

ASSESSMENT OF PUBLIC ADMINISTRATION IN TURKEY

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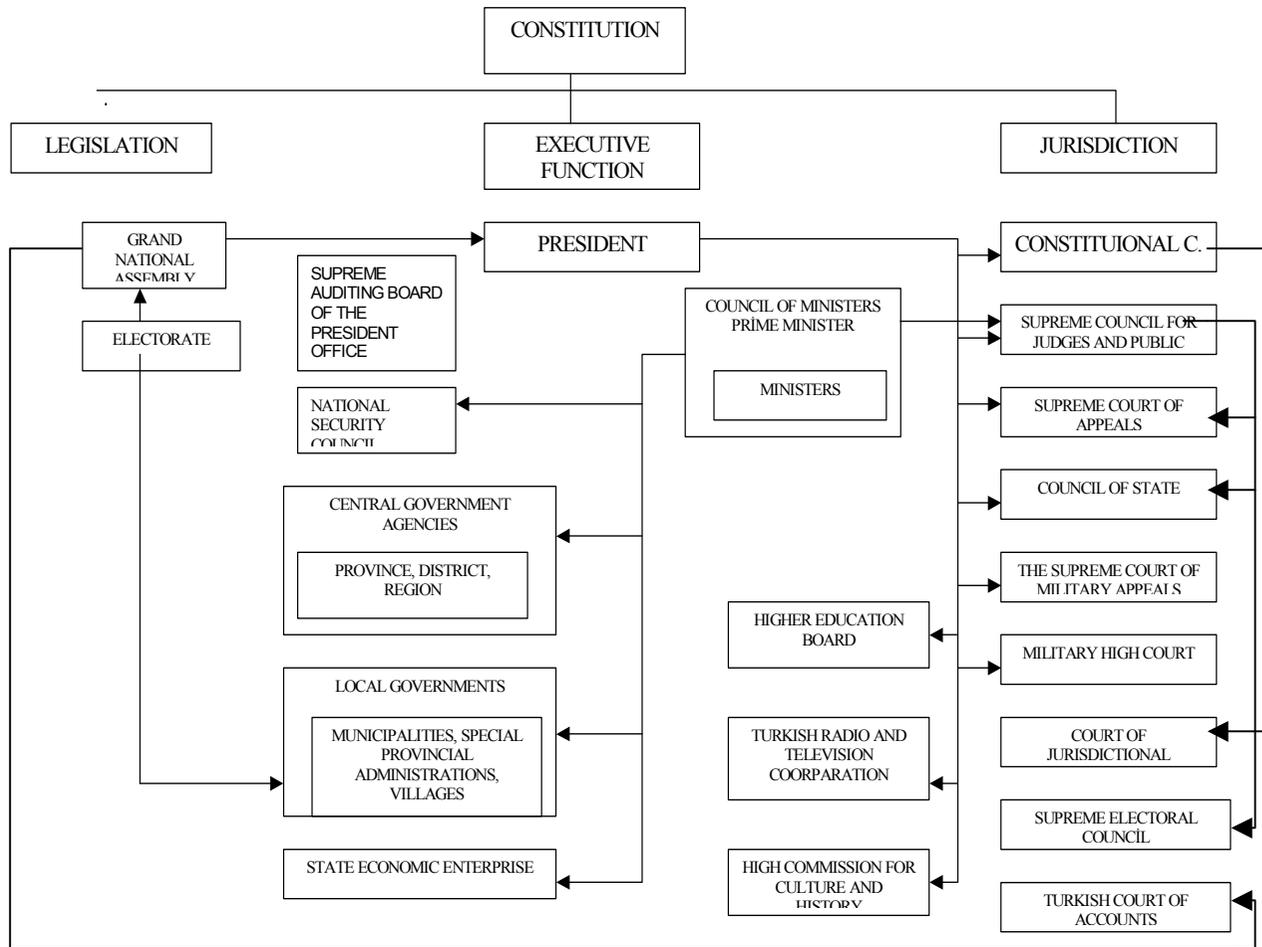
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Area: 780,580 sq. km.

Population (2003): 68.1 million.

GNP Annual growth rate (2002- %): 7.8

GDP per capita, PPP (2002- \$): 6,176

Unemployment rate (%): 11

Administrative Structure:

- 81 provinces
- 850 districts
- 3215 municipalities
- 16 metropolitan municipalities
- 3500 villages

Memberships to international organizations:

- UN
- NATO
- Council of Europe
- The Organization for Security and Cooperation in Europe (OSCE)
- The Organization of The Islamic Conference
- The Black Sea Economic Cooperation

INTRODUCTION

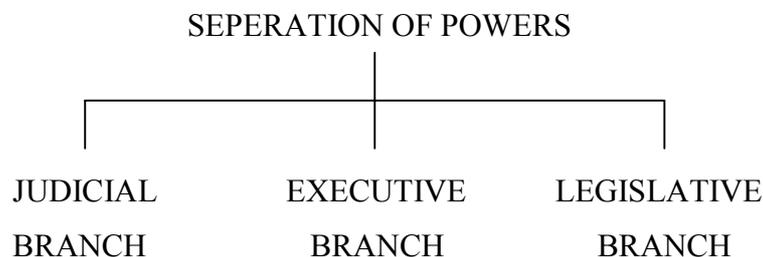
Turkey has been going through a dynamic transformation process in public life in the last decade due to heavy internal and external pressures. The elements of the internal pressures can be listed as the two big economic crises of 1994 and 2001, the earthquake in 1999 and the increasing demand by citizens for more democracy and freedom. In terms of external pressure, Turkey faces pressures stemming from being part of the international community. Fulfillment of the requirements of the IMF and the WB and the ongoing harmonization process for EU membership result in dynamic changes in Turkey. For the above-mentioned reasons, the Constitution of Turkey has been amended six times. In many fields related to public administration and human right issues, major changes have been realized. Within this transformation process, even for the experts, following and learning the changes has become difficult. In this report, in addition to the changes which have already been made in the Constitution and related regulatory arrangements, the drafts before the Parliament related to public administration will be mentioned briefly.

I. OVERVIEW OF THE STATE OF PUBLIC ADMINISTRATION AND GOVERNANCE IN TURKEY

Turkey has a prominent place among today's developing countries due to the length of its experiences on the fields of economy, culture, law and public administration. Since the beginning of 19th century, during the Ottoman as well as the Republican period, Turkey has always strived to develop her public administration in line with the needs of society and internal and external developments. Within this period, six constitutions, two of which were in the Ottoman Empire period, have been enacted. In line with the Constitutions there are more than 10,000 laws in force.

The Turkish administrative system is based upon certain fundamental political and legal principles stated in the Constitution of 1982. However, this Constitution was subject to many amendments in the last 20 years. In addition to the six amendments made in the last five years, the seventh one is underway. After these amendments it is going to be necessary to examine the administrative structure again. It is worth giving an example to understand the nature of the forthcoming amendments to the constitution. With these amendments, in addition to securing democracy, equality between men and women will become a constitutional principle.

The Constitution starts with announcing that the political system is a republican democracy and outlines fundamental characteristics of the Republic such as separation of powers, secularism, supremacy of law, and constitutional government.



These political and legal principles also apply to the organization and the functioning of the Administration as well. Some of these principles may be enumerated as follows:

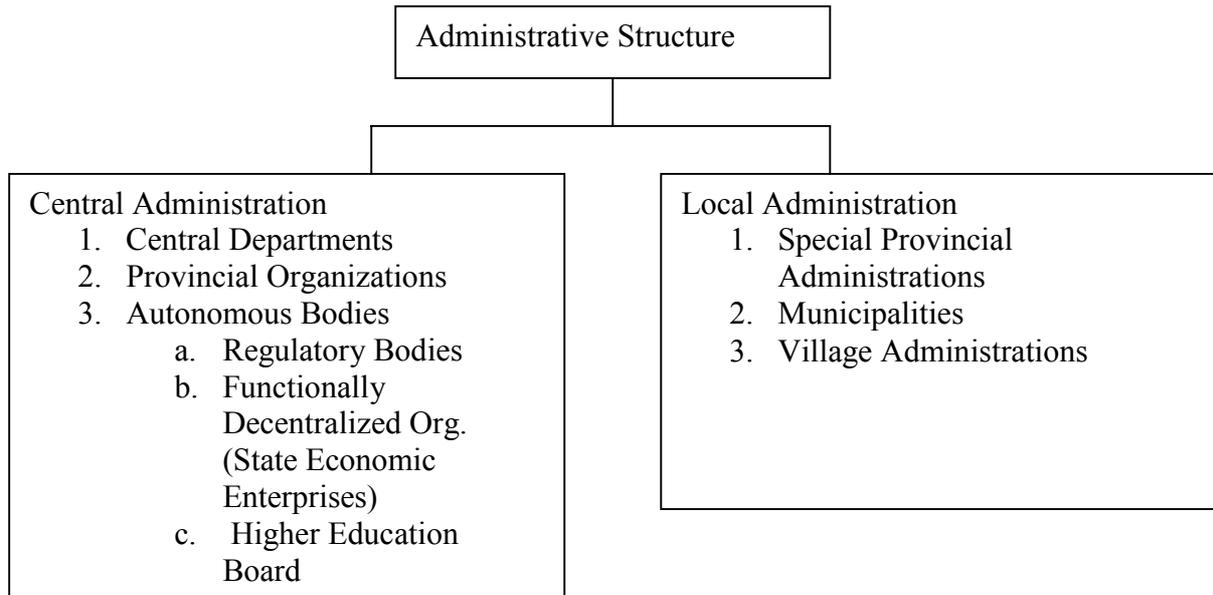
- Legality Of The Administration
- Rule Of Law
- Concept Of The Social State
- State Intervention In The Economic Field
- Secularism
- Integrity Of Administration
- Judicial Review Through Administrative Courts

All of the above-mentioned principles are the cornerstones and inseparable characteristics of the contemporary Turkish Administration.

According to the structure of the Constitution and the principles of the Turkish Administrative System, the “Administration” is not a satellite of the Executive; it is within the Executive branch, but a separate entity. It operates, however, in close relation with the Executive and under the supervision of the legislative, executive and judicial branches.

Public administration in Turkey is divided between the central and local administrations. Article 126 of the Constitution states that the formation of the central administration is organized so that the land mass of the country is divided into provinces and the provinces into further smaller divisions according to geographic and economic conditions, and the need for public services. In relation to this, Article 127 of the Constitution states that, for the purpose of meeting collective local needs, the populations of provinces, municipalities, and villages are to be administered by units of local government established by law as legal public entities and governed in accordance with the principle of self-government.

Article 123 of the Constitution, however, states that in order to maintain integrity in public administration in terms of organizations and duties, national, provincial, urban, and rural administrations should function in unity and coherence. As a unitary state, Turkey has 81 provinces, and within those provinces there are 850 districts, and about 35,000 villages. However, even though there has been a greater support for self-government and the delegation of the powers from the institutions of the central government to the provincial level over the past decade, the structure and tradition of a highly centralized public administration still persists today.



1. Central Administration

Central Administration is the core of the administrative structure, both from structural and functional aspects. The central administration includes The Office Of The Prime Minister, the Council Of Ministers and Consultative Agencies. Provincial Organizations are the provincial units of the Ministries. Each Ministry is headquartered in Ankara, with units at the provinces serving as their field organizations.

The Council Of Ministers is appointed by The President Of The Republic, who is part of the executive, exercises various administrative powers with limited liability. The Council of Ministers acts with the confidence of Parliament and is at the head of the Central Administration. The Prime Minister, according to the 1982 Constitution (articles 112, 109) is the head of both the Council Of Ministers and the Administration in general.

The Prime Minister, as Chairman of the Council of Ministers, ensures co-operation among the Ministers and supervises the implementation of the government's general policy. Each Minister is responsible to the Prime Minister, for the conduct of affairs under his jurisdiction and for the acts and activities of his subordinates. The Prime Minister ensures that the ministers exercise their functions in accordance with the constitution and the law. If necessary, the Prime Minister may take corrective measures such as the dismissal of a minister through a proposal to the President of the Republic.

Within the Central Administrations, the head of each agency –Ministers, Under-secretariats Governors, Sub-governors-enjoys hierarchical supervision, including disciplinary authority over the decisions and actions of subordinates, towards of expediency and legality.

1.2. Autonomous bodies

1.2.1 Regulatory bodies

Turkey has made tremendous progress on the way to integrating with the world economy since the establishment of the Republic in 1923. Looking at where we stand, we see that Turkey now has a more market oriented and competitive economy, resilient both to domestic and external shocks.

High public deficits and concomitant chronic inflation, together with the relatively slow pace in taking regulatory measures under an open capital account made the economy vulnerable to external and internal shocks in the 1990s. Most significantly ongoing crises including 1994 foreign exchange crisis; 1997 Asian and 1998 Russian crises, the earthquake in 1999 and the 2001 financial crisis had a serious impact on the economy.

By the end of the 1990s, it was obvious that the macroeconomic imbalances had to be dealt with permanent measures. Therefore in late 1999 the government embarked upon a comprehensive economic reform program to address the long-standing structural problems of the economy, to cut inflation to single digits and to achieve sustainable growth.

As the economy was moving towards a private sector driven structure, regulatory policy has become more important. With a view to separating the ownership, policymaking and routine supervisory functions in the liberalized sectors such as infrastructure (telecommunications, electricity and natural gas), agriculture, and finance, the authorities established:

- Telecommunication Authority,
- Energy Market Regulatory Authority,
- Board to regulate tobacco and alcoholic beverages,
- Board to regulate sugar markets,
- Banking Regulation and Supervision Agency (BRSA),
- Capital Markets Board of Turkey,
- Competition Authority,

- Public Tender Authority,
- Radio Television Supreme Council.

1.2.2 State Economic Enterprises

In Turkey the intervention of the state in the economy increased from the 1930s to the 1980s. State Economic Enterprises, functionally decentralized organizations, had constituted 2/3 of the Turkish economy. However, within the liberalization policy pursued since the 1980s, the privatization process also started. Despite all these efforts, 40% of the Turkish economy still is composed of SEE. However, recently the petro-chemical and tobacco industries have come close to being fully privatized.

1.2.3 Higher Education Board

The Higher Education Board, which was established in 1981, is an autonomous body according to the Constitution. All the public and private universities are supervised by the academic and administrative decisions of the Board. The Board is governed by a Council and the president of the Board is appointed by the President of the Turkish Republic.

2. Local administration

Local Administration, which functions under the administrative tutelage of the central administration, is divided into three main administrative tiers. These are the special provincial administrations, municipalities, and village administrations. The functionaries of the special provincial administrations, established in all of the 81 provinces, are the provincial general assembly, whose members are elected to office, and the governor who is appointed directly by the central government. The duty of the special provincial administrations is to provide public services deemed necessary on the outlying lands not under the jurisdiction of municipalities.

There are 3,215 municipalities in Turkey; 16 are “metropolitan municipalities” established according to a law enacted in 1984. In addition to the Constitution, the status of municipalities is explicated by the Law on Municipalities dated 1930, and by various other codes, statutes, and, regulations enacted since then. According to the Law on Municipalities, the municipalities are vested with powers in two large domains - service provision and administrative tutelage. Administrative tutelage pertains to, among others, construction, environment, local transportation, and workplace permits.

II. NEEDS AND CHALLENGES IN THE PROCESS OF MODERNIZATION OF PUBLIC ADMINISTRATION

The style of governance in Turkey has been transformed over the past decade as a result of various influences; namely, the impact of the democratization process, developments in the relationship with the European Union (EU); the decrease in content and frequency of conflicts caused by several groups; the sporadic occurrences of major natural disasters such as earthquakes; and economic fluctuations. The political responses of voters, NGOs, and the media to the aforementioned events have also put pressure on the government to change its style. Moreover, the reformation of state institutions has gained new momentum with the implementation of the EU candidacy strategy devised in response to the decision made at the Helsinki Summit in December 1999 and the Turkish *National Programme* prepared accordingly. Following this, in 2000 the Eighth Five Year Development Plan was enacted by Parliament. The main aim of this plan is to create a fully democratic governmental system in Turkey to meet the criteria of the EU. The current government elaborated and developed the concept of democratic administration designed by the Eighth Year Development Plan and National Program for EU membership through its program and Urgent Action Plan.

The goal of a fully democratic governmental structure can be achieved only through a long and difficult process. Within this process of modernization of the public administration main needs and challenges as follows:

1. Transparency

Public administrations in Turkey traditionally had the tendency to keep information regarding the whole public administration issues as state secret. The issues not related to national security such as public debt are also considered to be secret. There was no obligation by the laws or regulations for the dissemination of information. Therefore, the public authorities did not feel any obligation to disseminate information and illuminate the citizens even on the issues that would affect people deeply, such as in the case of emergence of a disease. This attitude prevailed from top administrator to the desk clerk.

Debates in the Parliament were also affected by this attitude. Opposition parties could obtain information not through official channels but through unofficial ones. Thus, leakage of information had become a source of media. Dissemination of information even about very

simple matters through unofficial channels to the public through media, conceived as a big crime. When the public authorities were subject to criticism about the lack of information disseminated they tended to use an excuse that related laws had not stipulated the dissemination of information as compulsory.

However, recently there has been a change in this attitude. Public authorities started to appoint public spokesman for the illumination of public. In addition some steps have been taken in the last years. These are:

- The Law on the Organization of the Prime Ministry that requires the ministries to consult with relevant institutions and organizations during the preparation of new legislation before the draft legislation is submitted to the Prime Ministry.
- The Civil Code was amended through a participatory drafting process, consisting of consultative methods such as meetings, workshops, and correspondence among relevant parties, including women's NGOs. The amended Civil Code guarantees equality between men and women.
- Legislation guaranteeing the right of information (Right of Information Act), which is in the possession of the administration, will enter into force on 10 April 2004. with the new act, information about all administrative acts and actions with the exception of national security issues will be disseminated to citizens upon request.
- The plenary sessions of the Turkish Grand National Assembly is now broadcast live by the Turkish Radio and Television.

2. Accountability

There is not an accurate system to provide accountability in Turkey since the supervision is based on bureaucratic and administrative supervision within central administrative structure. Central government uses two tools: supervision by the superintendents and administrative tutelage over local administration. Administrative tutelage is used by the central government to control and supervise the local governments. Within this context, decisions of the local governor related to budget are subject to the approval of the representative of the central government.

This system does not provide real accountability; therefore, Turkey has been witnessing a huge amount of corruption, bribery, favoritism and nepotism. Public opinion researches

conducted in the last years show that lack of accountability is one of the reasons for decreasing confidence towards public authorities, as well as towards politicians.

Within the existing system, there are some tools for providing accountability. However, accountability has been perceived as only a legal issue rather than a principle of good governance. Therefore, the tools have been directed to provide accountability in legal context. Some of the mechanisms for enacting accountability in Turkey are as follows:

- Political accountability is exercised through democratic institutions and practices. The most evident practice is Turkey's general elections. Votes are given to any number of approximately 11 political parties with different political ideologies participating in elections that constitute the final link in the accountability process.
- In their attempts to influence political decisions as well as by channeling reactions, criticisms, evaluations, and affirmations of the voters, NGOs, and the media also constitute a form of accountability. There are 1500 NGOs with 3 million members and the strengthened role of NGOs also contributes to political accountability in Turkey.
- In terms of administrative and financial accountability, the State Supervisory Council attached to the Office of the President was established with the purpose of performing and furthering the regular and efficient functioning of the administration and its observance of the law.
- Several public institutions and organizations are pursuing a "total quality" approach in for the improvement of quality of services. Currently, some hospitals managed by the Ministry of Health, the Social Security Institution, and universities have received "ISO 9001" and "ISO 9002" Quality Certificates.
- Legal accountability is embodied in a constitutionally and legislatively defined system of judicial review. At the apex of this system are the higher courts such as the Constitutional Court, the High Court of Appeals, and the Council of State. Every citizen has the right to appeal to administrative courts against the actions of the public administration that damage his/her interests with the argument that such actions are against the law.

In addition to these tools, draft laws on public administration and local governments provide the framework and the instruments for the achievement accountability as a principle of good governance.

3. Participation

A “mandatory legal procedure,” which facilitates the participation in the decision-making processes of those who “may be affected” by administrative decisions, and the sharing of information and documents, continues to be a problem in Turkey. An explicit procedure requiring consultations with all the relevant and affected parties or for incorporating their comments and views into the regulations during the preparation of laws, statutes and by-laws does not yet exist in Turkey. The Economic and Social Council, originally established to enable affected parties to take part in the economic decision-making process of the government, is not functioning; thus, preventing the initiation of the aforementioned consultation process.

It is observed that political participation in Turkey usually takes the form of participation in elections and election campaigns; and, individual or collective petitioning to political organizations in order to convey demands, complaints, or requests.

The Eighth Five-Year Development Plan foresees a change in the outlook of the public administration. They call for the restructuring of the central government and a decentralized implementation of “a participatory and people-based administrative system”. Civic public administration is seen as being more effective in local administrations with the example of Local Agenda 21. However, progress in general has thus far been limited.

Local Agenda 21 Program

Agenda 21 which was adopted at the UN “Earth Summit” convened in Rio de Janeiro in 1992, states among its objectives: “By 1996, most local authorities in each country should have undertaken a consultative process with their populations and achieved a consensus on ‘a Local Agenda 21’ for the community.

In line with this objective UNDP launched a Local Agenda 21 Project in 85 countries including Turkey. Local Agenda implementations in Turkey commenced at the end of 1997, under the project title “Promotion and Development of Local Agenda 21 in Turkey”.

The UNDP has selected the “Local Agenda 21 Program” of Turkey as a world-side “best

practice” in 2001, and decided to present this program as “best practice” to the world leaders and governments in the UN “Rio+10” Summit in Johannesburg.

Public participation in environmental issues takes place under the leadership of political parties, professional organizations, associations, foundations, and voluntary organizations. The Regulation on Environmental Impact Assessment (EIA), prepared by the Ministry of Environment is the most notable effort in this respect. The EIA is compulsory for all large-scale economic projects. In order to prepare the EIA, the administration is required to follow a participatory process, which includes method such as “submitting written views” and “holding public meetings”.

In general, the public tends to exercise their participation and scrutiny functions through the NGOs, local governments, and the media. Thus, the mode of political participation is influenced by the political elite. However, elite-driven political participation is not as prevalent, though there are various examples of the impact of civic initiatives. The “One Minute of Darkness for Enlightenment” campaign was effective in pressuring the TBMM to commence an investigation into a matter which was brought to public attention by a traffic accident that surfaced the obscure relationship between state forces and the mafia.

4. Women Participation

In addition to the challenges in term of participation in general, there is a problem concerning women’s participation in Turkey. Although women’s suffrage rights were established in 1930 and 1934, female participation in elections as candidates is low.

	Total number	Number women	Percentage of women (%)
Parliament	550	21	3.8
Mayors of municipalities	3215	20	0.6
Provincial assembly members	3122	21	1.4
Municipal council members	34044	540	1.6

It is also observed that particularly in rural regions women's votes are often mobilized by male figures such as husbands, fathers, or brothers.

5. Responsiveness

Existing structures make it difficult for public institutions to adapt to changing conditions. Public services cannot sufficiently meet the requirements and expectations of the people; inefficiency and extravagancy in the public institutions lead to distrust towards these institutions. Complexity and excessive red-tape in administrative procedures cripple the effective functioning of public institutions and make it difficult for the private sector and the people to benefit from public services. In line with these needs, and adoption of effective methods for the provision of quality goods and services is necessary.

The bureaucracy in general has a tendency of concealing regulations and procedures from citizens, instead of trying cooperate with them and understand the nature of their needs. In order to overcome this bureaucratic attitude two major steps have been taken.

- The Right to Information Act (mentioned above under the heading transparency) will contribute to the responsiveness of the administration. With the Act the administration will be obliged to respond to the citizens' demands for getting information.
- With the Administrative Procedural Act is still in the phase of debate before the Cabinet; taking into consideration the views and demands of related parties before taking any administrative act or decision will become compulsory.

6. The role of public sector in economy

The Turkish economy has developed under the leadership of the public sector since 1930s. This *etatist* tradition still prevails although the size of public sector in the economy has already decreased (from approx. 80% to 40%). The problems and developments regarding the public sector will be mentioned again under the heading of privatization.

7. Auditing

Despite the fact that professional standards conform to international auditing standards and auditing organs are adequately diversified and sufficient in number, auditing services are not as effective as desired. The main reason for this ineffectiveness is that the system of auditing is largely based on compliance audits. In other words, statutory verification is the prevalent

form of auditing. The current auditing practice puts the emphasis on the formal elements of auditing, and therefore, is ritualistic. Since the results of auditing functions are not disclosed to the public, it does not allow for true transparency of information.

8. Centralist tradition and highly bureaucratic culture

The centralist nature of public administration is not only a tradition which has been inherited from the Ottoman period, it has also been developed and enhanced by Republican administrations during the consolidation of the nation state. This centralist structure is also furthered by the democratic representative system within the multi-party system since 1946. Members of Parliament are elected on a provincial base according to population of the province. Members of Parliament set up their ties through their parties' local leaders in their constituency. Therefore, they play an intermediary role between local demands and central decisions, resources that can be aligned to meet local needs. Consequently the deputies prefer to solve local problems through the resources of central government instead of adopting local solutions. One of the results of this centralist tendency is the unfairness in revenue sharing between central and local administrations. The bureaucratic structure also supports this "taking and giving" with politicians to preserve its powerful position. This is as a major obstacle towards decentralization.

This centralist nature of the government eventually results in the weakness of local administrations. Since local needs cannot be satisfied by the local authorities all attention turns to the central government.

III. DECENTRALISATION OF CENTRAL GOVERNANCE AND DECISION-MAKING

An attitude for annulling this centralist structure was adopted and reforms regarding local government structure have been on the agenda of the Parliament during the last years, supported by all political parties. The parties that have come to power up to today, have prepared numerous local government draft reform laws in Turkey. Although these drafts have come to the agenda of parliament, they were not turned into law due to various reasons. In fact, all these efforts have remained as relieving instead of being comprehensive and deep-seated measures. In contrary to the efforts regarding this issue in the past, the party (AKP) that is currently in power in Turkey has clearly stated its will in realizing a comprehensive reform on the issue within its government program.

The Government has already sent two draft laws on public administration reform to the Parliament. The first element of the reform initiatives, Public Administration Basic Law, is on the agenda of the General Assembly in the Parliament. The debate on the issue has already been finished. In April we are hoping that the draft will be finalized and become a law. The second one is related to local administrations. According to this draft basic law, draft laws on Municipalities, Metropolitan Municipalities and Special Provincial Administrations (SPA) have also been prepared and announced to the public. These laws are in the Parliamentary Commission. The debate on this draft law will begin in April.

The draft basic law sets up general principles, the scope of the decentralization process and provides job definitions. With this draft law the tasks, authorities and services that should be carried out by the central and local governments are delineated as such:

Central government

- national defense
- foreign policy
- fiscal and economic policy
- education
- law and order
- national transportation
- coordination among public authorities
- setting up standards and principles

Local government

- health
- preservation of cultural and historical heritage
- school buildings
- local transportation
- local traffic
- basic local infrastructure
- development of tourism

for service delivery

- development of trade and business

However this is not a simple task division between the central and the local government. It also aims to create a complete democratic governmental system through introducing good governance principles such as transparency, accountability, participation and responsiveness to public administration in Turkey. The draft basic law places some limits on the authority of the central government. With the draft law, the central government no longer has the authority to assume duties which are explicitly given to local administrations. On the contrary, local administrations are given a general competence to decide or take action on any local issues.

In order to meet the needs and overcome the challenges mentioned above the draft laws adopt new tools for good governance in both central and local governments. Some of these tools are as follows:

- Public administration authorities shall consult related parties such as NGOs, universities and professional organizations for any kind of administrative decision or/and acts.
- Public administration shall provide all information with the exception of national security issues to the related parties upon their request. The scope of the national security issues shall also be narrowed.
- Fiscal information such as information on public expenditures, revenues, debts and loans shall be issued to public at certain times of the year.
- From the preparation phase to implementation of any act or action of the public authorities, the role of civil societies shall be strengthened. Civil society shall be entitled to send delegations to local Councils and Commissions. These delegations shall join the debates without the right to vote.
- Ombudsmanship at the provincial level is created as a new tool that will have power over all local authorities related to local issues.
- For fiscal control and auditing a special law has been enacted which is fully in compliance with the EU *acquis communautaire*.
- Turkey has a democratic neighborhood system based on the direct election of the *muhhtar* by the neighborhood people. In Istanbul there are 1000 elected neighborhood offices for every 10,000 inhabitants. With the new draft law, the existing neighborhood system will become a component of the municipalities. To increase the

responsiveness of the public administration and achieve the implementation of the subsidiarity principle the existing neighborhood system will be empowered that they are entitled to express their views on the decision or/and acts of the municipalities and suggest proposals related to neighborhood issues. They can also demand information on such issues.

The government attempted to incorporate the views and the evaluations of the civil society, related public authorities, universities and professional organizations with their participation in the process of the formulation of these draft laws. This was the first step in the realization of a participatory process between government and related partners. However, this was not an efficient attempt to involve the stakeholders in the process and get their views on the issue. *

* I, myself and my institution (Istanbul Policy Center) tried to play an influential role in this process. Two evaluation reports were prepared on the draft laws of public administration basic law and local governments. The views on the draft basic law have been shared with the government and the opposition party in the Parliament. For the local governments draft laws, on 9 April 2004 there will be a meeting with the wide participation of government authorities, Parliamentary Commission for Internal Affairs, academicians and representatives of local governments.

IV. PUBLIC SERVICE DELIVERY

Needs and challenges regarding the public administration system in Turkey have been mentioned above. The public service delivery system in Turkey also suffers from these challenges, in particular from the centralist tradition and bureaucratic culture. Turkey has used some classical instruments of public service delivery until recently. Mostly these services were provided through two channels, by contracting out and through providing the services directly by the public authorities. Consequently these services could not be provided efficiently and sufficiently.

The main criticisms of public service delivery are as follows:

- In the case of contractual work, the bidding system was not transparent, nor accountable, depending on real costs and open to competition,
- Public administration has tended to find some excuses to delay the privatization process although the privatization programme was initiated in 1983,
- Public administration has not shown enough interest to allow foreign private companies to function in public service delivery,
- In the public service delivery system from the phase of preparation to implementation, public authorities has tended to ignore participation even though there existed requests from some stakeholders related to specific public services,
- Poor quality of services has been one of the main complaints of citizens in certain areas of public administration such as school enrolling due to the lack of enough classes in schools.

1. Recent developments

In order to meet those criticisms, there have been developments in fields such as privatization, tender, BOTs.

1.1. Privatization

The privatization program was initiated in 1983, but accelerated with the Privatization Law enacted on November 23, 1994. It is expected that efforts on privatization will be speeded up in order to increase efficiency. Thus, privatization is a very significant part of the reform program. Privatization was included in the Constitution for the first time with the amendment

made in 1999, and an international arbitration institution was founded in order to overcome the bottlenecks encountered in the award of power related tenders.

Privatization is concentrated in particular on State Economic Enterprises. However, in public service delivery, privatization has been used as a new instrument in sectors such as communication (GSM operators), gas and electricity distribution, and transportation (Turkish Airlines).

The main objectives of the privatization program related to public service delivery are to:

- minimize state involvement in the economy,
- confine the role of state in the economy to areas like health, basic education, social security, national security, large scale infrastructural investments and provide suitable legal and structural environment for free enterprise to operate
- enhance competition in the economy,
- decrease the financial burden of State Economic Enterprises on the national budget.

Privatization does not only serve to privatize public assets, but it also aims to ensure transparency, competitiveness and control through regulatory bodies such as Telecommunication Authority, Energy Market Regulation Authority.

1.2. Build- Operate- Transfer

The build-operate and transfer system, which had been implemented to provide an alternative financing for big infrastructure projects as sources from the public sector had been insufficient, resulted in legal disputes.

This model had started to be implemented in 1984. Local administrations also can make use of this method. The disputes regarding the implementation of the model are to be/should be solved by arbitration rules.

It is not possible to talk about one model of BOT implementation in Turkey. The Build-Operate model can also be used, in the field of electricity production, as well as distribution of electricity in the urban areas. There exist different laws and rules governing implementation.

In particular local governments exploited the model for the services that they were not able to finance through their own sources, such as construction of undergrounds and rail systems, and the establishment of commercial centers. In addition, blocks of offices, houses, hotels, motels and entertainment complexes have been constructed with the implementation of this model.

1.3. Public Procurement Law

In the field of procurement there have been many arrangements since the Ottoman Empire era. The aim of these arrangements is to fulfill the needs of the states as best possible and at the appropriate time, in line with the principles of openness and fair competition principles.

However, the previous procurement system had failed to satisfy the changing and developing needs of the time, as well as to solve the problems of implementation and did not cover all public entities. It had been also been insufficient in terms of transparency, and accountability. In order to overcome these shortages Turkey has adopted a new procurement system which meets international standards, in particular EU standards. It mainly aims to ensure transparency, competition and fairness at public tenders.

One of the most important features of the new system is the establishment of the Public Tender Authority as a public legal entity, which is administratively and financially autonomous. The Authority is assigned and authorized to carry out the accurate application of the principles, procedures and transactions specified in this field.

The new procurement system adopts a new approach in public administration. In this system an environment impact report is compulsory before the bidding takes place. This new condition provides for the participation of stakeholder within the process.

In addition to the Public Procurement Law, the Information Act also states that from the beginning of the implementation phase, providing access to information is compulsory. This serves as a tool for the achievement of transparency in the system.

2. Tools of public service delivery

After these developments, public administration started to use diversified tools for public service delivery. Some of these tools with some specific examples are given below:

- **Services directly provided by public administration authorities:** according to their competencies, some tasks and duties are carried out by the central government, whereas some tasks are left to the authority of the local administrations in fields such as school construction, public health services, and street cleaning.
- **Contractual work:** In this case the public administration enters in a bidding agreement in which it pays a private company or a non-profit organization for the delivery of the service such as in dam constructions, or the spring water business
- **Partial privatization:** Recently this kind of public service delivery has become more common in Turkey. Local governments especially prefer this method. I.e. Municipalities provide machinery and tools for street cleaning but the service is provided by a private company.
- **Leasing:** Public administration authorities sometimes give the responsibility for the management of a public service to a private company or to a non-profit organization after having made the initial investment itself. Examples can be seen in the tourism sector. In the tourism areas, lands which have all the infrastructure facilities provided by the central government are leased to the private sector.
- **Concession:** This is a new tool for public administration in Turkey to provide public services. The example for this kind of public service delivery can be seen in electricity supply.
- **Subsidiary arrangements:** Subsidiaries are financial or in-kind contributions to private companies, individuals or non-profit organizations which are used to allow a service to be delivered at a lower price, enhance its quality or increase the quantity (level) of the service. There is a special fund in the budget of the Ministry of Finance to support civil society to reduce poverty and create some opportunities for underprivileged regions and people.
- **Volunteer personnel:** In certain areas of Turkey, individuals can provide all or part of a service without getting any payment, especially in the fields of education, health, or the cultural sector. Volunteer nurses in hospitals can be given as an example.
- **Self-help:** This method usually occurs when a local government encourages citizens or, more frequently groups, i.e., a neighborhood, to assist in producing the services they receive in that particular locality. This method has a deep tradition in Turkish history, especially in the rural areas. It still plays an important role in providing some

services to the people living in the rural areas, in the fields such as electricity, schooling, drinking water and health.

- **Regulatory and tax incentives:** Regulations and tax incentives can encourage private companies, individuals and non-profit organizations to produce a service which is normally undertaken by public administration authorities. In order to overcome the deficiency in the railway transportation in Turkey, an excellent bus transportation system set up through regulations which runs among all cities is provided by private companies.

V. HUMAN RESOURCES IN THE PUBLIC SECTOR AND LEADERSHIP

“Human resources” is a new concept which has been introduced very recently to public administration in Turkey. Since human resources has only been perceived as a bureaucratic part of administration, the matters related to human resources have been treated through legal terms in the personnel regime of the public administration. Personnel policy consisted of the definition of statute and salaries. As a matter of fact, even in the naming of departments related to human resources issues, the term “ Personnel Department” has been used instead of “Human Resources”. This perception has continued even after the rights of collective bargaining, trade union and strike have been adopted as legal.

Main criticism of human resources in public sector are as follows:

- Existing law on civil servants establishes a very rigid system that does not allow flexibility to meet the needs such as part-time work or hiring temporary experts,
- Evaluation of personnel was not depending on performance criteria. This has caused automatic promotion in ranks of public administration without any linkage to performance,
- The salary system also has not been based on performance evaluation, as there are no performance criteria for the evaluation of the personnel. Therefore, there has been no awarding or rewarding system,
- Civil servants enjoy a life-time employment. It has almost been impossible to dismiss public employees unless they commit a crime and sentenced to prison.

1. Legal Framework

Legislation for human resources consists of numerous laws and their relevant sub-laws, varying according to the status of employees. The latest law related to state personnel was adopted in 1965. This basic law which is still in force classifies public employees under two categories: civil servants and public workers.

The term “civil servant” -used as the synonym for the white collar worker- indicates a public official who is a member of the civil service. Civil servants usually work inside offices, are recruited for long terms and therefore represent continuity in public service.

The law on civil servants defines the classifications, status, payment and other personnel rights. Civil servants are defined within eleven branches of classification from auxiliary personnel to top managers. Within this classification a career system is adopted.

The right to establish trade unions and right to collective bargaining has been introduced to public administration system in Turkey very recently. Establishment of trade unions for civil servants was adopted as a legal right in 2001. With this development civil servants gained the right to establish trade unions according to 11 branches of civil service classification. There are 54 trade unions which are competing with each other established according to this classification. These 54 trade unions are organized within six national trade unions.

Collective bargaining is conducted according to certain procedures between the Public Sector Employers Council and representatives of the trade unions every two years. Within this process, if the parties agree on the issues, collective bargaining ends successfully. Otherwise the issue is transferred to Conciliation Board, consisting of four professors from universities who are expert in their fields. This board functions as a consultative body. The decision of the body is submitted to the Council of Ministers even if there is no conciliation between the parties. The final decision is made by the Council of Ministers.

The term “public workers” in Turkish administrative system is used as the synonym of “blue collars”, indicating someone engaged in labor work.

In contrast to civil servants, public workers enjoy wider labor rights such as right to strike and right to be a member of a political party. Since the 1960s there has existed an established and functioning system regarding employee union rights, particularly in organization and collective labor agreements. Public workers benefit from similar rights of the workers in private sector.

2. Recruitment

Turkey has continuously has faced major problems in public administration recruitment due to the lack of an objective public employment system. This resulted in the appointment of people who are not qualified, but close to political circles of certain posts. This favoritism affected the quality of services. Political instability in recent years has also fostered this “spoils” system.

In addition, economic crisis and unemployment put pressure on political parties in the power find superficial solutions such as creating posts in the public administration. Eventually the increasing burden stemming from these created posts formed one of the underlying reasons of super inflation in the economy.

After the economic crises, international organizations also put pressure on Turkey to change its recruitment system to a more reliable, qualified one. In this respect in particular, the harmonization process with EU norms constitutes a major force for the transformation of the system. The unfairness of the existing system also created great frustration within the public and citizens started to force the government to change this inappropriate recruitment system.

As a result, the government had to introduce a new entrance exam system for public employees both for civil servants and public workers. The examination is organized by the Center for Student Selection and Placement, a department of the Higher Education Board, an organization highly reputed for its impartial and effective conduct in organizing the national university entrance exams for many years. From the year 2000 onwards, the new system contributed to the prevention of favoritism to a large extent.

This system can be defined as a fair one for both public administration authorities and for the ones who want to be a public employee. However, there are some criticisms about the nature of the examination.

3. Career

The career system has a long tradition in Turkey. The career system was introduced with the Westernization efforts of the Ottoman Empire in the 19th century with the aim of setting up a competent, efficient and impartial public service in the Ministries of Interior, Foreign Affairs and Finance. This system continued to be implemented in the Republican period.

The career system has been used for certain public services. It starts with the recruitment through a special examination for the certain post, in addition to the general examination mentioned above. After the examination the candidate career public employees go through a trial and training period for a certain time. Only after passing this process successfully, they become career civil servants.

In addition to the ministries such as Ministry of Interior, Foreign Affairs and Finance, the system has also been enlarged to encompass the regulatory bodies and to specific governmental departments such as the State Planning Organization.

This system, although aimed at creating a competent civil service, has always been criticized for its closed nature.

4. Training in public administration

In addition to favoritism, training has been considered the perpetual headache of the public administration system. Turkey, despite introducing the general entrance exam for public employees has failed to establish an impartial and sound system for promotion in civil service.

Lack of training seems as one of the factors that prevent efficiency and effectiveness in civil service. There is no standard training system for civil servants who work for the central government. There is only one institution, the Public Administration for Turkey and the Middle East (TODAIE) which has provided training to civil servants since 1956.

This public administration institute provides two type of training courses for civil servants: short term training and long-term training programs. Short-term training programs are open to the request of the ministries or public agencies. The conditions and the criteria are determined by the applicant public authority. To attend long-term programs, which run for one and a half years, there are requirements must be fulfilled by the public sector employees, such as being a civil servant for a certain period of time, proposed as the candidate of the public authority and being successful in the entrance exam. The ones who finish the program successfully are rewarded with a salary increase and promotion incentives.

Recently, training has become compulsory for promotion for public employees of local governments. Wider use of objective criteria is a new local government practice whereby staff promotions are made only after the candidates attend certain in-service training courses and pass subsequent examinations. These examples of recruiting and promoting staff on the basis of merit at the level of local administrations can be considered as concrete steps towards good governance.

5. New perspective towards human resources

The Public Administration Basic Draft Law brings forth new principles to meet the challenges and needs in human resources. It starts with changing the name of the traditionally accepted “Personnel Department” to “Human Resources Department”.

With the new draft law, human resources planning, in-service training, and performance evaluation become compulsory. In addition, it brings a new status for part-time work and for top bureaucrats. Certain enlisted bureaucrats will be considered semi-political and their terms of office will depend on the term of office of the government.

In addition to this effort, a new Public Human Resources Law within this new framework has also been under preparation in the Prime Ministry.

VI. E-GOVERNMENT

Nowadays, e-government has been perceived as a magical wand that would create spontaneous changes in whatever it touched. The first impression was that e-government would change the daily lives of ordinary citizens. However, this positive first impression changed when it was observed that creating a sound system of e-government would not be as easy as expected. The weaknesses and challenges that Turkey faces in this field are as follows:

- **Lack of sound infrastructure for e-government:** In the World Economic Forum's recent study "Global Information Technology Report (2002-2003)", different countries were ranked according to their readiness to information society. Among 84 countries, Finland, the US, and Singapore takes the top three, and Turkey is ranked as 50th, demonstrating the limited usage and access to internet.
- **Lack of well-defined vision and mission statement:** Instead of national priorities, the needs and priorities of each organization affected the development of e-government implementation and this did not result in great success. Therefore, all information society activities need to be coordinated in such a way as to ensure increased economic value added and social welfare, as well as be carried out in a participatory manner.
- **Lack of cooperation among governmental agencies:** Although every ministry has its own web page, the linkage between them and a standard system is missing. The system, therefore, is not interactive.
- **Lack of information in the Internet environment:** Not all the information for which the public access should exist can be found on the web pages of the public administration authorities. On the positive side, all ministries have also an English version of their web pages, but not all the documents are available in English.
- **Lack of cooperation between governmental agencies and private sector agencies:** In the private sector, there exists the capacity, technology and qualified personnel regarding IT. However this knowledge has not been used efficiently towards the need of e-government implementation in public administration.
- **Lack of willingness in the usage of e-government tools within bureaucracy:** Bureaucracy in general tends to resist change. Due to the perception that wide usage

of the internet would decrease its dominance, the bureaucracy sees e-government implementation as a threat.

- **The lack of formal education regarding the usage of computers and the internet:** School curriculums have not been designed according to the needs of this technology century. Therefore, there is insufficient education in the schools regarding the usage of computer and internet.
- **The lack of legal framework in the field of e-government:** The needs which stem from the developments in telecommunication technologies are not fully met by regulations, such as legislation on the preservation of privacy and personal information, provisions regarding information technology crimes in Penal Code, and legislation on intellectual property rights.

1. Recent Developments

Turkey has spent enormous efforts to reach the level of European e-government systems in the recent years. Some initiatives have already been launched to develop the existing system in Turkey. Turkey actually has great human resources potential and will across every section of the society from governmental agencies to local authorities, to NGOs and the young population.

There are already some developments initiated by the public authorities to form sound e-government systems in Turkey. The “Restructuring of the Public Administration Project” under the Prime Ministry allows the reorganization of the state on a rational, efficient basis by using information and communications technology. The aim is to establish and implement the government Administration Information system in general and the Prime Ministry Administration Information System in particular.

The ongoing harmonization process with the EU also affects the e-government program of the current government. In this sense, a major initiative was taken by the EU itself. The European Union envisioned to make Europe the most competitive and dynamic knowledge-based economy in the world within ten years at the Lisbon meeting. With respect to this strategy, on June 19-20, 2000 at Fieria, the eEurope Program and Action Plan has been initiated.

Afterwards, it was decided that this initiative should be broadened and a group of candidate countries, including Turkey, were invited to participate in the program. Turkey has speeded up the efforts to make Turkey an information society as it joins eEurope together with

candidate countries. With the efforts of all interest groups, the eTurkey initiative has been launched and shaped by the e-Europe initiative. In order to create the eTurkey under the leadership and coordination of the Prime Ministry, 13 working groups with the participation of public and private sector agencies, NGOs and universities have been established in various areas related to e-government.

Under the Urgent Action Plan of the current government in Turkey, within the comprehensive strategy for setting up a e-government system which fully complies with the EU standards, e-Transformation Turkey Project has been adopted. As a part of the Urgent Action Plan's Public Management Reform Section, information society issues have been declared as one of the most significant projects. The e-Transformation Turkey Project aims to foster the evolution and to coordinate information society activities, which were previously carried out under different topics by different institutions.

The objectives of e-Transformation Project are as follows:

- Policies, laws, and regulations regarding ICT will be re-examined and changed if necessary, with respect to the EU acquis; eEurope+ Action Plan, initiated for the candidate countries, will be adapted to Turkey,
- Mechanisms that facilitate the participation of citizens to decision-making processes in the public domain via using ICT will be developed,
- Transparency and accountability for public management will be enhanced,
- Good governance principles will be put in place in government services through increased usage of ICT,
- ICT diffusion will be promoted,
- Public IT projects will be coordinated, monitored, evaluated and consolidated if necessary in order to avoid duplicating or overlapping investments,
- The private sector will be guided according to the above-mentioned principles.

In addition to the projects conducted by the central government, local governments have started using computerized programs for service delivery, such as in tax collection and giving licenses. Local governments started this initiative on their own although there are no regulations in this area yet. This implementation has been used almost in all the municipalities in the last five years. Some successful e-transformation projects in local government agencies

include Istanbul metropolitan Municipality, Ankara Metropolitan Municipality, Kadıköy, and Yalova.

Following this initiative of the government, the Prime Ministry and Ministry of Interior also launched a local net project with the purpose of providing a complete source of data and information related to local administrations, and creating an easy access to tools, such as legislation, whose usage is mandatory for citizens, dealing with the area of local administration. Localnet has been financed from public resources.

2. Good practices in e-government implementations

Although every ministry has a separate web site, some of these ministries provide only information about their structure or history, whereas some others are quite successful in giving services in an interactive way. Through this method, people can obtain the service in question online. Some examples of successful implementation of e-government are given below:

- Ministry of Interior: The ministry accepts applications for issuing passports. Before, the process of obtaining passport was a very tiresome and time-consuming transaction.
- Ministry of Interior, DG of Registration and Citizenship: All the information related to citizenship and personal data (birth, civil status, death) have been transferred to an electronic environment. With this system every citizen has a citizenship number to use in official transactions. Personal data is also available on the internet upon request.
- Retirement Department for Civil Servants: All the pensioners can follow their transactions through the internet, especially in the field of health services.
- Ministry of Finance, Revenue Department: It provides necessary information about tax matters to the citizens in metropolitan cities.

VII. ENABLING ENVIRONMENT FOR PRIVATE SECTOR AND INVESTMENT

Economic crises, natural disasters, regional and political challenges encountered during the past decade created public opinion pressure for change in Turkey. This was further strengthened by economic and social pressures and was supported by the media. Thus, a process of fundamental economic and political "restructuring" which contributes to an enabling environment for private sector and investment has started in Turkey. To give an example, largely in order to overcome the economic crisis, Turkey has made vital reforms in the administration of the economy and the financial sector over the past two years as well as in administration in general.

The accession process to the EU is another important impetus for the creation of more suitable environment for private sector and investment in Turkey. As part of this process, Turkey is obliged to achieve a series of changes regarding the development of free markets, ensuring conditions for fair competition and consumer rights, controlling uncertainties in the economy, eradicating chronic inflation, and eliminating politically motivated or populist subsidies out of public resources.

An overview of the industry and economic policies of Turkey during the past twenty years indicates that the private sector is steadily gaining ground, while investments in state owned enterprises and other industrial investments of the public sector are declining. This tendency gained more momentum during the last years. The creation of a more favorable environment is the result of the liberalization policies pursued since the 1980s and in particular very recent positive economic indicators. The rate of inflation fell to single digit figures for the first time in the last 30 years. Accordingly, interest rates have also been decreasing. A new law for the redenomination of the Turkish Lira by dropping 6 zeros from the Lira was also enacted. An encouragement system for investments was adopted by the Parliament in February 2004, which provides new incentives with tax exemptions for foreign and domestic investment in less privileged provinces.

Positive developments in the economy have been accompanied by political stability. In the last 15 years the Turkish economy suffered from political instability due to weak coalitions and frequent elections. The one party government of Turkey since 2002 November contributes to political stability, therefore, to economic stability. One of the latest public opinion polls shows that trust for the public authorities on public issues has increased

significantly after the election of the current party in power. The continuation of these reforms and their acceptance by society are encouraging developments, as well as for a more attractive environment for private sector and investment. .

Turkey, however, still faces some difficulties in the creation /maintenance of an attractive environment for private investment, especially due to the administrative structure. Despite all the reform initiatives in public administration, the psychologically negative perception of the bureaucratic apparatus still prevails in the business circles. In addition, there are some legal problems stemming from the judicial system. Although there is a great effort in terms of harmonization of related laws with the EU aquis, problems related to implementation and solving the disputes still exist. The slowness, inefficiency of the legal system and the lack of specialized courts constitute another weakness for an enabling environment for investment. To overcome these weaknesses in the judiciary system, an academy for in-service training for judges was established. In addition, an international arbitration system was introduced with an amendment to the Constitution to attract more FDI. The forthcoming amendments to the Constitution also aim to diminish the intervention of the politics in the judiciary.

In terms of the protection of intellectual property rights some criticisms have also been raised. To overcome these criticisms, a new law entered into force in March 2004 which brings heavy pecuniary penalties and jail sentences. Turkey recently suffered from protection of public and domestic goods. There were limitations on import of foreign products through high customs duties, taxes, and quotas. These barriers were eliminated with the establishment of the Customs Union with the EU. In internal markets in public purchases public goods were protected against private sector products. With the new Procurement Law, which entered into force in 2003, this protection was abolished and equal treatment was adopted as a principle for all kinds of products which originate from the public or private sectors. In addition, for foreign companies equal treatment was also accepted as a principle in public tenders with certain thresholds varying according to sectors.

Unfair competition has been one of the complaints of both companies and consumers. In this context, in order to provide for fair competition, a Competition Authority was established in line with the requirements of the EU. This authority has been working with increasing effectiveness to eliminate unfair competition through regulations and decisions. The new

Penal Code, which is also at debate stage in the Parliament, brings provisions for prevention of unfair competition.

Another aspect of unfair competition has seen in the protection of consumers. Non-existence of a proper system for consumer protection against low quality goods resulted in unfair competition among companies in the market. At the beginning of 2004 a new Consumer Protection Law has been enacted by the parliament which brings a sufficient mechanism and penalties to protect consumers and help to create a fair and competitive economic environment.

RESOURCES

- Competition Authority, <http://www.rekabet.gov.tr>
- Eighth Five Year Development Plan, <http://www.basbakanlik.gov.tr>
- Evaluation Report on Public Administration Basic Draft Law, Istanbul Policy Center
- Evaluation Report on Draft Law on Local Governments, Istanbul Policy Center and TESEV, www.tesev.org.tr
- 57th Government Program, <http://www.basbakanlik.gov.tr>
- National Report on Sustainable Development 2002, Turkey
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- Turkish Treasury, <http://www.treasury.gov.tr>
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