T.C.
MARMARA UNIVERSITY
EUROPEAN COMMUNITY INSTITUTE
EU POLITICS AND INTERNATIONAL RELATIONS

THE ANALYSIS OF ROMANIA'S AND TURKEY'S ACCESSION PROCESS TO THE EU ACCORDING TO THE COMMISSION REPORTS: A POLITICAL ASPECT

(Master Thesis)

ELİF DEMİRCAN

İstanbul, August 2003

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ABSTRACT

At the beginning of 1990s, after the fall of the Berlin Wall and the collapse of the Soviet Union, European Union inevitably got into the new process. Removing of the Soviet hegemony on the Central and Eastern European Countries (CEECs) and the unification of two parts of Germany rescued European Union from its divided situation in the cold war period and this occasion would provide the final unification of Europe. So it should be seen that the future enlargement of the EU is re-unification more than a new enlargement. CEECs have denoted their desire to establish a Western – style democracy and a market economy immediately after being rescued from the Soviet influenced area. The "Europe Agreements" signed between the CEECs and the EU constituted the first link in the integration process of these ten countries with the EU. After coming into force of these second generation agreements the relation between CEECs and the EU gradually has followed a progress from the candidacy to a full-membership to the EU.

Alongside with that the relation between EC/EU and Turkey who applied to the Community just after its establishment at the end of 1950s signing of the "Ankara Agreement" has followed a progress different from all other CEE countries. This relation based on being a same pole has forwarded in the basis of economic and military cooperation in the cold war period after then undulations have occurred from time to time but still the relation progresses in irreversible way.

The European Community was like an economic unity rather than a political up to the 1990s. In the early 1992 signing of the **Maastricht Treaty** (formally known as the Treaty on European Union) transformed the European Community, on November 1993 into the new European Union (EU). The Copenhagen Meeting of the European Council is another important point, the criteria for membership of the Union was determined in this summit. The message in that the EU intends to include the countries of Central and Eastern Europe in the European integration process so while they clarify the criteria they will also assist them politically and financially in a way that will be analysed in the thesis.

Turkish case has always been evaluated under the different headline by the European Union it will be seen that especially in the European Council's decisions. Turkey applied to the Union to be a member before all of ten candidate CEECs but she stays behind. Thesis analyzes political situations of Romania and Turkey to the integration to the EU and points out differences through the implementation of "democracy and rule of law" and "human rights and protection of minorities". Romania is one of the two countries (with Bulgaria) which stays behind in the comparison with other CEECs despite of this Romania was announced that she will be a member in 2007. So in the light of the Commission's Regular/Progress Reports it will tried to be examined what Romania did differently from Turkey to be accepted as a member earlier than Turkey.

ÖZET

1990'ların başında Berlin Duvarı'nın yıkılması ve Sovyetler Birliği'nin parçalanmasıyla Avrupa Birliği kaçınılmaz olarak yeni bir sürece girdi. Orta ve Doğu Avrupa ülkeleri üzerindeki Sovyet hegemonyasının kalkması, iki Almanya'nın birleşmesi Avrupa kıtasını soğuk savaş dönemindeki bölünmüşlük halinden kurtarıp nihai bütünleşmenin gerçekleşmesini sağlayacaktı. Bu yüzden AB'nin gelecekteki genişlemesini bir genişlemeden ziyade yeniden bir araya gelme olarak görebiliriz. Sovyetler Birliği'nin etki alanından kurtulan Orta ve Doğu Avrupa ülkeleri ilk andan itibaren Batı tarzı demokrasi ve piyasa ekonomisine dayalı yönetimler kurma gayesinde olduklarını göstermiş oldular. Sırasıyla on Orta ve Doğu Avrupa ülkesiyle Avrupa Birliği arasında imzalanan "Avrupa Antlaşmaları" bu ülkelerin AB ile entegrasyon sürecinin ilk halkasını oluşturmuş oldu. Bundan sonra Orta ve Doğu Avrupa ülkeleri ile AB arasındaki ilişki derece derece AB adaylığından AB üyeliğine giden bir seyir izledi.

Bunun yanı sıra 1950'li yılların sonunda kurulan Avrupa Topluluğu'na hemen kurulmasından birkaç yıl sonra başvuran ve temeli 1963 yılında imzalanan "Ankara Antlaşması"na dayanan Avrupa Topluluğu/Birliği Türkiye ilişkileri diğer tüm aday ülkelerle olan ilişkilerden farklı olarak gelişti. Soğuk savaş döneminde aynı kutupta yer almanın getirdiği birliktelik ile öncelikle ekonomik ve askeri iş birliği temeline dayalı olarak gelişen bu ilişki soğuk savaşın sona ermesiyle birlikte farklı bir boyut almış ve çeşitli dalgalanmalar yaşanmış olsa da geriye dönülmez bir süreçte ilerlemektedir.

1990'lı yıllara kadar daha ziyade ekonomik kriterleri ön plana çıkaran Avrupa Topluluğu 1992 başlarında imzalanan ve 1993'te yürürlüğe giren Maastricht Antlaşması ile yeni bir yapılanmaya giderek ekonomik bir birlik niteliğindeki Avrupa Topluluğu'ndan politik bir Avrupa Birliği'ne doğru iradesini açıkladı. Kopenhag Zirvesi'nde belirlenen ekonomik ve politik kriterler aday ülkelerin tam üye olabilmesi için gerekli koşulların neler olduğunu saptadı. Böylelikle bu tarihten itibaren "insan hakları", "demokrasi ve hukuk kurallarına uygunluk" gibi ilkeler aday ülkenin müzakerelere başlayabilmesi için ön koşul olarak addedildi. Türkiye'nin de AT/AB ilişkilerinde dönüm noktalarından biri olan bu süreç tezde incelenmeye çalışılacaktır.

Avrupa Topluluğu/Birliği'ne Orta ve Doğu Avrupa ülkelerinden çok daha önce başvuran Türkiye'nin diğer aday ülkelerin hepsinden daha geri bir durumda olmasından yola çıkarak, Kopenhag Politik Kriterleri'ne uyum açısından Orta ve Doğu Avrupa ülkeleri içinde Birlik'e tam üye olma noktasında en geride bulunan iki Avrupa ülkesinden biri olan Romanya (bir diğeri Bulgaristan) ile Türkiye'nin Avrupa Birliği Komisyonu'nun 1998 yılından beri her bir aday ülke için ve belirli başlıklar altında incelediği durum değerlendirmelerini karşılaştırmak tezin ana konusunu oluşturmaktadır. Buradaki önemli noktalardan biri 1990'larda belirlenen AB'nin son genişleme halkası içinde Türkiye'nin her zaman farklı bir statüde yer almış olmasının da altını çizmek ve bu doğrultuda seçilen iki ülke olan Romanya ile Türkiye arasında AB'ye yakınlık açısından oluşan farkın nedenini sorgulamak olacaktır. Kopenhag Politik Kriterleri altında incelenen "demokrasi ve hukuk kurallarına uygunluk" ile "insan hakları ile azınlıkların korunması" başlıkları ile iki ülkenin yapmış olduğu hukuksal düzenlemeler ve Komisyon raporları doğrultusunda bu gelişmelerin AB tarafından nasıl değerlendirildiği incelenecektir.

I. INTRODUCTION

The thesis in its first part aims to describe the future enlargement of the European Union through the Central and Eastern Europe like what was appeared after the end of the communism and fall of the Berlin Wall. It starts from the European Council's decisions beginning from 1990s. In this part it will be researched that different situation of the CEECs and Turkey in the enlargement process of the EU.

The method of the thesis is descriptive and documentative, in the second and third part there is the research about the integration process of Romania and Turkey in a comparative way through the implementing Copenhagen Political Criteria.

The reason of analyzing the situation of Romania and Turkey is that, Turkey has not been announced to start the accession negotiations, yet and Turkey has always a different relation with EU in its enlargement process. Romania has done but it is a country that stays behind with Bulgaria to the EU in the accession process in comparison with other CEECs. In the second and third part the thesis tries to analyze the process of integration of these two countries. The research question focuses on whether Romania implements the political criteria in its internal law faster than Turkey to be approved to accession to the EU or not. Here exists firstly the explanation of Romania and Turkey's political and historical past through the transition to the EU's "Western – style democracy" and "the market economy" and then assessment in the light of the Commission's "Regular – Progress Reports", "Accession Partnership Protocol" and "National Programme" of the two countries.

Latinist aspiration of Romania may facilitate the transition to the EU's values easier than Turkey. While the Commission evaluates the situation through the adaptation of "democracy and rule of law" and "human rights and protection of minorities" principles may consider important regard the civil administration as superior more than other deficiencies. So, the thesis tries to analyze these questions.

II. GENERAL EVALUATION OF EUROPEAN UNION EASTERN ENLARGEMENT

2.1. Post-war Period in Europe

The European Community's classical method of enlargement, the adaptation of its internal and external policies, and its institutional structures and decision-making processes, have all been thrown into sharp relief by the geopolitical changes in Eastern Europe. The collapse of the Soviet Union and its power over the former COMECON and Warsaw Pact states has profoundly altered the dynamics of European Integration and the possible future shape of the EU.[1] At the time of its third enlargement in January 1986, few politicians in Brussels or the national capitals would have predicted that within five years they would be debating membership for ten candidate countries from Central and Eastern Europe, three of which were then still part of the Soviet Union. It was assumed that with the accession of Portugal and Spain, the Community more or less had reached the limits of its expansion in Western Europe and that the challenge of the future was to "deepen" cooperation among existing members rather than "widen" to new members.[2]

2.2. Historical Background of the Relations between European Community and the CEECs

During the 1970s the USSR had started to adopt a slightly more constructive attitude to the EC and wished to develop trade links through COMECON. The EC was reluctant, since doing so would effectively recognise Soviet hegemony over Eastern

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[1] Christopher Preston, **Enlargement and Integration in the European Union** by Routledge Publications, London, 1997, p. 195.

[2] John Von Oudenaren, Chapter 12, "EU Enlargement-The Return to Europe", **Europe Today; National Politics, European Integration and European Security** edited by Ronald Tiersky, Rowman & Littlefield Publishers, Inc. England, 1999, p.401

Europe.[3] The EC proposed bilateral agreements between the Community and the individual members of the CMEA (Council for Mutual Economic Assistance), but the USSR and the more hard line Warsaw Pact states rejected this approach.[4] Until the mid 1980s, relations between the Community and Eastern Europe had been cool and the USSR under Brezhnev refused to recognise the EC officially. EC-Eastern Europe relations were blocked by larger geopolitical concerns, such as the Soviet invasion of Afghanistan and the imposition of martial law in Poland in 1981.[5]

The coming to power in March 1985 of reformist leader Mikhail Gorbachev led to gradual change in Soviet policies toward the Community. The first major change occurred when Gorbachev accepted that COMECON members should be able to negotiate their own trade agreements with the EC. In 1986, negotiations between the EC and COMECON members were opened, though they proceeded slowly, in parallel with bilateral trade negotiations with the East European Countries themselves. However, by June 1988 the EC and COMECON recognised each other's diplomatic status and by December 1988, the EC's first trade and cooperation agreement with Hungary came into force. This was followed by similar agreements with Poland (December 1989), the USSR (April 1990), Czechoslovakia and Bulgaria (November 1990), and Romania (March 1991). The GDR opened negotiations but these were overtaken by unification and, hence, in effect, full integration into the EC.[6]

2.3. Upgrading Role of the EC in Central and Eastern Europe after the Collapse of Communism

The ink on these "first generation" agreements no sooner was dry when they were rendered obsolete by the accelerating pace of change in the Communist world. West European governments had been looking for ways to improve relations, but they were far

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[3] C. Preston, p.196.
[4] J. V. Oudenaren p. 402
[5] C. Preston, p.196
[6] Ibid.

from expecting that the root cause of the east-west conflict -opposition between the communist and the democratic, free market systems- would be eliminated. However, in June 1989, partially free elections took place in Poland, resulting in a resounding victory for the opposition Solidarity movement. In the same month, roundtable talks between government and opposition began in Hungary, aimed at fundamental change in the political system. By mid-1989, there was reason to hope that at least these two countries were on a path would lead to the establishment of market economies an pluralist political system.[7]

2.3.1 PHARE, SAPARD and ISPA Program

Western governments came under growing pressure to respond to these signs of change and to support them with external aids. At the July 1989 *Paris Summit* of the seven largest industrialized democracies (the G-7), the leaders of the west and Japan issued a declaration of support for economic and political reform in Eastern Europe and called for an international conference to coordinate Western aid to Poland and Hungary. Countries asked to participate in the conference were the G-24 –affluent countries of Western Europe, North America, Japan, Australia, and New Zealand that made up the OECD (Organisation for Economic Cooperation and Development). In what was a substantial upgrading of the Community's role in Central and east European affairs, the G-7 asked the EC's executive body, the European Commission, to serve as the secretariat of the G-24 and to take the lead in coordinating outside assistance to the Central and east European countries. Subsequently, the Community, its member states, the United States, and others in the G-24 launched assistance programs. In December 1989, the EC Council of Ministers approved *PHARE (Pologne Hongrie: Actions pour la Reconversion Economique),* a Community –funded program of technical assistance to encourage the development of private enterprise and the building of market -oriented economies. In September 1989, Hungary opened its border with Austria, allowing thousands of East German citizens to travel to West Germany. After months of mass demonstrations in Leipzig, Dresden, and other cities, on November 9 the Berlin Wall was thrown open by an East German

[7] J. V. Oudenaren, p. 403

government that could no longer control its borders. In November and December, opposition rallies led to ouster of the Communist regime in Czechoslovakia. In December, roundtable talks between government and opposition began in Bulgaria. For the most part these revolutions were peaceful, but they culminated in late December with bloody fighting in Romania between opposition and security forces and the execution, on Christmas day, of former dictator Nicolae Ceauşescu and his wife, Elena.[8]

The **PHARE** Program was initially targeted at Hungary and Poland and was allocated 500 million ecu from the EC's 1990 budget. In July 1990, The Community extended its PHARE Program to Bulgaria, Czechoslovakia, Yugoslavia, and East Germany. Assistance to Romania was temporarily delayed, owing to the post-Ceauşescu government's suppression of student demonstrations in the spring of 1990, but in 1991 Bucharest became eligible for PHARE grants.[9] The overall budget allocation was raised to 785 million ecu in 1991 and to one billion ecu in 1992. The PHARE program was further supported by G-24 aid for balance of payments stabilisation measures, debt relief and the establishment of the European Bank for Reconstruction and Development. By July 1992, the total amount of aid to the region added up to 46.9 billion ecu.[10]

The **ISPA** programme is designed principally to support municipalities in the field of the environment and the central authorities in the field of transport.[11]

SAPARD was created to support the efforts made by the Central and Eastern European applicant countries in the pre-accession period as they prepare for participation in the common agricultural policy and the single market. The approach involves the delegation of substantial responsibility to the applicant countries for the management of EU funds for rural development and decentralised programming. This provides an opportunity for the future members to gain experience in applying the mechanisms of rural development programmes. It will also ease the management of the large number of small projects contemplated under SAPARD. The Regulation implementing SAPARD, adopted

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[8] **Ibid**, p.404
[9] **Ibid**, p.405
[10] C. Preston, p.198.
[11] The European Union on-line **Relations with Romania**

by the Commission on 22 December 1999, sets out the conditions for assistance in the areas eligible for expenditure such as investment in agricultural holdings and in processing and marketing of products.[12]

2.3.2. German Unification and its Impact on the Eastern Enlargement

The most immediate political change facing western governments was German unification. West German Chancellor Helmut Cohl quickly seized the initiative on this issue, putting forward, in November 1989, ten point plan for creation of a German confederation. The United States supported unification, but Britain and France were sceptical. The Soviet Union had taken a hands-off attitude toward the changes in Eastern Europe but it vigorously opposed unification. The Soviets still had several hundred troops in the GDR and as a World War II victory power they had certain legal rights in Germany. In the GDR itself, it initially was unclear whether the voters would opt for rapid absorption by West Germany or whether they would seek to maintain some kind of separate identity within a German confederation. By the fall of 1990, these uncertainties were resolved. In July, Kohl and Gorbachev met at a Soviet retreat in the Caucasus and reached agreement on the external aspects of German unity. On August 31, the two German states signed a treaty on unification, and on September 12, the four victor powers concluded a treaty on the "final settlement with regard to Germany". On October 3, less than a year after the breaching of the Berlin Wall, Germany was united.[13]

Unification had major implications for the EC. Most directly, it entailed the enlargement of the Community through the addition of the five states of the former GDR. By becoming a part of the Federal Republic, these states automatically joined the Community without the complex, formal accession process other new members had faced. In December 1989, the European Council finalized earlier plans to convene an intergovernmental conference (IGC) on economic and monetary union (EMU) by the end of 1990. In April 1990, amid the fast-paced negotiations concerning German unification, Kohl and Mitterrand proposed a second IGC to take up the question of political union. The

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URL http://europa.eu.int/comm/enlargement/romania/

[12] **Ibid.**

European Council subsequently endorsed this idea, and the two eventually led to the signing of the **Maastricht Treaty** (formally known as the Treaty on European Union) in early 1992, which transformed the European Community, on November 1, 1993, into the new European Union (EU). The EU brought the existing institutions and responsibilities of the EC into a single legal and institutional framework, along with two new "pillars" responsible for "foreign and security policy" and "justice and home affairs."[14]

EU's Eastern enlargement was more than a continuing of a process of unification in Europe what was broken in the cold war period, than a need. When Berlin Wall was fallen the unification subject became unavoidable. In the European Union especially Germany had a desire for the Eastern European countries to become a member of the Community immediately because these countries especially Poland, Hungary and Czechlovakia were its hinterland and Germany intimated at that time for these countries she would pay the economic price but things changed and Germany had lost its economic impact how was in the beginning of the 1990s. As a matter of fact that irreversible process had been started for the CEECs. In the EU there was another voice too about the enlargement they issued it would be more well-planned to extend the enlargement in a longer period. In the EU at least two voices exist. One group has an idea for stronger, well integrated in a political meaning and a centralized Europe but in the other hand there is Europeans who believe the enlargement of the market economy, Anglo-Saxsons especially defend this idea. Very briefly there is a tension between a political Europe and common market Europe. As it can be seen Turkish case had very different background. Turkey – European Community relations was begun in the early of 1960s. EU did neither accept Turkey exactly into the Union / Community nor exclude.

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[13] J. V. Oudenaren, p. 404
[14] **Ibid**, p. 405

2.4. Turkey's Place in the Next Enlargement

Discussion of Turkey's suitability for full EU membership has always centered on whether Turkey fulfils the basic eligibility criterion of being a European state. Since the formation of the EC, Turkish politicians have been at pains to prove Turkey's 'European vocation' basing their arguments on the strong secular and Westernising policies of successive governments since the founding of Republic in 1923 by Kemal Atatürk. Yet, whilst this 'vocation' is deeply felt, at least political elites, the issue of identity is more ambiguous and presents more difficult issues for both sides. From 1924 the caliphate and religious courts were abolished and a Western-style constitution was adopted. Though this secularisation was resisted in rural areas, it developed and strengthened from the 1930s onwards. Turkey joined the OEEC in 1948, The Council of Europe 1949 and NATO in 1952. This choice of foreign policy orientation was confirmed by Turkey's application for associate membership of the EC in 1959. The application was made for political reasons, largely as a response to the Greek applications made two months earlier. No studies of the impact of association on the Turkish economy were undertaken. Thus, Turkey chose to begin close cooperation with the fledgling EEC in 1959. [15]

The particular steps taken in the EU-Turkey relations were seen in the Ankara Agreement. In July 1959, shortly after the creation of the European Economic Community in 1958, Turkey made its first application to join. The EEC's response to Turkey's application in 1959 was to suggest the establishment of an association until Turkey's circumstances permitted its accession. The ensuing negotiations resulted in the signature of the Agreement Creating an Association between the Republic of Turkey and the European Economic Community (the "Ankara Agreement") on 12 September 1963.[16] The EC's initially positive response reflected a desire for a diplomatic success in its external relations, following the proposal to establish EFTA. The US was also concerned that the EC should maintain a balance in its dealings with both NATO members in the Eastern

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[15] C. Preston, p. 213; Derleyenler: Barry Rubin, Kemal Kirişçi, "Türkiye ve Avrupa Birliği; Üyeliğe Doğru Uzun Yol", **Günümüzde Türkiye'nin Dış Politikası**, Boğaziçi Üniversitesi Yayınları, İstanbul, 2002, ss. 63-75.

Mediterranean. Though this search for balance has characterised EC relations with Greece and Turkey, since this period, equilibrium has proved elusive.[17] The basic objectives of the association include the continuous and balanced strengthening of trade and economic relations and the establishment of a custom union in three phases as well as the free movement of workers between the parties.[18]

In 1987, Turkey applied for membership; in 1989, the Commission's opinion concluded that it would not be appropriate or useful to open accession negotiations with Turkey. The Commission, Council and European Parliament have persistently raised problems regarding Turkey's human rights and democracy situation and the EP has used these issues to block aid and the customs union. Turkey has watched the EFTA Countries and the CEECs jump the queue, while various European politicians cited cultural and religious factors for its exclusion and Greece placed obstacles in the way of closer relations. Turkey had every reason to suspect that it would never become a member of the club even if it had a fully functioning democracy and exemplary human rights record. This doubt seemed to be confirmed when the December 1997 European Council placed Turkey in its own separate category of applicant states, although it confirmed its eligibility for membership. This prompted it to suspend its relations with the EU. The EU's leverage over Turkey diminished.[19]

More recently, relations have improved remarkably. The Helsinki European Council classified Turkey as an official candidate (entailing inclusion in the pre-accession strategy and conclusion of an Accession Partnership), although it made it clear that membership negotiations would only be opened once the political conditions have been met. Consequently, the EU's influence seems to have increased. It is not clear how willing

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[16] Onur Öymen, "Türkiye ve Avrupa Birliği; Dün, Bugün, Yarın", **Türkiye'nin Gücü, 21. Yüzyıl'da Avrupa ve Dünya,** Remzi Kitapevi, İstanbul, 2003, s. 274

[17] C. Preston, p. 213.

[18] Rıdvan Karluk, "Ortaklığın Temel Belgeleri", **Avrupa Birliği ve Türkiye**, Beta Yayınları, İstanbul, 1998, s. 381.

[19] Karen E. Smith, "The Conditional Offer of Membership as an Instrument of EU Foreign Policy: Reshaping Europe in the EU's Image", **Marmara Journal of European Studies**, Publication of Marmara University European Community Institute, Istanbul, 2000 Vol. 8, p.42.

Turkey is to undertake the necessary reforms.[20] Post-Helsinki phase and current events will be mentioned in Part 4.

2.5. Europe Agreements

As early as 1990, it was become clearer that the scale of the transformation process required a more broadly based response from the EC. In August 1990, the Commission had proposed to the Council that "*second generation*" association agreements should be negotiated with Czechoslovakia, Hungary, Poland and eventually with other countries.[21] The name was chosen to underline the difference between these agreements and the Community's association agreements with many countries outside Europe, notably in North Africa and the Middle East. Central and East European countries that concluded Europe Agreements with the Community also became known as the "associated countries".[22]

The ten candidate countries have all signed Europe Agreements with the European Union, as shown in the table below.[23]

Country	Europe Agreement signed	Europe Agreement came into force	Official application for EU Membership
Bulgaria	March 1993	February 1995	December 1995
Czech Republic	October 1993	February 1995	January 1996
Estonia	June 1995	February 1998	November 1995
Hungary	December 1991	February 1994	March 1994
Latvia	June 1995	February 1998	October 1995

[20] Ibid.
[21] C. Preston, p. 198
[22] J. V. Oudenaren, p. 405
[23] **Pre-accession Strategy- Pre-accession Instruments** URL http://europa.eu.int/comm/enlargement/pas/europe_agr.htm

Lithuania	June 1995	February 1998	December 1995
Poland	December 1991	February 1994	April 1994
Romania	February 1993	February 1995	June 1995
Slovakia	October 1993	February 1995	June 1995
Slovenia	June 1996	February 1999	June 1996
Country	**Association Agreement signed**	**Association Agreement came into force**	**Official application for EU Membership**
Turkey	September 1963	December 1964	14 April 1987
Malta	December 1970	April 1971	16 July 1990
Cyprus	December 1972	June 1973	3 July 1990

The Europe agreements are to remain in effect until superseded by treaties of accession between the associated countries of Central and Eastern Europe and the fifteen member states of the EU. These countries will become member states in their own right, and the treaties of association will lapse. Meanwhile, the Europe agreements remain the governing legal framework for the "pre-accession process" designed to prepare the CEECs for enlargement.[24]

2.6. Eastern Enlargement in the Light of the Conclusions of European Council Meetings

The conclusions of the meetings of the European Council starting from Dublin European Council in 1990 are taken as indicators of EU policy on enlargement. The reason for this is that European Councils are meetings of heads of state or government of EU member states where the future policy of the Union is set in principle.

2.6.1. Dublin European Council 28 April 1990

The idea of concluding Europe agreements with the CEECs dates back to this summit. At this meeting it was decided to complete the first generation of trade and cooperation agreements signed with the CEECs and negotiate a new generation of association agreements as soon as the economic and political situation became favourable, on condition that democratisation and transition to market economies are unhindered in the countries concerned. These agreements, later called "Europe agreements" would include as institutional framework for political dialogue. In the conclusions of the Presidency, the Council pays tribute to the uniting of Europe "which, having overcome the unnatural divisions imposed on it by ideology and confrontation, stands united in its commitment to democracy, pluralism, the rule of law, full respect for human rights, and the principles of market economy."[25]

2.6.2. Maastricht European Council 9-10 December 1991

The European Council gave the green light to the accession of the applicant EFTA countries to the Community, after the conclusion of the negotiations on the Community's own resources and related issues in 1992. It asks the Commission to prepare a report on the situation of the applicant countries and the implication for the Union's future development, to be presented to the Lisbon European Council in 1992.[26]

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[24] J. V. Oudenaren, p. 408

[25] Çiğdem Nas, "The Enlargement Policy of the European Union and its Link with the External Dimension of Human Rights Policy with Special Emphasis on the Turkish Case", **Marmara Journal of European Studies**, Publication of Marmara University European Community Institute, Istanbul 1997, Vol. 5, p.183

2.6.3. Lisbon European Council 26-27 June 1992

The report by the Commission on "Europe and the Challenge of Enlargement" was approved and membership negotiations with the applicant EFTA countries were begun during this Summit. It was stated "principle of the Union open to European states that aspire to full participation and who fulfil the conditions for membership is a fundamental element of the European construction".[27]

Turkey is dealt with under a separate heading. The European Council underlines that the Turkish role in the present European political situation is of the greatest importance and that there is every reason to intensify cooperation and develop relations with Turkey in line with the prospect laid down in the Association Agreement of 1964 including a political dialogue at the highest level. The Commission and the Council are given the task of working on the intensification of cooperation and development of relations with Turkey in the coming months. However, there is no reference to the membership application or preparation for accession in the case of Turkey. This observation is valid for the statements and conclusions of the other European Council meetings. The Customs Union, and increased cooperation and dialogue are the terms used when Turkey is the issue. It is not considered in the same category as the CEECs, or Malta and Cyprus, which are seen as future members of the Union in the medium to long term.[28]

2.6.4. Copenhagen European Council 21-22 June 1993

The Copenhagen meeting of the European Council is important in that the criteria for membership of the Union were determined during this Summit. It is stated that the associated countries of Central and Eastern Europe may become members of the Union if they so wish, provided they are fit to assume the obligations resulting from membership by

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[26] **Ibid**, p.184
[27] **Ibid.**
[28] **Ibid.**

satisfying the economic and political conditions required. The message of the European Council is that the EU intends to include these countries in the European integration process. However, they must first improve their economic and political standards before accession. For this purpose the Union will assist them politically and financially by way of;

1- the structured dialogue between the CEECs and the Community institutions in the form of regular meetings on a broad range of topics;
2- opening up of Community markets to products originating from the CEECs and the development of trade among these countries, and between these countries and their traditional trading partners;
3- aid to the CEECs through the PHARE programme, financing of trans-European network projects involving the CEECs under the temporary lending facility of the European Investment Bank;
4- opening up of further Community programmes to the CEECs;
5- approximations of laws in the CEECs to the Community legislation especially concerning competition rules, protection of workers, the environment and consumers.[29]

At the same time, the Member States designed the membership criteria, which are often referred to as the Copenhagen Criteria.

As stated in Copenhagen, membership requires that the candidate country

has achieved:

6- stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;

7- the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union;

8- the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.

has created :

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[29] **Ibid**, p.185

the conditions for its integration through the adjustment of its administrative structures, so that European Community legislation transposed into national legislations implemented effectively through appropriate administrative and judicial structures.[30]

The "obligations of membership" meant acceptance of what in the EC lexicon was known as the "***acquis communautaire***" a term used to denote the sum total of the Community's achievements in harmonizing legislation, creating single market and forging common policies.[31]

2.6.5. Corfu European Council 24-25 June 1994

The Acts of Accession with Austria, Sweden, Finland and Norway (Norway later rejected EU membership by a referendum) were signed at the Corfu meeting of the European Council that follows the membership applications of Hungary and Poland. At the Corfu meeting the Council also announced that the next phase of enlargement will involve Cyprus and Malta noting that any solution of the Cyprus problem must respect the sovereignty, independence, territorial integrity, and unity of the island in accordance with the relevant UN resolutions and high-level agreements.[32]

2.6.6. Cannes European Council 26-27 June 1995

The Cannes European Council confirmed that the membership negotiations with Cyprus and Malta will start six months after the conclusion of the IGC, taking into account the outcome of the Conference. The European Council notes that the pre-accession strategy adopted by the Essen European Council, the main instrument of which are the Europe

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[30] **EU Enlargement - A Historic Opportunity** URL http://europa.eu.int/comm/enlargement/intro/criteria.htm#documents

[31] J. V. Oudenaren, p. 410.

[32] Çiğdem Nas, p. 186

agreements and the structured dialogue took off in the first half of 1995. It adds that six Europe agreements are in force while the Europe agreements with the Baltic States of Latvia, Lithuania and Estonia have been signed on 12 June 1995. [33]

2.6.7. Madrid European Council 15-16 December 1995

The European Council stressed the "absolute equality of treatment" between candidate countries and called on the Commission to submit its opinions after the end of the IGC; towards the end of 1997. On the basis of these opinions the Council will take the decision to begin the initial accession negotiations, in principle at the same time as those with Cyprus and Malta.

In this Summit, the political agenda of the EU for the next five years was set:

1- carrying out the adjustments to the TEU;
2- making the transition to a single currency in line with the timetable and conditions set;
3- preparing for and carrying out the enlargement negotiations with the associated countries of Central, Eastern and Southern Europe which have applied for membership of the EU;
4- determining, in parallel, the financial perspective beyond 31 December 1999;
5- contributing to establishing the new European Security architecture;
6- actively continuing the policy of dialogue, cooperation and association already under way with the Union's neighbouring countries, in particular with Russia, Ukraine, Turkey and the Mediterranean countries.

It is observed that Turkey is not taken into account as a future member of the EU but as a neighbouring country with which good relations based on dialogue, cooperation and association should be developed. [34]

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[33] **Ibid**, p.187

2.6.8. Luxembourg European Council December 1997

In Agenda 2000 the Commission said it would report regularly to the European Council on progress made by each of the candidate countries of central and Eastern Europe in preparations for membership and that it would submit its first report at the end of 1998. The European Council in **Luxembourg** (December 1997) decided that;

'From the end of 1998, the Commission will make regular reports to the Council, together with any necessary recommendations for opening bilateral intergovernmental conferences, reviewing the process of each central and east European applicant state towards accession in the light of the Copenhagen criteria, in particular the rate at which its adopting the Union *acquis*. Prior to these reports, implementation of the accession partnerships and progress in adopting the *acquis* will be examined with each applicant state in the Europe Agreement bodies. The Commission's reports will serve as a basis for taking, in the Council context, the necessary decisions on the conduct of the accession negotiations or their extension to other applicants. The Commission submitted the first set of these Regular Reports, covering the ten associated countries in central Europe, Cyprus and Turkey, to the Council in **November 1998**. In that context, the Commission will continue to follow the method adopted by Agenda 2000 in evaluating applicant states' ability to meet economic criteria and fulfil the obligations deriving from accession.[35]

In addition to this; in 1998 the European Commission launched the *Twinning Programme* to spearhead the process of institution building in the candidate countries. Experts from administrations in the EU member states are seconded to the applicant countries to help them acquire the structures, human resources and management skills needed to implement Community regulations to the same standards as the member states. [36]

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[34] **Ibid.**
[35] **EU Enlargement - A Historic Opportunity** URL
http://europa.eu.int/comm/enlargement/intro/criteria.htm#documents

2.6.9. Vienna European Council December 1998

The Vienna European Council welcomed and generally endorsed the European Commission's Regular Reports. Following the reactivation by Malta of its application for membership in October 1998, the Commission adopted, on 17 February 1999, an update of its opinion from 1993. The European Commission presented its next Regular Reports in October 1999, covering the ten associated countries in Central Europe, Cyprus, Malta and Turkey, to make them available for the Helsinki European Council, which took place in December 1999.[37]

2.6.10. Cologne European Council 3-4 June 1999

In line with the decisions of the Cologne European Council, the Commission adopted on 13 October its regular reports and a more general composite paper on the progress made by each of the candidate countries (ten central European countries, Cyprus, Malta and Turkey) towards accession.[38]

The regular reports contain a detailed analysis of the progress made by these 13 candidate countries since November 1998. They show that all countries except Turkey fulfil the political criteria for accession and that only Cyprus and Malta fully meet the economic criteria. Regarding the adoption of the *acquis*, the situation varies between countries: while good progress was made by Hungary, Latvia and Bulgaria the pace of transposition in Poland and the Czech Republic was slow.[39]

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[36] Pamela Readhead, **EU Enlargement: the Key Questions** – Background Report – Forum Europe, April 2002 p.16.
[37] **EU Enlargement - A Historic Opportunity** URL http://europa.eu.int/comm/enlargement/intro/criteria.htm#documents
[38] **Ibid.**
[39] **Ibid.**

Based on these regular reports, the Commission has recommended, in its composite paper, to open negotiations with Malta, Latvia, Lithuania, Slovakia and also with Bulgaria and Romania but subject to certain conditions for the latter two. The Commission has also recommended to conduct accession negotiations through a differentiated approach taking account of the progress made by each candidate and to consider Turkey as a candidate country. It has furthermore suggested that the EU institutional reform be in force by 2002 to allow the accession of the first candidates that fulfil the criteria.[40]

2.6.11. Helsinki European Council 10 December 1999

The Helsinki European Council on 10 December 1999 welcomed these regular reports and decided to follow the Commission recommendations.

The Helsinki European Council also agreed that negotiations with Turkey could open only once the political conditions had been fulfilled; the good-neighbourliness condition can also be interpreted to imply that Turkey's disputes with Greece over territory as well as Cyprus must be resolved first.[41]

2.6.12. Nice European Council December 2000

The European Council in Nice reached agreement on a new treaty that paves the way for enlargement. Once the Treaty has been ratified, the EU will be ready to take in new members.

The treaty includes important changes designed to streamline decision-making in an enlarged Union:

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[40] **Ibid.**
[41] K. E. Smith, p.37.

- The extension of majority voting to more policy areas in the Council of Ministers;
- New weighting of votes of member states in the Council to take account of the arrival of new members;
- The allocation of more seats in the European Parliament;
- Increased authority for the President of the European Commission in relation to Commissioners and their portfolios.

Twelve member states have so far ratified the Treaty of Nice (Denmark, Luxembourg, France, Germany, Spain, Austria, Portugal, Netherlands, Finland, Sweden, the UK and finally Ireland.)[42]

Now, the EU says it will be "in a position to welcome those new member states which are ready as from the end of 2002, in the hope that they will be able to take part in the next European Parliament elections" - which are scheduled for mid-2004. The next critical point in the process would be at the EU Summit in **Göteborg in June 2001**, when EU leaders "will assess progress in implementing that new strategy, in order to give the necessary guidance for the successful completion of the process". Meanwhile, the summit expressed appreciation for the efforts made by the candidates, and requested them "to continue and speed up the necessary reforms to prepare themselves for accession, particularly as regards strengthening their administrative capacity, so as to be able to join the Union as soon as possible". And it welcomed the establishment of economic and financial dialogue with the candidate countries.[43]

In a bid to alleviate some of the most acute EU concerns over enlargement, EU leaders in Nice also called on the Commission "to propose a programme for the frontier regions in order to strengthen their economic competitiveness."

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[42] P. Readhead, p.16.
[43] **EU Enlargement - A Historic Opportunity** URL http://europa.eu.int/comm/enlargement/intro/criteria.htm#documents.

2.6.13. The Convention on the Future of Europe

The Convention on the Future of Europe in which candidate and member states both participate under the chairmanship of former French President, Valéry Giscard d'Estaing, began work on February 28, 2002. It will meet twice a month for between a year and 18 months, with the aim of recommending ideas and schemes for reforming European decision-making and institutional structure.[44]

Some member states, particularly Germany, want a directly elected President for the Commission chosen in a single, Europe wide poll. Others, such as the UK, seem opposed to that but favour making the European Parliament bicameral by adding a Senate-style chamber. Other countries are considering changes to the present system of rotating presidencies of the Council, wondering how some candidate countries would cope with the burden –and how larger member states would cope with the prospect of a rota in which they might be in the chair once every 13 years. There are calls for a UN Security Council model that would give the big countries a permanent presence at the top of the table. Or perhaps a collective presidency made up of three member states serving together for two and a half years.[45]

2.7. Public Opinion

2.7.1. EU Member States

Opinion polls and Euro barometer show that in the existing Union information and understanding about the implications of enlargement need to be improved. However, according to the latest Euro barometer report, support for enlargement shows marked growth. Fifty-one percent of European citizens now support the arrival of new member

[44] P. Readhead, p.16.
[45] Ibid.

states while 30% oppose it. The proportion has shot up especially in Denmark and Sweden (+19 points), but also in the Netherlands (+16), Austria (+13), and Germany (+12). France is now the only country where those opposed to enlargement outnumber those in favour.[46]

2.7.2. Candidate Countries

According to the first Euro barometer of opinion in the candidate countries, published in March (2002), nearly 6 people in 10 (59%) feel that EU membership would be a 'good thing' for their country with support ranging from 33% in Estonia and Latvia to 80% in Romania. Support levels tend to be significantly higher in the applicant countries than they are in the EU where the average support level is 49%. There is an even clearer difference between the applicant countries and the EU in the proportion of people who view membership as a bad thing: three times as many EU citizens (29%) feel this way as in the applicant countries (10%). Two-thirds (65%) of the respondents of voting age in the applicant countries declare that they would support their country's membership of the EU if a referendum were to be held on this issue.[47]

2.7.3. The Image of the European Union

More than 5 in 10 citizens of the applicant countries have a positive image of the European Union (52%) with only 18% saying that it conjures up a negative image. This is somewhat better than Euro barometer's findings among EU citizens, where on average 42% have a positive image and 18% have a negative image. At 70%, people in Bulgaria and Romania are most likely to have a positive image of the EU. The Maltese are most

[46] **Ibid**, p.28
[47] **Ibid**, p.29

likely to have a negative image (34%). Malta is the only country where more than 3 in 10 people have a negative image of the European Union.[48]

[48] Ibid.

III. ROMANIA

3.1. Introductory Survey

Situated in south - eastern Central Europe, Romania covers 238,391 km². The Black Sea forms the south - eastern border and the river Danube forms the southern border with Bulgaria. To the north and east lie Ukraine and Moldova, respectively, and to the west Yugoslavia and Hungary.

The Carpathian Mountains run north - south, almost as far as Bucharest, before turning west. There are fertile plains, gentle hills, prime agricultural land, and numerous vineyards. The Danube delta, rich in fauna and flora, has been designated a special protected area by the United Nations Educational, Scientific and Cultural Organisation (UNESCO).

3.1.1. History and Political Situation

Walachia and Moldavia united in 1859 to form the basis of Romania. In 1877, the two principalities gained their independence from the Ottoman Empire. Transylvania joined them in 1918 and formed the modern Romania, which at that time included Bessarabia and Bucovina. A flourishing period characterised the decades between the two World Wars. On 30 December 1948 the People's Republic of Romania, which later became the Socialist Republic of Romania, was proclaimed.[49]

Following the revolution of December 1989, Romania returned to democracy. After six years of left-wing government, a coalition of centre-right parties came to power in November 1996.

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[49] **Trade Partners UK "Country Profile"** URL http://www.tradepartners.gov.uk/romania/_profile/03_economic/economic.shtml

The Presidential and parliamentary elections of November 2000 saw the return to power of Ion Iliescu who had been voted the first president of democratic Romania in 1990. Adrian Nastase was appointed as Prime Minister. The next Presidential and Parliamentary elections are not due until autumn 2004.

Romania's foreign policy priorities are accession to NATO and the European Union. It was offered admission to NATO at the 2002 Prague Summit, and has started formal accession talks with the EU (it became a EU candidate in 1999). President Iliescu and PM Nastase have both worked to re-fashioned Romania's image in a push to enter the EU by 2007. It is also an active member of the Francophonie. Romania ratified the Ottawa Convention on Anti-Personnel Landmines on November 30, 2000, becoming the 109th country to do so. It strongly supports anti-terrorism efforts and has been assisting the international effort in Afghanistan. It has pledged to act as a de facto NATO ally as it moves towards full membership.[50]

3.2. Transition from the Communist Regime to Democracy

3.2.1. Characteristics of Romanians

Before the research of Romania's transition from communism to the democracy and to the European Union there must be seen a thing firstly the "Latinist aspiration of Romanian people". And there will certainly appear oppressive background of the country's historical past.

Of all the countries of Eastern Europe, it is perhaps most difficult to calculate Romania's conception of the gains and losses derived from the postwar division of Europe. With a longer historical perspective, one also sees that of all the nationalities and nation-

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[50] **Department for Foreign Affairs and International Trade for Canada, "Countries in Europe: Romania: Country Profile** URL http://www.dfait-maeci.gc.ca/canadaeuropa/country_rom_b-en.asp

states of Central Europe, only since the postwar period have the Romanians emerged from a centuries-old pattern of feudalism and autocracy. Yet they also emerged with a strong sense that independence would allow them to cultivate their long-standing links with Western culture.[51]

Benefiting from the natural protection provided by the Danube, the Transylvanian Alps, and the Carpathian Mountains, the native Romanians alone amongst the Balkan peoples had been able to maintain their Latin-based language and culture by withdrawing to the mountains when the Huns and other eastern tribes swept through in the third century. For the next thousand years they had been able to develop relatively independently because of a confluence of geography and fortune. They also split into two major groups, the first consisting of Romanians who were under the political and cultural influence of a minority Magyar elite in the area to the northwest of the Transylvanian Alps, and the second consisting of Romanians who mixed with Tatars and Slavs in Wallachia and Moldavia, located in the northeast and the south of modern-day Romania.[52]

The two groups had quite different historical antecedents. Although Transylvania was subject to Ottoman authority during the fifteenth, sixteenth and seventeenth centuries, it was effectively a semiautonomous principality ruled by Hungarian princes. In the seventeenth century, Transylvania, along with Hungary, was absorbed into the Austro-Hungarian Empire, thereby extending its association and involvement with Central and Western Europe. More than the Romanians in Wallachia and Moldavia, they were influenced by the 1848 revolutions in France and elsewhere. In addition, the Habsburg decision to encourage their conversion from Orthodoxy to Roman Catholicism led to the revival of their Roman heritage and the replacement of the Cyrillic alphabet with the Latin.[53]

In the decade and a half between the communist takeover and Romania's break with Moscow, the Western and Latin roots of Romanian culture were suppressed. The alphabet

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[51] Karen Dawisha, **Eastern Europe, Gorbachev, and Reform: The Great Challenge**, by the Press Syndicate of the University of Cambridge, 1990, NY, p. 52.
[52] **Ibid**

was Slavicized, as were all geographic place names. History was completely rewritten to emphasize only areas of Soviet-Romanian empathy and to delete sources of tension, such as the Soviet occupation of Bessarabia. But the beginning at the time of the Sino-Soviet split, first General Secretary Gheorghiu-Dej and then his successor, Nicolae Ceauşesku, increased their distance from the Soviet line in crucial domestic and foreign policies. They refused to participate in the bloc-wide division of labour that would have consigned Romania to being the underdeveloped breadbasket of the bloc, and they further refused to accept Soviet hegemony in ideological or political matters, even withdrawing from the integrated military command of the Warsaw Pact. The Western orientation of the culture was once again stressed, the language was once again Latinised and Romanian nationalism served as a valuable tool in the promotion of the regime's goal. However, those goals did not greatly enhance popular welfare or widen popular participation in decision-making. Therefore, while the "pull toward the West" may have been a major pillar of official regime policy, it was more illusory than real in the sphere of domestic policy.[54]

3.2.2. Transition Period

The promulgation of the Constitution of 1965, in which Romania officially proclaimed its status as a Socialist Republic, was a milestone on its path toward Communism. The country had set out on that path in 1945 when the Soviet Union pressured King Michael to appoint Communists to key government positions, where they provided the power base for a complete Communist takeover and the abolition of the Monarchy in December 1947. The political system installed in April 1948, when the Romanian People's Republic was created, was a replica of the Soviet model. The system's goal was to create the conditions for the transition from capitalism through socialism to communism.[55]

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[53] **Ibid.** p. 53
[54] **Ibid,** p. 54
[55] **American Memory: Historical Collections for the National Digital Library** URL: http://memory.loc.gov/cgi-bin/query/r?frd/cstdy:@field(DOCID+ro0150)

The formal structure of the government established by the Constitution of 1965 was changed in a significant way by a 1974 amendment that established the office of President of the Republic. The occupant of that office was to act as the head of state in both domestic and international affairs. The first president of the Republic, Nicolae Ceausescu, still held the office in mid-1989 and acted as head of state, head of the Romanian Communist Party (Partidul Comunist Român - PCR), and commander of the armed forces. His wife, Elena Ceausescu, had risen to the second most powerful position in the hierarchy, and close family members held key posts throughout the party and state bureaucracies. The pervasive presence of the Ceausescus was the distinctive feature of Romania's power structure.[56]

Romania's political system was one of the most centralized and bureaucratized in the world. At the end of the 1980s, the Council of Ministers had more than sixty members and was larger than the council of any other European Communist government except the Soviet Union. Joint party-state organisations not envisioned by the Constitution emerged and proliferated. The organisations functioned as a mechanism by which the PCR and the Ceausescus controlled all government activity and preempted threats to their rule.[57]

Despite Ceausescu's tight control of the organs of power and the effectiveness of the Secret Police, more properly the Department of State Security (Departmentamentul Securitii Statului - Securitate), in repressing dissent, sporadic political opposition to the regime surfaced in the 1980s. The Western media published letters written by prominent retired Communist officials accusing Ceausescu of violating international human rights agreements, mismanaging the economy, and alienating Romania's allies.[58]

Although Romania remained in Soviet-dominated military and economic alliances, PCR leader Gheorghe Gheorghiu-Dej and his successor, Ceausescu, pursued a defiantly independent foreign policy. During the 1958-75 period, they successfully cultivated contacts with the West, gaining "most-favoured-nation" trading status from the United States and membership in the International Monetary Fund (IMF), the World Bank, the General Agreement on Tariffs and Trade (GATT), and other international organisations. Romania condemned the Soviet-led Warsaw Treaty Organization (Warsaw Pact) invasion of Czechoslovakia and was the only member of the pact to maintain diplomatic relations

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[56] **Ibid.**
[57] **Ibid.**

with Israel following the June 1967 War. After 1975, however, Romania became increasingly isolated from the West, on which Ceausescu heaped much of the blame for his country's economic dilemma. In the 1980s, international outcries against human rights abuses further isolated the Stalinist Romanian regime from both the West and the East. Relations with Hungary were particularly tense, as thousands of ethnic Hungarians fled across the border. At the close of the decade, Ceausescu's regime was badly out of step with the reform movements sweeping the Soviet Union, Poland, and Hungary.[59]

In 1984 Ceausescu ordered 2 monasteries, 26 historic churches and the homes of over 35,000 people to be destroyed in order to redesign Bucharest's centre. Another brilliant idea of Ceausescu's was "the systemisation". 11,000 villages were to be destroyed and their inhabitants moved to "agricultural-industrial housing complexes". Fortunately, an international protest stopped this project. During 1989 Communist regimes in Eastern Europe collapsed. On 15th December 1989 mass protests in Timisoara were followed by a nation-wide revolt. 690 people were killed in Bucharest, Timisoara and other big cities. On 22nd December the Ceausescu couple tried to flee Romania, but they were arrested and few days later, on Christmas Day, they were tried secretly by a military court and executed. On 26th December 1989, the National Salvation Front, lead by Ion Iliescu, former party activist of the 2nd echelon, seized the popular movement that brought Ceausescu's fall. Besides other names, that can come across even today in the "Social Democrat" parties, Iliescu identifies himself with the power following the elections from the 20th May, when over 85% of the total population, uninformed by the mass-media controlled in big part by FSN, votes for this party. In June 1990 over 10.000 miners, lead by Security men, repress, with mass bloodshed, the anti-communist protest from the University Square. In 1992 Ion Iliescu and the NSF were re-elected. In 1994 Romania was admitted into The Council of Europe. In 1996 the Democratic Convention of Romania and Emil Constantinescu (DCR's candidate for Presidency) won the elections. Victor Ciorbea became Prime Minister and was subsequently replaced by Radu Vasile after almost two years. In 1999 the Democratic Convention of Romania appointed Mugur Isarescu (former Governor of the Romanian

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[58] **Ibid.**
[59] **Ibid.**

National Bank) Prime Minister.[60] And since 29 December 2000 Ion Iliescu has been President and Adrian Nastase has been the Prime Minister.

Consequently, unlike the other Eastern and Central European countries, where the transition from communist rule to democracy was the result of peaceful movements or round-table negotiations, Romania experienced a violent change of regime. The last communist ruler, Nicolae Ceauşescu, was removed from his sultanistic position by a popular uprising. This step towards a democratic regime expressed the will of the huge amounts of people, which demonstrated in all the important cities and almost all localities. The present political system in Romania may be described as a representative democracy, governed by the directly elected President and Parliament (semi-presidential system), according to the provisions of the new constitution.[61]

3.3. Romania and European Union; from Cooperation to Accession

3.3.1. The Period of Economic and Commercial Cooperation

Romania has traditional ties with European Union. It was the only Eastern European country that as early as the '70s developed a well defined juridical framework in its relations with the European Community. An agreement including Romania in the Community's Generalized System of Preferences in 1974 and an Agreement on Industrial Products in 1980 are signed.[62] At the same time, a series of objective factors makes the EU Romania's main commercial partner, respectively: geographic position, economic complementarity and potential, as well as the evolution of the juridical relations.

Romania's diplomatic relations with the European Union dates from 1990. The historic context in which Romania's undertakings are classified, regarding its integration in

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[60] **Romanian Website** URL http://www.romania.maronet.net/engleza/profile.htm
[61] Andreas Auer and Michael Bützer, **Direct Democracy: the Eastern and Central European Experience** by Ashgate Publishing L., England, 2001, p. 141
[62] **Relations with Romania** URL http://europa.eu.int/comm/enlargement/romania/

the Community's structures, is placed under the sign of the profound changes that occurred in Romanian society after 1989 (the building up of a democratic society ad the instauration of a market economy) as well as of the dichotomic "challenge" at the level of the European Union: the need of internal structural reforms, doubled by its unavoidable extension upon the European countries that subscribe to the same democratic values.[63] Following Romania's return to democracy, a Trade and Co-operation Agreement is signed 1991. The Europe Agreement enters into force on February 1, 1995, trade provisions having entered into force in 1993 through an "Interim Agreement".[64]

3.3.2. The Association Period (1995-1998)

Through the conclusion of the Agreement concerning Romania's Association to the European Union (the Europe Agreement), Romania has irreversibly engaged itself on the way of European integration. The National Strategy for the preparation of Romania's accession to the EU, adopted at Snagov in June 1995, has marked the procedural steps and the actions to be undertaken in the process of closing the gap with the Community's structures.[65]

The Europe Agreement is being implemented for the most part according to the timetable set out in the Agreement. The Association Council has met at ministerial level once each year, and the Association Committee has met twice at senior official level. A Joint Parliamentary Committee comprising representatives of the Romanian and European Parliaments has met on four occasions. A structure comprising nine multi disciplinary

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[63] **Romania's Accession to the European Union - Strategic Elements; Ministry of Foreign Affairs** URL http://domino.kappa.ro/mae/dosare.nsf/IntegrareEng/BEEA4FEA6F400DC2C22566E2005C969A?OpenDocument

[64] **Relations with Romania** URL http://europa.eu.int/comm/enlargement/romania/

[65] **Romania's Accession to the European Union - Strategic Elements; Ministry of Foreign Affairs** URL http://domino.kappa.ro/mae/dosare.nsf/IntegrareEng/BEEA4FEA6F400DC2C22566E2005C969A?OpenDocument

subcommittees has also been established and is operating. For certain provisions of the Agreement there have been delays in entry into force.[66]

Being conscientious of the deficiencies and delays signalled in the Opinions of the European Commission from July 1997, Romania has accelerated the rhythm of institutional and economic reforms. The statute of candidate for accession clearly expressed by the European Council in Luxembourg and officialised with the launch of EU accession and negotiations process, in March 1998, does mark a new stage in its relation with the Union and involves the undertaking of additional responsibilities in the fulfilment of the Copenhagen criteria, in the alignment to the Community's norms and practices. The Accession Partnership, signed by Romania, actually constitutes the key-element of the consolidated pre-accession strategy, stating the principles, objectives and action priorities and mobilising in a single framework all the forms of Community's assistance. In this phase of intensified accession preparation, Romania is actively participating at the analytical examination of the *acquis communautaire*, whose objective is the harmonisation of national legislation to Community norms.[67]

The identification of Romania's objectives and action priorities must have as fundament the realistic evaluation of the degree of implementation of these criteria, taking into account the conclusions of the European Commission, expressed in the July 1997 Opinion and re-iterated within the Accession Partnership. Thus, synthetically, it is considered that Romania is on the way to satisfy the political criteria completely has made significant progress in the establishment of a viable market economy, even though this requires an ongoing substantial effort. Major difficulties are also encountered in the installation of a true competition climate; at the same time, the essential elements of the *acquis communautaire* have not been transposed or undertaken, especially in the domain of the Internal Market.[68]

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[66] **AGENDA 2000 – Commission Opinion on Romania's Application for Membership of the European Union**; DOC/97/18, Brussels 15th July 1997

[67] **Ibid.**

3.3.3. The Accession Period (1998 - Present)

The first Accession Partnership for Romania was decided in March 1998. In line with the provisions laid down in Regulation (EC) No. 622/981 (article 2), the Partnership was updated a first time in December 1999, taking into account further developments in Romania. Based on the analysis of the Commission's 2001 Regular Report on progress made by Romania towards accession, the Commission considers that the time has come for a further revision of the priorities and intermediate objectives identified in the Accession Partnership. The present proposal for such a revision draws on the findings of the Commission's 2001 Regular Report on progress made by Romania towards accession.[69]

In the Commission's second "Regular Report" on Romania published in October 1999, the Commission recommends starting the accession negotiations with Romania conditional, among others, on the improvement of the situation of children in institutional care and the drafting of a medium-term economic strategy. Romania submitted a revised version of its National Programme for the Adoption of the Acquis (NPAA) on 14 June 1999. Following the European Council's decision in December 1999's Helsinki Summit EU accession negotiations are started with Romania on February 15, 2000.[70]

The priorities and intermediate objectives in the revised Accession Partnerships are again divided into two groups - short and medium term. Those listed under the short term have been selected on the basis that it is realistic to expect that Romania can complete or take them substantially forward by the end of 2000.[71] According to the Romania's National Programme for Accession to the European Union (NPAR), similarly to that of the Regular Report of the European Commission; it is being divided in an introduction chapter related to the relation's framework between Romania and European Union and five main chapters. The first three chapters correspond to the accession criteria defined by the Copenhagen European Council and the fourth chapter to the criterion added by the Madrid European

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[68] **Ibid.**
[69] **Accession Partnership for Romania** Revised Version in 2001
[70] **Relations with Romania** URL http://europa.eu.int/comm/enlargement/romania/
[71] **Accession Partnership for Romania**, 1999

Council in December 1995. The last chapter presents the short and medium-term needs for budgetary and external financing.[72]

Short Term Political Criteria: (2000)

- guarantee adequate budgetary provisions for the support of children in care and undertake a full reform of the child care system as well as of provisions for the treatment of children and adults with chronic diseases and handicaps.
- strengthen dialogue between the Government and the Roma community with a view to elaborating and implementing a strategy to improve economic and social conditions of the Roma and provide adequate financial support to minority programmes.[73]

Medium Term Political Criteria:

- consolidate reform and improve the conditions for the children in care.
- continue to implement strategy to improve economic and social conditions of the Roma; implement measures aimed at fighting discrimination (including within the public administration); foster employment opportunities and increase access to education.
- complete the demilitarisation of the police and the bodies subordinated to the Ministry of Interior.[74]

Romania's National Programme for Accession to the European Union (NPAR) has been revised respectively in 2000, 2001 and 2002. NPAR 2000 contains the programming for the timeframe 2000-2003 of the actions and measures necessary for properly preparing the accession negotiations and advancing towards the fulfilment of the accession criteria. The structure of the NPAR will be similar to that of the Regular Report of the European Commission as we said for 1999's NPAR. NPAR represents the tool for applying this

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[72] **Romania's National Programme for Accession to the European Union** (NPAR),1999
http://www.infoeuropa.ro/infoeuropa/insidePage.jsp?webPageId=92&textfield=npar&x=12&y=9
[73] **Accession Partnership for Romania**, 1999
[74] **Ibid.**

strategy in Romania and has the gengeral objective to accomplish the accession criteria that have been set up at the European Council in Copenhagen. The edition 2001 of NPAR take into account, with priority, the Programme of Government for the period 2001-2004 and the Action Plan for applying this programme. It also take into account the evolution of the accession negotiations process. The time horizont covered by NPAR 2001 is 2001-2004, splitted in short term (years 2001 and 2002) and medium term (years 2003 and 2004). Lastly, NPAR 2002 aims at evaluating the current status of Romania's preparation for accession to the EU, as well as describing the objectives and measures necessary in order to fulfill the accession criteria. The period covered by NPAR 2002 is 2002-2005: short-term (2002 and 2003) and medium-term (2004 and 2005). Volume I contains data about the framework of the Romania-EU relations in the context of the accession n egotiations and of the Europe Agreement, the current status, as well as the short and medium term priorities in order to accomplish the political and economic criteria and the commitments taken by the negotiation positions and by other documents, public administration reform and financial needs.[75]

And at the Copenhagen European Council in December 2002, it was announced that; concerning Bulgaria and Romania, the European Council reaffirmed the objective to welcome these two states as members in 2007.

3.4. Adaptation to the Copenhagen Political Criteria; Analysis of Progress Reports from 1998 to 2002

Here is the assessment relates to the situation and functioning of the basic elements of Romania's political structure in June 1997 (and the following years' Regular – Progress Reports; 1998, 1999, 2000, 2001, 2002) in the light of the Copenhagen Political Criteria.

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[75] **NPAR 2002, 2001, 2002**; URL:
http://www.infoeuropa.ro/infoeuropa/insidePage.jsp?webPageId=92&textfield=npar&x=12&y=9

3.4.1. Democracy and the Rule of Law

The new constitution adopted by referendum in December 1991 marked Romania's transition to parliamentary democracy. The country's institutions work normally, with the different powers taking care not to overstep the bounds and cooperating with each other.

3.4.1.1. Parliament and Legislative Powers; Structure and Functioning

The Romanian Parliament is bicameral; the Chamber of Deputies has 343 members and the Senate 143. Members are elected for four years by proportional representation (subject to parties obtaining at least 3% of the vote). Fifteen seats are reserved for minorities in the Chamber of Deputies.[76]

Romania is a multiparty democracy: 57 parties fielded candidates in the parliamentary elections of November 1996. Parties obtaining over 2% of the vote receive budget funding, more if they are represented in Parliament.[77]

Article 114 of the Constitution permits the Government - with Parliament's authorisation - to stand in for Parliament and legislate by emergency decree.[78]

Under Article 90 of the Constitution, the President may, after consulting Parliament, organise a referendum on "matters of national interest." Amendments to the Constitution must be endorsed by a referendum before they can take effect. The referendum procedure has not been used since the Constitution took effect.[79]

Notwithstanding a few organisational problems, the November 1996 elections were free and fair, permitting the first real democratic handover since 1947.[80]

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[76] **AGENDA 2000** – Commission Opinion on Romania's Application
[77] **Ibid.**
[78] **Ibid.**
[79] **Ibid.**
[80] **Ibid.**

Commission declared in the first regular report in 1998 that; parliament continues to operate satisfactorily. Its powers are respected and the opposition plays a full part in its activities. The frequency of the government's use of emergency ordinances, as mentioned in the opinion, remains a source of concern.[81]

In the first seven months of 1999 the Government passed 120 ordinances as compared to 70 during the whole of 1998, the main reason being delays in the bicameral parliamentary process coupled with frequent governmental policy adjustments.[82]

In 2001's Regular Report it was mentioned that; the efficiency of the legislature, which had been recognised as a particular problem in previous Regular Reports, improved considerably over the reporting period. Prior to the elections the legislature had been effectively paralysed by the weakness of the ruling coalition. One of the first acts of the new Parliament was to reform the functioning of both houses in order to accelerate the legislative process. In the Senate changes included streamlined procedures for amending legislation, and reducing opportunities for "filibustering." In the Chamber of Deputies the changes included an accelerated procedure for the adoption of priority legal acts – including legislation related to EU accession.[83]

The combination of a government with a strong position in both houses and reformed parliamentary procedures has seen the number of laws adopted by Parliament increase significantly since the beginning of the year 2001. This has allowed the legislature to effectively process the backlog of some 700 draft legislative acts left over from the previous government.[84] This trend continued in 2002. With regard to transparency, information on the legislative process is widely available and most draft laws are published on the Internet. It remains difficult to follow the process of amending and adopting laws in real time which limits the opportunities for external input into a key stage

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[81] Commission of the European Communities, **1998 Regular Report on Romania's Progress Toward Accession,**

[82] Commission of the European Communities, **1999 Regular Report on Romania's Progress Toward Accession**, 13.10.1999

[83] Commission of the European Communities, **2001 Regular Report on Romania's Progress Toward Accession**, SEC(2001) 1753, Brussels, 13.11.2001

of the legislative process. The public cannot attend meetings of the specialised committees without their prior consent. In June 2002, Parliament established a Committee to draft proposals for constitutional reform. These are to include reforms necessary for EU accession and improvements in the functioning of state institutions.[85]

3.4.1.2. The Executive

The President of the Republic is elected by universal suffrage under a two-round system. Election is for a four-year term, renewable once only. Candidates must be supported by 100 000 electors and over 35 years of age. In addition to the usual powers of a head of state, the President plays a major role in the institutional and political life of the country.[86]

The Government is answerable to Parliament, which may overturn it by a simple majority of the two chambers sitting together. It comprises a prime minister and ministers appointed by the President after confirmation by Parliament. Central government has devolved the administration of the country to the counties (*judets*). There are 41 counties plus Bucharest, which enjoys comparable status. Each county is headed by a prefect who coordinates public services and supervises the acts of the local authorities which he may refer to the courts. Counties, municipalities, towns and communes all have elected assemblies (2686 councils). The president of a county, like a mayor, is elected by universal suffrage.[87]

The army, the secret services and the police are controlled by the civilian authorities. The police – a branch of the military in Romania - is subject to military tribunals. There are, however, certain procedural guarantees, with the military section of the Supreme Court serving as a court of final instance. In the case of the armed forces, the Supreme Council of National Defence submits a certain number of decisions for

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[84] **2001 Regular Report on Romania's Progress Toward Accession**
[85] Commission of the European Communities, **2002 Regular Report on Romania's Progress Toward Accession**, SEC(2002) 1409, Brussels, 9.10.2002
[86] **AGENDA 2000** – Commission Opinion on Romania's Application
[87] **Ibid**

parliamentary approval under Law No 39/90. There is, however, no supervision of their application.[88]

It was stated that in the Regular Report of 1998; the central institutions of the State continue to operate normally in general. There is a Government commitment to continue the reform of the administration at all levels. This is reflected in the creation of institutional structures to oversee reform as well as in the preparation of strategies and legislation to implement it. An Inter-Ministerial Group for Public Administration Reform (GIRAP) was set up in June 1998 under the chairmanship of the Prime Minister with the mandate of launching and sustaining a comprehensive reform process, based on a general review and reorganisation of government functions.[89]

The Law on the Liability of Ministers promulgated in June 1999 clarifies the status of the members of government including: political responsibility and the fact that the government is responsible to Parliament that may withdraw its confidence; the obligation of the Government to respond to questions by Members of Parliament; the penal liability of ministers while in office. While a positive step, the scope of the law is rather limited since it covers only penal offences as specified in the common law and not actions carried in the official capacity. It is therefore positive that in September 1999 the Government adopted an emergency ordinance that expanded the scope of the law. The civil service law has still not been adopted in 1999.[90]

Weak policy co-ordination and consultation procedures have continued during the 1999 to reduce the efficiency of the government. A further initiative saw the European Integration Department incorporated into the structures of the Ministry of Foreign Affairs. This move has been successful in raising the level of inter-ministerial co-ordination on European Affairs. With regard to improving the functioning of the civil service, the government adopted a long awaited Civil Servants' Statute in November 1999. This initiative fulfils one of the short-term Accession Partnership priorities. The Statute is essentially in line with European practices and covers many key areas: open and

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[88] **Ibid**

[89] **1998 Regular Report on Romania's Progress Toward Accession**

competitive access to the administration; the setting up of a Civil Servants' Agency; elaborating principles of performance-related human resource management. The Statute, if fully implemented, will be a step forward towards creating a more stable, professional and independent civil service. In addition to legislative developments, a new Civil Service Ministry was established, at the end of 1999, by merging the post of Secretary of State for Local Public Administration with the Department for the Reform of the Central Public Administration. The legal framework for decentralising power to local government had largely been completed by 1999.[91]

A positive development has been the particular emphasis placed upon re-enforcing the structures that are responsible for managing the accession process. The new Ministry of European Integration is responsible for co-ordinating the EU accession effort including implementation of the pre-accession strategy, management of EC financial assistance and conducting the accession negotiations. The position of Chief Negotiator has been upgraded to a ministerial-level post, and a Secretary of State responsible for European Integration has been appointed in each line-ministry. These Secretaries of State meet regularly in an inter-ministerial committee. At the civil servant level, inter-ministerial working groups have been established to deal with the preparation of each negotiating chapter. These measures have significantly improved the quality of Romanian preparations for accession.[92]

A Law on the Organisation and Functioning of the Government of Romania was adopted in February 2001. One of the important elements of the law was the provision of a legal basis for inter-ministerial bodies" in order to elaborate, integrate, correlate and monitor certain policies". Consultation with stakeholders when drafting legislation –social partners, NGOs, the business community – has improved over the reporting period but remains limited.[93]

The Commission has made the case that a fundamental structural *reform of the public administration* should be one of the new government's most urgent priorities. In

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[90] **1999 Regular Report on Romania's Progress Toward Accession**
[91] Commission of the European Communities, **2000 Regular Report on Romania's Progress Toward Accession**, Brussels, 8.11.2000
[92] **2001 Regular Report on Romania's Progress Toward Accession**

order to make the 1999 Civil Servant's Statute fully operational, secondary legislation is still needed to cover recruitment, career structures, and remuneration. In addition, a comprehensive reform strategy should be developed (this is one of the priorities in the 1999 Accession Partnership that has not yet been implemented). Such a strategy should cover the development of mechanisms to ensure the political independence and accountability of civil servants, improved provisions for both initial and in-service training, and the introduction of a career structure based on transparent promotion and assessment.[94]

The new executive has given considerable attention to issues related to *local administration and decentralisation.* In March 2001, a new Law on Local Public Administration was adopted in order to extend and clarify the decentralisation process. This was a positive development, although difficulties have continued to arise from the transfer of new responsibilities to local authorities (e.g. education, health, institutionalised children) without a corresponding transfer of resources. The capacity of local government to raise local taxes remains limited and is an issue that should also be addressed.[95]

Following the major re-organisation at the beginning of 2001, few changes were made to the organisation of the Executive. The composition of the Cabinet remained largely stable. A number of new government agencies were established - but of these only the National Council for Fighting Discrimination is directly linked to implementation of the *Acquis.*[96]

With regard to the *demilitarisation of the police,* significant progress was made with the entering into force of a new Law on the Status of the Policeman in August 2002. Other initiatives have been taken to support these legal developments. The use of conscription in the police is being phased out which has significantly improved the level of professionalism. While overall police training remains insufficient, the military component has been decreased and additional training has been provided on human rights issues. Some

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[93] **Ibid**
[94] **Ibid**
[95] **Ibid.**
[96] **2002 Regular Report on Romania's Progress Toward Accession**

aspects of policing have been decentralised and pilot projects on community policing have been launched.[97]

3.4.1.3. The Judiciary

Romania's courts have increasingly asserted their independence from the other powers. Judges appointed by the President (80% of judges, the remainder being trainees) enjoy tenure. Judges are managed by the Supreme Council of the Magistracy, which is chaired by the Minister of Justice and made up of judges and prosecutors (5 of the Council's 15 members) elected by Parliament for four years term.[98]

The "People's Advocate" introduced by the Romanian Constitution fulfils the functions traditionally assigned to an Ombudsman. However, his powers and the means of exercising them are not clearly defined.[99]

The Constitutional Court, which was set up in 1992, consists of nine members appointed for a single nine-year term of office. The President, the Chamber of Deputies and the Senate each appoint three members to the Court.[100]

The fact that the Constitutional Court's rulings can be overturned by a two-thirds majority of Parliament is a major obstacle to genuine constitutional control in Romania.[101]

The amendments of the Civil Procedure Code in January 1998 have resulted in an acceleration of procedures and then a revised version of the Code entered into force in April 2001.

The organisation and functioning of the judiciary have improved in 2000 over the reporting period thereby meeting one of the short-term priorities of the 1999 Accession Partnership. The law on the organisation of the judiciary was amended in November 1999

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[97] **Ibid.**
[98] **AGENDA 2000** – Commission Opinion on Romania's Application
[99] **Ibid.**
[100] **Ibid.**

creating special sections within the courts to deal with social security and labour law issues. In addition, disciplinary measures can be invoked against judges who do not deal with cases in due time. Further amendments have improved the status of the staff and auditors at the National Institute of the Magistracy.[102]

The Commission pointed out a further positive development has been the steady decrease in the number of files pending in courts – although further work is necessary.[103]

Reform of the judiciary has been limited during the reporting period and the main concerns raised in 2001's Regular Report have not been addressed. In particular, the involvement of the executive in judicial affairs has not been substantially reduced, the courts remain over-burdened, (which was mentioned in 1998 and 1999's Regular Reports) the combination of a lack of resources and an inadequate human resources policy means that the judicial system is severely strained.[104]

The General Prosecutor, who is sub-ordinated to the Executive, has continued to use his discretionary power to bring extraordinary appeals against judicial decisions. The concerns expressed in last year's Regular Report, over allowing extraordinary appeals to be made even before other legal remedies have been exhausted and about the relaxation of the criteria for introducing such appeals, have not been addressed. This situation has been found contrary to the European Convention of Human Rights and undermines the principle of legal certainty.[105]

The National Institute of Magistracy is legally dependent on the Ministry of Justice for its funding, numbers of trainees, approval of programmes and trainers, and generally for the approval of decisions adopted by the Institute's Council. There has been no progress with the granting of self-governing status to the Institute.[106]

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[101] **Ibid.**
[102] **2000 Regular Report on Romania's Progress Toward Accession**
[103] **Ibid.**
[104] **2001 Regular Report on Romania's Progress Toward Accession**
[105] **Ibid.**
[106] **Ibid.**

The total number of judges and judicial vacancies has not changed substantially over the reporting period. The average number of cases dealt with by each judge increased from 511 in 2000 to 531 in 2001, and this heavy workload is a particular problem in the tribunals and courts of appeal and has negative consequences for the quality of judgement. Working conditions remain poor and despite an evident need there has only been limited progress with the introduction of IT systems in courts and in prosecutors' offices, and in terms of improving court management.[107]

The situation with regard to the enforcement of civil decisions has improved. Enforcement is the responsibility of private bailiffs and is carried out effectively in most cases.[108]

The Romanian system of *legal aid* is operational but is limited and should be extended. There have been no changes over the reporting period, and in criminal cases, mandatory legal aid is provided in all cases of detention and to all minors. However, legal aid is only mandatory during hearings for cases where the punishment exceeds five years imprisonment and in cases where the court decides that the defendant is unable to defend himself. The Civil Procedure Code contains provisions for granting *legal aid* to persons who cannot afford the legal costs of a civil case. Legal assistance service are organized by the bars and payment is provided by the Ministry of Justice.[109]

While the 2002 Regular Report noted progress in some areas related to the functioning of the judiciary it expressed several serious concerns and identified priority areas for reform:

— measures are needed to guarantee the effective independence of the judiciary;
— the system of extraordinary appeals against final judicial decisions should be revised in line with the European Convention of Human Rights and in order to re-enforce the principle of legal certainty;
— a comprehensive strategy to improve the functioning of the judiciary should be drawn up (key elements of the strategy should be practical measures to guarantee

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[107] **Ibid.**
[108] **2002 Regular Report on Romania's Progress Toward Accession**
[109] **Ibid.**

the full independence, enhance the ethics, training, and professionalism of judges, prosecutors and legal professions and improve the inner organisation of Courts and make co-ordination more efficient between State agencies in charge of Judicial matters. Once a comprehensive reform strategy, including an action plan, has been developed and finalised, Phare projects will be developed to implement specific reforms.[110]

3.4.1.4. Anti-Corruption Measures

A Number of bodies are involved in the fight against corruption. The National Council for action Against Corruption and Organised Crime was established in 1997 mainly to guarantee political support in this area. However, the Council has never played its envisaged role and discussions ongoing between the Government and the Parliament on the future of the body. The Squad for Countering Organised Crime and Corruption subordinated to the General Police Inspectorate deals exclusively with corruption and organised crime. A special service on anti-corruption and organised crime attached to the General Prosecutors Office was established in 1998. Since September 1998 different institutions have created specialised anti-corruption sections, like the Ministry of Justice, and self-regulating disciplinary bodies for professions in the public sector have been strengthened. The responsibilities of the Superior Council of Magistracy were reviewed in 1998. The reorganisation of the Prosecutor's Office under Supreme Court of Justice led to the creation of an Anti corruption Criminal Investigation and Criminology Section.[111]

The establishment in April 1999 of the National Office for the Prevention of and Fight against Money Laundering and the entry into force of the Law on Money Laundering could be seen as positive developments.[112]

The creation of a Consultative Working Group for Prevention and Fight Crime with the participation of the key ministries and agencies resulted in November 1998 in the

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[110] Commission of the European Communities, Communication from the Commission to the Council and the Parliament, **Roadmaps for Bulgaria and Romania**, COM(2002), Brussels, 13.11.2002

[111] **1998 Regular Report on Romania's Progress Toward Accession**

[112] **1999 Regular Report on Romania's Progress Toward Accession**

signature of a protocol for cooperation. The protocol foresees the creation of national and territorial working groups coordinated by prosecutors in order to speed up criminal investigations and coordinate activities of the involved institutions.[113]

In August 1999 Romania ratified the European Convention on the Transfer of Proceedings in Criminal Matters and the additional protocol to the Convention on the Transfer of Sentenced Persons.[114]

A new law on the prevention and punishment of acts of corruption entered into force in May 2000. This new law initiated a reorganisation of the bodies responsible for tackling corruption. A special Anti-corruption and Organised Crime Unit within the General Prosecutor's office has been established and other institutional changes include the reorganisation of the Squad for Countering Organised Crime and Corruption.[115]

Reports on the funding of political parties have indicated that expenditures (and in particular election expenditures) are considerably higher than declared revenues. This applies to all political parties and is a potential source of corruption. In order to address this issue, Romania should adopt a fully transparent system of party funding.
A positive development regarding the fight against corruption was the adoption, in April 2001, of an ordinance introducing public procurement procedures and establishing the right to appeal against the award of public contracts.[116]

The Progress Report of 2002 pointed out that; "surveys indicate that corruption remains a widespread and systemic problem in Romania that is largely unresolved. Despite a legal framework that is reasonably comprehensive, and which has been expanded over the last year, law enforcement remains weak."[117]

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[113] **Ibid.**
[114] **Ibid.**
[115] **2000 Regular Report on Romania's Progress Toward Accession**
[116] **2001 Regular Report on Romania's Progress Toward Accession**
[117] **2002 Regular Report on Romania's Progress Toward Accession**

Such high levels of corruption undermine economic development and erode popular trust in state institutions. Independent observers have concluded that there has been no noticeable reduction of corruption during the reporting period. A total of 343 persons were convicted for corruption in 2001, marginally more than in 2000 but fewer than in 1999.[118]

The major institutional development over the period was the setting up of the National Anti-Corruption Prosecutor's Office (NAPO). This new body replaces the existing anti-corruption section of the General Prosecutor's Office. NAPO's activities are co-ordinated by the General Prosecutor of Romania and the office is headed by a specially appointed chief prosecutor.[119]

There were several legislative developments during the reporting period. The Council of Europe's Civil Law Convention on Corruption was ratified in April 2002, the Criminal Law Convention on Corruption in July 2002, and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime in August 2002. In October 2001 a law on free access to information of public interest was adopted. This law should play a major role in increasing transparency and thereby reducing corruption. Although implementation has proved to be slow and inconsistent. A further step towards reducing corruption has been the development of public procurement through electronic tenders. It remains to be seen whether these measures will lead to any noticeable reduction in levels of corruption.[120]

Romania is involved in the Stability Pact Anti-corruption Initiative sponsored by the OECD Secretariat, and participates in the Council of Europe's Group of States against Corruption (GRECO).[121]

As a member of GRECO, Romania received an expert mission in October 2001. According to the evaluation report that was adopted in March 2002, successive Romanian governments have been concerned by the problem of corruption, and have made efforts to

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[118] **Ibid.**
[119] **Ibid.**
[120] **Ibid.**
[121] **Ibid.**

prevent and combat it. GRECO addressed specific recommendations to Romania, which it is strongly encouraged to follow-up.[122]

3.4.2. Human Rights and the Protection of Minorities

Romania continues to respect human rights and freedoms. This was the conclusion of the 1997's Opinion and the subsequent Regular Reports, and has been confirmed over the past year.

Romania has ratified the major human rights conventions. In principle, the European Convention for the Protection of Human Rights and Fundamental Freedoms has direct effect in Romania. In practice, this remains to be convincingly established. In May 2002, Romania signed Additional Protocol No. 13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in all circumstances.[123]

A law approving the 2000 Government Ordinance on Preventing and Punishing all Forms of Discrimination entered into force in January 2002. This law represents a step forward in terms of the fight against discrimination in Romania and the transposition of the *acquis*.[124]

A formal decision was taken to establish the National Council for Combating Discrimination in December 2001 and the necessary funds for its functioning were allocated from the 2002 state budget. The President and the Board of Directors of the Council of Combating Discrimination were appointed in August 2002. This is a significant development, as it has proved impossible to enforce anti-discrimination legislation without such a body.[125]

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[122] **Ibid.**
[123] **Ibid.**
[124] **Ibid.**

The Office of the Ombudsman deals with complaints lodged by persons whose civil rights and freedoms have been infringed by the public administration. Legislation adopted over the reporting period gives the Ombudsman the authority to establish regional offices and obliges the Constitutional Court to ask the Ombudsman's opinion on laws relating to human rights. The Government and Parliament have been given the option of consulting the Ombudsman on draft legislation concerning human rights and fundamental freedoms, though this is not an obligation.[126]

3.4.2.1. Civil and Political Rights

Child protection is a matter of human rights under the political criteria of Copenhagen.

As it was already stated in the 1997 Commission Opinion, the rights of the child have long been a matter for concern in Romania. The Opinion also indicates that the situation was likely to improve and indeed the 1998 Regular Report did register a positive change in the Government's policy on child protection. Management of institutions was decentralised and alternatives to placing children institutions ("institutionalisation") were provided. The reform went in the right direction, but it only partially addressed the problem, because it concerned institutions placed under the responsibility of only one of the state agencies in charge of "institutionalised" children, and could not be sustained, because it put a financial burden on local authorities which they were unable to afford, especially in a period of economic crises. The Commission has decided to redirect 1998 Phare assistance to address the immediate humanitarian needs and has provided funding from the 1999 programme both to continue providing emergency assistance and to support the still fragile reform process which must be carried out. [127]

The Commission's 1999 Composite Paper on Progress towards Accession by the Candidate Countries reaffirmed the principle that institutionalised children's access to decent living conditions and basic health care is a human rights issue. Following a crisis in

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[125] **Ibid.**
[126] **Ibid.**

child protection in Romania, the report stated that, in the Commission's opinion, Romania will only continue to fulfil the Copenhagen political criteria if the Romanian authorities continue to give priority to dealing with the crisis in their child care institutions. Addressing this issue also was identified as a priority in the 1999 Accession Partnership.[128]

In line with these recommendations, the government established a National Agency for the Protection of Children's Rights that took over policy responsibilities for institutionalised children from the Department for Child Protection, the Ministry of Education, the Ministry of Health, and from the Secretary of State for the Handicapped.[129]

While 2000 Progress Report was declaring that "Childcare institutions are still heavily dependent on humanitarian assistance provided by foreign donors, in many cases, problems persist with a severe lack of funding, especially for food, heating and maintenance"[130] The budget allocated to childcare has been substantially increased (€79 million in 2001 compared to €42 million in 2000). The number of child-care services offered as alternatives to institutions has been increased. Presidents of county councils have direct responsibility for all institutions related to child protection - a measure intended to ensure that local administrations give sufficient political priority to child-care issues. Important translation errors in the United Nations Convention on the Rights of the Child were corrected. The process of moving children out of special schools and into mainstream education has been initiated.[131]

The reforms made mean that Romania has met the 1999 Accession Partnership priority related to child protection. However, and despite these developments, the demand for state-supported care remained constant in 2001 with poverty being the main reason.[132]

In May 2001 the Government adopted a revised Strategy on the Protection of Children in Need (2001-2004). The revision was made following consultation with NGOs

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[127] **1999 Regular Report on Romania's Progress Toward Accession**
[128] **Ibid.**
[129] **Ibid.**
[130] **2000 Regular Report on Romania's Progress Toward Accession**
[131] **2001 Regular Report on Romania's Progress Toward Accession**
[132] **Ibid.**

and international organisations and is a broadly positive development – although the emphasis is placed on rehabilitating institutions rather than closing them. In terms of institutional structures, the National Authority for Child Protection and Adoption was placed under the Secretary General of the Government. This was an important development that provided the Authority with representation at ministerial level.[133]

A High Level Group to support and monitor the reform efforts was set up during the reporting period. This body is made up of the European Parliament's rapporteur on Romania (who took the initiative to establish it) and representatives of the Romanian Government, the European Commission, the World Bank, UNICEF and the WHO.[134]

A further positive development is the adoption of a national strategy on maternity hospitals, which could help reduce the levels of abandonment of children in these hospitals.[135]

Despite this overall progress, a general concern is that there are significant regional differences in the implementation of the reform programme. This situation is compounded by the absence of adequate national standards for child protection services and the fact that the National Authority lacks the mandate to perform inspections at the local level.[136]

In October 2001, Romania became a party to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. In November 2001, Romania ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.[137]

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[133] **Ibid.**
[134] **Ibid.**
[135] **2002 Regular Report on Romania's Progress Toward Accession**
[136] **Ibid.**

Other Issues;

In December 1999, the Ministry of Justice presented a package of draft laws on justice reform to the government. These proposals addressed many of the human rights reforms identified in previous regular reports: making the judicial process more efficient; changes to bring Romanian law in line with European standards (on issues such as decriminalisation of homosexuality, domestic violence, libel, offence to authorities, and verbal outrage); and new laws regarding the execution of punishments, probation and alternatives to pre-trial detention. However, difficulties in finding sufficient support within Parliament have meant that only the proposals dealing with probation and amending the Civil Procedure Code have been adopted (through government ordinances). A considerable amount of important legislation remains blocked in Parliament and further progress still needs to be made in reforming legislation related to political and civil rights.[138]

In September 2000, one important development was the introduction, by government ordinance, of new legislation prohibiting ***discrimination*** by public employees, individuals, private companies and economic operators on the grounds of nationality, race, ethnicity, age, gender, or sexual orientation. Heavy fines have been established for violating its provisions.[139]

Some progress can be noted with regard to legislation on ***refugees***. In July 2000, Romania ratified the European Agreement on Transfer of Responsibility for Refugees and amended the Refugee Law. The newly adopted amendments in the refugee law rectify most of the omissions and introduce accelerated procedures and procedures for obviously unfounded applications. However, the amended law does not contain provisions on the detention of asylum-seekers, which remains an area that needs to be addressed.[140]

Cases of inhuman and ***degrading treatment by the police*** continue to be reported by human rights organisations. There is no evidence to suggest that these cases are the result

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[137] **Ibid.**
[138] **2000 Regular Report on Romania's Progress Toward Accession**
[139] **Ibid.**
[140] **Ibid.**

of a systematic disregard of human rights by the police. At the same time, it is clear that the use of physical violence to extract confessions is not exceptional and that the safeguards in place to prevent such incidents are inadequate. Allegations of police abuse are investigated through the system of military courts, and investigations are typically lengthy and often inconclusive. Increasing the public accountability of police officers should reduce instances of degrading treatment. It is therefore important that progress is made with the demilitarisation of the police force.[141] In 2002's Progress report it was repeated that; "There continue to be consistent and credible reports of *degrading treatment by the police*. In particular when dealing with persons belonging to the Roma minority. New procedures are also needed to improve controls over the use of firearms by the police in the line of duty. The Romanian authorities have not yet authorised the publication of reports made by the European Committee for the Prevention of Torture and are strongly encouraged to do so.[142]

The Romanian government has made considerable efforts to detect and fight trafficking in persons. Within the framework of the Regional Centre for Combating Organised Cross-border Crime, a task force for combating ***trafficking*** in human beings was set up. In October 2000, the Ministry of the Interior launched a programme for the protection of women and children against trafficking and, in April 2001, the Government appointed a national co-ordinator to combat trafficking. In May 2001 the Government established an inter-ministerial commission to draft an anti-trafficking law. Despite these actions, there are still insufficient legislative tools for prosecuting and punishing traffickers and for protecting victims.[143] A law for combating trafficking in human beings was adopted in December 2001 and defines the concepts of trafficking and exploitation as well as setting out penal sanctions. This is a positive step, and addresses one of the weaknesses identified in the 2001 Regular Report. However, implementing rules have not yet been adopted and it is therefore unclear if this legislation is being applied in full.[144]

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[141] **2001 Regular Report on Romania's Progress Toward Accession**
[142] **2002 Regular Report on Romania's Progress Toward Accession**
[143] **2001 Regular Report on Romania's Progress Toward Accession**
[144] **2002 Regular Report on Romania's Progress Toward Accession**

Just over 9% of prison detainees are being held in ***pre-trial detention***. No data are available on the duration of pre-trial detention in practice, but the legal limit for pre-trial detention is high. Half of the maximum period of imprisonment for the crime with which an individual is charged. Judicial review is applied both during the pre-trial detention and during the judicial phase.[145]

Romania's prison population is high compared to the size of its population and ***prison conditions*** continue to be extremely poor. While certain positive developments have taken place over the reporting period these have only had a limited effect. [146]

Despite a small reduction in the prison population, severe overcrowding is the most serious problem. While a considerable number of new cells have been built over the last year, and a concerted programme of cell modernisation and refurbishment has been launched, the prison population still exceeds capacity by over 40%. There has been a gradual improvement in the treatment of inmates: the number of visits and food packages allowed has been increased, greater efforts have been made to find jobs for inmates, and education and recreational facilities have been developed. The training of prison staff has also improved over the last year. However, living conditions remain harsh and the poor quality of food, limited medical care, and unhygienic conditions are issues which still need to be addressed. Human rights organisations have also reported the use of excessive disciplinary measures, such as depriving inmates of food parcels and the use of chains for restraint. There have also been continued reports of physical violence in prisons although there is no evidence of systematic abuse.[147]

The positive trend noted last year in the area of ***asylum*** has continued during the reporting period. Romanian asylum procedures are working effectively, handling times are complied with, country information has been improved, the National Office for Refugees enjoys good relations with civil society, and the overall professionalism of dealing with asylum claims has improved.[148]

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[145] **Ibid.**
[146] **Ibid.**
[147] **Ibid.**
[148] **Ibid.**

Freedom of expression is guaranteed in the Constitution and both the written press and electronic media are able to report freely. At the same time, restrictions on the freedom of expression do exist. Over the reporting period the progress made with guaranteeing freedom of expression was limited, while a number of developments raised questions about Romania's compliance with international standards and practices.[149]

The main development over the reporting period was the revision of the Penal Code. The crime of offence to authorities was repealed, the crime of insult will no longer be punishable with a prison sentence, and the maximum prison terms for calumny against private persons and calumny against officials were reduced. The amendments are limited and maintaining calumny against officials as a specific offence with a higher penalty than a similar offence against non-officials contradicts the case law of the European Court of Human Rights. No change has been made as regards the burden of proof (Art. 207), which is weighted against journalists, even though this provision is incompatible with the European Convention on Human Rights and was raised as a specific concern in last year's Regular Report.[150]

Freedom of religion is guaranteed by the Constitution and is observed in practice. The Government does not restrict the observance of religious belief, although human rights organisations have reported cases of Orthodox clergy, sometimes working with local officials, restricting the religious activities of other churches. There are 15 recognised religions in Romania, and while the possibility of registering new religions exists in principle, it has not been applied in practice. Non-recognised faiths are able to operate without restriction but do not benefit from the same legal advantages as recognised religions. The 1948 Decree on Religious Denominations is in need of reform, but there has been no progress in this regard over the reporting period.[151]

As regards discrimination on the basis of ***sexual orientation***, Parliament confirmed the decriminalisation of homosexuality during the reporting period (the

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[149] **Ibid.**
[150] **Ibid.**

measure was originally introduced by Emergency Ordinance in June 2001) and ensured that sexual offences are now governed by the same legislation irrespective of sexual orientation.[152]

The Real Estate Restitution Law entered into force in February 2001, setting out the basic principles and procedures that are to be applied for the ***restitution of property*** – as well as establishing a mechanism for providing compensation in cases where restitution is not possible. The law applies to all real estate "abusively taken" by the former Communist regime between 1945 and 1989. The law also covers the 1940-45 period, thus satisfying many of the restitution demands of Jews who suffered from anti-Semitic laws adopted during the war.[153]

The restitution of agricultural land and forests has continued over the reporting period. Progress has been relatively slow and varied considerably from region to region. In an effort to address this situation, the commissions responsible for restitution were re- organised and working procedures revised. It is too early to assess the effectiveness of these measures but it is unlikely that the Government will be able to meet its own target of completing 90% of agricultural and forestry restitution by the end of 2002.[154]

In July 2002, Parliament adopted legislation that clarified the process of restituting property confiscated from churches. The legislation extends the scope of the previous law in several important respects. However, only church property is covered and there is presently no legal framework for the restitution of actual churches. This is a particularly important issue for the Greek-Catholic Church which had a large number of properties confiscated by the Communist regime but still has no legal redress. The Government has committed itself to producing specific legislation on this issue but delays in preparing such a law means that there has been no substantial progress.[155]

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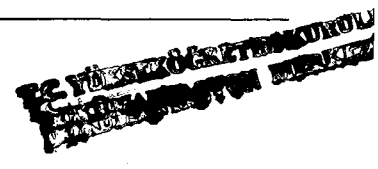
[151] **Ibid.**
[152] **Ibid.**
[153] **2001 Regular Report on Romania's Progress Toward Accession**
[154] **2002 Regular Report on Romania's Progress Toward Accession**



3.4.2.2. Economic, Social and Cultural Rights

The right to the minimum means of subsistence and social security is written into the Constitution. The right to belong to a trade union is recognized except in the public sector. Trade Unions' prerogatives in the matter of collective bargaining and the guarantees accorded to protected employees seem inadequate. About 40% of workers are members of trade unions, with belonging to one of four confederations.[156]

The right to strike is recognized in all sectors other than considered to be of public interest by the government (public services and certain strategic State-owned enterprises), which may also impose a minimum service (one third of normal service) in other fields. Many strikes are, moreover, declared illegal by the court. The right to education and freedom of religion are guaranteed in Romania.[157]

In June 1999, the Government adopted an emergency ordinance on special protection and work conditions for disabled persons and the institutional reform in this area has started. The reform is supported by an increase in the financial contributions to the Special Fund for Social Solidarity for Disabled Persons.[158]

The Consultative Inter-ministerial Commission on Equality of Treatment for Men and Women was set up and, in March 2000, a Directorate for Equal Opportunities was established in the Ministry of Labour and Social Protection. In the period under consideration Romania has also signed the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women. At the same time, women continue to be at greater risk of social exclusion than men, occupy few influential positions in the private sector or in the political establishment and earn lower than average wages. No progress has been made concerning equal pay and equal access to employment, or

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[155] **Ibid.**
[156] **AGENDA 2000** – Commission Opinion on Romania's Application
[157] **Ibid.**
[158] **1999 Regular Report on Romania's Progress Toward Accession**

health and safety at work (for pregnant women). Further efforts are needed to promote the social and economic equality of women.[159]

In the last regular report it was pointed out that; "The government has prioritised improving social conditions and there were important legislative developments in order to promote equal opportunities between women and men and to fight social exclusion and poverty. There is still a need to improve social dialogue and the role of trade unions at enterprise level remains limited."[160]

Implementation of the National Action Plan for Equal Opportunities continued over the reporting period, most notably with the initial steps towards setting-up a National Agency for Equal Opportunities by 2004. Training activities have also been developed to raise the awareness of civil servants responsible for the implementation of the law on equal opportunities. Women remain under-represented in political life, with only 11% of deputies and 9% of senators. In the Government, five out of 28 cabinet ministers are women.[161]

Fighting social exclusion and poverty is an explicit government priority and the reporting period has been characterised by intensive legislative activity. New legislation has sought to provide a social safety net while at the same time facilitating access to the labour market in order to develop the economic independence of the *socially vulnerable*. The National Plan for Poverty Prevention and the Promotion of Social Inclusion was finalised in April 2002 and a law on Preventing and Combating Social Exclusion was adopted as one of the first instruments to implement this Plan. A National Strategy on Special Protection and Social Integration of *Disabled Persons* has also been drawn up.[162]

Trade unions are amongst the most visible civil society organisations and the Government has continued its efforts to constructively engage with them. In January 2002 the Government concluded a Social Pact with the majority of trade unions. A further

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[159] **2000 Regular Report on Romania's Progress Toward Accession**
[160] **2002 Regular Report on Romania's Progress Toward Accession**
[161] **Ibid.**

agreement was reached in June 2002 with the two unions that had not signed the original agreement. Following a request from the trade unions, the Ministry of Labour and Social Solidarity signed the European Social Security Code.[163]

The need to improve social dialogue and the role of trade unions at enterprise level was noted in 2002 Regular Report - but no developments can be reported. There are concerns that implementation is not being respected in all cases.[164]

Romania has submitted the second report on implementation of the Revised *European Social Charter* to the Council of Europe Secretariat General.[165]

3.4.2.3. Minority Rights and Protection of Minorities

Minorities account for 13-15% of Romania's population. The largest minorities are Hungarian (7.8%) and Roma (gypsies), who are estimated to make up to 5-7% of the population. The protection of minorities in Romania is guaranteed by a number of international agreements. In 1995 the country ratified the Council of Europe's Framework Agreement on Minorities.[166]

Relations with the Hungarian minority have improved appreciably since the signing of a bilateral treaty with Hungary in September 1996.[167]

The Roma, who account for a considerable percentage of the population (1, 1-5 million, depending on the estimates. The official number would be around 400.000 in 1999.), are the victims of discrimination in many areas of everyday life. They are quite often assaulted by police officers or members of the public, offences that go unpunished.

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[162] **Ibid.**
[163] **2002 Regular Report on Romania's Progress Toward Accession**
[164] **Ibid.**
[165] **Ibid.**
[166] **AGENDA 2000** – Commission Opinion on Romania's Application
[167] **Ibid.**

Besides the discrimination they suffer from the rest of the population, sociological and cultural factors account to some extent for their very difficult social situation.[168]

In the first Regular Report of the Commission it was announced that; there have been improvements on Roma minority like that; an Inter-ministerial Committee for National Minorities was set up by a government decision in August 1998, while the sub-committee responsible for the elaboration of a strategy for the integration of the Roma met for the first time in September 1998.[169]

Next year's Regular Report (1999) stated that; "the conditions for use of minority languages, in particular Hungarian, have improved. In July, 1999 both chambers of Parliament adopted the final version of the New Education Law which created the legal framework for establishing multi-cultural universities and gives the right to the national minorities to study in their mother tongue at all levels and forms of education for which there is sufficient demand.[170]

In 1999, amendments to the education law created the legal basis for improving the use of minority languages, including the possibility for linguistic minorities to establish state universities. Upon request, national minorities now have the right to education in their mother tongue at all levels of education. The history and traditions of each minority group have been incorporated into the curricula and instruction materials and free textbooks have been provided for compulsory education.[171]

The Progress Report of the year 2000 was started of the sentence that; "Roma remain subject to widespread discrimination throughout Romanian society. However, the government's commitment to addressing this situation remains low and there has been little substantial progress in this area since the last regular report."[172]

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[168] **Ibid.**
[169] **1998 Regular Report on Romania's Progress Toward Accession**
[170] **1999 Regular Report on Romania's Progress Toward Accession**
[171] **Ibid.**
[172] **2000 Regular Report on Romania's Progress Toward Accession**

The 1999 Accession Partnership identified the development of a government strategy on the Roma as a priority for Romania. In spite of this, work on such a strategy has been delayed and preparations are still at an early stage. The newly established Interministerial Sub-Committee for Roma has met during the reporting period but proved unable to produce any substantial results.[173]

The National Office for Roma has extremely limited staffing and has limited budgetary resources – even though the 1999 Accession Partnership identified the provision of adequate financial support for programmes dealing with the Roma as a short-term priority. The office needs strengthening in order to fulfil its function and this is an area where further work will be necessary.[174]

During the next reporting period, a number of positive developments took place in this area. New legislation extended the use of minority languages, and a National Strategy for Improving the Condition of Roma was adopted in April 2001 which means that Romania has met one of the key political priorities contained in the 1999 Accession Partnership. The strategy is a comprehensive and high quality document that was elaborated together with Roma organisations and has been welcomed by them. The starting point of the document is a clear admission that discrimination against Roma is a serious problem in Romania. It goes on to set objectives that include changing negative public perceptions, improving living conditions for the Roma, and encouraging Roma participation in all aspects of civil society. In order to implement the strategy local Roma offices are being set up in each county. Staff, who are themselves Roma, have been hired for these offices. This represents a positive development, although there are concerns that their actual responsibilities remain unclear and that recruitment has been based on reasons other than technical merits.[175]

Despite these positive developments, discrimination against the Roma minority remains widespread – although it occurs as individual incidents and is not institutionalised. Human rights organisations have documented instances of police harassment of individual

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[173] **Ibid**
[174] **Ibid**

Roma as well as of whole Roma communities. Roma face difficulties in gaining access to schools, medical care and social assistance. Social discrimination is often manifested in Roma being banned from public places and, despite the fact that it is illegal, a number of job advertisements explicitly exclude Roma applicants.[176] This situation was continued in 2002 but also "the Government has made steady progress in implementing last year's Roma Strategy, which is explicitly aimed at addressing discrimination."[177]

During the reporting period of 2002, the structures for the implementation of the Roma Strategy were progressively established. At the county level, the Roma offices provided for in the strategy have become operational. Over 400 Roma have been hired as experts, the responsibilities of these experts have been clarified, and all 42 local Roma offices have elaborated Action Plans for the 2001-2004 period. The Roma Party has been the main interlocutor when making these appointments and efforts should be made to increase the involvement of other Roma organisations.[178]

Positive developments continued to take place with regard to the treatment of minorities; The Law on Local Public Administration allows the official use of minority languages in localities where speakers represent more than 20% of the population. This legislation is mainly applicable to the Hungarian minority and, in general terms, it has been successfully applied despite the reticence of some prefectures and local authorities. New legislation stipulates that communities with a minority population of over 20% will be obliged to employ police officers who know the mother tongue of the relevant minority. Progress has already been made with enforcing these new provisions. A further development was the amendment of legislation on the use of the national flag, anthem and coat of arms, in order to allow national minorities to use their own symbols at official gatherings.[179]

No progress was noted with regard to the Csango minority: a non-homogenous group of between 60 000 and 70 000 Roman Catholic people living in the north-east of

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[175] **2001 Regular Report on Romania's Progress Toward Accession**
[176] **Ibid.**
[177] **2002 Regular Report on Romania's Progress Toward Accession**
[178] **Ibid.**

Romania who speak a form of Hungarian. Reports from human rights organisations provide evidence that certain local authorities have obstructed attempts by Csango to be taught the Hungarian language (as an optional language). This would contradict current Romanian legislation, which provides the right to study a minority language if there is sufficient demand.[180]

As reported in previous years, Romania is a party to the Council of Europe Framework Convention for the Protection of National Minorities. In March 2002, the Committee of Ministers of the Council of Europe concluded that Romania had made commendable efforts to support national minorities and their cultures. Further efforts were required in the fields of media, public employment and education - areas where particular attention would have to be paid to the numerically smaller minorities. The Committee concluded that, despite the determination of the authorities to speed up the social integration of the Roma, real problems remained regarding acts of discrimination, the wide socio-economic differences between Roma and the rest of the Romanian population, as well as ill- treatment by some law-enforcement officials.[181]

3.4.3. General Evaluation

In its 1997 Opinion, the Commission concluded that Romania fulfilled the political criteria. Since then the country has made progress in consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. This has been confirmed over the past years. Romania continues to fulfil the Copenhagen political criteria.[182]

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[179] **Ibid.**
[180] **Ibid.**
[181] **Ibid.**
[182] Ibid

The Accession Partnership priorities related to the political criteria have been partially met.[183] However, Romania have not yet completed the short and medium term priorities in a whole, accession negotiations started in February 2000 and in Copenhagen European Council in December 2002, it was announced that, Romania will be accepted to be a full member of the Union in 2007.

[183] Accession Partnership and Action Plan for strengthening administrative and judicial capacity: Global Assessment, 2002

IV. TURKEY

4.1. Introductory Survey

Turkey situated in Southeastern Europe and Southwestern Asia (that portion of Turkey west of the Bosporus is geographically part of Europe), bordering the Black Sea, between Bulgaria and Georgia, and bordering the Aegean Sea and the Mediterranean Sea, between Greece and Syria.[184]

4.1.1. Historical and Political Situation

Turkey is the only pluralist secular democracy in the Moslem world and has always attached great importance to developing its relations with other European countries. Historically, Turkish culture has had a profound impact over much of Eastern and Southern Europe.[185]

Turkey began "westernising" its economic, political and social structures in the 19th century. Following the First World War and the proclamation of the Republic in 1923, it chose Western Europe as the model for its new secular structure.[186]

4.2. Turkey and European Union Relations

First of all, it is going to be given a brief explanation about Turkey-European Community (Union) relations after the cold war period and then accession process will be

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[184] **Central Intelligence Agency: "The World Fact Book 2002: Turkey"** URL http://www.cia.gov/cia /publications/ factbook/geos/tu.html

[185] Ministry of Foreign Affairs- Republic of Turkey, **"Relations Between Turkey and The EU"** URL http://www.mfa.gov.tr/grupa/ad/adab/relations.htm

analysed focusing on "Copenhagen Political Criteria" in the light of Progress (Regular) Reports of the European Commission.

Turkey have had a different wing in European Union's future enlargement (Eastern enlargement), Turkey-EC (EU) Relations have started from the end of 1950s and at that time it was rather economic and military relationship in the cold-war period improving being a member of Western Alliance, NATO. Relation of these two parties continued but it always followed in a critical line. Turkey neither announced clearly as a part of the Europe nor rejected by the EU.

Turkey began "westernising" its economic, political and social structures in the 19th century. Following the First World War and the proclamation of the Republic in 1923, it chose Western Europe as the model for its new secular structure. "The Westernization Project" of Turkey has been defined to be a part of West Alliance and West Society since beginning of the Republic, so Turkish foreign policy was shaped in this way. Turkey turned towards European Community along NATO, OECD, The Council of Europe and WEU. There were not difficulties to become a member state of NATO, OECD etc. but Turkey-EC relations always have questions. At the beginnings; Westernization was being thought with modernization, development and democracy issues but in some ways problems appeared about improvement and democracy.

Turkey became a member of NATO in 1952 and after that Turkish foreign ministry started thinking about that Turkey should take a part in any organization where Greece participates because of Turkish-Greek dispute. They have had anxiety about that Greece would use the platforms against Turkey where Turkey did not participate. This is one of the main factor for Turkey's application for partnership to the EC.

Having thus entered into very close cooperation with Western Europe in the political field, it was therefore only natural for Turkey to complete this in the economic area. Thus, Turkey chose to begin close cooperation with the fledgling EEC in 1959.[187]

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[186] Ibid.

[187] Ministry of Foreign Affairs- Republic of Turkey, **Relations Between Turkey and The EU** URL http://www.mfa.gov.tr/grupa/ad/adab/relations.htm

4.2.1. Ankara Agreement

Shortly after Greece's application, Ankara also made a formal application for association with the EEC on July 31, 1959. In terms of timing, two factors seemed to have shape profoundly Turkey's response to both the EC-EFTA rivalry and the Greek bid for association with the community. First there are argument that Ankara informally inquired about participating the British led EFTA. If that was the case, then the Turkish inquiry must have not resulted in an unwelcoming response from the EFTA countries as Turkey immediately switched to the Community after the Greek application. Second the Greek bid for association helped Ankara decide on, and clarify, more quickly the kind of institutionalised relationship to establish with the community.[188] The EEC's response to Turkey's application in 1959 was to suggest the establishment of an association until Turkey's circumstances permitted its accession. The ensuing negotiations resulted in the signature of the Agreement Creating an Association between the Republic of Turkey and the European Economic Community (the "Ankara Agreement") on 12 September 1963. This agreement, which entered into force on 1 December 1964, aimed at securing Turkey's full membership in the EEC through the establishment in three phases of a customs union which would serve as an instrument to bring about integration between the EEC and Turkey.[189]

The Ankara Agreement envisaged the progressive establishment of a Customs Union which would bring the Parties closer together in economic and trade matters. In the meantime, the EEC would offer financial assistance to Turkey. Under the First Financial Protocol which covered the period 1963-1970, the EEC provided Turkey with loans worth 175 million ECU. The trade concessions which the EEC granted to Turkey under the form of tariff quotas proved, however, not to be as effective as expected. Yet, the EEC's share in Turkish imports rose from 29% in 1963 to 42% in 1972.[190]

Although the Ankara Agreement envisaged the free circulation not only of goods, but of natural persons, services and capital between the Parties, it excluded Turkey from

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[188] M. Ali Birand, **Turkey and the European Community, World Today**, (February 1978), p. 52
[189] Ministry of Foreign Affairs- Republic of Turkey, **Relations Between Turkey and The EU** URL http://www.mfa.gov.tr/grupa/ad/adab/relations.htm

the EEC decision-making mechanisms and precluded Turkey from recourse to the ECJ for dispute settlement.[191]

The Ankara Agreement still constitutes the legal basis of the Association between Turkey and the EU.[192]

4.2.2. Additional Protocol

In fact the Community knew well that Turkey had done nearly nothing during the *Preparatory stage* in order to improve its economy and was not ready for the Transitional Stage. The additional protocol under which the transitional period in Turkish-EEC Association formally began was signed on November 23, 1970 in Brussels to take affect on January 1, 1973.[193] The Additional Protocol of 13 November 1970 set out in a detailed fashion how the Customs Union would be established. It provided that the EEC would abolish tariff and quantitative barriers to its imports from Turkey (with some exceptions including fabrics) upon the entry into force of the Protocol, whereas Turkey would do the same in accordance with a timetable containing two calendars set for 12 and 22 years, and called for the harmonisation of Turkish legislation with that of the EU in economic matters. Furthermore, the Additional Protocol envisaged the free circulation of natural persons between the Parties in the next 12 to 22 years.[194]

After the Greek application for full membership to the Community on 12 June 1975 The Council conveyed the message on 24 June 1975, it is that;

"Examination of the Greek application for membership will not affect the relations between the Community and Turkey and that the rights guaranteed by Association Agreement with Turkey would not affected thereby."[195] After that, in May 1978, Turkish Prime Minister Bülent Ecevit met with the EC Commission President, Roy Jenkins, before

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[190] **Ibid.**
[191] **Ibid.**
[192] **Ibid.**
[193] **Ibid**, December 29, 1972.
[194] Ministry of Foreign Affairs- Republic of Turkey, **Relations Between Turkey and The EU** URL http://www.mfa.gov.tr/grupa/ad/adab/relations.htm

Turkey's new policy towards the EC shaped up. In October 1978, Ecevit's government outlined its policy towards the EC. The new Turkish position suggested that Turkey's obligations vis-à-vis the Community be frozen for five years during which the Community would continue to observe its obligations under the Association Agreement and the Additional Protocol etc... In response to Ecevit's demand for a unilateral freezing of Turkey's obligations under the Association, the Community offered simultaneous freezing on both sides.[196]

4.2.3. Turkey's Application for Full Membership in 1987

On 24 January 1980 Turkey shifted its economic policy from an autarchic import-substitution model and opened its economy to the operation of market forces. Following this development in the economic area and the multiparty elections in 1983, the relations between Turkey and the Community, which had come to a virtual freeze following the military intervention of 12 September 1980 in Turkey, began returning to normality. In the light of these positive developments, Turkey applied for full membership in 1987, on the basis of the EEC Treaty's article 237 which gave any European country the right to do so. Turkey's request for accession, filed not under the relevant provisions of the Ankara Agreement, but those of the Treaty of Rome, underwent the normal procedures. The Council forwarded Turkey's application to the Commission for the preparation of an Opinion. The Commission's Opinion was completed on 18 December 1989 and endorsed by the Council on 5 February 1990. It basically underlined Turkey's eligibility for membership, yet deferred the in-depth analysis of Turkey's application until the emergence of a more favourable environment. It also mentioned that Turkey's accession was prevented equally by the EC's own situation on the eve of the Single Market's completion which prevented the consideration of further enlargement. It went on to underpin the need for a

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[195] **Bulletin of the European Communities**, Supplement, February 1976: 8.
[196] M. Ali Birand, **Türkiye'nin Ortak Pazar Macerası**, Milliyet Yayınları, İstanbul p. 370.

comprehensive cooperation program aiming at facilitating the integration of the two sides and added that the Customs Union should be completed in 1995 as envisaged.[197]

Although it did not attain its basic objective, Turkey's application revived Turkey-EC relations: efforts to develop relations intensified on both sides, the Association's political and technical mechanisms started meeting again and measures to complete the Customs Union in time were resumed. Meanwhile, the Commission's promised cooperation package, known as the "Matutes Package", was unveiled in 1990, but could not be adopted by the Council due to Greece's objection.[198]

4.2.4. The Customs Union

Under these circumstances, Turkey chose to complete the envisaged Customs Union with the Community. Talks began in 1994 and were finalised on 6 March 1995 at the Turkey-EU Association Council. The Association Council is the highest ranking organ of the association and is composed of the Foreign Ministers of Turkey and the 15 EU Member States. On that day the Association Council adopted its decision 1/95 on the completion of the Customs Union between Turkey and the EU in industrial and processed agricultural goods by 31 December 1995. At the same meeting, another Resolution on accompanying measures was adopted and the EU made a declaration on financial cooperation with Turkey as part of the customs union "package".[199]

With the entry into force of the Customs Union, Turkey abolished all duties and equivalent charges on imports of industrial goods from the EU. Furthermore, Turkey has been harmonising its tariffs and equivalent charges on the importation of industrial goods from third countries with the EU's Common External Tariff and progressively adapting

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[197] Ministry of Foreign Affairs- Republic of Turkey, **Relations Between Turkey and The EU** URL http://www.mfa.gov.tr/grupa/ad/adab/relations.htm

[198] **Ibid.**

[199] **Ibid.**

itself to the EU's commercial policy and preferential trade arrangements with specific third countries. This process is to be completed in 5 years.[200]

4.2.5. Luxembourg European Council and the Following Period through the Helsinki European Council

Although the decisions of the Luxembourg Summit reflected by and large the contents of the Commission's "Agenda 2000", the following points related to Turkey need to be highlighted:

— Turkey's eligibility was reconfirmed.

— The EU decided to set up a strategy to prepare Turkey for accession and to create a special procedure to review the developments to be made.

— Turkey was invited to the European Conference, but a number of unacceptable pre-conditions were put forward.

— The development of Turkey-EU relations was made conditional on certain economic, political and foreign policy questions.

— The Commission was asked to submit suitable proposals to enhance Turkey-EU relations.

In a statement issued the day after the Summit, the Turkish Government criticised the EU's attitude, stated that Turkey's goal of full membership and Association would nevertheless be maintained, but that the development of bilateral relations depended on the EU's honouring its commitments, and that it would not discuss with the EU issues remaining outside the contractual context of the bilateral relations as long as the EU did not change its attitude. In line with this statement Turkey did not participate in the inaugural meeting of the European Conference held in London on 12 March 1998. Turkey has thus

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[200] **Ibid.**

made it clear that the way out of this difficult situation in the bilateral relations depended on the political will to be displayed by the EU.[201]

The summit meeting held in *Cardiff* on 15-16 June 1998 offered a good opportunity to rectify the unwarranted difficult period which Turkey-EU relations entered into following the Luxembourg Summit. Although certain positive developments were achieved with regard to the language used for Turkey in the Presidency Conclusions of the Summit, they were not sufficient for Turkey to modify its policy outlined after the Luxembourg Summit. An important result of the Cardiff Summit for Turkey-EU relations was the EU leaders' endorsement of the Commission's "European Strategy" for Turkey and the request made to the Commission to find solutions with a view to making available the financial resources required for the implementation of the "European Strategy".[202]

At the *Cologne* European Council held on 3-4 June 1999, the initiative was taken by the German Presidency with a view to ensuring the recognition of Turkey's candidate status on an equal footing with the others. Compared to the previous Government in Germany, the new Coalition Government which came to power in October 1998 seemed to have taken a more positive line regarding Turkey's quest for EU membership. However, the objections of some EU Member States prevented this initiative from being realised. As a consequence, the EU refrained from taking a decision to include Turkey in the accession process.[203]

The ***Helsinki*** European Council held on 10-11 December 1999 produced a breakthrough in Turkey-EU relations. At Helsinki, Turkey was officially recognised without any precondition as a candidate state on an equal footing with the other candidate states. While recognising Turkey's candidate status, the Presidency Conclusions of the Helsinki European Council endorsed the proposals of the Commission made on 13 October 1999. Thus, Turkey, like other candidate states, will reap the benefits form a pre-accession strategy to stimulate and support its reforms.[204] As foreseen in the Helsinki European Council conclusions, the EU Commission started to prepare an Accession Partnership for Turkey, which was declared on March 8th, 2001. On the other hand, the framework

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[201] **Ibid.**
[202] **Ibid.**
[203] **Ibid.**

regulation designed to furnish the legal basis for the Accession Partnership was adopted by the General Affairs Council on February 26th, 2001. The regulation aims at combining all EU financial assistance under a single program. The Accession Partnership was formally approved by the Council on February 26th, 2001. With the adoption of these two documents, an important legal procedure concerning Turkey's accession strategy was finalized.[205]

The priorities and intermediate objectives in the Accession Partnership are divided into two groups — short and medium term. Those listed under the short term have been selected on the basis that it is realistic to expect that Turkey can complete or take them substantially forward by the end of 2001. The priorities listed under the medium term are expected to take more than one year to complete although work should, wherever possible, also begin on them during 2001;

Short Term;

— In accordance with the Helsinki conclusions, in the context of the political dialogue, strongly support the UN Secretary General's efforts to bring to a successful conclusion the process of finding a comprehensive settlement of the Cyprus problem.

— Strengthen legal and constitutional guarantees for the right to freedom of expression and the situation of those persons in prison sentenced for expressing non-violent opinions.

— Strengthen legal and constitutional guarantees of the right to freedom of association and peaceful assembly and encourage development of civil society.

— Strengthen legal provisions and undertake all necessary measures to reinforce the fight against torture practices, and ensure compliance with the European Convention for the Prevention of Torture.

— Further align legal procedures concerning pre-trial detention with the provisions of the European Convention on Human Rights and with recommendations of the Committee for the Prevention of Torture.

— Strengthen opportunities for legal redress against all violations of human rights.

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[204] **Ibid.**

[205] Republic of Turkey Prime Ministry Secretariat General for the EU Affairs **Relations Between Turkey and The EU** URL http://www.euturkey.org.tr/abportal/defaultcontent.asp

— Intensify training on human rights issues for law enforcement officials in mutual cooperation with individual countries and international organisations.

— Improve the functioning and efficiency of the judiciary, including the State security court in line with international standards. Strengthen in particular training of judges and prosecutors on European Union legislation, including in the field of human rights.

— Maintain the de facto moratorium on capital punishment. Remove any legal provisions forbidding the use by Turkish citizens of their mother tongue in TV/radio broadcasting.

— Develop a comprehensive approach to reduce regional disparities, and in particular to improve the situation in the south-east, with a view to enhancing economic, social and cultural opportunities for all citizens.[206]

Medium-term

— In accordance with the Helsinki conclusions, in the context of the political dialogue, under the principle of peaceful settlement of disputes in accordance with the UN Charter, make every effort to resolve any outstanding border disputes and other related issues, as referred to in point 4 of the Helsinki conclusions.

— Guarantee full enjoyment by all individuals without any discrimination and irrespective of their language, race, colour, sex, political opinion, philosophical belief or religion of all human rights and fundamental freedoms. Further develop conditions for the enjoyment of freedom of thought, conscience and religion.

— Review of the Turkish Constitution and other relevant legislation with a view to guaranteeing rights and freedoms of all Turkish citizens as set forth in the European Convention for the Protection of Human Rights; ensure the implementation of such legal reforms and conformity with practices in EU Member States.

— Abolish the death penalty, sign and ratify Protocol 6 of the European Convention of Human Rights.

— Ratify the International Covenant on Civil and Political Rights and its optional Protocol and the International Covenant on Economic, Social and Cultural Rights.

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[206] Official Journal of the European Communities; **Accession Partnership for Turkey**, 24.3.2001

— Adjust detention conditions in prisons to bring them into line with the UN Standard Minimum Rules for the Treatment of Prisoners and other international norms.

— Align the constitutional role of the National Security Council as an advisory body to the Government in accordance with the practice of EU Member States.

— Lift the remaining state of emergency in the south-east.

— Ensure cultural diversity and guarantee cultural rights for all citizens irrespective of their origin. Any legal provisions preventing the enjoyment of these rights should be abolished, including in the field of education.[207]

After the approval of the Accession Partnership by the Council and the adoption of the Framework Regulation, the Turkish Government announced its own National Program for the Adoption of the EU acquis on March 19th, 2001. The National Program was submitted to the EU Commission on March 26th, 2001. (The National Program has been produced with a careful appreciation of the short and medium term priorities as spelled out in the Accession Partnership.)[208] Turkish government have plan to prepare its Revised National Program until The Commission announces its annual Progress Report for Turkey in 2003.

In the National Programme it was declared that; "As of 2001, the Turkish Government will speed up the ongoing work on political, administrative and judicial reforms and will duly convey its legislative proposals to the Turkish Grand National Assembly. The goal is to strengthen, on the basis of Turkey's international commitments and EU standards, the provisions of the Constitution and other legislation to promote freedom; provide for a more participatory democracy with additional safeguards; reinforce the balance of powers and competences between State organs; and enhance the rule of law. In the context of the reform process regarding democracy and human rights, the review of the Constitution will have priority. The constitutional amendments will also establish the framework for the review of other legislation. The Turkish Government will closely monitor progress in the country in the areas of human rights, democracy and the rule of law, regularly evaluate the work underway for harmonization with the EU acquis, and will take all necessary measures to speed up the ongoing work. In addition, legal and

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[207] Ibid.

[208] Republic of Turkey Prime Ministry Secretariat General for the EU Affairs **Relations between Turkey and the EU** URL http://www.euturkey.org.tr/abportal/defaultcontent.asp

administrative measures will be introduced in the short or medium term regarding individual rights and freedoms, the freedom of thought and expression, the freedom of association and peaceful assembly, civil society, the Judiciary, pre-trial detention and detention conditions in prisons, the fight against torture, human rights violations, training of law-enforcement personnel and other civil servants on human rights issues, regional disparities."[209]

Progress towards accession continues along the path set by the National Program. The most pressing aim here is the opening of accession negotiations, which depends on the fulfilment of the Copenhagen Political Criteria. In 2001, Turkey took a number of important steps towards this end. The most important among these is the major review of the Constitution. Thirty-four Articles of the Turkish Constitution have recently been amended and many of these amendments (22) actually coincide with the provisions of the National Program. The package of constitutional amendments covers a wide range of issues, such as improving human rights, strengthening the rule of law and restructuring of democratic institutions. These form only a part of the deep political reform process that Turkey has initiated. They are being followed by complementary legislative and administrative measures to ensure their implementation.[210]

During the whole year, the EU on its side, worked to finalize its internal procedures on Turkey's participation to the Community programs and the adoption of the single framework for financial assistance to Turkey. The related decisions were finally adopted by the Council on 17 December 2001. With the single framework, from now on PHARE procedures will be applied in EU-Turkey financial cooperation. As far as Community programs is concerned, Turkey will be able to participate in them as of 2002, with the completion of the Framework Agreement.[211]

The ***Laeken European Council*** of 14-15 December 2001 had important implications for EU-Turkey relations in general and the accession process in particular. Foremost among these was the possibility of opening accession negotiations with Turkey, which for the first time has been explicitly mentioned at the highest levels. Turkey's recent

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[209] **Executive Summary of the Turkish National Programme for the Adoption of the Acquis**, 2001
[210] Republic of Turkey Prime Ministry Secretariat General for the EU Affairs **Relations between Turkey and the EU** URL http://www.euturkey.org.tr/abportal/defaultcontent.asp
[211] **Ibid.**

concrete steps as regards European Security and Defence Policy, together with the recent developments in Cyprus also had a positive impact on this conclusion. Another important decision taken at Laeken is that Turkey will be taking part in the Convention on the future of Europe on an equal basis with the other candidates. This can be considered as a progressive step, in the sense that the EU considers Turkey to be part of a common future. Thus, a clear membership perspective along the lines of the other candidates has been given to Turkey.[212]

The ***Seville European Council*** of 21-22 June 2002 welcomed the reforms adopted in Turkey and stated that "the implementation of the required political and economic reforms will bring forward Turkey's prospects of accession in accordance with the same principles and criteria as are applied to the other candidate countries". It was also mentioned that new decisions could be taken in the Copenhagen European Council in December 2002 on the next stage of Turkey's candidacy in the light of the developments in the situation between Seville and Copenhagen European Councils, and on the basis of the regular report to be submitted by the Commission in October 2002.[213]

In 2002 the European Commission prepared its fifth annual Progress Report for candidate countries. As all other progress reports, 2002 Progress Report for Turkey was announced on 9 October 2002. On the same day, the Commission also declared its *Strategy Paper*, introducing proposals on methods to be applied in the future, within the framework of the enlargement process. In the Strategy Paper, the Commission brought forward a number of recommendations concerning the next stage of Turkey's candidacy. Foremost among them are the revision of the Accession Partnership, the deepening of the Customs Union, the intensification of the legislative scrutiny process and the increasing of the pre-accession financial assistance. These recommendations in general fell short of meeting Turkey's expectations.[214]

After that, at the ***Copenhagen European Council*** of 12-13 December 2002, As regards Turkey, The Copenhagen European Council decided that "if the European Council in December 2004, on the basis of a report and a recommendation from the Commission,

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[212] **Ibid.**
[213] **Post Helsinki Period** URL http://www.mfa.gov.tr/grupa/ad/adc/latest.htm
[214] **Ibid.**

decides that Turkey fulfils the Copenhagen political criteria, the EU will open negotiations without delay." At the same time the EU took decisions of historic significance concerning its next enlargement. It was decided that ten candidate countries (Hungary, Poland, the Czech Republic, Estonia, Latvia, Lithuania, Malta, "Cyprus", Slovenia, Slovakia) would be members to the EU as of 1 May 2004. Concerning Bulgaria and Romania, the European Council reaffirmed the objective to welcome these two states as members in 2007. [215]

4.3. Adaptation to the Copenhagen Political Criteria; Analyses of Progress Reports from 1998 to 2000

4.3.1. Democracy and Rule of Law

Turkey is a constitutional republic which has a multiparty Parliament, a President, a government, a public administration and a judicial system and a National Security Council. The political structure of Turkey is laid down in the 1982 Constitution drawn up by the military after the 1980 coup and approved by referendum. Article 2 of the 1982 Constitution describes the characteristics of the Republic as '...a democratic, secular and social state governed by the rule of law'.[216]

In 1995, certain amendments were made to the Constitution by TGNA; these were a positive step contributing to the strengthening of democracy in Turkey. For example, these amendments make it possible for any association, such as a trade union, to take part in political activities; the minimum age of suffrage was reduced from 21 to 18 years and voting rights were extended to Turkish citizens living abroad; a major reform in the functioning of political parties was introduced; the minimum age for joining a political party was reduced from 21 to 18 years; the right to join a political party was also extended to the academic staff of universities and their students. However, the legislative follow-up

[215] **Ibid.**

to these changes has not yet been completed. For example, no law has yet been passed on the functioning of political parties and the right to vote for Turkish citizens living abroad.[217]

4.3.1.1 Parliament

The Turkish Constitution (Article 7) provides that the TGNA has sole authority to enact laws with application throughout Turkey. The TGNA is a one-chamber parliament composed of 550 deputies, all elected by direct, universal suffrage. Elections are free and democratic and take place at regular intervals by secret ballot. Since 1982, no major electoral irregularities have been reported.[218]

Bills may be introduced either by the Council of Ministers or by deputies. The laws passed by the TGNA are promulgated by the President within 15 days. The President may refer the law back to the Assembly for reconsideration. The normal term of the Assembly is five years. The TGNA elects the President as head of state every 7 years, or when the incumbent becomes incapacitated or dies. The law on the Election of Deputies is based on proportional representation subject to a national threshold of 10%. At the last legislative election in 1995, this threshold led to the non-representation of about 4 million votes out of 28 million valid votes cast.[219]

In 1999 Regular Report it was stated that; "There has been no change in the parliamentary structure. The establishment of the new TGNA in April 1999 took place in accordance with the constitutional provisions. Its powers are respected and the opposition plays a full part in its activities. The national threshold of 10 % for political party representation in the TGNA led to the nonrepresentation of about 5 million votes out of 31 million valid votes cast."[220]

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[216] Commission of the European Communities, 1998 Regular Report on Turkey's Progress Toward Accession
[217] **Ibid.**
[218] **Ibid.**
[219] **Ibid.**
[220] Commission of the European Communities, **1999 Regular Report on Turkey's Progress Toward Accession**, 13.10.1999

In the run-up to the presidential elections, which took place in April/ May 2000, the Parliament has been largely diverted from legislative work. As a result, during the first half of 2000, only limited parliamentary work could be recorded on the much-expected political reforms.[221]

On 3 October 2001, the Turkish Parliament adopted a package of 34 constitutional amendments, drawn up by its Conciliation Committee. Several of the amendments are intended to prepare the ground to meet some of Turkey's Accession Partnership priorities. 117 new laws were adopted between October 2000 and June 2001. During the same session, Parliament simplified its internal procedures and discussed the establishment of a Parliamentary Committee for EU integration.[222]

On 22 June 2001, the Constitutional Court ordered the dissolution of the Fazilet (Virtue) party - the major opposition party - on the grounds of anti-secular activities. This led to the creation of two new political parties - Saadet (Felicity) and the AK Partisi (Justice and Development). At the beginning of the new parliamentary session, in October 2001, 6 parties were represented in the Turkish Parliament.[223]

Parliament adopted some 45 new laws including the new Civil Code (1030 articles) and the three reform packages. Implementing the 2001 constitutional amendments. Parliament also re-adopted without change two laws that had been vetoed earlier by the President, namely the law on conditional release of prisoners and the High Audio Visual Board (RTÜK) Law on broadcasting. The latter law was subsequently amended as part of the third reform package of August 2002.[224]

The Parliamentary Committee on Human Rights resumed its activities and has met 8 times since last October. The committee organised special visits to police stations, prisons, orphanages and NGOs in Antalya, Eskişehir, Kocaeli, Trabzon,V an and

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[221] Commission of the European Communities, **2000 Regular Report on Turkey's Progress Toward Accession**, 8.11.2000

[222] Commission of the European Communities, **2001 Regular Report on Turkey's Progress Toward Accession**, SEC(2001) 1756, Brussels, 13.11.2001

[223] Ibid.

Siirt, and produced reports after each visit. Two additional sub-committees were established to investigate the issue of illegal telephone tapping and human rights violations during demonstrations in Istanbul.[225]

4.3.1.2. The Executive

The executive has a dual structure. It is composed of the President of the Republic and a Council of Ministers.

The Turkish constitution (Articles 126 and 127) distinguishes between the central administration and local administrations (municipality and village).[226]

According to the constitution (Article 128), civil service regulations are laid down by law. Agenda 2000 had already confirmed that the Turkish administration functions to a satisfactory standard. There are, however, many cases of corruption, favouritism and influence peddling.[227]

There is no particular improvement has been noted in the executive in the year of 1999 according to the Commission's Regular Report.

An important change in the structure of the executive is the strengthening of internal coordination on EU matters with a view to accession. Early of 1999, an EU Internal Economic and Technical Co-ordination Council composed of the Foreign Minister, the State Minister in charge of foreign trade and the State Minister in charge of privatisation was established to ensure full co-ordination between relevant Ministries on technical and economic subjects. This task has now been delegated to Deputy PM Yilmaz. An executive organ, the General Secretariat for EU Affairs, was created by the Parliament

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[224] Commission of the European Communities, **2002 Regular Report on Turkey's Progress Toward Accession,** SEC(2002) 1412, Brussels, 9.10.2002
[225] **Ibid.**
[226] **1998 Regular Report on Turkey's Progress Toward Accession**
[227] **Ibid.**

in June 2000 to ensure the effective co-ordination of all governmental affairs related to EU Turkey relations. The Secretariat will have approximately 70 staff.[228]

By a decree of 19 March 2001, the EU Secretariat was entrusted with the implementation, coordination and monitoring of Turkey's NPAA. According to this decree, public administration and agencies are required to make administrative arrangements to carry out their responsibilities under the NPAA. They also have to incorporate the EU dimension in their decision making process. Nine inter-ministerial subcommittees have been established to co-ordinate the transposition and implementation of EU legislation. Some ministries have been restructured to carry out tasks related to the EU pre-accession process. For example, the Ministry of Justice was reorganised by a law of 15 May 2001.[229]

The General Secretariat for EU affairs (EUSG) has further consolidated its role co-ordinating the implementation of the NPAA and the pre-accession strategy in 2002. A translation co-ordination unit has been established. Organisational arrangements have been made to foster closer co-operation with other departments and agencies. Consultations between the EUSG and social partners, the private sector and non- governmental organisations have been reinforced. Thirteen working groups have been set up with representatives of civil society.[230]

The EUSG has been involved in preparing the detailed legislative scrutiny of the acquis, within the framework of the eight sub-committees under the EC-Turkey Association Committee.[231]

In the Report of 2000 it was stated that in the field of public administration; "There are no further reforms of the public administration to report. However, a limited reinforcement of the staff of the EC Co-ordination Department in the Ministry of Justice has taken place. And there has been no particular change at the level of regional and local administration. Control by the central administration over local government remains

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[228] **2000 Regular Report on Turkey's Progress Toward Accession**
[229] **2001 Regular Report on Turkey's Progress Toward Accession**
[230] **2002 Regular Report on Turkey's Progress Toward Accession**
[231] **Ibid.**

strong. The draft law on local government which is aiming at further decentralisation and is currently under discussion among Ministries, remains to be adopted.[232]

2002's Regular Report clarified that; efforts have been made to improve the quality of public management and staffing. A general regulation concerning the persons to be appointed to public offices was adopted in May 2002. This lays down the general principles and procedures for the selection of public officials. A new system of management has been put in place in the Ministry of Education and In January 2002, the Government adopted an Action Plan on Enhancing Transparency and Good Governance in the Public Sector. This will have implications for the duties and responsibilities of both central and local administrations.[233]

The role of civilian officials in local administration has been strengthened, too in 2002. As a result of the modification of Article 9 of the Law on the Organisation, Duties and Powers of the Gendarmerie, military officers are no longer entitled to act in provincial administrations as deputy for the Governor in the latter's absence. This change represents a significant step towards the demilitarisation of the provincial administration.[234]

4.3.1.3. The Judiciary

The Turkish Constitution (Article 138) lays down the basic principle of the independence of the judiciary. The judiciary includes judicial and administrative courts, the Constitutional Court, the Court of Appeals, and the Council of State. The Supreme Council of Judges and Public Prosecutors appoints and dismisses judges and prosecutors for the judicial and administrative courts, except for members of the Constitutional Court. These are appointed by the President of the Republic on the basis of a list of candidates selected by all the superior courts. The President of the Republic appoints the members of the Supreme Council for a four-year period on the basis of a list of candidates selected from the members of the Court of Appeals and the Council of State. The President of the

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[232] **2000 Regular Report on Turkey's Progress Toward Accession**
[233] **2002 Regular Report on Turkey's Progress Toward Accession**
[234] **Ibid**

Supreme Council is the Minister of Justice. The constitution (Article 125) provides for the judicial control of administrative acts.[235]

Two bills to amend the civil and the penal codes were approved by the Government in 1998 and transmitted to the TGNA. The bill concerning the civil code is mainly designed to eliminate the discrimination which still exists between men and women. The purpose of the bill amending the penal code is to abolish capital punishment and soften the restrictions on freedom of expression by amending Article 312 (which is the basis for many proceedings in this area). (Another bill amending certain articles of the penal code is currently at the Parliamentary Committee stage. The main purpose of this bill is to increase prison sentences for civil servants and public officials found guilty of acts of torture. If Parliament adopts these bills the Turkish body of legislation will be brought considerably closer to European standards.)[236]

In the Regular Reports from 1998 to 2002 the Commission has always showed special interest concerning the situation and functioning of ***State Security Courts***" (SSC). In this part I will give the assessment of the European Commission about SSC and its amendments from the first Regular Report to the last. Firstly the Commission declares that when SSC exists to try in this way; "In the case of alleged offences under the anti-terrorist law, including "all sort of actions to be attempted by a person…for the purpose of changing the attribute of the Republic…destroying the indivisible integrity of the state, its territory and nation, endangering the existence of the Turkish State and Republic, undermining or destroying or seizing the authority of the State…", defendants are tried in State Security Courts. These courts deal with overtly political crimes. These courts were established in 1982 under Article 143 of the Constitution and started operating in 1984."[237]

The European Union gives its opinion about State Security Council in the Progress Report of 1998; it is that; "There are reasons to believe that by their very nature these courts do not offer defendants a fair trial. The key problem areas include over-reliance on obtaining confession rather than on traditional investigative methods; the relative status of

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[235] **1998 Regular Report on Turkey's Progress Toward Accession**
[236] **Ibid.**
[237] **Ibid.**

the prosecutor (who sits next to the judges) and the defence lawyer (who sits below and whose points are not entered into the trial record verbatim but based on a summary of them by the judge); and the extreme slowness of trials and the fact that many defendants are held in custody throughout the duration of their trial without a clear justification having to be presented by the judge. There are also doubts about the impartiality of judges: one in three SSC judges are military judges who, as the European Commission on Human Rights recently pointed out, are serving military personnel and therefore subject to military discipline. This is the only example in Europe in which civilians can be tried at least in part by military judges.[238] Constitutional and legal amendments removing the military judge in the SSCs were adopted by the TGNA and entered into force on 22 June 1999. As a direct effect of this reform, the military judge of the Ankara SSC in charge of the trial against Öcalan was replaced by a civilian judge on 23 June 1999.[239]

It was stated in 1999 Regular Report by the Commission that; "Such a reform should clearly improve the functioning of the SSC, even if there are still some doubts about the full rights offered to the defendants in these courts. According to Justice Ministry sources, more than 7000 cases are awaiting trial by SSCs. Finally it has to be noted that the government announced its intention to develop existing training programmes for judges and prosecutors. These initiatives aiming at raising awareness and improving training in the human rights field are of great importance."[240]

"The question of the State Security Courts still needs to be further addressed." It was stated in the Commission's Report of 2000 and continues that, "no further changes have taken place since the removal of military judges from these Courts in June 1999. The functioning, powers and responsibilities, as well as other provisions relating to the proceedings of these Courts need to be brought further in line with standards existing in the EU." The Commission also pointed out that, "There is also a need to incorporate into Turkish legislation measures designed to make reparation for the consequences of convictions that have been found contrary to the European Convention of Human Rights by the European Court of Human Rights. Such measures would in particular need to ensure

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[238] **Ibid.**
[239] **1999 Regular Report on Turkey's Progress Toward Accession**

the restoration of civil and political rights where those rights have been restricted as a result of the conviction, the reopening of proceedings, and the clearing of criminal records."[241]

In the year 2001 and 2002 some changes occurred on the SSCs' functioning and another changes have taken place in the judicial system, too.

— A law was adopted on 15 May 2001, which established criminal enforcement judges as a new judicial function. These judges will be responsible for reviewing complaints by prisoners concerning their rights. Arrangements have been made to appoint 140 such judges to form part of criminal courts across the country
— 12 sections in the judiciary specialising in intellectual property rights issues were set up (Law adopted on 26 March 2001)
— Judicial sections dealing with consumer protection were created in courts in Ankara, Izmir and Istanbul (Law of 25 December 2000).[242]

Constitutional and legal amendments adopted in 1999 regarding the restructuring of **State Security Courts** have entered into force in 2001. As a result of these amendments, all members of the State Security Courts are now appointed from the civil judiciary. However, there are still several problems to be tackled to ensure fair trial in the State Security Courts, for example with respect to access to lawyers, as well as the competence of these courts *vis-à-vis* civilians.[243]

The State Security Courts continue to function. Their operation has been modified following the adoption of a number of legislative amendments, notably to the Law on the Establishment and Prosecution Methods of State Security Courts and the Law on the Fight Against Criminal Organisations. As a result, offences relating to organised crime and

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[240] **Ibid.**
[241] **2000 Regular Report on Turkey's Progress Toward Accession**
[242] **2001 Regular Report on Turkey's Progress Toward Accession**
[243] **Ibid**

fraud in the banking sector no longer fall under the competence of the State Security Courts.[244]

Consequently regarding to the SSC, the Commission declared in the Regular Report of 2002 is that; "Despite these limitations to the jurisdiction of State Security Courts, the powers, responsibilities and functioning of these Courts still need to be brought in line with European standards."[245]

Another heading examined under the "judiciary" is "*civil justice and the normal criminal court system*" in the Regular Reports. The Commission determined in 1998 Report that; "there are concerns about the slowness of the judicial procedures. The judicial system's excessive workload tends to undermine efficiency. The dependency of judges on decisions of the Supreme Council of Judges and Public Prosecutors is also a matter of concern, as is the politically inspired interference in the work of judges and public prosecutors by the Minister of Justice. The appointment of a new government (and cabinet reshuffle) can lead to major changes within the judiciary.[246]

An encouraging development in terms of new legislation has been the adoption of the law on the prosecution of civil servants and other State officials, which was already being awaited at the time of the previous regular report. This new law, which was adopted in December 1999, aims in particular at facilitating the criminal prosecution of security forces officials. According to this law, the initiation of prosecutions is no longer subject to a preliminary agreement by the local administrative councils, which is a step forward. However, the preliminary agreement of prefects and sub-prefects remains a requirement. Further improvements are still needed in this regard. As to the draft Penal Code and the draft law amending the Code of Criminal Procedure, which had also been referred to in last year's regular report, these important laws remain to be adopted. It should be noted that the Ministry of Justice has carried out intensive internal work over the last months with a view to ensuring the compliance of draft legislation with the Copenhagen political criteria,

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[244] **2002 Regular Report on Turkey's Progress Toward Accession**
[245] **Ibid**
[246] **1998 Regular Report on Turkey's Progress Toward Accession**

covering such issues as the creation of a judicial police, and the setting up of an Ombudsman's office.[247]

As regards judgements of the European Court of Human Rights, measures need to be incorporated into Turkey's legislation to make reparation for the consequences of convictions that have been found contrary to the European Convention on Human Rights (ECHR). This was stressed in Interim Resolution (2001) 106 adopted by the Council of Europe's Committee of Ministers on 23 July 2001. There is still no possibility under the Code of Criminal Procedure to reopen impugned proceedings or to take any other action to redress violations of the Convention. Other measures are required to ensure the restoration of civil and political rights, where those rights have been restricted as a result of a conviction, the reopening of proceedings and the clearing of criminal records. The ruling of the European Court on Human Rights of 17 July 2001 highlights the issue of how the absence of a fair trial can be compensated. The Constitutional amendments to Article 36 makes explicit the right to a fair trial and paves the way for the necessary legislative changes in the Codes on Criminal, Legal and Administrative corruption. There also remains the problem of direct effect of ECHR judgements (the Constitutional reform package did not tackle any of these issues).[248]

As regards the application of the European Convention on Human Rights (ECHR), the Constitutional Court's ruling of 20 March 2002 is a positive development. In this ruling, the Court recognised that the ECHR is a source on which the Turkish courts can base decisions. This should help guarantee fair trial under Article 6 of the ECHR. However, the issue of the direct effect of the judgements of the European Court of Human Rights (ECHR) remains to be addressed.[249]

The implementation of the 1998 law on the increase of legal interest rates for delayed compensation in cases involving public expropriations is a positive development. This issue has been the focus of several judgements of the European Court of Human Rights on 18 September 2001. This law is designed to peg interest rates to inflation. Other

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[247] **2000 Regular Report on Turkey's Progress Toward Accession**
[248] **2001 Regular Report on Turkey's Progress Toward Accession**

important measures need to be taken to speed up Turkey's compliance with the judgements of the European Court of Human Rights.[250]

On the functioning of the judiciary, numerous courses to train judges, prosecutors and judicial staff have been held. Training includes EC law and human rights, language courses, European affairs as well as seminars focusing on international co-operation and forensic medicine. At present most training courses are prepared by the Centre for Education and Training of Judges and Prosecutors, but there have been several other initiatives, including, for instance, a Greek-Turkish co-operation initiative to train judges in EC law. Sixteen members of the Turkish Constitutional Court visited the European Court of Human Rights in September 2001.[251]

A new Civil Code was adopted by Parliament in November 2001 and entered into force in January 2002.

The National Judicial Network Project has continued. The project, which is now in its second phase, aims to establish an information system between the courts and all other institutions of the Ministry, including prisons, with a view to accelerating court proceedings and ensuring uniformity and efficiency.[252]

According the Commission; "One of the difficulties of the judicial system appears to be the inconsistent use, by public prosecutors, of a broad range of articles of the Penal Code, when applied to cases related to freedom of expression. In spite of the amendments to the provisions on freedom of expression (Articles 159, 312 and Article 8 of the Anti terrorist law), there has been a certain tendency by prosecutors to use other provisions of the Penal Code, which were left unchanged by the harmonisation packages, to limit freedom of expression. This is particularly the case for Article 169 (support for illegal

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[249] **2002 Regular Report on Turkey's Progress Toward Accession**
[250] **2001 Regular Report on Turkey's Progress Toward Accession**
[251] **Ibid.**
[252] **2002 Regular Report on Turkey's Progress Toward Accession**

armed organisations) that was applied to students petitioning for optional language courses at university."[253]

The report also says; "Day to day practice shows differences in the interpretation of the law in practical cases. As a result, there is a lack of clarity, transparency and legal certainty. There is evidence that in some cases the judge, invoking the same law provisions, decided to grant an acquittal while in other cases the opposite decision was taken. This in turn raises the question of the predictability of interpretation of the law." And given examples like that; "Although there have been some acquittals in cases connected to Article 312 (cases Kutlular, Koru and Freedom of Thought), in other cases, the application of the same Article has led to convictions (Five journalists of Yeni Asya were convicted on 10 March by the İstanbul State Security Court). The same trend has been observed in the application of Article 159 of the Penal Code where several acquittals (cases Başlangıç, Bayramoğlu, Özkoray) were in contrast with a number of convictions and postponment of sentences (Bekdil and Çevik cases, for example)"[254]

The Commission pointed out that; "The Supreme Court overruled a decision of the State Security Court in Diyarbakir which appeared to be based on the newly introduced provisions, in particular on the new version of Article 312 of the Penal Code. In this case, the Diyarbakir State Security Court decided to delete the criminal records of Tayyip Erdoğan, the leader of the AKP party, convicted under the old Article 312. The State Security Court ruled that the act for which he was convicted was no longer considered as a criminal offence under the new version of Article 312. This would have allowed Mr Erdoğan to participate in the elections of 3 November, but the Supreme Court ruling, followed by the subsequent decision of the High Electoral Board effectively prevented this."[255]

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[253] **Ibid**; Articles 159 (insulting the State institutions), 169 (support for an illegal armed organisation) and 312 (incitement to class, ethnical, religious or racial hatred) of the Penal Code and Article 8 of the Anti-terrorist law (separatist propaganda) are among the provisions most commonly used to restrict freedom of expression. These provisions are particularly applied to individuals expressing opinions on Kurdish related matters, and the role of religion, which might be portrayed as violating the principles of *indivisibility of the territory* and the *secular nature of the state* as provided under Article 13 and 14 of the Constitution.

[254] **Ibid.**

[255] **Ibid.**

In the Report there was a determining which regards *juvenile courts* that, "two more courts were established in Diyarbakir and Istanbul, bringing the total to eight. Work is underway to establish juvenile courts in eight other provinces. The extension of these juvenile courts to all regions has been slower than planned. There has been no progress concerning the structure and the remit of juvenile courts. Their competence is limited to juveniles between 11 and 14 years. Consequently, juveniles between 15 and 18 are tried by ordinary courts. Where juvenile courts do not exist, juveniles are tried by ordinary courts."[256]

Considerable amendments were made in laws such as the Turkish Criminal Law, the Anti-terror Law, the National Security Court Law and The Act on Criminal Procedures in conformity with the Harmonization Law, ratified in February 2002.[257]

As part of the third reform package adopted in August 2002 provisions have been added to the Turkish legal system to allow for retrial in the event of convictions, both in civil and criminal cases, that have been found contrary to the ECHR. The newly adopted measures have paved the way for reopening impugned proceedings. These new provisions will only apply to decisions taken pursuant to applications made to the ECHR after August 2003.[258]

The second wave of the harmonisation Law was ratified in March 26. Thereby, important amendments have been achieved in laws concerning the political parties, The National Security Court, the Gendarmarie and City Regulation.[259]

Another area of concern remains the jurisdiction of military courts over civilians. In 2001, 176 cases involving 358 civilians were dealt with by military courts,

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[256] **Ibid.**
[257] Volkan Bozkır, "Copenhagen Political Criteria and Turkey's National Programme for the Adoption of the EU Acquis", **Marmara Journal of European Studies** Volume: 10, 2002
[258] **Ibid.**
[259] **Turkish Directorate General of Press and Information** URL: http://www.byegm.gov.tr/YAYINLARIMIZ/newspot/2001/mar_apr/n15.htm

mostly in relation to charges of fraud in avoiding military service or obstructing, intimidating and insulting soldiers on duty.[260]

Training programmes have continued, covering such issues as fair trial, the fight against organised crime and the new Civil Code. Regional seminars were organised, in particular in the areas of prevention of torture and freedom of expression. Two thousand judges and prosecutors have been trained in forensic medicine law. Training through a joint programme of the European Commission and the Council of Europe on ECHR case law for the judiciary is to start in autumn 2002. The Ministry of Justice has planned seminars for judges and prosecutors starting in Ankara and other provinces for the autumn.[261]

4.3.1.4. Anti-Corruption Measures

Regarding the fight against corruption, bribery is considered a very serious crime which can be punished, according to the Penal Code, by up to 10 years of imprisonment. Furthermore, according to articles 48 and 98 of the Law on Civil Servants, officials found guilty of bribery are immediately dismissed from public service, irrespective of whether the penalty is postponed or commuted, and they are permanently barred from joining the civil service again. In 1997 and 1998, 399 staff were dismissed for abuse and/or bribery from the Police. [262]

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was ratified by law and entered into force in February 2000. However, Turkey has not yet signed any of the Council of Europe Conventions in this domain, i.e. the Criminal Law Convention on Corruption, the Civil Law Convention on Corruption, and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.[263]

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[260] **2002 Regular Report on Turkey's Progress Toward Accession**
[261] **Ibid.**
[262] **1999 Regular Report on Turkey's Progress Toward Accession**
[263] **2000 Regular Report on Turkey's Progress Toward Accession**

In 2001, President Sezer has stated that corruption is one of the most serious problems affecting Turkey and has given his support to the fight against corruption. After then several anti-corruption measures are included in the Turkish Government's economic programme of April 2001. The aim was:

— to ensure transparency and accountability in resource allocation in the public sector;

— to prevent politically motivated interventions in the management of the economy;

— to strengthen good governance and the fight against corruption.[264]

Initiatives are being taken to reinforce the independence of state owned banks, to bring public procurement rules into line with the acquis, and to ensure that the energy market is liberalised in transparent conditions. A number of high-level corruption investigations have started, notably in the energy, public works, housing, and banking sectors. The Government has now set up a high level steering committee on corruption to develop a comprehensive strategy. An action plan was discussed at the World Bank sponsored conference on 21 September 2001.[265]

With the support of the Ministry of Internal Affairs, a nation-wide survey to assess the extent of corruption in Turkey was carried out by an independent institute (TESEV). Some of the identified factors that contribute to corruption are the lack of a properly enforced regime of sanctions, a cumbersome bureaucracy and a widespread acceptance of corrupt practices. Moreover, the World Bank report mentioned that corrupt practices in the bureaucracy are a major hindrance to foreign direct investment. The report also drew attention to the existing practice of asking donations to political parties in the context of public procurement.[266]

In June 2001, Parliament amended the law concerning public prosecution of civil servants in corruption cases. Under this law, the public prosecutor would have to ask permission from the relevant authority to start proceedings related to corruption charges.

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[264] **2001 Regular Report on Turkey's Progress Toward Accession**
[265] **Ibid.**
[266] **Ibid.**

President Sezer vetoed this law on the grounds that it would have increased the immunity of civil servants in corruption cases. The Parliament rejected the constitutional amendment limiting parliamentary immunity in such cases.[267]

In January 2002, the Government adopted an Action Plan on Enhancing transparency and Good Governance in the Public Sector. Whilst the plan has the wider objective of improving the performance of public services, it has implications for preventing corrupt practices by enhancing transparency. It envisages the adoption of a number of measures, such as a code of ethical conduct for civil servants and public administrators, strengthening the inspection and audit system, and stepping up the fight against money laundering.[268]

In May 2002, the Government adopted a circular appointing five Ministers to implement the Action Plan. Several authorities are responsible for the measures foreseen under the Action Plan in the Public Sector.[269]

Turkey has still not ratified neither the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime, nor the Council of Europe Civil Law and Criminal Law Conventions on Corruption signed on 27 September 2001. It is a party to the OECD Convention on Combating Bribery of foreign public officials in International Business Transactions, and participates in the monitoring of anti-corruption measures by the OECD Working Group on Bribery in international commercial transactions. Turkey is not a member of the Council of Europe Group of States against Corruption (GRECO).[270]

Official data suggest a steady increase in the number of cases opened related to abuse of duty by civil servants (Article 209 of the Turkish Penal Code). The latest data indicate that 190 cases were opened and 161 cases (from previous years) were concluded. Of those charged, 84 were sentenced and imprisoned, 43 acquitted, and 1 case

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[267] **Ibid.**
[268] **2002 Regular Report on Turkey's Progress Toward Accession**
[269] **Ibid.**
[270] **Ibid.**

was dropped. In relation to bribery, there were 855 cases opened in 2000 (a significant increase vis-à-vis previous years). Six hundred and fifteen cases were concluded. Three hundred and thirteen resulted in convictions including imprisonment, and 249 in acquittals. Eight cases were dropped. According to official sources, 32 investigations were being conducted by Customs Protection Controllers.[271]

4.3.1.5. The National Security Council

Established by the 1961 Constitution, the **National Security Council** (NSC) plays a key role in the formulation and implementation of national security policy and also covers a wide range of political matters. The NSC is chaired by the President of the Republic and is composed of the Prime Minister, the Chief of the General Staff, the Ministers of National Defence, Internal Affairs and Foreign Affairs, the Commanders of the Army, Navy and the Air force and the General Commander of the Gendarmerie. The recommendations of the NSC are not legally binding, but have a strong influence on government policy.[272]

European Union expressed its opinion on "National Security Council" by the Commission's first Regular Report about Turkey in this way; "The National Security Council demonstrates the major role played by the army in political life. The army is not subject to civil control and sometimes even appears to act without the government's knowledge when it carries out certain large-scale repressive military operations. The judicial system includes emergency courts (the state security courts) which are not compatible with a democratic system and run counter to the principles of the European Convention on Human Rights. Major efforts need to be made to ensure the real independence of the judiciary and to give the judicial system the human and material resources it needs to operate in a manner consistent with the rule of law."[273]

The Commission stated that its Regular Report of the year 1999; "The National Security Council continues to play a major role in political life. While the emergency

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[271] **Ibid.**
[272] **1998 Regular Report on Turkey's Progress Toward Accession**

courts system remains in place, the replacement of the military judge by a civilian one in State Security Courts, represents a clear improvement in terms of independence of the judiciary."[274]

As part of the constitutional reform package in 2001, the provision of Article 118 concerning the role and the composition of the National Security Council has been amended. The number of civilian members of the NSC has been increased from five to nine while the number of the military representatives remains at five. In addition, the new text puts emphasis on the advisory nature of this body, stressing that its role is limited to recommendations. The Commission immediately stressed that; The Government is now required to "evaluate" them instead of giving them "priority consideration". The extent to which the constitutional amendment will enhance de facto civilian control over the military will need to be monitored."[275]

The National Security Council holds monthly meetings. After each meeting conclusions are made public through a press release. The NSC has issued opinions and recommendations on a number of governmental issues and policies, including emergency rule in the Southeast, the fight against terrorism, political and economic reforms relating to Turkey's compliance with the EU accession criteria, and Cyprus.[276]

On 30 May 2002, the National Security Council recommended lifting the state of emergency in the provinces of Hakkari and Tunceli on 30 July. At the same time it recommended an extension of the state of emergency for Diyarbakir and Şırnak while indicating that the state of emergency in those provinces should be lifted by the end of the year.[277]

The role of the NSC in the High Audio Visual Board has been strengthened as a result of the law on broadcasting (RTÜK), which was re-adopted by Parliament following a

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[273] **Ibid.**
[274] **1999 Regular Report on Turkey's Progress Toward Accession**
[275] **2001 Regular Report on Turkey's Progress Toward Accession**
[276] **2002 Regular Report on Turkey's Progress Toward Accession**
[277] **Ibid.**

veto by the President (in June 2001) and is currently pending before the Constitutional Court.[278]

The Commission also pointed out that in its last Regular Report about Turkey; "The Armed Forces enjoy a substantial degree of autonomy in establishing the defence budget. Details of the military budget have been made public via the press. There are still two extra-budgetary funds available to the military in spite of the efforts of the Government to close such funds and make such expenditure subject to normal budgetary procedures. The NSC has continued to be an important factor in domestic politics. The introduction of a civilian majority of members and the limitation to an advisory role, in line with the Accession Partnership priority, do not appear to have changed the way the NSC operates in practice. Although decisions are taken by majority, opinions of its military members continue to carry great weight."[279]

At that time, Turkish Government works on the 7th Harmonization Package and revised National Programme. There will appear amendments about the situation of NSC in Turkish political life. The government try to get ready in time before the Commission starts to write its opinion on Turkey for 2003.

4.3.2. Human Rights and Protection of Minorities

Turkey has ratified the most important conventions for the protection of human rights. Turkey ratified the UN Convention against Torture and the European Convention for the Prevention of Torture and other Inhuman or Degrading Treatment or Punishment. Turkey has ratified the European Convention for the Protection of Human Rights except the Protocols 4, 6 and 7.[280]

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[278] **Ibid.**
[279] **Ibid.**
[280] **1998 Regular Report on Turkey's Progress Toward Accession**

A Human Rights Committee was set up by the TGNA in 1991. It has carried out various fact-finding missions regarding the situation of human rights in Turkey. In November 1996 the Turkish authorities set up a missing persons search unit within the Ministry of the Interior. There is, as yet, no evidence of its effectiveness. In April 1997 the government established the High Coordinating Committee on Human Rights. Its role is to co-ordinate and monitor the implementation of measures aimed at improving the human rights situation.[281]

Since 1987 individuals in Turkey have been able to take cases to the European Court of Human Rights if they consider that their rights under this Convention have been violated. In January 1990 Turkey recognised the compulsory jurisdiction of the European Court of Human Rights. Turkey is, however, the only country to have been convicted for hindering the submission of complaints to the European Commission of Human Rights.[282]

In August 2000, Turkey signed two major international instruments in the field of human rights: the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. The process of ratification by the TGNA, which is to start soon, will show whether any reservations are made to any specific provisions contained in either of these covenants.[283]

Proposals for legislative changes aimed at implementing a number of constitutional amendments, in particular with respect to freedom of expression and thoughts, are being finalised by the Government. They include proposals to change Articles 159 and 312 of the Penal Code and of Articles 7 and 8 of the Anti- Terrorist Law.[284]

As far as Turkey's position with respect to various international conventions on human rights is concerned, on 18 April 2001, Turkey signed Protocol 12 to the European Convention on Human Rights (ECHR) on the general prohibition of discrimination by public authorities.[285]

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[281] **2002 Regular Report on Turkey's Progress Toward Accession**
[282] **Ibid.**
[283] **2000 Regular Report on Turkey's Progress Toward Accession**
[284] **2001 Regular Report on Turkey's Progress Toward Accession**
[285] **Ibid.**

As we look through the ECHR's cases; since 2000 Regular Report, the European Court of Human Rights found that Turkey had violated provisions of the ECHR in 127 cases (although 43 of these are not final, as an appeal to the Grand Chamber is possible). These cases relate to a wide range of violations to the Convention such as freedom of expression, ill treatment by the security forces and length of police custody. Turkey has resolved 53 of these cases through friendly settlements.[286]

In a ruling on 10 May 2001, the European Court of Human Rights held Turkey responsible for breaching 14 Articles of the Convention with respect to human rights abuses in the northern part of Cyprus. The Court also concluded that "for purposes of former Article 26 (current Article 35 § 1) of the Convention, remedies available in the "TRNC" may be regarded as domestic remedies" of the respondent State and that the question of their effectiveness is to be considered in the specific circumstances where it arises. In a subsequent ruling of 17 July 2001, Turkey was found responsible for violating Articles 2, 5 and 13 of the European Convention in a case related to the death of a person while in custody. In several judgements delivered on 18 September 2001, Turkey was held responsible of breaching Article 1 of Protocol No. 1 to the Convention in 34 cases related to expropriation of property. The compensations paid did not reflect the real increase in inflation between the date of expropriation and the date of payment.[287]

In a third Interim Resolution (2001) 80 adopted on 26 June 2001 by the Committee of Ministers of the Council of Europe, Turkey has been condemned for the non-execution of the judgement of the European Court of Human Rights of 28 July 1998 in the Loizidou case.[288] In June 2003 Turkish government stated to pay compensation to Ms. Louzidou.

With regard to the **enforcement of human rights**, the Turkish government made efforts to strengthen its monitoring and reporting mechanisms, as well as the dialogue with civil society in the field of human rights. The Parliamentary Human Rights Investigation Committee carried out inspections in detention centres, and in December

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[286] **Ibid.**
[287] **Ibid.**
[288] **Ibid.**

2001 an Inter-ministerial High Human Rights Board was set up, comprising representatives of the Ministries of Interior, Justice and Human Rights. The Committee should convene on a monthly basis and is intended to monitor the implementation of legislation and the human rights situation on the ground.[289]

Requirements for the training of law enforcement officials on human rights have been set down in the law on police education of 25 April 2001. Under this law, Police Academies will give police officers training on human rights issues over a period of 2 years. In addition, several projects have started in August 2001 in Ankara's police stations aimed at improving the reception conditions of detainees. Official data provided by the Turkish Government indicate that 26,780 security officers will have been trained in human rights by the end of the 2000-2001 academic year.[290]

The constitutional amendments of October 2001 led to the adoption of three sets of implementing legislation in 2002. The three reform packages, adopted in February, March and August 2002 in Acts No 4744, 4748 and 4771, modified various provisions of Turkey's major legislation and addressed a wide range of human rights issues, including the death penalty, the exercise of fundamental rights and freedoms, pre-trial detention and legal redress.[291]

In April 2002 Parliament ratified the 1969 UN Convention on the Elimination of All Forms of Racial Discrimination. Turkey introduced a reservation to Article 22 of the Convention, to the effect that cases involving Turkey can only be referred to the International Court of Justice with its consent. In July 2002, Turkey signed the European Agreement Relating to Persons Participating in Proceedings of the European Court of Human Rights. No progress has been made in acceding to other major international human rights instruments such as the Statute of the International Criminal Court, the UN International Covenant on Civil and Political Rights, and the UN International Covenant on Economic, Social and Cultural Rights.[292]

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[289] **2002 Regular Report on Turkey's Progress Toward Accession**
[290] **2001 Regular Report on Turkey's Progress Toward Accession**
[291] **2002 Regular Report on Turkey's Progress Toward Accession**
[292] **Ibid.**

In January 2002 the Government decided to withdraw the derogation made in 1992, concerning Article 5 of the ECHR (right to liberty and security) with regard to provinces under emergency rule. In line with the constitutional and legislative amendments, the maximum pre-trial detention (police custody) period is now four days before the detainee needs to be brought before a judge, plus a possible three day extension in the areas under emergency rule. This is an improvement on the previous maximum of ten days.[293]

Notwithstanding the revision of Article 38 of the Constitution and the amendment of the Penal Code. Turkey did not sign Protocol 6 or Protocol 13 to the ECHR on the abolition of capital punishment. Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities.[294]

Between 1 October 2001 and 30 June 2002, 1874 applications regarding Turkey were made to the European Court of Human Rights (ECHR). Of these, the majority (1125) were related to Article 6 of the ECHR (right to a fair trial). Three hundred and four were concerned with Article 5 (the right to liberty and security), and 246 applications were made under Article 3 (prohibition of torture). One hundred and four pertained to Article 11 (freedom of assembly and association), and 95 to freedom of expression (Article 10). Turkey's failure to execute judgements of the European Court of Human Rights (ECHR) remains a serious problem.[295]

On 30 April 2002, the Committee of Ministers of the Council of Europe adopted an Interim Resolution urging the Turkish authorities to respond to the Committee's repeated demands that the situation of former Members of Parliament Sadak, Zana, Dicle and Dogan be remedied. The Committee called on Turkey to reopen the proceedings, or undertake other *ad hoc* measures, so that all consequences of the violation of the right to a fair trial should be erased.[296]

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[293] **Ibid.**
[294] **Ibid.**
[295] **Ibid.**

In September, the Parliamentary Assembly of the Council of Europe adopted a comprehensive Resolution on the state of implementation of the ECHR decisions by Turkey. The Assembly urged the Committee of Ministers of the Council of Europe to take all necessary measures to ensure the execution of the Court's decisions without delay. It also recommended the Committee to envisage, if necessary, the use of financial sanctions against Turkey.[297]

In the third reform package, Turkey introduced the possibility of retrial for criminal and civil cases to comply with the rulings of the ECHR. After that the Commission immediately expressed its opinion which is that, "This does not, however, address cases such as those mentioned, as the new provisions will only apply to decisions taken pursuant to applications made to the ECHR after August 2003. The amendment does not address, either, other questions related to legal redress, such as the restoration of civil and political rights for those convicted in violation of the provisions of the ECHR.[298]

As regards the fight against discrimination, in April 2002 Turkey ratified the 1969 UN Convention on the Elimination of All Forms of Racial Discrimination. In August 2002 Turkey ratified the Optional Protocol to the UN Convention on the Elimination of Discrimination against Women. The Additional Protocol No 12 to the ECHR on the prohibition of discrimination has yet to be ratified. Turkey has no comprehensive civil or administrative law provisions against discrimination. Much remains to be done in terms of transposition and implementation of the Community anti-discrimination *acquis* based on Article 13 of the EC Treaty.[299]

Following the August 2002 reforms, **capital punishment** in peacetime has been abolished. The death penalty in time of peace has been converted into life imprisonment. Prisoners convicted of terrorist crimes must serve their full sentence. The process of converting existing death sentences into life imprisonment began in September 2002. The moratorium on executions, in force since 1984, has been maintained although death

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[296] **Ibid.**
[297] **Ibid.**
[298] **Ibid.**
[299] **Ibid.**

sentences continued to be imposed by Courts until August 2002, on the basis of the Anti-Terror Law.[300]

4.3.2.1. Civil and Political Rights

In its first Regular Report (1998) the Commission stated that; the body of domestic and international law is adequate for the protection of civil and political rights. Despite the reforms under way, there has been no substantial improvement in the protection of these rights since the Commission evaluated the situation in Agenda 2000. On 14 April, at the 54th meeting of the UN Commission on Human Rights, the European Union underlined continued reports of torture, extra-judicial killings and involuntary disappearances in Turkey.[301] The Commission repeated in its Regular Report of 1999 that, "Generally speaking, since the last report, the situation concerning civil and political rights in Turkey has not evolved significantly." In 2000 Regular Report; "The problems in this area identified in last year's regular report remain largely unchanged, and only limited progress can be reported." In its Reports of 2001 and 2002 the Commission noticed that; "Despite a number of constitutional, legislative and administrative changes, the actual human rights situation as it affects individuals in Turkey needs improvement.[302]

European Commission's annual Regular Reports have had specific headlines about human rights issue in Turkey which give cause for concern. Here is the assessment of this situation of Turkey from the point of view of the European Commission.

In many cases torture is suffered by persons during periods of detention incommunicado in police stations before they are brought to court. These cases put into question the effective control and supervision of the security forces.[303] Regarding **torture and mistreatment**, the agreement of the Turkish Government to publish the report of the Committee on the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) of the Council of Europe on torture and mistreatment, in January 2001,

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[300] **Ibid.**
[301] **1998 Regular Report on Turkey's Progress Toward Accession**
[302] **2001 Regular Report on Turkey's Progress Toward Accession**
[303] **1998 Regular Report on Turkey's Progress Toward Accession**

is a welcome development. On 24 July 2001, the Minister of the Interior issued a circular in which he clarified the duties and obligations of law enforcement and other security officers with respect to custody, formal arrest, detention and interrogation of suspects. The circular explicitly forbids the use of torture and ill treatment. Inspections by public prosecutors in police and gendarmerie stations with a view to investigating claims related to human rights abuses have recently been established. The circular of 26 September 2001 also calls upon the regional authorities to intensify efforts to prevent abuses of human rights. Pre-trial detention provisions are to be brought further into line with ECHR standards on the basis of the amendment of Article 19 of the Constitution, which reduces to four days the period of police custody before bringing the person detained before a judge in cases of collective offences. This is a positive development from the point of view of the prevention of ill treatment of detainees and should be applied also for offences falling under the competence of the State Security courts and in state of emergency provinces. There are also several other procedures to be brought in line with ECHR standards, notably automatic judicial review and medical examination as mentioned in the previous report.[304]

An amendment brought by the second reform package to Article 13 of the Civil Servants Law makes civil servants, found guilty of torture or ill-treatment, liable to pay the compensation stipulated by the ECHR themselves. The deterrent effect of this measure remains to be confirmed.[305]

The third reform package of August 2002 amended the Law on the Duties and Competencies of the Police. It provided for some safeguards against possible abuses by the police by limiting their discretionary authority. This was confirmed in September through an amendment to the 1998 Regulation on Apprehension, Police Custody and Interrogation.[306]

In the reports of the years 1998, 1999 and 2000 it was pointed out about the freedom of expression there is some improvements in the situation but there is still a

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[304] **2001 Regular Report on Turkey's Progress Toward Accession**
[305] **2002 Regular Report on Turkey's Progress Toward Accession**
[306] **Ibid.**

serious problem with regard to the freedom of expression, including that in the political sphere.

In 2001's Regular Report it was said that, changes in legislation are needed to extend the scope of **freedom of expression** so as to give concrete content to the constitutional amendments, in particular to reflect the changes of the preamble and of Articles 13 and 14 and also of Articles 22, 26 and 28. These latter two articles remove the constitutional provision forbidding the use of languages prohibited by law. It is of particular importance, taking into account the aim of the reforms, that the new formulation of the restrictions in Articles 14 and 26 are translated into new legislation and practice in such a way as to provide an effective guarantee for freedom of expression, including the use of languages other than Turkish.[307]

With regard to legislative changes pertaining to **freedom of expression**, the first reform package, adopted in February 2002, brought amendments to Articles 159 and 312 of the Turkish Penal Code, as well as to Articles 7 and 8 of the Anti-Terror Law. The third reform package of August 2002 introduced an additional amendment to Article 159 of the Penal Code. In the second amendment to Article 159, of August 2002, the scope of the provision was amended in the following way: expressions of criticism of the institutions are no longer subject to penalties unless they are intended to "insult" or "deride" those institutions. The notion of intention is open to interpretation and only practice will allow the assessment of the full impact of this amendment. The description of the offence under Article 312 (incitement to hatred on the basis of differences of social class, race, religion, sect or region) was amended. The notion of incitement in a way that may be dangerous for public order was added as an element of the offence. According to the authorities, this amendment narrows the scope of Article 312. An additional paragraph in the amended Article introduced a new type of criminal offence, namely insulting part of the people degradingly and in a way that hurts human dignity, which is punishable by six months to two years imprisonment. Changes to Articles 7 and 8 of the Anti-Terror Law introduced the notion of propaganda in connection with the (terrorist) organisation in a way that encourages the use of terrorist methods. Sentences for such offences were increased. Prison sentences for other offences were maintained or reduced, and the bans on

television and radio broadcasting were shortened, but fines were increased, and the notion of visual propaganda was introduced. Thus, the overall impact of changes to these articles remains to be seen. The interpretation of legislation is crucial to ensuring actual freedom of expression. There are as yet no signs that the interpretation of the law by judges consistently takes into account the rights of the defendant under the ECHR.[308]

"**The media** is generally free to express its views. Government censorship of foreign publications is rare. Objective and independent reporting by Turkish media of the Kurdish issue is not possible. Despite these restrictions, the media frequently criticise the authorities for their actions in other policy areas." This opinion was declared in 1998's Regular Report.

Regarding the freedom of the press, the situation has not substantially changed in 1999 and 2000. As for **freedom of the press,** another amendment has been introduced. The provision that "publication shall not be made in any language prohibited by law" has been removed (Article 28). This amendment is encouraging but for it to become fully effective legislative changes are needed.[309]

The third reform package further modified the Press Law by replacing prison sentences for crimes related to the press with heavy fines. The high level of the newly introduced fines (which range from TL one billion to a TL 100 billion) prompted President Sezer to ask the Constitutional Court, on 14 August 2002, to abrogate these amendments. The grounds for imposing penalties were not modified and the Press Law continues to maintain restrictions on the freedom of the press. In the third reform package, the High Audio-Visual Board (RTÜK) Law was amended to allow for broadcasts in the different languages and dialects used traditionally by Turkish citizens in their daily lives. Its implementation is subject to the adoption of a regulation by RTÜK's Supreme Board by November 2002.[310]

"The conditions in **Turkish prisons** do not meet the standards laid down by the Council of Europe or the minimum standards of the UN" It was said that in 1998's Regular

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[307] **2001 Regular Report on Turkey's Progress Toward Accession**
[308] **2002 Regular Report on Turkey's Progress Toward Accession**
[309] **2001 Regular Report on Turkey's Progress Toward Accession**
[310] **2002 Regular Report on Turkey's Progress Toward Accession**

Report and then in 1999, "The conditions in Turkish prisons do not seem to have improved. Overpopulation and lack of adequate medical care remain major problems, to which hunger strikes and revolts often relate."

In autumn 2000, the Turkish Government decided to implement a **reform of the prison system** replacing large dormitories (up to 80 prisoners in one room) with a system of small cells shared by 1 to 3 inmates (F-type high security prisons). This led to violent demonstrations and hunger strikes, which related not merely to improvement of prison conditions but also to other demands. The vast majority of the prisoners involved in the strikes had been charged or convicted under the Anti-Terrorist law. A number of extremist groups were involved in the organisation of the hunger strikes. On other aspects of the **prison reforms,** a number of substantial legislative measures have now been adopted, notably:

— Law amending Article 16 of the Anti-terrorist law (5 May 2001).

— Law on the Institution of the Judge of Enforcement (16 May 2001)

— Law on the Establishment of Monitoring Boards for Punishment Enforcement Institutions and Detention Houses (21 June 2001).[311]

The **reform of the prison system** has continued in 2002 and the government started to implement the changes introduced in 2001. In connection with reducing overcrowding in prisons, reference should be made to Law No 4758 on Conditional Release and Postponement of Punishments (the so-called Amnesty Law). Amnesty Law entered into force in May 2002. By September 2002, 43576 prisoners had benefited from this law. Intellectuals and journalists in prison for crimes relating to freedom of expression and social conscience did not, however, benefit from the Amnesty Law.[312]

When 2000's Regular Report was published *freedom of association and assembly* (public meetings and demonstrations) was still not fully respected. NGOs' activities such as conferences or distribution of leaflets require official permission.

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[311] **2001 Regular Report on Turkey's Progress Toward Accession**
[312] **2002 Regular Report on Turkey's Progress Toward Accession**

It was said that in 2001 Regular Report; "With regard to **freedom of association and peaceful assembly** the amended Article 33 of the Constitution modifies general rules and restrictions on the right to form associations. The impact of this can only be assessed when implementing legislation is established. Currently, the procedure to establish NGOs in Turkey remains cumbersome and the functioning of NGOs is still subject to considerable state controls.[313]

The second reform package of the year 2002 introduced changes to the Law on the Establishment of Associations. Articles 7, 11 and 12, which regulate relations with international organisations, were removed from the amended Law thus lifting restrictions on contacts with foreign counterparts. The third reform package further revised the Law on Associations. A number of restrictions on the scope of associations' activities have been removed. The general restrictive character of the Law on Associations has been maintained, including a cumbersome prior authorisation system. Amnesty International was given permission to open a branch in Turkey in March 2002. Civil society organisations became more active during the reporting period.[314]

The **status of women** in Turkey is increasingly in line with that prevailing in most EU countries a positive development is the lifting in July 1999 of Turkey's reservations against the UN Convention for the Elimination of All Forms of Discrimination Against Women.[315]

As indicated in the reports of 1998, 1999 and 2000, 2001, "As far as **freedom of religion** is concerned, there have been signs of increased tolerance towards certain non-Muslim religious communities. No improvement in the situation of non-Sunni Muslim communities has taken place. The official approach towards the Alevis is unchanged.[316]

Freedom of religion is guaranteed but non-Moslem religious communities face legal obstacles. In an effort to remedy some problems related to property rights, the third

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[313] **2001 Regular Report on Turkey's Progress Toward Accession**
[314] **2002 Regular Report on Turkey's Progress Toward Accession**
[315] **1999 Regular Report on Turkey's Progress Toward Accession**
[316] **2001 Regular Report on Turkey's Progress Toward Accession**

reform package introduced an amendment to the Law on Foundations. Community foundations are allowed, as of August 2002, to acquire and dispose of property, regardless of whether or not they have the statute of foundations. The Armenian Patriarch asked that a special university department, specialising in the teaching of Christianity, be set up in Istanbul. The authorities agreed, but insisted that Moslems be in charge of the teaching. This was rejected by the Patriarch. There are reports of harassment of clergy by the authorities. Charitable associations such as Caritas face problems because of the lack of legal status. Despite these difficulties, there are signs of increasing *de facto* recognition of non-Moslem communities. The Turkish State is becoming more involved in the inter-religious dialogue at international level, and is adopting a more inclusive approach in religious education. But it is clear that, there has been no improvement in the status of the Alevis.[317]

With regard to the law on **political parties**, Article 101 of the Political Parties Law was amended, with the second reform package, in line with the amendment made to Article 68 of the Constitution. Under the new law, the Constitutional Court may decide to deprive a political party of financial assistance, rather than dissolving it. While leaving the grounds for sanctioning political parties unchanged, it makes it more difficult to close down a political party.[318]

4.3.2.2. Economic, Social and Cultural Rights

Workers, except police and military personnel, have the right to associate freely and form representative unions. The right to strike is subject to various restrictions and complicated procedures. A 1995 constitutional amendment and an amendment to the law regulating trade unions in 1997 removed restrictions preventing trade unions from pursuing political activities. The ratification by Turkey of several ILO (International Labour Organisation) Conventions has not brought about significant changes in labour law, for example concerning the prevention of unfair dismissal. There is no unemployment benefit in

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[317] **2002 Regular Report on Turkey's Progress Toward Accession**
[318] **Ibid.**

Turkey. Child labour is widely used in the informal economy. Turkey has been censured several times by the ILO.[319]

The Government established an **Economic and Social Council** in March 1995 and it started work in March 1997.[320]

The repeal of the Law on Publications in **Languages** other than Turkish in 1991 enabled the publication of material in foreign languages, including Kurdish. Kurdish is no longer banned in the context of cultural activities but cannot be used in "political communication" or education. Radio and television broadcasting in any of the Kurdish languages is forbidden.[321]

As far as **freedom of religion** is concerned, religious education (Sunni) in state primary schools is obligatory. Upon verification of their non-Muslim background, Lausanne Treaty minorities are exempted by law from Muslim religious instruction. Religious minorities recognised by Turkey are free to exercise their religion, but practice of religion other than (Sunni) Islam is subject to many practical bureaucratic restrictions affecting, for example, the ownership of premises and expansion of activities.[322]

In 1998 Regular Report the Commission made evaluation on the situation of economic, cultural and social rights in Turkey then consequently stated that; "So, although Turkey has recently tried to improve the legal framework for economic and social rights, they are still subject to a number of restrictions, especially those concerning trade unions, and do not offer the enjoyment of rights to the same standard as that prevailing in the EU countries. Among cultural rights, freedom of religion is circumscribed by the difference of treatment accorded to recognised religious minorities (Lausanne Treaty) and other religious minorities, which suffer impediments to their ministry.[323]

There was not any changes in 1999 about the situation.

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[319] **1998 Regular Report on Turkey's Progress Toward Accession**
[320] **Ibid.**
[321] **Ibid.**
[322] **Ibid.**

As regards cultural rights, a positive development has taken place with the judgement passed by the Supreme Court of Appeals on 31 March 2000, confirming the freedom of individuals under the Civil Code to give their children any names of their choosing (including Kurdish ones). In practice, some names are sometimes not accepted by the population registrar's personnel. The decision of the Supreme Court should pave the way for a change in the legislation.[324] Progress can be reported with the amendment of Articles 26 and 28 of the Constitution, in which the provision forbidding the use of languages prohibited by law has now been abolished. This could pave the way for the use of languages other than Turkish and is therefore a positive development.[325] The third reform package of 2002 introduced the possibility to broadcast in the different languages and dialects used traditionally by Turkish citizens in their daily lives. The implementation of this provision is subject to the adoption of a forthcoming regulation. There are signs that the spirit of the August 2002 reform is being implemented. On Turkey's Victory day (30 August 2002), a public concert took place in Ephesus where a famous Turkish singer performed in several languages, namely in Kurdish, Armenian, Greek and Turkish. The third reform package also amended the Law on Foreign Language Education and Teaching. It provided for the possibility of learning different languages and dialects traditionally used by Turkish citizens in their daily lives and of opening private courses for that purpose on the condition that this does not contradict the indivisible integrity of the State. A regulation implementing this provision was adopted on 19 September 2002.[326]

In the Regular Report of the year 2000 another thing pointed out is that "As regards *equal opportunities*, gender disparity is still high. The illiteracy rate is roughly 25 % for women and 6 % for men, due to low school enrolment rates for girls, particularly in Eastern Turkey. There is still a need for further action to improve the educational position of women." At that time amendments to the Civil Code have been prepared with contributions from Women's NGOs and are under discussion in the Parliament. The question of violence against women within the family, including so-called "honour killings", is still an issue of

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[323] **Ibid.**
[324] **2000 Regular Report on Turkey's Progress Toward Accession**
[325] **2001 Regular Report on Turkey's Progress Toward Accession**
[326] **2002 Regular Report on Turkey's Progress Toward Accession**

serious concern.[327] In the area of **gender equality,** Article 41 of the Constitution has been amended with a view to establish the principle of equality between spouses as a basis for the family. The amended Article 66 of the Constitution on Turkish citizenship no longer discriminates on the basis of gender in the case of a foreign parent.[328] The new Civil Code entered into force on 1 January 2002.

Concerning ***children's rights*** and child labour, although laws and regulations are in conformity with the Convention on the Rights of the Child (CRC), their enforcement leaves much to be desired.[329] The Turkish Government ratified on 26 January 2001 the ILO Convention N° 182 on the Elimination of Worst Forms of Child Labour, and on 18 January 2001 the European Convention on the Exercise of Children's Rights. A Child Bureau was set up in the Directorate General for Public Security by a law adopted on 13 April 2001. The new Civil Code incorporates some amendments regarding the protection and **rights of the child**. The new Article 182 introduces the concept of the interests of the child in cases of separation or divorce. Changes to Article 282 eliminate discrimination between the legal status of legitimate and illegitimate children. Turkey still does not comply with Articles 7 (child's right to protection. and 17 (right of mothers and children to social and economic protection) of the European Social Charter. Article 17 of the Charter declares the right of young delinquents to protection, but juveniles are still imprisoned in Turkey. Turkey ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in June.[330]

First time, some steps have been taken concerning the social protection of unemployed people. In April 2002, payments of unemployment benefit were made for the first time. It is planned that employees who are laid off due to privatisation will receive unemployment benefits from the Privatisation Administration for six to eight months.[331]

Trade Unions are subject to restrictions concerning freedom of association and the right to strike. Their activities continue to be impeded by the requirement of a 10%

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[327] **2000 Regular Report on Turkey's Progress Toward Accession**
[328] **2001 Regular Report on Turkey's Progress Toward Accession**
[329] **2000 Regular Report on Turkey's Progress Toward Accession**
[330] **2001 Regular Report on Turkey's Progress Toward Accession**

threshold for a trade union to be eligible for collective bargaining at company level. Public sector employees are deprived of the right to strike. Civil servants who took unauthorised strike action in December 2000 to obtain the right to strike and the right to collective bargaining have been prosecuted. Despite its new legal status, the Economic and Social Council has not yet convened.[332]

4.3.2.3. Minority Rights and the Protection of Minorities

The "Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe" indicated in its January 1999 report that "the essential point is that any such group [Turkish citizens of Kurdish origin] should have the opportunity and material resources to use and sustain its natural languages and cultural traditions in circumstances and under conditions now clearly and reasonably defined by two important Council of Europe Conventions: the Framework Convention on Protection of National Minorities and the European Charter for Regional or Minority Languages, as well as by Assembly Recommendation 1201 (1993) on an additional protocol on the rights of national minorities to the European Convention on Human Rights."[333]

In its Regular Report of 2001 the Commission stated that; Over what has been said about cultural rights and the possible impact of the constitutional amendments, there has been no improvement in the ability of members of ethnical groups with a cultural identity and common traditions to express their linguistic and cultural identity. Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities and does not recognise minorities other than those defined by the 1923 Lausanne Peace Treaty.[334]

The Commission especially drawn up the situation of displaced persons. According to the UN Secretary General Representative for Displaced Persons's Report the number of displaced persons amounts to a figure between 378000 and one million. The "Return to

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[331] **2002 Regular Report on Turkey's Progress Toward Accession**
[332] **Ibid.**
[333] **1999 Regular Report on Turkey's Progress Toward Accession**
[334] **2001 Regular Report on Turkey's Progress Toward Accession**

Village and Rehabilitation Project" has been further implemented, and according to the authorities, 37000 persons have now returned to their villages. However, it is difficult to evaluate the actual implementation of this project, as official information is scarce. The same applies to the Action Plan for the southeast adopted by the National Security Council, which has still not been made public. In Diyarbakir, Bingöl, Van and other areas, a sizeable number of villagers have returned to their villages. In the area of Mardin, members of the Syriac Orthodox community have been authorised to return to 20 villages. However, the overall situation of displaced persons remains a matter of concern.[335]

The village guards system acts as a disincentive for displaced persons to return to their villages. There are currently 60000, 70000 village guards in the area whose conduct is widely reported to be undisciplined and abusive. There are still landmines in the region and explosions are frequent. Civil society organisations active in the region are subject to considerable pressure from the authorities, facing judicial proceedings as well as temporary closures.[336]

And for the Roma community; following a circular issued by the Ministry of National Education in October 2001, calling for the elimination of all pejorative language with regard to the Roma community in dictionary definitions, all official dictionaries are being corrected. No further legislative steps have been undertaken, and the Settlement Law of 1934 is still applicable to 'nomadic gypsies', implying that they are still among the categories of people who are not accepted in Turkey as immigrants. There is much prejudice against Roma communities in Turkey, and the existing legislation does not provide them with sufficient protection.[337]

4.3.2.4. Cyprus Issue

The Accession Partnership states that; "in accordance with the Helsinki conclusions, in the context of the political dialogue, strongly support the UN Secretary General's efforts

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[335] **2002 Regular Report on Turkey's Progress Toward Accession**
[336] **Ibid.**
[337] **Ibid.**

to bring to a successful conclusion the process of finding a comprehensive settlement of the Cyprus problem, as referred in the point 9(a) of the Helsinki conclusions.[338]

During the enhanced political dialogue EU representatives urged Turkey to encourage the Turkish Cypriot leader to take advantage of the window of opportunity for reaching a settlement before the conclusion of the accession negotiations with Cyprus. This would allow the Turkish Cypriots to participate in EU accession negotiations, on the basis of a political settlement, and for the results of the settlement, reflecting the concerns of the respective parties, to be included in EU accession arrangements.[339]

In the course of the enhanced political dialogue with Turkey, and at the EC-Turkey Association Council in April 2002, the Turkish government expressed its support for the current process of direct talks between the leaders of the two communities. The EU repeatedly emphasised the need for Turkey to encourage the Turkish Cypriot leadership to work towards reaching a settlement on the Cyprus issue before the end of accession negotiations.[340]

4.3.2.5. Peaceful Settlements of Border Disputes

This heading under the Political Criteria for Turkey firstly appeared in 2001 Progress Report of the Commission.

Bilateral relations between Turkey and Greece have continued to improve. These positive developments have been led by the foreign ministers of both countries and the framework of co-operation that they put in place. A number of confidence building measures have been adopted.[341]

Another set of confidence building measures were decided by June 2001. These positive developments should create a climate conducive to progress in the peaceful

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[338] **2001 Regular Report on Turkey's Progress Toward Accession**
[339] **2002 Regular Report on Turkey's Progress Toward Accession**
[340] **Ibid.**
[341] **2001 Regular Report on Turkey's Progress Toward Accession**

settlement of disputes between the two countries, in accordance with the Helsinki European Council conclusions and the Accession Partnership with Turkey.[342]

During 2001, ten bilateral co-operation agreements have entered into force in areas such as environment and economic development. Furthermore, five co-operation agreements regarding culture and emergency relief were signed. Greece continues to provide technical know-how to Turkey on *acquis* related issues.[343]

A protocol was ratified between the two countries for the readmission of illegal migrants. It has entered into force but is not yet implemented fully. Efforts are continuing to promote new confidence building measures, such as the cancellation of military exercises in the Aegean Sea. Contacts have started between the intelligence agencies of both countries. Greece and Turkey organised a joint ceremony for the 50th anniversary of NATO in Brussels, and in April 2002 the Greek and Turkish Foreign Ministers made a joint visit to the Middle East. In March, the foreign ministries began exploratory contacts about the Aegean. The contacts were formally launched in Istanbul in the context of the EU-OIC (European Union-Organisation of the Islamic Conference) forum on the harmony of civilisations.[344]

4.3.3. General Evaluation

The Commission has evaluated the situation in Turkey through the adaptation to the Copenhagen Political criteria. It can be seen clearly in its Report of 2002;

Firstly; Turkey has made noticeable progress towards meeting the Copenhagen political criteria since the Commission issued its report in 1998, and in particular in the course of the last year. The reforms adopted in August 2002 are particularly far-reaching. Taken together, these reforms provide much of the ground work for strengthening

[342] **Ibid.**
[343] **2002 Regular Report on Turkey's Progress Toward Accession**

democracy and the protection of human rights in Turkey. They open the way for further changes which should enable Turkish citizens progressively to enjoy rights and freedoms commensurate with those prevailing in the European Union.

Nonetheless Turkey does not fully meet the political criteria. First, the reforms contain a number of significant limitations, on the full enjoyment of fundamental rights and freedoms.

Secondly; many of the reforms require the adoption of regulations or other administrative measures, which should be in line with European standards. Some of these measures have already been introduced and others are being drawn up. To be effective, the reforms will need to be implemented in practice by executive and judicial bodies at different levels throughout the country.

Thirdly; a number of important issues arising under the political criteria have yet to be adequately addressed. These include the fight against torture and ill-treatment, civilian control of the military, the situation of persons imprisoned for expressing non-violent opinions, and compliance with the decisions of the European Court of Human Rights.

In its Progress Report of 2002, The Commission also added an evaluation for Turkey's Accession Partnership short and medium term priorities. First of all Commission pointed out the progress which was made by Turkey briefly then give its review. For short term; it was pointed out that, "The process to meet these priorities has started and mixed progress can be reported." For medium term; "in terms of legislation, progress can be reported in complying with a number of medium-term priorities. However, further legislative changes are needed. A sustained effort in terms of implementation and actual improvement of the situation on the ground is needed."

At the same Report for the National Programme of Turkey it was said that; "The Turkish National Programme for the Adoption of the Acquis (NPAA), adopted in March

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[344] **Ibid.**

2001, has served as a useful tool for the Turkish authorities to transpose the *acquis*. The three harmonisation packages concerning the political criteria adopted in February, March and August 2002 have been partially based on the NPAA. As regards the *acquis*, the NPAA served as a checklist for the various legislative initiatives. The NPAA made it possible for the relevant Turkish authorities to have an overview of what has been done and what remains to be done in view of the adoption of the relevant legislation."

In conclusion; as it was mentioned above the Commission appreciates the amendments which are carried out by Turkey but has serious doubts their implementation throughout Turkey. So in Copenhagen European Council in December 2002 while The Commission announcing other applicant countries accession date to the European Union Turkey was taken to a different statute to assess again its conditions in the last of 2004 and then decide whether accession negotiations begin or not. At this moment on 20 June 2003 Turkey approved in the Parliament its sixth adaptation pocket through the European Union and immediately its positive affect could be seen in the Selanik European Council. Turkish government which was executed by Mr. Erdoğan has a plan to complete all the amendments up to the year's end and take a date for the opening of accession negotiations at the European Council in December 2003 and to prepare revised National Programme until the Commission declares the annual Report for Turkey in October, 2003.

At last after the last Regular Report of the Commission in 2002, on 11 January 2003, another harmonisation package was enacted by Turkish Government. As the previous packages, several amendments were made in line with the EU norms. Some articles of various laws pertaining to detention conditions as well as fight against torture were revised. In this context, Law on State Security Courts, Turkish Penal Code, Law on the Prosecution of Civil Servants and Public Employees, and Decree no: 430 were amended to ensure that detention conditions were brought in full alignment with the European norms and fight against torture was rendered more effective.[345]

[345] Rıdvan Karluk, Özgür Tonus, "Ulusal Program Kapsamında Avrupa Birliği'ne Verilen Sözler ve Gerçekleşmeler", **Avrupa Birliği Kapısında Türkiye**, Turhan Kitapevi, Ankara, 2002, ss .151-155

V. CONCLUSION

Recent enlargement period of European Union is going to an end with the accession of Central and Eastern European countries. In this way divided situation of the Europe continent changes its figure through the re-unified European continent. In this thesis beginning from the first chapter it tried to be analyzed the different situation of Turkey in EU's future enlargement plans. European Council's decisions have always had different headings for Turkey. In this period EU is in a process how it carries out the future enlargement and for that it is trying to put an order the functioning after the accession of new members. Nice Summit was an important turning point with taking decisions about the future functioning with 27 membered EU. It would be more difficult to take decisions in the future with its new members so well-mentioned "Qualified Majority Voting (QMV) System in European Council was mentioned very seriously in this Summit and Turkey's name was not announced in here. QMV created a problem between big and small countries of the Union at the same time. Smaller countries of the Union like Belgium, Denmark and Luxembourg showed their anxiety of being in a second place through taking decisions in the Union. So Turkey's population problem appears in this occasion, too and here has not yet a solution or result for that.

Then it was mentioned the integration situation of Romania and Turkey to the EU in the third and fourth part of the thesis. When we look to the European Union's impression about these two countries Romania and Turkey it can be concluded that the EU considers important the persuasiveness of the candidate countries through the implementation such as an issue of democratization of institutions. If we look through the process of these two countries in the European Union integration way;

We should see the traditional ties between two parties that Romania and the European Union. Romania's diplomatic relations with the European Union dates from 1990. New constitution of Romania adopted in 1991 marked Romania's transition to parliamentary democracy. Following Romania's return to democracy, a Trade and Co-operation Agreement is signed in 1991. The Europe Agreement enters into force on 1

February 1995 and in the period of progress in February 2000 accession negotiations started and at the end at the Copenhagen European Council in 2002 Romania was announced that it will be a full member of the Union in 2007. The point is Romania was pursued she rapidly adapt its system to the EU form by the EU so beginning from the year 1990 to 2002 she recorded important steps to be a member of the Union. There is still some deficiencies on the Romanian part. After passing a parliamentary democracy Romania with its legislative power, executive body, judiciary etc. have continued to operate satisfactorily to integrate through the European Union.. Number of amendments were passed from the Parliament under the headings of "democracy and rule of law", "human rights and protection of minorities". In 1999 Helsinki Summit it was announced that the accession negotiations would begin in February 2000. Despite of the situation that the Commission stressed that Romania fulfilled the Copenhagen Political Criteria it continues to determine in what matter Romania should expend more effort. The Progress Report of 2002 pointed out that, "surveys indicate that corruption remains widespread and systematic problem in Romania that is largely unresolved. Despite a legal framework that is reasonably comprehensive, and which has been expanded over the last year, law enforcement remains weak.". Another problematic issue is "child protection" in Romania; "despite overall progress a general concern is that there are significant regional differences in the implementation of the reform programme. This situation compounded by the absence of adequate national standards for child protection services and the fact that the National Authority lacks the mandate to perform inspections at the local level", Degrading treatment by the police is a matter of concern in the 2002's Regular Report and it was repeated that "there continue to be consistent and credible reports of degrading treatment by the police in particular when dealing with persons belonging to the Roma minority". Discrimination against the Roma minority remains widespread although it occurs as individual incidents and is not institutionalised. Human rights organisations have documented instances of police harassment of individual Roma as well as of whole Roma communities. Roma face difficulties is gaining access to schools, medical care and social assistance. For pre-trial detention there is no data on the duration of pre-trial detention in practise, but the legal limit for that is high. Freedom of expression is guaranteed in the Constitution and both the written press and electronic media are able to report freely but at the same time, restrictions on the freedom of expression do exist. Freedom of religion is not matter of concern

because it is guaranteed by the Constitution and is observed in practise. These problematic areas still exist so the Commission declared that, the Accession Partnership priorities related to the political criteria have been partially met. However, Romania have not yet completed the short and medium term priorities in a whole, accession negotiations started in February 2000 and in Copenhagen European Council in December 2002, it was announced that, Romania will take a right to be a full member of the Union in 2007. It can be seen in that point Commission assessed the preparation made by Romania as persuasive through to complete Copenhagen Political Criteria.

As we repeatedly mention in the thesis Turkey's situation has gone differently among other candidate states. Turkey's relation with the EU starts from the establishing of the EC and there is a tie between Westernisation project of Turkey and its relations with the EC/EU. Turkey began "Westernising" its economic, political and social structures in the 19th century. Following the First World War and the proclamation of the Republic in 1923, it chose Western Europe as the model for its new secular structure. Turkey turned towards European Community along NATO, OECD, The Council of Europe and WEU. There were not difficulties to become a member state of NATO, OECD etc. but Turkey-EC relations always have questions. Ankara made a formal application for association with the EEC on July 31, 1959. EEC's response to Turkey's application in 1959 was to suggest the establishment of an association until Turkey's circumstances permitted its accession then Ankara Agreement signed on 12 September 1963 and entered into force on December 1964. Turkey – EC/EU relations has always moved in an undulating road. Turkey applied for full membership in 1987 in this way Turkey's application revived Turkey – EC relations: efforts to develop relations intensified on both sides, the Association's political and technical mechanism started meeting again and measures to complete the Customs Union in time were resumed. Under these circumstances, Turkey chose to complete the envisaged Customs Union with the Community. Talks began in 1994 and were finalised on 6 March 1995 at the Turkey-EU Association Council. After then in Luxembourg European Council some decisions were taken related to Turkey. Turkey's eligibility was reconfirmed here and EU decided to set up a strategy to prepare Turkey for accession and to create a *special* procedure to review the development to be made and Turkey was invited to the European Conference, but a number of unacceptable pre-conditions were put forward. The

Turkish government criticise the EU's attitude and stated that, it would not discuss with the EU issues remaining outside the contractual context of the bilateral relations as long as the EU did not change its attitude. The attitude a little bit changed at the Cologne European Council held on 3-4 June 1999, the initiative was taken by the German Presidency with a view to ensuring the recognition of Turkey's candidate status on equal footing with the others and at the Helsinki European Council held on 10-11 December 1999 produced a breakthrough in Turkey-EU relations. At Helsinki, Turkey was officially recognised without any precondition as a candidate state on an equal footing with the other candidate states. And lastly at the Copenhagen European Council of 12-13 December 2002, as regards Turkey, the Council decided 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 EU will open negotiations without delay.

The Commission appreciates noticeable progress made by Turkey but has doubts putting into practise of these arrangements. In Copenhagen Summit in December 2002 European Council seemed a little bit undecided, they will not reject Turkey any more like they did in Luxembourg Summit in 1997 but may be because of the Cyprus Issue and Turkey's situation in Europe under the American support they did not want to give an opinion to start the accession negotiations before the last of 2004. For example it was stated in the EU "Kurdish education right was not an important thing until the implementation of this right begins commonly". Each headings and its amendments analysed under the Political Criteria were needed their implementations for the EU. Military decisions on the civil life continue to be perceived as a dilemma for the Turkey-EU relations by the Union. The Commission has observed especially the situation and functioning of the "State Security Courts" and "National Security Council". All the amendments made by Turkish authority were seen as a positive affect by the Commission but they still need to be brought in line with European standards.

Turkish authority's objection appears in a point that because of the Commission did not want to see the improvement done by the Turkish government. Starting of the accession negotiations is really important issue for the Turkish part but the EU insists of complementing some issues through the adaptation the Union's political criteria such as

civilian control over the National Security Council especially. The Commission every time declares that they assess each candidate country with the same criteria. But it can be seen that some occasions have more importance for EU to accept a country as a member or begin accession negotiations with that country. At this moment Turkish government prepares its 7th Adaptation Package and revised National Programme, these includes amendments about National Security Council, too. The Government has a plan to complete all the amendments up to the year's end and want to start accession negotiations in 2004.

Consequently, in the thesis it tried to be analysed whether the future enlargement of the Union is a re-unification and what the place of Turkey is in there. At last we could see that in a process of Turkey's integration to the Union it is perceived in a different place when comparison with the CEECs and the other candidate countries but it does not mean that Turkey will not be a full member of the Union. At the beginning from its first enlargement to the recent enlargement EU has grown and developed and it had changes in a structural meaning so what the recent enlargement brings to the EU system is not definite at that time, when the candidate countries become a full member we all can see more clearly the evaluation of EU's future function.

APPENDICES

COUNTRY PROFILE OF ROMANIA

Population 2000, mid-year: 22,4 million.

Population Density: 94.1 inhabitants/km²

Area: *Total:* 237,500 km²

Land: 230,340 km²

Water: 7,160 km²

Land Boundaries: Total: 2,508 km.

Distribution: 55% urban population, 45% rural population.

Major Cities: Bucureşti (2,011,305), Iaşi (347,606), Constanţa (340,497), Cluj-Napoca (332,941), Timişoara (328,148), Galaţi (327,928)

Border Countries: Bulgaria 608 km, Hungary 443 km, Moldova 450 km, Yugoslavia 476 km, Ukraine (North) 362 km, Ukraine (East) 169 km

Natural Resources: Petroleum (reserves declining), timber, natural gas, coal, iron ore, salt, arable land, hydropower.

Ethnic Groups: Romanian 89.5%, Hungarian 7.1%, Roma 1.8%, German 0.5%, Ukrainian 0.3%, other 0.8% (1992)

Languages: Romanian, Hungarian, German and other minority languages.

Territorial administration: County level Judet-s (counties): 41 + the capital of Bucharest.

Territorial administration: Development regions level, Development regions: 8 (associated neighbouring counties)

GDP (current prices): Total: € 40.0 billion, **Per capita:** € 1,800 / €6,000 (PPS)

The latest figures for 2001 put GDP growth at 4.5% which is a marked improvement when compared with a contraction of 3.2% in 1999.

Public Expenditure: The budget was passed in April 2000. Pensions increased by up to 55%. The average monthly pension in currently around 40$ per month. The economic targets for this year are: 3% deficit, 27% inflation and 1% increase in GDP.

Independence: 9 May 1877 (independence proclaimed from Turkey; independence recognized 13 July 1878 by the Treaty of Berlin; Kingdom proclaimed 26 March 1881; Republic proclaimed 30 December 1947)

Constitution: 8 December 1991

Legal System: Former mixture of civil law system and communist legal theory; is now based on the constitution of France's Fifth Republic.

Executive Branch: Chief of State: President Ion ILIESCU (since 20 December 2000)

Elections: President elected by popular vote for a four-year term; election last held 26 November 2000, with runoff between the top two candidates held 10 December 2000 (next to be held NA November/December 2004); prime minister appointed by the president.

Head of Government: Prime Minister Adrian NASTASE (since 29 December 2000)

Cabinet: Council of Ministers appointed by the prime minister.

Election Results: percent of vote - Ion ILIESCU 66.84%, Corneliu Vadim TUDOR 33.16%

Legislative Branch: Bicameral Parliament or Parlament consists of the Senate or Senat (140 seats; members are elected by direct, popular vote on a proportional representation basis to serve four-year terms) and the Chamber of Deputies or Adunarea Deputatilor (345 seats; members are elected by direct, popular vote on a proportional representation basis to serve four-year terms)

Elections: Senate - last held 26 November 2000 (next to be held in the fall of 2004); Chamber of Deputies - last held 26 November 2000 (next to be held in the fall of 2004)

PARTY	ABBR	CHAMBER OF DEPUTIES Seats (%)	SENATE Seats (%)
Social-Democrat Party Partidul Social Democrat	PSD	149 (43.2%)	61 (43.6%)
Humanist Party of Romania Partidul Umanist din România	PUR	6 (1.7%)	4 (2.9%)
Greater Romania Party Partidul România Mare	PRM	84 (24.4%)	37 (26.4%)
Democratic Party Partidul Democrat	PD	31 (9.0%)	13 (9.3%)
National Liberal Party Partidul National Liberal	PNL	30 (8.7%)	13 (9.3%)
Democratic Union of Hungarians in Romania Uniunea democrata a maghiarilor din România	UDMR	27 (7.8%)	12 (8.6%)
Ethnic Minorities (Minorities who are officially entitled to a representative in the Chamber of Deputies)		18 (5.2%)	0

Judicial Branch: Supreme Court of Justice (judges are appointed by the president on the recommendation of the Superior Council of Magistrates)

Disputes - International: Romania and Ukraine have yet to resolve claims over Ukrainian-administered Zmiyinyy (Snake) Island and delimitation of Black Sea maritime boundary, despite 1997 bilateral treaty to find a solution in two years and numerous talks; because of a shift in the Danube course since the last correction of the boundary in 1920, a joint Bulgarian-Romanian team will recommend sovereignty changes to several islands and redefine the boundary.

COUNTRY PROFILE OF TURKEY

Population: 67,308,928 (July 2002 est.)

Area:
total: 780,580 km²
water: 9,820 km²
land: 770,760 km²

Land Boundaries: *total:* 2,648 km

Distribution: 44,006,274 (64,9% of total) urban population, 23,797,653 (35.1% of total) rural population.

The Most Populated Cities: Istanbul (10,018,735) - Ankara (4,007,860) *Capital* - Izmir (3,370,866)

Border Countries: Armenia 268 km, Azerbaijan 9 km, Bulgaria 240 km, Georgia 252 km, Greece 206 km, Iran 499 km, Iraq 352 km, Syria 822 km.

Natural Resources: antimony, coal, chromium, mercury, copper, borate, sulfur, iron ore, arable land, hydropower.

Languages: Turkish (official), Kurdish, Arabic, Armenian, Greek.

GDP: purchasing power parity - $468 billion (2002 est.); real growth rate: 4.2% (2002 est.); per capita: purchasing power parity - $7,000 (2002 est.).

Inflation rate (consumer prices): 45.2% (2002)

Budget: *revenues:* $42.4 billion
expenditures: $69.1 billion, including capital expenditures of $NA (2001)

Industries: textiles, food processing, autos, mining (coal, chromite, copper, boron), steel, petroleum, construction, lumber, paper.

Independence: 29 October 1923 (successor state to the Ottoman Empire)

Constitution: 7 November 1982, amended in 1995, 1999, 2001 and 2002.

Legal system: derived from various European continental legal systems; accepts compulsory ICJ jurisdiction, with reservations.

Executive Branch: *chief of state:* President Ahmet Necdet SEZER (since 16 May 2000)
elections: president elected by the National Assembly for a seven-year term; election last held 5 May 2000 (next to be held NA May 2007); prime minister and deputy prime ministers appointed by the president
note: a National Security Council serves as an advisory body to the president and the cabinet
cabinet: Council of Ministers appointed by the president on the nomination of the prime minister
head of government: Prime Minister Recep Tayyip ERDOGAN (14 March 2003); note - Abdullah GUL resigned 11 March 2003; Recep Tayyip ERDOGAN was given a mandate to form a government
election results: Ahmed Necdet SEZER elected president on the third ballot; percent of National Assembly vote - 60%
note: president must have a two-thirds majority of the National Assembly on the first two ballots and a simple majority on the third ballot.

Legislative Branch:

Unicameral Grand National Assembly of Turkey or Türkiye Büyük Millet Meclisi (550 seats; members are elected by popular vote to serve five-year terms)
elections: last held 3 November 2002 (next to be held NA 2007)
election results: percent of vote by party - AKP 34.3%, CHP 19.4%, DYP 9.6%, MHP 8.3%,

ANAP 5.1%, DSP 1.1%, and others; seats by party - AKP 363, CHP 178, independents 9; note - all other parties were under the 10% threshhold which entitles them to seats.

Judicial branch: Constitutional Court (judges are appointed by the president); Court of Appeals (judges are elected by the Supreme Council of Judges and Prosecutors)

Political Parties and Leaders: Democratic Left Party or DSP [Bulent ECEVIT]; Justice and Development Party or AKP [Recep Tayip ERDOGAN]; Motherland Party or ANAP [Mesut YILMAZ]; Nationalist Action Party or MHP [Devlet BAHCELI]; Republican People's Party or CHP [Deniz BAYKAL]; Saadet Party [Recai KUTAN]; note - KUTAN was head of the Virtue Party or FP which was banned by Turkey's Constitutional Court in June 2001; Socialist Democratic Party or TDP [Sema PISKINSUT]; True Path Party (sometimes translated as Right Path Party) or DYP [Tansu CILLER]

International Disputes: Complex maritime, air, and territorial disputes with Greece in Aegean Sea); Cyprus question with Greece; dispute with downstream riparian states (Syria and Iraq) over water development plans for the Tigris and Euphrates rivers; traditional demands regarding former Armenian lands in Turkey have subsided; Turkey is quick to rebuff any perceived Syrian claim to Hatay province; border with Armenia remains closed over Nagorno-Karabakh dispute.[1]

[1] These informations were taken from web sites which are **Enlargement** URL http://europa.eu.int/comm/enlargement/turkey/ and **Central Intelligence Agency: "The World Fact Book 2002: Turkey"** URL http://www.cia. gov/cia/publications/factbook/geos/tu.html#Intro

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