

**How the political elites in Turkey perceive the
political criteria required for full membership in the
European Union**

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How the political elites in Turkey perceive the political criteria required
for full membership in the European Union

Türkiye'deki Politik Elitlerin Avrupa Birliği Tam Üyeliği İçin Gerekli
Kriterleri Algılayışları

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ABSTRACT

Turkey's candidacy to the European Union has always been an issue of heated discussions. After the signature of the Customs' Union, the relations between Turkey and the EU passed some turbulent times until the Brussels European Council in 2004, when Turkey was given a firm date for the start of accession talks. The EU Commission concluded that the Copenhagen criteria that apply to every state candidacy since 1997 had been sufficiently fulfilled. However, since the beginning of negotiations on 3rd October 2005, the EU-Turkey relations have deteriorated.

In order to explain the fluctuations in EU-Turkey relations, we have to understand how the Turkish candidacy is perceived by the EU member-states, and how the integration project is perceived by the Turkish state. In this essay, the perceptions of the units that represent the Turkish state show that the fulfillment of the political criteria is an object of domestic agendas. The power relations between the AKP government and the security establishment, the political traditions¹ of the Turkish state and the democratization/ civilianization process that brings the Turkish people in front of the need of re-orientation of identities are decisive factors for further fulfillment of the political criteria. Since the unsuccessful attempt of AKP to elect Abdullah Gül as President of the Turkish Republic in May 2007, Turkey has proven that experiences a transitory period, the outcome of which will be decisive for the future orientation of the country.

¹ For an extensive account of the term "political tradition" see *infra* footnote no.61

ÖZET

Türkiye'nin Avrupa Birliği adaylığı her zaman hararetli tartışmalara konu olmuştur. Türkiye-AB İlişkileri Türkiye'nin Gümrük Birliği'ne üyeliğinden sonra Türkiye'ye üyelik müzakerelerine başlama tarihinin verildiği 2004 Brüksel Avrupa Konseyi'ne kadar çalkantılı bir dönem geçirmiştir. Avrupa Birliği Komisyonu, 1997'den beri tüm aday ülkeler için geçerli olan Kopenhag kriterlerinin yerine getirildiğine kanaat getirmiştir. Ancak 3 Ekim 2005' te başlayan müzakerelerden bu yana Türkiye-AB ilişkilerinde kötüye gidiş gözlenmiştir.

Türkiye-AB ilişkilerindeki iniş ve çıkışları açıklayabilmek için AB üye devletlerinin Türkiye'nin adaylığını algılayışlarını ve entegrasyon projesinin Türkiye devletince nasıl algılandığını çözümlmek gerekmektedir. Bu çalışmada, Türkiye'yi temsil eden birimlerin algıları, politik kriterlerin yerine getirilmesinin bir iç politika gündemi maddesi olduğunu göstermektedir. AKP hükümeti ve güvenlik örgütlenmesi arasındaki güç ilişkileri, Türkiye'nin siyasal gelenekleri ve Türk halkının kimlikler hakkındaki tutumunun değişmesini gerektiren demokratikleşme/uygarlaşma süreci politik kriterlerin yerine getirilmesinin devamında belirleyici etkenlerdir. AKP'nin Mayıs 2007'de başarısızlıkla sonuçlanan Abdullah Gül'ü Türkiye Cumhuriyeti Cumhurbaşkanı seçirme girişiminden bu yana Türkiye'de ülkenin geleceğine yön tayin edecek bir geçiş süreci yaşandığı ispatlanmıştır.

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This MA dissertation is dedicated to the memory of Ismail Cem, because thanks to him, I had the honor to belong to that generation, which felt the winds of change in the two shores of the Aegean and to be part of the hospitable family of Bilgi University and especially the Turkish-Greek Relations MA programme.

List of abbreviations

- ABGM (Avrupa Birliđi Genel M¼d¼rl¼đ¼/ *Directorate General for the EU*)
- AKP (Adalet ve Kalkınma Partisi/ *Justice and Development Party*)
- APD (Accession Partnership Document)
- AVGM (Avrupa Genel M¼d¼rl¼đ¼/ *Directorate General for bilateral political affairs in Europe*)
- CBM (Confidence Building Measures)
- CHP (Cumhuriyet Halk Partisi/ *Republican People's Party*)
- DEHAP (Demokratik Halk Partisi/ *Democratic People's Party*)
- DSP (Demokratik Sol Parti/ *Democratic Left Party*)
- ECHR (European Convention on Human Rights)
- ECT (Electroconvulsive Shock Treatment)
- EU/AB (European Union/ Avrupa Birliđi)
- EUGS/ABGS (European Union General Secretariat/Avrupa Birliđi Genel Sekreterliđi)
- ICCPR (International Covenant on Civil and Political Rights)
- ICJ (International Court of Justice)
- IDP (Internally Displaced Persons)
- ILO (International Labor Organization)
- LPP (Law on Political Parties)
- MAAY (Avrupa İşleri M¼steşar Yardımcısı/ *Deputy Undersecretary for European Affairs*)
- MFA (Ministry of Foreign Affairs)
- MHP (Milliyetçi Hareket Partisi/ *Nationalist Action Party*)
- MIT (Milli İstihbarat Teşkilatı/ *National Intelligence Service*)
- NGO (Non-Governmental Organization)
- NSC/MGK (National Security Council/Milli Güvenlik Kurulu)
- OECD (Organization for Economic Co-operation and Development)
- OPCAT (Optional Protocol to the Convention Against Torture)
- PASOK (Panhellenion Sosialistikon Kinima/ *Pan-Hellenic Socialist Movement*)
- PFMC (Public Financial Management and Control)
- PKK (Partiya Karkeren Kurdistan/ *Kurdistan Workers' Party*)
- RIA (Regulatory Impact Assessments)

RTÜK (Radyo ve Televizyon Üst Kurulu/ *High Audiovisual Board*)

SHÇEK (Sosyal Hizmetler ve Çocuk Esirgeme Kurumu/ *Social Services and Child Protection Institution*)

TESEV (Türkiye Ekonomik ve Sosyal Etüdler Vakfı/ *Turkish Economic and Social Studies Foundation*)

TRNC (Turkish Republic of Northern Cyprus)

TRT (Türkiye Radyo Televizyon/ *Turkey Radio Television*)

TÜSIAD (Türk Sanayicileri ve İşadamları Derneği/ *Turkish Industrialists' and Businessmen' s Association*)

UN (United Nations)

YAŞ (Yüksek Askeri Şura/ *Supreme Military Council*)

YÖK (Yüksek Öğretim Kurulu/ *Higher Education Board*)

Introduction/ Methodology

Throughout this research, the aim is to reveal how foreign policy decision-makers in Turkey perceive the fulfillment of the political criteria, which will lead Turkey to full membership in the European Union. The aforementioned question is very significant not only for Turkey's European orientation and for European Union's expectations from Turkey, but also for the EU member-states' foreign policy formation towards Turkey. Turkey's neighboring states, which are parts of the EU - such as Greece- base their foreign policy towards Turkey on their privilege of being members in the European Union while Turkey is not. For them, it is important to identify first, how much importance the Turkish political elites give to Turkey's European path and second, the circumstances under which the priority of Turkey's foreign policy to fulfill the EU political criteria may seem to be overruled –if so- by the political atmosphere at the domestic, European and international level.

The main hypothesis is that the EU member-states overestimate the fulfillment of the political criteria on behalf of Turkey in the process of its integration into the EU family. The fulfillment of the political criteria does not depend only on Turkey's determination to join the EU but also on various “political” factors that the EU member-states' policy towards Turkey seems to neglect. After presenting the literature on this subject, the author will detect the political criteria set by the EU through a progressive analysis extended from the Helsinki Summit in 1999 until the European Commission's 2006 Regular Report, which was issued after the opening of negotiations on 3 October 2005. The data will be acquired through a detailed reading of the official transcripts (Regular Reports, Conclusions of European Councils, Accession partnership Documents and Turkey's National Programs, Negotiating Framework and Strategy Paper).

In the progress of the research, the author will examine who are the eligible people who decide on the EU- Turkey's agenda and especially those who deal with the fulfillment of the political criteria; those will be detected through the existing literature and the case studies, as well as through the official transcripts of the EU. As a next step, the author will interview a sufficient number of those people –using the

*snowball*² technique- and will compare the data given from the interviews with the implementation of the political criteria on behalf of Turkey presented in the European Commission's yearly reports and in Turkey's National Programs. For validity purposes, the findings should reveal a strong correlation between the data extracted from the interviews and the actions taken by Turkey towards the fulfillment of the political criteria. Those findings will show how much emphasis Turkey lays on the reforms towards democratization and europeanization of its political system and its foreign policy.

The author, before conducting interviews with the political elites that deal with EU-Turkey's relations, will talk to experts in the fields of the political criteria in order to formulate the questions that will be directed to the decision-makers:

Constitutional law: Serap Yazıcı³

Civil-military relations: Serhat Güvenç⁴ and Umut Özkırmılı⁵

Human rights and social and economic rights: İdil Işıl Gül⁶

Functioning of the judiciary and detention system: Idil Elveriş⁷ and Galma Jahiç⁸

Freedom of expression and press: Umut Özkırmılı, Haluk Şahin⁹ and Ragıp Zarakolu¹⁰

Freedom of association and assembly: Nihal İncioğlu¹¹ and the Human Rights Association (İnsan Hakları Derneği)

Cultural rights and the situation in the Southeast: Ferhat Kentel¹², Dilek Kurban¹³ and Deniz Yüksek¹⁴

Roma rights: Ayhan Kaya¹⁵

Non-Muslim minorities: Elçin Macar¹⁶, Konstantinos Tsitselikis¹⁷ and Nikos Sigalas¹⁸

² According to this technique, the interviewed people are asked to identify other eligible people to speak on a specific topic.

³ Bilgi University

⁴ *Ibid*

⁵ *Ibid*

⁶ *Ibid*

⁷ *Ibid*

⁸ *Ibid*

⁹ *Ibid*

¹⁰ Publisher of Belge editions

¹¹ Bilgi University

¹² *Ibid*

¹³ TESEV

¹⁴ Koç University

¹⁵ Bilgi University

Resolution of Turkey's border disputes and the Cyprus issue: Aggelos Syrigos¹⁹, Nikolaos Kotzias²⁰ and Alkis Kourkoulas²¹.

The selection of these people was based on their academic expertise, on publications relevant to the political criteria and on references in the European Commission's reports.

As a second step, the decision-makers in the field of Turkey's EU accession process will be asked about the specific criteria included in the official transcripts and the specific actions taken towards their implementation. The attention will be drawn mainly to the bodies responsible for the pre-accession strategy and the accession negotiations from 1999 until 2006, as well as to the governmental factors that influence the EU-Turkey agenda. The persons involved in that process as revealed from the analysis above are: the deputy undersecretary of the Prime Minister Erdoğan's Office Emin Zararsız, the first director of the Secretariat General of EU Affairs Volkan Vural, the head of the department of the directorate of political affairs in the Secretariat General for EU Affairs Ahmet Aydın Doğan, the director of the EU affairs department of the Ministry of Foreign Affairs Muhsin Kılıçaslan, the Prime Minister Erdoğan's Foreign Policy advisor Egemen Bağış and the Chairman of the Central Decision and Administrative Board of the AKP²² Mehmet Müezzinoğlu²³. As has already been mentioned, the data extracted from the interviews will be crosschecked with the facts given in the official transcripts of the European Union. The findings are expected to show a correlation between the "quotes" and the actions for each specific period of time and to reveal the perceptions of the political elites as to the implementation of the political criteria. According to those perceptions, it would be easier to understand the reasons for which some of the criteria were implemented and some were not. Consequently, it would be possible to foresee under which circumstances the non-implemented political criteria will be implemented and to examine whether Greece by expecting from Turkey to comply with the European

¹⁶ Yıldız Technical University

¹⁷ University of Macedonia

¹⁸ Researcher at the *Institut Français d' Etudes Anatoliennes d' Istanbul*

¹⁹ Panteion University of Social and Political Sciences

²⁰ University of Piraeus

²¹ Correspondent for the Athens News Agency in Istanbul

²² Adalet ve Kalkınma Partisi, which is the government since the elections of 2002

²³ The author did not have the chance to talk with a representative of the coalition government (1999-2002) but Ambassador Volkan Vural was in position to cover the first period of the reforms.

standards and by Europeanizing the bilateral dispute, will achieve stability and peace in the Aegean.

The Chiefs of the General Staff who served between 1999 and 2006 will not be interviewed but their public speeches will be examined in order to end up to a conclusion as to the involvement of the military in Turkey-EU relations. President Sezer seems to be less involved in this process. Secondary actors²⁴ in Turkish Foreign Policy will not occupy any space in this research, because the author is interested mainly in the political decisions that determine the progress towards the fulfillment of the political criteria.

We should always bear in mind that Turkey experiences a transitory period towards europeanization of its political system and its foreign policy; thus, the political structures are fluid, which renders the tracing of decision units a complicated process. Amendments change the political environment but at the same time, deep-rooted traditions continue to influence fields such as foreign policy. Besides, it is difficult to gather truthful and accurate information in fields traditionally covered with a veil of secrecy and especially by interviewing political elites.

To conclude, the categorization of the political criteria, the names of places and the numbers referred to statistic analyses are written as appeared in the EU Commission's reports.

²⁴ Such as the media, the economic lobbies and the NGOs as stated in Robins P., *Suits and Uniforms: Turkish Foreign Policy Since Cold War*, University of Washington press, Seattle, 2003

PART I:

Defining the political criteria and the political elites

Historical background of Turkey-EU relations

Until the Helsinki European Summit

In the beginning, it is important to present the historical background of Turkey- EU relations. Turkey signed a Customs Union in March 1995, which entered into force in 1996. In the Treaty of Amsterdam in 1997 the Copenhagen criteria have been enshrined as a constitutional principle in the Treaty of the EU. In the European Council in Luxemburg 1997, the European Union followed the Commission's 16 July 1997 Agenda 2000 on the conditions of the applicant countries and refused to grant candidacy status to Turkey because it did not fulfill the Copenhagen criteria. In the Cardiff European Council in 1998, it was decided that the European Commission would issue a yearly report in order to monitor Turkey's compliance with the Copenhagen criteria. In its first Regular Report in 1998, the European Commission referred to anomalies in the functioning of public authorities, to human rights' violations, to shortcomings in the treatment of minorities, and to the situation in Southeastern Turkey.

The Helsinki European Summit in 1999

In 1999 the EU Commission issued its Regular Report where it recommended that Turkey should be included as a candidate country to the enlargement process without setting any definite date though. According to the Copenhagen criteria, Turkey would have to amend its Penal Code, to abolish the death penalty, to resolve peacefully the Kurdish problem, to cease torture, to grant freedom of expression, to reduce the military's role in political life, to solve the Cyprus issue and to abolish Article 312 of the Constitution²⁵, which is a serious limitation on freedom of speech.

²⁵ Article 312 of the Constitution bans incitement to religious and ethnic hatred, in www.tbmm.gov.tr/anayasa/constitution.htm

In the Helsinki Summit of 1999, Greece revoked the possibility of veto and the status of candidate state for full membership in the European Union was granted to Turkey. The EU underlined that all candidates are on an equal footing²⁶ and would be judged on their own merits. The EU demands from Turkey were based on the Copenhagen criteria outlined in 1993, which every state willing to join the European Union has to fulfill. The political criteria include democracy, human rights, rule of law and protection of minorities; the economic ones, market economy and ability to stand-up to competitive pressure in the European internal market, and the legislative full adoption of community legislation and regulation (European *acquis*).

Helsinki also linked the progress on Turkey's membership in the EU with the resolution of its border disputes with Greece and put in place a calendar and a framework around which the parties were to carry out their conflict resolution efforts. The two parties had to "make every effort" to resolve any outstanding disputes "within a reasonable time", and if these efforts fail, to bring the disputes before the International Court of Justice. The European Council also set the end of 2004 as the latest date by which it will review the situation relating to outstanding disputes and their repercussions on the accession process.

Moreover, the European Council decided that political settlement of the Cyprus problem would facilitate the accession of Cyprus to the EU but that the final decision will be made without the above being a precondition²⁷ and that all the relevant factors would be taken into account.

It was stated that Turkey would benefit from a pre-accession strategy to support its reforms: This would include the pre-accession regulation²⁸, the Accession Partnership, the comprehensive financial regulation, the process of analytical examination of the *acquis* and the enhanced political dialogue²⁹, with emphasis on progressing towards fulfilling the political criteria for accession with particular reference to the issue of human rights.

Particularly, in the European Commission's 2000 Report, Turkey was praised for its democratic reforms and encouraged to take further steps towards

²⁶ Paragraph 12 of the Conclusions of the Helsinki European Council states that Turkey is a candidate state destined to join the Union on the basis of the same criteria as applied to the other candidate states in <http://ec.europa.eu/enlargement>

²⁷ Paragraph 9 of the Conclusions of the Helsinki European Council in <http://ec.europa.eu/enlargement>

²⁸ Adopted on February 26, 2001, in <http://ec.europa.eu/enlargement>

²⁹ Paragraph 12 of the Conclusions of the Helsinki European Council in <http://ec.europa.eu/enlargement>

democratization and amelioration in the areas of human rights and protection of religious minorities other than the non-Muslims, implying the Alevis.

Accession Partnership, National Program and Constitutional Amendments

After the Helsinki Summit, the EU Commission prepared the Accession Partnership Document on 8 November 2000 where it identified conditions that Turkey had to meet in the short run (within one year) and in the medium run (one to four years time) in order for the accession negotiations to start. The Accession Partnership Document (APD) identified a set of changes involving the extension of citizenship rights and the elimination of human rights' violations. The targets set ranged from freedom of expression and freedom of association, elimination of torture practices to changing legal practices as a way of combating human rights violations. Reforms included improvements in the functioning and efficiency of the judiciary as well as the removal of legal provisions forbidding the education of certain Turkish citizens in their mother tongue or the use of their native language in television and radio broadcasting. Finding a comprehensive settlement to the Cyprus problem was described as a fundamental priority.

Initially the Turkish government and the army had adopted a very hard position towards the APD. They claimed that the APD includes elements that might be a threat to the "unitary state structure" of Turkey. Despite this, in response, the European Union General Secretariat (EUGS)³⁰ prepared Turkey's National Program on 19 March 2001 where it explained how Turkey would honor the conditions in the Association Partnership Document in the short (March 2002) and in the medium run (2004). The political and economic criteria occupied about 20 pages while articles that would be harmonized with the EU's *acquis* occupied the remaining 500 pages. It used very general terms on very important areas such as the death penalty, the role of the National Security Council (MGK) and the cultural rights; nonetheless it was a "promise of a very big reform". The other economic "National Program" designed by the Minister of Economy, Kemal Derviş came out at the same time and those two National Programs should be treated as a whole.

³⁰ Following the Helsinki Summit, the Turkish Government established an institution called the European Union General Secretariat (EUGS), which has been regulating the EU affairs in coordination with the MFA headed by Volkan Vural under the deputy Prime Minister of Mesut Yılmaz who has been a vocal pro-EU politician.

The National Program was designed to strike a balance between the need to meet the Copenhagen criteria and the unwillingness to implement reforms on the most sensitive issues. Almost all of the major political parties displayed a certain vague commitment towards the goal of EU membership but none of them showed the willingness to challenge the fundamental precepts of state ideology putting forward the reforms. However, the bloc that opposes wider democratization, which consisted basically from the security establishment, was a key part in modifying the contents of the National Program, because it looks at the democratization through Copenhagen criteria very cautiously.

The June 2001 European Council in Göteborg concluded that Turkey's National Program left room for development especially in the areas of human rights and the treatment of minorities. On 4 October 2001, amendments in 34 articles of the Constitution relative to the freedom of expression, the freedom of association, and to equality were voted. In some areas, such as freedom of speech and torture, there was a limited progress and in the amendments of the articles 13 and 14 prohibitions and limitations that legitimize the violations of human rights were repeated³¹.

As to the freedom of speech, articles 8 of the Anti- Terror Law³², 312³³, 159³⁴ and 160 of the Penal Code³⁵ were not amended. Until the end of 2001, 9.000 people were prosecuted for crimes related to the freedom of speech, according to the 2001 Regular Report on Turkey's accession³⁶. Articles 312 and 159 of the Penal Code prohibit any expression of opinion as regards to the sensitive issues such as Islam or the Kurdish issue.

With regard to the freedom of association, each one of the associations has to submit all the publications to the local authorities as well as pay the travel expenses of an undefined number of governmental Committees in charge of keeping the minutes of its meetings. The Human Rights Foundation of Turkey has been prosecuted according to that legislation. Regarding the Law on Political Parties, Communist, separatist or religious- oriented parties are prohibited³⁷. Those that did not participate

³¹ N. Λυμούρης, “Η προστασία των ανθρωπίνων δικαιωμάτων στην Τουρκία” (“I prostasia ton anthropinon dikeomaton stin Tourkia”), *Εξωτερικά θέματα*, 2003

³² Against the separatist propaganda

³³ Racial, ethnic and religious enmity

³⁴ Offence against the Parliament, the military, democracy and the legislative corps

³⁵ Offence against the Turkish Republic

³⁶ 13 November 2001

³⁷ Article 5, 78-90 of Law on Political Parties

in two consecutive elections should be dissolved and their properties should go to the state³⁸ and the dissolution of a political party is a decision of the Constitutional Court³⁹. The cases of the United Communist Party, the Socialist Party, the Freedom and Democracy Party and the Prosperity Party showed that the freedom of association has been violated according to the article 11 of the European Convention on Human Rights and Fundamental Freedoms.

Furthermore, the amendments recognized the right to a fair trial. The detention period was limited to 48 hours and in cases of group prosecutions to 4 days. According to the Committee for the Prevention of Torture, the amendments did not include the abolition of isolation in the case of the political prisoners. An indicative case of violation of the right of expression is the 15-year imprisonment of the Kurds ex-deputies who were sentenced in 1994 for the non-violent expression of their conscience. In that case, article 6 of the European Convention for Human Rights and Fundamental Freedoms has been violated.

As to the prevention of torture and the conditions of detention, the prisoners in F-type cells⁴⁰ -established since 2000- can go out less than once in a week and only in cases that a very close relative is paying a visit. Medical care is not provided and many prisoners end up in hunger strikes. In 2001 the deaths from hunger strikes were 33. Phalanx, sexual abuse -to men, women and children-, deprivation of food and sleep and electric shock are among the tortures spread in F-type prisons.

As to the issue of death sentence, gradual settings led to its official abolition. In 2001, 24 death sentences had been pronounced and during the previous years 31 plus 11 whose ratification was pending in the Turkish Parliament were declared. Between 1980 and 1984 more than 50 death sentences were carried out. However, since 1984, no execution of death sentence has been reported, but only on 3 August 2002 the Parliament voted for the official abolition of the death sentence. On 15 January Turkey signed the 6th Protocol of the European Convention for Human Rights and Fundamental Freedoms.

In the Regular Report in 2001, the European Commission inaugurated the constitutional amendments passed on 3 October 2001. The attention had to be drawn to the application of those amendments. Article 38 limited the death penalty to crimes

³⁸ Article 105, 107 of Law on Political Parties

³⁹ Article 69 of Law on Political Parties

⁴⁰ Isolation cells

of war and terrorism. The latter were contrasting with Protocol 6 of the European Convention on Human Rights and Fundamental Freedoms. Articles 26 and 28, which prohibited the use of mother tongues other than Turkish were abolished but the Commission noticed that equal cultural rights for all Turkish citizens were not guaranteed. The casualties because of hunger strikes urged that the civil dialogue should get started. Despite the fact that legislative reforms had already started, corruption still remained a problem, four areas were in a state of emergency and the Copenhagen criteria were not sufficiently met. The Commission noted that the situation in Southeastern Turkey should be ameliorated and that Turkey had to put more effort to meet the short-term priorities and the economic requirements.

From the Copenhagen Summit of 2002 to the Brussels Summit in 2003

In August 2002, the death penalty was removed, broadcasting and education in the mother tongues other than Turkish was allowed and laws restricting freedom of speech and association were liberalized. However, the Cyprus issue remained intact, the extension of cultural rights of minority groups was not implemented in practice, the military continued to be omnipotent in political affairs and the economy's performance was not promising.

On October 9, 2002, the Commission released its 2002 Regular Progress Report on Turkey. All political reforms were examined in this context and the political will of the Turkish Government was recognized but, at the same time, the Report made it clear that there were still many problems on the effective application of the reforms and that a considerable number of measures remained to be taken. On Cyprus, the Progress Report covered the period prior to the proposals of the UN Secretary-General.

The Commission, in its Strategy Paper, has made the following recommendations on Turkey: A revised Accession Partnership; enhanced Political Dialogue, mainly on the in depth discussion of the three sensitive issues (human rights, Cyprus, peaceful settlement of disputes); continuation of the analytical examination of the acquis; deepening of the Customs Union, especially in the fields of Services and Public Procurement; more emphasis on the Justice and Home Affairs chapters; participation of the country in the Community programs and increase in pre-accession aid.

At the Brussels European Council (October 24-25, 2002) the Heads of State and Government welcomed the progress achieved by Turkey towards the fulfillment of the political criteria. They reconfirmed that this has brought forward the opening of accession negotiations and asked the Council to prepare those pieces of evidence that will help the European Council to decide on the next phase of Turkey's pre-accession strategy, on the basis of the Commissions recommendations and the conclusions of the European Councils of Helsinki, Laeken and Seville.

In November 2002 the national elections were held in Turkey and the AKP (Justice and Development Party) formed a self-reliant government. In Copenhagen (12-13.12.2002), the European Council acknowledged the determination of the new Turkish government to take further steps on the path of reform and urged it to address swiftly all remaining shortcomings in the field of the political criteria, not only with regard to legislation but also, in particular, with regard to implementation. It said that "if the European Council in December 2004, on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the European Union will open accession negotiations with Turkey without delay". Furthermore, the Copenhagen European Council decided that, in order to assist Turkey towards EU membership, the accession strategy for Turkey should be strengthened. The Commission "was invited to submit a proposal for a revised Accession Partnership and to intensify the process of legislative scrutiny. In parallel, the EC-Turkey Customs Union should be extended and deepened. The Union will significantly increase its pre-accession financial assistance for Turkey". This assistance will be financed from 2004 under the budget heading "pre-accession expenditure". The Copenhagen Summit left Turkey dissatisfied, not only because it did not give a firm date for the start of the accession negotiations, but also because it decided that Cyprus would access in the Union together with the other nine candidate states in the next enlargement.

In February 2003, the presidential elections were held in Cyprus and T. Papadopoulos became the new President. Meanwhile, the Greek Presidency of the EU affirmed its support to the strengthening of the accession strategy for Turkey⁴¹. On 16 April 2003, the accession treaties for the European enlargement were signed and on the 23rd the borders opened in Cyprus.

⁴¹ "The Greek Presidency will energetically strive to further strengthen the accession strategy for Turkey" in www.mfa.gr

On 19 May 2003, the revised Accession Partnership was issued. The recommendations for further work identified in the Commission's 2002 Regular Report were formed in a form of short-term (2003-2004) and medium-term priorities (more than one year). The short-term political criteria are stated as follows:

- 1) Settlement of the Cyprus problem,
- 2) Peaceful settlement of border disputes
- 3) Ratification of the International Covenant on Civil and Political Rights and its optional Protocol and of the International Covenant on Economic, Social and Cultural Rights. Ratification of Protocol 6 of the European Convention on Human Rights. Compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms, including respect to the judgments of the European Court of Human Rights.
- 4) Prevention of torture and ill-treatment, amelioration of the situation in prisons
- 5) Abolishment of all forms of discriminations
- 6) Freedom of expression and freedom of press
- 7) Freedom of association and trade unions
- 8) Enhancement of civil society and religious freedom
- 9) Respect for cultural diversity and cultural rights, radio/TV broadcasting and education in languages other than Turkish
- 10) Civilian control of the NSC
- 11) Independence of the judiciary and conform to the European Court on Human Rights
- 12) Training and education on human rights.
- 13) Improvement of the regional disparities and of the situation in the Southeast.

Turkey replied with its revised National Program of 2003. It stated that:

- 1) Death penalty was abolished
- 2) Legislative and administrative measures against torture and ill-treatment were put into force
- 3) Imprisonment, detention, custody standards and trials were implemented according to European Convention for Human Rights

- 4) The state of emergency in the Southeast was lifted.
- 5) The freedom of thought, expression and press were expanded
- 6) Freedom of association, right to peaceful assembly and demonstration were expanded
- 7) Functioning of the Executive and functioning and efficiency of the Judiciary were provided
- 8) Cultural diversity and cultural rights were respected. Full enjoyment of all fundamental rights and freedoms by all individuals without discrimination shall be implemented.
- 9) All the Covenants referred to the revised APD were ratified
- 10) Training of public officials according to Human Rights Law was put into force
- 11) A EU harmonization Committee was established in the Parliament for the legislative harmonization with the EU standards
- 12) Importance to freedom of thought and expression shall be guaranteed within the framework of the protection of territorial integrity and national security and on the basis of safeguarding the secular and democratic nature of the Republic, the unitary structure of the state and national integrity.

The European Council in Brussels on 12-12 December 2003 welcomed the efforts for reforms made by Turkey to meet the Copenhagen criteria and the revised Accession Partnership issued in May 2003. More efforts should be made for strengthening the independence and functioning of the judiciary, the overall framework for the exercise of fundamental freedoms (association, expression and religion), the further alignment of civil-military relations with European practice and the cultural rights. The Council reaffirmed that actions should be taken for the situation in Southeastern Turkey and that political will to settle the Cyprus problem will facilitate Turkey's membership aspirations. The decision was to be taken by the European Council in December 2004 on the basis of the report by the Commission.

Progress in the fulfillment of the political criteria in 2004

In an interview in the journal «Εξωτερικά Θέματα» (External Affairs) in January 2004, Turkish Prime Minister Recep Tayyip Erdoğan characterized its

government that of “the reforms”. It managed to proceed in constitutional and legislative amendments, in the New Civil Code and in seven harmonization packets. Among others, it introduced training programs for the effective realization of the reforms. In Turkey during 2004, many governmental bodies dealing with human rights were established and in January 2004 the “Minority Issues Assessment Board” was founded. That deals with the violation of minority rights⁴² such as violation of the freedom of association (for the cases of the Foundations-Vakıflar), the freedom of religion (lack of legal personality, property rights, interference in the management of the Foundations, administrative obstacles for renovations), and violations of cultural rights (use of languages and broadcasting in languages other than Turkish).

The European Council in Brussels on 17-18 June 2004 welcomed the progress and constitutional amendments adopted in May 2004. It concluded that legislative work and reforms at all levels of administration had to be done. It reemphasized the importance of strengthening the independence and functioning of the judiciary, the overall framework for the exercise of fundamental freedoms (association, expression and religion), cultural rights, the further alignment of civil-military relations with European practice and the situation in the southeast of the country. It invited Turkey to conclude negotiations on the adaptation of the Ankara Agreement and to take account of the accession of the new member states. It also welcomed positive effort towards the settlement of the Cyprus issue.

The European Council on 16-17 December 2004 in Brussels was the most significant during the pre-accession negotiations, because on the basis of its decision at Helsinki, the European Council decided to open accession negotiations without delay on the basis of the report and recommendation of the Commission. It welcomed Turkey’s decision to sign the Protocol regarding the adaptation of the Ankara Agreement prior to the actual start of accession negotiations. It stated that the EU would continue to monitor reforms on human rights and fundamental freedoms. On the basis of good neighborly relations, Turkey had to work towards resolution of any outstanding border disputes with recourse to the International Court of Justice if necessary. Turkey after the adoption of the six pieces of legislation identified by the Commission sufficiently fulfills the Copenhagen criteria. The opening of negotiations

⁴² Tsitselikis K., “How far have EU policies affected minority issues in Greece and Turkey?” Boğaziçi University, Istanbul 2004

was decided to be the 3rd October 2005 after the agreement of the Council as to the Negotiating Framework that will be presented by the Commission. The Council decided that the framework for negotiations should be adopted unanimously. Furthermore, it noted, “Negotiations are an open-ended process, the outcome of which cannot be guaranteed beforehand. In case of serious and persistent breach of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law, suspension of negotiations is possible”. Last but not least, political and cultural Dialogue that will include civil society was stated to be important for the opening of the accession negotiations.

The opening of the Accession Negotiations and the progress in the fulfillment of the political criteria

After having signed the Association Agreement (Ankara Agreement)⁴³ and the Additional Protocol for the extension of Customs Union to the new member states⁴⁴, Turkey started accession talks on 3 October 2005. The Protocol was signed in July and the Turkish authorities submitted a declaration that referred to the application of the Protocol to Cyprus. The EU issued a counter-declaration on the 21st of September.

The negotiating framework was set on 3 October 2005 in Luxemburg. It referred to the principles governing the negotiations. It reaffirmed that “negotiations are an open-ended process, the outcome of which cannot be guaranteed beforehand”. It called Turkey to implement the Copenhagen criteria, to commit to good neighborly relations and to undertake to resolve any outstanding border disputes according to the UN Charter and accepting the jurisdiction of the ICJ. It also called Turkey to support the efforts to achieve a comprehensive settlement of the Cyprus problem and to fulfill the obligations under the Association Agreement and its Additional Protocol. As to the substance of negotiations, the negotiating framework set the negotiating procedures that will be directed by an Intergovernmental Conference and included an Annex with a preliminary indicative list of Chapter Headings of the subjects of priority for the scanning process of the European *acquis*.

On 9 November 2005, the European Commission published its Progress Report on Turkey together with the third and revised Accession Partnership and the

⁴³ See <http://www.abgs.gov.tr>

⁴⁴ See http://www.abgs.gov.tr/files/AB_Iliskileri/Tur_En_Realitons/protokol_2005.pdf

Strategy Paper of 2005. The Commission, under the chapter “Democracy and the rule of law” criticized the 10% threshold of the electoral system, the Presidential vetoes and the lack of implementation of laws that were already amended. On 25 May 2005 the Prime Minister appointed Ali Babacan as chief negotiator who will keep the Prime Minister in touch with the General Secretariat for the EU affairs. As to the civil-military relations the Commission refers to the decrease of the military staff of the NSC but also to the political influence of the armed forces. Important progress has been made in the judicial system. The Penal Code, the Code of Criminal Procedure, the Law on Enforcement of Sentences and the Law on the Establishment of the Regional Courts of Appeal have been amended. Anti-corruption policy was proved not to be effective and corruption remains a serious problem in Turkey.

Under the chapter “Human rights and the protection of minorities”, the Commission reports that there has been a progress in ratification and execution of judgments of the European Court of Human Rights but problems with retrials have been reported especially in the cases of Öcalan and Hulki Güneş. With regard to the promotion and enforcement of human rights, the institutional framework has not been modified and the investigation committee still receives important complaints. In connection with the civil and political rights, torture and ill treatment are still frequent and the modified laws raise concerns. Many challenges remain in the area of fighting against impunity. Extra judicial killings have increased. Custody, trial rights related to Anti-Terror Law as well as the situation in prisons also raise concerns.

Freedom of expression of non-violent opinions continues to be violated especially because of Article 301 of the new Penal Code on “insulting the state and state institutions”. The cases of Orhan Pamuk (August 2005), Hrant Dink (October 2005), Emin Karaca (September 2005), and Ragıp Zarakolu are prominent. The Commission referred to the conference, in late September 2005, at Istanbul Bilgi University about the Ottoman Armenians as a good sign of civil dialogue, which ran the risk of cancellation. Legal actions against cartoonists and satirists are of concern and the article of New Penal Code 301 restricts freedom of press. Right of broadcasting has been granted but there is not efficient implementation of broadcasting in languages other than Turkish in channels except TRT. The new Law on Associations did not reduce state interference in their activities. As to the Freedom of Assembly, police intervened in the demonstration on Women’s day on 6 March 2005. The Political Parties Law needs amendment.

There has been a very limited progress in the freedom of religion; In practice non-Muslim religious communities continue to encounter significant problems: they lack legal personality, they face restricted property rights and interference in the management of their Foundations, and are not allowed to train clergy. The non-Sunni Muslim Alevi community continues to experience difficulties in terms of recognition of places of worship, representation in relevant state bodies as well as in relation to compulsory religious education. With reference to the Law on Foundations, the cases of the Greek Orthodox Halki Seminary and the Ecumenical Patriarchate have to be tackled with. Harassment of religious minorities has been reported: there was a bomb placed in the Ecumenical Patriarchate in October 2004.

As for the economic and social rights, little progress has been achieved on women's rights; "honor killings" and discrimination on the basis of gender remain a cause for concern. The rights of children are not protected, especially in the Southeast, as well as the rights of the disabled people. Trade unions do not enjoy freedom without restrictions. As regards the minority rights, cultural rights and protection of minorities, the situation remains unchanged since last year's report. Turkey did not sign the Council of Europe Framework Convention for the Protection of Minorities, problems have been reported in the schoolbooks and in the appointment of teachers in minority schools, Greeks cannot inherit property, Roma rights and the cultural rights of the Kurds are not protected. The progress as to the situation in the East and Southeast is still slow and uneven: Issues that involve the security situation, the law on compensation of losses resulting from Terrorist Acts, the internally displaced persons and the problem of village guards are not solved.

At this point in relation to minority rights, the report makes specific references to the human rights' violations that Greeks of Gökçeada (Imvros) are subjected to by the Turkish authorities. The difficulties relate to the land registry and the designation of land and buildings as "monuments of nature or culture", which has led to the confiscation of property. Moreover, there are reports of tenders being launched for land that was expropriated in the past and a former Greek minority school started operating as a hotel in June 2005 against the wishes of this minority. As to religious freedom, a large number of churches and chapels have been destroyed and/or confiscated by the Turkish state. Furthermore, Turkey's refusal to recognize the Greek Orthodox Metropolis of Gökçeada (Imvros) and Bozcaada (Tenedos) as a legal entity has allowed for the encroachment of church properties on these islands. With

respect to education, the Turkish authorities have refused to permit the reopening of Greek schools or the instruction of the Greek language on the island. Instead, the community's schools are being handed over to Turkish entrepreneurs and utilized for tourism development. As a result, not one Greek student remains on the island today. Last but not least, "the Greeks of the island are being denied their basic rights with regard to the real estate they own on the island (i.e. whatever remains in their possession subsequent to the "expropriations" of previous years, which resulted in 90% of the island's arable lands being confiscated by the Turkish state). In an attempt to legitimize the *fait accompli*, the confiscated Greek real estate is now being offered free of charge by the authorities to Turkish business interests and settlers.

In the last chapter relative to the political criteria, the European Commission reports the progress achieved as to the regional issues: There has been a positive development as to Cyprus and the peaceful settlement of border disputes through the confidence building measures (CBMs) applied in result of the collaboration between the armed forces of Greece and Turkey. By August 2005, 31 rounds of meetings at the level of MFA under-secretaries in the context of exploratory talks have been held. The judicial agreement, the construction of the natural gas pipeline and the President of the Parliament's proposal of "dropping the *casus belli*" in April 2005 are positive signs of the bilateral relations. Unfortunately, there has been no follow-up towards the implementation of this proposal.

In the general evaluation of its Report, the Commission declares that Turkey continues to sufficiently fulfill the political criteria but it also states that the pace of change has slowed down in 2005.

On the same day, the Accession Partnership 2005 was presented, which revises the principles, the priorities and the intermediate objectives and conditions to which Turkey is expected to respond with a plan. The short-term political criteria are referred to as follows:

- 1) As to the enhancement of democracy and the rule of law, changes should take place in the following areas: Public administration, Civil-military relations, the judicial system, and Anti-corruption policy.

- 2) As to the implementation of Human rights and protection of minorities, Turkey has to prove its commitment to the observance of International Human Rights Law, the civil and political rights (prevention of torture and ill-treatment, access to justice, freedom of expression, association and peaceful assembly, freedom of

religion), the economic and social rights (women's rights, trade union rights) and to the minority rights, cultural rights and the protection of minorities (situation in the East and Southeast).

3) Regarding the Regional issues and international obligations, Turkey has to deal with the Cyprus problem and work towards a peaceful settlement of its border disputes. Last but not least, Turkey has to honor its obligations derived from the Association Agreement and its Additional Protocol for the extension of the Customs Union to the new member states.

The Regular report enumerates the economic criteria, and presents the progress of the ability of Turkey to assume the obligations of membership (implementation of the *acquis*). In the enumeration of the medium-term priorities, the Commission refers particularly to economic criteria and the *acquis*, and provides monitoring for the facilitation of reforms.

In addition to the previous documents, in its Strategy Paper 2005, the Commission sets the enlargement policy pursued by the EU. It explains the progress made by Turkey and declares that the accession strategy will be based on conducting accession negotiations and supporting reforms. In the end, it presents the summary of the Progress Reports published by the Commission for every single candidate country. In reply to the last Accession Partnership Document, Turkey has prepared its third National Plan⁴⁵, which has not yet been published, but its publication is expected in the year 2007⁴⁶.

Finally, the content of the 2006 report of the European Commission will be presented, which will be the concluding report for the purposes of this research. During the reported period of time, the Turkish Grand National Assembly has adopted 148 laws of a total 429 draft bills submitted since October 2005 and the government submitted a new reform package in June 2006 covering a number of areas related to the Copenhagen political criteria. However, the new Anti-Terror law legislation introduces restrictions on freedom of expression and press and reduces procedural safeguards for suspects of terrorist offences.

The report confirmed the commitment of the government to the EU accession process and presented the structure of the negotiating team. As to the Public

⁴⁵ National Program' s new name

⁴⁶ Ahmet Aydın Doğan, interview European Union General Secretariat, Ankara February, 5 2007. At the time of the interview, the draft National Plan has already been written

Administration, the report praises the adoption of the law establishing the Ombudsman and the regulations concerning state budgets and the introduction of Regulatory Impact Assessments (RIA). The Commission draws the attention to the Presidential vetoes on the adoption of the Framework Law on Public Administration and to the lack of progress concerning fiscal decentralization. As to the civil-military relations, there has been much progress concerning the competence of military courts to try civilians. However, the government has adopted the National Security Policy document (Red Paper) handed by the National Security Council without discussion in the parliament and the Turkish Armed Forces continue to exert political influence in foreign and domestic politics. Civilian control over the Gendarmerie and parliamentary overseeing of military budgets and expenditures remain to be achieved. As to the judicial system, there has been much progress as to the implementation of the new laws thanks to the training activities, but the Şemdinli incident revealed that the High Council of Judges and Prosecutors is not independent. The implementation of Article 301 of the new Penal Code raises serious concerns. There has been limited progress as to the anti-corruption measures.

Under the chapter “human rights and protection of minorities”, the Commission reports positively as to the ratification of international human rights instruments and to the execution of the European Court of Human Rights judgments. Thus, the European Social Charter was accepted with reservations and discrimination by public authorities is still in force. The applications regarding Turkey to the European Court of Human Rights are mostly related to Cyprus and freedom of expression. The Commission notices that the Human Rights Advisory Board under the Office of the Prime Minister has not been operating since the publication of a report on minority rights in Turkey in October 2004.

As to the civil and political rights, the cases of torture and ill treatment declined over the reporting period but concerns remain regarding cases outside detention centers and impunity is still a problem in the Southeast of the country. The right of access to justice and the conditions in the prisons are positively reported and as to the freedom of expression and media, an open debate has increased in recent years in the Turkish society on a wide range of issues but Article 301 of the new Penal Code and the Anti-Terror Law continue to blemish the image of the Turkish democracy. As to the freedom of assembly, public demonstrations are subject to fewer restrictions and police officers were prosecuted in the Women’s Day for the excessive

use of force, which however remains as a problem. Legislation as to the freedom of association has been appreciated but religious and Kurdish associations were challenged in court. The Turkish law on Political parties is in need of alignment with the European practice. The estimation as to the civil society organizations is positive, which cannot be said for the enjoyment of the freedom of religion. Communities lack legal personality and face restricted property rights. The Büyükada Greek Girls' and Boys' Orphanage, the Halki Seminary, the ecclesiastical title of Ecumenical Patriarch, the attacks against clergy (Andrea Santoro in Trabzon) and places of worship of non-Muslim religious Communities and the lack of development in relation to the situation of the Alevi community are issues that have to be tackled with. Optimism raises the abolition of religion in the ID cards and the heavy penalty for the perpetrator of the priest Andrea Santoro.

As to the economic and social rights, despite the penalization of the violence against women and the campaigns for girls' education, honor killings and suicides take place in the Southeast because of forced marriages. Women remain vulnerable to discriminatory practices, due largely to a lack of education and a high illiteracy rate. Legislation and provision of funds reinforced children's rights, but the level of school attendance in the East and the Southeast is low, child labor and ill treatment in an orphanage in Malatya revealed the shortcomings of the child protection system. The rights of the disabled people have been boosted but the same cannot be said for the trade unions' rights.

As to the Minority Rights, Cultural Rights and Protection of Minorities nothing positive can be reported as a development. The permission of broadcasting in mother tongues other than Turkish and private education of Kurdish language, the law on Compensation of losses resulting from terrorist acts, the statement of Prime Minister Erdogan in 2005, which included the phrase "the Kurdish issue" and the establishment of two Roma federations and advocacy organizations can be characterized as positive steps. However, minorities are conceived to be only the non-Muslim and not the national ones. Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages. Greek minority education and property of the Syriacs and the Greeks of Gökçeada and Bozcaada (Imvros and Tenedos) face violations of minority rights. Furthermore, broadcasting in Kurdish faces time restrictions; education in Kurdish is not granted; the security situation in the Southeast

renders dialogue to solution unattainable; the situation of the internally displaced persons is not reconciled and discriminatory provisions against the Roma are still functioning.

As to the preconditions that concern regional issues and the international obligations of Turkey, support to the UN efforts for the settlement of the Cyprus issue and the setting up of technical committees between the two Cypriot communities are appreciated but the Commission lays emphasis on the implementation of the Protocol and further normalization of the bilateral relations of Turkey with all the member states. As to the peaceful settlement of border disputes, positive developments have been reported. High-level contacts have continued, the 34th round of the exploratory talks is in process and the unfortunate collision of the Turkish and the Greek military aircrafts over the Aegean did not lead to escalation of a crisis. The only negative element is the continued reference to the “casus belli” that has to be renounced.

After having presented in detail the progress towards the fulfillment of the EU political criteria on behalf of Turkey, we can easily come up with the assumption that Turkey’s dynamics show commitment to Turkey’s European orientation. However, most of the political criteria set by the European Councils and the EU Commission’s reports are repeated every year. The pace is very slow and the amendments seem to be treated as superficial modifications of articles dealing with technical details. The reasons behind this delay remain to be revealed in the progress of this research.

Decision units in Turkey on the EU-Turkey political agenda

After having presented the progress towards the fulfillment of the EU political criteria on behalf of Turkey, it is important to define the eligible people who decide on the issue of the accession negotiations of Turkey’s candidacy for full membership in the European Union and especially those who deal with the implementation of the political criteria: Human and minority rights, the Aegean disputes and the Cyprus issue.

Before dealing with the recent decision-making processes in Turkish foreign policy regarding the implementation of the EU political criteria, it is important to have an image of those processes throughout the history of the Republic. Foreign policy behavior of Turkey has been very much conditioned by the structure of the

international system⁴⁷. As it has happened in the cases of other middle-powers⁴⁸, Turkey's security considerations stemming from the post-First World War period, the Second World War, the Cold War and the period following the collapse of the bipolar system, together with Turkey's resources and domestic balances defined the decision-making processes throughout the country's history. In the early Republican era, a small group of men was responsible for foreign policy making⁴⁹. That did not change until the 1960s⁵⁰, when civil society organizations⁵¹, political parties and the public became more involved in foreign policy affairs. The expansion of the actors in foreign policy coincided with the civilianization process that started after 1981, during the years of T. Özal. Thus, the bureaucracy, the Parliament and the military as foreign policy actors, were sidelined by the increasingly important role that T. Özal played in foreign policy formation matters⁵².

In the 1990s, the military increased its position as a foreign policy actor and a new one was added in the group of decision units, the economy bureaucracy. The Foreign Ministry bureaucracy preserved its prominent position, but the Presidency emerged as an additional important actor. Compared to the earlier period, the Parliament increased its involvement in foreign policy formation. To those classical actors, some other players were added; Ethic lobbies, economic lobbies⁵³, civil society organizations made their appearance⁵⁴, in contrast with the Cold War years, when usually conformed to the state's guidelines. It is argued that during the last decade, the role of the media was increased in foreign policy formation. However, in order to specify the actors that involved in the decision-making process after 1999 and particularly in relation to the implementation of the political criteria set by the EU, we should closely examine the cases of the Helsinki Summit and the bodies conducting the negotiations with the EU.

⁴⁷ Altunışık, M. and Tür, Ö., "Turkey in world affairs" in *Turkey: Challenges of Continuity and Change*, London: Routledge Curzon 2005

⁴⁸ *Ibid*

⁴⁹ *Ibid*

⁵⁰ The 1961 Constitution was liberal in its provisions on civil rights see *inter alia* Altunışık, M. and Tür, Ö., "Turkey in world affairs" in *Turkey: Challenges of Continuity and Change*, London: Routledge Curzon 2005

⁵¹ Namely trade unions and universities

⁵² *Supra* no. 47

⁵³ Especially TÜSİAD

⁵⁴ See *inter alia* Robins P., *Suits and Uniforms: Turkish Foreign Policy Since Cold War*, University of Washington press, Seattle, 2003

Throughout the history of Turkish foreign policy, some primary players⁵⁵ can be easily distinguishable. Those are 1) the government and the Minister of Foreign Affairs, 2) the President, 3) the Ministry of Foreign Affairs that can be characterized as the bureaucratic elite and its level of activity is substantial in EU and Cyprus affairs and 4) the Security Establishment⁵⁶, which is represented by the National Security Council (NSC⁵⁷).

Our next step is to examine whether those decision units were influential in the case of the Helsinki Summit in 1999. President Demirel took advantage of the powers provided by the Constitution. He was personally interested in the subject and had a constant communication with Prime Minister Ecevit and the Minister of Foreign Affairs, Ismail Cem. The coalition government consisted of three parties; Devlet[[Bahçeli as Deputy Prime Minister and Mesut Yılmaz followed Ecevit. Other members of the Cabinet who had a significant saying together with the bureaucrats of the MFA were Ismail Cem, Şükrü Sina Gürel as the responsible for Cyprus and Mehmet Ali İrtemçelik as the responsible for the EU- Turkish relations. In that case, we can trace no explicit involvement of the military and the parliament.

In the 1999 Helsinki Summit Declaration, there were requirements concerning the Aegean dispute and the Cyprus issue⁵⁸ that were repeated in the National Program of Turkey presented in 2000, together with the requirements for political reforms, and respect for human and minority rights⁵⁹ that were referred to explicitly as short-term and medium-term criteria. For the harmonization process, the Secretariat General for the EU affairs was established in 2000. Volkan Vural, Murat Sungar and Oğuz Demiralp served in the position of Secretary General for EU affairs. Head of the harmonization Committee was Yakış followed by A. Babacan, who also headed the October 3rd 2005 launch of negotiations for full membership. Among the decision units for the implementation of the harmonization program were the Head of the Permanent Mission of Turkey to the European Union, Volkan Bozkir, who is still the head of the Mission, followed Oğuz Demiralp.

⁵⁵ *Ibid*

⁵⁶ The military along with the MIT and the Gendarmerie must be conceived as the security establishment.

⁵⁷ MGK in Turkish

⁵⁸ Conclusions of the Helsinki European Council in <http://ec.europa.eu/enlargement>

⁵⁹ Respect for human and minority rights existed in the 1997 Luxemburg Summit Declaration

Since 3 October 2005, Ali Babacan heads the main bodies that participate in the negotiations for the fulfillment of the Copenhagen criteria and the harmonization with the European *acquis*. These bodies are:

- 1) The Secretariat General for the EU affairs, directed by Oğuz Demiralp. Under the Secretariat there is a directorate for Political Affairs headed by Ahmet Acet.
- 2) MFA/EU Affairs' department consisting of the Directorate General for the EU (ABGM) whose head is the Deputy Undersecretary for European Affairs (MAAY- Ahmet Acet), the Directorate General for the bilateral political affairs in Europe (AVGM) and the Directorate General in charge of EU accession negotiations (Ömer Kaya Türkmen)
- 3) Under secretariat of the Prime Minister's Office in charge of EU Affairs
- 4) The State planning organization, which is in charge of mainly economic matters and refers to the Prime Minister
- 5) Turkey's Permanent Representation in Brussels, whose head is Volkan Bozkir.

The supervision and orientation committee consists of Oğuz Demiralp, the MFA's Deputy Undersecretary for EU Affairs, the Deputy Undersecretary of the Prime Minister's office in charge of EU affairs and Turkey's Permanent Representative in the EU. NGOs should participate in the civil society dialogue that is promoted by the EU Communication group and directed by the journalist Ahmet Sever. Especially for the implementation of the Copenhagen criteria, the Foreign Minister (A. Gül), the chief negotiator (A. Babacan), the Minister of Justice (Cemil Çiçek) and the Minister of Interior Affairs (Abdulkadir Aksu) are responsible.

Except the aforementioned persons, there is a certain contribution of the special advisor of the Minister of Foreign Affairs and of the Prime Minister himself. The problem is that it is difficult to trace the order of importance of the institutions and the persons involved in the accession negotiations who deal only with the fulfillment of the political criteria. The political weight of the decision-making process for EU matters seems to have been transferred from the military to the government and the Ministry of Foreign Affairs. Babacan and the Secretariat General for EU affairs seem to play an important role among the bureaucrats. The role of the secondary players⁶⁰

⁶⁰ *Supra* no. 24

cannot be identified and we cannot exclude any interference of the military in critical situations, but there is no formula that shows the way through which the military/ the NSC interferes in the negotiation process with the EU. What can be mentioned is the potential reduction of power of the military in the progress of negotiations, which demand reforms to the political system of Turkey.

PART II:

Investigating the perceptions of the political elites

General perceptions of the political elites: The image of the European Union

First of all, it is important to present some general perceptions as to how Turkish political elites conceive of the European Union. The Turkish political elites Euro-philes or Euro-skeptics, agree on the idea that the EU applies double standards in Turkey's accession: it obliges Turkey to fulfill criteria never required before in the case of other state candidacies. All the interviewed people think that the political criteria consist of obligations that Turkey must and can fulfill but that the EU people belittles Turkey and that the issue of Cyprus is treated in a way that demeans Turkey's efforts. It is noticed that there is a clear-cut distinction between the supporters of the secular state and the religious-orientated elite, as well as that all the interviewed represent a specific segment of the Turkish political scene. What is worth mentioning is that the military is never and by no one harshly criticized, and that during the interviews the most difficult questions to be answered were connected to the civil-military relations.

By way of an overall evaluation, Egemen Bağış, Prime Minister's Erdoğan Foreign Policy Advisor and Istanbul representative of the AKP, believes that Turkey is not treated in a discriminatory way, but at times double standards are applied. Undoubtedly, Turkey has to implement the political criteria because the Turkish people deserve to live better. According to his opinion, the criteria defined in the European Union Commission's reports are compatible with the tolerance with which Turkish people are familiar due to the structure of the Ottoman Empire. Military people may have founded the Turkish Republic and the army may have an important position in the Turkish history, but the founding fathers themselves clarified that Turkey had to catch up with the level of contemporary civilization. Today those values exist in the EU standards. For this, even the criteria concerning civil-military relations are compatible with Turkey's case. Furthermore, he emphasizes the commitment of the government at the beginning of the negotiations, which is proven by the work done during the last couple of years. The EU Commission's last report

refers to a “slowing down” of the process, an assumption with which he does not agree. There are some issues as to the implementation of the Additional Protocol for the extension of Customs’ Union to the ten new member states, which do not derive from Turkey’s obligations towards EU but from the promises of EU towards Turkey that are not kept, such as the recall of the isolation of the Turkish-Cypriots. The unfulfilled expectations created some distrust that can be interpreted as a slowing down of the process.

The representative of the Ministry of Foreign Affairs, Muhsin Kılıçaslan looks at the EU in a positive way and thinks that the sharing of sovereignty will direct the EU countries to many achievements. He agrees with the rest of the interviewed people that Turkey did everything to show its commitment to the EU vision and that this was not recognized on behalf of the EU governments. Many politicians and opinion makers express this complaint, which reflects a sincere feeling of victimization. However, Mr. M. Kılıçaslan appears to be more optimistic from those who support the view that the EU member states are very prejudiced against Turkey claiming that there are powers very fond of Turkey. On the contrary, he thinks it is unfair that the negotiations were suspended while the EU did not keep its promise for lifting the isolation of the Turkish-Cypriots. Turkey was a keen supporter of the settlement of the Cyprus issue according to the Annan Plan and is not responsible for a viable solution in the island not having been reached. According to his opinion, the double standards relative to the Cyprus issue, the anti-Turkish feelings promoted by some European leaders to disorientate their constituencies, -as it happens in Germany- together with the *Islamofobia* created due to the 9/11 and the rise of nationalism because of the globalization process have repercussions on the Turkish public opinion towards the EU.

On the contrary, Ahmet Aydın Doğan, the Head of the Directorate of Political Affairs in the European Union General Secretariat seems to be completely pro-European. He finds the political criteria very fair and he is certain that EU is very scrupulous in applying the same criteria in all the state candidacies. The requirements that the EU specified in Turkey’s case are not double standards, as it is often claimed, but details to the basic principles with which Turkey has to comply. He thinks that sometimes the approach of some EU member states is discriminatory against Turkey but the political criteria are not. Indeed, he appears to be the most relevant with the idea of the European Union.

Emin Zararsız, the Deputy Undersecretary to Prime Minister Erdoğan declares that Turkey will fully implement all the political criteria as long as the present government that proved its commitment to the willingness of becoming a full member of the EU stays in power. It has to be understood that Turkey may have “sufficiently fulfilled” the Copenhagen criteria to start the accession talks with the EU, but this does not mean that there are no incomplete areas. He warrants that until 2014 all the political criteria will have been implemented. He does not agree with any claims of slowing down of the process because the suspension of negotiations in the 8th chapter is irrelevant with the Cyprus issue because of which EU-Turkey’s relations are in a difficult period. According to his opinion, the fulfillment of Turkey’s obligations, deriving from the Additional Protocol, is a double standard and Cyprus’ s membership and its ability to block Turkey’ s negotiations with the EU despite its negative note to the Annan Plan were not fair. The EU promised that it would lift the isolation of the Turkish-Cypriots but it did not keep its promise largely due to the domestic political agendas in the EU member-states.

At this point, it is obvious that the Cyprus issue is seen as a field of bargaining between the EU and Turkey, where both sides should make one step at a time. The initiative on Cyprus taken on December 2006 has been planned within the same context. Moreover, there is a highly discussed view that Turkey must not fulfill all the political criteria while the EU wavers on whether it wants Turkey as a full member. The decision-makers claim that Turkey should implement all the political criteria only when full membership is guaranteed, otherwise it will be a concession on Turkey’s part. This view shows that the EU concept is not absorbed on behalf of the Turkish political elites or on behalf of the Turkish society and that implementation of the political criteria is seen as a diplomatic game between Turkey and EU.

The determination of Emin Zararsız was nevertheless very strong. He assured that the Additional Protocol would be ratified. According to his opinion, implementation of the amendments matters much more than legislative work in the specific period. However, there is distrust towards the EU because –according to his opinion - it did not manage to absorb all the new 12 member-states and lacks orientation and democracy. Constituencies abroad and in Turkey reinforce this distrust; anti-Turkish sentiments in Europe and the reactionary anti-EU sentiments in Turkey during the last year have an impact on the implementation of the criteria.

According to Mr. Zararsız we have to bear in mind that 2007 is an election year in Turkey and not many things will be done in the fear of suffering from political costs.

Mehmet Müezzinoğlu, the Chairman of the Central Decision and Administrative Board of the AKP, criticized the EU for lack of competent leadership. He believes that both EU and Turkey will gain from Turkey's full membership in the Union but in order for Turkey to integrate, there is a need for strong EU leadership. According to his opinion, a clever leadership would have never accepted Cyprus as a full member because the dislike that emerged in Turkey against the EU would have been foreseen. Within the last year, the support to EU membership has been diminished as a reaction to those double standards that are applied in the Turkish case. It is obvious that the Turkish political elites thought that settlement of the Cyprus issue must have been obligatory for Cyprus's accession. They present this as an injustice using it as a valuable negotiating tool.

Volkan Vural, the first European Union Secretary General in Turkey defines the double standards as political criteria expected to be fulfilled in the end of the process in the case of other state candidacies but in Turkey's case they were prerequisites demanded at an earlier stage. The truth is that what worries Turkey is that in other candidacies, the European Union had the political will to accept them as full members without doubts. In the case of Turkey, there is no clear commitment on behalf of the EU as to that goal. Both some EU powers and the European public opinion are not sure of whether to accept Turkey as a full member because of its culture and its political tradition⁶¹. This is understandable up to a point, but the EU process begun and this uncertainty creates lack of confidence towards the EU. Those attitudes on behalf of the EU together with the fact that 2007 is an election year in Turkey create a vicious circle, which composes an image of slowing down of the process. Last but not least, he assures that the political will to enter the EU was the reason for the developments achieved in the area of the political criteria; the abolition of the death penalty and the granting the right to broadcast in mother tongues other than Turkish were the points where this political will reached its peak on behalf of all the political elites and the Turkish society.

As an overall image, we can say that during the last year in Turkey a wind of distrust covers EU-Turkey's relations. The Cyprus issue seems to be among the most

⁶¹ Throughout the whole text, the term "political tradition" is used as synonym to the term "political culture". For an extensive account see *infra* footnote no. 146

important reasons. The relations between Turkey and EU will be warm again if the EU makes some allowances to the Turkish-Cypriots –even at a superficial level and just enough to show to the Turkish public opinion- and that is what the government wants to achieve in order to corroborate its power at the domestic level. The slowing down of the process seems to have been caused by the domestic constituencies and the fact that the Cyprus issue still triggers the nationalistic sentiments of the Turkish public opinion.

Categorization of the political criteria

In order to investigate the perceptions of the political elites in each and every one of the criteria, the categorization introduced by the European Commission' s reports will be applied.

a. Democracy and the rule of law

Parliament

Since 2001, a number of amendments passed in the Turkish Grand National Assembly but a significant number of them -even until today- lack implementation. Moreover, the change of the 10% threshold as a requirement is repeated in all the reports. In the 2006 report, the Commission praises the parliament for its legislative work and declares that the EU Harmonization and the Human Rights Committees played a positive role. The new reform package in June 2006 raises the hopes of the Union but the Commission reminds that the wide definition of the anti-Terror law raises also serious concerns. According to government sources⁶², the pace of amendments will slow down in 2007 because it is the year of elections. It seems that the Parliament will not have the time to deal with legislative work and that power issues will postpone the decision-making process. All the pending issues will be dealt with after the National elections, the Presidential elections and the course that Turkey entered since the unsuccessful attempt of electing Abdullah Gül as President of the Turkish Republic in May 2007.

The amendments to the 1982 Constitution since 1995 are numerous. Collaboration between political parties and civil society organizations and the

⁶² Emin Zararsız, interview Prime Ministry, Ankara, February, 5 2007

establishment of youth and women organizations by political parties have been permitted and the voting age was lowered from 21 to 18 years. In 2001, Article 13 of the 1982 Constitution, which contained restrictions to the fundamental rights and freedoms, was amended in order to enlarge their scope. Articles 25 and 26 that deal with freedom of expression and press were amended. The amendments of Articles 15 and 118 constituted big changes to the National Security Council and freedom of association has been expanded. The 2004 reforms allowed the amendment of Article 90 concerning the international agreements and Article 10 concerning equality. State Security Courts were abolished and further liberalization and civilianization has been achieved. We must not underestimate the importance of the democratization packages between February 2002 and August 2003, which restructured the General Secretariat of the MGK, subjected the defense expenditures to the control of the Court of Accounts, abolished the trial of civilians by military courts, prevented torture by the police forces, enforced the cultural rights of broadcasting and education in mother tongues other than Turkish and assured transparency for all state activities, restituting the right to information. Those amendments passed due to the consensus of the parliament. The most important amendments have been already done. The experts claim⁶³ that the amendments first of all took place because of the will of the Turkish people, while the EU served as a catalyst.

As to the 10% threshold, the AKP representative⁶⁴ claims that the EU should not impose to Turkey its removal because this threshold guarantees stability of the political system and prevents the establishment of coalition governments that are unable to push the country forward. The AKP is struggling to pass an amendment to the electoral law, according to which 450 out of the 556 members of parliament will be elected according to the 10% threshold but the rest 100 members will be elected according to 1% threshold. The opposition is suspicious of this legislation because it will give the right to DEHAP for example, to be represented with at least 7 members⁶⁵.

This threshold hampers all the small parties from entering the Parliament⁶⁶. The commentators suggest that the 10% threshold will not be reduced not only because of its ideological aspects but also because the political parties in power would

⁶³ Serap Yazıcı, interview Istanbul Bilgi University, Istanbul, December 2006

⁶⁴ Egemen Bağış, interview Athens January, 27 2007 and *ibid*

⁶⁵ *Ibid*

⁶⁶ Nihal İncioğlu, interview Istanbul Bilgi University, Istanbul, December 2006

not want to expand the political scene and give space to other political formations⁶⁷. It is commonly accepted that this threshold is the most serious obstacle for a representative democracy in Turkey. However, the European Court of Human Rights in its judgment regarding the case of Yumak and Sadak versus Turkey⁶⁸, agreed that there had been no violation of Article 3 of Protocol No. 1 to the European Convention on Human Rights (right to free elections), but also noted that “it is desirable for the threshold to be lowered”⁶⁹.

It is true that the legislative work done on behalf of the Parliament is very significant. The Constitution and all the laws changed completely due to the Helsinki process and this only could happen thanks to the political will of all the political parties that took part in the previous and the present Turkish Grand National Assembly.

Government

In its 2006 report, the Commission notices the government’s commitment to the EU and applauds the establishment of the Monitoring and Steering Committee. However, the Commission noticed that the responsibilities of the European Union Secretariat General (ABGS) were increased and for this, there is a need for staff and resources. However, according to governmental sources⁷⁰, the Reform Monitoring group has already planned the reforms that have to take place until 2010.

For the fulfillment of the political criteria, the government consults the experts in the Ministry of Foreign Affairs and the European Union General Secretariat. Those institutions provide information to the government about the requirements of the European Union in specific areas, the progress of the implementation of the criteria and the image of Turkey abroad⁷¹. There is a continuous exchange of views between those institutions, the ministries and the European Commission.

Among the political elites, there are several opinions as to who is responsible for the progress made in the area of the political criteria. The representative of the

⁶⁷ *Ibid*

⁶⁸ 30 January 2007

⁶⁹ http://www.coe.int/t/d/Kommunikation_und_politische_Forschung/Presse_und_Online_Info/Pressein_fos/2007/20070130-070-GH-T.asp

⁷⁰ *Supra* no. 62

⁷¹ Muhsin Kılıçaslan, interview Ministry of Foreign Affairs, Ankara, February, 5, 2007 and Ahmet Aydın Doğan, interview, European Union General Secretariat, Ankara, February, 5, 2007

EUGS⁷² affirms that the progress was achieved thanks to the EU membership that served as an incentive and the support on behalf of the society⁷³ that reflected to the parliament and the government.

The representative of the Ministry of Foreign Affairs⁷⁴, as well as one of the representatives of the AKP⁷⁵ claim that the first factor that contributed to the fulfillment of the political criteria was public will. Non-governmental organizations such as Hak İş, Türk İş and TÜSİAD were among the first six organizations that pushed the government to fulfill Turkey's obligations. Since then, almost all the NGOs and Associations pushed to this direction asking the governments not to close Turkey's door to the world. After this pressure, the coalition government felt obliged to abolish the death penalty, maybe the most difficult amendment that the parliament passed in a critical period of time. Muhsin Kılıçaslan suggests that an element which proves that the people defined the reforms as a priority issue for Turkey is that the people punished Ecevit in the elections of 2002⁷⁶. For this reason, the AKP government was motivated to proceed. Of course, nobody disagrees with the fact that ideologically the AKP was more prone to proceed to the reforms and more devoted to the EU perspective.

The representatives of the AKP⁷⁷ maintain that the commitment of the government to the democratic values and European orientation of Turkey was decisive for the fulfillment of the political criteria. The present government having taken into serious consideration the public will, has done everything possible to support the reforms and fulfill Turkey's obligations towards the Union. This is a very common, most of the members of the political elites in Turkey believe in. This does not imply that all the political criteria are fulfilled and implemented. That means that Turkey -until now that the time of the final judgment for full membership has not arrived- did everything to technically fulfill the criteria for the opening of the negotiations⁷⁸, as also recognized by the European Council⁷⁹. The AKP

⁷² Ahmet Aydın Doğan, interview European Union General Secretariat, Ankara, February, 5, 2007

⁷³ The polls showed that until October 2005, 75% of the public opinion supported EU membership

⁷⁴ Muhsin Kılıçaslan, interview Ministry of Foreign Affairs, Ankara, February, 5, 2007

⁷⁵ Mehmet Müezzinoğlu, interview AKP Istanbul central offices, Istanbul, February, 6, 2007

⁷⁶ *Supra* no. 74

⁷⁷ Egemen Bağış, interview Athens, January, 27, 2007 and *supra* no. 62

⁷⁸ *Supra* no. 62

⁷⁹ See *supra* "progress in the fulfillment of the political criteria in 2004, European Council in Brussels (17-18 June 2004)", *Historical background of Turkey-EU relations*.

representatives affirm that Turkey's goal for full membership will be accompanied with full implementation of the political criteria.

There is a common belief between those who support the government that the ideological background of the AKP contributed to the overall policy as to the European Union and its commitment to the reforms⁸⁰. The founders of AKP have been victims of the lack of democracy in their previous political experiences⁸¹ and they seem to appreciate more the freedoms that a real democracy should provide. Also, while investigating why the AKP government dealt more with the provision of freedoms and the expansion of rights, there are some other factors that have to be taken into consideration: serious decisions are difficult to be taken within a coalition government and the two of three powers within the coalition government (DSP and MHP) presented more nationalistic discourses.

Another factor is the fact that the society itself was ready to accept more reforms because the benefits in the standard of living started to be evident⁸². The EU perspective started to imply something positive in people's minds. If we look at the numbers in Turkey before becoming a candidate state and after, the gap is huge: Inflation, unemployment rate, foreign trade, development rate, import-export level, per capita income, quality of products, environmental standards, all the rates serve for the benefit of the Turkish citizens. Secondly, the Turkish society benefited from the expansion of freedoms and gave value to democracy, human rights and the rule of law, because the changes started to affect people's rights. Thirdly, the image of Turkey in the EU started to be more positive than in the past and its member-states started to encourage Turkey's efforts.

We must not omit that there were some negative signs from within the government. In various cases, there has been a disagreement between the Prime Minister and the Minister of Justice, Cemil Çiçek, such as on the issue of the Conference about the Armenians and the amendment of the Anti-terror Law. It is claimed⁸³ that inside the government there is not an anti-EU block as sometimes appears to be the case. There are only different approaches to the same goal, which is full membership in the EU.

⁸⁰ Egemen Bağış, interview Athens, January, 27, 2007 and *supra* no. 62 and *supra* no.75

⁸¹ Erdoğan himself was put to prison because he read a poem that exists in the Turkish schoolbooks

⁸² *Supra* no. 62

⁸³ Egemen Bağış, interview Athens, January, 27, 2007

No matter what the sequence is, according to the political elites, the people's will, the commitment of the government and the EU as an incentive contributed to the implementation of the political criteria. If something of those misses, the rest will cease to exist as well. As long as the society is ready to accept more reforms, the political parties in power will do everything to satisfy their constituencies. As long as full membership in the EU serves as an incentive and EU has a positive connotation in people's minds, the public opinion will be fond of the implementation of the political criteria and pro-EU parties will be in power. However, we must bear in mind that in general, public opinions are easy to direct and that -in extreme circumstances- if the authority decides to change the flow, it will use any means to achieve the switch of the public opinion.

Public administration

The successive Commission's reports recommend that legislative work and reforms at all levels of administration should be made. In the report of 2006, the Commission congratulates the adoption of the Law Establishing an Ombudsman and the amendments of the Constitution in line with the PFMC⁸⁴. The problem again is in the field of implementation. No progress has been reported as to the Framework Law on Public Administration, which was vetoed by the President in 2004 and the draft Civil Servant Law. The Commission drew attention to the field of decentralization.

The lack of progress in that field derives from the existing structures of the system of public administration. The Turkish system is based on bureaucracy and the bureaucratic structures are so deep-rooted that they cannot easily change⁸⁵.

Anti-corruption measures

In the 2001 amendments only changes in legislation can be reported. According to the following reports, nothing has been put into practice. In the 2006 report, the amendments of the Law on Access to Information and the parliamentary investigation commissions constitute positive changes to that field. However, the

⁸⁴ Public Financial Management and Control

⁸⁵ İdil Elveriş, İdil Işıl Gül interviews Istanbul Bilgi University, Istanbul December 2006

immense corruption within the parliament reveals that the anti-corruption authorities and policies are still weak.

The lack of progress in that field is due to the same reasons. The deep-rooted bureaucratic structures preserve traditions that do not comply with the European standards⁸⁶.

Judicial system

The Commission in its more recent reports refers to the amendments of the Codes and to the ratification and execution of the judgments of the European Court of Human Rights. Positive developments can be reported as to the training activities of the judges and the prosecutors, as well as to the independence of the judiciary. The Commission in its most recent report raised concerns as to the use of the article 301 of the New Penal Code⁸⁷ and as to the role of the High Council of Judges and Prosecutors in the Şemdinli incident.

The State Security Courts that tried crimes related to political offences and terrorism have been convicted by the European Court of Human rights because one of the judges was a military officer; in that way no impartiality was guaranteed in cases of crimes against the state. The State Security Courts have been abolished but the judges and prosecutors did not retire. Moreover, the Law on Criminal Procedure changed only in 2005 and it is very early to see its implementation.

As far as the execution of the judgments of the European Court of Human Rights, property rights have been violated especially in the cases of deserted villages due to the army activities in the Southeast of Turkey⁸⁸. In the pending cases concerning the right to a fair trial, the delays are problematic and there are organizational issues such as the load of work in the courts and the problem of bureaucracy. Nowadays, the situation is better thanks to the computer systems.

As far as the trainings are concerned, they started in the year 2000 aiming at spreading among the judges and prosecutors in local courts the way to implement the European Convention on Human Rights. Since then, 9000 judges and prosecutors were trained and many verdicts apply the Convention of human rights according to

⁸⁶ *Ibid*

⁸⁷ For an extensive account of Article 301 of the New Penal Code see *infra* chapter “Freedom of expression”

⁸⁸ İdil İşil Gül, interview Istanbul Bilgi University, Istanbul December 2006

the trainings⁸⁹. Of course, unless the mentality of higher courts changes, the lower courts will not be convinced to implement human rights and the trainings in higher courts started only in 2006⁹⁰. Another difficulty is to change the views of people of an old age. Thus, most of them were very willing to cooperate.

As to the efficiency of the judiciary, the experts⁹¹ claim that the judiciary is not effective due to the lack of organizational provisions. Thus, EU measures are not directed to ensure the efficiency of the judiciary but to provide for “justice to be fair”.

EU asks from Turkey to guarantee the independence of the judiciary, to make certain that there is no bond between the judges/ prosecutors and the public administration⁹². The decisions of Courts should not be taken under the influence of the Executive or the Legislative power, or under any other form of political pressure, but not much progress has taken place. Judges and prosecutors in Turkey work very closely and the laws treat both of them the same way. Moreover, they are recruited and promoted by the Minister of Justice and since the Executive interferes, it is impossible to ensure judicial independence. As to the High Council of Judges and Prosecutors, it is composed by elected judges, prosecutors and appointed people from the Ministry of Justice and it decides upon the selection, promotion and discipline of the judges and prosecutors. However, it functions in a way that undermines judicial independence; its decisions are secret and no appeal can be lodged.

According to the experts’ views⁹³, the amendments as to the judiciary are not fully implemented, not because of lack of political will but because they introduce a different mentality that shakes the roots of the previous one⁹⁴. Time is important in order for the judges and the prosecutors to learn how to try according to the human rights and to get used to the judgments of the European Court of Human Rights. We should also expect the new generations of judges and prosecutors to come, which will have another judicial culture based on the international human rights’ law and on the European Convention on Human Rights. The EU emphasizes the importance of the amendments and assumes that once legislation is amended, the new law will be implemented. However, there is a lack of infrastructure and mechanisms that will guarantee the implementation of the new laws, and for that reason, there is a gap

⁸⁹ *Ibid*

⁹⁰ *Ibid*

⁹¹ İdil Elveriş, interview Istanbul Bilgi University, Istanbul December 2006

⁹² *Ibid*

⁹³ *Ibid* and *supra* no. 88 and Galma Jahiç, interview Istanbul Bilgi University, Istanbul December 2006

⁹⁴ *Ibid* and *supra* no. 63

between the law in the books and the law in practice. Turkey needs time to bridge that gap and deal with the implementation of recently amended laws.

The representative of the EUGS⁹⁵ agrees with the opinion of the experts. The cause of the delay in implementation is not related to lack of political will. To implement a new system of legislation, the judges and prosecutors have to adopt a new mentality, which in this case, is in contradiction with the old practices and culture. Meanwhile, it is important to see whether there is a decrease in courts' decisions that are not in line with the European standards and an increase in courts' decisions that are in line with the European standards. The representative of the government⁹⁶ suggests that the EU member states should be more patient in the issue of implementation. The EU standards related to the efficiency and the independence of the judiciary introduce a new culture for Turkey that will be usurped in time.

Civil-Military relations

In all its reports until and including that of 2001, the EU Commission argued that the military was omnipotent in political affairs. Between 2002 and 2004, important changes have been made. The 7th Harmonization package rendered the National Security Council (MGK) an advisory organ. Law 2945 on the MGK and the General Secretary specified that the Secretary General would be appointed by the Prime Minister, that he would be a civilian⁹⁷ and that the MGK would meet every three months. The amendment of Article 118 of the Constitution confirmed the governmental control over the MGK, whose decisions would be in the form of "recommendations" and would be evaluated by the Council of Ministers. The abolition of the military representative of the National Security Council to the High Audiovisual Board (RTÜK), and to the Higher Education Board (YÖK), and of the State Security Courts⁹⁸, as well as of the secret regulation about the duties and the principles of the MGK's General Secretary changed de jure the influence of the body. The number of civilians in the MGK was increased; the department of Psychological Operations within the MGK was abolished; the military supplies would be under the

⁹⁵ *Supra* no. 72

⁹⁶ *Supra* no. 62

⁹⁷ The first civilian General Secretary of the National Security Council was Yığıt Alpoğan appointed in August 2005

⁹⁸ 2004

control of the Supreme Court of Accounts; the military courts would no longer try civilians⁹⁹ and the military zones were opened to tourism. The implementation started on December 2004.

The question is whether the security sector is subject to parliamentary control. There is no doubt that the scope of the MGK (de jure) has been diminished over the last years but de facto the Turkish Grand National Assembly cannot control the security sector to the extent that the parliaments of the EU member states do. The National Security Document is not approved by the parliament, the military expenditures are not directly subject to the parliament but to the Supreme Court of Accounts, which acts on behalf of the parliament, the defense budget is not influenced by the National Defense Committee and the Plan & Budget Committee of the Parliament and the officials in the security sector are not on the authority of the Turkish Grand National Assembly¹⁰⁰.

In contrast, the government seems to be more in control of the security sector than in the past¹⁰¹. During the AKP governance, Erdoğan's policy towards the Southeast issue, the reaction of the government to the Şemdinli events and to the complaints of the Joint Chief of Staff Büyükanıt about being left ignorant of the diplomatic initiative on Cyprus and the fact that the budgetary share of the security sector has been placed in the 2nd position since 2004 –and not in the 1st as it used to be until then- are supporting arguments for the previous assumption. However, the Red Paper¹⁰² is adopted despite the opposing views of the Prime Minister¹⁰³ or the Council of Ministers and the Supreme Military Council (YAŞ) may be constitutionally under the government's authority but in practice the military officials play on equal footing¹⁰⁴.

Moreover, the National Security Council (MGK) during its meetings discusses foreign policy issues related to EU decisions, Greece and Cyprus¹⁰⁵. During 2005, the situation in Iraq, the elections in TRNC, domestic resources and the statement by the Prime Minister that involved the phrasing “Kurdish problem” were among the agenda

⁹⁹ In the past, civilians were tried in charge of crimes related to freedom of expression

¹⁰⁰ TESEV Almanac 2005 chapter “the Turkish Grand national Assembly”

¹⁰¹ TESEV Almanac 2005 chapter “ The Government”

¹⁰² In its reports, the EU Commission refers to the Red Paper as “the Red Booklet” which is actually the National Security Policy Document

¹⁰³ Erdoğan sent a letter to the GS of the MGK on January 2005, which did not change the fate of the Red Paper

¹⁰⁴ TESEV Almanac 2005 chapter “the Government”

¹⁰⁵ TESEV Almanac 2005 chapter “The National Security Council”

headlines of the MGK' s meetings. As it is obvious, the MGK has an important saying in foreign policy. The National Security Policy Document (Red Paper), thanks to Prime Minister Erdoğan and Minister Abdullah Gül was simplified from 90 pages to 25 and subjected to a change of tone. However, according to the TESEV report, the preparation and the content of the National Security Policy Document (Red paper), the reappearance of the reference to “casus belli” against Greece in the case of the territorial waters’ issue and the statement that “Halki seminary will open if more Turkish teachers are sent to Komotini Celal Bayar High Scholl in return”¹⁰⁶ show that MGK continues to have an impact on foreign policy formation.

On the contrary, the representative of the Ministry of Foreign Affairs¹⁰⁷ emphasizes the advisory role of the MGK but he also states that the Ministry of Foreign Affairs cannot be a totally independent institution not consulting the other institutions of Turkey. He believes that the MGK was never influential in foreign policy formation and that the government had always the first role. He claims that it is believed exactly the opposite because in the past, people did not trust the politicians but the military and more importance was given to the speeches of the Joint Chief of Staff. Since the 1990s, the confidence of people towards the politicians has grown and this change reflected to foreign policy making as well¹⁰⁸.

Ambassador Volkan Vural confirms the same. According to him, the role of MGK is highly exaggerated. It is an advisory group that can give only non-binding recommendations. The role of the MGK has been politicized, it has become a cliché and it was pretended to be important because it served as a platform within the political game. He also supports that, during the last years, the military itself has changed and it is committed to democratic values. It does not want to rule the country and it knows that it must be subordinate to civilian power. The previous thoughts contradict with the developments since the unsuccessful attempt to elect Abdullah Gül as President of the Turkish Republic. The military’s public declarations about Turkey’s political life before and during the Presidential elections¹⁰⁹ were perceived as an “e-coup d’ etat” which is by no means consistent with the views presented above.

¹⁰⁶ TESEV Almanac 2005 chapter “The National Security Council/ MGSB updating”

¹⁰⁷ *Supra* no. 74

¹⁰⁸ Emin Zararsız uses the statistics in order to prove that confidence has grown especially thanks to the AKP

¹⁰⁹ May 2007

The representative of the EUGS¹¹⁰ believes that the criticism on behalf of the EU is not very fair because the legislation has been amended and the National Security Council is now seen as a civilian advisory body in agreement with the constitutional order, subjective to the Prime Ministry and headed by the President of the Republic. According to his opinion, the MGK has to contribute with its recommendations in all the fields that the contemporary concept of national security imposes, such as transnational crime, drugs, environmental pollution, trafficking, energy issues and others mentioned in the UN and the EU Strategy Papers.

Nevertheless, the Commanders' public speeches gave the European Union room for doubt. General Özkök¹¹¹ and General Büyükanıt¹¹² presented an ambiguous approach as to the role of the Turkish Armed Forces, while Karahanoğlu and Tolun expressed opposition to the EU. Büyükanıt, who is less moderate than his predecessor, in the opening of the academic year gave a speech accusing "the opponents of the Turkish military", who contributed in the writing of the TESEV report on security issues, challenging the monopoly of the military and in the occasion of the "surprise" diplomatic initiative on Cyprus¹¹³, he complained that he had learned it from TV. He said that the plan to open one Turkish port to Greek Cypriots diverged from "state policy" reminding that government and state do not coincide in Turkey's case¹¹⁴. On top of these, the broad definition of national security and the definition of the Armed Forces as the safeguard of the domestic order over the political and the administrative systems worries the EU, which asks for transparency and accountability of the security sector. Yet, the downsizing of the army¹¹⁵ reducing the period of duty for plain soldiers and the dissolution of the Aegean Army¹¹⁶ show an intention to limit the powers of the Armed Forces on behalf of the government.

The same cannot be claimed for the Gendarmerie, which in law is under the Ministry of Internal Affairs but in practice acts as a component of the Armed Forces. The Ministry of Internal Affairs does not have a word on the promotion of the Gendarmerie's and the Coastguard's personnel since military staff composes them¹¹⁷.

¹¹⁰ *Supra* no. 72

¹¹¹ 20/4/2005 opening of War College Command

¹¹² 9/11/2005 Şemdinli incident

¹¹³ December 2006

¹¹⁴ G. Jones, "Analysis: down but not out, Turk generals warily eye polls", REUTERS, December 2006

¹¹⁵ It was adopted on 23/6/2003

¹¹⁶ The EU Commission in its reports refers to this Army as the "4th Army brigade" dissolved on May 2004

¹¹⁷ TESEV Almanac 2005 chapter "The Gendarmerie"/ "The Coastguard"

The role of Gendarmerie was very shady in the cases of Şemdinli and the “filing” scandal in 2004. In addition, the European Union’s Commission questioned the excessive use of force by the police but at the same time, it praised the commitment of the government to condemn those practices by punishing the officers who acted inappropriately.

The litigation of the role of the military is claimed to be a taboo issue in Turkey¹¹⁸. The amendments might have taken place but the civilians do not control the National Security Council despite the increase in their numbers. On the other hand, they are not as powerless as the Europeans claim; they can pass some changes and they are in position to convince the security establishment but the final say belongs to the military. Internal and external security, vaguely defined, composes the field where the security establishment has extensive powers. Anything can become an issue of internal and external threat and basically the Islamic fundamentalism and the Kurdish separatism/ terrorism.

When academics¹¹⁹ are asked about their beliefs as to the role of the MGK in foreign and domestic politics, the views are highly controversial. There is a widespread view that the influence of the military in domestic and foreign policy issues is high but covered due to the low profile of the last two Joint Chiefs Staff before Büyükanıt. On the contrary, Büyükanıt is interfering directly as a political party leader. The reason for which he has not yet intervened is because the government is not weak. His reactions against TESEV report and the government’s diplomatic initiative on Cyprus confirm that the personality of the Joint Chief of Staff plays an important role and that this role is also supported by political traditions.

The EU expects the military to be subordinate to civilian power. However, the question is whether Turkey can become a full member without having previously solved for good the problem of civil-military relations. The academics¹²⁰ do not believe that the argument of the special status of Turkey can be valid: Turkey may have security concerns because it is situated in a highly volatile region, but this does not grant the military the right to interfere in domestic politics. The Turkish military can be strong but its role in society has to be demarcated.

¹¹⁸ Umut Özkırımlı, interview Istanbul Bilgi University, Istanbul, December 2006

¹¹⁹ *Ibid* and Serhat Güvenç interview Istanbul Bilgi University, Istanbul December 2006

¹²⁰ *Supra* no. 118

Some other academics¹²¹ believe that the National Security Council lost some of its influence in shaping foreign and security policy as a result of the reform packages¹²². They believe that in practice many things changed, which proves the decrease of the military's importance. In the past, the governments preferred to be in line with what the military proposed. In the last three years and to a large extent because of the commitment of the AKP government to the europeanization/civilianization process, the government does not consult the military¹²³. This course of events in combination with the military's reluctance to express a clear choice concerning the Cyprus issue and the sending of Turkish troops to Iraq pushed MGK out of the limelight. After the amendments, the composition of the MGK¹²⁴ impedes the achievement of a consensus. Thus, there are speculations that if it was not for the AKP, another party in power might have been more responsive to the military's preferences. Moreover, the MGK does not meet as often as it did in the past; in that way it cannot be up to date. The AKP government compared with the previous ones was more in position to shape the last Red Paper¹²⁵ but it is known that the government's major concern was not Turkey's foreign policy but the nullification of any chance that Islam appeared as a priority threat. Even the Cyprus issue and the Turkish-Greek dispute are not a monopoly of the military anymore. The Joint Chief of Staff has no more a large audience, not only because of the reforms, but also because the Armed Forces do not have the Americans' support¹²⁶. The aforementioned structural factors facilitated AKP to put its priorities into practice.

Some practical issues still question the military's subordination to the civilian power. As to defense expenditures, nothing changed in practice because of lack of expertise in the government¹²⁷. However, the government chose to place the share of defense expenditures at the second position. Moreover, in Turkey, the Joint Chief of Staff is overestimated because he refers directly to the Prime Minister, whereas according to the European practice, the Joint Chief of Staff should report to the Minister of Defense.

¹²¹ Serhat Güvenç, interview Istanbul Bilgi University, Istanbul December 2006

¹²² *Ibid*

¹²³ As it happened in the case of the Turkish-US Joint Strategy Document

¹²⁴ The members of the MGK are members of the AKP government and the Armed Forces, a completely contradictory mixture.

¹²⁵ *Supra* no. 102

¹²⁶ *Supra* no. 121

¹²⁷ *Ibid*

According to the experts' view¹²⁸, the issue of democracy and the military's subordination to the civilian power cannot be dealt with only by amending the existing legislation. As long as Turkey runs a serious possibility of becoming a full member of the Union, this issue will continue to be the main subject of domestic negotiations¹²⁹. The traditional role of the military does not seem to be subjected to the pressure coming from the EU nor to the legislative amendments. The Turkish Constitution continues to authorize the military to protect the country from internal and external enemies¹³⁰. Thus, the amendments required by the EU do not seem adequate to hinder the military from interfering with political life. What can deter the military from proving its primacy is the commitment of the Turkish society to Turkey's democratization path¹³¹ and to the supremacy of civilians in the political scene, because in order for the military to intervene, it has to have public support on its side¹³². However, the military has the upper hand still in two fundamental issues¹³³: the unitary structure of the state and secularism. In the past, the MGK had a saying in every aspect of daily life with the public's support, but nowadays, its scope is limited to those two high security issues¹³⁴.

The National Security Council has characterized the EU membership as a strategic objective of Turkey since 1999. The support of the military to the European perspective has its grounds on the changes that occurred since 1999 at all levels of analysis¹³⁵. At the international level, the 9/11 attacks and at the domestic level, the transformation of the Islamists, the change of government, the economic crisis and the reforms changed the military's priorities. At the individual level, the military's shift in priorities is evident from the different approach of the Joint Chief of Staff Özkök when Ecevit left the scene and Erdoğan came to power. The civilian General Secretary is responsible for the different atmosphere in the military as well. Moreover, the EU's requirement to abolish the death penalty did not incite any reactions despite its PKK connotation because of Abdullah Öcalan. Having set the European perspective as a priority, the military officials refrained from making any public

¹²⁸ *Supra* no. 118

¹²⁹ *Supra* no. 121

¹³⁰ *Ibid*

¹³¹ The law on the Hat still exists but remains inactive.

¹³² *Supra* no. 121

¹³³ G. Özcan, "The military and the making of foreign policy in Turkey" in B. Rubin and K. Kirişçi, *Turkey in world politics, an emerging multiregional power*, 2002

¹³⁴ *Supra* no. 121

¹³⁵ *Ibid*

statement even in the case of the right to broadcast in languages other than Turkish – namely Kurdish.

Moreover, it is suggested that the tacit agitation between the government and the security establishment is a reaction of the military to the loss of power and status¹³⁶. The military lost public support and the media are not interested as much as in the past in the speeches of military officials¹³⁷. The military is not in a position to build alliances with business circles, the media and the public¹³⁸. The military has no longer the power to shape the politicians' statements¹³⁹ or to present its stance as to the Armenian issue in the cases of the prosecutions of journalists and writers. The cultural rights are being already discussed and the reaction to the recognition of Cyprus derives from the public and not from the military officials.

On the contrary, the representatives of the AKP¹⁴⁰ affirm that there is no issue of eliminating the power of the military because the military consists of the people of Turkey. The necessary changes to the composition of the MGK and the General Secretariat of the MGK have been made. According to them, the military is aware of the supremacy of an elected government and it wants a better future for Turkey. The attitudes of the politicians may differ from the attitudes of the military but the process is collective. The aforementioned diversity of approaches within the military or between the military and the government on the EU issue, according to all the AKP representatives is totally democratic and healthy. Everybody can have his own thoughts and beliefs as to the state policy, but at the end of the day, all the institutions are obliged to put in practice the state policies that the elected government imposes.

The AKP representative¹⁴¹ claims that in the civilianization process, there were no unsurpassable impediments, because every institution dealt with its own job. It is democratic to let different opinions to be heard; the important thing is that the disagreements should not reach a point at which democracy is jeopardized. In that sense, the Turkish Armed Forces are democratic and the incidents mentioned above were within the democratic framework and they did not put democracy in danger.

¹³⁶ *Ibid*

¹³⁷ During the process of the Annan Plan, the cancellation of the visit of the Army Commander to Cyprus did not attract media's coverage, whereas in the past if a similar thing happened, it would be a headline.

¹³⁸ *Supra* no. 121

¹³⁹ Mehmet Ağar did not change its statement when the Joint Chief of Staff reacted.

¹⁴⁰ *Supra* no. 62 and *supra* no. 83

¹⁴¹ *Supra* no. 75

In a general outline, all the interviewed politicians declare that the security sector is not influential anymore in politics and an argument supportive of this view is the fact that the military people are not as vocal as they used to be in the past. This cannot be a strong argument because the military always needed the public leverage and during the last years, the AKP government seems to serve the EU perspective in a very successful way. As a result, it obtained the monopoly of the reforms, which is the priority of the Turkish public opinion. However, the AKP representatives¹⁴² assert that the National Security Council is not as powerful as it was in the past. The elected government decides on the policies and the parliament has more of a say than in the past. The civilianization process, according to them, should be expanded more and even the military supports this process. Democracy in Turkey will be more solid especially after the elections, when AKP will have the leverage to support even more the democratization/ civilianization process¹⁴³. The representatives of AKP¹⁴⁴ believe that in a democratic society the military has to protect the country and not serve as an obstacle to freedoms.

The truth is that the AKP government dealt more with the issue of civil-military relations. The civilian Secretary General, the dissolution of State Security Courts, and the removal of the military representative at the Higher Education Board were changes that have to be conceived as part of the europeanization process. The factors that contributed to the further alignment of the civil-military relations with the European practice while AKP was in power were the public support, the AKP' s ideology and the EU pressure that served as an incentive. Moreover, Egemen Bağış argues that the military supports the fulfillment of the political criteria and Turkey' s europeanization¹⁴⁵, taking for granted that the founding fathers of Turkey wanted to see the country appropriating the European/ Western values. The voices like those of Karahanoğlu and Tolun are exceptional attitudes that reflect personal views. Generally, there is a tendency on behalf of the politicians and diplomats to stress the normality in the relations between the military and the government and to confirm that there is no substantial rivalry between the civilian and the military power, an image that does not exist in everyday politics.

¹⁴² *Supra* no. 75 and *supra* no. 83

¹⁴³ *Supra* no. 75

¹⁴⁴ *Supra* no. 83

¹⁴⁵ *Supra* no. 62 and *supra* no. 83

From the analysis above, it is obvious that questions related to the extent of the powers of the military and to the success of the reforms do not have clear answers. The interviewed academics do not seem to agree on how much the civil-military relations changed compared to the past or on whether the military is subordinate to the civilian power. At the same time, the politicians seem unwilling to criticize the role of the MGK and the Armed Forces show ambiguous attitudes as to how devoted they are to the European perspectives of Turkey. Some academic circles from within the EU member-states, overestimate the clash between the AKP government and the Armed Forces, but this may lead to overgeneralizations if the political culture¹⁴⁶ in Turkey is not taken into account. The AKP government and the Armed Forces take part in the political game, but not as enemies that want to annul each other, as it is often depicted. All the players of that game form part of the broader political consensus, from which they emerged. For that reason, the military must not be perceived as separate from society, because it legitimizes its position through public support and it intersects with Turkey's social life through its economic activities.

What is important, beyond the positive developments or the setbacks in the process of civilianization of the Turkish political system according to the European practice, is to investigate to what extent the civil society in Turkey wants to civilianize the political system. Never in the past, did a Member of Parliament question the military budget despite his/her authority to do so, or the National Security Council's interference in politics. Turkey's history always showed that the public trusted the military more than the politicians. The army has ousted four elected governments over the past century with the support of the public¹⁴⁷ and still feels itself to be the ultimate guarantor of the secular Turkish state¹⁴⁸. The military's role is largely perceived as not imposed, but as a result of consent¹⁴⁹. This tradition reflects a political culture that cannot change on the spot, but it will take time. The civilianization of the Turkish political system will carry on as democracy deepens its

¹⁴⁶ The term "political culture" is used throughout the whole text in order to explain the interconnection between the **political system** and the **subjective variables** –such as the values, the attitudes and the socialization experiences of people- that form a "conscience collective" (Durkheim). The political system as a structural variable is related to social behavior, and according to recent researches in this field, democratic stability seems to be one of the decisive variables that define "political culture". Throughout the whole text, the term "political tradition" is a synonym to what here is defined as "political culture". See Almond, G., "The intellectual history of the Civic Culture concept" at the Almond, G. and Verba, S. (ed.), *The civic culture revisited*, Boston: Little, Brown and Company 1980

¹⁴⁷ G. Jones, "Analysis: down but not out, Turk generals warily eye polls", REUTERS, December 2006

¹⁴⁸ We must take into consideration that the founders of the Turkish state were military people

¹⁴⁹ *Supra* no. 118

roots in the society's political consciousness. While the Turkish society is negotiating, if the political leaders prove that do not deserve people's confidence, there is a possibility of regression. If the societal dynamics continue the present course of democratization for some decades, the requirements on behalf of the EU will be fulfilled.

b. Human rights and the protection of minorities

Observance of international human rights law

First important change that had to be made was the abolition of the death penalty for offences against the state and penal crimes. Before its absolute abolition in 2002, it was used for crimes of war and terrorism. However, until 2006, Turkey signed and ratified all the international instruments that abolish the death penalty. Boards monitoring the implementation of human rights were established throughout the country.

Also, Turkey signed and ratified the UN Convention on the Elimination of All Forms of Racial Discrimination, the UN International Covenant on Civil and Political Rights, the UN International Covenant on Economic, Social and Cultural Rights, the Protocol No 12 on the general prohibition of discrimination by public authorities, the Revised European Social Charter with reservations especially as far as social and workers' rights are concerned. Protocol No 14 of the ECHR, amending the control system of the Convention and the UN Convention against corruption entered into force in 2006. The First Optional Protocol to the ICCPR, signed in 2004, the Optional Protocol to the UN Convention against Torture (OPCAT), was signed in September 2005, and the Protocol regarding the adaptation of the Ankara Agreement to the new member states await ratification. The overall image of Turkey as to the execution of judgments of the European Court of Human Rights is positive according to the 2006 report.

However, the Council of Europe Framework Convention for the Protection of National Minorities and the Statute of the International Criminal Court are not yet signed. Moreover, the EU Commission's 2005 report refers to the retrials of Hulki Güneş and Abdullah Öcalan. The criteria that are not fulfilled touch upon sensitive

issues of the Turkish national identity and in order to be implemented require the consensus on behalf of society.

According to academics¹⁵⁰, AKP made many steps on paper, but implementation in the field of human rights is difficult, because it presupposes a long-lasting social procedure. The changes in legislation, being very recent, do not automatically lead to changes in the mentality of the people who implement the law. The education system should also change according to human rights, because the new generations should be raised according to these values. The conventions, dealing with discriminations, are not implemented because of this lack of culture and education in the field of human rights.

In conclusion, according to the political elites¹⁵¹, importance should be given to the implementation of human rights that are recognized through the international conventions. The reason for the delay in implementation is that there is a need for an overall transformation of mentality. The bureaucracy needs some time to adapt to the culture of human rights and education will take some time to form the new generations according to those values. Last but not least, it is said that the reasons behind the effectiveness in changing the laws were the pressure on behalf of society and the commitment of the government. As long as the Turkish society appears to be in need of human rights, the course of implementation will not revert.

Civil and Political Rights:

Torture, ill treatment, detention system and access to justice

The most important violations reported first were taking place in the F-type cells established in 2000. The EU Commission also lays emphasis on the “Death fasts”. The prosecution and sanctioning of members of the security forces for torture and ill treatment are rare and the implementation is problematic especially in the Southeast. The legislative process has been characterized as positive but human rights’ law is not implemented to past statements.

Torture is still used as a method of investigation. Psychological violence, beating, sexual torture and hot water are among the methods used¹⁵². In F-type

¹⁵⁰ *Supra* no. 88, *supra* no. 91 and Galma Jahiç, interview Istanbul Bilgi University, Istanbul December 2006

¹⁵¹ *Supra* no. 72

¹⁵² Human Rights Association, interviews with victims of torture in the central offices of Human Rights’ Association, Istanbul December 2006

prisons, the “death fasts” are a reaction to the conditions in isolation. The pre-detention period is very long and sometimes courts send very easily the accused to isolation. The effectiveness of the Monitoring Boards established to control the conditions in prisons depends on the personality of their members.

The requirements of the EU in that field fall short of implementation because of lack of human rights’ culture. As in the previous political criteria, implementation will come with the passing of time and the adaptation to the new standards within the prisons. In that case, the state should be very harsh in punishing symptoms of torture and ill treatment and the problem of impunity must be nullified. The situation in prisons is related to the monitoring of the police forces and the Gendarmerie and to the situation in the Southeast perceived as a security problem to the extent that in F-type cells there are many prisoners convicted for crimes against the state.

Freedom of Expression (including Freedom of Press)

The Anti-Terror Law and the articles of the Penal Code referring to the penalization of the insults against the Turkish military and the Turkish Republic were among the most important violations of freedom of expression in the first submitted reports. The controversial articles were amended but alternative articles (such as 301 of the new Penal Code) have been used for the prosecution of writers, journalists and publishers. The EU reports refer to the cases of Orhan Pamuk (August 2005), Emin Karaca (September 2005), Hrant Dink (October 2005), Ragip Zarakolu, as well as to the cancellation of the Armenian conference (September 2005). There has been an increase in violations against the freedom of expression during 2006¹⁵³. This may be the result of reactions of ultra-nationalist circles and their companions to the democratization process, which presupposes freedoms that may shake the nationalist substructure of the Turkish state. In conclusion, the Commission recognizes the progress as to the deliverance of debate in Turkey.

With the EU perspective as an incentive, the coalition government started expanding the freedom of expression and the AKP government continued that work. The interviewed AKP politicians believe that there was a special interest in the AKP government to proceed to the expansion of freedom of expression because of the

¹⁵³ According to the rates of the Human Rights Association (İnsan Hakları Derneği)

ideological background of the party, but this assumption is in contradiction with the fact that when the EU pressure was more relaxed, the government did not do anything on its own. Journalists¹⁵⁴ claim that there is a general direction of expansion of freedom of expression after 1983, which EU precipitated. In this general trend forward, there have been occasional setbacks as those to which the EU refers.

Particularly, the High Audiovisual Board (RTÜK) was first established for regulating private television but in Article 4 of its regulation, there were restrictions for insults that were controversially applied by the judges and prosecutors. The law changed but still there are restrictions for religious reactionary broadcasting and for insulting the unitary structure of the state and the Turkish Republic. A drawback of this Board is that it is subject to political influence since it is an organ of the Parliament. According to some editors¹⁵⁵, RTÜK is an organ to control the implementation of state ideology.

It is suggested that Article 8 of the Anti-terror law, which prohibits propaganda against the indivisible unity of the state, is not needed since this restriction is included in the Turkish Constitution¹⁵⁶. Moreover, the decisions for broadcasting in mother tongues other than Turkish, which is relevant to freedom of press and expression, are up to the National Security Council.

Moreover, Article 301 of the new Penal Code is another exception to this trend of expansion of freedom of expression according to H. Şahin. It substituted Article 159 of the old Penal Code in a more restrictive way, because it includes phrases that can be easily misinterpreted, such as “insulting” and “Turkishness”. According to various writers¹⁵⁷, the amendments were a trick. The Administrative Court made use of this article to cancel the Conference about the Armenians at the Bosphorus University, but finally it has been proven that only the academia has the right to decide upon academic conferences and that the Administrative Court did not have any jurisdiction over that issue.

Elif Şafak was prosecuted for writing the book “Baba ve Piç” because there were allegations to “Armenian genocide”. Hrant Dink was prosecuted for an article in which he was using the phrase “poisoned Turkish blood” implying the fixation to the

¹⁵⁴ Haluk Şahin, interview Istanbul Bilgi University, Istanbul December 2006

¹⁵⁵ Ragıp Zarakolu, interview Human Rights’ Association Central Offices, Istanbul December 2006

¹⁵⁶ *Supra* no. 154

¹⁵⁷ *Supra* no. 155

“Armenian genocide”¹⁵⁸. Orhan Pamuk was prosecuted for his statement in an interview to the foreign press that “1.000.000 Armenians and 30.000 Kurds were killed in Turkey and nobody talks about it”. Ragıp Zarakolu was accused of insulting “Turkishness”, the Turkish Republic, the memory of Atatürk and the Turkish Army because he wrote a symbolic book against the militarist policies used in Germany and two more books about the “Armenian Genocide”. He was subjected not only to personal trials but also to trials together with his wife, as owners of the publishing house *Belge Yayınları*. The issues that involve the Armenian issue, the military and the Kurds constitute “national sensibilities” that are not yet included in the domain of the freedom of thought¹⁵⁹. Article 301 covers the same range of crimes with the Press Law, whereas the former includes imprisonment and the latter monetary sanctions. Therefore, it is up to the prosecutor to decide under which law the journalist will be tried.

There have been reactions by the Press Council at the time of codification of Article 301, but all the political parties and the EU accepted its wording¹⁶⁰. It is claimed that the problem is not in the wording, but in the interpretation by the judiciary. However, some academics¹⁶¹ suggest that the wording should change without leaving any gray areas and that modification is necessary, because this article encourages groups to create the “lynch psychology”; those groups have to be “disarmed”. An assumption to which all the interviewed people agreed is that Article 301 is not the problem, since similar articles exist in many EU countries. The problem is the general political climate. The sanctions may lead to imprisonment, but until now, all the decisions have been postponed. The success of Article 301 is that it managed to control the consciousness of the writers and journalists because after being prosecuted, they started refraining from writing. They are subjected to self-censorship, which is by nature limitation of freedom of expression¹⁶².

In the beginning, Article 301 did not serve any purpose¹⁶³. Now, it became a symbolic issue and a tool for power politics. The opposition party accused the AKP government for not being nationalist enough or “Turkish” enough. The present Prime Minister acting like a pragmatic leader tried to convince the prosecutors to make a

¹⁵⁸ *Supra* no. 154

¹⁵⁹ *Ibid*

¹⁶⁰ *Ibid*

¹⁶¹ *Ibid*

¹⁶² *Supra* no. 155

¹⁶³ *Ibid*

loose use of Article 301 and gathered civil society organizations to decide upon the wording of the article in question. This platform did not reach to a consensus, because society cannot yet agree on this issue¹⁶⁴.

The modification or not of Article 301 is an issue of domestic constituencies¹⁶⁵. Now, AKP is hesitant because there is a rise of nationalistic outbursts in the Turkish society and any modification may lead to a serious political cost. Elections are imminent and if after the elections the AKP succeeds to form a self-reliant government and the EU continues to serve as an incentive, there are high chances of this article to be amended. However, the assassination of the Armenian-origin editor and journalist Hrant Dink on January 2007 may change the political environment and show to the government that there is no political cost in lifting the restrictions of the article 301. The reaction on behalf of the public opinion was so prompt and harsh that may precipitate the amendment of this article. There are other intellectuals¹⁶⁶ who believe that the government will make some “cosmetic” changes to Article 301 because all the political parties (including AKP) are an integral part of the state mechanisms that preserve the restrictive political tradition in Turkey.

Since the first National Programs, Turkey showed its intention not to make radical changes to that field stating that “Freedom of expression shall be granted on the basis of the secular structure of the state and territorial integrity”. However, the society dynamics cannot be so easily restricted and nowadays, an open debate can be realized in various issues that used to be taboo in the past. The political climate is changing because the mentality of the people changes. The trend of expansion of the freedom of expression will continue because it is also a global trend¹⁶⁷. According to the interviewed academics, there are still three subjects that remain taboos: the role and the place of the military, the Armenian issue and the Kurdish issue¹⁶⁸. Taking this into account, we can easily detect why all the political criteria related to those taboo issues are difficult to be implemented.

The AKP representative Egemen Bağış underlines that the EU officials had accepted the wording of Article 301 before the Turkish negotiators brought it in front of the Turkish Grand National Assembly. The problem according to him is traced in

¹⁶⁴ *Supra* no. 118

¹⁶⁵ *Supra* no. 154

¹⁶⁶ *Supra* no. 155

¹⁶⁷ *Supra* no. 154

¹⁶⁸ *Supra* no. 118 and *supra* no. 154

the interpretation of this article by the judges and prosecutors who need some time to adapt themselves to the new law. The case of Hrant Dink as the most tragic of all and the cases of the rest of the writers and journalists showed that there were problems in the interpretation of the law and that is why the Prime Minister invited all the NGOs to talk and come up with a phrasing picturing the spirit of the law. The government is trying to form a consensus and then it will react according to it.

The representative of the EUGS, Mr. Ahmet Aydın Doğan believes that the amendment of Article 301 of the new Penal Code can be realized as soon as negotiations within the society lead to a consensus. According to his opinion, implementation is important and we should not expect that amendment of this article would guarantee simultaneous expansion of the freedom of expression, because the mentality of those who interpret the law would not change overnight. Furthermore, we should not forget that this issue is now politicized and used by the nationalistic segments of society and the opposition.

Emin Zararsız, Mehmet Müezzinoğlu and Volkan Vural support that the wrong interpretation of this article demands its amendment. They think that timing is important because such an amendment requires the consensus of the society. It is obvious that the amendment of this article in a bad timing will mean an unbearable political cost.

In conclusion, the issue of freedom of expression is a hostage of the domestic constituencies and the political struggle in an election year such as 2007. The government is hesitant in amending the article in question because the opposition steps on the argument that the AKP tries to undermine the Turkish state. Freedom of expression will be expanded as long as taboos continue to collapse¹⁶⁹. Relapse of restrictive bursts is expected because conservative circles will try to oppose that trend of freedom of expression. However, we cannot expect that discussion about sensitive issues related to the state ideology will be liberated very soon.

Freedom of association and assembly, civil society organizations

Nowadays, the Law on Political Parties and the Law on Associations, despite their modification consist of restrictions especially affecting the Kurdish-oriented

¹⁶⁹ *Supra* no. 154

associations and political parties, as well as the associations with an international range. The judgment as to civil society organizations and as to the penalization of police officers for excessive use of force in public demonstrations is positive.

In particular, the Law on Political Parties was modified only in some of its practical aspects in 2002. For example, the amended law provided some additional alternatives regarding the dissolution of a political party, apart from the Constitutional Court. No essential changes have been made¹⁷⁰. The Law on Political Parties continues to include restrictions in the articles 78 until 97, apart from the restrictions that already exist in Article 2 and 3 of the Constitution, which define the state's ideology. The political parties should not be based on race, religion and community and they should not make propaganda against the state and its institutions and against the role of the Directorate of Religious Affairs. This law end up at delimiting the religious and Kurdish oriented parties and usually small parties suffer from it¹⁷¹. Some academics claim¹⁷² that this law is not necessary and that the Law on Associations if modified, it will be enough for controlling the financial issues of political parties and associations. However, no change is expected to happen in the near future, because the political parties, taking into account that they will be obliged to share the funds with the newcomers, do not agree on amending it¹⁷³.

As to the Law on Associations, there has been a change in legislation that did not result to any change in practice. Associations are subjected to control by the police forces and to various restrictions. There are obstacles in establishing foreign associations, in inscribing foreign members and in accepting funds from abroad. Some changes were made and now, with the permission of the Ministry of Foreign Affairs and of the Ministry of Internal Affairs, associations can take funds from abroad, foreigners can register as members with the demonstration of their residence permit, but no foreign association exists. However, the procedures are long and if not followed the fines are very high.

Relatively to the freedom of Assembly, double standards are being used by the police forces; right extremists can gather publicly and demonstrate without being annoyed by the police officers, but when socialist-oriented groups demonstrate the

¹⁷⁰ Nihal İncioğlu, interview Istanbul Bilgi University, Istanbul December 2006

¹⁷¹ *Ibid*

¹⁷² *Ibid*

¹⁷³ *Ibid*

police forces use excessive force and gas¹⁷⁴. On women's day, 54 women were wounded and there was a reaction from the international public opinion. In that case, the state punished some police officers. The same happened in the demonstration on 1st of May. According to members of human rights associations, the punishments are exceptions and impunity of the officers is the usual case¹⁷⁵ because there is no means to trace the officers who made excessive use of force.

The representative of the EUGS, Ahmet Aydın Doğan assures that progressively many developments have happened in that field. However, implementation is very important. He places emphasis not on the cases of the excessive use of force but on the reaction of the state to condemn the police officers. As to the Political Parties' Law, he claims that this is political matter that has to be discussed by the political parties within the parliament. He agrees that this law needs amendment but he reminds that restrictions against Communist parties are lifted and this constitutes tremendous progress.

The requirements in the area of freedom of association and assembly are very much connected with the structures of the state. The restrictions to associations and to all forms of societal structure derive from the relations between the state and the individual¹⁷⁶. The a-political culture of non-participation in the matters of public interest started to fade away together with the change in mentality and the collapse of taboos. In order for the society to be more participant, the state should support social activities and the establishment of civil society organizations. A change in that field would be more difficult to occur because the state structures take time to transform and the people needs time to convince itself that participation is for democracy's benefit. That is why freedom of association and assembly will develop in the long run.

Freedom of religion

This chapter refers to the difficulties that all the religious minorities encounter, recognized or not. The first set of problems is related to the religious minority foundations of the non-Muslim minorities (*Vakıflar*): property rights, the right to autonomous management and to legal personality are being violated: The Büyükada

¹⁷⁴ *Supra* no. 152

¹⁷⁵ *Ibid*

¹⁷⁶ B. Erdenir, *Avrupa Kimliği*, 2005

Greek Girls' and Boys' Orphanage is one of the cases with which the European Court of Human Rights deals.

A new draft law has been introduced to the parliament for amending the Law on Foundations¹⁷⁷. The President of the Turkish Republic, Sezer vetoed this draft law on November 2006, demanding from the Parliament to reexamine the articles 5, 11, 12, 14, 16, 25, 26, 41 and 68. President Sezer disagreed with the fact that this law was transforming the Foundations into economic actors, models of political and social organization and civil society organizations¹⁷⁸. The secular structure of the Turkish state is not in accordance with granting political rights to religious foundations and of course minorities cannot be given privileges that the majority cannot enjoy. According to President Sezer the new law contradicts Articles 101, 102, 105, 106 and 109 of the Turkish Civil Code. The draft law that grants the right to foreigners to establish and manage foundations recognizes the right to foreigners to buy property without restrictions, it grants foreign foundations the same status with the Turkish ones, it abolishes every limitation as to their international relations, it recognizes some freedoms even to associations, it lifts all obstacles for the functioning of Halki Seminary, it recognizes for the first time all minority rights including the right to property of the community foundations providing them with a legal status and it exempts the community foundations from taxes. This law made clear that reciprocity would be valid only towards foreign citizens. It may not have included a reference to the *mazbut* but it allowed for the seized property to be returned and it rendered impossible for the *mülhak* to become *mazbut*¹⁷⁹. It did not include provisions for those already sold by auction¹⁸⁰ but it gave foundations the right to buy and sell property.

For these reasons, it has been characterized as smelling of “the fear of Sevres”¹⁸¹. It has also been suggested that it contradicted with the Constitution and the Lausanne Treaty¹⁸², it would render foreigners' foundations political organs upgrading their status, it would bring to the agenda the pending cases against Turkey

¹⁷⁷ Law on Foundations (Vakıflar Kanunu) no. 5555

¹⁷⁸ Newspaper “Dünya”, 29/11/2006

¹⁷⁹ Elçin Macar, interview Yıldız Teknik Üniversitesi İstanbul December 2006

¹⁸⁰ The state during the last years seemed to have been in a hurry to sell the seized properties by auction, Aggelos Syrigos, interview Panteion University, Athens November 2006

¹⁸¹ The report written by Sinan Aygün, president of the Ankara Chamber of Commerce [Ankara Ticaret Odası (ATO)] to the President of the Turkish Republic, Sezer on the occasion of the new draft Law on Foundations

¹⁸² Whereas it does not at all contradict with the spirit of the Lausanne Treaty according to E. Macar see *supra* no. 179

before the European Court of Human Rights and it would not take into consideration the Ottoman Foundations in Greece and Cyprus that are being “sold out”. The President of the Turkish Republic’s veto on the law is justified, if we take into account the state ideology¹⁸³. CHP¹⁸⁴ asked that the Law on religious foundations be adopted after Turkey becomes a full member of the European Union.

The present situation is being explained below: The General Directorate of the Foundations¹⁸⁵ manages the minority foundations. These foundations depending on their functioning are being characterized as *mülhak* or *mazbut*¹⁸⁶. The orphanage in the island of Büyükada is a *mazbut*. If the European Court of Human Rights adjudicates that it is a property of the Patriarchate, the legal personality of the latter will be de facto recognized since it will be in possession of immovable property. Another case is that of the building in Tepebaşı (Istanbul) that historically belongs to the “Great School of Our People”¹⁸⁷, which has been encroached by the Workers’ Party¹⁸⁸. Some cases of confiscations of minority buildings (schools and churches) have been already sent to the European Court of Human Rights collectively by associations of the people of Gökçeada (Imvros) and Bozcaada (Tenedos).

The violation to the right of minorities to train clergy reveals the cases of the reopening of the Halki Seminary and the legalization of the Cem houses. Particularly, the Alevis¹⁸⁹ do not enjoy religious freedom because their places of worship are not recognized as such, but as “cultural houses”. Before the 1980s, they used to pray in their houses. Now, they are only guaranteed that those “cultural houses” will not be closed down.

Another problem on which the Commission lays emphasis is the harassment to which some places of worship and clergy are subjected and proselytizing is illegal only in the cases of religious minorities. The cases of the Greek-Orthodox Patriarchate and the Catholic Priest Andrea Santoro are representative. The violations basically are directed against the Greek-Orthodox minority of Istanbul, Gökçeada

¹⁸³ *Supra* no. 179

¹⁸⁴ Republican People’s Party

¹⁸⁵ Vakıflar Genel Müdürlüğü

¹⁸⁶ The purpose for which it functioned does not exist anymore. For example, if the area of Beyoğlu has no more students, the school becomes a *mazbut*.

¹⁸⁷ Μεγάλη του Γένους Σχολή

¹⁸⁸ İşçi partisi

¹⁸⁹ Big part of the Alevi population are Kurdish-origin and live in the South-east of the country

(Imvros) and Bozcaada (Tenedos), the Armenians, the Syriacs¹⁹⁰ and the Alevis¹⁹¹. One positive development that was accepted without any problems was the abolition of the inscription of religion in ID cards¹⁹².

The denial of the ecclesiastical title of the Patriarch, which normally should not have bothered the secular Turkey, is one of the issues included in the state's ideology¹⁹³. The issue of minority religious foundations and the reopening of Halki Seminary are issues that undergo a dialogue between the AKP government and the nationalistic circles. Sometimes, they are used as a diplomatic card for the minority in Greece, but mostly they are a fixation, which serves as an ideological tool for the Turkish state's *raison d'etre*¹⁹⁴. As to Halki Seminary (Heybeliada Ruhban Okulu), many people claim that there is an obstacle related to the imam hatip schools. According to various academics¹⁹⁵, this is only a pretext, since the status of Halki Seminary differs completely from the status of the imam hatip schools. The perceptions of the Turkish political elites towards minority issues and the circumstances under which the political criteria regarding minorities could be fulfilled will be revealed under the chapter minority rights.

Economic and Social Rights:

Women's rights, Children's rights and the rights of disabled people

As far as the women's rights are concerned, the legislation about gender equality was positive, but particularly in the Southeast, the implementation is partial especially in the field of girls' education and participation of women in the workforce. The honor killings and the suicides because of forced marriages continue¹⁹⁶. Drastic changes to the direction of women's emancipation may take some time, because the Turkish society has to adapt to the concept of gender equality.

¹⁹⁰ It is a religious minority, which is not formally recognized by the Turkish state, despite its right to be recognized according to the Treaty of Lausanne of 1923.

¹⁹¹ It is a religious minority, which is not recognized by the Turkish state.

¹⁹² It is interesting that in Greece, the inscription of religion in ID cards was abolished only before a couple of years.

¹⁹³ *Supra* no. 179

¹⁹⁴ Nikos Sigalas, interview Institut Francais d' Etudes Anatoliennes d' Istanbul, Istanbul December 2006

¹⁹⁵ *Ibid* and *supra* no.179 and Aggelos Syrigos, interview Panteion University Athens November 2006

¹⁹⁶ The suicides were increased in 2006 according to the rates of the Human Rights Association (İnsan Hakları Derneği)

In relation to children's rights, positive developments have been reported in 2006. The remaining problems are related to the low level of school attendance in the Southeast, child labor and ill treatment of children in an orphanage of the Social Services and Child Protection Institution (SHÇEK) in Malatya. Child labor and child poverty are related to the problem of the internally displaced persons, whose solution does not seem plausible in the near future. However, the increase in school attendance thanks to the state funds to poor families to send their children to school will have positive outcomes, the value of which will be appreciated in the near future.

In relation to the rights of disabled people, many NGOs were established and the reports of the EU Commission are positive in the field of legislation. According to various academics, the NGOs do not focus on human rights but on charity, however, since 2005 the situation started to change. The Law on people with disabilities has been adopted in 2005 and it is very early to judge the delay in implementation. The law includes an article, according to which all public buildings within 7 years shall be accessible for people with disabilities, which is quite promising.

Since 2004, the Commission noticed that the clinics for mental health were abandoned. In the clinic of Bakırköy, the ECT method (electro-shock) was applied without anesthesia. The same problem has been referred to since 1997 but nothing has been done. In 2006, it came again to the agenda and the government prepared a manual and provided some training programs for the use of the ECT method.

The implementation of the requirements for the disabled people and the people who suffer from mental illnesses depends on the awareness of the need of provision for some facilities in public places and on the practical aspect of their construction. Time will render social consciousness over that issue stronger, as people will be more informed and less prone to prejudices¹⁹⁷.

Trade unions' rights

The trade unions' rights have been first specified in the report of 2006 and the comments were only negative. Until 2001 there was no law that legalized the existence of trade unions. In 2001, Law 4888 was adopted, which granted the right to public workers to meet with the authorities and disclose their demands. The right to

¹⁹⁷ *Supra* no. 88

strike has been recognized in legislation but its implementation is problematic because of the police practices. Moreover, there are serious obstacles in forming syndicates.

The representative of the EUGS, Ahmet Aydın Doğan agrees on the existence of a problem related to the trade unions' rights and especially as to the implementation of the ILO Convention. However, he puts the blame on the social partners as well, who cannot reach a consensus.

The state seems unwilling to support public dialogue, collective consciousness and politicization of the workforce¹⁹⁸. This mentality will not change with a change in governments¹⁹⁹. According to various members of human rights' associations, as long as the faith to the military is the basis of the political tradition and the state-individual relations are structured in a vertical order, the state will restrict any form of collective organization. Despite the amendments that the AKP government managed to pass, the military's economic and social power is not diminished. The Armed Forces continue to control a great portion of Turkish economy through companies and banks.

In conclusion, the problem is traced in the roots of state ideology and the situation cannot change at once²⁰⁰. Freedom of association and trade unions' rights will be guaranteed in the long run and as both, state and society follow the democratization path. It will take time for the democratic values to be absorbed and put in practice and that is why revolutionary developments are not to expect.

Minority Rights, Cultural Rights and Protection of Minorities:

The contradiction in this chapter is that the EU Commission refers not only to religious minorities, but also to national minorities whose existence Turkey does not recognize. Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. Moreover, the government carefully avoided any explicit reference in the letter and spirit of the reform laws that could suggest an official recognition of minority identities. The discourse of national minorities was

¹⁹⁸ *Supra* no. 152

¹⁹⁹ *Supra* no. 155

²⁰⁰ *Supra* no. 152 and *supra* no. 155

transformed to a discourse of cultural diversity²⁰¹. On the one hand, the Kurds, the Alevi, the Circassians, the Georgians and the Lazis could take advantage of the benefits of cultural diversity that EU of the Regions promotes. On the other hand, those ethnic and/or religious groups may have abandoned the minority discourse because they did not want to become second class citizens, in other words to be deprived of their full citizenship rights.

In that chapter and on the side of its comments under the chapter “Freedom of religion”, the Commission refers to the difficulties that religious minorities encounter. The basic set of problems is related to the right to education: problems have been reported in the schoolbooks, in the appointment of teachers in minority schools and in the enrollment of foreign citizens. However, some positive developments should be mentioned. There was a Protocol on Education of 1968 that until 2004 did not function properly: the schoolbooks had to be exchanged and corrected in order to be taught in the minority schools but this procedure lasted 3 or 4 months and as a result the children received their schoolbooks after the middle of the school year. The most important problem according to various academics²⁰² is that no regulation for linguistic disabilities exists. Arabic-speaking Christian orthodox children cannot follow the pace of the Greek speaking ones. In the field of education, problems face the Alevi; since they are not recognized as a religious minority, the Alevi children are obliged to attend the religious course, in which Sunni Islam is preached and as a result, they are subjected to assimilation²⁰³.

The violations of the rights to property and to train clergy have been examined thoroughly under the chapter “Freedom of religion”. The impediments in the management of religious foundations (*Vakıflar*), the inhibition of the reopening of Halki Seminary and the confiscations and expropriations of churches and schools with a special reference in Gökçeada (Imvros) -as have been already examined- constitute violations of minority rights²⁰⁴. As far as the denial of the right to inheritance to

²⁰¹ A. Kaya, “ The impact of the Europeanization process on the perception of minorities in Turkey”, paper presented at the conference on the "Political and Social Identities of Europe in an Age of Enlargement", *EU Institute in Japan*, Tokyo (16-17 September 2006)

²⁰² Aggelos Syrigos, interview Panteion University Athens November 2006 and Konstantinos Tsitselikis interview Thessaloniki December 2006

²⁰³ *Supra* no. 152

²⁰⁴ A law passed in 2004 but it was not implemented but the experts say that in 2006, its validity has been restored.

Greeks is concerned²⁰⁵ the sources are controversial: it is accepted that the law has been adopted in 2004, there has been retrogression in 2005, but no expert could confirm that nowadays it functions properly²⁰⁶.

At this point, it is interesting to see how minority rights were included in the Commission's reports. The EU started to lay emphasis on the respect to minority rights since recently. Greece, as a kin-state never gave priority to the minority of Istanbul, Gökçeada (Imvros) and Bozcaada (Tenedos) in its foreign policy, but during the *Nea Demokratia* government, P. Molyviates, as Minister of Foreign Affairs, promoted the inclusion of minority rights in the reports²⁰⁷. The Patriarchate with its Office in the EU made those requirements widely known but it is argued that some countries such as France because of the Armenian lobby, Netherlands and Austria pushed for the respect to minority rights as well. The extensive reference to the situation in Gökçeada / Imvros can be attributed to the origins of the present Greek Orthodox Patriarch, as it is sometimes speculated by the interviewed experts. Minority issues affect Turkey-EU relations but according to the academics²⁰⁸, they constitute double standards, because not all the member states were subject to those requirements. Greece was never controlled by the European Union for its treatment towards minorities²⁰⁹ but only by the European Court of Human Rights, to which about 25 individuals from the Muslim/Turkish minority of Thrace have resorted.

The coalition government was not capable of dealing with the requirements concerning minority rights because of the presence of MHP (Nationalist Action Party). It was a coalition of conservative parties and a government conforming to the state ideology. According to the interviewed academics, the reasons behind AKP government's determination in the field of minority rights are the commitment of the AKP government to the European vision and the right timing in EU-Turkey relations. The present government accepted the validity of the European requirements and therefore, the EU managed to push for changes in legislation. Moreover, AKP was more sensitive in the issue of religious minorities because of its ideological background, and willing to push Greece diplomatically to proceed to mutual

²⁰⁵ This issue refers to the ability of Greeks to buy property. It must be noted that until the adoption of that law some Greek citizens could buy property exceptionally if they were Muslims with a special permission from the Prefecture.

²⁰⁶ A. Kourkoulas, E. Macar, K. Tsitselikis, N. Sigalas, A. Syrigos were asked.

²⁰⁷ Alkis Kourkoulas, interview Istanbul December 2006

²⁰⁸ *Supra* no. 179 and K. Tsitselikis, interview Thessaloniki December 2006

²⁰⁹ *Ibid*

concessions to the Muslim/Turkish minority of Thrace. A factor that facilitated that switch in minority policies was that the nationalistic commands of state ideology using the stereotypical fears against minorities never had a strong impact on Erdoğan²¹⁰ and AKP. Thirdly, minority consciousness in Turkey was fostered because of the social procedures towards democratization. As a result, the possibility of political cost has weakened. We have to add that resolution of minority issues by the European Court of Human Rights will be convenient for the government because it will further reduce the chances of political cost.²¹¹ Many violations against religious freedom started to be disclosed by members of the Turkish intelligentsia. It was proved that the issue of religious freedom does not concern only religious minorities but the whole population. The rights of the Alevis and the “headscarf” issue demonstrated that the AKP government could act within the compass of the system.

In addition, minority members did not remain idle. The “Meeting in Istanbul: Past and Present”, a conference organized by the Greek-origin minority of Istanbul, to bring together the intellectuals of Anatolian-Greek diaspora and the Greeks of Istanbul (June 30 – July 2, 2006) managed to conduct a demographic survey, which changed the figures and proved that the minority members come up to 5.000. Some months after the conference, elections were held in the communities with the support of the authorities. The problem is that traditionally, the Turkish state does not recognize the entirety of the community, but the 34 committees of the foundations rejecting any chance of their incorporation. However, at least in practice, the authorities do not hamper people from voting for more than one committee in case of elections.

The pretext that the political elites in Turkey use for non-compliance with the European standards in minority rights case defined as the rights of the non-Muslims is based on the concept of reciprocity²¹², which is valid in the Greek case as well. As it has been stated many times: “the treatment of the minority should be in accordance with the relevant treaties and in proportion to the treatment of the Greek minority by

²¹⁰ According to E. Macar (see *supra* no. 179) Erdoğan raises a voice opposite to the status quo. Erbakan was an Islamist as well, but he was only interested in coming to power and not opposing to the political regime.

²¹¹ *Supra* no. 179

²¹² K. Tsitselikis, “Reciprocity as a regulatory pattern for the treatment of the Turkish/Muslim minority of Greece”, in S. Akgönül (ed.), *Greek and Turkish Minorities: Law, religion and politics*, Bilgi University press, Istanbul 2006

Turkey”²¹³. The logic of “proportionate treatment” was applied even as a numerical balance in 1937, when the Minister of Foreign Affairs of Turkey agreed with the relevant Greek proposal, “in the frame of reciprocity”, that the two governments would deport mutually, upon consent, unwanted individuals holders each other’s citizenship.²¹⁴ Reciprocity was applied in the field of education especially in 1964, after the events in Cyprus and the massive deportation of the Greek citizens of Istanbul and in the field of property rights²¹⁵, when the expropriation in Thrace had been proposed as a counter measure to the expropriation of land property in Gökçeada (Imvros) and Bozcaada (Tenedos). Moreover, the Law on Foundations and the abolition of the elections in the foundation committees²¹⁶ are in accordance with the clause of reciprocity. Reciprocity has also been used by Turkish political authorities with respect to the elections of the Mufti of Thrace and to the construction of a mosque in the center of Athens²¹⁷ in return for the nomination of the Patriarch and for granting him permission to visit regions outside the boundaries of the registered Greek-Orthodox minority respectively. Anyway, reciprocity as a legal argument for human rights’ violations is contrary to international law²¹⁸. However, it is sometimes evident and has been used at the political level, since 1923. It is still evident in AKP government policies although it is not openly relied upon. Experts claim that the political elites never referred publicly to the application of reciprocity in the case of the Patriarch and the Mufti. Thus, the Chairman of the Central Decision and Administrative Board of AKP, Mr. Müezzinoğlu made that statement openly.

Reciprocity is used for mass consumption within Turkey, based on the argument that Greece severely violates the minority rights of the Muslim/Turkish minority of Thrace. The opposition party –CHP- uses this term to condemn AKP politicians as traitors and not enough “patriots”, who forget the rights of the Muslim/Turkish minority of Thrace in the process of granting rights to the religious minorities in Turkey. The fact that elections in Turkey will be held soon strengthens the impact of nationalistic stereotypes.

²¹³ Report on “the Muslims living in Greece”, Ministry of Interior, Directorate General on Aliens, July 1952, MSA F. 95B.

²¹⁴ Doc. 14316/346, Ankara, 30.6.1937, Turkish MFA, HAMFA, F. 1937/58.3.

²¹⁵ *Supra* no. 212

²¹⁶ An undisputable proof of the application of reciprocity is that as soon as elections were held in the committees of the Greek-orthodox minority in October 2006, the Greek government announced elections in the Turkish/Muslim minority on February 2007.

²¹⁷ The Prime Minister Erdoğan articulated this demand three times within a few months.

²¹⁸ Konstantinos Tsitselikis, interview Thessaloniki December 2006

At this point, it is time to deal with the specific political requirements related to minorities. As to the religious foundations, the decisions of the European Court of Human Rights will solve the issue legally and the legal personality of the Patriarchate will be de facto recognized through recognition of its right to property. As to implementation, some time will be needed for the Turkish judges to adapt to the changes.

The importance of the reopening of the Halki Seminary has grown. Turkish authorities consider the reopening of the Theological School under Turkish law, but in this case, there would be practical problems in its functioning. The argument that the reopening of the Seminary will provide simultaneously the right to private religious education seems to be very weak. The Halki Seminary is not connected by any means to the imam hatip schools²¹⁹. The academics claim that this issue is related to the overall policy against the minority²²⁰ and to the willingness of the state to keep the Halki Seminary as a diplomatic card that will be used for gaining something else in return.

The Patriarchate is also affected by the overall policy against minorities. The state policy over this issue is not related to governmental policies but it is shaped by bureaucracies such as the Ministries of Interior and Foreign Affairs, the General Staffs and MIT. Despite the fact that after the elections of 2002 the government seems to be more active in the formation of policies, the establishment of the Turkish Republic was based on some “myths” that created “others”²²¹; one of them is the Patriarchate. Today, the position of the Patriarch is by far better than in the years of Patriarch Demetrios²²². The Patriarch nowadays can visit Cappadocia and Malatya to pray, places outside his religious authority²²³. However, not much is expected to change at the institutional level. The Turkish bureaucracy is bequeathed with the ghost of *Megali Idea* of the Greeks (Great Idea), whose symbol is the Patriarchate and which does not describe the present Greek reality. The Patriarchate is often conceived

²¹⁹ In 2001, the holding of the summer seminars on ecology in the Halki Seminary was prohibited despite the fact that those seminars did not have any religious content.

²²⁰ *Supra* no. 179

²²¹ *Ibid*

²²² While Mesut Yılmaz was the prime Minister, Patriarch Demetrios has been accompanied with guns up to the airport and he was not given the permission to travel, while Patriarch Bartholomeos has been granted the right to invite the Pope as his emeritus.

²²³ Because, the Patriarch’s presence fosters tourism in those areas, estimation by A. Syrigos, interview Panteion University Athens November 2006

as an attempt of the Greeks to establish a Vatican in Istanbul and the rejection of the ecclesiastical title of the Patriarch represents that fear²²⁴.

According to the view of the interviewed AKP politicians, the developments in the area of minorities derive from the party's commitment to the equality of all citizens. However, for the non-implemented criteria, they claim reciprocity²²⁵. Turkey will respect minority rights as much as the EU member-states do. In that context, Greece does not respect the rights of the Muslim/Turkish minority: The establishment of any association which includes the adjective "Turkish" in its name is prohibited and the minority members do not have the right to elect their religious leader, while all the churches in Turkey enjoy freedom. It is implied that if the Greek government accepts the "Turkish" identity of the minority, the Turkish government will be in position to convince the public opinion and the opposition to accept the expansion of the rights of the Greek-Orthodox minority. They claim that if some standards are applied in the treatment of "Turkish" minorities in all EU member-states, the Turkish society will be ready to accept the granting of minority rights in Turkey.

The representative of the Ministry of Foreign Affairs, Muhsin Kılıçaslan personally believes that the reason for which AKP dealt more with the issue of minorities was that Erdoğan and many AKP personalities were raised in the Istanbul's minority culture. Mr. Ambassador Volkan Vural claims that EU served only as a catalyst and that the real demand for granting minority rights came from the society which feels more confident and more mature than in the past. For the non-resolved issues, he claims that although the political will exists, there are practical bureaucratic obstacles. The reopening of Halki Seminary is related to the issue of imam hatip schools, to the legalization of private religious education and to the overall discussion about Islam in Turkey. The representative of the EUGS, Ahmet Aydın Doğan supports the idea of the reopening the Halki Seminary within the public educational system but the obstacle is Patriarch Bartholomeos who does not accept it. He also believes that the drawbacks to which the EU Commission's report refers, such as the foundations, Halki Seminary and the status of the Patriarchate are not important for Turkey's accession, but since the EU accession is a political process, those requirements are imposed from some of the member-states for political reasons.

²²⁴ According to the interviewed experts, Turkey as a secular state should not have been bothered with the title of the Patriarch but over the years, this issue has been politicised

²²⁵ *Supra* no. 75 and *supra* no. 83

All the politicians and diplomats do not forget to remind that since there is no recognized definition of minorities, Turkey recognizes only those minorities defined in the Lausanne Treaty. The representative of the State Planning Organization, Emin Zararsız asserts that all the rights will be granted to the minorities as they are defined in that Treaty. He states that he personally does not agree with the idea of reciprocity as to minority rights, because every nation-state defines its minorities according to its own will.

The representative of the AKP Mehmet Müezzinoğlu being a minority member from Thrace himself claims that AKP dealt more with minorities due to its ideological background. However, he presents a more sincere view on how minorities are treated in Turkey. He believes that the requirements concerning minorities -the reopening of Halki Seminary, the status of the Patriarchate and the Law on Foundations- are not part of the political criteria and they constitute double standards because none of the EU member-states, not even Greece was controlled for its treatment towards minorities. He confirms that as long as the situation gets better in Greece as to the religious foundations, religious foundations in Turkey will receive the same treatment. In parallel, if the right to choose *mufti* is recognized in Thrace, the status of the Patriarch will be recognized as well. In this context, the political criteria concerning minorities are perceived as diplomatic cards that will be used for mutual concessions from both sides.

AKP may not raise administrative impediments to the full enjoyment of minority rights and the Turkish society may be more prone to ideas that contradict the nationalistic ideology of the state. The political criteria concerning minorities to the extent that are perceived as diplomatic cards may be fulfilled in the medium run. However, at the structural/institutional level, the state ideology did not experience any changes and as a result, no revolutionary developments are about to happen. The secularist structure of the Turkish state, the persistence to the Lausanne Treaty and the policy against minorities do not depend on governmental policies, and that is why no government, not even the most progressive or liberal one will be in position to combat with the political traditions²²⁶. Nonetheless, the promising course of society's involvement in the democratization process raises some hopes for the future. For the time being, this segment of society is limited but it seems to have the dynamics to

²²⁶ *Supra* no. 179 and *supra* no. 194

drag along many others as it was proved in the funeral of Hrant Dink. The funeral of the Armenian-origin journalist and editor transformed to a peaceful demonstration, whose slogan was “We are All Armenians”. This leads us to the assumption that once taboos are broken, the course does not turn back.

Cultural rights, situation in the East and Southeast and internally displaced persons (IDPs)

Concerning the security situation in the Southeast²²⁷, the first requirement of the Commission was the lifting of the state of emergency that was imposed in 1987 that was finally lifted in all provinces on November 30, 2002. In the 2006 report, a relapse of violence is observed in the Southeast, which led to its reproduction on behalf of the security forces and to violation of human rights in the area. The Commission in its report did not refer to any effort towards solution, as long as the state does not recognize any representative from the Kurds. Academics claim²²⁸ that the government does not have the control of the security situation in the Southeast and that the National Security Council (MGK) still decides upon that issue. Nowadays, voices from inside the state with a different approach, such as that of Mehmet Ağar, started to being heard versus the isolated mentality of the MGK²²⁹.

As to the cultural rights, no positive development was worthy of mentioning until the 2005 report, when the right to broadcast in mother tongues other than Turkish has been granted but only to the state channel TRT. In the 2006 report, it is stated that permission for private education in Kurdish and for broadcasting of local channels has been granted and Erdoğan made a positive statement as to the “Kurdish issue”. However, there are setbacks in implementation. Issues that involve the Law on Compensation of Losses Resulting from Terrorist Acts²³⁰, the Return to Village and Rehabilitation Program²³¹, the internally displaced persons, the regional underdevelopment and the problem of village guards and landmines are not solved. Moreover, political parties that give speeches in Kurdish are being prosecuted, there

²²⁷ The basic think tank that deals with this issue in Turkey is TESEV.

²²⁸ Ferhat Kentel, interview Istanbul Bilgi University Istanbul December 2006

²²⁹ *Ibid*

²³⁰ Law no. 5233, July 2004

²³¹ This project started in 1994

are pending cases against elected politicians from the Southeast because of the 10% threshold and non-Turkish speakers do not enjoy the right to equal opportunities.

First of all, as to the security situation, PKK begun its activities in the region in 1984 and in 1987, when the state realized the danger, imposed the state of emergency. The seriousness of the situation is expressed in mere numbers: 1000 villages and 3000 hamlets have been evacuated from the Gendarmerie, which is not accountable, and those evacuations were held in an unconstitutional way. In addition, impunity preserves the lack of confidence in the area. However, PKK still undertakes attacks and the question whether the security concerns of the state are real or not cannot be given an easy answer. It is argued that the military likes the existence of PKK because that way, it legitimizes its power (economic and military). According to various members of the intelligentsia²³², on the one hand this argument is plausible, but on the other, the Kurdish administration in Northern Iraq is a reality.

As to the use of languages other than Turkish in the media, the reforms started with the removal of some of the constitutional restrictions. An amendment to the broadcasting law in the August 2002 reform package allowed for “broadcasting in different languages and dialects Turkish citizens traditionally use in their daily lives.” The same law was further amended in July 2003 to provide for both public and private broadcasting. However, the law contains a troublesome content restriction in imposing an over-inclusive ban on broadcasts “contradict[ing] the fundamental principles of the Turkish Republic and the indivisible integrity of the state.”²³³ Nonetheless, in practice nobody watches the transmissions in Kurdish from the national TV because they perceive it as state propaganda²³⁴ and the local TV and radio channels as subjected to so many restrictions that make their functioning extremely difficult.

In the area of language education, the reforms made in August 2002 effectively allowed the opening of private courses for teaching minority languages, subject to the requirement that such instruction does not violate the “indivisible integrity of the state”. The legislature has explicitly made it clear that this by no means suggested teaching “Turkish citizens as mother tongue any language other than

²³² Hatice Deniz Yüksek, interview Koç University, Istanbul December 2006

²³³ D. Kurban, “ Unraveling a trade-off: Reconciling minority rights and full citizenship in Turkey”, *European Yearbook of Minority Issues* vol. 4, 2004/5

²³⁴ Testimonies from the local people of Batman, Hasankeyf, Tatvan and Van self determined as Kurds, October 2006.

Turkish.” Undoubtedly a positive step in the right direction, the granting of the right to teach and learn minority languages in private courses falls far short not only of established international standards, but also of the educational rights afforded to non-Muslim minorities under the Treaty of Lausanne and the educational opportunities available to all students in Turkey for learning and even receiving education in foreign languages. Thus, the reform law exacerbates the existing inequality of treatment between ethnic minorities and non-Muslim minorities as well as between ethnic minority languages and foreign languages.²³⁵ In practice again, a very few number of people attend these courses. Firstly, because they do not need to learn the Kurdish language since it is their mother tongue; the basic problem is that they need to acquire their education in Kurdish, which is unacceptable according to the state mentality. Secondly, because the authorities raise different kinds of technical impediments to people who wish to open a private school or attend courses of Kurdish language²³⁶.

Another important set of problems, which forms a part of the Commission’ s report since 2002 thanks to the inputs by TESEV, is related to the Internally Displaced Persons (IDPs), which are calculated to 1.000.000²³⁷. Those people have been displaced either by use of force on behalf of the military, which was in the process of evacuating the villages, or instigated by the fear arose by the armed conflict between the Turkish military and the Kurdish guerilla²³⁸. The displacement started in 1984, continued until 1999 and the main destination was Istanbul. The government initiated the Return to Villages and Rehabilitation Project in 1998 in 14 provinces but the return concerned only season or temporarily returns and at the end of the day, it did not function.

Compared to the coalition government, AKP dealt more with this issue mostly because of timing²³⁹. When AKP was in power –2002- Deng report was published and the government was obliged to address that issue. Despite the timing of the publication of Deng report, EU showed interest in coping with regional discrepancies, and as a result, its pressure led to some developments in the Southeast of Turkey.

²³⁵ *Ibid*

²³⁶ *Ibid* and *supra* no.228

²³⁷ Hacettepe survey

²³⁸ Terrorist attacks have been occurring since 1984, see *supra* no. 232

²³⁹ *Supra* no. 232 and Dilek Kurban, interview TESEV Istanbul December 2006

According to various academics²⁴⁰, AKP dealt more with the issue of the Southeast because the party came to power using the request for democracy as a slogan. The most important step was made in 2004 with the Action Plan in Van and the Law on Compensation for Losses Resulting from Terrorist Acts, despite the fact that in practice only the 10% of the cases is compensated because of technical difficulties²⁴¹. Moreover, the State Planning Organization requested from Hacettepe University to conduct a survey about the Internally Displaced Persons. Many developments have been made at the level of society, which using the EU as a platform, addresses those issues on the basis of the ‘Kurdish’ identity and creates perspectives for a dialogue towards solution.

The Working and monitoring group on the post-displacement restitution of citizenship rights and social rehabilitation was established on November 2004. In 2005, the government indicated a new strategy towards this issue and included it in the framework document of 17/8/2005 “Prensip kararı”. However, the government did not focus on the current conditions of the IDPs, but its measures seem like giving an aspirin to cancer, whose cure needs uprooting the tumor.

Not much has been done to tackle with regional disparities, the lack of capital and unemployment. The withdrawal of state investments and the privatization of companies, such as TEKEL have worsened the economic conditions. The state has characterized the East and Southeast “Priority Investment Regions”, together with Black-Sea and Central Anatolia granting economic incentives to businessmen willing to invest in those areas. Obviously, the entrepreneurs prefer investing in the Black-Sea and the Central Anatolian region. The state lacks the political will to tackle with regional disparities in the East and Southeast²⁴². Sending money to the region by distributing the “green card”²⁴³ is not the answer to the problem of unemployment but a way to address poverty. There is no deliberate plan to create infrastructure²⁴⁴ to combat unemployment and Turkey refuses to accept funds from the EU in favor of IDPs claiming that it will be discriminatory for the rest of the population. However, in

²⁴⁰ *Supra* no. 228

²⁴¹ It is very difficult to prove that the losses were caused by terrorist acts as well as it is almost impossible to prove the amount of property that existed before the terrorist acts.

²⁴² *Supra* no. 232

²⁴³ The “green card” provides free health care, medication, food, fuel, clothing, stationery and cash grants to 3.000.000 people in 14 provinces

²⁴⁴ The inter-city roads are being repaired because the military uses them but the village roads are in a very bad condition.

order to promote school attendance, the state gives cash allowances to poor families to send their children to school.

The village guards²⁴⁵ constitute another serious obstacle for the reconciliation in the Southeast. The law no. 3175/ 26 March 1985 amended the Village Law no. 442 of 1924 and the amendment was implemented in 22 provinces. The state using the Kurdish local clans (*aşiretler*) penetrated inside the local population building a clientelistic relationship. In 2006, the articles 57 and 174 were amended and the village guards were characterized as provisional. The government until today does not seem willing to abolish the system of the village guards nor to disarm them because of security concerns²⁴⁶. Nevertheless, the village guards have carried out confiscations together with the military and still are involved in violations of human rights against the IDPs. This situation raises security concerns and for that, it is highly related with the failure of the Return Program. It is essential for the state to take measures for the reconciliation of the village guards with the local population, to disarm them together with the PKK and to offer them alternative options for employment or pensions.

Concerning the mine clearance, according to the Ottawa Convention of 2003, the Turkish Armed Forces have to undertake mine clearance activities. The mines have been put by both the military and the PKK and it is one more obstacle for the return of IDPs. The problem is especially traced in the region of Hakkari, which neighbors Iran and Iraq.

According to various academics²⁴⁷, the Turkish state, the EU and the UN²⁴⁸ deal with the problem of internal displacement disentangling it from the Kurdish issue, in order to de-politicize it. As Ecevit put it: “there is a question of underdevelopment” in the Southeast region. This was for years the state discourse in order not to address to the “Kurdish” issue. For that reason, issues of accountability, justice and reconciliation are tacitly circumvented. Actually, all the previous problems are related to the political issue²⁴⁹. The state has to show enough political will to address to the Kurdish question, which has various complex dimensions. Another

²⁴⁵ “Geçici köy korucusu” in Turkish

²⁴⁶ *Supra* no. 232

²⁴⁷ See *inter alia* B. Ayata, D. Yüksek, “A belated awakening: national and international responses to the internal displacement of Kurds in Turkey”, *New perspectives on Turkey No. 32*, 2005 and *supra* no. 233

²⁴⁸ The government cooperates with the UN since 2003, Hacettepe survey on Law 5233, Framework document

²⁴⁹ Dilek Kurban, interview TESEV Istanbul December 2006

necessity is the involvement of all relevant actors. The issue has to be brought to public scrutiny because this is the only way to ensure a viable solution.

Furthermore, the Commission argues that the electoral system makes it difficult for minorities to be represented in Parliament. The 10% national electoral threshold ended up at hindering in particular the pro-Kurdish parties²⁵⁰. Similarly, the Law on Political Parties (LPP) continues to prohibit political parties from pursuing pro-minority protection policies. Article 81's "prevention of the creation of minorities" bans political parties from claiming that minorities exist in Turkey or from "aiming to and engaging in activities towards disturbing the unity of the nation by creating minorities on the territory of the Republic of Turkey through protecting, advancing or spreading languages and cultures other than the Turkish language and culture",²⁵¹.

According to the experts²⁵², the signing and ratifying of the Council of Europe Framework Convention for the Protection of National Minorities will mean the complete transformation of the state mentality. Turkey, which is not ethnically homogeneous, is based on the artificial building of the Turkish nation. Recognition of national minorities may jeopardize the whole construction. The question is whether the security dilemma and the fear of Kurdish separatism are real or a construction of the state ideology in order to secure its predominance.

Passing to the views of the politicians and diplomats, the representative of the AKP, Egemen Bağış, argues that those decisions are very difficult to take in coalition governments, especially when the ideologies of most of the parties of the coalition tend to support nationalistic values. For AKP it was easier to promote cultural rights because of the party's ideological background and the origins of many of its members. Its request for expanding democracy in Turkey appears to be closer to the EU requirements. However, timing and the EU pressure seem to be the catalysts for granting cultural rights to the Kurds. Emin Zararsız and Volkan Vural agreed on the need for more expansion of cultural rights but Mr. Ambassador Volkan Vural declared that not many things have happened and that no time or content restrictions should be imposed in broadcasting in Kurdish.

²⁵⁰ *Supra* no. 228 and *supra* no. 249

²⁵¹ *Supra* no.233

²⁵² *Supra* no. 228

To sum up, it is obvious that the cultural rights are a political issue related to the Kurdish question. The national ideology, which is based on the unitary structure of the state, opposes the security concerns originated from PKK against any substantial provision of rights to the Kurds. The state ideology is not dependent on governmental decisions but on the “guarantors” of the Turkish Republic.

Roma

The report of 2005 refers to shortcomings in the rights of the Roma but appraises Bilgi University’s work and the establishment of the Center for Migration Research²⁵³. The reforms made in the field of prohibition of any kind of discrimination served for the benefit of the Roma people, who according to the Settlement Law, were among the five categories not accepted in Turkey as immigrants²⁵⁴. In the 2006 report, the aforementioned Law was amended and associations supporting the Roma rights have been established. However, discriminatory provisions as to housing, education, health and employment against them are still in force.

Roma are characterized as “the invisible minority”, they used to detain special IDs with the “esmer vatandaş” (“brunet / dark citizen”) description on it (until 1968)²⁵⁵, they are being still mistreated, even tortured, because they bear the stamp of delinquents or beggars. However, Roma rights were included in the EU Commission’s report very recently. Before, it was never expressed as an issue. Experts from the Center for Migration Studies perceive the requirements concerning Roma rights as a double standard, since their protection was not a prerequisite in the accession of other member-states, such as Italy or Greece, where the standards of living of Roma people are similar to Turkey. Neither the coalition government, nor the AKP did something in particular for granting Roma their rights, but because of the role of civil society organizations, the consciousness of Roma people has been

²⁵³ The Centre for Migration Research was established with the promulgation of its statute in the Official Gazette No 25811

²⁵⁴ According to the EU report of 2001.

²⁵⁵ Centre for Migration Research/ Istanbul Bilgi University, *General Report on the situation of the Roma in Turkey*, 2004

fostered²⁵⁶. Roma-led organizations were established in Istanbul and in Edirne for the support of Roma people in Courts and for capacity building.

Some problems that Roma people face are those related to linguistic difficulties, settlement habits and discriminations in employment and in health. The state is trying to build big settlements for the Roma, but on the one hand, those of the Sulukule²⁵⁷ area do not want to move and on the other hand the local population is not cooperative. However, the social and economic conditions of the Roma depend on where they are settled, and this creates the necessity for special treatment²⁵⁸ according to their needs. The state bureaucracy is expected to contribute to the change of the “image” of the Roma and the Roma communities are expected to be more active and learn how to support their rights.

The implementation of the political criterion concerning the Roma rights is not connected with political will. The state bureaucracy does not give the appropriate attention to the Roma, not because of enmity but because of ignorance²⁵⁹. The political establishment does not create any explicit impediments to the efforts of the civil society organizations but on the contrary, it expresses its implicit support to their work²⁶⁰. Non-discriminatory practices will be put in force after some time, when the consciousness of cultural diversity is enhanced in the Turkish society and the authorities adapt to practices that conform to the EU standards.

All in all, there have been positive developments towards enhancing freedom of expression of minority identities and abolishing discriminations within the employment law. According to some academics²⁶¹, nothing may have changed in substance towards minority issues in Turkey, but the reforms triggered minority consciousness. The conferences “Ottoman Armenians during the Demise of the Empire” and “Kurdish Question” were organized at Istanbul Bilgi University respectively on September 25-26, 2005 and March 11-12, 2006, despite the lawsuits by some lawyers. A similar conference, called “Meeting in Istanbul: Past and Present”, was organized by the Greek-origin minority in Istanbul, on June 30 – July 2,

²⁵⁶ Ayhan Kaya, interview Istanbul Bilgi University, Istanbul December 2006

²⁵⁷ Sulukule is a Roma-populated area with a historical value.

²⁵⁸ In Kaşimpaşa, the Roma people are more integrated economically than in Sulukule and in Edirne are in much better economic conditions than Istanbul.

²⁵⁹ *Supra* no. 256

²⁶⁰ *Ibid*

²⁶¹ *Supra* no. 249 and *supra* no. 256

2006 with the support of the Istanbul Metropolitan Municipality. Such conferences would have been unthinkable in the past²⁶². Moreover, Kurds, Alevis, Circassians, Armenians, Romans and Assyrians are some of the groups vocalizing their concerns before the European Union bodies. For instance, the representatives of major Alevi and Circassian Associations respectively had meetings with Karen Fogg, the former representative of the European Union delegation in Ankara (20th June and 6th November 2000)²⁶³. Despite the reactions from some segments of the Turkish society, which actually verify the achieved progress, these movements create a precedent for further encouragement of the respect towards cultural diversity and minority rights.

The question is whether Alevis and Kurds are minorities. On the one hand, their linguistic and/or religious characteristics create the need for special treatment and it is Turkey's obligation to provide them with some cultural rights²⁶⁴. On the other hand, it is debatable whether attributing the minority status to the Kurds and Alevis is fair, since they consider themselves to be on equal footing with the Turks in the foundation of the Turkish Republic.

d. Regional issues and international obligations

In Turkey, there is a widely heard perception among the members of the intelligentsia and the political elites that the regional issues stated in the EU Commission's reports –namely the Cyprus issue and the peaceful settlement of border disputes- do not form an integral part with the rest of the political criteria. However, since the Helsinki Summit in 1999 it was decided that the settlement of the regional issues is a prerequisite for Turkey's accession in the EU and part of its obligations towards the other member-states.

Cyprus

No important change has been reported until 2002. Since then and until 2005, the reports refer to Turkey's support to the direct talks conducted by the United Nations and to the Annan Plan. In the 2005 report, the EU commission asked Turkey

²⁶² *Supra* no. 201

²⁶³ *Ibid*

²⁶⁴ *Supra* no. 249

to implement fully the Protocol and make steps for the normalization of bilateral relations with all member states. Turkey replied that the Additional Protocol would not be implemented as long as the isolation of the Turkish Cypriot community continued and it did not lift the veto on Cyprus' membership in international organizations such as OECD and the Wassenaar Agreement.

According to some experts²⁶⁵, Erdoğan's policy on the Cyprus issue was his most daring and successful step. The Turkish Prime Minister differentiated his position from that of the previous governments accepting a resolution on the framework of the United Nations. At the diplomatic level, he managed to present the Annan Plan as a Turkish victory, which made the Greeks believe that it was a Greek defeat and turned the tables: since its rejection, the international public opinion no longer remembers the "invasion to Cyprus by the Turks" but the "rejection of the Annan Plan by the Greek-Cypriots". Papadopoulos, the President of the Republic of Cyprus, who played the hawkish role of Denktaş contributed to the amelioration of Turkey's image. The contribution of Turkey to the settlement of the Cyprus issue on the basis of the Annan Plan and the opposite role of Greece and the Republic of Cyprus created the image that the failure of the Annan Plan stemmed from the Greek denial and for the first time not from the Turkish²⁶⁶.

The cases in the European Court of Human Rights submitted by Greek-Cypriots against Turkey will be tried soon and the committees on technical issues of water and drains continue to operate. However, the Additional protocol to the Ankara Agreement for the implementation of the Customs' Union between Turkey and the Republic of Cyprus is not yet implemented. Turkey refuses to open its ports and airports to Cypriot airplanes and boats. According to many experts²⁶⁷, the Republic of Cyprus, feeling diplomatically more secure as a EU member-state overemphasizes the importance of the implementation of the Protocol just to remind that Turkey still occupies EU territory. On the other side, the government seems to have removed the Cyprus issue from the first line of national priorities. However, implementation of the Protocol could be perceived as a diplomatic setback and have a direct impact on the AKP's appeal in the forthcoming elections²⁶⁸. The demand for suspension of the isolation of the Turkish-Cypriots seems to serve as a diplomatic card both at the

²⁶⁵ Aggelos Syrigos, interview Panteion University, Athens November 2006

²⁶⁶ *Ibid*

²⁶⁷ *Ibid*

²⁶⁸ *Supra* no. 207

international and at the domestic level for appeasing the nationalistic voices of the opposition²⁶⁹. Moreover, the last initiative on Cyprus on December 2006 served as a tool for the breaking of the ice in the Turkey-EU relations.

Egemen Bağış praises the Turkish Prime Minister for having showed such a great commitment to solve the Cyprus issue and claims that if the Greek Prime Minister had taken enough stances, the Annan Plan would have been accepted from both sides. All the interviewed politicians and diplomats assure that Turkey has done everything possible for the settlement of Cyprus issue and claim that it was not fair to accept Cyprus in the European Union without prior resolution of the Cyprus issue. The accession of Cyprus to the EU annoyed Turkey, created a feeling of victimization to the Turkish people and had a negative impact on the EU-Turkey relations. This movement on behalf of the EU is perceived as one of the double standards to which Turkey is compelled.

In conclusion, it is very apparent that the AKP government and Erdoğan overcame the approach, which Turkish bureaucracy applied for years over the Cyprus issue. Erdoğan decided to put the question on a different basis and touched upon sensitive chords of the Turkish state²⁷⁰. Turkey sincerely appears to have done everything to honor its obligations towards the Union and further compromise could be conceived as a complete retreat. Thus, it is very clear why the Turkish political elites perceive the requirements related to Cyprus as double standards. They are certain that the Cyprus issue as a setback in the course of Turkey's EU accession has been taken advantage by many EU member-states. The obligations of Turkey as to the Additional Protocol seem to have been exploited by the EU leadership to discontinue the accession talks, because the EU itself has not yet decided on whether Turkey can be a part of it. Progress in the field of the requirements related to Cyprus can be achieved only if consensus in the UN platform is reached. In that context, Turkey's leadership, domestic constituencies and the treatment on behalf of the EU will be highly influential.

²⁶⁹ *Ibid*

²⁷⁰ *Ibid* and *supra* no. 265

Peaceful settlement of border disputes

The reports praise the improvements in the field of Turkish-Greek relations. The establishment of new Confidence Building Measures, the continuation of the exploratory contacts on the Aegean dispute between the two foreign ministries²⁷¹, the high-level contacts between the Chiefs of General Staff and between the Prime Ministers and the agreement of the foreign ministers in the case of the collision of the two aircrafts in 2006 are some of the positive signs. The reports refer only to one disappointing feature, which is the “casus belli” in the case that Greece makes use of its right to extend its territorial waters to 12 n.m.

The Turkish-Greek relations had reached a zero point before 1999 because of three crises²⁷² that brought the two sides of the Aegean in the brink of war. According to many experts and academics, that is the main reason why after 1999 there were only positive developments. Since 1963, when the situation in Cyprus started to worsen, there were piles of practical issues in request for solution and the only one solved was that of granting transit licenses to drivers coming from Turkey with direction to EU countries. In 1999, Greece decided to reject any chance of vetoing the Turkish candidature in the EU and the Helsinki Summit crowned that decision. The Helsinki conclusions included the possibility of monitoring the progress made by both sides and submitting the Turkish-Greek dispute(s) to the International Court of Justice.

Since 1999, nine low politics’ agreements were signed and those dealing with double taxation and cooperation in the field of culture²⁷³ are fully implemented. The rest, on economic cooperation, environment, tourism, maritime issues, drugs, crime and science and technology did not lead to any substantial resolution of problems and the one referring to illegal immigration is not implemented at all. Lastly, the agreement on terrorism was signed in the framework of the overall combat against terrorism.

Both states decided to apply Confidence Building Measures (CBMs): information of each other’ s officials in the case of the programmed military exercises

²⁷¹ The two foreign ministries reached the 34th round of exploratory talks until the end of the reporting period see in <http://ec.europa.eu/enlargement>

²⁷² Öcalan /S-300/ Imia-Kardak

²⁷³ Turkey and Greece fund the restoration of Byzantine and Ottoman monuments in each other’s countries, interview with A. Syrigos see *supra* no. 265

such as *Parmenion*, meetings between the Chiefs of General Staff in the margins of official military exercises, training of squads specialized in environmental disasters and establishment of a hotline between the Chiefs of General Staff²⁷⁴. It is worth mentioning that since 2000, the CBMs related to the naval exercises and to the squads trained for environmental disasters functioned properly, because they were less politically painful.

Furthermore, there was another agreement on the flow of the waters in the river Evros/Meriç and on the problem of mosquitoes in the same area. Those agreements were not honored on behalf of Turkey and some experts claim that the reason behind this was that Turkey was afraid of being blamed for pollution of the river. The agreement on landmines is slowly being implemented but the two Greek proposals about the construction of the highway from the Turkish-Greek borders to Istanbul with European funds²⁷⁵ and the direct maritime line connecting the Greek shores with Imvros/Gökçeada and Tenedos/Bozcaada were never accepted. In the framework of EU initiatives, the Greek Task Force on European issues offered its expertise to the Turkish authorities on issues concerning public administration, copyright and the Ombudsman.

As to the high politics' issues, since January 2004, the rounds of exploratory talks are not substantial. Nevertheless, the *dogfights* were reduced due to an agreement and take place only during official talks to remind to the EU the bilateral character of the Turkish-Greek disputes. Moreover, the "casus belli" is neither a parliamentary resolution nor a law, but only a declaration made by the parliament. For that, the Turkish political elites during the last nine months claim that abolition of that law is a non-issue. According to some experts²⁷⁶, the "casus belli" has a symbolic role and the political elites do not want to denounce it being afraid of the political cost.

On October/November 2003, Turkey and Greece reached very close to a viable solution. The issue of the continental shelf was supposed to be submitted to the International Court of Justice, all the rest were conceived as parts of the same issue except the issue of the air corridors, which was solved due to the Olympic Games of Athens in 2004. However, the agenda comprising of the disputes that would be

²⁷⁴ This CBM has been discussed since 1999 but it managed to function only recently, because there is a big difference in the hierarchy of the Armed Forces; in Turkey, the Chief of the general Staff is at the head of the Armed Forces, whereas in Greece, the Minister of Defence is the leading figure, interview with A. Syrigos see *supra* no. 265

²⁷⁵ *Interreg*

²⁷⁶ *Supra* no. 207

submitted to the International Court of Justice was not clear and it was risky for PASOK²⁷⁷ to make that step just before the Greek elections. Resolution of the Aegean dispute was not achieved mostly due to the domestic constituencies of both countries. The most recent EU Commission's reports give more emphasis to "good neighborly relations" than to "resolution of disputes" and this depicts the change of direction²⁷⁸. On the other side, Turkey is not willing to "sell out" some "priority interests" without any guarantees for full membership in the EU²⁷⁹.

Many experts²⁸⁰ claim that since 2002 nothing important changed in practice but in mentality. Both the coalition government in Turkey and PASOK government in Greece created a net that bridged the two states mainly thanks to the good relations between the two Foreign Ministers, Ismail Cem and Giorgos Papandreou. Afterwards, neither something negative occurred to shake that balance, nor something positive to move things forward. However, the bad course of the European Union, especially after the referendum in France that rejected the European Constitution, has a negative impact on the Turkish-Greek relations.

Egemen Bağış asserts that Greece is more reserved in its attitudes towards Turkey, whereas Turkey appears to be more willing to maintain the positive political climate. Erdoğan came to Greece twice in official bilateral visits but Simitis and Karamanlis came to Turkey only for international meetings. Muhsin Kılıçaslan²⁸¹ personally thinks that Greece is not ready to act towards further rapprochement. According to his opinion, Greece is not reliable, does not act in good faith and this was proved in the Öcalan crisis, whereas Turkey put all its efforts to ameliorate the Turkish-Greek relations. According to Mehmet Müezzinoğlu the "casus belli" does not have any aggressive connotation as long as the Turkish-Greek relations are improved. However, all the interviewed diplomats agree on the fact that nowadays the relations of the two countries are better than in the past but for a solution to be viable, it has to be taken in good faith and to end up to a win-win situation. According to Volkan Vural, Cyprus is a thorn in the Turkish-Greek relations and the rest of the disputes can only serve as diplomatic cards from both sides.

²⁷⁷ Socialist Party

²⁷⁸ *Supra* no. 265

²⁷⁹ *Supra* no. 207

²⁸⁰ *Supra* no. 207 and *supra* no. 265

²⁸¹ He served in the Embassy of Athens in a very turbulent period for the Turkish-Greek relations

To sum up, despite the improvement of Turkish-Greek relations since 1999, both states' bureaucracies do not seem to have abandoned their diplomatic positions. More or less, they stick to their own agenda of disputes and to their own approach as to the way to resolve them. Greece abides by legal settlement in the International Court of Justice and Turkey without completely rejecting this option is apt to bilateral settlement in political means. The political elites of both countries seem to believe that the political costs of the settlement of the Aegean dispute outweigh the benefits. However, domestic constituencies are not the only impediment for the progress of the rapprochement process: Since Greece put the Turkish-Greek dispute in the EU framework, every setback in the EU-Turkey relations will have repercussions to Turkish-Greek relations. Positive developments towards resolution of the Cyprus issue and further enforcement of business investments in both countries will pave the ground for a complete resolution of the dispute.

Conclusions

Since 1999, EU membership served as an incentive for the transformation of Turkey at various levels and especially at the level of society, evolving dynamics that are committed to the democratic reforms. The Turkish political elites realized that the EU is the preferable option for Turkey within the changing international environment and launched the process of implementation of the Copenhagen political criteria with people's consent.

Since the start of accession talks in 2005, a delay in the process of implementation of the political criteria characterizes Turkey-EU relations. This delay brought an air of distrust, which puzzled experts, diplomats and politicians, both in the EU and in Turkey. It is probable that the reason behind the vicious circle of distrust and delay in implementation of the political criteria on the side of Turkey is due to the process of negotiation within the Turkish society. The rivalry between the secularists and the government is expected to reach its peak in the process of electing the new President of the Turkish Republic (spring and summer 2007).

More specifically, the Turkish society does not seem determined regarding its commitment to the EU vision. Some reforms, such as furthering of the freedom of expression and implementation of the Additional Protocol to the Ankara Agreement²⁸², bear the possibility of political cost given the domestic political constituencies. The perception that Turkey has done everything possible to honor its obligations to the Union further sows the seeds of suspicion towards the EU leadership. Thus, the political elites perceive the criteria as "concessions" –indeed, particularly "painful" ones- that do not deserve implementation without prior guarantees of full membership. Because of these internal pressures, "bargaining" rules have been introduced in the accession talks.

The Opposition and the military, although not in principle objecting to the European path, promote security considerations to counterbalance the slow pace in the implementation of the criteria to further cultivate doubts on EU's intentions in the public opinion. The fact that security considerations are presented as a substitute to the democratic reforms shows a misunderstanding of the "meta-modern"²⁸³ character

²⁸² For an extensive account see *supra*, chapter "Cyprus"

²⁸³ This term is used by Ioakimides, P. to attribute to the EU the unique characteristic of being both an intergovernmental and supranational organization.

of the EU. The Turkish state seems to neglect the fact that domestic politics will not be independent from international politics, while being a EU member. The Union is a supranational organization that will monitor domestic politics in all the areas of common to Member States.

In addition, as it has already been discussed, some of the criteria, such as those related to the functioning of the judiciary and public administration and those related to human rights²⁸⁴ require further fostering of the social consciousness in the bureaucratic structures. Those criteria are fulfilled in paper, thanks to the determination of the political elites but time is required for full implementation in practice.

On the contrary, there are some other political criteria that, in order to be implemented, there is a need for complete transformation of the Turkish political system and state ideology. The criteria that deal with participation of the society²⁸⁵ in public affairs and minorities are trapped in the hierarchical structures of the relations between the state and the individual. The possibly different ideological premises of the AKP government must not necessarily lead to the assumption that it will undertake a revolution against existing structures. After all, it emerged from the existing political system and it is expected to act within the boundaries of the political tradition, which is certainly a result of a social and political consensus.

The rest of the non-implemented criteria, in particular those related to the Aegean disputes between Turkey and Greece²⁸⁶ are perceived as diplomatic cards that are expected to be used to reinforce Turkey's position in the negotiations with the EU framework.

It is a mistake to be forgotten that certain European states' leaders, due to their political agendas, further exacerbated the image of the EU in the Turkish domestic politics. By showing their hesitation regarding Turkey's membership and by seemingly not supporting Turkey's EU prospects, further contributed to the rise of anti-Europeanism and nationalistic feelings in the Turkish people's consciousness.

In conclusion, it is important to describe the perceptions of the political elites in Turkey as to the implementation of the EU political criteria also because the EU-

²⁸⁴ For an extensive account see *supra*, chapters "judiciary", "anti-corruption measures", "public administration", "observance of human rights", "torture, ill treatment, detention system, access to justice", "women's rights", "rights of the disabled people", "Roma rights"

²⁸⁵ For an extensive account see *supra*, chapters "freedom of association and assembly", "trade unions' rights", "protection of minorities", "Cultural rights and the situation in the Southeast"

²⁸⁶ For an extensive account see *supra*, chapter "peaceful settlement of border disputes"

Turkish relations affect the bilateral relations between Greece and Turkey. The main hypothesis was that Greece's expectations to appease its security concerns and to achieve external balancing through Turkey's compliance with the EU political criteria are exaggerated. Turkey is in the process of changing its attitudes because of the EU membership that serves as an incentive and the Turkish society was inevitably transformed. However, as long as the EU remains a primarily economic organization, not able to totally fulfill its political ends, is neither in a position to transform Turkey at the institutional level nor to change Turkey's attitudes towards Greece and Cyprus at the bilateral level.

On the one hand, it is true that the European perspective of Turkey has positively contributed to Turkish-Greek relations especially since 1999. Until the Helsinki Summit, there was a lack of balance deriving from the fact that Greece was already a EU member and Turkey was not. Greece was using its diplomatic power deriving from its European status in favor of its national interests. The priorities of Greek foreign policy and Greece's security considerations changed in the mid-90s, so that Greece had to modify its policies towards Turkey. Greece's decision to join the European Monetary Union introduced new economic considerations that were one of the underlying causes of the shifting of Greek Foreign policy. Moreover, its decision not to block Turkey in the EU negotiations led Greece to an overall shifting in its perceptions regarding bilateral relations.

On the other hand, the EU helped towards the enhancement of political dialogue between the two countries, but this happened only during times that political dialogue coincided with both countries' national interests. Turkish-Greek relations should not necessarily be treated as part of the EU-Turkish relations. Indeed, the EU has to be an auxiliary framework in which Turkey and Greece will engage in solving their disputes and not a pivotal one. Greece should not expect to appease its security considerations by sticking to Turkey's European orientation. The political elites, believing that Turkey is subjected to double standards are already prejudiced against the EU and they will do whatever necessary to implement the political criteria without any "concessions" that will serve as safeguards for Greece's security.

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