-financial corporations, which is guaranteed by the Treasury. Many of the key elements of a strong public expenditure management system are in place. However, gaps remain in terms of fiscal rules and the establishment of an independent oversight institution, such as a fiscal council.

Public internal financial control (PIFC) has a comprehensive legal and operational basis. Managerial accountability and delegation are being implemented within Turkish public organisations, although there are still gaps and weaknesses in some of the related internal control systems. Internal audit (IA) is established and operating in most central government institutions, but the IA function is not established in several key institutions that have important responsibilities for public spending, including the Prime Ministry (PM). This lack of support among top management hinders further development of the IA function.

The legislative framework composed by the Public Procurement Law (PPL)⁵²⁰ and the Law on Public Procurement contracts⁵²¹ covers classic public procurement in the first place. Except in a few specific cases⁵²², purchases in the utilities sector remain in large part outside the scope of the PPL, because of the high threshold for services and supplies contracts awarded by contracting entities⁵²³. The procedures for defence procurement are not covered by the PPL, but are regulated in separate regulations or internal rules adopted by institutions purchasing goods, services or works involving defence and security. A comprehensive set of secondary legislation governs not only the provisions of the PPL, but also operational standards, standard formats for notices, tender documentation and models for general conditions of contracts. Concessions, in the sense of the European Union (EU) Concessions Directive, are covered by a variety of other laws, but only partially.

Since its adoption in 2002, the PPL has been revised more than 40 times, including six amendments enacted since May 2016. Some of the provisions of both the 2004 EU Directives and the 2014 Directives that replaced them have not been transposed. The main divergences from the EU *acquis* in the primary legislation concern a number of exclusions from the PPL, the application of domestic preferences, limitations on participation of groups of economic operators (consortia) and the use of

⁵¹⁸ MoDev (Ministry of Development) (2017), 2018-2020 Medium Term Program, Turkey, MoDev, Ankara.

⁵¹⁹ Prime Ministry, Undersecretariat of Treasury, Statistics, Public Finance, <http://treasury.gov.tr/en-US/Stat-List?mid=738&cid=12&nm=684>.

⁵²⁰ Law No. 4734, Official Gazette No. 24 648 of 22 January 2002.

⁵²¹ *Ibid.*

⁵²² PPL, Article 3(g).

⁵²³ As of 1 February 2017, the threshold below which this procurement is exempted is TRY 8 980 120 (EUR 2 226 800 at the mid-market rate on 30 June 2017 [TRY 1 = EUR 0.24797]). This rate is also used in Article 3(g) of the PPL.

lists of economic operators prohibited from participation in public procurement procedures. Further cases of non-compliance result from the secondary legislation⁵²⁴.

In the institutional framework, the Public Procurement Agency (PPA) plays the leading role in procurement covered by the PPL⁵²⁵, since it combines the functions of a central public procurement administration and a review body and is responsible for secondary legislation.

In the field of public-private partnerships (PPPs) and concessions, the legal and institutional framework is highly fragmented and is not aligned with the *acquis*.

The independence, mandate and organisation of the Turkish Court of Accounts (TCA) are established in the Constitution⁵²⁶ and the TCA Law⁵²⁷. The TCA has sufficient capacities, and the full range of TCA reports have been presented to the Turkish Grand National Assembly (TGNA). However, performance audit reports have continued to focus on performance indicators, although the TCA's programme for 2017 includes 10 performance audits that will cover economy, efficiency and effectiveness. The reports of the TCA are only considered by the TGNA during its deliberations on the budget.

1.2. Main developments

The following section describes key changes in the public administration for each key requirement⁵²⁸ and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement Reports.

A number of regulations have been implemented over 2015, 2016 and into 2017 to make government accounting arrangements more consistent with international standards, for both central and general government institutions.

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 the ratio of debt to gross domestic product are on a sustainable path.

After a number of reforms earlier in the decade, the focus in recent years has been to consolidate and implement these reforms. This is reflected in the relative consistency of the 2017 assessment with the SIGMA 2015 Baseline Measurement⁵²⁹. A number of issues have progressed since 2015, but the recommendations presented in the 2015 report are still largely unaddressed.

In 2016, the MoF issued its budget call on 13 June, with submissions from line institutions due back by 11 July. The 2015 SIGMA assessment noted that the budget call was issued in mid-September 2014. This change allows for greater consideration of submissions by the MoF and the Ministry of Development (MoDev), but the time for line ministries to prepare submissions remains short.

⁵²⁴ These include the contracting body's authority not to admit groups of economic operators (consortia) in the procurement procedure. It also covers the possibility that criteria related to the technical capacity (i.e. previous experience) of a tenderer, as well as the "domestic status" of the product proposed in a tender, be used as an additional basis for the award of a contract if several tenderers otherwise receive the same, highest evaluation. See Articles 31 and 62 of the Implementing Regulation on Procurement of Goods (Official Gazette No. 27 159 of 4 March 2009, as amended).

⁵²⁵ The PPA also collects statistical information about public procurement outside of the scope of the PPL and publishes it on its website in annual reports: www.kik.gov.tr/ihale_istatistikleri-45-1.html.

⁵²⁶ Constitution, Articles 160, 164-165 and 169.

⁵²⁷ TCA Law No. 6085, Official Gazette No. 27790/2014 (in force from December 2010).

⁵²⁸ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf

⁵²⁹ OECD (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>.

Legislation to bring revolving funds into the budget process is progressing slowly, with the draft Law on Enterprises with Revolving Funds having been prepared and submitted to the PM.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	MTBF strength index.	3	3
	Fiscal rules strength index.	1	1
	Extent to which the annual budget proposal includes full information at the time of presentation to the parliament.	3	3
Quantitative	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.	+6.0% ⁵³⁰	+12.8% ⁵³¹
	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.	+2.7% ⁵³²	+15.2% ⁵³³
	General government budget balance.	-0.8%	-1.4% ⁵³⁴
	Percentage differences between the planned budget revenue (as approved in the budget) compared to the outturn of the latest available year.	+5.5%	+2.5% ⁵³⁵
	Percentage differences between the planned budget expenditure (as approved in the budget) compared to the outturn of the latest available year.	+2.8%	+2.3% ⁵³⁶

⁵³⁰ MoDev (2012), Medium Term Programme 2013-2015, Annex Table 4: Central Government Budget Figures, p. 72, MoDev, Ankara, [http://www.mod.gov.tr/Lists/RecentPublications/Attachments/7/Medium_Term_Programme_\(2013-2015\).pdf](http://www.mod.gov.tr/Lists/RecentPublications/Attachments/7/Medium_Term_Programme_(2013-2015).pdf). Outturn figures are from the end of December in the monthly Budget Realization Reports, available from the MoF at <http://www.bumko.gov.tr/EN,7378/budget-realizations-reports.html>.

⁵³¹ MoDev (2014), Medium Term Programme 2015-2017 available at <http://www.mod.gov.tr/Pages/MediumTermPrograms.aspx>. Outturn figures are from the end of December in the monthly Budget Realization Reports, available from the MoF at <http://www.bumko.gov.tr/EN,7378/budget-realizations-reports.html>.

⁵³² MoDev (2012), Medium Term Programme 2013-2015, Annex Table 4: Central Government Budget Figures, p. 72, MoDev, Ankara, [http://www.mod.gov.tr/Lists/RecentPublications/Attachments/7/Medium_Term_Programme_\(2013-2015\).pdf](http://www.mod.gov.tr/Lists/RecentPublications/Attachments/7/Medium_Term_Programme_(2013-2015).pdf). Outturn figures are from the end of December in the monthly Budget Realization Reports, available from the MoF at <http://www.bumko.gov.tr/EN,7378/budget-realizations-reports.html>.

⁵³³ MoDev (2014), Medium Term Programme 2015-2017 available at <http://www.mod.gov.tr/Pages/MediumTermPrograms.aspx>. Outturn figures are from the end of December in the monthly Budget Realization Reports, available from the MoF at <http://www.bumko.gov.tr/EN,7378/budget-realizations-reports.html>.

⁵³⁴ MoF, main economic figures, available at <http://www.bumko.gov.tr/EN,2678/economic-indicators.html>.

⁵³⁵ MoF, Budget Realization Reports, available at <http://www.bumko.gov.tr/EN,7378/budget-realizations-reports.html>.

⁵³⁶ Ditto.

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.

Progress has continued in improving and standardising accounting practises across the general government and aligning with international best practise. For example, two further regulations were introduced in 2015 and four in 2016, one of which was a Local Governments Budget and Accounting Regulation.

Table 2. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	Extent to which in-year financial reporting provides full information and is made publically available.	4	4
	Extent to which the annual financial report includes full information and is made available in time to the parliament.	4	4
Quantitative	Average percentage differences between cash flow projections and actual cash balance on a monthly basis.	Not available ⁵³⁷	Not Available ⁵³⁸
	Accumulated arrears for central government measured as a percentage of total expenditure at the end of the latest available calendar year.	0 ⁵³⁹	0 ⁵⁴⁰
	Public-sector debt servicing costs as a share of gross domestic product.	2.9%	2.5% ⁵⁴¹
	Difference of public-sector debt level outturn from target.	Not available ⁵⁴²	-3.4% ⁵⁴³

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

There were no major developments in public internal control in the public administration compared to 2015. This is reflected in the values in Table 3. Financial management and control (FMC) follows the same procedures and is guided by the same legislation as in 2015. A number of amendments to the

⁵³⁷ Monthly cash flow projections are not published, and data was not provided.

⁵³⁸ Ditto.

⁵³⁹ There is no evidence of any accumulated arrears.

⁵⁴⁰ Data was provided by the MoF.

⁵⁴¹ MoDev (2016), Medium Term Programme 2017-2019, Annex Table 5: General Government Balance, p. 46, MoDev, Ankara, [http://www.mod.gov.tr/Lists/MediumTermPrograms/Attachments/13/Medium%20Term%20Programme%20\(2017-2019\).pdf](http://www.mod.gov.tr/Lists/MediumTermPrograms/Attachments/13/Medium%20Term%20Programme%20(2017-2019).pdf).

⁵⁴² There were no projections or planned limits for the total stock of public debt for 2014.

⁵⁴³ The MTP 2016-2018 (<http://www.mod.gov.tr/Pages/MediumTermPrograms.aspx>) estimated the total stock of public debt to be 31.7% of GDP for 2016. The actual debt for 2016 reported by the Undersecretariat of the Treasury (<https://www.treasury.gov.tr/en-US/Stat-List?mid=738&cid=12&nm=684>) was 28.3%,

Public Financial Management and Control (PFMC) Law⁵⁴⁴ to enhance alignment with international standards and European Union (EU) practices were planned in 2016, but they were delayed until after the constitutional referendum.

The PIFC Policy Paper was updated in 2015, but it has not yet been adopted by the Government. The Council of Ministers receives information on the development of FMC through the annual General Accountability Report⁵⁴⁵. However, there are still no regular decisions made by the Government requiring specific action for implementation of FMC.

Table 3. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	Extent to which the operational framework for FMC is complete, in place and applied.	4	4
Quantitative	Share of first-level budget organisations where the budget structure is aligned with the organisational structure.	Not available ⁵⁴⁶	Not available ⁵⁴⁷

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

Since the assessment in 2015, there have been no amendments to the PFMC Law, and a number of proposed amendments to enhance alignment with international standards and EU practices have been delayed until 2017.

Building on the Internal Audit Strategy for 2014-2016, a revised Strategy⁵⁴⁸ has been prepared for 2017-2019 to address further development of IA, including inconsistencies between Turkey's national legal framework and both EU legislation and Institute of Internal Auditors (IIA) standards. The operational framework has been strengthened by the adoption of audit guidelines on performance audit and quality assurance and the development and implementation of software to support planning, execution, monitoring and quality control of IA⁵⁴⁹.

A clear distinction between the functions of IA units and inspection units has still not been achieved⁵⁵⁰.

⁵⁴⁴ PFMC Law No. 5018, Official Gazette No. 25326/2003, adopted 10 December 2003.

⁵⁴⁵ *Idem*, Article 41.

⁵⁴⁶ The MoF does not compile this data.

⁵⁴⁷ Ditto.

⁵⁴⁸ Internal Audit Development Strategy 2017-2019.

⁵⁴⁹ Audit guidelines are available at <http://www.idkk.gov.tr/Sayfalar/Mevzuat/UcunculDuzey.aspx>.

⁵⁵⁰ *Ibid*.

Table 4. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	Extent to which the operational framework for internal audit is designed and in place.	3	3
	Quality of internal audit reports.	Not available ⁵⁵¹	Not available ⁵⁵²
Quantitative	Share of public administration organisations meeting national legal requirements for establishing and minimum staffing of internal audit units.	64%	67% ⁵⁵³
	Share of internal auditors with a national or international internal audit certificate.	100%	100% ⁵⁵⁴

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.

In the public procurement area, no major developments have taken place since May 2015. Minor changes to primary and secondary legislation were introduced for practical reasons. Efforts were directed towards the preparation of a new draft PPL in accordance with the National Action Plan for EU Accession Phase II. A draft of the new PPL has been prepared⁵⁵⁵, but it has not yet been made public. As laid out in the Tenth Development Plan⁵⁵⁶, the MoDev has been working on a strategy for the harmonisation of public-private partnerships and concessions and on a corresponding unified law. No draft has yet been made public.

Table 5. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports⁵⁵⁷

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	Extent to which public procurement legislation is complete and enforced.	3	3
	Nature and extent of public consultations during the process of developing regulations for public procurement and monitoring their use and	2	2

⁵⁵¹ Only three of the ten IA reports requested were submitted. This is too small a sample on which to base an assessment of the quality of IA reports.

⁵⁵² Insufficient data was provided.

⁵⁵³ Data was provided by the MoF.

⁵⁵⁴ Ditto.

⁵⁵⁵ The EU Delegation sent a copy of an early version to SIGMA for comments in March 2016.

⁵⁵⁶ Approved at the 127th Plenary Session of the Grand National Assembly of Turkey by Decision 1 041 of 2 July 2013, in accordance with Law No. 3 067 of 30 October 1984.

⁵⁵⁷ OECD (2015), *Baseline Measurement Report: Turkey*, OECD Publishing, Paris, www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf.

Turkey
Public Financial Management

	appropriateness.		
	Extent to which policy framework for public procurement is developed and implemented.	4	4
	Extent of coverage by dedicated institutions of the central procurement functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources.	3	3
	Comprehensiveness of systems for monitoring and reporting on public procurement proceedings and practices.	4	4
	Clarity, timeliness, comprehensiveness and accessibility of information available to contracting authorities and entities, economic operators and other stakeholders.	3	3

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.

No major developments have been noted in the review system since May 2015.

Table 6. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	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.	3	3
	Presence of a user-friendly procurement review website including timely publication of decisions and statistics, with adequate search functions.	4	4
Quantitative ⁵⁵⁸	Actual processing time of complaints related to procurement compared with maximum legal requirements.	20 days vs. 20 days	14 days vs. 20 days
	Number of cases in which the procurement review body exceeded the legal maximum processing time in relation to the total number of complaints.	0	Less than 1%
	Number of complaints in relation to the number of tender notices published.	4.7%	3.9%
	Share of complaints in procurement that are	21%	25%

⁵⁵⁸ Information provided by the PPA in meetings with SIGMA; further statistics on complaints can be found on pp. 28-35 of the PPA's Monitoring Report.

	challenged to the next judicial level.		
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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 an open and competitive supply market.

No major developments have taken place since May 2015, apart from a general increase in the overall value of public procurement and a slight growth in the monetary value of procurement covered by exemptions in Article 3 of the PPL.

Little progress appears to have been made on electronic procurement, except in terms of the number of users. In practice, the Electronic Public Procurement Platform (EKAP) is still used mainly for exchange of information; even submission of tenders is limited to a few occasions. Cases of electronic submission remain few and far between. In 2016, only 14 cases were admitted that used submission of tenders by electronic means. Electronic auctions are still not used at all in practice. The use of framework agreements and centralised purchasing has also made little progress.

Table 7. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent of use of modern procurement techniques and methods.	3	3
	Nature and extent of clear, user-friendly guidelines and instructions, standard documents and other tools available to contracting authorities and procurement officials.	3	3
Quantitative ⁵⁵⁹	Share of contracts already announced in published procurement plans or indicative notices.	94.4%	Not available ⁵⁶⁰
	Share of contracts awarded by competitive procedures.	71.8%	73.64%
	Share of contracts awarded based on acquisition price only.	57.4%	66.1%
	Share of contracts amended after award.	0.2%	Not available ⁵⁶¹
	Average number of tenders submitted per goods contract to be procured.	4.2	4.1
	Average number of tenders submitted per works contract to be procured.	7.1	7.6
	Average number of tenders submitted per services contract to be procured.	3.6	3.7

⁵⁵⁹ Information provided by the PPA in meetings with SIGMA. Statistics on the use of modern procurement techniques and methods can be found on pp. 1-5.

⁵⁶⁰ The relevant data was not provided to SIGMA.

⁵⁶¹ Ditto.

Key requirement: The constitutional and legal frameworks guarantee 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.

The TCA has continued to provide a broad range of audit reports, submitting these to the TGNA in accordance with the legal requirements and publishing them on its website. The TCA is required⁵⁶² to submit a general report to TGNA based upon the audit of the full range of SEEs, but since 2015 the TCA made the decision to stop publishing the individual reports of SEEs on its website. These are, however, published in the Official Gazette by the TGNA.

The TCA had been unable to provide audit opinions on the financial statements of over 40 central budget administration institutions since 2012, as they did not provide their own financial statements for audit. Within the framework of the Regulation on the Procedures and Principles related to the Submission of Accounts of Public Administrations, an amendment was agreed and published in the Official Gazette No. 28845 on 8 December 2013, granting central budget institutions three years to submit individual financial statements to the TCA for audit. The institutions all presented their financial statements for 2015 to the TCA for audit in 2016, one year earlier than previously agreed between the TCA and the Ministry of Finance (MoF)⁵⁶³.

The TCA has begun maintaining data on recommendations made in audit reports. However, further work is being undertaken to develop effective systems to monitor the total number of recommendations accepted by auditees and the number implemented.

Table 8. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports⁵⁶⁴

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	Extent to which the fundamental requirement for SAI independence, mandate and organisation is established and protected by the constitutional and legal framework.	3	4
	Extent to which the SAI management ensures the development of the institution.	4	4
Quantitative	Share of SAI budget in the state budget.	0.4%	0.4%
	Proportion of audit reports published on the SAI website compared with audit reports adopted.	100%	100%
	Share of audit recommendations accepted and implemented by auditees.	Not available ⁵⁶⁵	Not available ⁵⁶⁶

⁵⁶² TCA Law No. 6085, Article 43.

⁵⁶³ Information provided by the TCA.

⁵⁶⁴ OECD (2015), *Baseline Measurement Report: Turkey*, OECD, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>.

⁵⁶⁵ The TCA does not compile data on the share of audit recommendations accepted and implemented by auditees

⁵⁶⁶ Ditto.

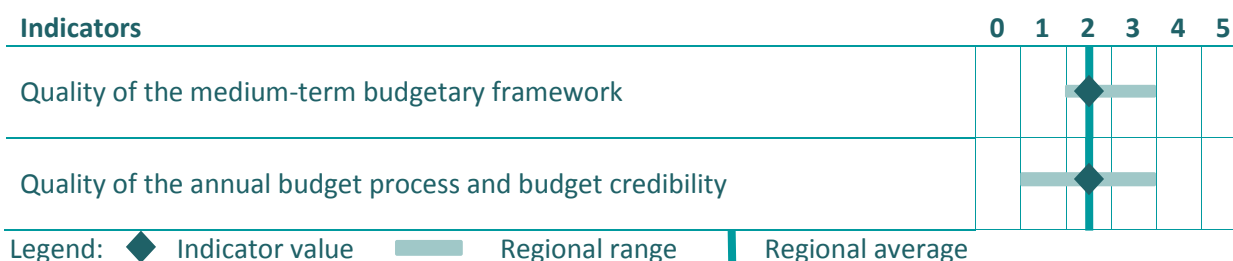
2. ANALYSIS

This analysis covers 16 Principles for the public financial management area grouped under 8 key requirements⁵⁶⁷. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators⁵⁶⁸, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

Budget management

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 the ratio of debt to gross domestic product are on a sustainable path.

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



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 period of three years; all budget organisations operate within it.

The medium-term budgetary framework (MTBF) is comprised of two documents that set out forecasts for the following three years. The Medium Term Program (MTP), produced by the MoDev, presents macroeconomic forecasts and high-level fiscal forecasts for central government⁵⁶⁹. The Medium Term Fiscal Plan (MTFP), produced by the MoF, includes deficit and borrowing targets, as well as total revenue and expenditure forecasts, in line with the MTP parameters⁵⁷⁰. Estimates for the current year's outturn are also included for comparison purposes. An annex to the MTFP sets out "ceilings of appropriation proposals" for the central government administrations, excluding regulatory and supervisory institutions⁵⁷¹. The MTFP is provided to the TGNA as part of the supporting documentation for the budget⁵⁷².

⁵⁶⁷ OECD (2014), *The Principles of Public Administration*, OECD, Paris, <http://www.sigmaweb.org/publications/Principles-Public-Administration-Nov2014.pdf>

⁵⁶⁸ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

⁵⁶⁹ MTPs are available at <http://www.mod.gov.tr/Pages/MediumTermPrograms.aspx>.

⁵⁷⁰ MTFPs, including ceilings, are available at <http://www.bumko.gov.tr/TR,43/orta-vadeli-mali-plan-ve-ekleri.html>.

⁵⁷¹ The administrative institutions whose ceilings are to be set in this manner are set out in Charts I to II of the PFMC Law. These include public organisations such as the TGNA, the Prime Ministry, ministries, the Council of Higher Education and universities.

⁵⁷² PFMC Law, Article 18.

The system for developing 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, based on the fiscal forecasts in the MTP and MTFP. No single institution has ownership of the entirety of the medium-term planning process. Neither the MTP nor the MTFP contains a sensitivity analysis or risk assessment.

Funding under the EU Instrument for Pre-accession Assistance (IPA), although small, is only partially included in the medium-term plans (the domestic co-financing element is part of the spending forecasts). Financial information on revolving funds (funds generating revenue that accrues directly to the budget user and can be spent without prior approval from the MoF) is also not formally included in the MTBF, but is informally taken into account in the planning process⁵⁷³.

The total expenditure figure in the adopted Budget is consistent with the overall expenditure figure in the MTFP, which also reflects the parameters set out in the MTP. The expenditure ceiling set in the MTBF documents is respected at the aggregate level. The MTBF documentation is presented to the TGNA as part of the supplementary information for the Budget.

Table 9. Central government expenditure forecast versus outturn

	Forecast 2014 billion TRY	Outturn 2014 billion TRY	Forecast 2015 billion TRY	Outturn 2015 billion TRY	Forecast 2016 billion TRY	Outturn 2016 billion TRY
MTP 2013-2015	437	449	471	506	N/A	584
MTP 2014-2016	436	449	466	506	497	584
MTP 2015-2017	N/A	N/A	473	506	507	584

Sources: Forecast figures are from the relevant medium-term programmes, available at <http://www.mod.gov.tr/Pages/MediumTermPrograms.aspx>. Outturn figures are from the end of December in the monthly Budget Realization Reports, available from the MoF at <http://www.bumko.gov.tr/EN,7378/budget-realizations-reports.html>.

Table 10. Central government revenue forecast versus outturn

	Forecast 2014 billion TRY	Outturn 2014 billion TRY	Forecast 2015 billion TRY	Outturn 2015 billion TRY	Forecast 2016 billion TRY	Outturn 2016 billion TRY
MTP 2013-2015	401	425	437	483	N/A	554
MTP 2014-2016	403	425	436	483	474	554
MTP 2015-2017	N/A	N/A	452	483	491	554

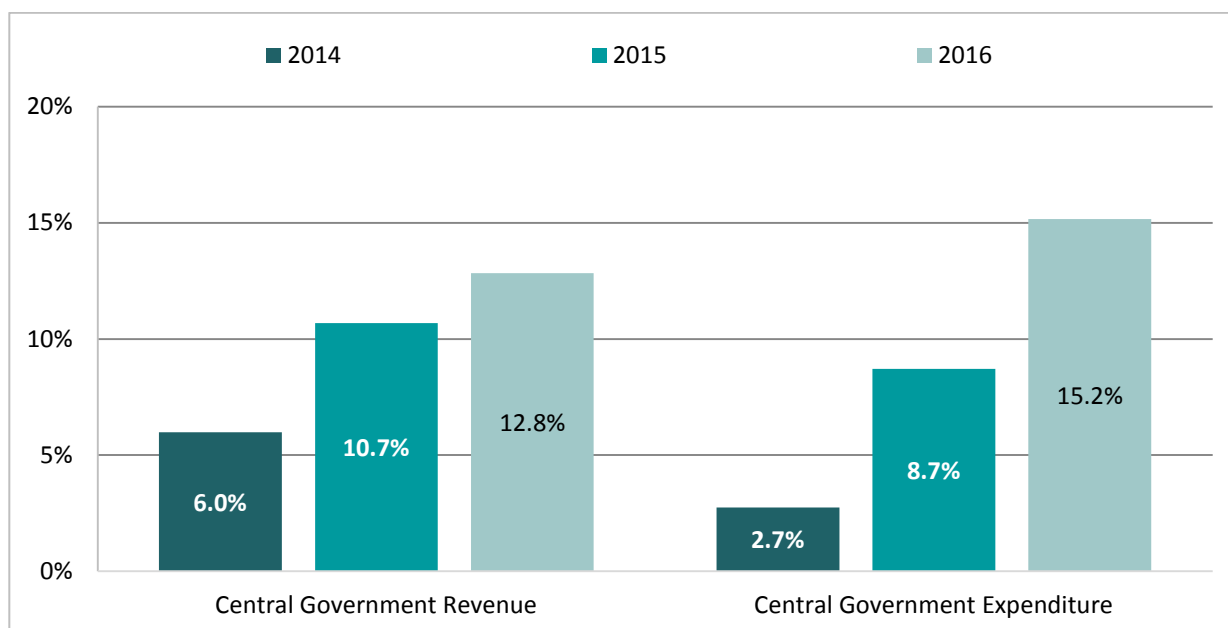
Sources: Forecast figures are from the relevant medium-term programmes, available at <http://www.mod.gov.tr/Pages/MediumTermPrograms.aspx>. Outturn figures are from the end of December in the monthly Budget Realization Reports, available from the MoF at <http://www.bumko.gov.tr/EN,7378/budget-realizations-reports.html>.

Tables 9 and 10 compare actual expenditure and actual revenue to the figures forecast in the MTP approved two years previously⁵⁷⁴. The differences between forecast and actual expenditure increase over the three years (from 2.7% in 2014 to 8.6% in 2015, and to 15.2% in 2016) reflect the fact that the three-year ceilings are not legally binding. For revenue, the deviation also increases over the three years from 6% in 2014 to 10.8% in 2015, and 12.8% in 2016 (see Figure 1).

⁵⁷³ SIGMA interviews with the MoF.

⁵⁷⁴ For 2014 the planned figures are taken from the MTP 2013-2015; for 2015 from the MTP 2014-2016; and for 2016, they are taken from the MTP 2015-2017.

Figure 1. Percentage difference between planned and outturn, central government expenditure and revenue, 2014 to 2016



Sources: Figures compare the outturn to the planned metric approved two years previously. Planned revenue and expenditure figures are from the relevant medium-term programmes, available at <http://www.mod.gov.tr/Pages/MediumTermPrograms.aspx>.

Outturn figures are from the end of December in the monthly Budget Realization Reports, available from the MoF at <http://www.bumko.gov.tr/EN,7378/budget-realizations-reports.html>.

Given these differences, the medium-term projections are more in the nature of indicative forecasts. In the first two of these years, the change for revenue is higher than that for expenditure and demonstrates fiscal discipline in keeping upward expenditure revisions to below the revisions to revenues. This is not the case in the most recent year, where the expenditure difference is larger than that for revenue and led to a worse-than-expected deficit position. In each of these years, growth forecasts have also proved higher than the final outturn. Although there is active monitoring of the fiscal position, there is no fiscal rule in place, nor is there an independent fiscal council to monitor the Government's fiscal programme.

Due to the weaknesses in the strength of fiscal rules and the credibility of medium-term expenditure plans, the value for the indicator 'Quality of the medium-term budgetary framework' is 2.

Quality of the medium-term budgetary framework

This indicator measures how well the medium-term budgetary framework (MTBF) is established as a fiscal plan of the government, focusing on the process of budget preparation and four areas that influence the quality of the budget documents. A good MTBF should increase transparency in budget planning, contribute more credible forecasts and ultimately lead to a better general government budget balance.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
1. Strength of the medium-term budgetary framework	10/12
2. Strength of the fiscal rules	0/5
3. Credibility of medium-term revenue plans (%)	2/4
4. Credibility of medium term expenditure plans (%)	0/4
Total⁵⁷⁵	12/25

The MTP and the MTFP clearly set out three-year projections for central and general government and the assumptions on which they are based. However, IPA-funded projects are not included in the projections, and no sensitivity or fiscal risk analysis is published. While there is an emphasis on fiscal discipline, as evidenced by the debt-to-GDP ratio of 28.3%, the absence of fiscal rules and an independent external monitoring institution leave a gap in fiscal management and oversight.

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 provisions for the annual budget are set out in Article 161 of the Constitution and in the PFMC Law. The annual budget reflects the medium-term framework established by the MTP and the MTFP. The budget timetable is set out in the PFMC Law⁵⁷⁶ and is observed, with the annual Budget for 2017 being presented to the TGNA on 17 October 2016 and adopted by the TGNA on 16 December 2016. The MoDev oversees the infrastructure element of the annual budget process, and the MoF has responsibility for current expenditure. While there is communication between the two Ministries and the Under-secretariat of Treasury, no single institution guides the overall budgetary process.

The MoF issues a budget call, and the MoDev issues an investment circular to guide the preparation of budgetary and investment proposals by public institutions⁵⁷⁷. The budget preparation documentation circulated to line institutions clearly states the main macroeconomic and fiscal assumptions set out in the MTP and MTFP. In 2016, the MoF issued its budget call on 13 June, with submissions from line institutions due back by 11 July. Following publication of the appropriation ceilings with the MTFP on 6 October, budget organisations had the opportunity to submit revised budget proposals by 12 October. Informal preparations usually begin earlier, before the budget call is issued⁵⁷⁸.

Capital investment projections are negotiated between the MoDev and line ministries and other budget users. However investment analysis is only required for projects over TRY 10 million, and there is no central guidance on the assumptions underpinning appropriate investment analysis.

⁵⁷⁵ Point conversion ranges: 0-3=0, 4-8=1, 9-13=2, 14-18=3, 19-22=4, 23-25=5.

⁵⁷⁶ PFMC Law, Articles 17-19.

⁵⁷⁷ *Bütçe Çağrısı ve Bütçe Hazırlama Rehberi* [Budget Call and Budget Preparation Guide]. <http://www.bumko.gov.tr/TR,44/butce-cagrisi-ve-butce-hazirlama-rehberi.html>.

⁵⁷⁸ SIGMA interviews with the MoF.

The Central Government Budget Law⁵⁷⁹ itself is not comprehensive, but it is sent to the TGNA with supporting documentation. The TGNA's budget consideration is thus based on comprehensive information, including: 1) the underpinning macro-economic forecasts; 2) the MTFP; 3) information on local administrations and social security institutions; and 4) information on new policy initiatives⁵⁸⁰. Comparative data at the level of individual institutions for the current budget year is provided. However, the documentation does not include information on fiscal risks or contingent liabilities, and there are no long-term projections of revenue and expenditure. The Planning and Budget Committee does not provide any input on the MTP or the MTFP. Sectoral Committees do not provide written inputs to the Planning and Budget Committee for their deliberations on the annual Budget Law. The TGNA is provided with sufficient time (75 days⁵⁸¹) to discuss and debate the Budget Law. In 2016, the annual budget bill was presented on 17 October, with the vote and publication on 24 December.

Revolving funds are included in the budget proposals submitted to the TGNA, but this is for information rather than approval. Expenditure from these funds is estimated to account for 6% of general government expenditure in 2016⁵⁸². In addition to representing a risk if revenues to the funds were to weaken, this reduces the role of the TGNA in giving prior approval to spending by budget users. The MoF monitors revolving fund transactions through an electronic system. Draft legislation has been prepared and submitted to the TGNA that would include revolving funds as part of the budgetary process, but there has been no significant progress since 2015 Baseline Measurement Report. Reforms to ensure revolving funds operate in a transparent and accountable administrative and fiscal structure are one of the priorities for 2017 set out in the Pre-Accession Economic Reform Programme⁵⁸³.

Any supplementary appropriations/budgets must be approved in the same manner as the initial appropriation, although none were sought or approved in 2016. However, a small contingency appropriation is also approved as part of the budget. This allows the MoF to increase expenditure without recourse to the Parliament for minor increases.

As a result of weakness in the alignment of the medium-term and annual budget processes and parliamentary scrutiny, the value for the indicator 'Quality of the annual budget process and budget credibility' is 2.

⁵⁷⁹ Central Government Budget Law of 24 December 2016, Official Gazette No. 29928.

⁵⁸⁰ Annual budget laws and supporting schedules are available at <http://www.bumko.gov.tr/TR,7297/2017.html>.

⁵⁸¹ PFMC Law, Article 18.

⁵⁸² Estimates from the MTP 2017-2019.

⁵⁸³ Republic of Turkey (2017), 2017 Pre-accession Economic Reform Program, Ankara <http://www.mod.gov.tr/Lists/RecentPublications/Attachments/127/Pre-Accession%20Economic%20Reform%20Programme%202017.pdf>.

Quality of the annual budget process and budget credibility

This indicator analyses the process of budget preparation and the level of transparency and quality of the budget documents. Quality parameters include the link between the multi-annual and annual budget, the budget preparation process, selection of priorities for new expenditures, comprehensiveness and transparency of budget documentation, scrutiny and oversight of the budget proposal and rules for in-year budget adjustment.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
1. Operational alignment between the MTBF and the annual budget process	1/4
2. Reliability of the budget calendar	3/4
3. Transparency of the budget proposal before its adoption in parliament	5/8
4. Quality in the budgeting of capital investment projects	1/5
5. Parliamentary scrutiny of the annual budget	1/5
6. Transparency and predictability of procedures for in-year budget adjustments	4/4
7. Credibility of revenue plans in the annual budget (%)	2/4
8. Credibility of expenditure plans in the annual budget (%)	3/4
Total⁵⁸⁴	20/38

The exclusion of revolving funds from the annual Budget creates a weakness in relation to the approval of the TGNA, in terms of its role in approving the Budget, and presents a risk to successful implementation of fiscal policy in line with the MTP and MTFP. The time allowed for discussion of the budget by the TGNA is in line with good practice. While informal engagement can take place earlier in the annual budget process, the period formally provided for the preparation of submissions from line institutions following the budget call remains short.

Key recommendations

Short-term (1-2 years)

- 1) The Council of Ministers should consider adopting a legally binding fiscal rule to further strengthen fiscal discipline.
- 2) The MoF should advance the proposed legislation to integrate revolving funds into the annual budget process.
- 3) The MoF and MoDev should ensure that donor funds, such as IPA funds, are fully included in medium-term planning and reporting.
- 4) The MoF and MoDev should consider formally extending the timetable for line institutions to prepare their annual budgetary submissions following the budget call.

Medium-term (3-5 years)

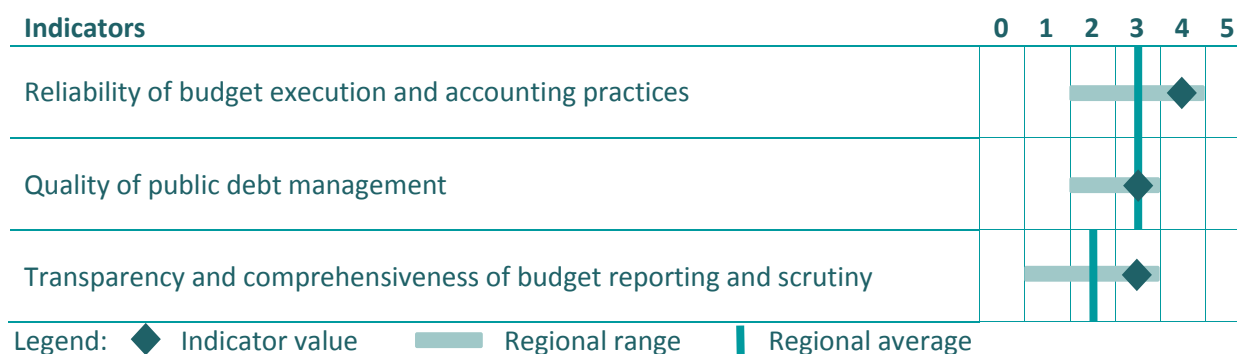
- 5) The Council of Ministers should establish an independent fiscal council to further improve fiscal oversight and transparency.
- 6) The MoF and MoDev should consider streamlining both the annual budget and medium-term planning processes so that one ministry has overall responsibility for expenditure management. In

⁵⁸⁴ Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-26=3, 27-32=4, 33-38=5.

relation to medium-term planning, the ministries should also consider combining the MTP and MTFP into a single document.

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.

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



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.

The PFMC Law⁵⁸⁵ provides for a treasury single account (TSA) into which central government revenue is paid and from which spending requests are met. The Undersecretariat of Treasury carries out the cash management function, and the account is held in the Central Bank of Turkey, which acts as its fiscal agent. Expenditure monitoring and reconciliations among the treasury information system, the accounting information system and the bank accounts all take place daily through the Public Electronic Payments System.

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 estimates are not published.

The Treasury information system does not capture commitments, as it is cash-based, but a separate MoF system that monitors budget execution captures these. The Undersecretariat also conducts monthly meetings with the main institutions to identify key commitments. 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 TSA system.

There is a noticeable spike in spending in December each year. Table 7 shows that December spending is nearly 70% greater than the average for the other months for non-interest (primary) expenditure. Capital spending in December was over five times higher than the average of the other months. This is indicative of a system in which budget users spend allocated monies rather than surrendering them back to the general Budget, but also reflects deviations from the schedules planned for capital appropriations and the time taken for procurement⁵⁸⁶.

⁵⁸⁵ PFMC Law, Article 6.

⁵⁸⁶ Information provided by the MoF.

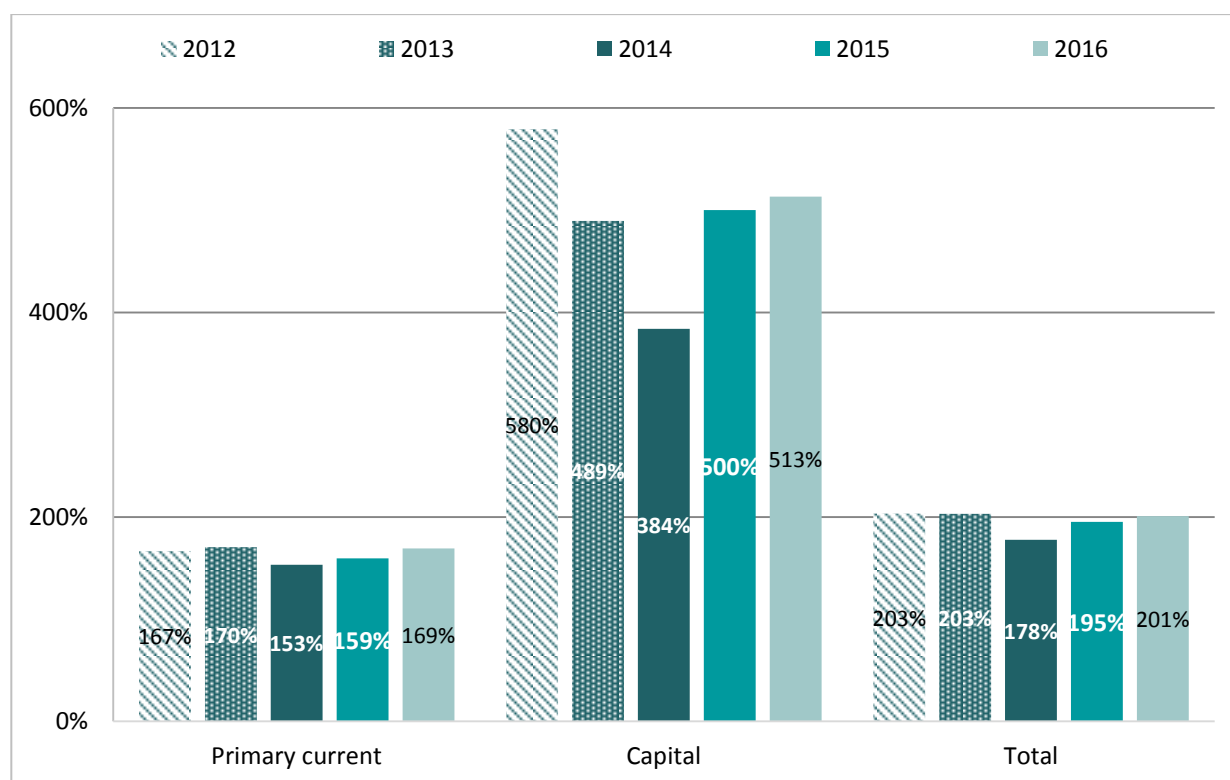
Table 11. Comparison of December expenditure and monthly average expenditure for 2016

TRY Million	Average, January- November 2016	December 2016	December as a percentage of January- November 2016.
Non-interest current	37 791	49 412	131%
Capital	4 235	21 742	513%
Non-interest total	42 026	71 159	169%

Sources: Figures are from the end of December in the monthly Budget Realization Reports, available from the MoF at <http://www.bumko.gov.tr/EN,7378/budget-realizations-reports.html>.

Figure 2 shows that this pattern has been repeated every year since 2012, with the relative scale of capital expenditure in December becoming increasingly large in each of the last two years.

Figure 2. Comparison of December expenditure and monthly average expenditure for 2012-2016



Sources: Figures are from the end of December in the monthly Budget Realization Reports, available from the MoF at <http://www.bumko.gov.tr/EN,7378/budget-realizations-reports.html>.

The value for the indicator 'Reliability of budget execution and accounting practices' is 4.

Reliability of budget execution and accounting practices

This indicator measures the quality of cash and commitment management, controls in budget execution and accounting practices. These aspects ensure reliable information on government spending and thus a foundation for management decisions on government funds.

Effective cash flow and planning, monitoring, and management of commitments by the treasury facilitate predictability of the availability of funds for budgetary units. Reliable accounting practices that include constant checking and verification of the recording practices of accountants are important to ensure good information for management.

Overall indicator value 0 1 2 3 **4** 5

Sub-indicators	Points
1. Presence of a treasury single account (TSA)	2/2
2. Frequency of revenue transfer to the TSA	1/1
3. Frequency of cash consolidation	1/1
4. Credibility of cash-flow planning	0.5/2
5. Budget classification and chart of accounts	1/2
6. Frequency of bank-account reconciliation (for all central government bank accounts)	1/2
7. Availability of data on the stock of expenditure arrears	1/2
8. Expenditure arrears (%)	3/3
Total⁵⁸⁷	10.5/15

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 issues are the significant December spike in spending, particularly capital spending, and the failure to integrate revolving funds into the TSA.

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.

According to the Law on Regulating Public Finance and Debt Management (RPFDM) Law⁵⁸⁸, the Undersecretariat of the Treasury is responsible for debt management. The Debt and Risk Management Committee is the decision-making authority for the Treasury. The RPFDM Law⁵⁸⁹ sets out the duties of the Committee, which include specifying the strategic benchmarks and implementation framework for management of the Treasury's financial assets and liabilities.

The Treasury is required to report quarterly and annually on debt-management performance, although it also publishes a comprehensive monthly report⁵⁹⁰. Clear benchmarks for the strategic management of the debt are set out in the annual and monthly reports, which also set out the stock of debt, including on a general-government basis, as defined by EU rules. On the EU basis, debt as a percentage of GDP has been reduced from over 60% in 2003 to 36.4% by the end of 2011 and 28.1% by the end of

⁵⁸⁷ Point conversion ranges: 0-1=0, 2-4=1, 5-7=2, 8-10=3, 11-13=4, 14-15=5. SIGMA uses a rounding up convention when the total number of points for an indicator includes 0.5 points.

⁵⁸⁸ RPFDM Law No. 4749.

⁵⁸⁹ *Idem*, Article 12.

⁵⁹⁰ *Idem*, Article 14.

2016, with a generally downward trend in the intervening years⁵⁹¹. The annual Public Debt Management Report contains a risk and sensitivity analysis.

There are some controls on borrowing by other state institutions. State enterprises and local authorities can undertake domestic borrowing without requiring approval, but they may not undertake foreign borrowing without approval. In terms of overall debt, however, the majority of debt is held by the Government, with other public borrowing accounting for far less. At the end 2016, the stock of central government debt, as defined under the European System of Accounts, was just under TRY 760 billion (or about 96% of total debt), while the debts of other public institutions stood at just under TRY 32 billion (or about 4% of total debt)⁵⁹².

The aim of the debt strategy has been to reduce foreign borrowing and increase the share of domestic borrowing, to reduce exchange-rate exposure. While the level of domestic debt has decreased from 67.7% in 2014 to 61.7% in 2016 and foreign debt has increased to 38.3% (up from 31.3% in 2014), the Government is still pursuing its strategic policy to mitigate the exchange rate risk. Over the longer term, exchange rate exposure has decreased, with the level of domestic debt increasing from 53.6% of debt in 2003 and the foreign debt reducing from 46.4% of debt. Reducing exposure to interest rate changes has led to greater fixed-rate bond issues: 69.8% at the end of 2016, up from 65.2% in 2014 and 48.9% in 2003. External debt is mainly denominated in USD (65.7%) and EUR (25.5%)⁵⁹³.

Outstanding guarantees of the Government are detailed in both annual and monthly reports. There was a total of USD 12.4 billion in outstanding Treasury-guaranteed external debt stock in 2016, of which 85.6% of this was made up of public and private financial institutions⁵⁹⁴. The International Monetary Fund (IMF) raised this issue of Treasury guarantees and their management in a recent report, particularly in relation to public-private partnerships (PPPs)⁵⁹⁵. In addition to the Treasury-guaranteed external debt, there is a further USD 8.7 billion in Treasury Debt Assumption Commitments, which are guarantees that the Treasury assumes for PPP projects (currently three)⁵⁹⁶. Furthermore, the information on guarantees issued by other institutions is limited, so the extent of exposure to contingent liabilities in relation to PPP projects under line ministries and other institutions is not fully available. Annual budget limits are placed on guarantees, but only those provided by Treasury.

While the debt management strategy over the longer-term has reduced the sensitivity of the Government's debt stock and its exposure to exchange and interest rate risks, and a balance needs to be struck between risk and cost, due to the levels of foreign and floating debt, and there being no national target for public sector debt the value for the indicator 'Quality of public debt management' is 3.

⁵⁹¹ Prime Ministry, Undersecretariat of Treasury, debt stock statistics available at <http://www.treasury.gov.tr/en-US/Stat-List?mid=738&cid=12&nm=684>.

⁵⁹² Prime Ministry, Undersecretariat of Treasury, Public Debt Management Report (April 2017) p. 13, <http://www.treasury.gov.tr/en-US/Reports-Page?mid=739&cid=22&nm=712#>.

⁵⁹³ *Ibid.*

⁵⁹⁴ *Idem*, p.18.

⁵⁹⁵ IMF (2017), "Turkey: Selected Issues", *IMF Country Report* No. 17/33, IMF, Washington, D.C., <https://www.imf.org/en/Publications/CR/Issues/2017/02/03/Turkey-Selected-Issues-44615>.

⁵⁹⁶ Prime Ministry, Undersecretariat of Treasury (2016), Public Debt Management Report 2016, Ankara, <https://www.treasury.gov.tr/en-US/Reports-Page?mid=739&cid=22&nm=712#>.

Quality of public debt management						
This indicator measures the procedures and organisation established for the management of public debt and the outcomes achieved, in terms of debt risk mitigation practices, the share of public debt to GDP, and the difference between public sector debt outturn and target.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Existence of requirements and limitations for borrowing in the legal framework	2/3
2. Existence and minimum content of a public debt management strategy	3/4
3. Clarity of reporting on public debt	3/4
4. Risk mitigation in the stock of public debt	2/6
5. Difference between public sector debt outturn from target (%)	2/3
6. Public debt as a share of GDP (%)	2/2
Total⁵⁹⁷	14/22

The debt management strategy is established, and the debt-to-GDP ratio is on a downward path. However, there is a concern regarding the coverage of controls around borrowing and the issuance of guarantees. Borrowing undertaken by state enterprises and local authorities in the domestic market does not require prior approval, there is limited information available on guarantees issued by institutions other than the Treasury and Treasury guarantees have grown in recent years.

Principle 5: Transparent budget reporting and scrutiny are ensured.

The MoF does not publish monthly profiles of forecast expenditure and revenue at the beginning of the year, although it does compile these for internal use⁵⁹⁸. Since profiles are not published, only the MoF can compare the difference between actual and planned expenditure and revenue. The MoF only publishes monthly reports of total central government expenditure and revenue⁵⁹⁹. These are compiled from internal financial reports, based on information from central government budget users recorded in their systems. Quarterly and annual financial statistics reports are provided by central government, social security institutions, local authorities and state-owned enterprises⁶⁰⁰. While local administration data is broken down on a monthly basis, social security information is only available quarterly. The published data includes current and capital expenditure, as well as payroll expenditure.

The information published in the monthly reports is broken down by economic classification, but not by budget user. There is no explanation of divergences from expected patterns. The Central Government Accounting Regulation requires all central government institutions to publish monthly financial statements on their websites⁶⁰¹.

⁵⁹⁷ Point conversion ranges: 0-2=0, 3-7=1, 8-12=2, 13-16=3, 17-19=4, 20-22=5.

⁵⁹⁸ SIGMA interviews with the MoF.

⁵⁹⁹ *Aylık Bütçe Gerçekleşme Raporları* [Monthly Budget Realisation Reports], <http://www.bumko.gov.tr/TR,917/aylik-butce-gerceklesme-raporlari.html>.

⁶⁰⁰ SIGMA interviews with the MoF.

⁶⁰¹ *Merkezî Yönetim Muhasebe Yönetmeliği* [Central Government Accounting Regulation], <http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=7.5.20357&MevzuatIliski=0&sourceXmlSearch=merkezi-yonetim>

The MoF monitors revolving funds separately, through the Revolving Funds Financial Management System. The expenditure data shows pay, non-pay and capital expenditure separately. There is no explanation of variations against expectations, and there is no information on commitments⁶⁰².

The monthly report by the Undersecretariat of Treasury shows figures for debt and for revenue and expenditure on a cash flow basis. The monthly debt report presents only high-level aggregate information⁶⁰³.

The MoF submits the Draft Law of the Central Government Final Account to the PM before the end of June each year to enable the Council of Ministers to present it to the TGNA. The Draft Law is then subject to scrutiny by the Planning and Budget Committee of the TGNA. The Draft Law must contain supporting information, including details of revenue and expenditure by institution, explanations of revenue and expenditure, and other documentation required by the MoF⁶⁰⁴. 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 Turkish Court of Accounts. It is required to audit the final account and the accounts of the individual institutions and to submit this to the TGNA within 75 days after submission of the Draft Final Account Law⁶⁰⁵.

The review of the Annual Report by the TGNA is considered in conjunction with the annual Budget. As discussion of the Annual Budget Law is prioritised, this reduces the time available to the TGNA for consideration of any issues raised. The final account does not explain any variations between budget projections and outturns, and there is no reporting on changes in fiscal risks. However, it does include details at the individual administrative level, general government data and information on contingent liabilities⁶⁰⁶.

The value for the indicator 'Transparency and comprehensiveness of budget reporting and scrutiny' is 3.

⁶⁰² SIGMA interviews with the MoF.

⁶⁰³ Prime Ministry, Undersecretariat of Treasury, Public Debt Management Reports, <https://www.treasury.gov.tr/en-US/Reports-Page?mid=739&cid=22&nm=712>.

⁶⁰⁴ PFMC Law, Article 42.

⁶⁰⁵ *Idem*, Articles 42 and 43

⁶⁰⁶ Central Government Final Account Law, <https://www.muhasebat.gov.tr/content/merkezi-yonetim-kesin-hesaplari>.

Transparency and comprehensiveness of budget reporting and scrutiny

This indicator measures the extent to which the government facilitates external monitoring of the execution of the budget through the publication of relevant information, as well as the credibility of that information and whether it is used effectively to ensure accountability. The degree of budget scrutiny on the basis of the published information is also assessed.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
Comprehensiveness of published information	
1. Quality of in-year reports of government revenue, expenditure and borrowing	4/7
2. Quality of the annual financial report of the government	4/7
3. Quality of annual reports of state-owned enterprises, extra-budgetary funds and local government	5/5
4. Clarity of national accounting standards and consistency with international standards	2/4
5. Existence of reporting on changes in fiscal risks identified in the budget	0/1
Scrutiny and oversight using published information	
6. Quality of the annual financial reporting on the use of public finances	3/3
7. Timeliness of dissemination of the SAI report to the national parliament	2/2
8. Timeliness of parliamentary discussion on the report of the SAI	2/3
Total⁶⁰⁷	22/32

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 realisation 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 produce and publish a monthly profile for expenditure and revenue at the beginning of the year. Any variations from this profile should be clearly explained. This approach should be extended to the publication of monthly information on revolving funds.
- 2) The MoF and the Treasury should strengthen their reporting of contingent liabilities, particularly in relation to the reporting of Treasury guarantees.

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 require the prior approval of the MoF and the Undersecretariat of the Treasury in advance of borrowing.
- 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 the appropriateness of establishing a multi-annual grant framework, with provision for carryover of funding between

⁶⁰⁷ Point conversion ranges: 0-7=0, 8-12=1, 13-17=2, 18-22=3, 23-27=4, 28-32=5.

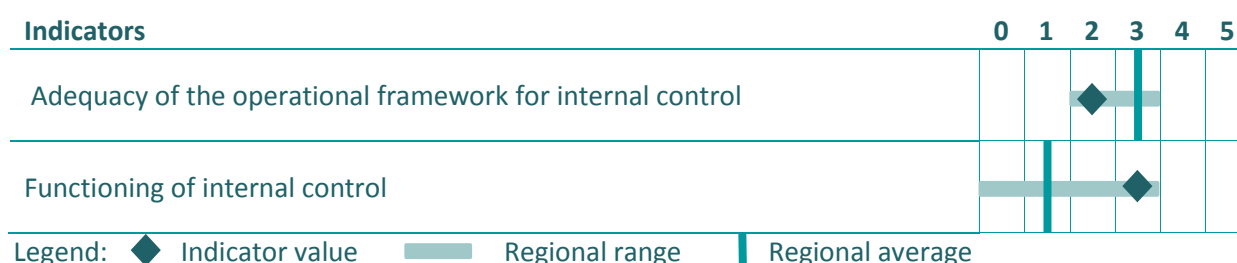
years, to smooth investment spending and reduce incentives for line institutions to increase spending toward the end of the year.

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

Internal control and audit

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

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

The legal and regulatory framework for implementing internal control is established through the PFMC Law⁶⁰⁸. Although revisions were planned to further enhance alignment with international standards and EU practices in 2016, they were delayed until after the constitutional referendum⁶⁰⁹. The Law applies to all general government organisations, including social insurance funds and local self-governments⁶¹⁰. The regulatory and supervisory agencies are also covered by this Law, but they are not required to apply the sections on internal control and internal audit⁶¹¹.

PIFC in Turkey is decentralised. Officials vested with the authority to use public resources are accountable for economic, efficient and effective use of funds. The Law describes the responsibilities of the heads of public organisations, including managerial duties and the delegation of decision-making authority to authorising officers (heads of spending units), and further cascading down the system⁶¹². The Law still requires an *ex ante* financial control function within the public administration, to support the managerial accountability of each public organisation⁶¹³.

⁶⁰⁸ PFMC Law, No. 5018, adopted on 10 December 2003, Official Gazette No. 25326.

⁶⁰⁹ SIGMA interviews with the MoF.

⁶¹⁰ PFMC Law, Articles 2 and 3.

⁶¹¹ *Idem*, Article 2.

⁶¹² *Idem*, Articles 11, 31 and 32, Regulation on the working procedures and principles of the Strategy Development Units, <http://kontrol.bumko.gov.tr/Eklenti/5381,sdupdf.pdf?0>, and Procedures and Principles on Internal Control and Ex-ante Financial Control, <http://kontrol.bumko.gov.tr/Eklenti/5380,proceduresanprinciplespdf.pdf?0>.

⁶¹³ PFMC Law, Article 58.

Underpinning the legal framework, the Central Harmonisation Unit (CHU)/FMC provides guidance to public institutions and has published a detailed Communiqué on Public Internal Control Standards⁶¹⁴ that reflects the model of the Committee of Sponsoring Organisations⁶¹⁵. It has also published a Public Internal Control Manual⁶¹⁶, which public institutions use as a guide for developing FMC. However, areas such as risk management require further development and the CHU/FMC is planning to develop a risk management manual⁶¹⁷.

A strategy for the development of FMC is set out in the PIFC Policy Paper 2012-2016⁶¹⁸, which was updated in 2015. Although it has not been officially adopted by the Government, it guides the work of the CHU/FMC. It is comprehensive in its coverage of PIFC, including actions in the area of managerial accountability and budget management. However, no information has been provided on implementation of the proposed actions, although some actions have not been completed in the time frame originally envisaged.

The CHU/FMC does not compile data on the extent to which FMC is being implemented across first-level budget institutions⁶¹⁹. However, it does report on the implementation of PIFC to the Government through the annual General Accountability Report⁶²⁰. The Government does not issue regular decisions requiring specific action for implementation of FMC.

The management structures responsible for the management of IPA programmes are in place and operational, and some effort has been made to introduce IPA-specific procedures to the national programmes. However, the IPA and FMC procedures are still disconnected.⁶²¹

Due to the weaknesses in the reporting on internal control and alignment of national and EU internal control processes, the value for the indicator 'Adequacy of the operational framework for internal control' is 2.

⁶¹⁴ Communiqué on Public Internal Control Standards, <http://kontrol.bumko.gov.tr/Eklenti/6544,communiqu-on-public-internal-control-standards.pdf?0>.

⁶¹⁵ Committee of Sponsoring Organisations of the Treadway Commission, <https://www.coso.org/Pages/default.aspx>.

⁶¹⁶ FMC Manual, <http://kontrol.bumko.gov.tr/Eklenti/6543,tr-fmc-manual-consolidated-en-final-draft-april-01-2011.pdf?0>.

⁶¹⁷ Information provided by the MoF.

⁶¹⁸ MoF PIFC Policy Paper 2012-2016.

⁶¹⁹ SIGMA interviews with the MoF.

⁶²⁰ General Accountability Reports, available from the MoF at <http://www.bumko.gov.tr/TR,913/genel-faaliyet-raporlari.html>.

⁶²¹ SIGMA interviews with the MoF and Ministry of EU Affairs.

Adequacy of the operational framework for internal control						
<p>This indicator measures the extent to which the operational framework for internal control (financial management and control) is established, in terms of policy and strategic content, the regulatory framework, and adequate review and reporting mechanisms</p> <p>A separate indicator measures the implementation of the operational framework for internal control.</p>						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Policy for the development of internal control	4/6
2. Completeness of the regulatory framework for internal control	4/5
3. Comprehensiveness and regularity of the annual review and reporting on internal control	2/5
4. Alignment between national budget management and control systems and those for EU-funded programmes	0/4
Total⁶²²	10/20

The legislative and operational framework for FMC is established. A General Accountability Report is prepared, with information on the implementation of FMC. But the CHU/FMC does not compile data on the extent to which FMC is being applied in first-level budget institutions, and there is a lack of direction from the Government for specific actions to implement FMC. The Government's FMC procedures are also not aligned with budget and control systems applied for EU-funded programmes.

Principle 7: Each public organisation implements internal control in line with the overall internal control policy.

At the central government level, there are 208 first-level budget organisations, including general budget organisations, special budget organisations, and regulatory and supervisory authorities. The 11 regulatory and supervisory authorities submit their budgets directly to the Parliament, bypassing line ministries. Overall, 1 012 institutions are required to implement internal control arrangements in line with the PFMC Law. Of these, 907 (90%) prepared internal control action plans and submitted them to the CHU/FMC in 2016⁶²³.

While the MoF does not compile data on 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 that the operational framework for FMC is being applied. A review of the budget and organisational structures also indicates that they are aligned. The annual plans of public organisations are performance-oriented and comprise objectives and measurable targets. All public organisations are required to prepare an accountability report annually⁶²⁴. These reports provide information on the development of internal controls, including a statement of assurance on internal control signed by the head of the organisation, demonstrating the extent to

⁶²² Point conversion ranges: 0-2=0, 3-6=1, 7-10=2, 11-14=3, 15-17=4, 18-20=5.

⁶²³ Data provided by the MoF.

⁶²⁴ PFMC Law, Article 41.

which the internal control requirements have been met⁶²⁵. The CHU/FMC indicated that, while all institutions sign the statement of assurance on internal control, they are not yet satisfied with the level of development of internal control in institutions⁶²⁶. The MoF is required to prepare a General Accountability Report annually, including an overview of the situation in respect of FMC, using the accountability reports of public organisations⁶²⁷.

The PFMC Law provides for the effective delegation of decision making below the level of minister and head of public organisations to bring decision making closer to the position responsible for the specific function, so that heads of institutions are not overburdened with operational decisions. This is a key element in achieving managerial accountability, one of the aims of FMC. Based on an analysis of five ministries/institutions⁶²⁸, the extent of delegation of authority for signing off on a range of processes and procedures (such as small-scale procurement, approval of staff leave requests and requests for information by the public) is reasonable, with decision making delegated to heads of spending units.

Managerial accountability operates not only within organisations, but also between them, so that ministers with responsibility for a policy area are able to influence and monitor activity in subordinate organisations. An examination of documentation for eight bodies subordinated to four ministries⁶²⁹ found that the performance programme and annual budget of the subordinated budgets are agreed upon with the ministry and the annual reports provide information on outputs against targets and objectives. However, there is no evidence that the parent ministries monitor progress by subordinated bodies in achieving their targets. Based on this review, therefore, these relationships do not fully reflect the requirements of managerial accountability.

Risk management practices are generally not operational, although a number of pilot projects have commenced in a few public organisations⁶³⁰. The authorities did not provide any information on the procedures for reporting on irregularities and fraud, nor the number of cases of irregularities.

MoF information systems include controls to ensure that expenditure commitments do not exceed expenditure ceilings. There can be transfers between budget categories but, in principle, the appropriations cannot be exceeded⁶³¹. However, the TCA's Conformity Declaration for 2015 reveals overspending against budget ceilings in a number of institutions, totalling TRY 31.2 billion⁶³², and at least one institution indicated that overspending does take place.

Public investment projects are monitored, with reports on the results of monitoring of actual cost and physical progress of major investment projects covering central government. These are prepared quarterly and published annually in the Public Investments Programme Report⁶³³, as well as annually reported by the relevant public organisations to the TCA, the MoF and the Undersecretariat of the State Planning Organisation⁶³⁴.

Due to the weaknesses in commitment controls, risk management and reporting on irregularities outlined above, the value for the indicator 'Functioning of internal control' is 3.

⁶²⁵ By-law on the preparation of accountability reports of public administrations, <http://kontrol.bumko.gov.tr/Eklenti/6540,by-law-on-the-preparation-of-accountability-reports-of-public-administrations.pdf?0>.

⁶²⁶ SIGMA interviews with the MoF.

⁶²⁷ PFMC Law, Article 41.

⁶²⁸ The five ministries/institutions are the Ministry of Education, the MoF, the Ministry of Transport, Maritime and Communications, the General Directorate for Highways and the Tax Administration

⁶²⁹ The four ministries are the Ministry of Interior, the MoF, the Ministry of Justice and the Ministry of Economic Development, Tourism, Trade and Entrepreneurship.

⁶³⁰ SIGMA interviews with the MoF.

⁶³¹ SIGMA interviews with the MoF and the Undersecretariat of the Treasury in the PM.

⁶³² TCA Conformity Declaration for 2015.

⁶³³ 2016 Yılı Yatırım Programı [2016 Public Investments Programme], http://www2.kalkinma.gov.tr/kamuyat/yatirim_programlari/YP-2016.pdf.

⁶³⁴ PFMC Law, Article 22.

Functioning of internal control						
This indicator measures the extent to which internal control systems are implemented in practice within the budget organisations and between ministries and their subordinate organisations, and the immediate results in terms of improved managerial accountability and governance arrangements between ministries and subordinated bodies.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Number of first-level budget organisations that are neither ministries nor constitutional bodies	2/3
2. Alignment between organisational and budget structures (%)	3/3
3. Credibility of controls for avoiding commitments above the expenditure ceilings	0/2
4. Availability of reporting of total cost and physical progress of major investment projects	2/2
5. Effectiveness of basic managerial accountability mechanisms for central government bodies	1/4
6. Delegation of decision-making authority within ministries	4/4
7. Regularity and completeness of risk management practices	0/3
8. Existence of reporting on irregularities	0/2 ⁶³⁵
Total⁶³⁶	12/23

Managerial accountability and the delegation of decision making are being implemented within Turkish public organisations, although there are weaknesses in accountability arrangements between institutions. There are also gaps in the functioning of elements of the control systems, including the completeness of risk management and irregularities reporting

Key recommendations

Short-term (1-2 years)

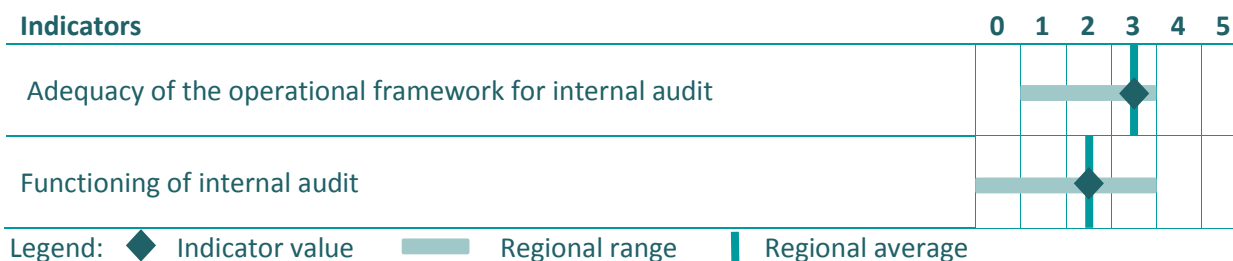
- 1) The MoF should submit the revised PIFC Policy Paper, with its related action plan, for adoption by the CoM.
- 2) In its annual report on FMC development to the CoM, the MoF should request approval for specific actions that would further enhance managerial accountability.
- 3) The MoF should compile 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.
- 4) The MoF should ensure the development of the risk management manual, the training of all public organisations in risk management practices and the roll-out of risk management to public organisations.

⁶³⁵ This value is due no data being submitted.

⁶³⁶ Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-23=5.

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

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



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 establishes IA⁶³⁷ as an integral part of the internal control system and authorises the Internal Audit Co-ordination Board (IACB) under the MoF to: 1) independently co-ordinate and monitor the IA systems of public organisations; 2) define and develop IA standards and procedures; and 3) provide guidance to public organisations⁶³⁸. The CHU for IA (CHU/IA) within the MoF facilitates the activities of the IACB and acts as its Secretariat. The CHU/IA has 11 staff members working on IA development and providing training for IA certification and ongoing professional development⁶³⁹.

Internal audit is a decentralised function, and the PFMC Law requires internal auditors to report directly to the head(s) of public organisation(s). They are required to perform their duties independently, and no other duty may be assigned to them. After the receipt of IA reports, heads of organisations are required to ensure that the audited units take corrective action and to provide the IA reports and reports on implementation of audit recommendations to the IACB⁶⁴⁰.

The PFMC Law requires the development of national IA standards compliant with internationally accepted auditing standards⁶⁴¹. National Public IA Standards have been established, along with a Code of Ethics, general IA guidelines and guides on IT audits, performance audits, quality assurance, and use of IA software⁶⁴². While progress has been achieved in fine-tuning of regulations and development of IA guidelines and manuals, there are still a number of instances of non-compliance between the national legal framework and the EU legislation and IIA standards⁶⁴³. Furthermore, a clear distinction between the functions of IA units and inspection units has still not been achieved, with the continuing risk of duplication of work⁶⁴⁴.

⁶³⁷ PFMC Law, Articles 63-65.

⁶³⁸ *Idem*, Articles 66-67.

⁶³⁹ SIGMA interviews with the MoF.

⁶⁴⁰ PFMC Law, Article 64.

⁶⁴¹ *Idem*, Article 67.

⁶⁴² National IA Standards, Code of Ethics and audit guidelines are available at <http://www.idkk.gov.tr/Sayfalar/English/Mevzuat/UcunculDuzey.aspx>.

⁶⁴³ MoF IACB, IA Development Strategy 2017-2019, p. 4.

⁶⁴⁴ *Ibid*.

In 2016, 383 public sector organisations were required to introduce an IA function, of which only 257 (or 67%) have been established, a slight increase from 246 (64%) in 2014⁶⁴⁵. The established IA units meet the minimum staffing requirements for IA. Central public organisations generally have an IA unit, with the main challenge being the establishment of IA units in municipalities. However, there has been no progress in the establishment of an IA unit in the PM, and this sends a negative signal about the importance of IA.

In 2016, there were 911 internal auditors, significantly fewer than the 2 075 authorised posts (only 44% of posts are filled)⁶⁴⁶. It is also a decrease from the 960 internal auditors who were in place in 2015⁶⁴⁷. All internal auditors have passed the national internal audit certification, and 227 have received an international certification⁶⁴⁸.

The Public IA Strategy 2017-2019, published in 2016, includes an assessment of the current situation and identifies needs for further development in three main areas: 1) further expansion of the public IA function, including the drafting of an IA umbrella Law; 2) strengthening IA planning and quality assurance and enhancing communication; and 3) further improving methodologies through sharing of best practices and training⁶⁴⁹.

The annual General Government Internal Audit Report⁶⁵⁰ contains a significant amount of information on the work of the IACB, the audit process and training activities, along with data on the number of internal auditors, IA units and certification of internal auditors. However, it does not demonstrate progress in the development of IA quality and effectiveness. While the IACB has met the requirement of the PFMC Law⁶⁵¹ to prepare a quality assurance and development programme⁶⁵² to evaluate IA units, quality assurance work is currently suspended due to the phased introduction of new IA software to enhance the planning, execution, monitoring and quality of IA work. No quality assurance reviews were undertaken during the period of 2014-2016⁶⁵³. There are plans to relaunch the quality assurance programme in the autumn of 2017. The CHU/IA organised one meeting of the heads of IA in 2016.

As a result of weaknesses in quality assurance and development and co-ordination of IA systems, the value for the indicator 'Adequacy of the operational framework for internal audit' is 3.

⁶⁴⁵ Data was provided by the MoF.

⁶⁴⁶ MoF IACB, IA Development Strategy 2017-2019 p. 2.

⁶⁴⁷ MoF IACB, Public Internal Audit General Report 2015.

⁶⁴⁸ Data was provided by the MoF.

⁶⁴⁹ MoF IACB, IA Development Strategy 2017-2019, pp. 5-8.

⁶⁵⁰ MoF IACB, Public Internal Audit General Report 2015.

⁶⁵¹ PFMC Law, Article 67.

⁶⁵² MoF IACB, IA Quality Assurance and Development Programme, Official Gazette No. 29675 of 5 April 2016.

⁶⁵³ Data was provided by the MoF.

Adequacy of the operational framework for internal audit						
This indicator measures the extent to which the operational framework for internal audit (IA) has been established, assessing the adequacy of the regulatory framework, the institutional set-up, and co-ordination and quality assurance mechanisms.						
A separate indicator measures the implementation of the framework and the results achieved.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for internal audit	4/5
2. Organisational capacity for internal audit	4/5
3. Co-ordination, development and guidance of the internal audit system	2/5
4. Existence of a system for quality assurance for internal audit	0/3
Total⁶⁵⁴	10/18

The legal and operational framework for IA has been established, and work continues to ensure that it is line with international standards. However, the framework is not operational in all public institutions, including the PM, and the number of internal auditors is still significantly less than the posts established. Quality assurance arrangements have been developed, but they have been suspended. This makes it difficult for the CHU/IA to assess the quality of IA activities.

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. IA units at 130 entities are using the new public IA software, through which the CHU/IA has identified that approximately 90 (73%) of these entities are preparing strategic audit plans and 85 (69%) are preparing annual audit plans⁶⁵⁵. However, a total of 383 organisations are required to establish IA. The CHU/IA does not know how many of them have approved strategic and annual audit plans, because it does not collect this data. Furthermore, the plans that are prepared are not submitted to the CHU/IA, so it does not know whether they meet national legal requirements.

In 2016, the plans of some IA units were partially cancelled, with internal auditors performing *ad hoc* audits and/or inspections, as instructed by the relevant minister.

To examine the quality of audit reports, a sample of five institutions was examined⁶⁵⁶. One of the sample institutions did not have an IA unit, so reports were only examined for the four remaining institutions. It was concluded that the reports clearly set out the scope and objectives of the audits and follow an audit methodology that addresses systemic weaknesses, and also that audit recommendations are supported by evidence.

⁶⁵⁴ Point conversion ranges: 0-2=0, 3-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

⁶⁵⁵ Data was provided by the MoF.

⁶⁵⁶ The five institutions were: the Ministry of Education, the MoF, the Ministry of Transport, Maritime and Communications, the General Directorate for Highways and the Tax Administration. The Tax Administration does not have an IA unit.

Data on the number of recommendations made by central government IA indicates that 2 999 recommendations were made in 2015, with follow-up by IA units on only 334 (11%) of them, and 2 841 recommendations were made in 2016, with follow-up on only 121 (4.3%)⁶⁵⁷. No data was available on the level of implementation of recommendations.

Due to weaknesses in audit planning and monitoring of implementation of recommendations, the value for the indicator ‘Functioning of internal audit’ is 2.

Functioning of internal audit						
This indicator measures the extent to which internal audit is implemented and whether activities effectively contribute to improved management of public finances within the budget organisations.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Strength of planning of internal audit in budget organisations	2/7
2. Quality of audit reports	4/6
3. Follow-up and implementation of audit recommendations	0/3
Total⁶⁵⁸	6/16

There is a lack of appropriate data on annual internal audit planning and the implementation of audit recommendations. There are also indications that some IA units are not preparing strategic and annual audit plans. The audit reports prepared do address systemic issues and incorporate credible links between evidence and recommendations. No data was available on the implementation of recommendations.

Key recommendations

Short-term (1-2 years)

- 1) The Council of Ministers should endorse an implementation schedule for the establishment of IA units to ensure that the mandatory IA function is established and is operating effectively throughout public organisations, including within key institutions such as the PM.
- 2) The CHU/IA should introduce a programme of quality assurance reviews of IA in public organisations to improve the quality of the audits being undertaken.

Medium-term (3-5 years)

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

⁶⁵⁷ Data provided by the MoF.

⁶⁵⁸ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

Public procurement

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.

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

The legislative framework covering public procurement consists of the PPL, which was adopted in 2002 and has been revised many times over the years, the Public Procurement Contract Law⁶⁵⁹ (PPCL), and a comprehensive set of secondary and tertiary legislation.

The PPL is partly aligned with the EU Procurement Directives, but major gaps in compliance remain. It covers procurement both above and below the thresholds of the respective Directives⁶⁶⁰. The degree of coverage of the PPL is based on an approach that differs from that of the *acquis* and is wider than that of the EU Directives. It covers all state-owned enterprises (SOEs)⁶⁶¹, regardless of whether they are utilities (in the sense of the Utilities Directive), as well as banks (and the corporations they own), in awarding public works contracts⁶⁶². However, except in a few specific cases, SOEs are exempted⁶⁶³ from the PPL when purchasing goods or services below a certain threshold⁶⁶⁴, which is far above the threshold envisaged in the 2014 Directives⁶⁶⁵. Such purchases are governed by acts issued and implemented by the contracting entities themselves⁶⁶⁶, leading to a variety of procedures, deadlines and ways of complaining against their decisions, in addition to rendering monitoring more difficult.

⁶⁵⁹ Law No. 4 735, Official Gazette No. 24 648 of 22 January 2002.

⁶⁶⁰ The PPL does not provide a lower threshold for its application, though the PPL provides for simplified procedures in the case of contracts whose value is lower than the relevant amount. For example, contracting authorities are generally allowed to use direct procurement if the value does not exceed TRY 58 555 (or EUR 14 520 for local authorities and TRY 19 507 (EUR 4 837) for other contracting authorities (2017 thresholds); a higher threshold is required for the negotiated procedure. The thresholds are amended once a year by the Public Procurement Board. The current thresholds are applicable from 1 February 2017 to 31 January 2018 (Official Gazette No. 29955 of 21 January 2017).

⁶⁶¹ PPL, Article 2(b).

⁶⁶² PPL, Article 2(e).

⁶⁶³ PPL, Article 3(g).

⁶⁶⁴ As of 1 February 2017, TRY 8 980 120 (EUR 2 226 800), Article 3 (g) of the PPL.

⁶⁶⁵ EUR 418 000 for supplies and services.

⁶⁶⁶ On the website of the PPA (www.kik.gov.tr/Mevzuat.aspx), at least 35 regulations based on exemptions provided in Article 3(g) have been published.

The Utilities Directive (2014/25 and its predecessor, 2004/17) is not implemented in practice. SOEs must apply the same procurement procedures for procurement above the prescribed threshold as those used by other types of contracting authorities covered by the PPL. They may not take advantage of the flexibility offered by the Utilities Directive⁶⁶⁷.

Other substantial deviations from the EU framework include: 1) some exclusions from the scope of the PPL; 2) preferential treatment of domestic firms; 3) limitations on the participation of groups of economic operators; and 4) the possibility of using factors related to the technical capacity of economic operators in the selection of the best tender. These restrict the competitiveness and efficiency of the public procurement process and directly discriminate against EU or other foreign companies. In addition, not all award procedures prescribed by the Directives appear in the PPL. For these different reasons, the values of the sub-indicators for the extent of coverage of the legislation and the range of procedures available are 0.

The coverage of public procurement rules is significantly reduced by a long list of exclusions of different importance and scope. In some of these cases, the authorities in charge are obliged to prepare their own public procurement procedures and apply them. However, consolidated information about these various other procurement regulations is not readily accessible at present.

Defence procurement is also excluded from the scope of the PPL. Article 3(b) exempts from the PPL procurement of “goods, services and works determined by the relevant ministry to be related to defence, security or intelligence” or that need “to be treated confidentially, or procurements requiring special security measures during the performance of the contract pursuant to related legislation”, or which involve “cases in which the basic interest of the state’s security need to be protected”⁶⁶⁸. The Article specifies that procurement in such cases should instead be conducted according to principles and procedures prepared by the relevant institutions. On this basis, 13 such regulations were adopted and published on the PPA’s website. The requirements of EU Directive 2009/81 have not been fully transposed.

Two types of preferential treatment for domestic firms are spelled out in the PPL⁶⁶⁹. There is a possibility of exclusion, at the discretion of contracting authorities⁶⁷⁰, of foreign suppliers from public procurement procedures if the estimated value of the contract is below the thresholds. Preferential price margins of up to 15% may⁶⁷¹ be provided to domestic bidders for services and works, and to bidders offering domestic products in procedures that involve the supply of goods⁶⁷². Compulsory domestic preferences (with a maximum price margin of 15%) are applied in goods procedures for medium- and high-technology products. In 2015, the Ministry of Science, Industry and Technology (MoSIT) adopted a list of such products⁶⁷³.

⁶⁶⁷ Such as more procedural freedom (the possibility of freely applying the negotiated procedure with prior publication), shorter time periods, more options concerning notification of bidding opportunities, etc.).

⁶⁶⁸ Quoted from the unofficial translation of the PPL by the PPA, available at www.kik.gov.tr/public_procurement_law-50-2.html.

⁶⁶⁹ PPL, Article 63.

⁶⁷⁰ *Ibid.*

⁶⁷¹ The wording in Article 63 (“up to 15%”) suggests that 15% is the maximum preferential margin that may be applied and that within this limit, the contracting authority may freely determine the specific margin to be applied in a given procedure. Meetings held with various contracting authorities during the fact-finding mission revealed that, in a departure from previous years, the contracting authorities tended to apply the maximum preferential margin. In fact, according to the PPA, their 2016 statistics indicate that the percentage of the procurements in which the 15% price advantage was applied was 37.55% by number, and 82.79% by amount.

⁶⁷² Article 62 of the Implementing Regulation on Procurement of Goods.

⁶⁷³ Published by the PPA at https://dosyalar.kik.gov.tr/genel/Bilgilendirme_Dokumanlari/OrtaveYuksekTeknolojiliSanayiUrunleriListesi.pdf.

In addition, procurement involving some form of industrial co-operation is excluded from the PPL⁶⁷⁴ and a regulation⁶⁷⁵ issued by the MoSIT in application of Article 3(u) of the PPL requires all foreign suppliers and contractors in such tenders above USD 10 million to co-operate with local companies with a view to raise the level of local content and to transfer technology.

The legislative framework in the field of PPPs and concessions lacks an integrated and harmonised approach. A large number of laws and regulations, many specific to a particular authority, cover different sectors with different purposes, using definitions and approaches that are not aligned with the Concessions Directive. As a consequence, the values for the corresponding sub-indicators are 0.

Regulatory development is supported by consultations organised by the PPA with all the authorities directly concerned but only with selected private sector representatives, on various issues of policy, procedures and practices in public procurement. The scope of public consultation is thus somewhat limited.

The mixed picture of the regulatory situation leads to a value of 2 for the indicator 'Quality of the legislative framework for public procurement and PPP/concessions'.

⁶⁷⁴ PPL, Article 3(u).

⁶⁷⁵ Official Gazette No. 29 268 of 15 February 2015; www.resmigazete.gov.tr/eskiler/2015/02/20150215-1.htm.

Quality of legislative framework for public procurement and PPP/concessions						
This indicator measures the quality of the legislative framework for public procurement and public-private partnerships (PPPs)/concessions, above and below EU thresholds. Opportunities for participation of SMEs in public procurement are assessed, as well as whether practical measures are taken to allow for proper implementation of the legislation. The other indicators in the public procurement area analyse the actual implementation of laws and regulations and the results thereof.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Compliance of public procurement legislation with the <i>acquis</i> above EU thresholds	
1. Level of alignment of public procurement legislation with the EU Directives	2/6
2. Scope of public procurement legislation	0/6
3. Public procurement procedures	0/4
4. Publication and transparency	5/5
5. Choice of participants and award of contracts	4/5
6. Availability of procedural options	2/4
Public procurement procedures below EU thresholds	
7. Advertising of public procurement procedures	3/3
8. Contract award procedures	5/7
Opportunities for participation of SMEs in public procurement	
9. Opportunities for participation of SMEs in public procurement	2/5
Availability of measures for the practical application of the legislative framework	
10. Availability of measures for the practical application of the legislative framework	3/5
Quality of legislation concerning PPPs/concessions	
11. Coverage of legislation on PPPs/concessions	0/2
12. Value for money, free competition, transparency, equal treatment, mutual recognition and proportionality for PPPs/concessions	0/8
Total⁶⁷⁶	26/60

The legal and institutional framework for public procurement is detailed, but it is fragmented and includes numerous exceptions, both in the types of institutions covered and the object of procurement. In several respects, it does not conform with the *acquis*. In the course of regulatory development, limited consultations are held between the authorities and representatives of the economic operators concerned.

Principle 11: There is 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. This function is carried out by a dedicated unit in the Directorate-General of the Budget, the Public Procurement Co-ordination Unit. This unit is responsible for determining key policies involving public procurement, within the context of general economic strategies. It also ensures co-ordination between the relevant parties preparing drafts in the area of public procurement, as well as activities involving Chapter 5 in the accession process, in the context of harmonisation with the *acquis*.

⁶⁷⁶ Point conversion ranges: 0-10=0, 11-20=1, 21-30=2, 31-40=3, 41-50=4, 51-60=5.

On the other hand, despite the MoF's general oversight role and the existence of some policy and strategy documents with limited scope⁶⁷⁷, there is no global public procurement strategy (and no corresponding action plan), or its equivalent, covering all aspects of public procurement and all kinds of contracting authorities and entities, and only limited monitoring of the whole public procurement system. Consequently, the value for the sub-indicators for policy quality are 0.

The PPA, established in 2002, is entrusted with implementing public procurement rules⁶⁷⁸, disseminating information about procurement opportunities⁶⁷⁹ and monitoring⁶⁸⁰ and training⁶⁸¹, in addition to its role as the review body. It also operates the EKAP. Members of the PPA's board are appointed by the Council of Ministers under MoF proposals. Although it is linked to the MoF⁶⁸², it is nonetheless administratively and financially autonomous in exercising its duties⁶⁸³. It is a large institution, with 628 posts, although at the end of 2016, only 339 were filled and 289 remained vacant. These administrative resources allow it not only to prepare items of secondary legislation, but also to provide significant assistance in preparing primary legislation.

A wide range of procurement data, generated when transactions are carried out or submitted separately by the contracting authorities, is available to PPA staff for analysing the procurement market, informing policy making and providing public information on the PPA website, including semi-annual and annual reports⁶⁸⁴. The PPA's monitoring activities include, among other things, the compulsory notifications that contracting authorities have to publish about the management of awarded contracts.

Other authorities with responsibility for public procurement, like the MoSIT and defence-related institutions, as well as the many others exempted from the PPL, have their own implementation and monitoring frameworks for public procurement. However, there is no readily available overview of these different frameworks, and their level of alignment with the *acquis* can therefore not be determined.

No single authority is in charge of co-ordinating, supervising or monitoring PPPs and concessions. All PPP projects must receive an initial, 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 involved, to varying degrees: the MoF for general policy and legislation co-ordination; the MoDev for strategic development management and implementation; and the Undersecretariat of the Treasury for evaluating project feasibility and the debt assumption mechanism, when applicable. 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 and the level of alignment with the Concessions Directive is very low.

These shortcomings in the policy and regulatory framework lead to an overall value of 3 for the indicator 'Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently'.

⁶⁷⁷ Such as the strategy document of the State Supply Office at [https://kurumsal.dmo.gov.tr/tr/Documents/Kurumsal/DMO%20STRATEJIK%20PLANI%20\(2015-2019%20D%C3%B6nemi\).pdf](https://kurumsal.dmo.gov.tr/tr/Documents/Kurumsal/DMO%20STRATEJIK%20PLANI%20(2015-2019%20D%C3%B6nemi).pdf).

⁶⁷⁸ Preparation, development and guiding the implementation of all the legislation concerning the PPL and the PPCL, as well as standard tender documentation and contracts.

⁶⁷⁹ Publication of the Public Procurement Bulletin in printed and electronic media.

⁶⁸⁰ Gathering information relating to tender proceedings carried out and contracts concluded.

⁶⁸¹ Providing training on public procurement to both contracting authorities and economic operators.

⁶⁸² PPL, Article 53, paragraph 2.

⁶⁸³ *Idem*, Article 53, paragraph 1.

⁶⁸⁴ The PPA publishes at least two types of reports on its website: the annual report about its activities in a given year and statistical reports covering 6 and 12 months of a given year.

Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently

This indicator measures to what extent public procurement policy is systematically developed, implemented and monitored, how central public procurement functions are distributed and regulated, and to what extent the preparation and implementation of policies are open and transparent.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
Quality of the policy framework for public procurement	
1. Quality of the strategy for development of public procurement and PPPs/concessions	0/5
2. Quality of the operational action plan	0/5
3. Implementation of the strategy and the action plan	0/5
4. Monitoring of strategy implementation	0/5
Capability of central procurement institutions and their performance	
5. Adequacy of the legal framework to ensure capable institutions	4/10
6. Clarity in definition and distribution of central procurement functions in the legislation	8/10
7. Performance of the institutions involved, their capacity and resources	14/20
Comprehensiveness and efficiency of systems for monitoring and reporting on public procurement	
8. Presence and quality of monitoring and data collection	10/10
9. Accessibility of public procurement data	6/10
Total⁶⁸⁵	42/80

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 online access to a wide range of up-to-date procurement information. However, information about other public procurement is not as available, and no unified approach is taken to the management and monitoring of concessions or other 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 conformity with the *acquis*. The Government should review policies and practices in all public procurement outside the scope of the PPL and propose measures to bring them under the PPL or to otherwise ensure their conformity with the *acquis*.
- 3) The PPA and the MoF should accelerate and widen the public consultation process on legal drafts, invite opinions from every interested entity and use electronic tools (for making drafts available for comments, such as publication on their websites).

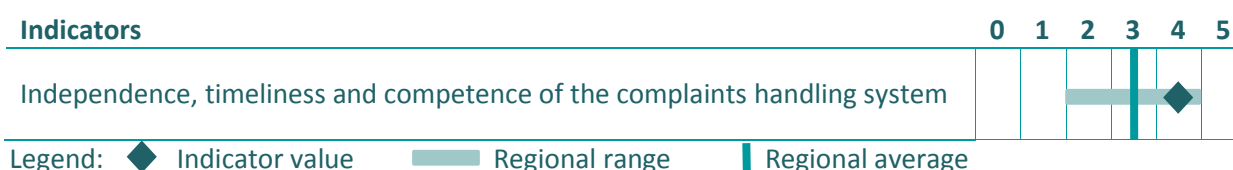
⁶⁸⁵ Point conversion ranges: 0-12=0, 13-25=1, 26-39=2, 40-53=3, 54-67=4, 68-80=5.

Medium-term (3-5 years)

- 4) 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 and align them with the *acquis*.
- 5) The Government should ensure that there is a sustainable and coherent single framework for PPPs and concessions, able to fully serve its purpose.

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.

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

On the basis of Articles 54-57 of the PPL, the review of decisions taken by contracting authorities on contracts falling within the scope of the PPL comprises three stages: “complaint applications”⁶⁸⁶ submitted to the contracting authority concerned⁶⁸⁷; “appeal applications” submitted to the PPA⁶⁸⁸; and appeals to the administrative court against decisions of the PPA⁶⁸⁹. Legal standing (access to the review) is offered to initiate review procedures for the “candidates, tenderers or potential tenderers” who claim to have suffered or are likely to suffer a loss of right or damage due to unlawful procedures or actions within the tendering process⁶⁹⁰. The term “potential tenderers”, in accordance with the definition provided in other sections of the PPL, only covers economic operators who “have purchased the tender or pre-qualification documents”⁶⁹¹.

Three review departments in the PPA deal with the “appeal applications” mentioned above. To secure the independence and integrity of the PPA as the review body and resolve the problem of conflicts with other functions (regulatory, monitoring and advisory) of the PPA, elaborate administrative routines have been put into place. Decisions concerning appeal applications are adopted by the nine members of the PPA’s Board, supported by public procurement experts and assistants handling appeals in the PPA.

⁶⁸⁶ This and the following terms used in the context of the review procedures were taken from the unofficial translation of the PPL available at the website of the PPA.

⁶⁸⁷ A solution consistent with Article 1(5) of the “Council Directive of 21 December 1989 on the Co-ordination of the Laws, Regulations and Administrative Provisions Relating to the Application of Review Procedures to the Award of Public Supply and Public Works Contracts” (89/665/EEC), as amended by Directives 2007/66 and 2014/23 (“Remedies Directives”).

⁶⁸⁸ Against the decisions of the contracting authority concerning “complaint applications”, Article 56 of the PPL.

⁶⁸⁹ PPL, Article 57.

⁶⁹⁰ *Idem*, Article 54.

⁶⁹¹ *Idem*, Article 4.

In 2016, the PPA received 3 395 appeals and adopted 3 300 decisions, a clear decrease by comparison with previous years⁶⁹². This coincided with a significant increase in the previous period in the fees to be paid by complainants (for example, the appeal submission fee in procurement of up to TRY 500 000 [EUR 123 985] tripled, to TRY 3 000 [EUR 744]). As of 2017, this fee was increased again to TRY 3 707 (EUR 919)⁶⁹³, while the threshold up to which this fee is applicable was increased to more than TRY 600 000 (EUR 148 782)⁶⁹⁴. This means that access to justice may be affected, especially for low-value proceedings. The majority of the appeals (2 235) were rejected by the PPA as unfounded or declared inadmissible on the ground of procedural errors⁶⁹⁵.

Under Article 56 of the PPL, all decisions are to be notified to the parties and to be published on the PPA website within five days of the notification. Access to published decisions is free of charge. Notification of decisions of the PPA may also be given through the EKAP system.

In 2016, 856 complaints were appealed to the next judicial level (as compared with 899 in 2015). In 682 cases, the decision of the PPA was upheld (727 in 2015); in 174 cases, its decision was reversed (as compared with 172 in 2015).

In the various cases where the PPL is not directly applicable and the PPA is not available to serve as the review body, tenderers may address complaints to the competent courts. These would meet the Directives' requirements for independence. Public procurement cases may be required⁶⁹⁶ to follow an accelerated procedure.

The review procedure in the field of PPPs and concessions is not governed by the PPL, and the PPA is not the competent review body⁶⁹⁷. Provisions of the Remedies Directive as amended by the Concessions Directive 2014/23 have yet to be transposed. The various PPP regulations do not take a unified approach to the matter. On the other hand, the civil courts are competent for most PPP operations and can normally be seized by dissatisfied tenderers. In the case of operations governed by the Concessions Law No. 476 of 24 June 1910, 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.

Despite the specific shortcomings mentioned, the other, more favourable, aspects of Turkey's system for handling complaints mean that the value for the indicator 'Independence, timeliness and competence of the complaints handling system' is 4.

⁶⁹² Including 4 251 appeals in 2014 and 5 093 in 2013.

⁶⁹³ It is worth noting that the inflation rate in 2016 was relatively high, amounting to 9%.

⁶⁹⁴ However, this increase followed a general increase of thresholds related to relatively high inflation in 2015 (a 9.9% increase in the general price index).

⁶⁹⁵ Information provided by the PPA in meetings with SIGMA.

⁶⁹⁶ Article 20, Law No. 2577 on administrative justice procedures, Official Gazette 17580 of 20 January 1982.

⁶⁹⁷ According to Article 16 of the Regulation on Applications Against Procurement Proceedings, "prior review" of appeals by the PPA covers, among others, assessment of whether the appeal was submitted to the authorised authority.

Independence, timeliness and competence of the complaints handling system						
This indicator measures the effectiveness of the system for handling complaints on public procurement. First, the quality of the legislative and regulatory framework is assessed, specifically in terms of compliance with the EU Directives. Then, sub-indicators measure the strength of the institutional set-up for handling complaints. Next, the actual performance of the review system is measured using a combination of qualitative and quantitative indicators. Finally, the performance of the remedies system for PPP/concessions is evaluated.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
The legislation sets out the mechanisms for handling complaints in compliance with EU Directives	
1. Right to challenge public procurement decisions	3/5
2. Time limit for challenging decisions taken by contracting authorities/entities	2/2
3. Transposition of mechanisms to avoid ineffectiveness of contracts and impose penalties	1/3
4. Mechanisms to ensure implementation of the review body's resolutions	2/2
5. Right to challenge decisions of the review body	3/3
The institutional set-up for handling complaints	
6. Legal provisions establishing the review body and its members	7/7
7. Adequacy of the organisational set-up and procedures of the review body	4/4
8. Public availability and timeliness of data on the review system	4/4
Performance of the review system	
9. Fairness of fee rates for initiating review procedures	1/3
10. Actual processing time of complaints	3/3
11. Complaint submission in practice	0/4
12. Quality of decision making by the review body	4/4
13. Cases changed or returned after verification by the court (%)	1/2
Performance of the remedies system in PPPs/concessions	
14. Right to challenge lawfulness of actions/omissions in PPP/concessions procedures	5/5
15. Legal provisions ensure independence of the review body for PPPs/concessions and its members	5/5
16. Timeliness and effectiveness of complaints handling system for PPPs/concessions	2/5
Total⁶⁹⁸	47/61

For public contracts covered by the PPL, the remedies system is fully operational, as required by the Directives, except that various provisions of the Remedies Directives, as amended by the 2007/66 Directive, have not been implemented. However, for other public contracts and for concessions, the conformity with the *acquis* is difficult to assess, and access to justice is not subject to an integrated review system.

⁶⁹⁸ Point conversion ranges: 0-8=0, 9-19=1, 20-30=2, 31-41=3, 42-52=4, 53-61=5.

Key recommendations

Short-term (1-2 years)

- 1) The Government should ensure the harmonisation of the provisions on review measures and procedures with the *acquis*, implementing the remaining provisions of the original EU Remedies Directives (as amended by Directive 2007/66) and ensure that they apply to all public contracts, including those exempt from the PPL.
- 2) The Government should take steps to ensure full compliance of the review measures available under PPPs and concessions rules with the requirements of the *acquis* (Remedies Directives as amended by Directive 2014/23).

Medium-term (3-5 years)

- 2) The Government should establish an independent review body and divide the functions allocated within the PPA between the fully independent review body and the central procurement institution.
- 3) The Government should ensure that procedural requirements for appeals in the public procurement system (in particular, the entry fees) do not hinder access to justice on the one hand, and, on the other, minimise the risk of submission of obviously unfounded, frivolous complaints.

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 an open and competitive supply market⁶⁹⁹.

Analysis of Principles

Principle 13: Public procurement operations 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.

Contracting authorities are allowed to use three types of procurement procedures: 1) the open procedure, which is the basic procedure and always allowed; 2) the restricted procedure, which can be used only if the open procedure is not appropriate, as the nature of the subject of the procurement necessitates specialisation and/or technological expertise, and for works whose value exceeds half the threshold value⁷⁰⁰; and 3) the negotiated procedure, which can be applied only in circumstances listed by the PPL⁷⁰¹. Below certain thresholds⁷⁰² and in other conditions defined by the PPL⁷⁰³, contracting authorities are also allowed to use direct procurement, which is defined by the PPL not as a procurement *procedure* but as a procurement *method*. Consequently, it is not included in Figure 3, which shows the shares of the three main procurement procedures; some information appears in PPA statistics⁷⁰⁴ of the procedures used. In 2016, the total value of direct procurement was TRY 3.8 billion (just under EUR 947 million), whereas the three competitive procedures used for procurement had a total value of TRY 155.7 billion (EUR 38.6 billion)⁷⁰⁵.

The PPL does not allow for the possibility of competitive dialogue, which was optional for implementation under the 2004/18 Directive but is now mandatory under the 2014/24 Directive. As the 2014 Directives have not yet been transposed, the PPL does not provide for either the innovation partnership or a competitive procedure with negotiations.

For 2016, the PPA's monitoring report covers 79 231 public procurement procedures below the national thresholds and 10 088 procedures over the national thresholds⁷⁰⁶. The share of respective procedures in 2016 is presented in the following Figure.

⁶⁹⁹ For this key requirement, there is no comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates as both indicators partly depend on survey data that was not collected in Turkey, at the request of the Turkish authorities.

⁷⁰⁰ PPL, Article 20.

⁷⁰¹ PPL, Article 21.

⁷⁰² Depending on the type of the contracting authority: TRY 58 555 (EUR 14 520) or 19 507 (EUR 4 837) (2017 thresholds).

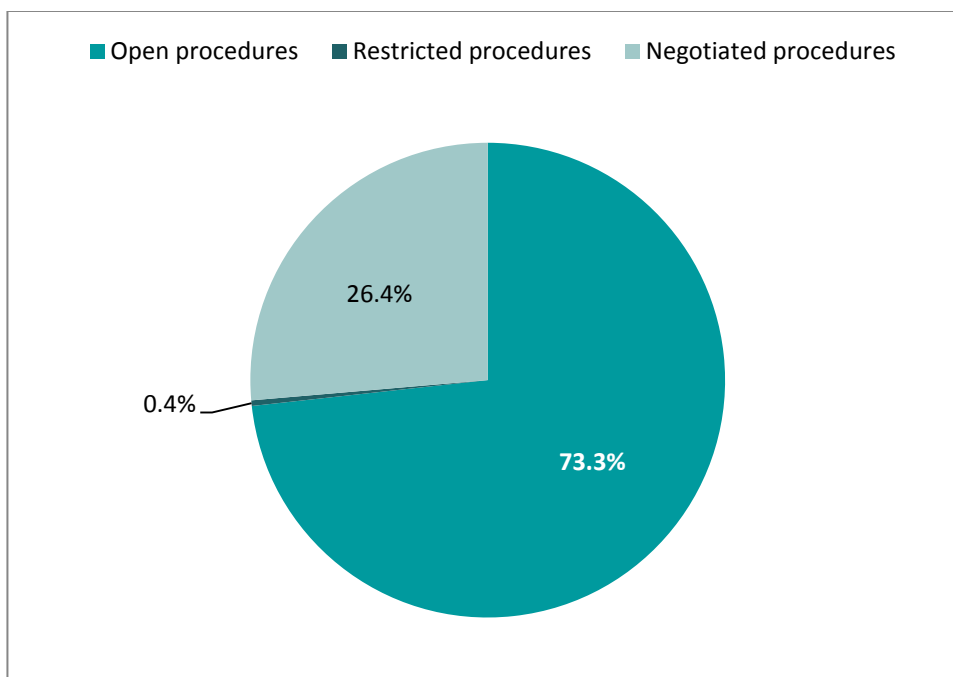
⁷⁰³ PPL, Article 22; among other instances, cases where only one supplier is able to perform the contract, the subject matter of procurement is the purchase or lease of immovable property, legal services, etc.

⁷⁰⁴ PPA Monitoring report 2016, p. 5,
http://dosyalar.kik.gov.tr/genel/Raporlar/kamu_alimlari_izleme_rapor_2016_y%C4%B1lsonu.pdf.

⁷⁰⁵ The exact amount was TRY 3 817 742 000 (EUR 946 685 484).

⁷⁰⁶ PPA Monitoring report 2016, p. 16.

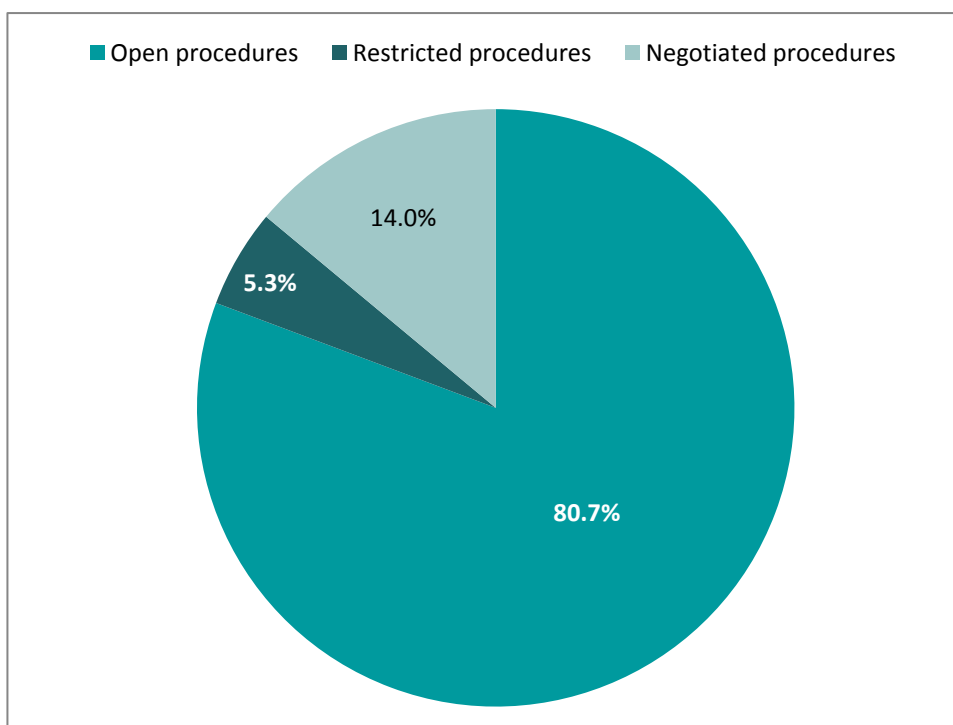
Figure 3. Procurement procedures used in 2016, by number of contracts



Source: PPA Monitoring report 2016, Table 1.7, p. 4.

The value of contracts, in terms of the procedures through which they were awarded, is presented below:

Figure 4. Procurement procedures used in 2016, by value of contracts



Source: PPA Monitoring report 2016, p. 4, Table 1.7.

The total value both of procurement covered by the PPL and of that exempted from it increased by comparison with previous years. In 2016, the value of public procurement awarded in accordance with

the PPL amounted to a total value of TRY 173.6 billion⁷⁰⁷ (TRY 140.2 billion in 2015)⁷⁰⁸. On the other hand, expenditures based on all exclusions listed in Article 3 of the PPL also increased and accounted for almost TRY 14.2 billion (approximately EUR 3.7 billion), of which 46.36 % was based on Article 3(g)⁷⁰⁹ and 30.58% on Article 3(b)⁷¹⁰. In both cases, the growth rates seem to reflect the general growth of the economy in current prices. The reported amount of expenditures covered by Article 3 exceeded TRY 14 billion in 2016. In 2015, it was less than TRY 12 billion, and in 2005 it was much lower, at TRY 3.3 billion.

Public procurement under the PPL has a rate of participation by economic operators that, on average, appears to indicate a reasonable level of competition (4.74 tenders submitted on average per procurement procedure in 2016)⁷¹¹.

The EKAP, established in September 2010 and managed by the PPA, covers all stages of the procurement cycle. All contracting authorities and a large number of economic operators are already registered in the system and using it. Registration is now compulsory for any party wishing to participate in tenders.

The number of EKAP users is thus constantly growing. On 31 December 2016, the system had 674 391 registered users. Companies and individuals registered at EKAP are exempted from the obligation to purchase tender documents to participate in public procurement procedures. Tender documents and all their modifications are available online, free of charge, for EKAP users. EKAP users are supported by a PPA call centre/help desk, which received a total of 218 564 calls in 2016 (about 18 000 per month)⁷¹².

Most public procurement is still carried out by contracting authorities individually, but the share of centralised procurement is slowly increasing. The State Supply Office (SSO)⁷¹³, Turkey's national central purchasing body, is a state economic enterprise that has its own procurement legislation⁷¹⁴ for contracts of up to TRY 8.9 million⁷¹⁵ (EUR 2.2 million) and applies the PPL above this threshold. This solution does not comply with the *acquis*⁷¹⁶. The SSO provides its services to about 7 000 buyers⁷¹⁷. Contracting authorities are not obliged to apply the PPL when they buy from the SSO. The share of purchases by the SSO in the procurement of supplies is slowly increasing. In 2016, the value of procurement by the SSO was TRY 3.7 billion (EUR 0.92 billion), as compared with TRY 3.5 billion (EUR 0.87 billion) in 2015.

Framework agreements under the PPL are used very rarely. In 2016, only 8 tender notices published on EKAP concerned framework agreements⁷¹⁸, as well as 817 result notices⁷¹⁹.

⁷⁰⁷ According to PPA's statistical report for 2016, the value of contracts awarded by means of three competitive public procurement procedures was TRY 169.8 billion (EUR 42.1 billion), and the value of direct agreements was TRY 3.8 billion (EUR 946.6 million).

⁷⁰⁸ PPA's statistical report for 2015.

⁷⁰⁹ Purchase of goods and services by state-owned economic enterprises and other institutions controlled by contracting authorities.

⁷¹⁰ Exclusion related to defence, security and intelligence.

⁷¹¹ According to the 2016 statistical data report published by the PPA (www.kik.gov.tr), the average number of tenders in procedures above the threshold was 7.83 (9.32 in procurement for goods, 15.11 for works, 6.16 for services and 7.73 in consultancy services), while in procurement below the threshold, it was 4.35 (3.49 for goods, 7.40 for works, 3.25 for services and 6.83 for consultancy services).

⁷¹² PPA Annual report 2016, pp. 45 ff.

⁷¹³ <https://www.dmo.gov.tr>.

⁷¹⁴ Decree Law No. 223, the main statute of the SSO, "regulations" and "directives" issued on the basis of the main statute, administrative board decrees and general directorate orders.

⁷¹⁵ Threshold for 2017.

⁷¹⁶ Article 37 of 2014/24 Directive. The central purchasing body is a contracting authority in the sense of that Directive.

⁷¹⁷ Contracting authorities under the PPL are not obliged to have recourse to the SSO; they can award their contracts separately.

⁷¹⁸ According to the statistical report of the PPA for 2016, p. 22.

⁷¹⁹ Ditto.

Turkey
Public Financial Management

The PPL includes provisions⁷²⁰ aimed at ensuring the integrity of the procurement process and preventing conflicts of interest and corruption. The work of internal and external audit entities, inspection boards, the police and the judiciary partly covers public procurement, among other aspects of public financial management and public administration in general. However, there is little evidence of any integrity management mechanisms specific to public procurement.

Overall, the value for the indicator 'Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations' is 2.

⁷²⁰ PPL, Articles 17 and 58-60.

Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations						
This indicator measures the extent to which public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring most efficient use of public funds. It measures performance in the planning and preparation of public procurement, the transparency and competitiveness of the procedures used, the extent to which modern approaches and tools are applied, and how the contracts are managed once they have been concluded.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Planning and preparation of the public procurement procedure	
1. Due attention is given to the planning process	1/3
2. Presence and use of cost estimation methods and budgeting	2/2
3. Perceived ⁷²¹ quality of tender documentation by contracting authorities and economic operators (%)	2/2
Competitiveness and transparency of conducted procedures	
4. Perceived ⁷²² fairness of procedures by businesses (%)	3/4
5. Contracts awarded by competitive procedures (%)	3/5
6. Contracts awarded based on acquisition price only (%)	1/5
7. Average number of tenders submitted per competitive procedure	2/3
8. Contracts awarded when one tenderer submitted a tender (%)	1/2
Use of modern procurement methods	
9. Adequacy of regulatory framework for and use of framework agreements	1/5
10. Adequacy of regulatory and institutional framework and use of centralised purchasing	3/5
11. Penetration of e-procurement within the procurement system	3/5
Contract management and performance monitoring	
12. Presence of mechanisms requiring and enabling contract management	4/6
13. Contracts amended after award (%)	0/4 ⁷²³
14. Use of <i>ex post</i> evaluation of the procurement process and of contract performance	3/6
Risk management for preserving the integrity of the public procurement system	
15. Existence of basic integrity tools	2/4
Total⁷²⁴	31/61

Public procurement carried out under PPL procedures is broadly compliant with the basic principles of the *acquis*, with the exception of domestic preferences as well as some exceptions that do not comply with the EU Directives. The e-procurement system allows for procurement activities to be

⁷²¹ Balkan Barometer, annual survey conducted by the Regional Cooperation Council <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

⁷²² Ditto.

⁷²³ Insufficient data was provided to enable assessment

⁷²⁴ Point conversion ranges: 0-12=0, 13-23=1, 24-34=2, 34-44=3, 43-52=4, 53-61=5. These ranges are different from those for the same indicator in the EU Enlargement candidate countries and potential candidates because sub-indicators 1 and 3 partly depend on survey data that was not collected in Turkey, at the request of the Turkish authorities.

conducted efficiently, and its use is also increasing. However, little information is available on public procurement that is conducted on the basis of the numerous exceptions to the PPL. Use of centralised procurement and framework agreements is increasing, but remains 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 set out any specific criteria concerning the engagement or employment of officials involved in public procurement. Public procurement tasks are often exercised in addition to other duties. Training is not mandatory.

Nevertheless, training activities for public procurement legislation are provided by the Education Department of the PPA, which is obliged to provide training to both contracting authorities and economic operators. The main aim of the training is to improve the knowledge and skills of the personnel working in the procurement units of the contracting authorities. Its intent is also to minimise the number of errors committed and thus to reduce the number of complaints submitted by economic operators. In 2016, the PPA trained a total of 7 924 people (as compared to 8 563 in 2015) from 48 contracting authorities in 9 provinces⁷²⁵. Training activities were also provided for economic operators. In 2016, the PPA's certified training procurement programme trained 403 economic operators. These figures are very low in comparison with the number of contracting authorities, procurement officers and economic operators.

Certified public procurement training programmes, "Training for trainers", are conducted in line with the educational co-operation protocols signed between the PPA and Continuous Education Application and Research Centers of universities. In co-operation with Atatürk University Continuous Training Application and Research Center (ATASEM), 5 certified public procurement training programmes were held, in Erzurum, Antalya, Ankara, Istanbul and Izmir, on different occasions in 2016, and 285 certificates were awarded to trainers⁷²⁶.

In co-operation between the PPA and the Ankara University Continuous Education Center (ANKÜSEM), certified public procurement legislative training programmes were also conducted in 2016 [2 in Ankara and 1 in Antalya], and 106 certificates were issued to the participants⁷²⁷. Training provided within this scheme is paid for with fees starting at TRY 1 400⁷²⁸. Public procurement training was also organised in co-operation with the Atatürk University in Izmir, from 30 March to 2 April 2017.

Other organisations, for example the TBB (*Türkiye Belediyeler Birliği*, the Turkish union of municipalities), offer some basic public procurement training, often using experts from the PPA. In addition, public institutions can obtain training from private sector entities based on their needs. Curricula or training materials for those training activities are not prepared at the central level.

Contract management is covered by the Law on Public Procurement Contracts⁷²⁹, complementing the PPL. Authorities and institutions carrying out public procurement outside the scope of the PPL are supposed to have their own instructions and guidelines for staff.

The website of the PPA contains a number of instructions, standard tender documents and other guidance assisting contracting authorities in conducting public procurement procedures⁷³⁰. Those documents are regularly updated following changes in the legislative and administrative framework. Standard tender documents and templates are available for different types of procurement (works, services, supplies and intellectual services), types of contracts (public contracts and framework

⁷²⁵ PPA Annual report 2016, p. 71.

⁷²⁶ Ditto.

⁷²⁷ Ditto.

⁷²⁸ www.ankusem.ankara.edu.tr/Egitimler/2046/kamu-ihale-mevzuati-egitimi; atasem.atauni.edu.tr/kik-egitimi.html.

⁷²⁹ Official Gazette No. 24 648 of 22 January 2002, as subsequently amended.

⁷³⁰ www.kik.gov.tr/Mevzuat.aspx.

agreements) and types of procurement procedures (the open procedure, the restricted procedure and the negotiated procedure).

Overall, the value for the indicator 'Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations' is 4.

Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations						
<p>This indicator measures the availability and quality of support given to contracting authorities and economic operators to develop and improve the knowledge and professional skills of procurement officers and to advise them in preparing, conducting and managing public procurement operations. This support is usually provided by a central procurement institution.</p> <p>This indicator does not directly measure the capacity of contracting authorities and entities. The assessment is of the scope of the support (whether all important stages of the procurement cycle are covered), its extent, and its quality and relevance for practitioners (whether it provides useful, practical guidance and examples). Surveys of contracting authorities and economic operators are used to gauge the relevance and practical applicability of the support.</p>						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Availability and quality of manuals, guidelines, standard tender documents and other operational tools	
1. Availability and quality of manuals and guidelines	4/4
2. Availability and quality of standard tender documents, standard forms and standard contract models	4/4
Availability and quality of training and advisory support	
3. Access to quality training for procurement staff	3/4
4. Availability of advice and support for contracting authorities and economic operators	2/4
Procurement procedures cancelled	
5. Procurement procedures cancelled (%)	4/5
Total⁷³¹	17/21

There are no formal requirements concerning employment of staff involved in procurement processes. Educational and training opportunities in public procurement exist. Observation of the procurement procedures prescribed by the PPL is facilitated by the e-procurement system (EKAP).

Key recommendations

Short-term (1-2 years)

- 1) The Government should take measures to limit or eliminate discriminatory provisions and practices, especially domestic preference, offset requirements and other exclusions not consistent with the *acquis*.

⁷³¹ Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-15=3, 16-18=4, 19-21=5. These ranges are different from those for the same indicator in the EU Enlargement candidate countries and potential candidates because sub-indicators 1-4 partly depend on survey data that was not collected in Turkey, at the request of the Turkish authorities.

- 2) 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.
- 3) 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.

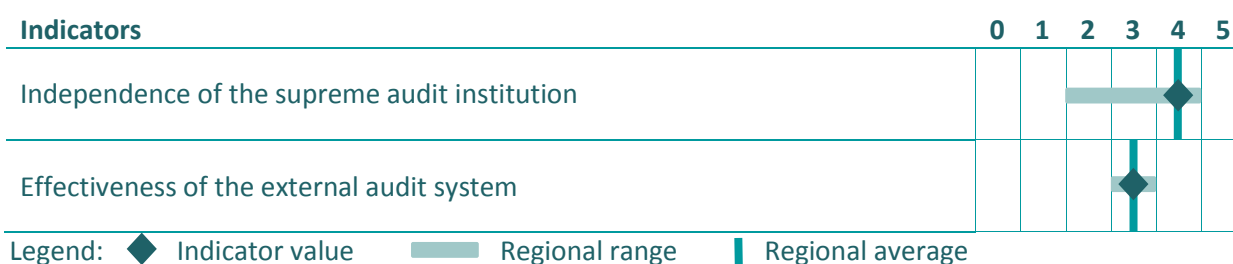
Medium-term (3-5 years)

- 4) The Government, in consultation with the PPA and the contracting authorities, should set out and enforce appropriate professional qualification requirements for public procurement officials, so that recruitment and promotion can be made on a sound basis.
- 5) 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 to meet the qualification requirements for procurement officials and ensure good outcomes of the public procurement procedures.
- 6) In the case of public procurement that falls outside the scope of the PPL, the Government should ensure that practices and guidelines are harmonised with those under the PPL, that they meet the standards of the *acquis*, and that they and the outcomes of their application are made fully transparent.

External audit

Key requirement: The constitutional and legal frameworks guarantee 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.

The values of the indicators assessing Turkey's performance under this key requirement are displayed below in comparison with the average and the range of values for the same indicators in the EU Enlargement candidate countries and potential candidates. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

Principle 15: The independence, mandate and organisation of the supreme audit institution are established, protected by the constitutional and legal frameworks and respected in practice.

The Constitution provides overall independence for the TCA, which is reinforced by the TCA Law which establishes the TCA's independence, functions, rights and responsibilities. The President of the TCA and the chairs of chambers are elected by an absolute majority of the General Assembly of the TGNA⁷³². The term of office of the President is five years and he/she may serve two terms at most⁷³³. The

⁷³² TCA Law No. 6085, Articles 13 and 14.

⁷³³ *Idem*, Article 13 (4).

President of the TCA governs, represents and is responsible for the overall functioning of the TCA⁷³⁴. A new President of the TCA was appointed in June 2016⁷³⁵ in accordance with the Law.

The TCA's operating costs are financed by a separate budget that it submits to the TGNA without intervention by the executive⁷³⁶. The budget for 2016⁷³⁷ was TRY 226 million (EUR 58 million in March 2017) of which the TCA spent 90.25% during the year. The budget for 2015 was TRY 186 million (EUR 58 million in 2016) of which the TCA spent 93.1%.

The TCA's audit mandate⁷³⁸ is exhaustive and the total number of public administration institutions included within the scope of TCA audits is 1 330. The TCA is empowered to undertake the audit of EU⁷³⁹ and other international funds.

The TCA submitted all audit reports to the TGNA required by its mandate⁷⁴⁰. Annually, this includes the External Audit General Evaluation Report, the Statement of General Conformity, the Accountability General Evaluation Report, the Report on State Economic Enterprises, and the Financial Statistics Assessment Report published by the MoF. The TCA may also submit to the TGNA separate reports on the results of external audits conducted on individual administrations or topics.

The TCA Law⁷⁴¹ empowers the TCA to undertake, among other things, regularity (financial and compliance) audits, performance audits and the audit of performance indicators, in accordance with generally accepted auditing standards. The TCA also performs financial audits of political parties on behalf of the Constitutional Court.

The legal framework provides the mandate for access to all information, documentation and other material evidence to carry out audit work⁷⁴². As a result of the exceptional circumstances applicable to all public administrations in 2016, there were some delays in receiving information compared to prior years. However, this did not ultimately affect the TCA's ability to fulfil its audit plan with respect to 2015 audits.

The TCA has a strategic plan covering the period 2014-2018⁷⁴³ which includes an extensive situational analysis, performance indicators and monitoring and evaluation processes. In 2014, the TCA also adopted a strategic human resource management plan for 2015-2018⁷⁴⁴. Each year the TCA training unit undertakes a training needs analysis and prepares a training plan⁷⁴⁵. Progress in implementing the strategic objectives is included in the TCA's Annual Accountability Report. At the end of 2016, the TCA employed a total of 1 414 people⁷⁴⁶, including 759 auditors and 583 support staff. Following the introduction of extraordinary measures under the state of emergency (*Olağanüstü Hâl*, OHAL) from 20 July 2016⁷⁴⁷, 152 employees were dismissed from the TCA during the assessment period.

⁷³⁴ *Idem*, Article 21.

⁷³⁵ TCA website.

⁷³⁶ TCA Law No. 6085, Article 62.

⁷³⁷ TCA Annual Activity Report, February 2017.

⁷³⁸ TCA Law No. 6085, Article 4.

⁷³⁹ *Idem*, Article 4(c).

⁷⁴⁰ *Idem*, Articles 38-43.

⁷⁴¹ *Idem*, Articles 34-36.

⁷⁴² *Idem*, Article 9.

⁷⁴³ TCA Strategic Plan, 2014-2018.

⁷⁴⁴ TCA Strategic Human Resources Management Plan, 2015-2018.

⁷⁴⁵ TCA Training Plan, 2016.

⁷⁴⁶ TCA Annual Accountability Report, February 2017

⁷⁴⁷ Council of Ministers Decision No. 2016/9064 on the Declaration of State of Emergency of 21 July 2016, Official Gazette, No. 29777, 21 July 2016.

The 2017 Balkan Barometer survey⁷⁴⁸ indicates that 55% of the respondents agree or tend to agree that the TCA operates independently from political influence. This is a positive result compared to other countries covered by the survey, where the average is 31%.

As a result of the above, the value for the indicator ‘Independence of the supreme audit institution’ is 4.

Independence of the supreme audit institution						
This indicator measures the extent to which external audit by the supreme audit institution (SAI) is conducted independently and the internationally recognised conditions for the effective functioning of the SAI are found in law and practice.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Constitutional and legal independence of the SAI	4/4
2. Organisational and managerial independence of the SAI	4/5
3. Adequacy of the SAI mandate and alignment with International Standards of Supreme Audit Institutions (ISSAIs)	3/3
4. Access to information and premises	1/1
5. Perceptions of SAI independence by population (%)	2/3
Total⁷⁴⁹	14/16

The independence, mandate and organisation of the TCA are established and protected by the Constitution and the legal framework. The TCA has a significant number of public institutions within its audit mandate. The TCA continued to submit, and publish on its website, the full range of reports required under the law. The TCA is provided with the rights to access all information and documentation required to carry out its audit work.

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.

The TCA has adopted auditing regulations⁷⁵⁰ for the supervision of the audit activities and work conducted by its audit groups. The TCA has adopted manuals⁷⁵¹ covering regularity audit and performance audit, together with guides for the evaluation of financial statistics, the evaluation of accountability reports and the audit of information systems. The TCA’s audit methodologies comply with the requirements of the International Standards of Supreme Audit Institutions (ISSAIs) and are incorporated within the TCA’s computerised audit management system. However, while the TCA’s audit programme for 2017 includes 10 performance audits that are to focus on the audit of economy, efficiency and effectiveness, those conducted during the assessment period continued to only examine performance indicators.

In 2016, the TCA submitted to the TGNA 620 audit reports within the scope of the 2015 annual audit programme. These included⁷⁵² 472 audit reports relating to public administration institutions within the scope of general government, 39 local administration companies, 26 development agencies, 75

⁷⁴⁸ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>.

⁷⁴⁹ Point conversion ranges: 0-2=0, 3-5=1, 6-8=13, 9-11=3, 12-14=4, 15-16=5.

⁷⁵⁰ TCA Auditing Regulation No. 28145 of 17 December 2012, amended by Regulation No. 28622 of 18 April 2013.

⁷⁵¹ Regularity Audit, February 2014; Performance Audit, April 2014; Financial Statistics Evaluation Guide, March 2013; The Evaluation of Accountability Reports, December 2014; and A Guide for the Audit of Information Systems, June 2013.

⁷⁵² TCA Annual Activity Report, February 2017.

SEEs which are more than 50% state-owned and 8 other public administration institutions. Regarding the audit of SEEs, the TCA relies upon the work of private sector auditors for those bodies that are less than 50% state-owned. The TCA publishes all audit reports except for those on the individual audits of SEEs, which are published by the TGNA in the Official Gazette⁷⁵³.

The TCA has developed a manual on quality control⁷⁵⁴, and this is exercised throughout the audit process as part of the computerised audit management system. The TCA has introduced procedures for draft audit reports and the underlying audit data to be reviewed by experienced auditors independent of the related audits⁷⁵⁵. Before audit reports are issued, the quality of the audit reports is also assessed by the TCA's Report Evaluation Board⁷⁵⁶. However arrangements are not in place for a review of a sample of audits after they have been completed.

All audit groups provide audit findings and recommendations in their audit reports, which are agreed with auditees as part of the audit reporting process. The audit groups⁷⁵⁷ follow-up and report each year on the action taken by the auditees to implement the recommendations included in the previous year's audit reports. With respect to the audits of SEEs the results of the previous year's audits are followed up by both the audit groups and the SEE Committee. The TCA maintains data on audit recommendations made in audit reports and is considering how to identify and record the total number of recommendations accepted by the auditee and the number implemented.

TCA audit reports are considered by the TGNA's Planning and Budget Committee, except for reports on SEEs which are considered by the SEE Committee. The Planning and Budget Committee only considers TCA reports during deliberations on the final accounts bill and the budget bill for the following year, creating a risk that there is not sufficient focus on the TCA reports. The Planning and Budget Committee⁷⁵⁸ approves the draft law on final accounts and the draft state budget for the following year, which provides an element of political discharge. However, no procedure exists for formal discharge of the executive by the TGNA for the financial results of public administrations.

The TCA's report⁷⁵⁹ on SEEs is examined and discussed by the SEE Committee. The Committee submits a report to the Speaker of the TGNA which records⁷⁶⁰ the outcome of its deliberations, and provides details of the reports subject to discharge and those made subject to the general debate procedure. All of the TCA reports related to the SEEs are published by the TGNA in the Official Gazette.

The 2017 Balkan Barometer survey shows that 59% of the population trust the SAI and a similar percentage (60%) indicate that the SAI is effective in holding the Government to account, which are some of the most positive results in the countries surveyed.

As a result of the above, the value for the indicator 'Effectiveness of the external audit system is 3.

⁷⁵³ <http://www.resmigazete.gov.tr/main.aspx?home=http://www.resmigazete.gov.tr/eskiler/2014/04/20140410m1.htm&main=http://www.resmigazete.gov.tr/eskiler/2014/04/20140410m1.htm>

⁷⁵⁴ TCA Audit Quality Assurance Manual and Regularity Audit Manual.

⁷⁵⁵ Information provided by the TCA.

⁷⁵⁶ TCA Law No.6085, Article 28.

⁷⁵⁷ Information provided by TCA.

⁷⁵⁸ Meeting of the TGNA Planning and Budget Committee, Minutes dated 25 November 2016.

⁷⁵⁹ General Report on State Economic Enterprises for 2015, September 2016.

⁷⁶⁰ For example, SEE Committee Minutes of 24 February 2016 relating to TCA report on Turkish Great Mills, and SEE Committee Minutes of 2 June 2016 relating to TCA Report on ILLER Bank.

Effectiveness of the external audit system

This indicator measures the extent to which external audits contribute to improved management of public finances and how the supreme audit institution applies standards to ensure high-quality audits. (e.g. through its manuals and quality assurance system).

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
1. Coverage of mandate by external audit	3/6
2. Compliance of audit methodology with ISSAIs	5/6
3. Quality control and quality assurance	5/6
4. Implementation of SAI recommendations	0/6
5. Use of SAI reports by the legislature	5/6
Total⁷⁶¹	18/30

The TCA has continued to submit a range of audit reports to the TGNA which provide coverage of the audit mandate in a fair, factual and timely manner. The reports address the requirements of international auditing standards, with the exception of performance audit reports, which continued to focus on performance indicators during the assessment period. However the TCA's 2017 work plan includes performance audits that will examine economy, efficiency and effectiveness. Although the TCA is providing audit recommendations in its audit reports and these are followed up in subsequent years, it is not yet monitoring the number of recommendations accepted by auditees or the number implemented by them. The TGNA Planning and Budget Committee only considers TCA reports during deliberations on the final accounts bill and the budget bill, and there is no procedure for formal discharge of the executive by the TGNA for the financial results of public administrations.

Key recommendations

Short-term (1–2 years)

- 1) The TCA should develop effective systems to monitor the number of recommendations made by audit teams as part of their audits of public administrations, the number accepted by auditees and the number implemented by auditees each year.
- 2) The TCA should put in place arrangements to review of a sample of audits after they have been completed and signed off (cold reviews), to meet the quality assurance requirements of the ISSAIs.

Medium-term (3–5 years)

- 3) The TCA should make further efforts to raise stakeholder awareness and institutionalise the way the TGNA deals with audit reports and findings, to ensure that effective arrangements are established to deal with the broad range of issues and public administration organisations covered by TCA audit reports.

⁷⁶¹ Point conversion ranges: 0–5=0, 6–10=1, 11–15=2, 16–21=3, 22–25=4, 26–30=5.

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