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AN ANALYSIS OF THE COPENHAGEN POLITICAL CRITERIA FROM THE PERSPECTIVE OF "BEING A EUROPEAN STATE"

Ph.D Thesis

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ABSTRACT

This study aims to examine the connection between the notion "being a European state" and the Copenhagen political criteria.

Once the Cold War ended, a debate on the meaning of the terms "Europe" and "European" broke out in the European academic circles. As a result, there emerged various definitions based on different references. In this study, the term "Europe" is, at the general level, defined as a "society of states" in a certain region. At the particular level, it is defined as the European Union (EU) that represents best the European society of states in the post-Cold War period. Under the light of these definitions, the term "being a European state" used in this study means both the participation to this society and accession to the EU.

Regarding the connection between the Copenhagen political criteria and "being a European state" in both senses, it is noticed that presence of the values stated in these criteria constitutes one of the most distinctive features of the European society of states and the EU. In particular, there has taken place a great increase in the importance given to these values at both levels in the post-Cold War period. Consequently, the political values of democracy, the rule of law, human rights, and the minority rights have become as pre-conditions for "being a European state" in both senses.

On the basis of this examination, some concluding remarks concerning Turkey that has long aspired after "being a European state" at both levels are also deduced.

ÖZET

Bu çalışma, Kopenhag politik kriterleri ile "Avrupalı devlet olma" kavramı arasındaki ilişkinin incelenmesini amaçlamaktadır.

Soğuk Savaş Dönemi'nin sona ermesi, Avrupalı akademik çevrelerde "Avrupa" ve "Avrupalı" terimlerinin içeriğine ilişkin tartışmaların yoğunlaşmasına yolaçmıştır. Bu gelişmenin bir sonucu olarak, farklı tercihlere dayanan bir çok tanım yapılmıştır. Bu çalışmada, "Avrupa" terimi, genel düzeyde, belli bir bölgede ortaya çıkmış olan "ulus devletler toplumu" olarak tanımlanmaktadır. Özel düzeyde ise, Soğuk Savaş Sonrası Dönem'de kazandığı özellikler sayesinde, bu toplumu en iyi temsil ettiğine inanılan Avrupa Birliği (AB) olarak tanımlanmaktadır. Bu tanımlar ışığında, çalışmada kullanılan "Avrupalı devlet olma" kavramı, hem Avrupa ulus devletler toplumu'na katılma, hem de AB'ye tam üyelik manasına gelmektedir.

Kopenhag politik kriterleri'nde belirtilen değerlerin varlığının, hem Avrupa ulus devletler toplumu'nun hem de AB'nin en önemli ayırtedici özelliklerinden birisi olduğu görülmektedir. Özellikle Soğuk Savaş Sonrası Dönem'de, her iki düzeyde bu değerlere verilen önemde büyük bir artış olduğu gözlenmektedir. Bunun sonucu olarak, Kopenhag kriterleri'nde belirtilen demokrasi, hukuk devleti, insan hakları ve azınlık haklarına saygı gibi politik değerlerin her iki anlamda "Avrupalı devlet olma"nın ön şartı olduğu ortaya çıkmaktadır. Bu bulgulardan hareketle, "Avrupalı devlet olma"yı uzun yıllardan beri değişmez bir hedef olarak benimsemiş olan Türkiye açısından bazı çıkarımlarda bulunulmaktadır.

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CESDP	:	Common European Security and Defence Policy
CFSP	:	Common Foreign and Security Policy
CSCE	:	Conference on Security and Co-operation in Europe
EC	:	European Community
ECSC	:	European Coal and Steel Community
EEC	:	European Economic Community
EFTA	:	European Free Trade Association
EMI	:	European Monetary Institute
EMU	:	Economic and Monetary Union
EPC	:	European Political Co-operation
ESDI	:	European Security and Defence Identity
EU	:	European Union
EURATOM	:	European Atomic Energy Community
GATT	:	General Agreement on Tariffs and Trade
I.W.W.	:	The First World War
II.W.W	:	The Second World War
MNC	:	Multi-National Corporations
NATO	:	The North Atlantic Treaty Organisation

NGOs :	Non-Governmental Organisations
NPAA :	National Programme for the Adoption of the Acquis
ODIHR:	The Office for Democratic Institutions and Human Rights
OECD :	Organisation for Economic Co-operation and Development
OSCE :	Organisation on Security and Co-operation in Europe
PPEWU:	Policy Planning and Early Warning Unit
SEA :	The Single European Act
UN :	The United Nations
US :	The United States of America
WEU :	Western European Union

INTRODUCTION

The term "Europe" has had different meanings in different periods throughout the history. Similarly, the region referred by this word has never had "clear or settled boundaries"[1] too. An example from very recent history is that "Europe" was used as a title solely for the western part of the continent for much of the Cold War which divided the region into two distinctive blocs, as the West and the East.[2] Member states of the Western bloc and the institutions they established for co-operation -and even for integration- in several fields confined the label "European" exclusively for themselves. Interestingly, the institutions established within the Eastern bloc did not claim any right on the title, "European".[3] The main and sufficient criterion to be accepted as "European" by the Western states and institutions is to be out of Soviet-dominated Eastern bloc as highlighted by the inclusion of Greece, Portugal and Spain into Western bloc in spite of their authoritarian character.[4]

The end of the Cold War as a result of many drastic political changes in the countries of the former Eastern bloc began in 1989 transformed fundamentally the political map of the European continent.[5] This historical development also started a debate on the meaning and content of the terms "Europe" and "European".[6] Because, most of the Central and Eastern European countries began to apply for the full membership of the Western European

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[1] William Wallace, "Introduction" in William Wallace (ed.), *The Dynamics of European Integration*, London: Pinter, The Royal Institute of International Affairs, 1992, p.14.

[2] bid, p.2.

[3] James Mayall and Hugh Miall, "Conclusion: Towards a Redefinition of European Order", in Hugh Miall, (ed.), *Redefining Europe*, 1994, p.262.

[4] Gordon Smith, "Can Liberal Democracy Spain the European Divide", in Hugh Miall (ed.), *Redefining Europe*, 1994, p.114.

[5] Robert O. Keohane, "Redefining Europe: Implications for International Relations", in Hugh Miall (ed.), *Redefining Europe*, 1994, p.229.

[6] Desmond Dinan, *Ever Closer Union – An Introduction to European Integration*, Macmillan, 1999, p.186.

institutions once they were freed from the "iron curtain" of the Cold War.[7] This required to find immediate answers for such questions as 'what is Europe?', 'what are the boundaries of Europe?'[8], 'In what sense are we to understand 'Europe' nowadays?'[9], 'who is European?' and alike. However, providing these questions with comprehensive and satisfactory answers is not as easy as it seems at first. The present difficulty in defining "Europe" arises from tentative character of the idea of "Europe". As Rumford points out, "being European means different things to different countries, and even within national boundaries different groups (ethnic, political, gendered etc) will have different perceptions."[10]

Similar debate is still active at the European academic circles. There is a variety and abundance regarding the definition of "Europe", based on "different frames of references, and different explicit or implicit preferences."[11] Since most of these definitions depend on one or two features seen as distinctive about "Europe" or "European" by their supporters, such kind of definitions are not considered to be comprehensive and satisfactory enough. It is, therefore, necessary that a new inclusive definition of "Europe" be made. This definition can be developed by avoiding from over-concentration on any features seems particular for "Europe" and by including all such aspects as a whole into the definition.[12] Accordingly, "Europe" can, at a general level, be defined as a "society of states"[13] in a certain region, sharing the distinctive characteristics below;

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[7] Wallace, "Introduction", op.cit., p.2.

[8] Barry Buzan *et al.*, *The European Security Order Recast*, London: Pinter, Centre for Peace and Conflict Research, 1990, p.45.

[9] Mayall and Miall, op.cit., p.262.

[10] Chris Rumford, *Laclau and Mouffe's Theory of Radical Democracy, and Political Identity in Contemporary Europe*, Submitted for the Degree of Doctor of Philosophy, Department of Sociology, City University, 1995, p.204.

[11] Wallace, "Introduction", op.cit., p.12.

[12] G. Smith., op.cit., p.114.

[13] Jonathan Story, "Europe in the Global State and Market System", in Jonathan Story (ed.) *The New Europe*, 1993, p.6.

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- Geographical concentration among the participating states,

- Existence of dense, interdependent and institutionalised interactions among the participating states,

- Capacity to provide common norms for the interactions of the participating states,

- Sense of a shared civilisational identity among the participating states arising from the commonalties regarding history, religion, culture as well as political and socio-economical traditions.[14]

On the other hand, at a particular level, "Europe" can be defined as the European Union (EU). Actually, the European Community (EC) has been seen as "Europe" by most of the third countries from the beginning due to supranational properties it has in many fields and the dominant position it has gained through successive attempts of deepening and enlargement. For example, it is very common in several countries that accession to the EC has been discussed as "joining to Europe" or "opposing to Europe", particularly during the 1960s. This tendency that equates the concept of "Europe" with the EC has strengthened in the post-Cold War period as the EC transformed into the EU with the ultimate objective of achieving an economic and monetary union as well as a political one among its member states. Particularly, the countries of Central and Eastern Europe have accepted that usage. For the intellectuals and political leaders of those countries, membership to the EU means 'return to Europe' or 'regaining their place in Europe'.[15]

Although this usage is an oversimplification or confusion for many authors,[16] identification of "Europe" with the EU may be confirmed when taking into account a

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[14] Hugh Miall, "Wider Europe, Fortress Europe, Fragmented Europe" in Hugh Miall, (ed.), *Redefining Europe*, 1994, pp.2 and 5-6.; G. Smith, op.cit., p.114.; Story, "Europe in...", op.cit., p.6.

[15] Dinan, op.cit., p.187.

[16] Mayall and Miall, op.cit., p.262.

number of distinctive features of the EU. These features provide the EU with a strengthening identity that has been perceived both internally and externally. In addition, there emerged a strong potentiality of the EU for being transformed into a truly pan-European organisation in the post-Cold War period both through the ongoing enlargement process and the establishment of a union in economic, monetary, and political fields.[17] Owing to these developments, the EU has gained a hegemonic or dominant position not only on its traditional member states but also on the Central and Eastern European countries following the disintegration of the Eastern bloc.[18] They altogether provide the EU with an appropriate position to represent the European society of states in the post-Cold War period. Therefore, the identification of the EU with "Europe" is no longer a confusion but a reflection of a truth emerged at the end of the Cold War.

Under the light of these two different definitions of Europe, the term "being a European state" used in this study can also be explained at two different levels. Firstly, in the general level, "being a European state" means participation to the European society of states, whose distinctive features have been given above. Secondly, in the particular level, "being a European state" means to gain full membership of the EU. This is particularly the case for the Central and Eastern European countries for whom membership of the EU is the "tantamount to securing a permanent west European identity."[19]

"Being a European state" in either sense has clear political, economic, legal, and symbolic consequences for any country that wishes to be so. It brings significant advantages and benefits[20] to such countries along with several obligations and responsibilities.[21]

[17] Micheal J. Baun, *An Imperfect Europe*, 1996, p.2.; Buzan *et al.*, op.cit, pp.46-47.
[18] Renaud Dehousse and Joseph H.H. Weiler, "The Legal Dimension", in William Wallace (ed.), *The Dynamics of European Integration*, London: Pinter, The Royal Institute of International Affairs, 1992, p.256.
[19] G. Smith, op.cit, p.118.
[20] Miall, op.cit, p.5
[21] Wallace, "Introduction", op.cit, p.17.

Politically, in addition to providing a well-working external security system, it contributes much to the internal stability of such a country. Economically, it creates opportunities for new markets and foreign investment, or at least ensures the existing ones, in a world tending to be divided into competing economic blocs.[22] Legally, it requires to obey several international norms in relations with the other European states as well as to accept domestically many political and civil rights higher than those expected from a non-European country. Symbolically, it provides an impression and respect of being a modern state.[23]

For the countries of Central and Eastern Europe seeking to gain these kind of benefits at the end of the Cold War, the EU has become the most attractive institution established in the European society of states. The EU faced a rich number of demands for its membership from those countries that commonly considered the EU as synonymous with "Europe".[24] Therefore, the hard task of defining "Europe" remained for the EU. To serve this purpose, the Copenhagen European Council held in 1993 formulated many prerequisites to be met by the applicant countries before accession to the EU. The basics for the EU membership in the political field, known as the Copenhagen political criteria, were laid down as the achievement of stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities by the candidate countries.[25]

Existence of the political values stated in the Copenhagen political criteria also constitutes one of the most distinctive features of the European society of states. Many authors furthermore tend to define the terms "Europe" and "European" on the basis of the presence of these values.[26] They are seen as core European values since they have played a

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[22] Lester Throw, *Head To Head, The Coming Economic Battle among Japan, Europe, and America*, London: Nicholas Brealey Publishing, 1994, p.29.

[23] Wallace, "Introduction", op.cit., pp.13 and 17.

[24] Dinan, op.cit., p.185.

[25] Presidency Conclusions of Copenhagen, 21-22 June 1993, paras. 7(A iii) and 8 (see Rapid file DOC/93/3).

[26] G. Smith, op.cit, p.114.

very important role in shaping the modern Europe represented today by the European society of states at the general level. In the post-war period, all institutions of the European society of states, including the EC, were constructed on the foundation of these values which to be transformed into legally-binding norms.[27] There have taken place a great increase in the importance given to these political values within the European society of states in the post-Cold War period. Almost all its leading institutions have set the acceptance of them by the applicant countries as necessary prerequisite for the membership to themselves. Consequently, the political values of democracy, the rule of law, the human rights, and the minority rights have become as pre-conditions "for being a European state" in both senses of participation to the European society of states and accession to the EU.

Turkey is among those countries to which the claim to be "European" is of major importance. "Being a European state" in both senses has been a fundamental goal for Turkey since its establishment.[28] A mixture of jeo-political, economical, social, and symbolic or ideological reasons has played a key role in the determination of that goal.[29]

Actually, Turkey has achieved to join most of the leading European institutions after that goal in the Cold War period. However, it can be argued that this achievement became possible owing mainly to its contribution to the security of the European society of states in the context of the Cold War. Once a substantial decline in this need perceived by the members of that society at end of the Cold War, the place of Turkey in Europe began to be questioned in some parts of the European academic and political circles. They have mostly been referring to the observed shortcomings of Turkey regarding the situation of the values

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[27] Wallace,"Introduction", op.cit, p.16.

[28] Oral Sander, *Siyasi Tarih II*, Ankara: Imge Kitabevi, 1989, p.63.; Deniz Vardar, "Türkiye-AT İlişkileri", in Faruk Sönmezoğlu (ed.), *Türk Dış Politikasının Analizi*, İstanbul: Der Yayınları, 1994, pp.123-124.

[29] Sadi Ergüvenç, "Turkey: Startegic Partner of the European Union", *The Foreign Policy Quarterly*, Vol.:20, No: 1-2, 1996, p.9.; Deniz Vardar, "Türkiye'nin Batı Avrupa Kurumlarına Girişi ve Kamuoyu", in Faruk Sönmezoğlu (ed.), *Türk Dış Politikasının Analizi*, İstanbul: Der Yayınları, 1994, pp.373 and 375.

stated in the Copenhagen political criteria.[30] Besides, Turkey is not a full member of the EU at the present. Consequently, all these shows that Turkey has yet to achieved fully its long-lasting goal "being a European state", at least in the particular level.

On the light of the above given explanation, this study aims to examine the relationship between the notion "being a European state" and the Copenhagen political criteria. After doing so, it also aims to deduce some concluding remarks concerning Turkey that has long aspired after "being a European state."

The content and arrangement of the chapters are as follows; Chapter One discusses the definition of the term "being a European state" that constitutes the key term on which this study is based. In doing so, various perspectives on the meaning of the concept "Europe" or "European" are examined together with their criticisms to indicate the need for a more comprehensive definition. Chapter Two focuses on the development process and distinctive features of the European society of states, participation to which equals "being a European state" at a general level for this study. Similarly, Chapter Three deals with the distinctive features of the EU, accession to which is considered "being European state" at a particular level. Chapter Four examines the relationship between the Copenhagen political criteria and "being a European state" in both senses. Chapter Five, the final chapter, aims to deduce some concluding remarks concerning Turkey. In doing so, a brief assessment on Turkey's compliance with the Copenhagen political criteria is made so as to determine whether it is comparable to the importance given by Turkey for "being a European state".

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[30] Seyfi Taşhan, "A Turkish Perspective on Europe-Turkey Relations on the Eve of the IGC", *The Foreign Policy Quarterly*, Vol.: 20, No: 1-2, 1996, p.55.; Mehmet Öğütçü, "Religious Bias in the West Against Islam: Turkey as a Bridge in Between?", *Avrupa Birliği-Türkiye-Avrasya: New Trends in EU-Turkey Cooperation Seminar Document*, İstanbul: M.Ü. EC Institute and TEPSA, 22-23 September 1994, p.15.

I.   ON THE MEANING OF THE TERMS: "EUROPE", "EUROPEAN", and "BEING A EUROPEAN STATE"

1.1. The Meaning of "Europe" and "European" in the Cold War Period

The term "Europe" has had different meanings in different periods throughout the history. Similarly, the region referred by this word has never had commonly agreed boundaries.[31] This is particularly the case as regards its eastern borders, which have often been "defined politically rather than geographically."[32]

Actually, it is not unusual that the term "Europe" has been politically or ideologically loaded over many centuries and its boundaries have been drawn accordingly.[33] An example from very recent history is that "Europe" was used as a title solely for the western part of the region for much of the Cold War, which divided the region into two distinctive blocs as the West and the East.[34] The dividing line was drawn according to whether the regimes of countries were designed on the Soviet or the Western models.[35] Member states of the Western bloc and the institutions they established for co-operation, even for integration, in several fields confined the label "European" exclusively for themselves. Interestingly, those in the Eastern bloc did not claim any right on that title.[36] The basic criterion to be accepted as "European" is to be out of Soviet-dominated Eastern bloc as highlighted by the inclusion of Greece, Portugal and Spain into Western Europe in spite of the their authoritarian character.[37]

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[31] William Wallace, *The Transformation of Western Europe*, 1990, pp.7-8.

[32] Flora Lewis, *Europe, Road to Unity*, 1992, p.2.

[33] Mayall and Miall, op.cit., p.270.

[34] Wallace, "Introduction" op.cit., p.2.

[35] Neill Nugent, *The Government and Politics of the European Community*, 1991, p.5.

[36] Buzan *et al.*, op.cit., p.46.

[37] G. Smith, op.cit., p.114.

1.2. The Meaning of "Europe" and "European" in the post-Cold War Period

Many drastic political changes began in 1989 in the countries of the former Eastern bloc subsequently marked the end of the Cold War. Most important of them include the collapse of the Communist regimes in those countries, break up of the Eastern bloc, disintegration of the Soviet Union into several independent states, and reunification of Germany.[38] All these changes fundamentally transformed the political map of Europe bringing an uncertainty related to its borders.[39] It also triggered a debate on the meaning of the terms "Europe" and "European" since a rich number of applications for the membership to the European institutions were made by the Central and Eastern European countries which were freed from the "iron curtain" of the Cold War.[40] This development required to find immediate answers for such questions as 'what is Europe?', 'what are the boundaries of Europe?', 'In what sense are we to understand 'Europe' nowadays?', "who is European?", or so on.[41]

It should be noted that the task of answering such questions regarding the meaning of "Europe" and "European", comprehensively and satisfactorily enough, is not as easy as it seems at first. The basic difficulty arises from the subjectivity of the idea which gives way for the tendency to define Europe according to political or ideological preferences. As Rumford puts it, "being European means different things to different countries, and even within national boundaries different groups (ethnic, political, gendered etc) will have different perceptions."[42]

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[38] Keohane, op.cit., p.229.

[39] Lewis, op.cit., p.33.

[40] Wallace, *Transformation...*, op.cit., pp.93-94.

[41] Buzan *et al.*, op.cit., pp.45 and 50. ; Mayall and Miall, op.cit., p.262.

[42] Rumford, op.cit., p.204.

1.3. Different Perspectives on the Meaning of "Europe" and "European"

There is a variety and abundance in the definition of "Europe" and "European" in the European academic circles owing to the subjectivity of these terms. The most popular definitions are those based on geography, membership of institutions, and civilisational identity derived from a common culture, history, religion, and political values.

1.3.1 Geographical-Based Definition of "Europe"

From a geographical view, as seen from the map just below, the region extending from Atlantic to the Urals and Artic Circle to Mediterranean is accepted as "Europe". From this perspective, "Europe" stops where Asia and Africa begin and countries outside this region do not belong to "Europe".[43]

It should be remembered that the Commission of the European Communities used this geographical criterion when it assessed Morocco's application for the membership to the EC in 1986. It rejected this application on the ground that EC was open only to a 'European state' as laid down in the Article 237 of the Rome Treaty, which regulates the membership to the EC.[44] It can be inferred from both the content of the article and the Commission's opinion in this case that states outside the given region, like Morocco, are accepted as "non-European."

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[43] Wallace, "Introduction", op.cit., pp.12-13 and 18.

[44] Iver B. Neumann, "European Identity, EU Expansion, and the Integration/Exclusion Nexus", *Alternatives: Social Transformation & Humane Governance*, Vol.: 23 No: 3, July-September 1998, p.400.

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[43] Wallace, "Introduction", op.cit., pp.12-13 and 18.

[44] Iver B. Neumann, "European Identity, EU Expansion, and the Integration/Exclusion Nexus", *Alternatives: Social Transformation & Humane Governance*, Vol.: 23 No: 3, July-September 1998, p.400.

However, geographical definition is not always satisfactory enough since boundaries of "Europe" have been frequently redrawn according to the political and economic developments throughout the history. As Moller puts it, "history shows that every European generation makes its own economic and political geography.[45] Particularly, the boundary between "Europe" and Asia, which is generally described by the modern geographers as the Ural Mountains, the Ural River, part of the Caspian Sea, and the Caucasus Mountains,[46] has been shifting parallel to political or economic changes in the region. For example, as Wallace points out, "Europe" did not have a different geographical identity during the Roman Empire when Mediterranean was its centre. In addition, while Soviet Union as a whole was definitely seen as outside "Europe" during the Cold War period, many of its former states, such as Ukraine and Baltic states, began to be considered as parts of "Europe" after the end of Cold War. The following statement sums up the case: "'Europe' is a geographical expression with political significance and immense symbolic weight, but without clear definition or agreed boundaries."[47]

1.3.2. Religion (Christianity)-Based Definition of "Europe"

Another definition of "Europe" is made on the ground of common religion, that is, Christianity. According to this view, "Europe" is synonymous with Christianity, and can distinctively be defined by it. The borders of "Europe" stop where footprints of Christianity disappear giving place to other religions. As Wallace notes, there are attempts in some countries to prove their 'Europeaness' depending on this perspective. For example, during the war in Bosnia, Serbs have argued that, being "European" owing to their non-Muslim

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[45] J.Orstrom Moller, *The Future European Model, Economic Internalisation and Cultural Decentralisation*, Praeger Studies on the 21st Century, 1995, p.1.

[46] *Microsoft Encarta Encyclopedia*, Title Europe, Microsoft Corporation, 2000.

[47] Wallace, "Introduction...", op.cit., p.14.

character, they were defending European civilisation against Muslim threat. Similarly, for some in Orthodox countries, like Greece, Romania, Bulgaria and Russia, a shared religion in broader sense of Christianity makes them "European" contrary to their Islamic neighbours, like Bosnia and Turkey. It should be noted that a more extreme form of this view takes Catholic Christendom as the basis on which it develops a narrower conception of "Europe". For those in such countries of Austria, Hungary, Czech Republic, and Poland, it is Catholicism that makes them "European". All other countries, including Orthodox ones like Russia, are outside the scope of this conception.[48]

Although the identification of Christendom, particularly of Catholic Christendom, with "Europe" may be true in the medieval and the pre-modern eras, this view seems not so much valid today. The following reasons can, referring to Rumford, be given: Firstly, having an extra-European origin, Christianity has also had a very long history in other parts of the world. Secondly, followers of other religions have always been existed and played an important part in the history of the continent. Thirdly, following the Reformation, Christianity lost its uniformity being divided into the Orthodox, Catholic, and Protestant. This gradually created many societal and cultural differences among the loyal states of each sect. Finally, perhaps more importantly, the role of Christianity in the organisation of social life and politics weakened due to the experienced modernisation process in Europe.[49]

1.3.3. Civilisation-Based Definition of "Europe"

Another perspective depends on the elements that determine a civilisation in defining "Europe", such as culture and common historical heritage. According to this view, "Europe" is a cultural community with a common historical heritage inherited from Ancient Greece

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[48] Wallace, *Transformation...*, op.cit., pp.17-19.
[49] Rumford, op.cit., pp.191-193.

and Rome, via feudal Christian Europe, to modern Europe. Reflecting this perspective, Buzan and his colleagues describe "Europe" as "a combination of the nations within Europe plus the formation of an overarching civilizational identity with the label 'European'."[50] Similarly, according to Thomson, highly dense and constant interactions between the nations of Europe for about two millennia have created a common European historical heritage. And, this has helped Europeans construct a common civilisational identity.[51]

It is noted that this view has also been shared by most of the supporters of European integration process under the framework of the EC/EU. They have thought that a definition of "Europe" on civilisational terms will make the formation of a separate 'European identity' easier, which in the end increases a great solidarity among the member states.[52] As Nugent cites, this approach was voiced by Walter Hallstein, the first President of the Commission of the European Economic Community (EEC): "Europe is no creation. It is a rediscovery...Europe shares many things: its memories that we call history; achievements it can take pride in and events that are shameful; its joys and its sufferings; and not least its tomorrows."[53]

However, since this view is a fertile ground for intellectual dispute, it is not also away from criticism. The strongest argument seems to be the existence of some other regions which are close to "Europe" in civilisational terms. For example, North America and Australia also share many of those common historical and cultural features considered to be exclusively "European".[54] In addition, Nugent argues that it is easier to observe linguistic, religious or cultural differences throughout Europe than a common identity based on shared historical heritage.[55]

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[50] Buzan et al., pp.50-51.
[51] David Thomson, *Europe Since Napoleon*, Penguin Books, 1965, pp.17 and 82.
[52] Neumann, op.cit., p.3.
[53] Nugent, op.cit., p.12.
[54] Buzan et al., op.cit., p.46.
[55] Nugent, op.cit., pp.5-6 and 12.

1.3.4. Political Values-Based Definition of "Europe"

Another perspective on the definition of "Europe", as Rumford notes, associates the term with the presence of many common political values. Described generally as 'liberal-democratic', the roots of these values are mostly accepted as going back to the Enlightenment and the French Revolution. From this view, the borders of "Europe" end where these values do not come into existence.[56]

The problem that this view of "Europe" presents is how to distinguish it from the other parts of the world, particularly the US, which shares many of those values as the Cold War concept of 'the free world' reflects.[57] However, it should be noted that this study discusses the same view as part of Chapter Two when trying to explore the content of the notion "being a European state" in the contemporary terms.

1.3.5. Institution-Based Definition of "Europe"

The final perspective defines "Europe" in terms of membership to the institutions established in the region. From this view, there are several alternative "Europes" with clear boundaries. The first one is the "Europe" represented by the EU. The roots of this view that identifies "Europe" with the EU trace back to the 1960s. Parallel to the four waves of enlargement experienced by the EU so far, the borders of that "Europe" has enhanced greatly. The second and third institutional "Europes" are defined according to memberships of the Organisation for Economic Co-operation and Development (OECD) and that of the Council of Europe respectively, whose borders have also expanded gradually. Finally, it is the Organisation of Security and Co-operation in Europe (OSCE) area that represents the

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[56] Rumford, op.cit., p.175.
[57] Wallace, "Introduction..." op.cit., pp.12-13 and 18.

broadest "Europe" including almost northern hemisphere of the continent.[58]

Similarly, Buzan and his colleagues, define "Europe" depending on the membership to existing security institutions. According to them, "Europe" can be seen as a sub-security complex in which securities of a group of states are so closely interdependent to each other that make them as a distinctive entity within the overall international security structure. They noted existence of four different "Europes" in security terms in 1990.[59] However, the passing decade has made many of these "Europes" outdated. Using the same view, there can be drawn three different boundaries for "Europe" today. Accordingly, the first Europe includes "the European members of the enlarged NATO, the North Atlantic Treaty Organisation". The second is the "Europe of the EU" with its present fifteen Member states that are taking steps towards forming a distinctive security and defence identity. The final Europe is, again, "the OSCE Europe" stretching from Vancouver to Vladivostock.

It should be noted that this institutional-based view on "Europe" is also reflected, to an extent, in this study in the next Chapters.

1.4. A More Comprehensive Definition of "Europe" at Two Levels

Since most of the perspectives mentioned above depend on one or two features in defining "Europe" or "European", these definitions can not be seen as comprehensive and satisfactory enough.[60] It is, therefore, necessary that a new inclusive definition of "Europe" be made. As Smith rightly points out, such a definition can only be developed by avoiding

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[58] Wallace, *Transformation...*, op.cit., pp.8-9.

[59] Buzan *et al.*, pp.14-16 and 45-49.

[60] Zeynep Atikkan Gültekin, "Türkiye Sorunu Aynasında Avrupa", *Foreign Policy*, İstanbul : İstanbul Bilgi Üniversitesi Yayını, Yaz 1999, pp.74-75.

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from 'over-concentration' on any feature that seems essentially useful in defining "Europe". Therefore, a more general approach that gives equal importance to each of those features and includes them as a whole into the definition would be more comprehensive and useful.[61] Indeed, only such a general approach may prevent one from being tapped by the subjectivity of the term "Europe".

1.4.1. "Europe" as the European Society of States

Due to the above given reason, "Europe" can, at a general level, be defined as a "society of states" developed in the Western part of the region after the Second World War (II.W.W) as a sub-set of the European state system.[62] It is an international society in which highly dense and interdependent interactions have emerged among the participating states. In addition, the common institutions established to regulate these interactions have developed a rich number of common norms not only for the conduct of the external relations among the participation states but also for implementation in their domestic affairs.[63] Moreover, there are a number of common characteristics among its member states, particularly regarding history, religion, culture, political and economic traditions, which all together provide a shared civilisational identity to those states.

The historical development and distinctive features of the European society of states will be examined in detail in Chapter Two.

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[61] G. Smith., op.cit., p.114.

[62] Conway W. Henderson, *International Relations Conflict and Co-operation at the Turn of the 21st Century*, Boston and New York: McGraw Hill, 1998, p.19.; Story, "Europe in...", op.cit., p.6.

[63] Miall, op.cit., p.6

1.4.2. "Europe" as the European Union

On the other hand, "Europe" can be equated with the EU at a particular level. Although the identification of "Europe" with the EU is considered as an 'oversimplification' by many authors, like Mayall and Miall,[64] it may be confirmed given the strong potentiality of the EU for being transformed into a truly pan-European organisation in the post-Cold War period. The signs in this direction have already appeared as examined in detail in Chapter Three.

1.5. The Meaning of the Notion "Being a European State"

Under the light of these two different definitions of Europe, which can be described as general and particular respectively, the term "being a European state" used in this study can also be explained at two different levels. Firstly, in the general level, "being a European state" means to participate to the European society of states, as examined in details in Chapter Two. Parallel to the second definition of Europe, which equates it with the EU, "being a European state" means, in particular level, to gain full membership of the EU, as examined in Chapter Three.

1.6. Consequences of "Being a European State"

Becoming a European state in either sense has clear political, economic, legal, and symbolic consequences for any state wishes to be so. It brings significant advantages and benefits to the participating states along with several obligations and responsibilities.

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[64] Mayall and Miall, op.cit., p.262.

The benefits of "being a European state" can briefly be given as follows: Politically, in addition to providing a well-working and more secure security system, it contributes to the stability of domestic political system of any "European state" by ensuring consolidation of democracy and respect for human rights within the country concerned. Likewise, it also provides many economical benefits for such a state. They particularly include opportunities for growth and prosperity through creating external markets and either attracting foreign investments or ensuring the existing ones at least.[65] This has a great significance given the present situation of the world economy tending to be divided into competing blocs.[66] It is particularly the case when the term "being a European state" is understood in the sense of accession to the EU. As Keyes notes, the on-going enlargement process will dramatically increase the number of consumers, over 500 million, living in the area of internal market. It also contributes to the establishment of a stable and competitive economy via substantial technical and financial assistance to be provided by the EU for necessary economic reforms. On the other hand, some potential short-term costs of "being a European state" in this sense include contributions to Community budget, cost of compliance with the acquis, and structural adjustments, which may bring in some unemployment.[67] Symbolically, "being a European state" provides an impression and respect of being a modern state. As Wallace points out, particularly during the 19th Century, 'Europeanisation' was seen as identical with 'modernisation' by many non-European countries, such as Russia, Japan, and Ottoman Empire.[68] It can be argued that this view is still shared by a number of people, especially by most of the governing elites, in the countries wishing "being a European state".

It should be noted that most of the obligations and responsibilities derived from "being a European state" are in legal field. In addition to the requirement as to obeying

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[65] G. Smith, op.cit., p.117-118.

[66] Throw, op.cit., p.29.

[67] Matthew Keyes, "The Enlargement Negotiations", *Proceedings of Enlargement and Civil Society Conference,* Brussels: The European Commission and Caritas, October 1999, p.28.

[68] Wallace, *Transformation...,* op.cit., pp.13 and 17.

several international norms arranging the interactions among the participating states, "being a European state" requires domestically the implementation of many political and civil rights higher than those accepted in non-European countries. These obligations and responsibilities will be much more highlighted in Chapter Two and Three.

II.   "BEING A EUROPEAN STATE" IN THE SENSE OF PARTICIPATOIN TO THE EUROPEAN SOCIETY OF STATES

2.1.   On the Term "Society of States"

A "society of states", (or international society) is conceptually defined as a sub-set within the inpernational system, in which common rules and institutions have voluntarily been developed by a group of participating states for the conduct of their interactions. In this society, while sustaining its autonomy, each participating state pursues peaceful interaction and tends to make co-operation as a means for the achievement of their common interests.[69]

This explanation implies that the main actors of that society are nation-states rather than peoples. However, for some authors like Scholte, there appears a decline in importance of these actors.[70] The reasons for the emergent loss of importance that the nation-state has had for many centuries can be summarised as follows:

-   Increase in the legacy and popularity of democracy, which has discredited nationalism, particularly its extreme forms,

-   Decline in the perceived need, particularly in Western Europe, for a strong nation-state against communism owing to the end of East-West confrontation,

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[69]   Robert H. Jackson, "The Evolution of International Society", in John Baylis and Steve Smith (eds.), *The Globalisation of World Politics – An Introduction to International Relations*, Oxford: Oxford University Press, 1997, p.35.; Story, "Europe in...", op.cit., p.6.

[70]   Jan Aart Scholte, "Globalisation and the States-System" in John Baylis and Steve Smith (eds.), *The Globalisation of World Politics – An Introduction to International Relations*, Oxford: Oxford University Press, 1997, pp.21-22.

- Rise of separatist or regionalist tendencies within many nation-states as well as that of globalist or supra-nationalist tendencies towards international governance as reflected by the EU.

- Emergence of new actors in the world politics, such as specialised international agencies, multi-national corporations (MNC), and non-governmental organisations (NGOs).[71]

However, for some other authors like Taylor, and Farnsworth, despite these developments, nation-states remain as main actors in the international system though they have been obliged to co-ordinate their actions along with the increased level of interdependency among them.[72] This is particularly the case for the member countries of the European society of states, whose development process and distinctive features are examined below.

2.2. Development of the European Society of States

The European society of states has developed depending on the European state system since it constitutes a sub-set of that system. Therefore, it seems necessary to begin with the examination of historical process during which the European state system emerged and developed.

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[71] Michael Barratt Brown, *Models in Political Economy*, Sec.Edition, Penguin Books, 1995, pp.289-291.; See also, Aslan Gündüz, "Eroding Concept of National Sovereignty: The Turkish Example", *Marmara Journal of European Studies*. Istanbul: Marmara University European Community Institute, Vol.:1, No: 1-2, 1991, pp.99-154.

[72] Paul Taylor, *International Organisation in the Modern World.* London and New York: Pinter Publishers, 1993, p.252.; David N. Farnsworth, *International Relations – An Introduction,* Chicago: Nelson-Hall Inc., 1988, p.17.

2.2.1. Development of the European State System

Generally speaking, the period from the disintegration of the Roman Empire in the 4th Century A.D until the mid-15th Century is the era of feudalism for Europe. During this long period, a decentralised international structure was gradually developed in the continent. Main actors of that structure were small independent states in the form of principalities, kingdoms, or even towns. The subsequent era from mid-15th Century to the end of the 18th Century, according to McNall Burns and his colleagues, constitutes the early-modern period of European history. During this period, Western Europe, the present centre of the European society of states, experienced a great transformation, losing much of its medieval characteristics, mainly owing to the maritime explorations and the Protestant Reformation.[73]

The origins of European state system may be traced to the beginning of this era. It was formed at the Congress of Westphalia, held in 1648 at the end of the Thirty Years' War, As Kegley and Raymond point out, there is no consensus among the historians on the description and duration of this war. However, the title 'Thirty Years' War' conventionally refers to the series of wars fought during the decades between 1618 and 1648 primarily in Germany and Bohemia. For one thesis, it began as a religious conflict and eventually turn into a struggle for hegemony among the great European powers. For another thesis, the process worked in opposite direction. The common agreement is that, motivated by a mixture of intellectual, territorial, dynastic, religious, economic, military, and political factors, the Thirty Years' War represents a bridge between the medieval and modern Europe.[74]

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[73] Edward McNall Burns *et al.*, *World Civilisations*, Seventh Edition, New York and London: W.W. Norton & Company, 1986, pp.591-592.; For Brady and his colleagues, the period between 1400 and 1600 in the European history constitutes the early-modern age. See, Thomas A. Brady Jr. *et al.*, "Introduction", in Thomas A. Brady Jr. *et al.*, (eds.), *Handbook of European History 1400-1600 I*, Grand Rapids, Michigan: William B. Eerdmans Publishing Company, 1996, p.xxi.

[74] Charles W. Kegley, Jr. and Gregory A. Raymond, *Exorcising the Ghost of Westphalia – Building World Order in the New Millenium*, New Jersey: Prentice Hall, 2002, pp.13-17 and 50.

Similarly, the Congress of Westphalia was the first general assembly of Europe concerning with the common issues. Actually, it represents one of the major events in the history of Europe. Because, it ended not only the wars of religion but also the threat for hegemony by the Holy Roman Empire in the continent. More importantly, it established the foundations for the emergence of the modern state system in Europe, introducing the concept of sovereignty and some other basic norms to govern the relations between the participating states. It should be noted that most of these norms still remain to organise the conduct of contemporary international relations. Perhaps for this reason, Kegley and Raymond label the Congress of Westphalia as a living 'ghost', listing its achievements and failures in more details. To begin with the positive side, firstly, it ended wars motivated by religious considerations, providing religious guarantees for Protestant and Catholic princes. Secondly, it gave an end to the threat of the hegemonic domination in Europe, prohibiting any interference to the sovereign state. Finally, it established the foundations of the modern state system with necessary mechanism and principles for mediating disputes among the parties. As regards the negative side, firstly, the Congress of Westphalia failed to guarantee complete religious freedom. Secondly, it opened the way for hegemonic rivalry in Europe by legitimating the drive for military power. Thirdly, it introduced the system of balance of power among the great European powers. Finally, it planted the seeds for eventual birth of nationalist sentiments against the settlement.[75]

Being an 'anarchic system' without any overall authority,[76] the original Western European states system eventually enlarged to include Eastern Europe and Russia in the 18th Century.[77] The establishment of central monarchies during the same century constituted the

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[75] Ibid, pp.1-2 and 136-137.
[76] Jackson, op.cit., p.41.
[77] Wallace, *Transformation...*, op.cit., p.17.

foundations for the emergence of modern nation-states in 19th Century.[78] They became the main actors of the enlarged European states system, which was eventually transformed into a global one owing to the expansion of Europe brought by the so-called imperialism towards the end of this century.[79]

In fact, 19th Century could be seen as the birthday of the modern Europe after a long-lasting conflict between the forces in favour of it and against. Thomson describes the formers as 'the forces of change' and the latters as 'the forces of continuity'. The French Revolution and Industrial Revolution represent two of the most important so-called forces of change. Consequently, a new order in the European states system was established at the Congress of Vienna held in 1814-1815 as the second general assembly of Europe concerning the common issues. It was not actually a new order, on the contrary, it reflected the old one in a restored form based on the general principles of 'conservatism' and 'balance of power'. The so-called 'Congress System' and 'Concert of Europe' were established as the mechanisms to implement these principles. While the former constituted the machinery for the settlement of disputes, the latter meant the periodic consultations among the great European powers on common actions needed for the maintenance of the peace in the continent.[80]

The established order of European states system was destroyed by the revolutions of 1830 and 1848, whose main potent force was nationalism and liberalism, giving way for an interim period between 1851-1870.[81] The settlement of 1871 not only ensured the German unification but also opened a new era during which so-called Realpolitik was applied in the interactions among the European states. However, it also brought an embryonic society of

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[78] Antonio Cassese, *International Law in a Divided World*, Clarendon Paperbacks, 1988, pp.35-37.; Burns *et al.*, op.cit., pp.591-592

[79] Jackson, op.cit., p.42.

[80] Thomson, op.cit., pp. 81, 93-96, 134-135, 139.

[81] Moller, op.cit., pp.2-3.

European states in which successful co-operations between the participating states took place so long as they did not infringe their sovereignty to any extent.[82]

It was the First World War (I.W.W.) that marked the end of this order of the European state system. The subsequent order witnessed contrary developments in the first and second half of the period until 1945. In the first half of this period, that is until 1930, there occurred developments in favour of peace and stability. A case in point was spread of 'internationalism' giving way for the establishment of pioneering international organisations for co-operation among the states. But, the trend reversed after 1930 and many important events, such as the emergence of an immense economic crisis, resurgence of aggressive military powers, and rise of tendencies towards disintegration among the nation states, gradually demolished the established order causing for another great war.[83]

The end of the II.W.W brought in many great changes to the European states system. First of all, as one of the main consequence of the II.W.W, the traditional great powers of the European states system lost their influencing power and hegemonic position in the world. The United States and the Soviet Union promoted to this position as the new superpowers.[84] Under their leadership, Europe was divided into Eastern and Western blocs by an imaginative 'iron curtain'. The subsequent Cold War between the two blocs continued to dominate the relations between them during the whole period until 1989 despite a period of detenté.[85] This context facilitated the formation of the European society of states in the Western Europe, making the participating states recognise the need for co-operation, even

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[82] Thomson, op.cit., pp.321-322, 536-540.

[83] Susan L. Carruthers, "International History", in John Baylis and Steve Smith (eds.), *The Globalisation of World Politics – An Introduction to International Relations*, Oxford: Oxford University Press, 1997, p.50.

[84] Farnsworth, op.cit., p.77.; Buzan *et al.*, op.cit., pp.57-58 and 21.

[85] Fred Halliday, *The Making of the Second Cold War*, London: Verso, 1986, p.34.; Rondo Cameron, *A Concise Economic History of the World*, Second Edition, New York and Oxford: Oxford University Press, 1993, p.340.

for integration, in several fields.[86] The emergent European society of states has represented a distinct sub-set in the global system.[87]

The end of the Cold War, as illustrated by the collapse of the Berlin Wall and that of communism, the disintegration of Eastern bloc and that of the Soviet Union, and reunification of Germany in the early years of 1990s, altered political and security environment in Europe.[88] It brought new possibilities not only for disorder and conflicts[89] but also for the enlargement of the European society of states towards the East, as did the European state system in the past. Despite forming a large new state system, most members of former Soviet multinational system are linked to the European society of states through the membership of the institutions established there or through partnership and association agreements with those institutions, particularly with the EU.[90] The participating countries of the European society of states have opened the doors of these institutions for new comers providing that they comply with certain conditions that are best formulated as the Copenhagen political criteria. The connection between the Copenhagen political criteria and "being a European state" is examined in detail in Chapter Four.

This examination made so far on the development process of the European society of states may be finished with an observation, made by Mayall and Miall, on its future in the post-Cold War period. Hence, there is the possibility of a gradual transformation of that society "in ways which would break the jurisdictional monopoly of the sovereign state."[91]

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[86] Lewis, op.cit., pp.27 and 30.; Moller, op.cit., p.3

[87] Story, "Europe in...", op.cit., pp.3-4, 11, 14, and 19.

[88] Keohane, op.cit., p.229.; Moller, op.cit., p.4.

[89] Richard Crockatt, "The End of the Cold War", in John Baylis and Steve Smith (eds.), *The Globalisation of World Politics – An Introduction to International Relations*, Oxford: Oxford University Press, 1997, p.103.; Baun, op.cit., pp.1-2, and 156.

[90] Miall, op.cit., pp.1-2 and 3-5.

[91] Mayall and Miall, op.cit., pp.264-266.

2.3. Distinctive Features of the European Society of States

According to Nieminen, a "society" is simply a large group of people who interact with each other and share some commonalties such as institutions, history, identity and a sense of solidarity. From this definition, it can be inferred that many bigger units, like European society of states, share such common characteristics referred here.[92] Thus, referring to several authors, the distinctive features of the European society of states are stated:

- Geographical concentration among the participating states,

- Existence of dense, interdependent and institutionalised interactions among the participating states,

- Capacity to provide common norms for the interactions of the participating states,

- Sense of a shared civilisational identity among the participating states arising from the commonalties regarding history, religion, culture as well as political and socio-economical traditions.[93]

It should be noted that these features can be divided into two main groups. While the first group include those intrinsic to the European society of states itself, the second group is composed of the features commonly shared by the participating states and contribute to perception of a shared civilisational identity among them. All features are examined briefly in the following pages.

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[92] Ari Nieminen, *Towards a European Society? Integration, Industrial Relations and Equality*, University of Helsinki, Department of the Sociology of Law, 1996, p.1

[93] Wallace, "Introduction...", op.cit., pp.13.and 20.; Story, "Europe in...", op.cit., p.6.; Miall, op.cit., pp.2 and 5-6.; Buzan *et al.*, op.cit., p.50.; Baun, op.cit., p.1.

2.3.1. Existence of Geographical Concentration

The first distinctive feature of the European society of states is the geographical concentration of its participating states. Indeed, the member states of the society are mostly located in the Western Europe in geographical terms. As Wallace points out, this region constitutes the core area of the modern Europe represented presently by the European society of states. Many historical developments in this region have contributed to the building of that society notably for the last three centuries. More specifically, this core area covers the territories of the six original member states of the EC in geographical terms. However, the borders of that core area are dynamic rather than static since it has attracted the peripheral countries towards itself as it develops.[94]

This geographic concentration of the European society of states around an identifiable core area makes it "unparalleled elsewhere in the world,"[95] particularly in terms of pattern of production and that of trade.[96]

2.3.2. Existence of Dense Interactions

Another distinctive feature of the European society of states is the density of interactions among its participating states.

Even in as early as the 19th Century, the interactions among the nations in the Western Europe, the core area of the European society of states, was so dense in several fields that they seemed to be members of a single society having many common patterns.[97]

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[94] Wallace, *Transformation...*, op.cit., pp.13-15. ; Wallace, "Introduction...", op.cit., pp.14-15, and 20.

[95] William Wallace, *Regional Integration: The West European Experience*, Washington, D.C.: The Brookings Institution, 1994, p.11.

[96] Per Magnus Wijkman, "Patterns of Production and Trade", in William Wallace (ed.), *The Dynamics of European Integration*, London: Pinter, The Royal Institute of International Affairs, 1992, p.89.

[97] Thomson, pp.17 and 82-84.

However, it is the constantly increasing density emerged in the interactions among the participating states after 1945 that makes the European society of states as "unique entity".[98] Particularly, the development of globalisation since the 1970s onwards has brought in a substantial increase in the density of those interactions through several ways, such as trade, investment, capital flows, cross-national corporations, large-scale movements of people, enhanced forms of transportation, and of communication.[99]

Parallel to this increasing density in the interactions among the participating states, as Nugent points out, the content of those interactions have also transformed since the II.W.W. Firstly, they have transformed from hostile to friendly relations and today an armed confrontation between any two of them does not seem plausible. Secondly, the content of the international agendas has increasingly shifted from centring upon 'high policy' issues onto 'low policy' issues. Thirdly, the traditional diplomatic instruments for formal communications among the participating states have been outdated in favour of new channels and processes, such as written communications, telephone conversations, telex messages, bilateral and multilateral meetings.[100]

2.3.3. Existence of Interdependent Interactions

The increasing density of interactions among the member countries of the European society of states produced a complex interdependency among them in several fields, including political, military, economic, and environmental spheres.

It can be argued that, even as early as 1815, the arrangements by the Vienna Congress, shows the presence of an increasing perception on the emergence of a political

[98] Story, "Europe in...", op.cit., p.7-8.
[99] Elke Thiel, "Changing Patterns of Monetary Interdependence", in William Wallace (ed.), *The Dynamics of European Integration*, London: Pinter, The Royal Institute of International Affairs, 1992, pp.69-70 and 72.
[100] Nugent, op.cit., p.10.

interdependency among the European states. The establishment of the so-called 'Congress System' and 'Concert of Europe' were the products of that perception. Indeed, the leading designer of these arrangements, Metternich, was of the opinion that states had the right to take concerted action against internal events in another state that had impact on themselves.[101] In addition, it should be noted that an economic interdependency among the states in Western Europe had also emerged due to rapid expansion in industrial production and trade as well as growth of large national debts, foreign loans and investments. Similarly, the increase in the number of international congresses or conferences aimed at co-operation among the European states in many fields until the I.W.W. can be seen as evidence for recognition of an interdependency among them in those fields, particularly in the economical one.[102]

However, it was after 1945 that a complex interdependence among the member countries of the European society of states emerged in almost all fields. Consequently, although states remain the main actors of that society, the ability of their governments to make autonomous actions has weakened to a considerable extent. They are no longer in the previous position where they were able to act domestically however they wanted. This is particularly the case regarding economic and financial issues which are longer restricted within the national boundaries and increasingly vulnerable to outside events.[103]

Consequently, it is obvious that, today, the interdependency among its participating states, particularly in political and economical fields, is at such a high level that the European society of states can easily be distinguished from outside.

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[101] William L. Langer *et al.*, *Western Civilisation II The Expansion of Empire to Europe in the Modern World*, Second Edition, New York and London: Harper & Row Publishers, 1968, pp.140-141.
[102] Thomson, op. cit., pp.92, 134-135, and 939.
[103] Story, "Europe in...", op.cit., pp.5-6.; Miall, op.cit., p.5.

2.3.4. Existence of Institutionalised Interactions

The complex interdependency emerged after 1945 among the member countries of the European society of states enforced them to co-operate and even integrate with each other.[104] Along with some other factors derived from the Cold War context, this necessity required the establishment of several institutions as framework for co-operative efforts in the European society of states.

Actually, the roots of these efforts in the Western Europe trace back to the second half of the 19th century. There seen a remarkable increase in the number of international congresses or conferences aimed at co-operative relations among the states in that region. Although most of these attempts were not in institutionalised form, few of them had the chance to become the pioneers of the subsequent international organisations. This tendency towards internationalism increased immediately after the I.W.W. with the establishment of the League of Nations in 1919. Main task of that international organisation was to build peace and stability both in Europe and in the world. Despite its universality, the League was dominated by the European states in practice. While it failed in providing collective security for its member states, the League was more successful in ensuring consultation and co-operation among them.[105] Besides the League and its related bodies, many other international organisations were established in first decade of the inter-war period aiming basically at voluntary co-operation among their member states. However, after the early 1930s, this tendency towards 'internationalism' in Europe was replaced by the emergent tendencies towards extreme nationalism and totalitarianism.[106]

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[104] Henderson, op.cit., p.56.
[105] Cassese, *International Law...*, op.cit., pp.60-62.
[106] Thomson, op.cit., pp.536-539 and 636-647.

The end of the II.W.W. marks a turning point in the history of co-operation and in the subsequent establishment of institutions for this purpose in Western Europe where the European society of states emerged. Following it, a number of institutions were established by the participating states of that society for co-operation in several fields. The main factors behind this development can, according to Nugent, be placed into two groups as political and economic ones. The political factors are as follows:

- Strengthening belief in common institutions to ensure international co-operation as reflected by the establishment of the United Nations (UN) in 1945,

- The presence of the Cold War context which facilitated co-operative interactions among the member countries of the European society of states by producing an anti-Communist concern,

- The willingness of the leading members of the European society of states to be re-effective in international affairs.

- The desire to bind the Federal Republic of Germany into this newly emerged society with a view to guarantee its stability.

The economic factors behind the establishment of common institutions in the newly emerged European society of states are namely;

- The urgent need for economic recovery felt commonly by the participating states,

- The increasing level of interdependency in economical field with consequences that were seen beyond the power of any single state.[107]

Two different approaches came into conflict in shaping common European institutions. On the one side, there were federalist plans aiming at the development of

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[107] Nugent, op.cit., pp.7-8 and 14-19.; See also, Fiona Butler, "Regionalism and Integration", in John Baylis and Steve Smith (eds.), *The Globalisation of World Politics – An Introduction to International Relations*, Oxford: Oxford University Press, 1997, pp.418-420.

supranational or federal institutions that also envisaged political integration. On the other side, there were more minimalist plans aiming at close co-operation between sovereign states, definitely excluding the possibility for political integration among them. While the former approach was accepted by the designers of the European Communities, the latter approach was dominantly followed in all other European institutions.[108] Nevertheless, they were both based on the functionalist theory of integration, which envisages that co-operation on less sovereignty-sensitive matters would eventually make possible co-operation on more sovereignty-sensitive issues.[109]

Among those institutions designed on either approach, the EC, the Council of Europe, and the Western European Union (WEU), and the European Free Trade Association (EFTA) are of utmost importance. Besides these pure European institutions, there are many other institutions, like NATO, OECD, and OSCE (previously CSCE), which have some extra-European members.[110] In addition to these mostly intergovernmental institutions, there are hundreds of non-governmental organisations, multi-national corporations, and other sub-national groups.[111] Among them, NGOs have particularly become very influential in international politics by gaining recognition for practising pressure on national governments as well as on related international organisations, particularly in fields of human rights and environment.[112]

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[108] Buzan et al., op.cit., pp.145.; Eliot Archer and Fiona Butler, The European Community, 1992, pp.9-10.

[109] Jacques Vandamme, "European Federalism – Opportunity or Utopia?", in Martin Westlake (ed.), The European Union Beyond Amsterdam – New Concepts of European Integration, London and New York: Routledge, 1998, pp.142-144.; David Weigall and Peter Stirk, "World War II and the European Order", in David Weigall and Peter Stirk (eds.) The Origins and Development of European Community, 1992, p.24.

[110] Van Ham, "Can Institutions Hold Europe Together?", in Hugh Miall, (ed.), Redefining Europe, 1994, p.187.; Butler, op.cit., pp.420-421.

[111] Farnsworth, op.cit., pp.33-36.; Henderson, op.cit., pp.20, 66-74 and 77-87.

[112] Ann Marie Clark, "Non-Governmental Organisation and their Influence on International Society", Journal of International Affairs, Vol.: 48, No: 2, Winter 1995, pp.507-508.; Cameron, op.cit., p.344-345.

Following the end of the Cold War, the existing institutional structures in the European society of states have had to adjust to new realities of the post-Cold War period. In addition, they have also taken a rich number of applications for membership both from the countries of the former Eastern bloc and neutral ones. For the time being, it seems that these institutions have mostly adapted to the changing conditions of the post-Cold War period. Particularly, they have made big steps towards enlargement to the Central and Eastern European countries.[113]

All in all, the fact remains that the member countries of the European society of states have developed an exceptional institutional complex that makes their society unparalleled in the world.

2.3.5. Existence of Common Norms

The member countries of the European state system needed to develop some common norms for arranging their interactions as they recognised the presence of interdependency among themselves. Consequently, the first steps for the elaboration of international law were taken during the second half of the 19th Century. However, these pioneer international norms were particularly related to the acts during the war and to the methods of arbitration in disputes between the European states.[114]

After I.W.W., more importance began to be given to 'international undertakings' and 'international morality' by the European states as mentioned in the Versailles Treaty.[115] But the real breakthrough in this field came after the II.W.W parallel to the growing tendency towards co-operation and subsequent institutionalism. The members of the European society

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[113] Crockatt, op.cit., p.90.; Van Ham, op.cit., pp.192 and 197.
[114] Cassese, *International Law...*, op.cit., pp.46-47.
[115] Thomson, op.cit., pp.640-641.

of states elaborated a rich number of common norms, not only for the conduct of their interactions but also for implementation in their domestic affairs. Negligence of these norms by one state began to create a direct interest to others bringing in the mechanism of international scrutiny, especially concerning human rights performance.[116]

It is particularly the Council of Europe, accompanied by the CSCE/OSCE to an extent later on, that contributes to the development of a set of binding European norms and standards with efficient mechanism for their enforcement.[117] Other leading institutions of the European society of states have also contributed to this task, at least by setting certain conditions for membership, which imposed limits on national sovereignty considerably greater than those within any other regional organisation.[118]

In the post-Cold War period, it seems that the existing European institutions, particularly the Council of Europe and the OSCE, remains as essential frameworks for developing common norms and standards. This subject will be examined further in Chapter Four.

2.3.6. Emergent Sense of a Common Civilisational Identity

Another distinctive feature of the European society of states arises from the commonalties among the participating countries regarding particularly history, religion, culture, and political values. These commonalties produce a strong sense of common identity in civilisational terms among those countries, which is often labelled as 'European identity'. The belief in the presence of such a common identity among the participating states is so strong that several authors tend to take it as a sole determining factor in defining

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[116] Miall, op.cit., p.2.; Story, "Europe in...", op.cit., pp.5-6
[117] Butler, op.cit., p.421.
[118] Mayall and Miall, op.cit., p.275.; Wallace, *Regional...*, op.cit., pp. 17-18, 51and 121.

"Europe", as referred previously.[119] Against criticisms reminding the existence of several national diversities and differences[120], Braudel's respond is that the supposed unity of Europe is not a romantic illusion. On the contrary, there is a number of things shared by the whole of Europe making an apparent harmony among them. The abundant national diversity and differences under it are necessary.[121]

The development process of this civilisational identity is briefly described in the following paragraphs.

As Lewis points out, the Hellenic expansion to the Western part of the continent in about 5th Century BC brought the first recorded sense of 'European identity'. It was, to an extent, revived by the Roman Empire in the 2nd century BC, which produced a major civilisation around the Mediterranean region. Besides providing a common administrative framework, it also fostered cultural unity among the people living in the region via improved means of transportation and communication throughout it. In addition, the spread of Christianity in the region during the same period strengthened this identity as another element.[122]

Throughout the centuries from mid-5th to the 10th Centuries in the Middle Ages, the region was gradually re-integrated both in terms of territory and culture as it was during the Roman Empire before, particularly in the early 9th Century under rule of Charlemagne who, therefore, is described as 'the father of Europe'.[123] The improved communication among the people living in the region accelerated the formation of the sense of European identity among them. Confrontation with Islamic civilisation via crusades also contributed to the strengthening of that sense.[124]

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[119] Thomson, op.cit., p.82.; Buzan *et al.*, pp.50-51.
[120] Nugent, op.cit., pp.5-6 and 12.
[121] Fernand Braudel, *A History of Civilizations*, (Richard Mayne). New York: Penguin Books, 1995, p.399.
[122] Lewis; op.cit., pp. 21-25.
[123] Braudel, op.cit., p.313.
[124] Lewis; op.cit., p. 21-25.

As the first original common civilisation in the region, the 'feudal civilisation' emerged during 11th and 12th Centuries at the end of the 'Dark Ages' began after the disintegration of Holy Roman Empire in 10th Century. On the centre of this civilisation, there was feudal system with several special characteristics. Based on a chain of dependencies, the feudal society not only maintained its old Christian and Roman heritage but also added into it some new elements.[125] The Renaissance, which began as a major artistic, literary and intellectual movement in Italy in as early as 13th century developed this civilisation further adding it a humanist dimension and some rediscovered elements from the Ancient Greek and Roman civilisations.[126]

Three main developments regarding the common civilisation and the sense about it were observed in the subsequent centuries of the Pre-Modern and Modern Eras. Firstly, owing to the Reformation, the Scientific Revolution, and the subsequent Enlightenment in the 17th and 18th Centuries, the content of this civilisation experienced a further transformation from the dominance of religion into that of secular and rational elements.[127] Secondly, owing to the substantial wealth and power brought by the maritime explorations of the 15th Century onwards, a self-confidence emerged among the nations in the region. This self-confidence gradually turned into a strong belief in the supremacy of their civilisation *vis-a-vis* outside ones. The main factor behind this belief was the established domination of the European states over most parts of the world via colonisation in 19th century with the help of the Industrial Revolution.[128] The term 'standards of civilisation' coined in the same century rendering certain conditions for any state to be accepted into the

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[125] Braudel, op.cit., p.313.
[126] Lewis, op.cit., pp.21-25.
[127] Langer *et al.*, op.cit., pp.46-56 and 65-67.; Thomson, op.cit., pp.274-275 and 439-442.
[128] Lewis, op.cit., pp.21-25.

system of European law reflects best this understanding.[129] On the other hand, as the third fundamental development, this common civilisation became 'territorial and national' due to the emergent rivalries and conflicts among the newly established modern states in these eras.[130] This meant the precedence of national sentiments to the sense of a common civilisational identity. Particularly during the 19th Century nationalist tendencies were so strong that this period is today described as the 'century of nationalism'.[131]

The strengthened anti-nationalist concern brought the presence of a common civilisational identity among the states in the Western Europe back to the agenda. It was derived mainly from the destructive experiences of the two World Wars, both of which were triggered aggressive nationalist policies. Combined with the context of the Cold War, this anti-nationalist concern gave a great momentum for formation of a sense in this direction among those states. Therefore, two leading institutions, namely the Council of Europe and the EC, have engaged in the task of reviving a common sense of 'European identity' without ignoring the presence of separate national identities.[132]

Consequently, there emerged a distinctive sense of common civilisational identity or unity among the participating states of the European society of states. This seems to be increasing in the post-Cold War period, particularly through the efforts of EU in this direction as dealt with in Chapter Three. It also seems that the claim to be sharing this common civilisational identity has gained an important place in the politics of the region in the post-Cold War period.[133]

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[129] Murray Forsyth, "The Tradition of International Law", in Terry Nardin and David R. Mapel (eds.), *Traditions of International Ethics*, Cambridge: Cambridge University Press, 1993, pp.24-29 and 34-37.; Chris Brown, "Human Rights" in John Boylis and Steve Smith, *The Globalisation of World Politics, An Introduction to International Relations*, Oxford: Oxford University Press, 1997, p.475. The meaning of the term is examined further in Chapter Four.

[130] Braudel, op.cit., p.324.

[131] Thomson, op.cit., pp.412.; Archer and Butler, op.cit., p.3.

[132] Baun, op.cit., p.1.; Miall, op.cit., p.5.; Wallace, *Regional...*, op.cit., pp.25-27.

[133] Wallace, *Transformation...*, op.cit., pp.8-9 and 28-33.

a. Existence of Common History among the Participating States

Existence of a shared history is one of the common features among the participating states of the European society of states. This common feature contributes much to the perception of a common civilisational identity by these states. Indeed, numerous developments that contributed decisively to the transformation of the region have been experienced commonly by the peoples of those states through the ages. This shared history can broadly be divided into four main eras as the Ancient Times, the Middle Ages, the Pre-Modern Era, and the Modern Era. Several historical developments during each of these eras have commonly been witnessed by the peoples living in the Western Europe, the core region of the European society of states today.

At the beginning of a short journey back to these eras to discover the most notable historical developments in each, it should first be noted that the origins of people in this region is not completely clear due to frequent waves of invasions from prehistoric to modern times. The first appearance of the man in Western Europe is considered to be 10,000 years ago, at least. However, it was only during 4th millennium BC that the region was substantially populated owing to previously spread agricultural economies. The first notable common historical experience of these people came with the expansion of the Greek civilization to the region, which went through its golden age during the 5th century BC. The region became part of Macedonian Empire by the 4th century BC, and was ultimately conquered by Romans during the 2nd century BC. This was another important event for the people living in the region since it not only provided for a common administrative framework but also fostered cultural unity via improved means of transportation and communications throughout the region.

The dissolution of the Roman Empire in the 4th Century AD marked the opening of the Middle Ages to last until the mid-15th Century. In the first century of the era, people in

the region witnessed series invasions by Germanic tribes, collectively called the Franks. They had acquired a complete control of the region by mid-5th Century, and from then on, protected it against invasions from the East until the 10th Century. Throughout these centuries, the region was gradually re-integrated both in terms of territory and culture, as mentioned just above. However, soon after the establishment of that unity, 'Dark Ages' began for the region. Because during this time, people in the region witnessed disintegration of the Germanic Holy Roman Empire and subsequent external invasions as well as increasing political power of the Papacy. As mentioned above, these 'Dark Ages' ended with the establishment of feudal system. This development brought in the emergence of the 'feudal civilisation' in 11th and 12th centuries as the first original homogeneous European civilisation.[134]

The period between the 12th and 15th Centuries constitutes the late Middle Ages in the common history of the participating states. An important development in this period was the start of the general struggle for supremacy between the Church and the State. Other developments were the emergence of national or regional self-consciousness as well as that of civic awareness, the growth of commerce both internally and externally, emergence of Renaissance as an extraordinary artistic and intellectual movement, and rise of social turmoil.

The subsequent era from mid-15th Century to the end of the 18th Century, according to McNall Burns and his colleagues, constitutes the early- modern period of European history. During this period, the region experienced a great transformation, losing much of its medieval characteristics, mainly owing to the maritime explorations and the Protestant Reformation.[135] Opened by the maritime explorations, this period was an age of transition from feudal political conceptions and institutions to more modern ones. A case in point was

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[134] Braudel, op.cit., pp.312-313.
[135] Burns *et al.*, op.cit., pp.591-592

the emergence of centralised state as the prototype of the secular nation-state. Established first in France, this new form of state was soon imitated by other European monarchs. Subsequently, a state system emerged in Europe, whose development has already mentioned above.[136]

The people living in the region also witnessed commonly for the birth of the modern Europe during the 19th Century after a long-lasting conflict between the forces in favour of it and against. Thomson describes the formers as 'the forces of change' and the latters as 'the forces of continuity'. The French Revolution and Industrial Revolution represent two of the most important so-called forces of change. They together transformed the political, social, and ideological atmosphere of the region to produce modern Europe.[137] In addition, those people also experienced common destruction and sufferings derived from the two world wars originated in the region in the 20th Century. The subsequent developments have already mentioned above while examining the development process of the European society of states.

b. Existence of Common Religion among the Participating States

The population of the members of the European society of states have a common religion, that is Christianity, though it is in two separate major sects as Catholic and Protestant. Toynbee labels these two versions together as "Western Christendom".[138] As seen in the map just below, while the northern countries are mostly Protestant, the southern countries are predominantly Catholic. However, Christianity still constitutes another source from which a sense of common civilisational identity among the participating states arises.

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[136] Braudel, op.cit., pp.322-324.

[137] Thomson, op.cit., p.81.; Langer et al., op.cit., pp.98 and 148-149.

[138] Arnold J. Toynbee, *Civilisation on Trial*, London and New York: Oxford University Press, 1949, p.153.

A brief look to the history of Christianity shows how deep-rooted it is in the region. The first arrival of Christianity in the region took place in the times of the Roman Empire. It later became the "state religion" of that Empire at the beginning of the 4th Century. This was a facilitating factor in the quick spread of Christianity throughout the region. In the subsequent centuries, Christianity gained a substantial political power, particularly during the times of the Holy Roman Empire. Consequently, the Church had become the leading political power in the region alongside the various emergent secular states by the end of the 12th Century.[139]

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[139] Braudel, op.cit., pp.333-338 and 349-350.
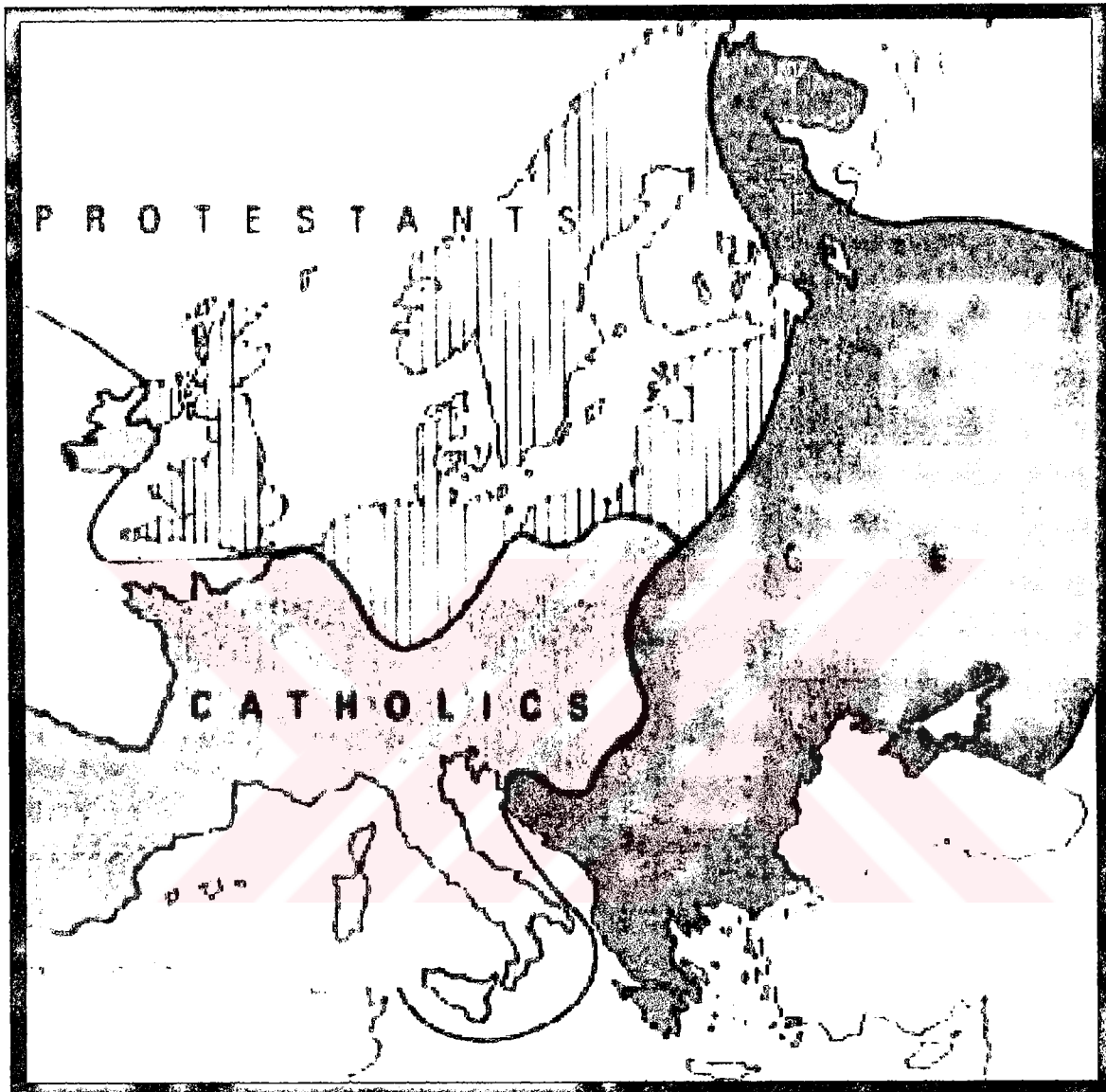
Source: Fernand Braudel, *A History of Civilizations,* Translated by Richard Mayne, New York: Penguin Books, 1995, p.350.

Figure 2.1 The Map Showing the Major Sects of Christianity in Europe

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It can be argued that some negative trends in the development process of Christianity began to emerge in the region from the beginning of the 13th onwards. Firstly, its cultural unity began to be challenged by local, regional, and national interests.[140] But, the definite division of that unity into warring camps, namely Catholic and Protestant, came with the Protestant Reformation in the early 16th Century and the Counter-Reformation as a response to it.[141] This started destructive religious wars in the region, which lasted for a century until the end of the Thirty Years War in 1648. Secondly, from this date onwards, secular concerns gained priority over Christian ones in the region. Particularly, the scientific revolution of the 17th Century played an important role in this development, preparing the ground for the introduction of the Enlightenment in the next century with a secular world view that ignored Christian assumptions and categories.[142]

However, despite all these developments in the Pre-Modern era that weakened the role of Christianity in shaping both society and thought, it has remained as one of the main constituent elements in European thought and civilisation. For Toynbee, it intervened between Graeco-Roman civilisation and present secular Western civilisation.[143] Braudel underlines its importance saying, "A European, even if he is an atheist, is still the prisoner of an ethic and a mentality which are deeply rooted in the Christian tradition. He remains, one might say, 'of Christian descent'..."[144]

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[140] John Van Engen, "The Church in the Fifteenth Century", in Thomas A. Brady Jr. *et al.* (eds.), *Handbook of European History 1400-1600 I*, Grand Rapids, Michigan: William B. Eerdmans Publishing Company, 1996, pp.318 and 320-324.

[141] The following articles explains the subject in details in Thomas A. Brady Jr. *et al.* (eds.), *Handbook of European History 1400-1600 II*, Grand Rapids, Michigan: William B. Eerdmans Publishing Company, 1996. They are namely: Martin Brecht, "Luther's Reformation", pp.129-153.; Peter Blickle, "The Popular Reformation", pp.161-185.; Berndt Hamm, "The Urban Reformation in the Holy Roman Empire", pp.193-216.; Robert M. Kingdon, "International Calvinism", pp.230-245.; James M. Stayer, "The Radical Reformation", pp.249-276.; Elisabeth G. Gleason, "Catholic Reformation, Counterreformation and Papal Reform in the Sixteenth Century", pp.317-340.

[142] Kegley and Raymond, op.cit., pp.25-40 and 96.

[143] Toynbee, op.cit., pp.231 and 236.

[144] Braudel, op.cit., p.334.

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c. Existence of Common Culture among the Participating States

As in the case of religion, the participating countries of the European society of states has a common culture as a broader umbrella above the existing regional or local cultures whose roots trace back before the era of the Roman Empire.[145] Without losing its regional or local diversities, this common culture has been transmitted uninterruptedly throughout the main common historical periods. During each of these successive phases, it gained several new elements, many of which were from outside cultures.[146] This cultural coherence makes up another basis on which the sense of a common civilisational identity among the participating states depends.

The major steps in the building process of this common culture can, referring to Lewis, and Braudel, be sum up as follows: The Roman Empire gave first common shape to the local cultures that had emerged long before its expansion in the region. The second big step in the achievement of a cultural unity took place by the arrival of Christianity to the region. Although this cultural unity was weakened after the disintegration of Roman Empire, the subsequent feudal system preserved its essential elements particularly owing to the efforts of the Church. Despite the de-centralised structure of the feudal system, there was a general cultural coherence in the region. Bringing a great influence upon the way of life in the region, the Renaissance added humanist elements into this culture. Despite the challenges from local, regional, and national interests emerged from the 13th onwards, the region remained as a cultural whole until the early 16th Century.[147]

Other developments in the subsequent Pre-Modern Era divided this cultural community into national entities while strengthening national identities. Those developments were namely the wars of religion, the rise of the modern state and that of nationalism as an

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[145] Moller, op.cit., p.36.
[146] Thomson, op.cit., p.82.
[147] Braudel, op.cit., pp.315, 333, 347, and 400.

ideology. In addition, the scientific revolution with its subsequent effect on the Enlightenment and Industrial Revolution added new elements into this culture both material and immaterial terms. Owing to these developments, secular and modern elements became dominant in the content of the common culture in the region. The nightmares of the two world wars strengthened ideas related to the presence of a common culture among the participating countries of the European society of states.[148]

d. Existence of Common Political Values among the Participating States

Like history, religion, and culture, existence of common political values among the member countries of the European society of states is another factor for the emergence of the sense of a common civilisational identity among them. Even judging from the outside, it could be argued that constitutional democracy, the rule of law, and human rights are the main political values shared commonly by those states. They together constitute a set distinguishing European society of states from other regions of the world. They even gave way for an identification of that society with those liberal-democratic values.[149]

Most of these values have their roots in the developments of the Pre-Modern Era, namely the Enlightenment, the French Revolution and the Scientific Revolution, which altogether gave birth to the modern Europe. The development process of each common political values is further examined in Chapter Four while examining the connection between the Copenhagen political criteria and "being a European state".

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[148] Lewis, op.cit., pp.21-25, 29-31, and 34.
[149] Hanns W. Maull, "Changes in World Politics", in Jonathan Story (ed.), *The New Europe*, 1993, p.155.

III.   "BEING A EUROPEAN STATE" IN THE SENSE OF ACCESSION
TO THE EUROPEAN UNION

3.1. A Brief Introduction to the European Union

A combination of several factors produced the European Coal and Steel Community (ECSC) in 1951 as the first of the European Communities. Motivated by these factors, six European countries, namely France, West Germany, Italy, Belgium, Netherlands, and Luxembourg, signed the Treaty of the European Coal and Steel Community in Paris. Derived mostly from the post-war conditions, these factors were essentially political and economical. Particularly, the expected Franco-German reconciliation and the desire for economic recovery played the main driving role in its establishment.[150] Naturally, the above given commonalties among the founding states, as arise from their membership to the European society of states, also provided suitable conditions for the establishment of the ECSC.[151]

Establishment of the ECSC represented the first step towards a general European unification because the same motivations of security and economic necessity forced the member states to build two additional communities beside the ECSC. The most effective among those factors were the division of Europe into two power blocs, the existence of a direct Soviet military threat, and that of a USA hegemony in Europe, and presence of

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[150] David Weigall and Peter Stirk, "The Schuman Plan and the European Coal and Steel Community", in David Weigall and Peter Stirk (eds.) *The Origins and Development of European Community*, 1992, pp.55-57.; Nugent, op.cit., p.19.

[151] Wallace, *Regional...*, op.cit., pp.11-12 ve 14-16.

economic necessity.[152] Consequently, the member states of the ECSC started a second wave of integration at a meeting in Messina in 1955, which resulted in the establishment of the European Atomic Energy Community (EURATOM) and the European Economic Community (EEC) in 1957.[153] While the former brought a common framework for the management of nuclear energy industries of the founding states, the latter envisaged the formation of a common market among them. This common market involved free movements of goods, capital, services, and labour that would eventually be ensured through the creation a customs union and common economic policies.[154]

At the beginning, each Community had its own institutions to carry out and supervise its tasks and enforce the member states to implement common regulations. Although they were nearly identical with each other in number and scope of task, the institutions of the latter two Communities were less 'supranational' than those of the ECSC. The Merger Treaty of 1965 integrated the High Authority of ECSC and the two Commissions of the EEC and the EURATOM without abolishing separate legal entities of the Communities. This new combined framework of institutional structure and policy-making began to be first known as "the European Communities", and gradually as "the European Community."[155]

A general search on the development process of the EC shows that it began to lose momentum after the late 1960s. This negative picture of the integration process continued until the mid-1980s due to both internal disputes and external events. New Attempts towards further integration, particularly in political field, failed mainly due to the disagreement between federalists and intergovernmentalists. The year 1985 was a turning point since the Member states decided to make a reform of the Treaty of Rome at that year.

[152] Baun, op.cit., pp.7 and 160.
[153] David Weigall and Peter Stirk, "From Messina to the Treaty of Rome", in David Weigall and Peter Stirk (eds.), *The Origins and Development of European Community*, 1992, p.91.
[154] Archer and Butler, op.cit., p.14.; Butler, op.cit., p.423.
[155] Dominik Lasok and J.W. Bridge, *Law and Institutions of European Communities*, Fifth Edition, London: Butterworths, 1991, pp.17-18.

At the end of the work in this direction, the Single European Act (SEA) was signed in 1986. It strengthened the institutions of the EC, giving them greater competence and increasing their involvement in foreign and security matters. Parallel to this development, the member states declared their intention for creating a single market among themselves by the end of 1992.[156]

The nature of the European integration process changed fundamentally as a result of the end of the Cold war.[157] Due to the perceived immediate need for political unification, the member states decided to transform the EC into a European Union. In making this historical choice, they were mainly driven by the necessity for establishing a new stable security order in Europe. They sought to respond more effectively to the new challenges arising from the changing political and security environment in the continent. A specific example was the unification of Germany, which revived an old rationale for the European integration, that is, to tie Germany firmly into a common European framework.[158] Apart from these political considerations, the programme establishing a single market among the member states by the end of 1992 should be noted as an economic factor.[159] Consequently, recognising the importance of supranational responses to the new challenges of the post-Cold War period, the member states signed the Treaty on European Union, known as the Maastricht Treaty, on December 1991.[160] Thus, they transformed the EC into the EU, depending on so-called three pillars under a single framework. The first pillar is the changed EC Treaties including the articles on the Economic and Monetary Union. The second pillar is the provisions for the

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[156] Werner Weidenfeld, "Upheaval in Europe", in Werner Weidenfeld and Wolfang Wessels (eds.), *Europe from A to Z – Guide to European Integration*, Luxembourg: Office for Official Publications of the European Communities, 1997, p.15.

[157] Ralf Dahrendorf, "The New Europe", *Journal of European Social Policy*, Vol.: 2, No: 2, 1992, p.79.

[158] Keohane, op.cit., p.229.; Emile Noel, "Reflections on The Maastricht Treaty" *Biblio post-Maastricht*, No: 04-1994, p.14.

[159] Mathias Jopp, "The Strategic Implications of European Integration", *Adelphi Paper 290*, London: Brassy's Ltd, The International Institute for Strategic Studies, July 1994, p.6.

[160] Maull, op.cit., p.153.

Common Foreign and Security Policy (CFSP), and the third pillar is the provisions related to the co-operation in the field of Justice and Home Affairs.[161]

The ultimate goal of the EU is to achieve "an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen". In the pursuit of that goal, it sets out the objectives to promote a balanced and sustainable economic and social progress, to assert the European identity on the international arena, and to introduce a European citizenship.

During its history, the EU has experienced an increase in the scope of tasks and competencies, in political significance and in the number of institutions.[162] This evolution resulted from the revisions made in the Founding Treaties, which have taken place four times so far as shown below in Table 3.1.[163]

[161] P.S.R.F. Mathijsen, *A Guide to European Union Law*, Sixth Edition, London: Sweet & Maxwell, 1995, pp.4-5.; Werner Ungerer, "On the Way To European Union", in Joerg Monar-Werner Ungerer-Wolfgang Wessel (eds), *The Maastricht Treaty on European Union Legal Complexity and Political Dynamic*, Brussels: European University Press, 1993, p.30. ; Charles Jenkins, "The Maastricht Treaty", *Biblio post-Maastricht*, No: 04-1992, p.26.

[162] Butler, op.cit., pp.422-423.

[163] The complete texts of these Treaties are available on the World Wide Web: http://www.europa.eu.int/abc/treaties_en.htm, and http://www.eu.int/eur-lex/treaties/index.html. (Retrieved: 18 January 2002).

Table 3.1
Basic Treaties Shaping the EC/EU

Name of the Treaty	Place of signature	Date of signature	Date of entrance into force
Treaty establishing the European Coal and Steel Community (Treaty of Paris)	Paris	18 Apr.1951	23 Jul.1952
Treaty establishing the European Atomic Energy Community	Rome	25 Mar.1957	1 Jan.1958
Treaty establishing the European Economic Community (Treaty of Rome)	Rome	25 Mar.1957	1 Jan.1958
Treaty establishing a Single Council and a Single Commission of the European Communities (Merger Treaty)	Luxembourg	May 1965	1 Jul.1967
Treaty revising the Treaties establishing the European Communities (Single European Act)	Luxembourg & The Hague	17 Feb.1986 28 Feb.1986	1 Jul.1987
Treaty on European Union (Maastricht Treaty)	Maastricht	7 Feb.1992	1 Nov.1993
Treaty of Amsterdam amending the Treaty on European Union and the Treaties establishing the European Communities (Amsterdam Treaty)	Amsterdam	2 Oct.1997	1 May.1999
Treaty amending the Treaty on European Union and the Treaties establishing the European Communities (Treaty of Nice).	Nice	26 Feb.2001	Expected to be completed

(This table is drawn in accordance with the information retrieved 18 January 2002 on the World Wide Web: http://www.europa.eu.int/abc/treaties_en.htm, and http://www.eu.int/eur-lex/treaties/index.htm)

The Maastricht-Amsterdam-Nice chain has given the EU its present shape. But it has not been finalised yet because the Treaty of Nice, the last circle of that chain, was not able to end the process of evolution.[164] A new process of revision of the Treaties is to be realized in 2004 in accordance with Declaration 23 annexed to the Treaty of Nice on the future of the

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[164] European Commission, *A Guide for European Citizens*, Luxembourg: Office for Official Publications of the European Communities, 2001. p.1.

Union.[165] The topics to be considered include the division of responsibilities between the Union and the member states, the status of the Charter of Fundamental Rights of the European Union, simplification of the Treaties, and the role of the national parliaments in the institutional structure of the EU.[166] It should be added that the intergovernmental conference began to be seen as an outdated model for the revision of the Treaties.[167] Therefore, an officially supported debate on the future of the EU has continued to receive contributions from the public for this purpose.[168] The Leaken European Council of 2001 decided to convene a Convention on the Future of the EU, which held its first meeting on 1 March 2002. The final document adopted by the Convention will provide a starting point for discussions in the Intergovernmental Conference, which will take the ultimate decisions.[169]

3.2. Identification of the European Union with "Europe"

Being the best-known organisation, the EC/EU has also been considered as the most important one in the Western Europe.[170] Besides, most of the third countries have regarded the EC/EU as "Europe" for much of its history. Consequently, accession to the EC/EU has

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[165] It is available on the World Wide Web: http://ww.europa.eu.int/abc/treaties/dat/nice_treaty_en.pdf, (Retrieved: 18 January 2002).

[166] Commission of the European Communities, "Summary of the Treaty of Nice", *Memorandum to the Members of the Commission*, Brussels, January 18, 2001, SEC(2001) 99, p.13. Retrieved: 19 January 2002 [W WW Document]. URL http://europa.eu.int/comm/nice_treaty/summary_en.pdf

[167] Iñigo Méndez de Vigo and António José Seguro, *Report on the Treaty of Nice and the Future of the European Union*. Brussels: European Parliament Committee on Constitutional Affairs, [2001/2022(INI)] FINAL A5-0168/2001, 4 May 2001, p.15. Retrieved: 19 January 2002. [WWW document].URL http://www2.europarl.eu.int/omk/OM-Europarl?PROG=REPORT&L=EN&PUBREF=-//EP/NONSGML+REPORT+A5-2001-0168+0+DOC+WORD+V0//EN&LEVEL=3&NAV=S.

[168] See, http://www.europa.eu.int/futurum/index_en.htm, (Retrieved 18 January 2002).

[169] The Leaken Declaration is available on the World Wide Web: http://www.europa.eu.int/futurum/documents/offtext/doc151201_en.htm (Retrieved: 20 March 2002).

[170] Nugent, op.cit., p.30.; Butler, op.cit., p.422.

been discussed as "joining to Europe" or "opposing to Europe" in several countries. This was particularly a case during 1960s.[171]

The tendency that equates the concept of Europe with the EC/EU is more common and stronger in the post-Cold War period. Particularly, the countries of Central and Eastern Europe have accepted that usage after the collapse of the Eastern Bloc. For the intellectuals and political leaders of those countries, membership to the EU means a 'return to Europe' or 'regaining their place in Europe'.[172]

Although this usage is an oversimplification or confusion for many authors,[173] it may be confirmed when taking into account the following distinctive features of the EU. Because, these distinctive features increase the possibility for the EU to be perceived as a truly pan-European organisation and contributed to the image of the EU as representing "Europe".

3.3. Distinctive Features of the European Union

Although the EU system has not gained its final form yet, there are several observable features distinguishing the EU not only from other contemporary international organisations but also from those in history. This unprecedented nature of the EU is underlined by Helsinki European Council of 1999 in its Millennium Declaration stating as follows: "The European Union is a unique venture, with no model in history".[174]

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[171] Wallace, *Transformation...*, op.cit., p.8.

[172] Dinan, op.cit., p.187.; Wallace, "Introduction..." op.cit., pp.2 and 12.

[173] Mayall and Miall, op.cit., p.262.

[174] *Millennium Declaration*, par.3, Annexed to the Helsinki European Council Presidency Conclusions, 10-11 December 1999. Retrieved: 18 January 2002. [WWW Document] URL http://www.europa.eu.int/council/off/conclu/dec99/dec99_en.htm#annexI.

Indeed, it seems that the EU has captured the post to represent the European society of states from the Council of Europe in the post-Cold War period owing to this distinctive nature. In other words, established as the "smaller Europe" in comparison to the Council of Europe at the beginning, the EU has now become the "greater Europe".[175] Therefore, identification of "Europe" with the EU can, no longer, be seen as an oversimplification or confusion. Rather, it is a reflection of a well-understood fact in the post-Cold War period.

3.3.1. Having a Supranational Nature

As Wallace points out, the EU has been the only example of formal integration above the nation-state.[176] However, it would be too early to see its present form as identical as with a modern state though it has stronger authority than that of other contemporary international organisations.[177] For this reason, Lasok and Bridge describe it as a 'quasi-federation' to underline the fact that it is not a unique federation.[178] Similarly, in describing the present position of the EU, Laffan uses the term 'betweeness' meaning that it seems "between politics and diplomacy, between states and markets and between government and governance."[179] The last description to be cited here is made by Chris Patten, the Commissioner Responsible for the External Relations of the EU: The EU is a "unique construct in which the nations can preserve their separate traditions, languages, culture and

[175] Romano Prodi, 2002, *A Decisive Step Towards A Greater Europe*, The European Parliament, Strasbourg, SPEECH/01/621, 11 December 2001. Retrieved: 22 March 2002. [WWW Document]. URL http://www.europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=SPEECH/01/621|0|RAPID&lg=EN&display=

[176] Wallace, *Regional...*, op.cit., pp.1 and 3-4.

[177] Robert O. Keohane and Stanley Hoffmann, "Conclusions: Community Politics and Institutional Change", in William Wallace (ed.), *The Dynamics of European Integration*, London: Pinter, The Royal Institute of International Affairs, 1992, pp.278-281.

[178] Lasok and Bridge, op.cit., pp.29-33.; See also, Vamdamme, op.cit., pp.148-149.

[179] Brigid Laffan, "The European Union: A Distinctive Model of Internationalisation?", *European Integration online Papers (EIoP)*, Vol.: 1, No: 18, 1997, p.1. Retrieved: 27 October 1997. [WWW Document]. URL www.http://eiop.or.at.eiop/texte/1997-018a.htm

identity but in which they can also maximise their combined influence."[180]

As a result of this mixed type having both federal and intergovernmental elements together, the most appropriate label for the present form of EU is 'supranationality'.[181] However, it should be noted that this present form is not a finalised one since the work for the construction of a more integrated and well-working system is in progress. It is very likely that the future EU model will also be shaped by the opposing approaches of intergovernmentalism vs. federalism,[182] which have been effective throughout its history. Nevertheless, the present nature of the EU having both supranational and intergovernmental elements makes it a distinctive entity in the world.

3.3.2. Having a System of Collective Governance

Either via "pooling" their sovereignties within the Community institutions, as accepted by some authors like Keohane and Hoffman[183], or "transferring" them to the same institutions, as argued by some others like Renaud and Weiler[184], the member states have obviously restricted their sovereign rights in many fields.

This fact is best reflected by the supremacy of the Community law over the laws of the member states as well as by its recognised dominance over them in practice.[185] It is also

[180] Chris Patten, *Sovereignty and Democracy in the European Union*, The Chatham Lecture, Trinity College, Oxford, 26 October 2000, SPEECH/00/402. Retrieved: 19 January 2002. [WWW Document]. URL http://europa.eu.int/comm/external_relations/news/patten/speech_00_402.htm

[181] Keohane and Hoffman, op.cit., pp.278-281.

[182] Bernhard Wessels, "Political Representation and Political Integration in Europe: Is it Possible to Square the Circle?", *European Integration online Papers (EIoP)*, Vol.: 3, No: 9, 1999, p.12. Retrieved: 17 May 2000, [WWW Document]. URL http://eiop.or.at/eiop.texte/1999-09a.htm

[183] Keohane and Hoffman, op.cit., pp.277-278.

[184] Philippe De Schoutheete, "The European Community and its Sub-systems" in William Wallace (ed.), *The Dynamics of European Integration*, London: Pinter, The Royal Institute of International Affairs, 1992, pp.254-255.

[185] Karen J. Alter, "The Making of a Supranational Rule of Law – The Battle for Supramacy", in Ronald Tiersky, *Europe Today – National Politics, European Integration, and European Security*, New York and Oxford: Rowman & Littlefield Publishers, Inc., 1999, pp.312-317.

reflected by the existence of a system of collective governance based on supranational, national, and sub-national levels of decision-making within the framework of the EU. This multi-level governance is characterised by a complex policymaking process between the member states and the EU institutions.[186]

The authority of the EU spread into new areas parallel to its increasing competencies particularly over the last decade. This has strengthened its share in the established system of the collective governance as marked by the principle of 'closer co-operation' or 'enhanced co-operation' that laid down first by the Treaty of Amsterdam. This principle enables certain member states, under strict conditions, to work together within the EU framework. In order to make the mechanism more workable without making any changes on its essential characteristics, the Treaty of Nice removes the right of each member state to veto the launch of enhanced co-operation. It requires a minimum of eight member states for establishing enhanced co-operation and brings the possibility of enhanced co-operation in the field of CFSP, except regarding defence matters. In addition, the Treaty of Nice widens the scope of decision-making by qualified majority though vital issues still remain subject to the unanimity rule.[187] On the other hand, as Hooghe and Marks point out, the decision-making mechanism under this system of collective governance has become less technocratic and more participatory from the public of the member states during the recent decade.[188]

Consequently, it is possible to argue that these recent amendments have brought the national systems of policy making more under the impact of supranational influences with degrees varying according to the policy subject. This collective governance with a complex decision-making mechanism having some supranational elements provides a distinctive place for the EU in the world.

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[186] Liesbet Hooghe and Gary Marks, "The Making of a Polity: The Struggle Over European Integration", *European Integration online Papers (EIoP)*, Vol.: 1, No: 4, 1997, p.1. Retrieved: 11 April 1997, [WWW Document]. URL. http://eiop.or.at/eiop/texte/1997-004a.htm

[187] European Commission, *A Guide...*, op.cit., p.12.

[188] Hooghe and Marks, op.cit., pp.2 and 5.

3.3.3. Having Wide Scope of Tasks and Competencies

Another distinctive feature of the EU arises from the wide scope of its tasks and competencies.

The Treaties of Rome, at first, envisaged only the transfer of less sovereignty-sensitive issues, such as economic regulation, trade, and agriculture, to the Community level. As a direct result of this strategy, only four common policies in the fields of agriculture, transport, competition and commerce were developed at the beginning of the EC. The more sovereignty-sensitive issues, like foreign policy, public order, and defence, were not made subject to any common policy but left to the competence of the member states.[189]

However, the number of issues under the Community's responsibility have largely grown in the course of time parallel to the deepening economic integration and rising concerns with the political integration among the member states. They were formally brought under the Community competence first by the SEA. The main inclusions were foreign policy co-operation, environment, research, technology, and regional development.[190] The second big step in this direction was taken by the Maastricht Treaty in a way to accelerate the political integration among the member states. The areas over which Community competence was extended or strengthened by the Maastricht Treaty included health, education, consumer protection, environment, trans-national networks, domestic policing, control over national territorial boundaries, regulation of the economy, industry, public finance and agriculture, national currency, foreign policy, defence, law and citizenship.[191] The subsequent amendments made by the Treaties of Amsterdam and Nice focussed generally on the strengthening of existing EU competencies rather than enlarging them further.

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[189] De Vigo and Seguro, op.cit., p.12.

[190] Wessels, op.cit., p.2.

[191] Jonathan Story, "Conclusion" in Jonathan Story (ed.), *The New Europe*, 1993, pp.499-501.

Undoubtedly, the increasing number of the issues under the EU competence brought by ongoing process contributes much to the distinctiveness of the EU.

3.3.4. Having a Separate and Complex Institutional Structure

Another distinctive feature of the EU is that it has a complex institutional structure whose each component has its own authority independent of national governments.

It should be noted that the present institutional structure and powers of the different institutions are the result of the reforming process through the above given basic Treaties. The Merger Treaty first integrated the High Authority of ECSC and the two Commissions of the EEC and the EURATOM as a single Commission in 1965. Then, the procedure of direct elections to the European Parliament was introduced in 1979. Apart from these two changes, there had been no major reform in the original institutional structure of the EU until the Maastricht Treaty.[192]

Among many institutional modifications brought by the Maastricht Treaty, the most important one was the enhancement of the European Parliament's powers. Although one main objective of the Amsterdam Treaty was to make the EU's institutional structure more efficient, it failed in doing so and left the task to the subsequent treaty.[193]

As result, it is the Nice Treaty that has achieved to make an institutional reform. The post-Nice institutional structure of the EU includes five preliminary institutions, namely the Commission, the Council, the European Parliament, the Court of Justice and the Court of Auditors. Besides them, there are many supportive or advisory bodies including the Economic and Social Committee and the Committee of Regions, the European Ombudsman,

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[192] European Commission, *A Guide...* op.cit., p.3

[193] Hanns-D. Jacobsen, "The European Union's Eastward Enlargement", *European Integration online Papers (EIoP)*, Vol.: 1, No: 14, 1997, p.3. Retrieved: 26 September 1997. [WWW Document]. URL http://eiop.or.at/eiop/texte/1997-014a.htm

the European Central Bank, and the European Investment Bank. These institutions are briefly described below.

As the driving force in the institutional structure, the Commission seeks the general interests of the Union. In addition to its legislative and executive functions, it also acts as the guardian of the Treaties and that of Community law. Composed of the Ministers of the member states responsible for the subject to be discussed, the Council is the EU's main decision-making body that meets regularly. The Parliament has three essential functions: involvement in the legislative process, sharing budgetary authority with the Council, and supervision over the institutions. Its members are elected directly by a universal suffrage for a term of five years. Composed of independent jurists, the Court of Justice interprets and ensures compliance with the law. The Court is supported by the Court of First Instances that has later been attached to it. Being another independent organ, the Court of Auditors is responsible for auditing the accounts. The Economic and Social Committee seeks to ensure the benefits of various economic and social categories in the decisions taken at the EU level. The Committee of Regions carries out the same task for different regions. The European Ombudsman deals with complaints from citizens concerning mal-administration at the EU level. The European Central Bank is responsible for designing and implementing monetary policy in the euro-area. The European Investment Bank is the financial institution of the EU for investment projects.[194]

This complex and independent institutional structure with federal, functional, and intergovernmental elements together makes up another important difference between the EU and other regional or international organisations.

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[194] European Commission, *A Guide...*, op.cit., p.4.; For more information on each of these institutions see the World Wide Web: http://www.europa.eu.int/index_en.htm# (Retrieved: 10 February 2002).

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3.3.5. Having a Strengthening Internal Identity

Another distinctive feature of the EU is the existence of a common 'European identity'. Efforts for building this identity have particularly accelerated since the mid-1980s parallel to the increasing attempts for political integration.

Motivated by three main reasons, the member states and the institutions of the EC have involved in the task of building a common 'European identity' from the very beginning. Wallace lists those reasons as follows: Firstly, the member states and the institutions of the EC wanted to replace the warring national identities by creating a new common identity. Secondly, they aimed to gain more political autonomy within the Atlantic Alliance as reflected by the acceptance of a 'Solemn Declaration on European Identity' during the 1973-74 transatlantic crises. Finally, they saw building of a common identity as necessary for a more effective co-operation and decision-making among the member states.[195]

Among the strategies designed for the achievement of that purpose the creation of a common citizenship with additional rights and development of common symbols under the name "European" are the most important ones.[196] The developments in the direction of each strategy are briefly given in the following paragraphs.

a. Creation of a Common Citizenship

It was first the Maastricht Treaty that established the 'citizenship of the Union' by Article 17 as an accompanying citizenship to the national ones but providing additional rights. They include the rights of free movement and reside within the Union without any reference to an economic activity, enjoying protection by one of the member states in third

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[195] Wallace, *Transformation...*, op.cit., pp.8-9 and 30-33.
[196] Laffan, op.cit. pp.8-9.

countries, as well as voting and standing as a candidate in local and European elections in any member state.[197]

The Amsterdam Treaty brought further improvements in this field. Most importantly, it developed the concept of 'European citizenship' in place of the 'citizenship of the Union' with many additional rights. Thus, European citizens can use their civic rights fully throughout the EU as they do in national politics. The Treaty also clarified the link between national citizenship and European citizenship.[198] A great development in this field was noted with the adoption of the Charter of the Fundamental Rights in the European Union by the Nice European Council held on 26 February 2001.[199] This Charter will later be discussed in Chapter Four.

The main aim of the efforts in the field of 'European citizenship' is to consolidate a common 'European identity' among the people within the borders of the EU by ensuring a greater involvement of those citizens in the destiny of the EU.

b. Development of Common Symbols

A second important strategy followed by the EU institutions for the construction of a common European identity is the development of common symbols that are supposed to alter peoples' consciousness in favour of that identity. They include the formation of a European flag, a European anthem, a Europe Day, a European passport, driving licence, and sporting etc.[200]

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[197] Story, "Conclusion...", op.cit., pp.499-501.
[198] Jacqueline Bhaba, "Belonging in Europe: Citizenship and Postnational Rights", *International Social Science Journal*, 1999, pp.11-23.
[199] The Charter is available as full text on the World Wide Web: http://ue.eu.int/df/default.asp?lang=en Retrieved: 20 January 2002)
[200] Laffan, op.cit., pp.8-9

Concluding this brief examination on the efforts for building a common 'European identity' within the EU, it should be noted that this constructed 'European identity' contributes much to the perception of the EU as "Europe".

3.3.6. Presence of Co-operation in the Fields of Justice and Home Affairs

Existence of co-operation in the fields of justice and home affairs, and the expected integration in these fields provide another basis for a distinctive EU.

The roots of the co-operation on justice and home affairs among the member states trace back to the early 1970s. It began within the framework of European Political Co-operation (EPC), an intergovernmental mechanism established for co-operation in political issues among the member states. The co-operation on justice and home affairs among the member states gradually intensified without losing its heavily intergovernmental nature. However, many more binding instruments were adopted by some of the member states in the last decade. Two main examples of these instruments are Schengen Agreement of 1985 and the Schengen Implementing Convention of 1990. They both aimed to ensure a more effective co-operation between the police offices and customs authorities of the signatory member states. Subsequent to the adoption of these instruments, there have developed a rich number of other legal instruments in the same direction. They all together are called 'Schengen Acquis'.[201]

The Maastricht Treaty first incorporated co-operation in the fields of justice and home affairs into the framework of the EU as its third pillar under Title VI. Despite the introduction of many legal instruments, the Treaty maintained the intergovernmental nature of that co-operation. The subsequent Treaty of Amsterdam made very significant progress in

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[201] *Dialogue with Citizens and Business.* Retrieved: 21 January 2002. [WWW Document]. URL http://citizens.eu.int/en/en/gf/tr/sv/gi/78/gitem.htm

this field starting a course of integration instead of co-operation. As an indication of this ambition, the Treaty renamed the pillar as the 'area of freedom, security, and justice'. It also envisaged the incorporation of the Schengen arrangement into the EU framework. As a result, the member states, except United Kingdom and Ireland, continue their co-operation within this legal framework today. In addition, the Treaty brought in some modifications regarding the role of the institutions in this field as well as a number of major changes in the decision-making process. Above all, it introduced the opportunity of "closer co-operation" between the member states in this field.[202] The Nice Treaty widens the scope of "enhanced co-operation" in this field removing the possibility of the veto for police and judicial co-operation in criminal matters.[203] Depending on this strengthened legal basis, many steps aiming at practical results have been taken within the EU.[204]

This brief examination on the developments in the field of co-operation on justice and home affairs among the member states indicates an increasing trend towards integration in these fields. However, the present level of co-operation seems to be satisfactory enough to get a distinctive image of the EU.

3.3.7. Having a Noticeable External Identity

Another distinctive feature of the EU is that it has a noticeable external identity. This identity arises particularly from the common policies in the fields of trade, foreign affairs, security and defence, and environment. Many other well-established EU policies, such as those on agriculture and fisheries, also have important external dimensions and thus

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[202] Jörg Monar, "Justice and Home Affairs", *Journal of Common Market Studies*, Vol.: 38, Annual Review, September 2000, pp.133-138.

[203] De Vigo and Seguro, op. cit., p.29.

[204] The European Commission, "A New Treaty for Europe" *Citizen's Guide*. Retrieved: 21 January 2002, [WWW Document]. URL http://europa.eu.int/en/agenda/igc-home/intro/chap2/en_2.htm

contribute to the perception of that identity.[205]

As Buzan and his colleagues point out, the EU is internationally recognised as a legitimate political actor. However, this is not to say that the EU can always behave so in practice. On some occasions, it looks like a kind of super-state but on other occasions it stays under the shadow of its member states.[206] Nevertheless, the EU has a commonly perceived external identity in the international system, especially in its continental environment. The following common policies of the EC/EU have played the main role in the formation and strengthening of that external identity.

a. The Role of the Common Trade Policy and Some Other External Activities

The first factor contributing to the formation and strengthening of an external identity for the EC/EU is the Common Trade Policy and some other external activities. Owing to this policy, the EC/EU has developed as a powerful trading bloc capable of using a rich number of external policy instruments to achieve common interests of its member states. This is perhaps reflected best in the context of the General Agreement on Tariffs and Trade (GATT) where the EU has played a major role in protecting the common interests of its member states.[207]

Besides being the world's largest and coherent trade bloc, the EU is also one of the largest providers of funds and aid for the developing countries. Furthermore, the EU maintains a regular dialogue on political and economic issues of mutual interest with some groups of countries from different regions of the world including Asia, Mediterranean, Latin America, and the USA.

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[205] More detailed information on each common policies of the EU is available on the World Wide Web: http://europa.eu.int/index_en.htm# (Retrieved: 12 March 2002).

[206] Buzan et al, op.cit., pp.21-30.

[207] David Weigall and Peter Stirk, "The Common Market of the Six", in David Weigall and Peter Stirk (eds.), The Origins and Development of European Community, 1992, p.115.

As a natural result of these facts, the EU has been seen as an effective economic power by the outside world. This external identity in economic field is now expected to be strengthened more as the euro gains the role of international currency besides the dollar.

b. The Role of the Common Foreign Policy

The second policy contributing to the formation and strengthening of an external identity for the EU is its Common Foreign Policy.

From the very beginning, the ultimate aim of the European Communities was to establish a political integration among the member sates following the achievement of economic one.[208] This fact is underlined by Douglas Hurd, the former Minister of Foreign Affairs of the United Kingdom, as follows: "it is a myth that the Treaty of Rome was about a free trade area and had no political argument built into it."[209] For that reason, an enormous number of proposals and attempts concerning to the issues of political union, common foreign policy, and even common defence policy, have remained on the agenda throughout the history of the EU.[210]

Towards the end of 1960s, many internal and external factors accelerated the attempts for adding a political dimension to the European integration process. As a result, the European Political Co-operation (EPC) system was established, outside but parallel to the mechanism of the EC, aiming at the consultation and co-operation in the field of foreign affairs. The EPC was an intergovernmental mechanism lacking any supranational features. Its main characteristics and working methods were shaped and improved by a chain of

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[208] Lasok and Bridge, op.cit., p.242.

[209] Douglas Hurd, "A Constitution or a Treaty?", *Does Europe Need a Constitution Conference Proceedings*, London: The Philip Morris Institute for Public Policy Research, 6 June 1996, p.3.

[210] Vandamme, op.cit., pp.148-149.; Chris Patten, *Towards a Common European Foreign Policy: How Are We Doing?* Winston Churchill Memorial Lecture, Luxembourg, 10 October 2000, SPEECH/00/369. Retrieved: 19 January 2002, [WWW Document]. URL http://europa.eu.int/comm/external_relations/news/patten/speech_00_369.htm

reports in the course of time.[211] By the beginning of 1980s, the member states began to give a growing importance for 'speaking with one voice' on the international scene and determined to strengthen EPC. Consequently, the SEA provided the EPC with a legal framework though it did not change much its intergovernmental nature.[212]

At the beginning of 1990s, under the pressure of drastic political developments in the continent of Europe, the member states made a fundamental attempt to transform the EPC system into a Common Foreign and Security Policy (CFSP) intended to be safe from the previous shortcomings. The Maastricht Treaty incorporated the EPC system into the EU framework as its 'second pillar', under Title V. From one point, it seems that the Maastricht Treaty did not bring in much improvement in this field. Because, it preserved the intergovernmental nature of the former EPC as reflected by the dominance of unanimity rule in decision-making procedure and by the low involvement of the European institutions in this field. However, from another point, it has an utmost importance. Because, it stated explicitly the will of the EU to assert its identity on the international scene as reflected in Article B of the Common Provisions. This Article sets out one of the objectives of the Union as "to assert its identity on the international scene, in particular through the implementation of a common foreign and security policy, including the eventual framing of a common defence policy, which might in time lead to a common defence."[213]

Many significant events during the 1990s, like the war in the former Yugoslavia, demonstrated the shortcomings of the CFSP and subsequent ineffectiveness of the EU. This forced the member states to make some improvements in this field. Therefore, the Treaty of

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[211] Panayiotis Ifestos, *European Political Cooperation, Towards a Framework of Supranational Diplomacy*, Aldershot: Avebury-Growing Publishing, 1987, pp.133-141 and 238-243.

[212] Derrick Wyatt and Alan Dashwood, *European Community Law*, Third Edition, London: Sweet & Maxwell, 1993, p.15

[213] Elfrede Regelsberger, "Common Foreign and Security Policy" in Werner Weidenfeld and Wolfang Wessels (eds.), *Europe from A to Z – Guide to European Integration*, Luxembourg: Office for Official Publications of the European Communities, 1997, pp.41-46.

Amsterdam made some reform on the CFSP to provide necessary means for achieving highly ambitious objectives of the CFSP. Without changing the intergovernmental nature of the co-operation, it laid down many institutional arrangements to make the policy more effective and coherent. In addition, it provided new tools and a more efficient decision-making procedure to further improve external action of the EU in this field. More precisely, these improvements included: First, it brought the common strategy as an additional foreign policy instrument to the existing ones of joint action and common position and established a Policy Planning and Early Warning Unit (PPEWU). Secondly, it introduced a new post of High Representative for CFSP for greater coherence and made the Commission involved more in task of representation as well as in implementation of CFSP decisions. Thirdly, it improved decision-making procedure by allowing for a constructive abstention procedure. Finally, it improved the procedures for funding the CFSP.[214]

The Nice Treaty increases the potentiality of strengthening the external identity of the EU. It extended the scope of enhanced co-operation for the implementation of joint action or a common position. However, a number of very important shortcomings still remain, such as small scope for enhanced co-operation, lack of real democratic control, right to veto for the member states on the ground of vital national interests.[215]

Consequently, the CFP continues to be "a common policy, not a single one", in the words of Chris Patten, the Commissioner Responsible for the External Relations of the EU.[216] The main reason behind this is the fact that foreign policy is still a sovereignty-sensitive issue for some member states. Nevertheless, the existence of the CFP provides a

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[214] John Peterson and Elizabeth Bomberg, *Decision Making in the European Union*, 1999, pp.230-231.

[215] De Vigo and Seguro, op.cit., pp.9-10.

[216] Chris Patten, *A Voice for Europe? The future of the CFSP*, IEA, Dublin, Brian Lenihan Memorial Lecture, 7 March 2001, Speech /01/111. Retrieved: 19 January 2002, [WWW Document]. URL htt://europa.eu.int/comm/external_relations/news/patten/speeche01_111htm

strong tendency, both in Europe and outside, to see the EU as a major international actor.[217]

c. The Role of the Common Security and Defence Policy

Besides foreign affairs, security and defence is another area where the EU is gaining an external identity making significant progress towards forming a common security and defence policy, particularly over the last decade.

The two subjects, namely foreign affairs and security and defence, have actually been dealt together by the member states from the beginning of efforts for co-operation in these fields. They presently constitute the two components of the CFSP as originally named by the Maastricht Treaty. Therefore, what is mentioned just above concerning the development process of the CFP is also valid for the common security policy and, to some extent, for common defence.

More specifically, until the mid-1980s, the member states were not able to take some real steps towards making co-operation in security and defence fields though they had made many attempts in this direction in 1950s, such as the European Defence Community (EDC) and the European Political Community (EPC).[218] Only after that date, they achieved to do so as reflected by the revival of the WEU in 1984. As the second important step in this direction, the member states formally committed themselves by the Maastricht Treaty to formulate a common security policy and declared the WEU as the agency to implement that policy.[219] The Amsterdam Treaty reformulated the provisions regarding the security policy adding it so-called Petersburg Tasks as new aspects. Petersburg Tasks involve humanitarian

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[217] Christopher Hill and William Wallace, "Introduction – Actors and Actions", in Christopher Hill, *The Actors in Europe's Foreign Policy*, London and New York: Routledge, 1996, p.13.

[218] Weidenfeld, op.cit., pp.8-9.

[219] Buzan *et al.*, op.cit., pp.145-152.; Ian Davidson, "Europe Between Nostalgia and Utopia", in Jonathan Story (ed.), *The New Europe*, 1993, pp.486-487.

and rescue tasks, peacekeeping and crisis management including peacemaking. In addition, it envisaged progressive development of a common defence by the new Article 17 (ex Article J.7). Finally, it strengthened the previously established institutional links between the EU and WEU but without incorporating the latter into the EU. Apart from these arrangements, neither a common defence policy with military aspects nor much exception to the unanimity rule for decisions in this field was adopted.[220]

Developments in this field have greatly accelerated over the last three years during which many European Councils have set up political and military decision-making structures for the operations by the EU in pursuit of the so-called Petersburg Tasks as set out in the Amsterdam Treaty. The main aim of these efforts is to form a "Common European Security and Defence Policy"(CESDP), parallel to the strengthening "European Security and Defence Identity" (ESDI) under the framework of the NATO. Particularly, the respective decisions of the Helsinki European Council, held in December 1999, are the most noteworthy. It established a "headline goal" for the member states in terms of their military capabilities for crisis management operations. According to this decision, by the year 2003, the EU will have been able to deploy, and sustain for at least one year, military forces of up to 60 000 troops to undertake the full range of the so-called Petersburg Tasks.

The role of these forces would be to undertake military operations led by the EU in response to international crisis, in circumstances where NATO as a whole is not militarily engaged. In addition, it was decided to create some permanent political and military structures, including a Political and Security Committee, a Military Committee and a Military Staff, to ensure the necessary political guidance and strategic direction to such operations.[221]

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[220] Peterson and Bomberg, op.cit., p.234.
[221] Cengiz Okman, "AGSK ve NATO Üzerine Radikal Dönüşüm İkilemi", *Karizma*, Nisan/Mayıs/Haziran 2001, pp.108-112.

The Nice Treaty amends Article 17 of the Treaty on European Union by removing the provisions made to establish close links between the EU and the WEU. It also underlines that enhanced co-operation cannot be used for issues which have military implications or affect defence matters. Parallel to this, the Nice European Council adopted the Presidency's Report on the European Security and Defence Policy on 26 February 2001. It provides for the development of the military capacity for the EU, the creation of permanent political and military structures and the incorporation of the crisis management functions of the WEU into the framework of the EU. At the same date, as another very important step forward, the General Affairs Council adopted a regulation for the establishment of a Rapid Reaction Mechanism designed to enhance the EU's civilian capacity to intervene fast and effectively in crisis situations in third countries.[222]

Since the Amsterdam Treaty, all decisions adopted by the European Councils of Cologne, Helsinki, Feira, and Nice have referred to the military and civil instruments required to accomplish only the Petersburg Tasks, but not a collective defence.[223] This has frequently been underlined by the high officials of the EU responsible from the policy, as reflected by the following extracts from the speeches of Chris Patten, the Commissioner Responsible for the External Relations of the EU, and Javier Solana, the EU High Representative for CFSP: "ESDI is not about collective defence. The Union has no ambition to take over or duplicate the work of NATO."[224] "ESDI is not about Europe going it alone, but about Europe doing more."[225] "NATO will continue to be the cornerstone of the

[222] Commission of the European Communities, "Summary of..." op.cit., p.12.
[223] Presidency Conclusions from 1994 onward are available on the World Wide Web: http://www.europa.eu.int/council/off/conclu/index.htm (Retrieved 18 January 2002).
[224] Javier Solana, "The Development of a Common Foreign and Security Policy of the European Union and the Role of its High Representative", Global View, 30 March 2000. Retrieved: 23 January 2002, [WWW Document]. URL http://ue.eu.int/solana/details.asp?BID=108&DocID=62116
[225] Chris Patten, The EU's Evolving Foreign Policy Dimension – the CESDP After Helsinki, Joint meeting European Parliament Foreign Affairs Committee with Members of the NATO Parliamentary Assembly, Brussels, 22 February 2000, SPEECH/00/51. Retrieved: 19 January 2002, [WWW Document]. URL http://www.europa.eu.int.comm/external_relations/news/patten/speech_00_51.htm,

collective security of the European countries. The European security and defense capacity will reinforce and revitalise the European pillar of NATO."[226]

Nevertheless, it is clear that the EU has made big progress in the field of common security and, as a subsequent to this, defence. Being the most important achievement, the Rapid Reaction Mechanism for crisis management shows the member states' determination for the establishment of a European Security and Defence Identity. As Solana points out, it is likely to become an important tool for the EU for the future conduct of its foreign policy, particularly in the area of crisis management.[227] It also seems likely that questions related to defence, still regarded as a sovereignty-sensitive area, will increasingly be dealt at the EU level in the near future. Because the CESDP is part of the wider project of building Europe's political identity.[228]

Consequently, all these rapid developments strengthen the perceived image of the EU as a distinctive political actor by the outside world.

d. The Role of the Environment Policy

The distinctive external identity of the EU extends far beyond the fields of commerce and other economic activities, foreign affairs, security and defence. The environment policy also provides suitable basis to build a strengthening external identity for the EU.

At the beginning, the environment policy was not envisaged to be formed commonly in the Founding Treaties of the EC. However, this common policy has, on the one hand, been shaped by six environment action programmes implemented throughout the

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[226] Javier Solana, "Towards a Stronger Alliance", *European Affairs*, Brussels, 12-04-2000. Retrieved: 23 January 2002, [WWW Document]. URL http://ue.eu.int/solana/details.asp?BID=108&DocID=61496

[227] Javier Solana, "Developments in CFSP over the Past Year", *Challenge Europe*, European Policy Centre, Brussels, 4 October 2000. Retrieved: 23 January 2002, [WWW Document]. URL http://ue.eu.int/solana/details.asp?BID=108&DocID=63991

[228] Javier Solana, "European Defence: the Task Ahead", *European Voice*, 24 October 2001. Retrieved: 23 January 2002, [WWW Document]. URL http://ue.eu.int/solana/details.asp?BID=108&DocID=68380

Community since 1973, and on the other hand, gained explicit legal status brought by the parallel amendments in the Founding Treaties over the years. Presently, the Sixth Environment Action Programme of the EU sets environmental objectives and targets to be reached at the EU level during the period until 2010, together with necessary actions expected to contribute to the achievement of them.[229]

Parallel to the increasing globalisation, the environmental problems have also acquired a clearer international nature, particularly in the last decade. Taking this fact into consideration, the EU has gained a leadership position in the efforts for common international action or co-operation against these problems. This is particularly the case as regards reducing emissions of greenhouse gases, combating ozone depletion, protecting bio-diversity in the Earth, and preventing climate change. [230] The leading role of the EU in this field is best reflected by its contributions to the development of many important international documents, such as Agenda 21, the Montreal Convention, and Kyoto Protocol, on the critical environmental problems.

The Sixth Environment Action Programme of the EU foresees an active role in international forums and a more effective presence in international environmental organisations. It also encourages the EU to improve dialogue with third countries on global environmental issues.[231]

The efforts of the EU in this field, no doubt, contribute to the formation and strengthening of a distinctive external identity for the EU.

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[229]   Yılmaz Dündar and Mustafa Fişne, "Avrupa Topluluğu Çevre Politikaları ve Altıncı Çevre Eylem Programı", *AKÜ İ.İ.B.F Dergisi*, Cilt: 3, Sayı: 1, Temmuz 2001, pp.2-7.

[230]   Commission of the European Communities, *Communication from the Commission on the Global Assessment of the EC Programme of Policy and Action In Relation to the Environment and Sustainable Development, 'Towards Sustainability'*, Brussels: 1999, p.3.

[231]   Commission of the European Communities, *Communication from the Commission on the Sixth Environment Action Programme of the EC*, Brussels: 7 December 2000, pp.8 and 51.

3.3.8. Representing a Deep Economic and Monetary Integration

Another distinctive feature of the EU is that it has a highly integrated economic and monetary policy as represented best by the established single market and the introduction of euro as the single currency of that market.

The Rome Treaties foresaw the gradual establishment of a common market among the member states with a customs union and a common trade policy. The SEA removed a wide number of non-tariff obstacles on the free movement of the four basic factors of production within this common market. A few years later, the member states decided to turn it into a single market which to become a reality by the year 1993.[232]

On the same token, the idea of achieving a more advanced level of economic and monetary integration began to be discussed by the member states as early as 1970s as reflected by the Werner Plan prepared in this direction.[233] However, no real development took place until the end of 1980s when the Delors Plan revitalised the Werner Plan. It proposed a gradual establishment of an Economic and Monetary Union (EMU) among the member states at three stages in a period of 10 years. In accordance with this Plan, the first stage began on 1 July 1990 with the liberalisation of capital movements within the borders of the Community. When the Maastricht Treaty was put into force in 1993, incorporating the content of the Delors Plan into itself as the formal provisions on EMU, preparations in this direction were accelerated.[234]

In accordance with the Treaty, the second stage began on 1 January 1994 with the establishment of the European Monetary Institute (EMI). The Madrid European Council of

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[232] Horst Ungerer, "European Monetary Union: Chances, Risks, Alternatives", in Joerg Monar, Werner Ungerer, and Wolfang Wessel (eds.), *The Maastricht Treaty on European Union, Legal Complexity and Political Dynamic*, Brussels: European University Press, 1993, pp.153-154.

[233] Vandamme, op.cit., pp.144-145.

[234] Can Baydarol, "Avrupa Birliği'nde Euro'ya İlişkin Hukuki Sorunlar ve Düzenlemeler", *Euro El Kitabı*, Ankara: T.C Merkez Bankası Yayınları, 2000, pp.132-135.; Weidenfeld, op.cit., pp.16-17.

1995 confirmed that the third stage of EMU was going to start on 1 January 1999.[235] At that time, euro became the official currency of the eleven member states* fulfilling the necessary conditions, which are often called the Maastricht convergence criteria, for adopting the single currency. But this new single currency was only in non-cash form for use and would remain so during the transition period which to end on 1 January 2002. In addition, the European Central Bank, which replaced the EMI on 1 June 1998, also became operational at the same date.[236] A slight increase in the use of euro by various economic actors has been realised during that transition period.[237] Finally, representing a major turning point in the European integration process, euro was introduced in the form of banknotes and coins in the twelve member states participating to the euro-zone on 1 January 2002.

Euro can be seen as a perfect indicator, along with the working of the Single Market, for the deep integration reached by the member states in economic and monetary field. Its introduction as banknotes and coins will make the phenomenon of European integration perceived in more material terms by the people living in the euro-area. This development will likely contribute to the strengthening of a common European identity, and thus, ease and accelerate the integration in political field. What is certain at this point is that the well-working Single Market and the adoption of the euro have substantially contributed to the perception of the EU as a distinctive entity both by Europeans and non-Europeans.

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[235] Olaf Hillenbrand, "The Euro", in Werner Weidenfeld and Wolfang Wessels (eds.), *Europe from A to Z – Guide to European Integration*, Luxembourg: Office for Official Publications of the European Communities, 1997, p.104.

* Those states were namely Belgium, Germany, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal and Finland. Greece joined to them on 1 January 2001, expanding the euro zone to include now 12 Member States.

[236] European Commission, "Preparation for the Final Changeover to the Euro", *Information Memo from Mr Solbes to the Commission*. Brussels: 7 March 2001, SEC (2001) 409, p.2.

[237] Commission of the European Communities, *Commission Communication to the European Council Second Report on the Preparations for the Introduction of Euro Notes and Coins*. Brussels: 10 October 2001, ECFIN/532/01-EN, p.2.

3.3.9. Releasing a Strong Attraction

The last, perhaps not the least, feature of the EU arises from the strong attraction it releases for the countries in the neighbouring area.

In fact, attracted mainly from the prosperity and richness produced by the success of the EC/EU, many countries on its periphery have applied for the membership. In doing so, they have depended on Article 237 of the Treaty of Rome, which states that 'any European State may apply to become a member of the European Community'. Consequently, four rounds of enlargement have taken place so far in the history of the EU. The last of them was in the post-Cold War period after the completion of the European Economic Area Agreement between the EC and the EFTA member states in 1992.[238]

The later participating countries to the EU and date of their accession is given below at the Table 3.2 together with a map of the EU showing its present 15 member states.

Table 3.2
Later Participating States to the EU

Name of the Participating State	Year of Accession
United Kingdom, Denmark, Ireland	1973
Greece	1981
Spain, Portugal	1986
Austria, Finland and Sweden	1995

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[238] Wallace, *Regional...*op.cit., pp.31-32.

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[238] Wallace, *Regional...*op.cit., pp.31-32.

As noticed, a fifth round of enlargement process of the EU, perhaps also the last one, is presently in progress and near to be soon actualised. It is actually the biggest expansion of the EU in its history in terms of scope and diversity.[239] Therefore, it would be useful to examine it briefly here together with its expected impacts on the distinctiveness of the EU.

When the end of the Cold War changed profoundly the existing geopolitical order in Europe, a number of countries, most of which were from the East and Central Europe, applied for the membership of the EU. Following their independence, the EC quickly established diplomatic relations with the countries of the Central and Eastern Europe. This step was followed by the conclusions of Association Agreements, or so called 'Europe Agreements', with those countries.[240] Like the Association Agreements concluded previously with Turkey, Malta, and Cyprus in 1963, 1970, and 1972 respectively, these new agreements provide the legal basis for bilateral relations between the two parties. Following their conclusions, the EU has become the main economic partner and aid provider for the associated countries whose complete list is given at Table 3.3 just below.[241]

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[239] Keyes, op.cit., p.28.

[240] Dinan, op.cit., pp.189-190.

[241] The European Commission, *European Union Enlargement, A Historic Opportunity*, pp.33-34. Retrieved: 20 April 2002. [WWW Document]. URL http://europa.eu.int/comm/enlargement/docs/pdf/corpusen/pdf

Table 3.3 The Associated Countries with the EU

Country	Association Agreement signed on	Accession application submitted on
Bulgaria	01-03-1993	14-12-1995
Cyprus	19-12-1972	03-07-1990
Czech Rep.	6-10-1993	17-01-1996
Estonia	12-06-1995	24-11-1995
Hungary	16-12-1991	31-03-1994
Latvia	12-06-1995	13-10-1995
Lithuania	12-06-1995	08-12-1995
Malta	05-12-1970	03-07-1990
Poland	16-12-1991	05-04-1994
Romania	08-02-1993	22-06-1995
Slovakia	06-10-1993	27-06-1995
Slovenia	10-06-1996	10-06-1996
Turkey	12-09-1963	14-04-1987

Another importance of Europe Agreements was that it recognised the associated countries' intention for the membership of the EU.[242] The Copenhagen European Council in 1993 not only confirmed the eligibility of those countries to realise that intention but also formulated the necessary criteria to be met by them before opening any negotiation in this direction. By establishing the necessary membership criteria, often referred to as the 'Copenhagen criteria' as examined in detail in Chapter Four, the member states started one

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[242] Dinan op.cit., p.189.

of the most ambitious projects in the history of EU. The following words of Günter Verheugen, the present Commissioner responsible for the enlargement process, sum up best the assessment made by the EU in undertaking such a challenging task: "morally imperative, strategically necessary and politically feasible."[243]

Since then, issues and questions related to that project have been on the top of the EU's agenda as reflected by the conclusions of the subsequent European Councils, including Essen (1994), Madrid (1995), Luxembourg (1997), Cardiff (1998), Vienna (1998), Berlin (1999), Helsinki (1999), and Nice (2000).[244] As the second important step in the enlargement process, the Commission presented Agenda 2000 in 1997. In this document, the Commission examined the impact of enlargement on the EU and gave its Opinions on the appropriateness of each associated country to be given a candidate status. Consequently, on the basis of the recommendations in this work, the Luxembourg European Council decided to launch an 'overall enlargement process' in 1997. Accession negotiations were formally opened with six countries of so-called 'Luxembourg Group', namely the Czech Republic, Estonia, Hungary, Poland, Slovenia and Cyprus in 1998. The same was done with six additional candidate countries of so-called 'Helsinki Group' including Bulgaria, Latvia, Lithuania, Malta, Romania and the Slovak Republic about two years later in 2000.[245] Turkey remains to be the only candidate country with which no such negotiation has been opened yet.

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[243] Günter Verheugen, *Enlargement is Irreversible*, The European Parliament, Strasbourg, 3 October 2000, SPEECH/00/351. Retrieved: 20 April 2001. [WWW Document]. URL
http://www.europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=SPEECH/00/351|0|RAPID&lg=EN

[244] Lykke Friis, "The End of the Beginning' of Eastern Enlargement – Luxembourg Summit and Agenda-setting", *European Integration online Papers (EIoP)* Vol.: 2, No: 7, 1998. Retrieved: 11 October 1998. [WWW Document]. URL http://eiop.or.at/eiop/texte/1998-007a.htm. Those Presidency Conclusions are available on the World Wide Web: http://www.europa.eu.int/council/off/conclu/index/htm (Retrieved: 18 January 2002).

[245] Julie Smith, "Enlarging Europe", *Journal of Common Market Studies*, Vol.: 38, Annual Review, September 2000, pp. 122-123.

The Nice European Council on December 2001 together with the subsequent Treaty of Nice represent another milestone in the enlargement process. The Nice European Council provided three major contributions to the ongoing enlargement process. Firstly, it adopted the 'Enlargement Strategy Paper' prepared by the Commission setting out clear perspectives for the further conduct of the negotiations. Secondly, it gave a clear mandate to the Commission to move forward in the accession negotiations on the basis of that strategy. Finally, it set a clear timeframe for the first accessions expressing the hope that the first acceding countries will be able to participate in the elections for the European Parliament to be held in June 2004. As regards the contribution of the Treaty of Nice, it should be noted that the Treaty removed the last formal obstacle to enlargement by achieving an institutional reform.[246]

As this short examination shows, the EU has had a strong attraction for the countries in its near periphery since the very beginning of its existence. This not only constitutes a distinctive feature of the EU but also provides suitable basis for strengthening its dominance in the continent.

In conclusion, as the above examination on the distinctive features of the EU demonstrates, the process of integration within the EU has both deepened and accelerated to a great extent in the post-Cold War period, both in economical and political fields. The first significant result of this development is the great increase in the strength of the EU's identity having been long perceived internally and externally. Owing to this development, the EU has increased its power and influence regarding economic, political and social matters not only in the continent but also in the wider international system. In addition, it is very likely that this emergent 'hegemonic position'[247] or 'great influence'[248] of the EU in the continent as a

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[246] European Commission, *A Guide...* op.cit., p.1.
[247] Renaud and Weiler, op.cit., p.256.
[248] Buzan *et al.*, pp.156-157.

whole will become permanent at the end of the present enlargement process that is successfully approaching to the end. When it is completed, the EU is likely to become a truly pan-European organisation holding most of the countries in the continent under the same institutional framework.[249] Depending on the new realities of the continent, and taking the distinctive features given so far of the EU into consideration, it is possible to argue that the identification of the EU with 'Europe' is no longer a confusion but a reflection of truth that emerged in the post-Cold War period.

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[249] Romano Prodi, *For a Strong Europe, with a Grand Design and the Means of Action*, Institut d'Etudes Politiques, Paris, 29 May 2001, SPEECH/01/244. Retrieved: 20 April 2002. [WWW Document]. URL http://www.europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=SPEECH/01/244|0|AGED&lg=EN&display=

IV. THE CONNECTION BETWEEN THE COPENHAGEN POLITICAL CRITERIA and "BEING A EUROPEAN STATE"

4.1. Introduction to the Copenhagen Political Criteria

As mentioned previously in Chapter Three, a number of countries from the Eastern and Central Europe applied for the membership of the EU after the end of the Cold War. Following their independence, the EC at first established diplomatic relations with those countries, and then, concluded Association Agreements, known as 'Europe Agreements'. One conclusion of these agreements was the recognition of those countries' intention for the membership of the EU.[250]

Taking this intention into account, the Copenhagen European Council of 1993 laid down the conditions to be matched by the applicant countries for the accession to the EU. The Council's declaration involves that "membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities". Besides these pre-conditions concerning political field, it also set many other conditions such as "the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union", "the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union", and finally, "the capacity to comply with the *acquis communautaire*".[251]

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[250] Dinan, op.cit., pp.189-190.

[251] Presidency Conclusions of Copenhagen, 21-22 June 1993, paras. 7(A iii) and 8 (see Rapid file DOC/93/3).

It should be noted that, since they were adopted as Presidency Conclusions, the Copenhagen criteria are, in essence, of political nature rather than being legally binding.[252] But the political nature the criteria does not basically hinder their importance to any extent. They might indirectly be seen as legally binding because they mostly reflect the existing EU law. Particularly, Article 6 of the Amsterdam Treaty gives them -except the one concerning minority protection- a clear legal quality and defined them as basic principles of the EU. Similarly, Article 49 TEC provides those values an external dimension establishing them as conditions for any European state to start negotiations for the membership of the EU. Consequently, these criteria constitute an important part in the Union's Accession Strategy and form the basis for the first Opinions of the Commission (Agenda 2000) on the candidate countries, for the Accession Partnerships as well as for the Regular Reports of the Commission on the progress of the candidates towards EU membership.[253] Similarly, the Helsinki European Council of 1999 confirmed that compliance with all the Copenhagen criteria is the basis for accession to the Union.[254]

Basically, a mere subscription to these criteria by any applicant country is not enough to become the member of the EU. They are also supposed to be in effect in applicant countries. Therefore, the Commission has analysed the extent of actual implementation of the announced reforms by the applicant countries in the light of the Copenhagen criteria in its regular reports issued four times since the launch of the enlargement process by the Luxembourg Council of 1997. However, the fulfilment of that requirement by an applicant

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[252] Gabriel Toggenburg, "A Rough Orientation Through a Delicate Relationship: The European Union's Endeavours for (its) Minorities", *European Integration online Papers (EIoP), Vol.:4, No: 16, 2000.* Retrieved: 6 December 2000. [WWW Document]. URL http://eiop.or.at/eiop/texte/2000-016a.htm

[253] These basic documents in the enlargement process are available on the World Wide Web: http://europa.eu.int/comm/enlargement/docs/index.htm (Retrieved: 20 January 2002)

[254] Presidency Conclusions of Helsinki, December 1999. Retrieved 21 January 2002. [WWW Document].URL http://www.europa.eu.int/council/off/conclu/dec99/dec99_en.htm#annexI

country may not be sufficient for opening accession negotiations.[255]

Considering all these points, it may be concluded that the Copenhagen criteria constitute the fundamental principles of the enlargement process. As Hans van der Broek, the former Commissioner responsible for CFSP, points out, the EU sets compliance with the Copenhagen criteria as a "central part" of its enlargement strategy, without which it cannot accept any country as a member."[256]

On the other hand, apart from being prerequisite for accession to the EU, political values of democracy, human rights, rule of law, and minority rights have begun to constitute the elements of the ideology that seems to be dominant in the European society of states in the post-Cold War period. In fact, they were principally claimed as the core European values on which formal institutions of that society, including EC, were constructed immediately after the II.W.W.[257] Presently, many authors, like Smith, take the existence of institutions and practices in relation to these values as the key basis in defining "Europe".[258]

Therefore, in this Chapter, we will make a short journey back to the history to study the development process of the common political values on which "Europe" is said to depend today. This examination will be useful in understanding the importance of the values stated in the Copenhagen political criteria to be accepted as a "European state" in both levels, namely the European society of states and the EU.

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[255] The regular reports are available on the World Wide Web:
http://europa.eu.int/comm/enlargement/index.htm (Retrieved: 15 January 2002).

[256] Hans van der Broek, *Initiatives for Democracy Conference*, European Parliament, 2 October 1997.

[257] Josef Thesing, "Rule of Law and Democracy, An Introduction", in Josef Thesing (ed.), *The Rule of Law*, Bornheim: Konrad Adenauer Stiftung, 1997, pp.12 and 14.

[258] G. Smith, op.cit., p.114.

4.2. The Copenhagen Political Criteria Preceding the European Society of States

In as early as the 19th Century, the precedent states of the members of the European society of states set some conditions to accept other states to the newly emerged European state system. Collected under the name of 'the standards of civilisation', these conditions were not defined as clearly as the Copenhagen criteria are today. However, the notion implied possession of two essential features: to have a stable and institutionalised sovereign power and to be a "liberal" state guaranteeing certain basic individual rights, particularly for foreigners. Fulfilment of these standards was important for the periphery states to gain the full rights and privileges promised by the 'European law of nations' developed gradually after the Congress of Vienna. The standards were also used as the basis for intervention by the European states in the affairs of other states regarded as 'non-civilised'. For example, the Ottoman Empire was attempted to be thrown out of the system of European public law in 1870s, arguing that this country did not match the so-called 'standards of civilisation'.[259]

Therefore, it is necessary to search for the roots of the values stated in the Copenhagen political criteria to make clear the relationship between these values and the notion "being a European state".

4.2.1 The Roots of the Values Stated in the Copenhagen Political Criteria

Generally speaking, the roots of the values stated in the Copenhagen Political criteria can be discovered in the Pre-Modern Era. Their developments has shaped the modern Europe represented best by the European society of states today

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[259] Forsyth, op.cit., pp.24-29 and 34-37.; C. Brown, op.cit., p.475.

The dominant values of the feudal societies in the western part of the European continent, on which the European society of states is located today, derived mainly from custom and common laws inherited from Rome as well as from Christianity.[260] Many significant developments in the subsequent Pre-Modern Era challenged the exclusive role of Christianity producing new values and ideas. Among these developments, were the spread of the Renaissance to northern Europe in the beginning of 16th Century, completion of the scientific revolution towards the end of the 17th Century, and the birth of the Enlightenment during the 18th Century. The resultant humanist, liberal and rationalist ideas played their role in shaping the modern Europe.[261] They constitute the roots from which the values listed in Copenhagen political criteria have developed. While democracy, the rule of law, and human rights emerged from liberal thinking, minority rights were, in a sense, by-product of nationalism emerged as an ideology in the same era.

Depending basically on the concept of "the individual", liberal thinking in this period directed against absolutism and many feudal practices and privileges. In moral terms, it provided the individual with soie basic rights and liberties in personal, civil, and social fields. Stemming directly from his nature of human being, these rights included the protection of the individual's freedom, dignity, and life against government; freedom of thought, expression, and association; and availability of equal opportunities. In economical terms, liberal thinking advocated for the presence of private property and a market economy free from any kind of state intervention. In this market, the individual was also supposed to have the rights and freedoms to make contractual relations to satisfy their desires however they wanted. In political terms, liberal thinking promoted the following four major principles: individual consent, representation, constitutionalism, and popular sovereignty. Recognition of these principles, in particular, gave the individual the right to vote, to participate, to

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[260] Nathan Rosenberg and L.E. Birdzell, Jr., *How the West Grew Rich*. New York: Basic Books Inc., 1986, pp.37, 61, 106-107.

[261] Burns *et al.*, op.cit., pp.591-592

choose the government and its policies. On the other hand, nationalism as a political ideology developed in Europe depending basically on the feeling of togetherness that separates one community from others. It aimed to create national consciousness among the people sharing many certain commonalties to have their own government.[262]

a. Emergence of Democracy

Meaning literally "the government of people", democracy has several essential characteristics that were shaped during a long period. Although its roots trace back to the Ancient times, as a modern political value, democracy has developed over the last three centuries. In the classical sense, it had the following characteristics: full and direct participation of the free men to the government, equality before the law, pluralism, and individualism. On the other hand, the roots of the contemporary democracy, that is the liberal democracy, can be found, going back as early as the 16th Century, in some feudal practices and institutions, theories about natural law and natural rights, the religious wars and demand for toleration, recognition of property rights and some economic freedoms, arising desire to restrict the political authority. As a result, in the late 17th Century, the basic characteristics of a democracy emerged to include the followings: equality, individual rights and freedoms including property, government based upon the consent of governed, and limitations upon the state. These characteristics together led to the development of representative and parliamentary government in the 19th Century.[263]

As it is reflected in the above paragraph, there is a very close connection between the spread of liberalism and emergence of democracy as a contemporary political value in Europe in this century. Besides demanding equality of all before the law, democracy also

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[262] Roy C. Macridis and Mark L. Hulliung, *Contemporary Political Ideologies, Movements and Regimes,* Sixth Edition, New York: Harper Collins College Publishers, 1996, pp.25-40 and 197-201.
[263] Ibid., pp.21-23.

demanded greater social, economic, and more importantly, political equality in this period. It was therefore perceived as a more revolutionary doctrine than liberalism in that the latter confined the right to vote only to the wealthier middle classes. Its first priority of political equality was symbolised by universal suffrage gaining a gradual importance after 1850. In the period after 1870, the advance of democracy to Western and Central Europe took place as indicated by the commonly establishment of parliamentary institutions and the achievement of universal suffrage and secrecy of ballot. In addition, the rights of free association and public meeting, freedom of speech and of the press were granted in some states in the region. As a result of these new constitutional rights, political parties, popular associations of all kinds and popular press emerged together with the claims for the control of military power in favour of a civilian government.[264]

After the I.W.W, democracy spread to the new areas in the European continent. Both the newly independent states and the defeated powers adopted the democratic institutions but all they were very short-lived. Nationalist, socialist and communist movements, which were authoritarian in nature, gained support in those countries arguing that democratic institutions were not capable of overcoming post-war problems. Consequently, democracy was replaced by the authoritarian forms of government, such as fascism and national socialism, in the second half of the inter-war period in many parts of Europe.[265]

b. Emergence of the Rule of Law

The rule of law, together with human rights, emerged from liberalism that also derives from the rationalist movement of the 18th Century. The principle of the rule of law was essentially established against inequality and arbitrary power of the government. Relying

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[264] Henderson, op.cit., pp.41 and 43.; Thomson, op.cit., pp. 353, 369-370.
[265] Thomson, op.cit., pp. 588-589, 599-600, and 692.

on the freedom and equality of men as the underlying ideals, liberalism universally asserted new political, constitutional, and social rights requiring abolishment of all privileges. For yielding these results, in political field, liberalism demanded a government that rested on the general consent of the people and secured certain rights to individuals. In other words, for liberalism, the ideal government could be in the form of a parliamentary government guaranteeing certain constitutional rights and liberties equally to all citizens and the rule of law. A constitutional monarchy could also be acceptable so long as it provided the same conditions.[266] Aiming at realising these principles, liberalism became the most potent force in the region, especially in the 19th Century, resulting in three waves of revolutions throughout the continent. Through these revolutions, it replaced the system of aristocratic privileges with the principle of equality before the law, representing an important aspect of the rule of law.[267]

Consequently, it is possible to argue that the idea of the rule of law began to be shaped in the 19th Century. At first, it meant to put some legal restrictions on the power of the State in favour of the citizens. In the following decades, it also merged with the demand for an independent judiciary that became a reality only in the last third of the century.[268] The rule of law became dominant in the region, along with the parliamentary constitutional government with certain liberties, owing to liberalism that remained as a common political tendency until the second half of the inter-war period.[269]

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[266] Story, "Europe in...", op.cit., p.10.

[267] Micheal Joseph Smith, "Liberalism and International Reform", in Terry Nardin and David R. Mapel (eds.), *Traditions of International Ethics,* Cambridge: Cambridge University Press, 1993, pp.210-211 and 215.

[268] Gerhard Robbers, "The Rule of Law and Its Ethical Foundations", in Josef Thesing (ed.), *The Rule of Law*, Bornheim: Konrad Adenauer Stiftung, 1997, p.28.

[269] M.J. Smith, op.cit., pp.210-211 and 215.

c. Emergence of the Human Rights

As regards the emergence of human rights, it can be said that this concept existed under several names in European thought for many centuries. But in contemporary terms, it developed in 17th and 18th Centuries depending on two main sources: the doctrine of 'natural law' and declared charters of liberties. While the former generates universal rights and duties, the latter confers local and particular liberties as the Magna Carta did previously in England in 1215.[270]

The central idea of the natural law doctrine, whose roots trace back to the Mediaeval Era, is that there are some universal moral standards that govern all human relations. These standards provide the basis for the rights of individuals, which to be protected by the State. In other words, individuals have many rights that are 'inalienable', that is, neither society nor government can remove them. The Declaration of the Rights of Man and of the Citizen of 1789 added some new citizen's rights to the natural rights of men, which it defines as "liberty, property, security, and the right to resist oppression." They all were incorporated into the positive law of a few European countries, and that of the USA, in the 19th Century.[271] Subsequently, many new rights particularly aimed to make an improvement in the social and economic conditions of the individuals began to be added to the list of human rights towards the end of this century. However, these economic and social rights were commonly included in the constitutions of the states in the region only after the II.W.W.[272] According to the order of development, these rights are called as first and second generations respectively. While first generation rights are broadly political, second generation rights are economic and social. A third generation including the rights of peoples

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[270] C. Brown, op.cit., pp.470-472.

[271] Ibid.

[272] Münci Kapani, *Kamu Hürriyetleri*, 7. Baskı, Ankara: Yetkin Yayınları, 1993, pp.53-56.

democratic government accepted as an enough requirement for membership to the League, assuming that its members would be states governed by the rule of law and respectful to the rights of individual.[276]

Consequently, above examination implies that only in the recent decades, protection of human rights has been accepted as an appropriate subject for international law. Indeed, the attitude of the governments to their citizens was considered as a domestic issue until the II.W.W. It is to say, with a few exceptions, human rights questions were generally regarded as matters entirely within each state's domestic jurisdiction and wholly inappropriate for regulation by international law.[277] It was only after the II.W.W that individuals began to get legal protection at the international level. At the very beginning of the period, human rights were embodied in the Charter of the United Nations though they were not considered as an essential entity for the membership to the organisation. Subsequently, there emerged a substantial number of human rights legislation in the post-war era. In addition, the concept of human rights began to be used as an effective political instrument against the states systematically violating human rights.[278]

d. Emergence of the Minority Rights

Minorities have always existed in most of the European societies throughout the history, having many differences from the main population in terms of religion language, ethnicity or nationality as well as culture and being in a non-dominant position in the society. However, it could be argued that the issue of minority problem and protection of their rights is, in essence, an indirect result of nationalism emerged as an ideology in the 19th Century.

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[276] C. Brown, op.cit., pp.474-475.

[277] Richard B. Bilder, "An Overview of International Human Rights Law", in Hurst Hannum (ed.), *Guide to International Human Rights Practice*, Second Edition, Philadelpia: University of Pennsylvania Press, 1992, pp.4-6.

[278] Cassese, *Human Rights...* op.cit., pp.158-160.

is added to the list after the II.W.W.[273]

On the other hand, it is noted that, unlike the development of human rights within the states in the region, their place in the international field improved very slowly in the same era. Broadly, until end of the 19th century, individuals and peoples did not constitute a concern for international politics whose main actors were sovereign states. Although there were many bilateral or multilateral agreements governing the relationships among those actors, there were not considerable international legal standards related to the protection of individuals, other than those on protection of foreigners.[274] However, this is not to say that there was no humanitarian arrangement and concern among the states in this period. On the contrary, many conventions or international rules introducing humanitarian considerations into the behaviour of the states were designed by the European states after the Congress of Vienna onward. They introduced some legal standards regarding the treatment for foreigners, or setting standards in the workplace, and the conduct of war including the treatment for prisoners of war and for the civilian population. However, these pioneer international standards or norms exist within the limits of the norms of sovereignty and non-intervention. In addition, as a more political development, there emerged a growing tendency to make a distinction among the states on the ground of respect for individual rights of life, liberty, and property.[275]

Following the immense destruction and suffering caused by the I.W.W., an unsuccessful attempt was made to form a new system under the framework of the League of Nations. It was intended that international law was given a higher position in this new system. But, human rights were still not considered in the international level as reflected by the lack of explicit human rights provision in the Convention of the League. The existence of

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[273] İbrahim Ö. Kaboğlu, *Özgürlükler Hukuku, İnsan Haklarının Hukuksal Yapısı*, 4. Baskı, İstanbul: Afa Yayınları, 1998, pp.28-32.

[274] Antonio Cassese, *Human Rights in a Changing World*, Polity Press, 1994, pp.11-16.

[275] Forsyth, op.cit., pp.24-29 and 34-37.

Deeply affected by this ideology, separately established small states of the same nation sought to integration with each other under a new nation-state. Similarly, subject nationalities of multi-national states attempted to establish their own nation-state. This brought intense struggles for the establishment of new nation-states either through integration or separation from 1850 onward.[279] Particularly, the period after the I.W.W. saw the establishment of several new nation states in Eastern Europe where many multi-national Empires were formerly located owing to the revolutionary principle of self-determination. But the boundaries of these new states did not often comply with the requirements of that principle. Therefore, the outcome was the minorities that were perceived as a major threat to the stability of the established order. Because, the states had have a long history of intervention in the ethnic and religious affairs of others.[280]

This brought in the question of minority rights as a separate part of universal individual human rights that do not always ensure the rights of collective groups. As a result, the first attempts to create international protection systems were made after the I.W.W. They were taken as a measure against the resultant threats to the stability in the continent from the perspective of the collective-security approach. In this sense, the treaties concluded after the I.W.W. contained provisions protecting the political, religious, linguistic, and ethnic rights of minorities within the borders of the signatories. Similarly, the League of Nations developed a system for the protection of minorities. Under this system, the minorities could enjoy a minimum set of rights with infringements controlled and sanctioned by diplomatic or legal actions. However, as Hitler's Germany began to use this concept to assert territorial claims over the areas inhabited by a German population from 1933 onward, a serious mistrust appeared in the idea of minority rights.[281]

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[279] Thomson, op.cit., pp.119-123, 239, and 343-345.; Archer and Butler, op.cit., p.3.

[280] Jack Donnelly, "Twentieth-Century Realism" in Terry Nardin and David R. Mapel (eds.), *Traditions of International Ethics*, Cambridge: Cambridge University Press, 1993, p.101.

[281] Eckart Klein, "The Concept and Implementation of Minority Protection" in Josef Thesing (ed.), *The Rule of Law*, Bornheim: Konrad Adenauer Stifung, 1997, pp.175 and 178.

4.3. The Copenhagen Political Criteria in the European Society of States

4.3.1. The Development of the Values Stated in the Copenhagen Political Criteria in General

The real development of the values stated in the Copenhagen political criteria in the region of European society of states took place after the II.W.W. This process can briefly be summarised for each values as follows.

a. Development of Democracy

Democracy, along with the other liberal ideals of 19th Century, spread throughout the European continent almost as a whole immediately after the II.W.W. However, the Cold War division of Europe between the rival blocs of West and East also brought a duality in ideology as democracy on the one side and communism on the other. Consequently, in most of the Eastern European states, their newly adopted democratic regimes were replaced by the so-called 'people's democracies' of communism at the early years of that period.[282]

In the post-Cold War period, democracy, together with human rights, has become a universal ideal as reflected by the general tendency towards it. Huntington describes the global movement towards democracy, which seems the biggest movement in the history, as "the third democratic wave".[283] Indeed, as Diamond points out, there has been a steady increase both in the number and percentage of democracies in the world since 1990.

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[282] Thomson, op.cit., pp.825, 833, and 943.

[283] Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century*, Norman, University of Oklahoma Press, 1991, p.15. For Huntington, a democratic wave is "a group of transfers from nondemocratic to democratic regimes that occur within a specified period of time and that significantly outnumber transfers in the opposite direction during that period."

It represents "an unprecedented democratic breakthrough."[284] This broad democratic expansion marks the definite ideological victory of democracy over communism, which has given the way for an ideological hegemony of democracy in the world in the post-Cold War period.[285] Consequently, democracy is now seen as the only legitimate type of regime in the world. Even some governments which may be described as undemocratic in reality seem to feel obliged to establish democratic institutions in appearance to gain some kind of legitimacy. As Fareed points out, this indicates that the majority of humans in the world finally live under democratic regimes since the end of the Cold War.[286]

b. Development of the Rule of Law

The rule of law began to be seen as the only good order in the European society of states after the II.W.W. owing to many merits it has. The core meaning of various definitions on the rule of law is that the conducts between the State and individuals should be regulated by legal rules whose interpretation and application are in the hands of independent courts.[287] More precisely, its fundamental elements include the precedence of the law over all governmental measures, the separation of State powers, legal protection to the citizens, and assurance of human rights and fundamental freedoms by the State obeying to the principle of equality.[288]

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[284] Larry Diamond, "Is the Third Wave Over?", *Journal of Democracy*, Vol.: 7, No: 3, 1996, p.20.

[285] Josef Thesing, "Democracy and Social Justice: An Introduction" , in Josef Thesing (ed.), *For Democracy and Social Justice*, Konrad Adenauer Stiftung, 1995, pp.7-8.; Henderson, op.cit., p.52.

[286] Zakaria Fareed, "Doubts about Democracy", *Newsweek*, 12/ 29/97-01/05/98, Vol: 131, No: 1, p.57.

[287] J.G. Merrills, *The Development of International Law by the European Court of Human Rights*, Melland Schill Monographs in International Law, 1998, p.116.

[288] Robbers, op.cit., pp.24-25.; Roman Herzog, "On the Essential Significance of the Rule of law", in Josef Thesing (ed.), *The Rule of Law*, Bornheim: Konrad Adenauer Stiftung, 1997, pp.19-21.

c. Development of Human Rights

Similar to democracy, the protection of human rights is widely accepted in the aftermath of the II.W.W. They are clearly incorporated very into both national constitutions throughout the world and the basic international documents.

In fact, one of the most remarkable developments after the II.W.W. is the arrival of the human rights on the international scene both legally and politically. This has not only undermined the concept of "national sovereignty", a holy one for nation-states for centuries, but also broken the shield provided for them by the principle of "non-intervention". Because, it has opened their performance concerning the implementation of human rights to international scrutiny. As a result, violations of human rights by states, at least those that are permanent and gross, have become an important subject to the international concern both in legal and political terms in the post-war period.[289]

To begin with the developments in the legal field, it should be noted that respect for human rights have gained a distinctive status among the basic principles on which modern international law depends.[290] The Charter of the UN is the first document that refers to the concept requiring member states not only to respect human rights but also to create a common mechanism to protect them. The subsequent conventions and declarations, such as the Universal Declaration of Human Rights of 1948 and the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights of 1966, contributed much to the development of the human rights as a part of international law. In addition, they established an international supervisory mechanism to ensure the implementation of that law by the states besides some that have been established internally to observe the states'

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[289] Münci Kapani, *İnsan Haklarının Uluslararası Boyutları*, 3. Basım, İstanbul: Bilgi Yayınevi, 1996, pp.94-95.; Cassese, *International Law..*, op.cit., pp.287 and 316.

[290] Dorothy V. Jones, "The Declaratory Tradition", in Terry Jardin and David R. Mapel (eds.), *Traditions of International Ethics*, Cambridge: Cambridge University Press, 1993, pp.44-46 and 54-55.

compliance with those rules.[291]

Parallel to the increasing UN involvement, there emerged a growing regional interest in the protection of human rights. Consequently, a number of regional commitments have been made broadening the content of human rights in the post-war era.[292] Among them, those adopted within the context of the European society of states have utmost importance, as will, in detail, be examined in the following pages. Because, a more effective mechanism was established for the protection of human rights within the borders of that society. In addition, a substantial number of non-governmental organisations have emerged providing a great assistance for that monitoring task.

These developments marked the beginning of a new era towards the protection of human rights. In this new era, individuals began to emerge as the valid bearers of many legal rights in international law.[293] The resultant system seeks to protect the individual against his/her own government, establishing superior standards by which national laws and actions could be judged. In addition, the principle of non-intervention in domestic affairs has been restricted in the cases of human rights violations. In short, this new era provides new "protectors for the individual other than his government".[294]

In the post-Cold War period, the concept of human rights has gained a more distinctive place in international arena.[295] This fact is underlined by the Vienna Declaration and Programme of Action, which was adopted at Vienna World Conference on Human Rights of 1993. It states as follows: "the promotion and protection of human rights is a

[291] Cassese, *Human Rights...*, op.cit., pp.22, 28 and 47-49, 162-163, and 173-174.

[292] Bilder, op.cit., pp.46.

[293] Jones, op.cit., pp.44-46 and 54-55.

[294] Aslan Gündüz, *Security and Human Rights in Europe, The CSCE Process*, Istanbul: University of Marmara European Community Institute, 1994, pp.9-12.

[295] David R. Mapel and Terry Nardin, "Convergence and Divergence in International Ethics", in Terry Nardin and David R. Mapel (eds.), *Traditions of International Ethics*, Cambridge: Cambridge University Press, 1993, pp.318-319.

matter of priority for the international community."[296] As Bauer points out, this conference increased the debate on human rights issues among governments and non-governmental organisations involved actively in the subject.[297]

Despite all these positive developments in legal field, compliance with these legal commitments by the states has remained to be problematic, to some extent.[298] Because, the states seem to be unwilling to implement those standards domestically. Worse than that, in facing a violation of human rights by a state, other states usually act within political considerations rather than those of pure human rights considerations. Indeed, depending on a realist understanding of international politics, some states, particularly the powerful ones, tend to use the situation of the human rights in one country as a foreign policy tool in achieving its own interests. For example, as some authors like Jones and Brown point out, the members of the Western bloc regularly condemned human rights violations in the Eastern bloc but ignored the violations made by "friendly-countries" in the Cold War period. In addition, commercial considerations have sometimes been deterrent for the states in determining their reaction against a country violating human rights.[299] Owing to these facts of international politics, human rights have constituted a major subject of debate in international forms. Vincent gives four central arguments voiced by the members of the European society of states in this debate as individualism, the idea that human rights are held against the state, the primacy of civil and political rights, and universalism.[300]

[296] "Vienna Declaration and Programme of Action", *World Conference on Human Rights*, Vienna: 14-25 June 1993, U.N. Doc. A/CONF.157/24 (Part I) at 20 (1993).

[297] Joanne Bauer, "Human Rights in the Post-Cold War Era: The Cases of North Korea, China, and Burma", *Human Rights Dialogue*, Vol.: 1, May 1994.

[298] C. Brown, op.cit., pp.470-471.

[299] Jones, op.cit., pp.44-46 and 54-55.; C. Brown, op.cit., p.477.

[300] R.J. Vincent, "The Idea of Rights in International Ethics", in Terry Nardin and David R. Mapel (eds.), *Traditions of International Ethics*. Cambridge: Cambridge University Press, 1993, pp.262-263 and 266.

To conclude, human rights issues have been gaining a more political recognition and importance in the general international level in the post-Cold War period.[301] As a result, respect for human rights in accordance with the related international instruments have become a fundamental criterion for the legitimacy of states to be accepted by the international community.[302] This is to say that every state now has a duty, not only in moral but also in legal and political terms, to behave in accordance with some internationally accepted standards towards its individuals. Regarding the case in the European society of states concerning the same subject, as Boyle points out, there is a strong possibility for the enlargement of its system for human rights protection into the whole continent through co-operation among the leading organisations involved in the subject.[303]

d. Development of the Minority Rights

First of all, a number of definitions on the term minority have been proposed to be accepted internationally after the II.WW, no consensus has yet to be developed among the states and international organisations. However, all major international organisations, including the UN, the Council of Europe, the OSCE, and the EU, consider the following characteristics necessary for a group of persons to be regarded as a minority: being numerically smaller than the rest of the population, having a non-dominant position within the society, possessing some ethnic, religious, linguistic or cultural differences from the rest of the society, and making solidarity among themselves to preserve their given differences. The first universal text that mentions minorities as such is the International Covenant on Civil and Political Rights adopted in 1966 under the auspices of the UN.

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[301] Bilder, op.cit., pp.4-6.

[302] Cassese, *Human Rights...*, op.cit., pp.22, 28 and 47-49.; Gündüz, "Security...", op.cit., p.14.

[303] Kevin Boyle, "Europe. The Council of Europe, the CSCE, and the European Community", in Hurst Hannum (ed.), *Guide to International Human Rights Practice*, Second Edition. Philadelpia: University of Pennsylvania Press, 1992, p.133.

Shortly after of the II.W.W., the common belief was that conferment of the basic human rights to the persons belonging to the minority groups in a non-discriminative manner was sufficient for their protection. No special or additional rights were needed for the protection of individuals belonging to such groups. The reason behind this general tendency was the perceived mistrust on the concept of minority rights due to the bad pre-war experiences. However, as Klein points out, in a report on the issue of the minority protection, prepared by the Secretary General of the UN at early 1950s, the necessity for guaranteeing some clear collective rights was stated to prevent the emergence of disputes among states on this ground.[304]

Gradual improvement of an international system for the protection of minorities reflects this understanding. It depends basically on two main principles: non-discrimination and special status of minorities. While the former is self-evident, the latter implies the grant of many special rights to them. It obliges the states to create favourite conditions for the preservation of their identities and development of their ethnic, religious and linguistic characteristics. In the post-Cold War period, there is a world-wide movement towards drafting international texts depending on these principles. One example is the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities adopted by the UN in 1992. Although it is not legally binding for the governments, the Declaration sets out a number of principles and rights for 'persons belonging to minorities.' In addition, most states seem to agree that minorities do not cast a serious threat to the integrity of society any longer.[305]

Similarly, the concept of minorities has become a subject of growing interest in European continent following the end of the Cold War.[306] Because, it facilitated the

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[304] Klein, op.cit., pp.175 and 178.
[305] Ibid.
[306] For the impact of the end of the East-West conflict on the issue of Minorities see Liebich André, "Ethnic Minorities and Long-Term Implications of EU Enlargement", *EUI Working Paper*, RSC No: 1998/49.

emergence of the phenomena known as 'particularism', 'regionalism', 'separatism' or 'ethnic nationalism' in both the Eastern and the Western parts of the region. Whatever names are preferred for referring to it, the fact is that emergence of that phenomena reflects a proliferation of sub-national identities.[307] As this development gave way for conflict situations, national governments and the leading European institutions began to consider the minority questions as an urgent security matter. Consequently, in the post-Cold War period, many conventions and texts have been adopted under the frameworks of the Council of Europe, the CSCE/OSCE, and the EU to set legally binding standards for the protection of national minorities. In addition, these institutions have established several special working bodies to develop necessary measures and instruments for that purpose. On the other hand, Kutlesic observes the presence of two contemporary trends concerning the content of the protection of minorities in the region. The first trend is towards conferring collective, territorialized and political rights in international documents besides personal and cultural rights. The second trend is towards adopting more legally binding documents instead of politically binding ones.[308]

4.3.2. The Place of the Values Stated in the Copenhagen Political Criteria in the Leading European Institutions

It should be noted that, from the very beginning, the members of the European society of states have been involved in the task of promoting the political values stated in the Copenhagen political criteria to the countries in their periphery. Their efforts through the leading European institutions have played an important role on the transitions experienced by many states in accordance with those values, especially from the early 1970s onward. For

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[307] Rumford,op.cit., p.209.; Miall, op.cit., p.8.

[308] Vladan Kutlesic, *Contemporary Trends in the Protection of Minorities and the Yugoslav Constitutional System*. Retrieved: 8 December 2000. [WWW Document]. URL http://www.beograd.com/kule/10.html

that purpose, they have used such methods of technical assistance, diplomacy, aid on a conditional base, and trade policy.

Following the end of the Cold War, as their ambitions for promoting these values have strengthened, activities in this direction by the leading European institutions have increased in both number and variety. Furthermore, these institutions set adherence to those values as pre-conditions for membership to themselves. Similarly, main security organisations in the region, such as NATO and OSCE, have followed this trend considering promotion and consolidation of these values as an urgent security matter.

Therefore, it would be useful to look at the place of the values stated in the Copenhagen Political criteria in the leading institutions of the European society of states to make clearer the relationship between those criteria and "being a European state".

a. In the Council of Europe

As stated in its Statute, one of the aims of the Council of Europe is the maintenance and further realisation of the values stated in the Copenhagen political criteria within the signatory states, except for the last one, that is protection of and respect for minority rights. In this sense, it sets adherence to these political values as the pre-condition for any state to become member to the Council of Europe.[309] The place of those values in the Council of Europe in more details is given in the following paragraphs.

As regards the place of democracy, it should be noted that the Council of Europe has undertaken a central role to encourage its consolidation both in the European society of states and in the neighbouring countries. This role is actually a reflection of the importance given to democracy by the participating states after the II.W.W. due to the destructive

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[309] Nugent, op.cit., pp. 15-16.; Archer and Butler, op.cit., p.9.

experience of the pre-war totalitarianism.[310]

As a means to encourage the spread of democracy, the Council of Europe excluded the countries having undemocratic regimes from its membership until they adopted democratic ones. Three well-known examples include Portugal under the rule of Salazar's dictatorship, Spain of General Franco, and Greece under the regime of colonels. All they were able to become a member of the Council of Europe in the mid-1970s once their authoritarian regimes ended. Another example can be given as the withdrawal of the Turkish delegation's voting rights in the Parliamentary Assembly in response to the military coup d'état in that country in 1981. Similarly, this right was restored only after holding of free elections.[311]

The role played by the Council of Europe for the encouragement of the states for adopting democratic regimes has been strengthened in the post-Cold War period. At the very beginning years of that period, the Council became a major forum for negotiating the transition to democracy in Eastern and Central European countries.

As regards the place of the rule of law in the Council of Europe, it should be noted that this principle is always mentioned as having a central value in the basic texts adopted under the framework of the Council. Besides the already mentioned Statute of the Council of Europe, the Preamble to the European Convention on Human Rights refers to the rule of law as the common heritage of the member states.[312]

Regarding the place of human rights, it should be underlined that the Council of Europe is mostly seen as the institution concerning mainly with human rights.[313] The major reason behind this common perception is the establishment of an effective system for the

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[310] Davidson, op.cit., pp.488-489.
[311] Mehmet Gönlübol and Ömer Kürkçüoğlu, "1973-1983 Dönemi", *Olaylarla Türk Dış Politikası (1919-1995)*, 9. Baskı, Ankara: Siyasal Kitabevi, 1996, p.603.
[312] Merrills, op.cit., pp.113-114.
[313] Cassese, *Human Rights...*, op.cit., p.183.

protection of human rights under the auspices of the Council. Among the various instruments developed by this system, the European Convention on Human Rights is the most important one.[314] It was signed in 1950 and put into effect in 1953 so as to provide contemporary European standards and norms on human rights, particularly those of civil and political ones. In addition, it supplies a mechanism to control the implementation of those standards domestically, under the name of the European Court of Human Rights. It ensures an additional protection for human rights besides the one provided by the national legal systems.[315]

Eleven Protocols have been added to the Convention since it was put into practice. While the four of them, Protocols No. 1,4,6 and 7, provided further rights, the others ensured some improvements in the Convention's control mechanism to increase its effectiveness. Among the latter group, the adoption of Protocols No.9 and No.11 is particularly important. Because, they improved several weaknesses of the control mechanism and of its related procedure to maintain the high quality attained in the protection of the human rights. According to McBride, this development is a "reaffirmation of the commitment by the Council of Europe's members to securing human rights."[316] The Convention with its additional Protocols has acquired a substantial significance in the legal and political systems of the members of the European society of states. It is also commonly recognised as the standard by which other regional human rights instruments are measured. Finally, its effective control mechanism has long been accepted as a model for other human rights mechanisms.[317]

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[314] Other basic instruments include the European Social Charter concerning mainly with economic and social rights signed in 1961 and entered into force in 1965, the European Social Security Code of 1964, the Declaration on the Freedom of Speech and Information of 1982, the European Convention on the Prevention of Torture entered into force in 1989.

[315] Vojtech Mastny, "The Helsinki Process and a New Framework of European Security", in Jonathan Story (ed.), *The New Europe*, 1993, pp.438 and 473-474.; Boyle, op.cit., p.134.

[316] Jeremy McBride, "A New European Court of Human Rights", *Interights Bulletin*, Vol.: 8 No: 2, p.48.

[317] Boyle, op.cit., p.156.

Regarding the last component of the Copenhagen political criteria, it should be noted that the Council of Europe has also dealt with the protection of minority rights both politically and legally. At the political level, the Council of Europe has paid special attention to the protection of minorities in welcoming new members. At the legal level, it has recently adopted two important conventions aimed at strengthening the protection of the minority rights. They are namely the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. Both are the product of the post-Cold War period though many attempts in the same direction were made in the previous decades, particularly by the Parliamentary Assembly.

Considering it as a great contribution to peace and stability in the continent at the end of the Cold War, the Heads of State and Government of the Council of Europe's Member States decided to enter legal commitments regarding the protection of national minorities at the Vienna Summit of 1993. In accordance with this decision, the Committee of Ministers established an ad hoc committee to draw a draft Framework Convention on the Protection of National Minorities. The resultant text was adopted in 1994 and opened for signature in 1995. The Convention was to be put into force as soon as it was ratified by twelve states.

The Framework Convention is the first legally-binding document on the protection of minority rights in general terms. As stated in its Preamble, the main objective of the Framework Convention is to ensure effective protection of national minorities and of the rights of persons belonging to the minorities. This objective is to be realised within the rule of law and respect to the territorial integrity and national sovereignty of the signatory states. The Framework Convention sets out a number of principles to be implemented by the signatory governments for the achievement of that objective. They are respectively non-discrimination; promotion of effective equality; preservation of culture, religion, language, and tradition; freedom of assembly, association, expression, thought, conscience

and religion; free access to and use of media; education; trans-frontier contacts and co-operation; participation in economic, cultural and social life; prohibition of forced assimilation. However, they can not be directly applied, that is, the parties are free to choose appropriate policies and measures for their implementation. Another important aspect of the Convention is that it does not imply the recognition of collective rights. Instead, it focuses on the protection of persons belonging to national minorities, who may exercise their rights individually and in community with others. Therefore, the observance of the above mentioned principles calls for an obligation for the contracting states but not a right for individuals. The final significant feature of the Framework Convention to be mentioned here is that it envisages a monitoring mechanism for the implementation of its provisions within the contracting parties. However, this mechanism has a loose nature since it works through notifications by the signatory states in the form of periodic reports.

Despite the weaknesses given above, in the final analysis, the Framework Convention represents an important contribution to the international efforts aiming to protection of national minorities under the international law. It also reflects the importance given to the issue of minority rights by the Council of Europe, and thus by the members of European society of states.

The second convention adopted under the framework of the Council of Europe for the protection of the minority rights is the European Charter for Regional or Minority Languages of 1992. The Charter recognises the use of a regional or minority language in private and public as an inalienable right. It lays down objectives and principles to be respected by the signatory states for ensuring the fulfilment of that right. It also proposes necessary measures to be taken by the contracting parties in the fields of education, courts of

law, administrative authorities and public services, the media, cultural facilities and economic and social life.[318]

b. In the Organisation for Security and Co-operation in Europe

The Organization for Security and Co-operation in Europe (OSCE) is in essence not an institution founded originally within the European society of states. It is the product of the process started under the name of the Conference on Security and Co-operation in Europe in 1970s for ensuring a more peaceful relationship between the two power blocs of the Cold War.[319] However, this process soon turned into a major forum for the members of European society of states to export their political values into the Eastern bloc. Today, like the Council of Europe, one of the priorities of OSCE is to consolidate values stated in the Copenhagen Political criteria in its 55 participating states from Europe, Central Asia, and North America. Therefore, it would be useful to briefly examine the place of the values stated in the Copenhagen political criteria in OSCE, which is in essence a regional security organization.

To begin with the place of democracy and the rule of law in the OSCE, these values of the Copenhagen political criteria have come to the agenda of the CSCE/OSCE meetings only after the end of the Cold War. Following that historical development, they have taken their places among the values on which the new Europe depends. Started with the Paris Charter for a New Europe of 1990, the post-Cold War documents have laid down the principles aiming to transform the internal systems of participating states from the Eastern Europe in accordance with democracy and the rule of law. The Office for Democratic Institutions and Human Rights (ODIHR), established in 1992, has been involved in several

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[318] Miodrag Mitiç, "Protection of National Minorities", *Review of International Affairs*, Vol.: XLIX, No: 15 VII-15 VIII, 1998.

[319] *OSCE Handbook*, Vienna: The Secretariat of the Organisation for Security and Co-operation in Europe, 2000, pp. 8-11.

assistance activities for the reforming efforts of the participating states in this direction.[320]

As regards the place of the human rights in the OSCE, this political value of the European society of states has always had an important place in the agenda of the CSCE/OSCE from the very beginning. The Helsinki Final Act, signed by the Heads of the 35 participating states from both blocs in 1975, marked the first step for the export of that concept into the Central and Eastern Europe. Being a politically-binding document rather than a treaty, the Act states "respect for human rights and fundamental freedoms" among the ten basic principles to arrange the behaviours of participating states. In addition, one of three main "baskets" introduced by the Act involves "co-operation in humanitarian and other fields", commonly referred as "human dimension."[321]

After the Helsinki Final Act, the CSCE/OSCE process has always sought to promote human rights within the participating states. The main reason behind this search is the recognition of the essentiality of human rights protection for peace and security in the continent. Consequently, questions of human rights have taken a central place in the CSCE/OSCE process under the framework of human dimension basket since 1975. This framework provided a political platform and moral support for the improvements in this direction inside the members of the Eastern bloc.[322] In addition, the subsequent CSCE/OSCE documents have further developed the provisions of the Helsinki Final Act concerning human rights. However, as van Boven points out, these documents were mostly in a nature of temporary diplomatic achievement in the Cold War context rather than providing an effective permanent protection."[323]

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[320] Ibid., pp.14 and 35.

[321] Boyle, op.cit., p.155.; Gündüz, "Security...", op.cit., pp.107-109.

[322] Max M. Kampelman, "Foreword," in Lori Fisler Damrosch (ed.), *Enforcing Restraint: Collective Intervention in Internal Conflicts*, New York: Council on Foreign Relations, 1993. pp. vii-xii.

[323] Theo van Boven, "General Course on Human Rights, Protection of Human Rights in Europe", *Collected Courses of the Academy of European Law*, Vol.: IV, Book 2, 1993, p.53.

The end of the Cold War greatly strengthened the place of the human rights in the OSCE as reflected by the Paris Charter. The Charter declares as follows: "Human rights and fundamental freedoms are the inalienable property of all men from the moment of their birth and are guaranteed by the law."[324] This development brought new opportunities for humanitarian co-operation in the framework of CSCE/OSCE. As early as in 1989, establishment of an intergovernmental "Human Dimension Mechanism" became possible in Vienna. It provides a more legitimate political forum for the discussion of human rights questions.[325]

At the several follow-up meetings of that mechanism, the participating states have made important commitments to protect human rights. In addition, a number of expert meetings have been held on the improvement of human rights and democratic institutions. The post-Cold War documents have introduced several additional provisions and commitments to the protection of human rights. They are mostly modelled on the existing international human rights instruments, such as European Convention on Human Rights and the UN International Covenant on Political and Civil Rights. In some instances, they introduce further refinements concerning the content of the specific human rights.[326]

The end of the Cold War also led to a shift in importance from standard-setting to implementation. Therefore, it brought in an improvement of existing procedures and institutions of the CSCE/OSCE's human dimension. ODIHR was established as the main institution of the human dimension in 1992. Its functions include the improvement of the structural conditions necessary to the implementation of human rights, such as building of democratic institutions and the rule of law. In addition, the ODIHR has given the

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[324] The full text of the Paris Charter is available on the World Wide Web: http://www.osce.org/docs/english/1990-1999/summitsparis90e.htm (Retrieved: 17 January 2002).
[325] Mastny, op.cit., p.472.
[326] OSCE Handbook, op.cit., pp.101-105.

responsibility of monitoring compliance of the participating states with the commitments in this field.[327]

Like the human rights, the issue of minority rights and their protection has been an increasing concern for the participating states of the CSCE/OSCE process from the early years of its existence. The related documents adopted so far within this context have developed the most comprehensive arrangements on the subject. They not only define many specific rights for "national minorities" or "persons belonging to national minorities" but also provide for mechanisms to monitor and support their implementation. These two terms are used in all the CSCE/OSCE documents without being defined clearly. However, they seem to refer to the groups of people different from the rest of the population in terms of population size, ethnicity, language, culture or religion.[328]

At the very beginning, minority rights were made part of human rights by the Helsinki Final Act to be dealt with by the contracting states under the Principle VII and Basket III. It obliged the participating States to recognize the equality of persons belonging to national minorities before the law and to ensure the actual enjoyment of human rights and fundamental freedoms by them. The importance of constant progress in fulfilling this obligation was stressed by the Concluding Documents of the subsequent Follow-Up Meetings of the Human Dimension. It should be noted that all these documents accepted an individualist human rights approach rather than collective rights for the persons belonging to minorities.[329]

Among those documents, the Copenhagen Concluding Document is of particular importance. It is the most comprehensive document of the CSCE/OSCE process on minority

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[327] Stefano Guerra, "The Multi-Faceted Role of the ODIHR", *Bulletin of the OSCE Office for Democratic Institutions and Human Rights*, Warsaw: Vol.:4, No: 2, Spring 1996,; Audrey F. Glover, "The ODIHR: A Useful Tool", *Bulletin of the OSCE Office for Democratic Institutions and Human Rights*, Warsaw: Vol.: 5, No: 1, Winter 1996/1997.

[328] Gündüz, "Security...", op.cit., pp.140-142.

[329] *OSCE Handbook*, op.cit., pp.10-17.

rights. It aims at shifting the focus from this individualist approach to a more collectivist one in the protection of minorities. However, it does not mention the right of self-determination to such persons at anywhere or does not contain any provision to be interpreted as endangering the territorial integrity of the state.[330] In this document, the participating states reaffirmed their previous commitments to ensure full and effective exercise of the human rights and fundamental freedoms without any discrimination by the persons belonging to national minorities. They undertook to adopt necessary and special measures for that purpose. They also recognized the right of those persons to express, preserve and develop freely their ethnic, cultural, linguistic or religious identity. Protection and promotion of that identity was determined as the task of the participating states.[331]

The provisions of the Copenhagen Document have further been developed by Charter of Paris, the Geneva Report on National Minorities, and the Helsinki II Document. In all these documents, the participating states reconfirmed their commitments concerning the rights of national minorities and their protection. They called for the full and early implementation of all those commitments. The Geneva Report on National Minorities of 1991 underlines that compliance with these commitments is a matter of legitimate international concern rather than an exclusive internal affair of the participating state. The Helsinki II Document of 1992 strengthened the place of minority rights and their protection in the CSCE/OSCE process. It created the post of the High Commissioner on National Minorities with a mission to respond to ethnic tensions that have the potential to turn into a conflict within the region. The participating states promised to increase their efforts for more effective implementation of all their commitments in this field. The subsequent Concluding Documents have underlined the importance of putting this promise into effect.[332]

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[330] Gündüz, "Security...", op.cit., pp.109-110, 128-129, 147-148.
[331] Mastny, op.cit., p.437.
[332] *OSCE Handbook*, op.cit., pp.93-99.

As a general assessment on the relevant provisions of the CSCE/OSCE documents, it can be said that they mostly accept an individualist human rights approach rather than a collectivist view on minority protection. As mentioned by Gündüz, the following rights are accepted to the persons belonging to national minorities in accordance with this approach, apart from the rights to physical existence, equality before law, and non-discrimination. They are namely the right to the use of their own mother tongue in private and in public, the right to establish and maintain their own educational, cultural, and religious institutions, organisations or associations, the right to profess and practice their own religion and conduct their religious activities in their mother tongue, the right to disseminate, have access to and exchange information in their mother tongue, the right to establish and maintain contacts among themselves and with citizens of other states with whom they have common ties, the right to be given adequate opportunity to participate in public affairs through democratic means and in all sorts of public life, and the right to establish and maintain organisations or associations within their country and participate in non-governmental international organisations. The author also notes many exceptions to the individualist human rights approach in the CSCE/OSCE documents concerning the protection of the minorities. First, it is accepted that persons belonging to national minorities can exercise their rights and freedoms individually and in community with other, depending on the nature of the rights. Second, compulsory resettlement of or any other similar action aiming at disruption of the demographic position of persons belonging to national minorities is prohibited. Third, their ethnic, linguistic, cultural or religious identity is recognised.[333]

c. In the Organisation for Economic Co-operation and Development

The Organisation for Economic Co-operation and Development (OECD) is an organisation that provides for the member governments a forum for discussion on sound

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[333] Gündüz, "Security...", op.cit., pp151-154.

economic and social policies. Bringing some 30 countries together, most of which are from the European society of states, the OECD look likes a club of like-minded countries. This means that its membership is, essentially, limited only to those countries committed themselves to have a market economy and a pluralistic democracy. In other words, becoming a member to the OECD implicitly requires to have democratic pluralism and respect for human rights besides an open market economy.[334]

d. In the North Atlantic Treaty Organisation

Being basically a collective security organisation, the North Atlantic Treaty Organisation (NATO) essentially aims to ensure the freedom and security of its members through political and military means. In addition to this basic task, NATO has also dedicated to protecting the values stated in the Copenhagen political criteria in its member states and in their neighbouring countries. Discovering an essential relationship between the security and the consolidation of those values, NATO began to give more importance to the subject. This fact is reflected in the pre-conditions for the admission of new members to the organisation. NATO has made it clear that candidates must meet certain criteria besides those in military field and security considerations. They include upholding democracy with tolerance for diversity, presence of a firm civilian control on military forces, and progress towards a market economy.[335]

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[334] Organisation for Economic Co-operation and Development, *About the OECD.* Retrieved 16 January 2002. [WWW Document]. URL http://www.oecd.org/EN/about/0,,EN-about-0-nodirectorate-no-no-no-0,FF.HTM1

[335] *Nato in the 21st Century.* Brussels: NATO Office for Information and Press, 2001, p.13. Retrieved 15 March 2002. [WWW Document]. URL http://www.nato.int/docu/21-cent/21st_eng.pdf ; *Nato Handbook.* Brussels: NATO Office for Information and Press, 2001, pp.30, 35, and 62. Retrieved 15 March 2002. [WWW Document]. URL http://www.nato.int/docu/handbook/2001/pdf/handbook.pdf

4.4. The Copenhagen Political Criteria in the European Union

The values stated in the Copenhagen political criteria, particularly democracy, the rule of law, and the human rights, have been among the fundamental principles of the EC/EU from the very beginning. As Noel points out, the founding fathers of the EC dreamed an integrated Europe shaped by these values. However, heavy economic character of the EC during the 1960s and 1970s prevented the member states from making common efforts in accordance with them.[336] Parallel to the accelerating attempts for political integration from the early 1980s onward, these values began to gain explicit legal status under the Community law.

The place of each values stated in the Copenhagen political criteria in the framework of the EU is examined briefly below to show their importance for "being a European state" in the particular level.

4.4.1. The Place of Democracy and the Rule of Law in the EU

Regarding the place of the democracy and the rule of law within the EC/EU framework, it can be said that they are in the background of the birth of the EC though they were not explicitly mentioned in the Schuman Declaration of 1950. The EC required existence of these two values as an unwritten qualification for any applicant country. The attitude of the Commission experienced by Greece, Spain, and Portugal during their admission to the EC reflected this fact. The EC membership of these three countries was delayed until they replaced their authoritarian regimes with democratic ones depending on

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[336] Emile Noel, "Peace and Democracy in Europe: The Role of the European Community", *The Twelfth Corbishley Memoral Lecture*, London: 1988.

the rule of law.[337] This shows that democracy and the rule of law are among those important political values to which the EC has been attached from the very beginning.

Transforming the EC into EU, the Maastricht Treaty made first references to these values in its provisions. In this sense, Article F of the Treaty stipulated democracy and the rule of law among the general principles of the Community law, along with the human rights. Similarly, Article J set out development and consolidation of democracy and the rule of law as objectives to the CFSP, so did Article 130u (2) for the development policy.[338] In addition, Article O added the presence of democratic status as a formal condition for the membership of the EU, besides respect to human rights.

4.4.2. The Place of Human Rights in the EU

Like the two political values mentioned above, the concept of the human rights has also had its place in EC/EU framework from the very beginning. First of all, the Founding Treaties of the EC stipulated many fundamental freedoms and principles related to the scope of the EEC. They included freedom of movement for workers, freedom of establishment, freedom to provide service, and the principles of equal pay for equal work and non-discrimination on grounds of nationality. Apart from such freedoms and principles, the Founding Treaties did not make any reference to the fundamental human rights. However, this is not to say that human rights were ignored or not given enough importance in the framework of the EC/EU at the beginning. On the contrary, the EU has always affirmed its commitment to the human rights despite the lack of clear references to the concept in its provisions.[339]

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[337] Weidenfeld, op.cit., p.14.; Lasok and Bridge, op.cit., pp.65-66.

[338] Çiğdem Nas, "Development of the Principle of the Protection of Fundamental Human Rights in the European Union and the Amsterdam Treaty Amendments with Special References to the Relations between Turkey and the European Union", *Marmara Journal of European Studies*. Vol.: 6, No: 2, 1998, p.66.

[339] Boyle, op.cit., p.153.

The legal gap derived from this lack of treaty provisions, as Nas examines in details, was filled by a substantial case law developed by the Court of Justice particularly during the first two decades. Through its decisions on several cases, the Court established the fundamental human rights as part of the general principles of the Community law. In doing so, the Court took the European Convention on Human Rights and the constitutions of the member states as basic sources for its interpretations though, unlike its member states, the Community itself has never become a party to that Convention.[340]

The state of human rights within the Community has become more important concern of its institutions as the EC developed and deepened. Parallel to the accelerating attempts for political integration from the early 1980s onward, many suggestions for adopting better legal instruments to guarantee the human rights within the EC framework have been made by the main Community institutions. For example, the European Parliament, the Council and the Commission declared jointly the prime importance they attached to the protection of fundamental rights in 1977. Similarly, the Declaration adopted by the Council more recently in 1998 on the occasion of the 50th anniversary of the Universal Declaration of Human Rights underlined the importance given to the human rights by the EU. It stated that the EU policies in this field must be 'continued and, when necessary, strengthened and improved.'[341]

As regards the efforts of the Commission in this field, the Commission has issued various communications to the Council and the Parliament since 1995. By these communications, it developed strategies aiming to enhance the consistency and effectiveness

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[340] Nas, op.cit., pp.58-60.; Laffan, op.cit., p.9.
[341] *Declaration by the European Council on the Occasion of the 50th Anniversary of the Universal Declaration of Human Rights.* Retrieved: 12 January 2002. [WWW Document] URL http://europa.eu.int/comm/external_relations/human_rights/doc/50th_decl_98.htm

of the human rights policy of the EU.[342] The latest communication was adopted on May 2001 under the name EU's Role in Promoting Human Rights and Democratisation in Third Countries. It concentrates mainly on developing a coherent strategy in this field for EU external assistance.[343] In addition, the Commission proposed twice to access to the European Convention on Human Rights, the last of which was in 1990, but the Court ruled in 1996 that the Community has no legal competence to do so.

On the other hand, respect for human rights has become an essential part of EC/EU international relations. This fact was declared by the Luxembourg European Council as early as in 1991 in its Declaration on Human Rights. In the declaration, the EC undertook to pursue a policy of promoting and safeguarding human rights throughout the world. It underlined that pursuing this policy could not be considered as interference in the internal affairs of a state. Rather, it constituted an important and legitimate part of their dialogue with third countries.[344] Reflecting this understanding, the Agreement of LOMÉ IV concluded by the EC with a group of African states in 1989 contained the first proper human rights clause. Since then, different types of human rights clauses have been incorporated into the EC/EU bilateral trade and co-operation agreements with third countries. Particularly, those concluded after 1995 have contained references to the human rights stated in the basic international documents in this field in accordance with a Council decision adopted on May 1995. That decision developed basic modalities of the human rights clause with the aim of ensuring consistency in the text and its application. It should be noted that more than 20 similar agreements have been signed so far in addition to those previously negotiated 30

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[342] The European Commission, *The EU's Human Rights and Democratisation Policy*. Retrieved: 12 January 2002. [WWW Document]. URL
http://europa.eu.int/comm/external_relations/human_rights/doc/index.htm

[343] It is available on the World Wide Web:
http://europa.eu.int/comm/external_relations/human_rights/doc/com01_252_en.pdf (Retrieved: 12 January 2002)

[344] It is available on the World Wide Web:
http://europa.eu.int/comm/external_relations/human_rights/doc/hr_decl_91.htm(Retrieved:12 Jan2002)

agreements which have a human rights clause but not necessarily following the model launched in 1995.[345]

Besides the Commission, even more than it, the European Parliament has been active in the protection of human rights both within and outside the EC/EU framework. It has called the EC many times either to access to the European Convention on Human Rights or to adopt a separate Community charter on civil rights and fundamental freedoms. In this connection, the Parliament adopted the Draft Treaty Establishing the European Union[346] in 1984, which referred to the common rights recognised by the member states in their constitutions and those guaranteed under the European Convention of Human Rights. It demanded adoption of a European declaration containing a more complete list of rights to be guaranteed by the institutions of that Union. In accordance with this demand, the Parliament adopted itself a non-binding Declaration of Fundamental Rights for EC citizens in 1989, which included civil, political, social, and economic rights without providing for any enforcement mechanism.[347] As another important initiative of the European Parliament, a budget chapter entitled "European Initiative for Democracy and Human Rights" (EIDHR) was created in 1999. It collected various budget headings specifically dealing with the promotion of human rights under a single chapter (B7-70).[348] Two recent Regulations adopted by the Council in 1999 provided the legal basis for all human rights and democratisation activities of the EU under that chapter.[349]

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[345] The European Commission, *The EU' Human ...*, op.cit.

[346] Vandamme, op.cit., p.148.

[347] Nas, op.cit., pp-60-65.

[348] The European Commission, *The EU's Human ...*, op.cit.

[349] Council Regulation No: 975/1999. Retrieved: 12 January 2002. [WWW Document]. URL http://www.europateam.cc.cec/eur-op/ojol/en/dat/1999/l_120/l_12019990508en00010007.pdf ;
Council Regulation No: 976/1999 Retrieved: 12 January 2002. [WWW Document]. URL http://www.europateam.cc.cec/eur-op/ojol/en/dat/1999/l_120/l_12019990508en00010007.pdf

Apart form adopting resolutions and declarations, the Parliament has also established many committees to contribute the protection of human rights both at the internal and external levels. One example of them is the Petition Committee which enables EU citizens to submit written petitions concerning any matter within the sphere of the Community. In addition, the Parliament adopts an annual report on the situation of the human rights in the EU each year. In the reports, the Parliament has underlined the importance of ensuring respect for human rights within the Union.[350] It also calls for supportive actions concerning the protection of human rights outside the Union. The Human Rights Sub-Committee fulfils the activities of the Parliament in this field. They include adoption of resolutions and other ways of pressures on non-EC governments to prevent violations of the human rights by them.[351]

The above given activities of the main Community institutions have given their fruits as the incorporation of some references or clear provisions into the basic texts that amended the Founding Treaties. The first of such texts is the Single European Act whose Preamble refers to the human rights recognised by the constitutions of the member states or by the European Convention of Human Rights and the European Social Charter. Despite lacking legally binding power, this reference constituted the first step in the development of legal protections for the human rights under the Community framework. After this development, 'having a satisfactory record of human rights' became an additional unwritten qualification for applicant countries besides being a parliamentary democracy. A case in point was the negative opinion given by the Commission on Turkey's membership in 1989 concerning the situation of the human rights in that country.[352]

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[350] The annual reports 1993 onwards are available on the World Wide Web: http://www.europarl.eu.int/comparl/afet/droi/annual_reports.htm (Retrieved: 13 March 2002).
[351] Boyle, op.cit., p.154.
[352] Lasok and Bridge, op.cit., pp. 65-66.

The Maastricht Treaty took a great step forward in bringing legal protection to the human rights in the EU. The Treaty specified human rights in its provisions for the first time, along with democracy and the rule of law. In this connection, Article F of the Treaty stated respect to the fundamental human rights among the general principles of the Community law together with democracy and the rule of law. Article J and Article 130u (2) set it out, along with the consolidation of democracy and the rule of law, as objectives to the CFSP and the development policy respectively.[353] In addition, Article O added the presence of democratic status and respect to human rights as pre-conditions for the membership of the EU. Finally, the Community Charter of the Fundamental Social Rights of Workers, adopted by the EC Council of Ministers in 1989, was incorporated to the Maastricht Treaty as a legally binding protocol for the member states except the United Kingdom. It provided the EU with a more clear competence to improve the social rights of workers, particularly to combat all kinds of discrimination.[354]

The real improvement concerning the protection of the human rights at the EU level came up with the Amsterdam Treaty. Article 6 of this Treaty, which is the amended and renamed Article F of the Maastricht Treaty referred just above, stated respect for human rights and fundamental freedoms as the underlying principles of the EU, along with liberty, democracy, and the rule of law. Article 7 established procedures to secure the protection of these principles, particularly against serious and persistent breaches by the member states. It provided the Council with the power to put certain penalties on the breaching member state, such as suspension of its voting rights. In addition, the Treaty empowered the European Court of Justice to ensure the respect of fundamental rights by the European Institutions. Similarly, Article 49 TEC provides these values with an external dimension establishing them as conditions for any European state to be able to apply for the membership of the EU.

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[353] Nas, op.cit., p.66.
[354] Boyle, op.cit., p.153-154.

Moreover, Treaty extends the scope of the principle of non-discrimination on grounds of nationality to include all other kinds of discriminatory acts amending Articles 12 and 13 of TEC. As a result, through these three main innovations, the Amsterdam Treaty strengthened the protection of fundamental rights in the EU.[355]

The subsequent Treaty of Nice brings an improvement in the procedure established by the Amsterdam Treaty to secure the protection of the underlying principles of the EU, including the human rights. The amendment in the related Article 7 aims at preventing infringements of the human rights. Accordingly, when the Council decides, under a certain procedure, that there is a clear risk for a serious breach of these principles by a member state, it may issue appropriate recommendations to that state.[356]

The most drastic development concerning the place of the human rights within the EU has recently taken place by the adoption of the Charter of Fundamental Rights. Decided by the Cologne European Council of 1999 and prepared by a special body entrusted by the Tampere European Council of 1999, the Draft Charter of the Fundamental Rights was jointly proclaimed by the European Council, Commission, and the Parliament at the Nice Summit of 2000.[357] The Charter combines the civil, political, economic, social, and societal rights in a single text, which have already been laid down in a variety of international, European or national legal texts. Its Preamble reaffirms that the EU is based on the principles of democracy and the rule of law, along with respect to human rights. Despite the present ambiguity regarding its legal force, adoption of the Charter can be taken as a clear

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[355] Nas, op.cit., pp.66-68.

[356] European Commission, *A Guide...*, op.cit., p.19.

[357] (2000) OJ C 364/8, 18 December 2000. Full text of the Charter is available at the web address: http://ue.eu.int/df/docs/en/EN_2001_1023.pdf

sign for the determination of the EU in the protection of the human rights within its borders.[358]

This brief examination indicates that the human rights have been a major subject of concern in the EC/EU framework from the very beginning. However, the steps to provide them with clear legal protection have been taken more recently.

4.4.3. The Place of Minority Rights in the EU

The last of the Copenhagen political criteria, 'respect for and protection of minorities', is not as deep-rooted as the first three of those criteria in the EC/EU framework. Particularly from a legal point of view, the EU seems to have been much less concerned with the subject than the other leading institutions of the European society of states have. Referring to Toggenburg, the main reasons behind the legal gap concerning the protection of minorities in the EC/EU framework can be given as follows: Firstly, the primary economic nature of the integration process during the first decades prevented the EC from taking steps to establish competence in this field. Secondly, the difficulty of reaching a consensus among the member states led the EC to postpone the development of legally-binding instruments on this sovereignty-sensitive issue. Thirdly, the semi-federal character of the EC encouraged political and quasi-legal instruments rather than pure legal ones concerning the subject. Finally, the European Court of Justice also did not develop any case law that establishes the minority protection as a general principle of the Community law. Consequently, there was neither an explicit treaty provision nor a decision of the Court to deal with the protection of minorities in the Cold War period.

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[358] Christopher McCrudden, "The Future of the EU Charter of Fundamental Rights", *Jean Monnet Working Paper 10/01*, New York: New York University School of Law, 2001, p.11. Retrieved: 12 April 2002. [WWW Document]. http://www.jeanmonnetprogram.org/papers/01/013001.rtf

Developments in the post-Cold War period, particularly the issue of the eastern enlargement, have made the protection of minorities an increasing concern in the EU framework both in political and, to an extent, legal terms. To begin with the latter, it should be pointed out that the developments in this field are mostly of indirect nature. However, in recent years, there is a growing tendency to provide the minorities within the borders of the EU with clear legal protection at the EU level. The Maastricht Treaty established new competencies for the EU only indirectly relevant to the state of minorities, such as those in the fields of culture and education. The Amsterdam Treaty did not also include any explicit clause on the protection of minorities contrary to the other Copenhagen political criteria which were stated as the underlying principles of the EU by Article 6 of that Treaty. Similarly, the efforts for the inclusion of a paragraph concerning the minority rights into the Charter of Fundamental Rights failed. However, Article 20 of that Charter lays down the equality of all people before the law, and Article 21 prohibits discrimination on any ground and requests the EU to protect cultural, religious and linguistic diversity. Consequently, protection of minorities in the EU framework still remains outside the legal field.

Contrary to this less-encouraging legal situation and lack of clear competence at the EU level, there has been a strong attachment to the protection of minorities in political terms. For example, the EC set out the protection of minorities among the conditions for the recognition of the newly independent states immediately after the Cold War. The EU has already devoted significant attention to the issue for accession to itself in accordance with the Copenhagen political criteria.

Parallel to the significance given to the subject in political terms, there has been a number of activities aiming at the protection of minorities within the framework of the EC/EU. Those activities can be collected under three main groups. The first group has been developed by the main European institutions, namely the Parliament, the Commission, and the Council. The second group arises from the certain policies and programmes that is

indirectly relevant to the minorities. They include the policies on human rights, anti-racism, asylum, refugees, regional development, third-State nationals in the EU, and alike. The last group has been placed within the context of the EC/EU's foreign relations.

Concerning the activities by the main European institutions for the protection of minorities, it is noted that they have been considerably growing since the Maastricht Treaty. The increasing interest of the main EU institutions in this issue has brought in various kinds of measures aiming at ensuring that protection. However, they mostly include non-legally binding resolutions and financial support for the projects or programmes favouring the situations of the minorities. Among the main EU institutions, has the European Parliament engaged most in those activities. In this sense, the Parliament has adopted several resolutions to deal with the situation of minorities both in the member states and the third countries. It has also mentioned the importance of minority protection in its documents regarding related issues, such as human rights, racism, cross-border co-operation, enlargement, and revision of the Founding Treaties. Similarly, the Commission and the Council have engaged in a number of similar activities aiming at the protection of minorities. The measures adopted in this direction are of a technical nature rather than being binding normative acts, e.g. providing funds for minority-favouring activities.

Regarding the activities in the EU on the protection of minorities arising from indirectly relevant policies and programmes of the EU, they increased both in number and scope after the Maastricht Treaty. The Treaty established new competencies for the EU in many fields indirectly relevant to the state of minorities. This development opened up new possibilities to make improvements in the situation of minorities. For example, different programmes in the field of culture provided financial support for conservation and promotion of regional culture as well as for research on minority languages. Similarly, the regional policy brought many favours for minorities.

Regarding the activities concerning the protection of minorities outside the EU, it has been an important topic in the EC/EU`s external relations, like that of human rights. Several provisions in this direction can be found in various documents prepared by the main European institutions. Examples of those documents include resolutions issued jointly by the Community and third parties, partnership and co-operation agreements, Council regulations on assistance to and co-operation with developing countries, reports on third countries. In addition, the Stability Pact for Europe, which was launched as an initiative of the EU in 1999 to strengthen peace and democracy in the European continent, also pays a great attention to the protection of minorities.[359] Moreover, minority related issues have priority in the proposals launched under the European Initiative for Democracy and Human Rights. It includes specific references to minorities issues and finances a range of projects and initiatives aiming to increase the protection of minorities and capacity building of state officials, NGOs and minorities communities. Other main funding possibilities for minority issues under the EU budget include the Phare programme and the Access programme.[360]

In addition, the EC introduced minority protection as one of conditions for the recognition of statehood immediately after the Cold War. However, the practice regarding this prerequisite seemed inconsistent in some cases such as recognition of Croatia. It should be noted that the EU has been criticised for using a kind of double standard due to its emphasis on the minority issues in external relations without making much formal arrangements in this direction within its own internal system.[361]

This brief examination reveals the presence of an increasing concern with respect for and protection of minorities within the EC/EU framework

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[359] Its founding document is available on the World Wide Web:
http://www.seerecon.org/KeyDocuments/KD199906240.htm (Retrieved: 14 January 2002).
[360] The European Commission, *The EU's Human ...*, op.cit.
[361] Toggenburg, op.cit., pp.1-19.

In conclusion, the examination in this Chapter reveals that there is a close connection between the presence of the Copenhagen political criteria and "being a European state" in both senses. Their acceptance and implementation constitute pre-condition for a country either to participate to the European society of states or to become a full member of the EU. In other words, the values stated in the Copenhagen political criteria have become standards whose compliance are compulsory for both achieving the participation to the European society of states and accession to the EU. Particularly in post-Cold War period, the EU seems to become a 'community of values'[362] instead of acting merely by economic considerations. The Copenhagen Political criteria represent the best formula of those underlying values for the EU. This development is extremely important for the countries, including Turkey, that wish to become a member of the EU, to be examined in the next Chapter.

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[362] Laffan, op.cit., p.11.

5. TURKEY'S GOAL OF "BEING A EUROPEAN STATE"

Before deducing some conclusions concerning Turkey from the examination made above, the question whether that country aims "being a European state" needs, at first, answering clearly. Thus, the conclusions can be more meaningful for the people interested in this issue.

5.4. Turkey's Goal "Being a European State" at the General Level

Turkey is among the countries that attach the issue of "being European" major importance. "Being a European state" in the sense of participation to the European society of states has been a fundamental goal for Turkey since its establishment.[363]

Essentially, it is a long-lasting political goal for Turkey inherited from its precedent Ottoman Empire during 19. Century.[364] Turkey was first accepted into the 'Public Law and System of Europe' in 1856 by the Paris Congress. This implies that it had been regarded as out of "Europe" before that date. This development made the Ottoman Empire vulnerable to Western influences, which resulted in many reform and modernisation attempts in the direction of the political values and norms developed in Europe in this century. They

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[363] Oral Sander, "Bölgesel İşbirliği, Avrupa ve Türkiye", *Yeni Türkiye Dergisi*, Sayı: 3, Mart-Nisan 1995, p.213; Sander, *Siyasi...*, op.cit., p.63.; Melek M. Fırat, *1960-71 Arası Türk Dış Politikası ve Kıbrıs Sorunu*, Ankara: Siyasal Kitabevi, 1997, p.2.; Seyfi Taşhan, "A Turkish Perspective on Europe-Turkey Relations on the Eve of the IGC", *The Foreign Policy Quarterly*, Vol.: 20, No: 1-2, 1996, p.55.; İlhan Tekeli ve Selim İlkin, *Türkiye ve Avrupa Topluluğu*, 1.Kitap. Ankara: Ümit Yayıncılık, 1993, pp.177 and 179.; Vardar, "Türkiye-AT...", op.cit., pp.123-124.

[364] Mehmet Gönlübol and Ömer Kürkçüoğlu, "1965-1973 Dönemi", *Olaylarla Türk Dış Politikası (1919-1995)*, 9. Baskı. Ankara: Siyasal Kitabevi, 1996, p.518.; Cengiz Okman, "Avrupa Birliği", *Karizma*, Ocak/Şubat/Mart, 2001, pp.148 and 157.

included the creation of a universal Turkish national citizenship for all persons within its territories, guaranteeing equality before the law and equal eligibility for public office including army, abolishment of the civil authority of the religious leaders, reformation of the systems of taxation and of judiciary, abolishing the use of torture and improving conditions in prisons.[365] Nevertheless, all these kind of reforms could not change the ideas of many European leaders that the Ottoman Empire was not a country matching the European standards.[366]

Ottoman Empire was replaced by the Republic of Turkey in 1923 at the end the I.W.W. Its governing elites, under the leadership of Mustafa Kemal Atatürk, set out "being a European state" as a fundamental political goal for Turkey.[367] A mixture of jeo-political, economical, social, and symbolic or ideological reasons played a key role in determining that goal.[368] Turkey, in line with this goal, proceeded to establish good relations and co-operation with the West, and based its political and legal systems on modern, secular models. Following the II W.W, it achieved to join most of the leading European institutions in pursuit of that goal. It gained memberships in the Council of Europe in 1949, NATO in 1952 and the OECD in 1960.[369] All these membership implies that Turkey has achieved its goal "being a European state" at the general level. However, without ignoring the validity of this achievement, it can be argued that it became possible for Turkey mainly owing to its

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[365] Thomson, op.cit., pp. 244-250 and 341-342.; Halil İnalcık, "Türkiye ve Avrupa: Dün Bugün", *Doğu Batı*, Yıl: 1, Sayı: 2, Şubat-Mart-Nisan 1998, p.13., Veysel Bozkurt, *Avrupa Birliği ve Türkiye*, 1997, p.272.

[366] Gündüz Aktan, "Avrupa Birliği'nin Bizde ve Onlarda Yarattığı Kimlik Krizi", *Foreign Policy*, İstanbul Bilgi Üniversitesi Yayını, Yaz 1999, pp.65-67.; Forsyth, op.cit., pp.24-29 and 34-37.; C. Brown, op.cit., p.475.

[367] Baskın Oran, "Atatürk'te ve Günümüzde Bağımsızlık ve Batılılaşma Kavramları", *SBF Dergisi Atatürk Özel Sayısı*, Cilt: XXXVI, No.1-4, 1981, p.205.; Hasan Berke Dilan, *Atatürk Dönemi Türkiye'nin Dış Politikası (1923-1939)*, İstanbul: Alfa, 1998, p.7.

[368] Mehmet Gönlübol and Cem Sar, *Atatürk ve Türkiye'nin Dış Politikası (1919-1938)*, Ankara: Gün Ofset, 1997, p.147-148.; Ergüvenç, op.cit., p.9.; Sander, *Siyasi...*, op.cit., pp.64-65.; Tekeli ve İlkin, op.cit., pp.177-178; Vardar, "Türkiye'nin Batı...", op.cit., pp.373 and 375.

[369] Gönlübol and Sar, op. cit., p.148.

contribution to the security of the European society of states in the context of the Cold War. In fact, Turkey shouldered significant responsibilities as a member of NATO during this period.[370] Once a substantial decline in that need perceived by the members of the European society of society at end of the Cold War, the place of Turkey in Europe began to be questioned in some parts of the European academic and political circles. In doing so, they have mostly been referring to the observed shortcomings of Turkey regarding the situation of the values stated in the Copenhagen political criteria.[371] Consequently, Turkey began to face more difficulties in its relationships with the European society of states in the post-Cold War period.

5.5. Turkey's Goal "Being a European State" at the Particular Level

"Being a European state" in the sense of accession to the EC/EU has particularly been a recurring dream for Turkey for about forty years.

The mixture of the same reasons that played key role in Turkey's determination "being a European state" at the general level urged Turkey to establish relationships with the EEC with a view of full membership in future.[372] These relations are based on Ankara Agreement signed on 12 September 1963 and came into force on 1 December 1964. It established an association between the EEC and Turkey. The basic objectives of this

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[370] Mary Strang and Arlene Redmond, *Turkey and the European Community*, Brussels: 1991, p.22., Okman, "Avrupa...", op.cit., p.153.; Bozkurt, op.cit., pp.273 and 340.

[371] Julie Smith, op.cit., p.123.; Dinan, op.cit., 195.

[372] Gökhan Koçer, " "Avrupalılaşmak": Türkiye-Avrupa Birliği İlişkileri Üzerine Bir Deneme", *İ. Ü. Siyasal Bilgiler Fakültesi Dergisi*, No: 26, Mart 2002, pp.105-110.; Tevfik Saraçoğlu, *Türkiye-Avrupa Ekonomik Topluluğu Ortaklığı (Anlaşmalar)*, İstanbul: Akbank Ekonomi Yayınları, 1992, pp.4-8.; Duygu Sezer, "Ortak Pazar ve Türkiye", *Olaylarla Türk Dış Politikası (1919-1995)*, 9. Baskı. Ankara: Siyasal Kitabevi, 1996, pp.480-483.

association include the continuous and balanced strengthening of trade and economic relations and the establishment of a customs union in three phases as well as the free movement of workers between the parties. In addition, Article 28 of the Association Agreement states: "As soon as the operation of this Agreement has advanced far enough to justify envisaging full acceptance by Turkey of the obligations arising out of the Treaty establishing the Community, the Contracting Parties shall examine the possibility of the accession of Turkey to the Community."[373] The timetable of technical measures necessary to attain these objectives was drawn by the Additional Protocol signed on 23 November 1970 and came into force on 1 January 1973.[374]

Contrary to 1960s during which the relations between Turkey and the EC took place in a mood of honeymoon, 1970s witnessed a recession in these relations.[375] Due to the military coup d'état in Turkey in 1980, the Community froze its relations with Turkey until elections for a civilian government were held in 1983. After that date, relations were gradually normalised and Turkey presented its application for membership of the Community on 14 April 1987. The Commission adopted its opinion on this application on 18 December 1989, concluding not to open accession negotiations with Turkey due to both economic and political reasons. The latter ones will be mentioned below since they are related to the values stated in the Copenhagen political criteria. Despite this negative opinion, the Commission suggested for the EC to develop the co-operation with Turkey, considering "a fundamental interest in intensifying its relations with Turkey."[376]

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[373] Dominik Lasok, "The Ankara Agreement: Principles and Interpretation", *Marmara Journal of European Studies*, Vol.: 1, No: 1-2, 1991, pp.27-33 and 36.

[374] Tevfik Saraçoğlu, "Türkiye-Avrupa Ekonomik Topluluğu İlişkileri", *Marmara Journal of European Studies*, Vol.: 1, No: 1/2, 1991, pp.49-51. For the text of Ankara Agreement and the attached Financial Protocol see, OJ B 217, 29.12.1964, pp.3687-3700 and 3705-3707.

[375] Gönlübol and Kürkçüoğlu, "1973-1983....", p.588.

[376] Vardar, "Türkiye-Avrupa...", op.cit., pp.127-129.

In accordance with this suggestion, the Commission adopted a set of proposals, so-called the "Matutes Package" on 7 June 1990. This Package included completion of the customs union, the resumption and intensification of financial co-operation, the promotion of industrial and technological co-operation and the strengthening of political and cultural ties.[377] After long-lasting negotiations between the parties in the direction of these proposals, the EC-Turkey Association Council decided to start the final stage of the customs union and resume financial co-operation on 6 March 1995. It also decided to step up co-operation in several sectors, to strengthen institutional co-operation and to intensify political dialogue.[378] Following the Parliament's assent taken on 13 December 1995, the customs union between Turkey and the EEC came into effect on 1 January 1996.[379] It required the harmonisation of Turkey's financial and trade regime, creation of new regulatory structures, and the readjustment of major economic flows. On the institutional front, it set up the Customs Union Joint Committee as a consultation body. In the final analysis, completion of the customs union between Turkey and the EEC is a significant achievement because it has created closer economic and political relationship between the parties.[380]

Agenda 2000, adopted by the Commission on 15 July 1997, assessing the situation of each country applying for the membership of the EU, proposed a series of measures designed to consolidate the customs union between Turkey and the EEC. This document also suggested extension the customs union to the fields of services and agriculture and to step up co-operation between the parties in several sectors.[381] On the basis of the evaluation

[377] Alfred Tovias, "The Integration of Turkey in the European Community as a Stabilising Factor for the Middle East", *Marmara Journal of European Studies*, Vol.: 3, No: 1-2, 1993/1994, pp.57-58.

[378] *Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on Implementing the Final Phase of the Customs Union*, OJ L 35, 13.02.1996, pp.1-47.

[379] Mehmet Gönlübol and Hakan Bingün, "1990-1995 Dönemi Türk Dış Politikası" *Olaylarla Türk Dış Politikası (1919-1995)*, 9. Baskı. Ankara: Siyasal Kitabevi, 1996, pp.722-725.

[380] Haluk A. Kabaalioğlu, "The Customs Union: A Final Step Before Turkey's Accession to the European Union", *Marmara Journal of European Studies*, Vol.: 6, No: 1, 1998, p.114.

[381] The European Commission, *Agenda 2000   Communication of the Commission for a Stronger and Wider Union* , Doc 97/6, Strasbourg, 15 July 1997, Vol.: 1, Part Two, (Com (97) 2000 C4-0371/97).

made by this document, the Luxembourg European Council confirmed "Turkey's eligibility for accession to the European Union" on 12-13 December 1997. However, contrary to the other applicant countries from Central and Eastern Europe as well as Cyprus and Malta, the Council failed to include Turkey into the enlargement process it launched. Instead, decided to draw up a strategy "to prepare Turkey for accession by bringing it closer to the European Union. The European Council invited Turkey to participate in the European Conference on the same basis as the other applicant countries.[382]

It is commonly believed in Turkey that the real reason behind this implicit exclusion of Turkey is the existence of a strong mental obstacle at a number of European political, academic, and media circles as well as public. This mental obstacle is considered to be derived from the opinion that Turkey is actually not a "European" country due to its perceived differences regarding particularly history, culture, and religion.[383] To the spokespersons of this view, Turkey is mostly an Asiatic country located in the periphery of "Europe" with many major differences.[384] For that reason, it has no place in "the European civilisational project."[385]

At the formal level, Turkey reacted negatively to the conclusions of the European Council, considering that it had received discriminatory treatment compared with the other applicant countries. This consideration lead to the emergence of important reactions not only against EU itself but also against many of its member states. In this connection, Turkey

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[382] Luxembourg European Council Presidency Conclusions, 12-13 December 1997, paras. 30-36. Retrieved: 17 July 1997. [WWW Document]. URL http://ue.eu.int/Newsroom/LoadDoc.asp?BID=76&DID=43659&LANG=1

[383] Bahadır Kaleağası, "Türkiye-AB İlişkilerinin Analiz Yöntemleri İle İlgili Gözlemler, *Avrupa Birliği-Türkiye-Avrasya: New Trends in EU-Turkey Cooperation Seminar Document,* İstanbul: M.Ü. EC Institute and TEPSA, 22-23 September 1994, pp.1, 4-5. ; Ahmet Davutoğlu, *Stratejik Derinlik Türkiye'nin Uluslararası Konumu,* İstanbul : Küre Yayınları, 2001, p.534. ; Öğütçü, op.cit., p.11.; Aktan, op.cit., p.70.

[384] Buzan *et.al.*, op.cit., p.47.; Dinan, op.cit., 195.

[385] This view was declared at the summit of Christian Democrat leaders of Europe held on 4th March, 1997, see, *Financial Times,* 5th March 1997; *Milliyet,* 5-6 Mart 1997, *Hürriyet,* 6 Mart 1997.

rejected to participate in the European Conference and suspended political dialogue with the EU. This meant that Turkey would no longer discuss such issues as relations between Greece and Turkey, Cyprus or human rights with the EU.[386]

Despite the negative mood in the relationships between Turkey and the EU emerged after the Luxembourg European Council, the Commission adopted its Communication on a European Strategy for Turkey on 4 March 1998, aiming to prepare Turkey for membership. Apart from extending the customs union to the service sector and agriculture, it proposed closer co-operation between the EC and Turkey and the approximation of legislation in certain areas and the adoption of the *acquis*.[387] This European Strategy was welcomed by the Cardiff European Council on 15-16 June 1998.[388] In spite of the ceased political dialogue, regular meetings between the parties took place on the implementation of this strategy. The Vienna European Council of 11-12 December 1998 underlined importance of the further development of the EU-Turkey relations and that of the further implementation of the European Strategy to prepare Turkey for membership.[389]

The real breakthrough in the relationships between Turkey and the EU came with the decisions taken by the Helsinki European Council on 10-11 December 1999. It declared Turkey as the thirteenth candidate state for the membership of the EU on equal footing with the other candidate states. Compliance with the Copenhagen political criteria was similarly

[386] Hale Onursal Hatipoğlu, "Lüksemburg Çıkmazından Helsinki Dönemecine", *Foreign Policy*, İstanbul Bilgi Üniversitesi Yayını, Yaz 1999, p.89.

[387] The European Commission, *Bulletin EU 3-1998*. Retrieved: 17 January 2002. [WWW Document]. URL http://europa.eu.int/abc/doc/off/bull/en/9803/p103094.htm

[388] Cardiff European Council Presidency Conclusions, 15-16 June 1998, paras. 64 and 68. Retrieved: 26 January 2002. [WWW Document]. URL http://ue.eu.int/Newsroom/LoadDoc.asp?BID=76&DID=54315&LANG=1

[389] Vienna European Council Presidency Conclusions, 11-12 December 1998, par.63. Retrieved: 26 January 2002. [WWW Document]. URL http://ue.eu.int/Newsroom/LoadDoc.asp?BID=76&DID=56427&LANG=1

emphasised as a prerequisite for the opening of accession negotiations.[390] The inclusion of Turkey into the present enlargement process by the Helsinki European Council seems to have occurred despite the strong mental obstacle mentioned above. Nevertheless, it represents an important step towards the achievement of Turkey's goal "being a European state" at the particular level.

In practice, the candidate status gained by Turkey meant the replacement of the existing European Strategy for this country with a pre-accession strategy, as with the other candidate countries. A single framework for co-ordinating all sources of EC pre-accession financial assistance for Turkey was adopted by the Commission on July 2000. This framework regulation also provides the legal basis for the Accession Partnership for Turkey. The agreement on this regulation and on the Accession Partnership for Turkey was reached at the Council meeting on 4 December 2000. The Nice European Council on 6-7 December 2000 welcomed the progress made in implementing the pre-accession strategy for Turkey. It underlined the importance of the Accession Partnership for Turkey for establishing closer relations between the EU and Turkey. Therefore, it requested Turkey to submit its national programme for adoption of the acquis on the basis of the Accession Partnership.[391]

Depending on these developments, EU-Turkey relations gained further momentum during the year 2001. The Accession Partnership for Turkey was formally adopted by the Council on 8 March 2001. It sets out the priority areas in which reforms were to be done by Turkey on the basis of the Copenhagen criteria in the short, medium, and long-terms, the financial means to be provided by the EU to help Turkey implement these priorities, and the conditions applying to that assistance. More precisely, the document outlines the

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[390] Helsinki European Council Presidency Conclusions, 11-12 December 1999, par.12. Retrieved: 26 January 2002. [WWW Document]. URL
http://ue.eu.int/Newsroom/LoadDoc.asp?BID=76&DID=59750&LANG=1

[391] Nice European Council Presidency Conclusions, 7-9 December 2000, par.11. Retrieved: 26 January 2002.[WWW Document]. URL
http://ue.eu.int/Newsroom/LoadDoc.asp?BID=76&DID=64245&LANG=1

fundamental political reforms to be made by Turkey as the establishment of constitutional guarantees for freedom of opinion, assembly and religion, abolition of the death penalty, prevention of torture, democratic control of the military, lifting of the state of emergency in the south-east of the country and guarantees for the cultural rights of ethnic minorities.[392] Responding to this document, the Turkish government adopted its National Programme for the Adoption of the Acquis (NPAA) on 19 March 2001. In this Programme, Turkey declared its intention to fulfil the Copenhagen criteria and complete the accession process.[393] This was regarded as a "welcome development" by the Gothenburg European Council on 15-16 June 2001. The Council urged also Turkey to take necessary measures to implement its priorities, noting the good progress gained so far in implementing the pre-accession strategy for Turkey and in enhancing political dialogue.[394]

In the following months, the relationships between the parties have continued in the contexts of the pre-accession strategy for Turkey and enhanced political dialogue. In the latter context, the questions related to the development of the European Security and Defence Policy and Turkey's place in it, Cyprus, the relationship between Turkey and Greece, and human rights emerged as the key issues for EU-Turkey relations. Particularly, the first two are issues on which the parties have yet to reach an agreement. In addition, the latest round of negotiations for the extension of the EC-Turkey Customs Union to services, and the mutual opening of procurements markets, took place between the parties but no final agreement has yet to come.[395]

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[392] Its full text is available on the World Wide Web:
    http://www.europa.eu.int/comm/enlargement/turkey/pdf/ap_turk_en.pdf (Retrieved: 23 January 2002)
[393] Full text of this programme is available at the web address:
    http://www.europa.eu.int/comm/enlargement/turkey/pdf/npaa_full.pdf (Retrieved: 23 January 2002)
[394] Göteborg European Council Presidency Conclusions, 15-16 June 2001, par.10. Retrieved: 26 January 2002.[WWW Document]. URL http://ue.eu.int/pressData/en/ec/00200-r1.en1.pdf
[395] The Commission of the EC, *2001 Regular Report on Turkey's Progress Towards Accession*, 13 November 2001, p.8. Retrieved: 6 January 2002.[WWW Document]. URL http://www.europa.eu.int/comm/enlargement/report2001/tu_en.pdf

Consequently, as this brief examination on the development process of the EU-Turkey relations reveals, Turkey has yet to achieve its long-lasting goal "being a European state" at the particular level.

5.6. Assessment of the Compliance with the Copenhagen Political Criteria by Turkey

When one considers the close link between Copenhagen political criteria and "being a European state" in either sense, the importance of the compliance with them by Turkey becomes clearer in reaching its goal "being a European state". Therefore, it would be useful to examine here the level of the compliance with the Copenhagen political criteria by Turkey, particularly from the eyes of the EU.

The Commission's opinion on Turkey's application for membership of the EC dated 1989, already mentioned, reflects the first example of such an assessment. In this opinion, examining the political situation in Turkey, the Commission concluded that Turkey was "a parliamentary democracy closer to Community models." However, it found the developments in this country in the fields of human rights and the identity of minorities under the level required in a democracy. On the ground of such reasons derived from Turkey's insufficient compliance with the political values stated later as the Copenhagen political criteria, and on some other political and economic reasons, the Commission rejected to open negotiations with Turkey for membership of the EC for a time period.[396]

This rejection triggered a perennial debate in Turkey on the state of its domestic political system with respect to these values. The subsequent studies and articles reflected a consensus among most of the Turkish scholars and intellectuals that Turkey lacks

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[396] Vardar, "Türkiye-Avrupa...", op.cit., pp.128-129.

compliance with these values to an important extent. Therefore, they voiced the need for making reform in Turkish constitutional system in the direction of these criteria.[397] To overcome these criticisms to ensure the completion the Customs Union, Turkey made partial amendments in its Constitution in 1995. Although these amendments were considered to strengthen democracy in Turkey, the necessary legislative changes in accordance with them took place very slowly.

A second assessment on the political situation in Turkey on the basis of the Copenhagen political criteria was made by the Commission in its communication called Agenda 2000 in 1997. In this document, the Commission noted the democratic nature of Turkish political system in general terms and its capability to apply the *acquis comunautaire*. However, the Commission reminded the existence of "ambiguities in the Turkish legal system with regard to civilian political control of the military." It also stated the opinion that Turkey is behind the standards in the EU regarding respect to the rights of the individual, particularly freedom of expression. Noting "persistent cases of torture, disappearances and extra-judicial executions", the Commission invited Turkey "to make greater efforts to uphold the rule of law and human rights" in combating terrorism in the South East.[398]

From 1998 onwards, the Commission has annually analysed the situation in Turkey in respect of the Copenhagen political criteria through its regular reports on Turkey's progress towards accession.

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[397]   More recent examples of these studies include: Bülent Tanör, *Türkiye'de Demokratikleşme Perspektifleri*, İstanbul: TÜSİAD, Ocak 1997.; *Hukuk Devleti ve Yargı*, İstanbul: TÜSİAD, Demokratik Standartların Yükseltilmesi Dizisi, Yayın No: TÜSİAD-T/97-12/221, Aralık 1997.; *Yeni Türkiye Dergisi Türk Demokrasisi Özel Sayısı*. Yıl: 3, Sayı: 17, Eylül-Ekim 1997.; *Yeni Türkiye Dergisi İnsan Hakları Özel Sayısı I-II*, Yıl: 4, Sayı: 22, Temmuz-Ağustos 1998.; *İnsan Hakları*, İstanbul: TÜSİAD, Demokratik Standartların Yükseltilmesi Dizisi, Yayın No: TÜSİAD-T/98-2/228, Şubat 1998.; *Siyasal Partiler*, İstanbul: TÜSİAD, Türkiye'de Demokratikleşme Perspektifleri ve AB Kopenhag Siyasal Kriterleri – Görüşler ve Öncelikler No: 1,   Yayın No: TÜSİAD-T/2001-06/314, Haziran 2001.; *Düşünce Özgürlüğü*, İstanbul: TÜSİAD, Türkiye'de Demokratikleşme Perspektifleri ve AB Kopenhag Siyasal Kriterleri – Görüşler ve Öncelikler No: 2, Yayın No: TÜSİAD-T/2001-09/308, Eylül 2001.

[398]   The European Commission, *Agenda 2000   Communication of the Commission for a Stronger and Wider Union*, Doc 97/6, Strasbourg, 15 July 1997, Vol.: 1, Part Two.

In its first regular report, presented in October with a view to the Vienna European Council, the Commission noted again existence of the basic features of a democratic system in Turkey. However, it identified certain anomalies in the functioning of the Turkish political system, persistent human rights violations, and some shortcomings in the treatment of minorities. According to the Commission, one of these anomalies was the lack of civilian control of the army, which was reflected by the major role it played in Turkish political life through the National Security Council. Another was the existence of the state security courts in the Turkish judicial system, which was considered as non-compatible with a democratic system and contrary to the principles of the European Convention on Human Rights. To overcome these anomalies, the Commission voiced the need for the continuation of the process of democratic reform started in 1995 by Turkey.

Regarding situation of human rights in Turkey, the Commission noted the adequacy of laws for the protection of civil and political rights in general terms and the gradual improvement in the enjoyment of such rights as freedom of association. For the Commission, however, real enjoyment of these rights by individuals was problematic in Turkey. This is particularly true for those in its South-Eastern region where a state of emergency was imposed on for years. Another problem was concerned with the implementation of particular laws, which resulted in many cases of torture and a number of restrictions particularly concerning freedom of expression and some cultural rights. Finally, explicitly describing the people with Kurdish origin in Turkey as a minority group, the Commission requested Turkey to recognise their cultural identity. It also demanded Turkey to show "greater tolerance for the ways of expressing that identity, provided it does not advocate separatism or terrorism."[399]

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[399] The Commission of the EC, *1998 Regular Report on Turkey's Porgress Towards Accession,* November 1998, pp.14, 18-20, and 54. Retrieved: 6 January 2002. [WWW Document]. URL http://www.europa.eu.int/comm/enlargement/report_11_98/pdf/en/turkey_en.pdf

The second regular report was adopted by the Commission on October 1999, with a view to the Helsinki European Council. In this second report, the Commission analysed the progress in Turkey since the previous report. It noted remove of the military judge in the State Security Courts, entered into force on 22 June 1999, as a main legislative change in Turkish judicial system. Because the European Court of Human Rights had already stated the presence of a military judge in these courts panel as violating the European Convention of Human Rights. Despite this improvement, the Commission also noted continuation of major role played by the National Security Council in Turkish political life.[400]

The third regular report for Turkey was presented to the Nice European Council on December 2000. In this more detailed report, as regards Turkey's compliance with the first two of the Copenhagen political criteria, the Commission voiced the opinion that Turkey had the basic features of a democratic system but was very slow in implementing necessary institutional reforms to guarantee democracy and the rule of law. In this sense, the Commission pointed out civilian control over the military, ensure of an independent judiciary, and lack of decentralised administration among the basic issues to be dealt with by Turkey. For the Commission, the first issue was reflected by continuation of the major role played by the National Security Council in Turkish political life. The second issue was considered to be reflected best by the existence of State Security Courts in Turkish judicial system. The Commission voiced the need to make further reforms on these courts to bring them in line with the EU standards. The final issue was reflected by the strong control of the central administration over local government.

Regarding respect to human rights, for the Commission, the situation in Turkey did not evolve significantly in the year 2000. Therefore, it recognised serious shortcomings in

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[400] The Commission of the EC, *1999 Regular Report on Turkey's Porgress Towards Accession*, 13 October 1999, p.9. Retrieved: 6 January 2002. [WWW Document]. URL http://www.europa.eu.int/comm/enlargement/report_10_99/pdf/en/turkey_en.pdf

Turkey in this field despite some improvements to overcome them. According to the Commission, examples of these shortcomings included existence of torture practices and ill treatment in a non-systematic form, disappearances, and extra-judicial executions, bad prison conditions as well as the restrictions on freedom of expression, and of association and assembly. Moreover, the Commission underlined the lack of any particular development concerning the economic, social, and cultural rights despite the positive approach adopted towards non-Muslim communities with regard to freedom of religion.

On the other hand, the Commission welcomed various initiatives as positive developments to improve Turkey's human rights record. The first example of these initiatives was the publication of nine reports on torture in Turkey by the Turkish Grand National Assembly Human Rights Committee. Another example was the work of the Supreme Board of Co-ordination for Human Rights on the necessary political reforms to comply with the Copenhagen political criteria. This document was considered as having great importance since it was declared to be adopted as reference and working documents by the Government. The last example was the signature of two major international instruments in the field of human rights by Turkey: the International Covenant on Civil and political Rights, and the International Covenant on Economic, Social and Cultural Rights.[401]

The last regular report was prepared by the Commission with a view to the Laeken European Council on December 2001. In this report, the Commission welcomes the constitutional amendments adopted by TGNA on 3 October 2001, bringing important political reforms announced in the NPAA on the basis of the Copenhagen political criteria. They introduce new provisions on issues such as freedom of thought and expression, of association, of press, the prevention of torture, the strengthening of civilian authority, restriction of capital punishment, and ensure of gender equality. The Commission considers

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[401] The Commission of the EC, *2000 Regular Report on Turkey's Porgress Towards Accession*, 8 November 2000, pp.11-16 and 73. Retrieved: 6 January 2002. [WWW Document]. URL http://www.europa.eu.int/comm/enlargement/report_11_00/pdf/en/tu_en.pdf

these amendments as significant step towards improvement in the situation of human rights in Turkey since they generally narrow the grounds for limiting such fundamental freedoms. It also welcomes the reforms related to economic, social and cultural rights, particularly the possibility for the use of languages other than Turkish. However, the Commission underlines the importance of actual and effective implementation of these changes through adoption of subsequent laws. In addition, the Commission notes continuation of several restrictions on the exercise of fundamental freedoms. In this sense, it criticises the provision that preserved the possibility of death penalty to cases of terrorist crimes, considering this exception is contrary to Protocol 6 to the European Convention on Human Rights. It also voices the opinion that there is "no improvement in the real enjoyment of cultural rights for all Turks, irrespective of their ethnic origin." Finally, the Commission lists a number of fundamental issues in Turkey as remaining matters of concern from a democratic point of view. These issues include civilian control over the military, the independence of the judiciary, the powers of State Security Courts and military courts and compliance with rulings of the European Court of Human Rights. Consequently, the Commission concludes that Turkey has yet to comply with the Copenhagen political criteria and, therefore, it should intensify and accelerate the process of reform in the direction of these criteria.[402]

Depending on this last regular report, Laeken European Council has stated that Turkey has made progress towards complying with the Copenhagen political criteria in particular through the recent amendment of its constitution. Noting the contribution brought by this development to the prospect of the opening of accession negotiations, the Council has encouraged Turkey to continue its progress towards complying with these criteria, notably with regard to human rights.[403]

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[402] The Commission of the EC, *2001 Regular Report on Turkey's Porgress Towards Accession*, 13 November 2001, pp.31-33. Retrieved: 6 January 2002. [WWW Document]. URL http://www.europa.eu.int/comm/enlargement/report2001/tu_en.pdf

[403] Laeken European Council Presidency Conclusions, 14-15 December 2001, par.12. Retrieved: 16 December 2001. [WWW Document]. URL http://ue.eu.int/pressData/en/ec/68827.pdf

To sum up, in all these reports, the Commission has concluded that Turkey is still far from meeting the Copenhagen political criteria. However, it is observed that some steps taken by Turkey to overcome those shortcomings in recent years seem to have the nature of partial improvements rather than being results of a unified political approach.[404] In spite of the increasing wish and support in the Turkish public opinion for radical reforms in the direction of the Copenhagen political criteria[405], such a unified political approach have yet to be developed. The preparation and acceptance of the National Programme in response to the Accession Partnership with Turkey can be seen as the sign in the formation of such a unified political approach. In its National Programme, Turkey declared its intention to fulfil the Copenhagen criteria and complete the accession process. However, this programme is not away from serious criticism; a well-known example is that it has so many ambiguous statements on some important issues underlined in the Accession Partnership as shortcomings to be overcome by Turkey in the short or medium terms.[406]

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[404] The Commission of the EC, *1999 Regular Report ...*, op.cit., pp.15-16, and 46.; The Commission of the EC, *2000 Regular Report...*, op.cit., pp.20 and 73.

[405] The Commission of the EC, *2000 Regular Report...*, ibid, pp.7, 20 and 73.

[406] Süheyl Batum, *Türkiye'de Demokratikleşme Perspektifleri ve AB Kopenhag Siyasal Kriterleri Görüşler ve Öncelikler Raporu*, TÜSİAD, Yayın No: TÜSİAD-T/ 2001-5/300, Mayıs 2001, p.11.; İlter Türkmen, "Üç Reform Programı, *Hürriyet*, 26 Mayıs 2001.; Kriterler Örtüşmüyor: Katılım Ortaklığı Belgesi'ne Uyan ve Uymayanlar", *Radikal*, 20 Mart 2001.

CONCLUSIONS

The term "Europe" has no single, commonly agreed definition; neither does the term "European". The basic difficulty in defining them arises from the subjectivity of these terms, which encourages the tendency to define them according to political or ideological preferences. Owing to this subjective nature of the terms, there is a great variety and abundance regarding their definition in the European academic and political circles in the post-Cold War period. The most popular definitions are those based on geography, membership of institutions, common civilisational identity derived from culture, history, religion, and political values. On the basis of these definitions, Turkey's place in "Europe" or its "Europeaness" mostly seems to be doubtful. The reason behind this perception is that Turkey fails to share most of the features considered as distinctive basis in defining "Europe". This is particularly true as regards history, culture and religion, by which Turkey differs from those countries accepted as "European". These differences seem to lead the development of a strong mental obstacle against Turkey to be accepted as "European" by a number of Europeans from political, academic, media circles as well as public. To the spokespersons of these circles, Turkey is mostly an Asiatic country located in the periphery of "Europe" with many major differences. For that reason, it has no place in "the European civilisational project." One should remember that this view played a significant role in the implicit exclusion of Turkey from the enlargement process of the EU by the Luxembourg European Council. In addition, the inclusion of Turkey into this process by the Helsinki European Council as the thirteenth candidate state seems to have occurred despite the existence of such mental obstacles. Unfortunately, such negative opinions against Turkey are constantly being strengthened by the shortcomings observed in Turkey regarding the

situation of the values stated in the Copenhagen political criteria. At this point, the importance of compliance with these criteria by Turkey becomes clear given the fact that it is not logically possible for any country to change its history, culture, and religion. Full compliance with the Copenhagen political criteria by Turkey is likely to shadow its perceived differences resulting from history, culture, and religion. Thus, it will provide Turkey with a more powerful "European" identity since the existence of institutions and practices in relation to these values are taken among the key basis in defining "Europe". In fact, they are principally claimed as the core European values.

Apart from this importance at the theoretical level, the Copenhagen political criteria have also a great practical significance for Turkey. Because, Turkey is among those countries to which the claim "being a European state" is of major importance both in the sense of participation to the European society of states and accession to the EU. Turkey's alignment with these criteria is essential for realising its goal since full compliance with them is of utmost significance for any country aiming at "being a European state" in either sense. This importance arises from the close connection between the presence of the Copenhagen political criteria and "being a European state" in both senses. Their acceptance and implementation constitute pre-condition for a country either to participate to the European society of states or to become a full member of the EU. In other words, the values stated in the Copenhagen political criteria have become standards whose compliance are compulsory for both achieving the participation to the European society of states and accession to the EU. Therefore, Turkey can realise its long-lasting political goal "being a European state" only through meeting these standards. To accelerate this process, Turkey should think and act as an informal member of the EU. This means for Turkey to reform and redesign its political system and many of its policies on the model and guidelines provided by the Copenhagen political criteria. Thus, Turkey can overcome its existing shortcomings that sometimes prevent it to be perceived as a state on European standards. However, both the

regular reports prepared by the Commission so far on the progress by Turkey towards accession to the EU and several major studies made by many distinguished Turkish scholars have concluded that Turkey is still far from meeting the Copenhagen political criteria. In addition, a brief assessment on the compatibility of the National Programme with the Copenhagen political criteria and the slow pace with which the reforms announced in this programme are put into effect shows that Turkey's present efforts do not reflect the importance it gives to "being a European state".

The conditions set out by the EU on the basis of the Copenhagen political criteria to develop relations between Turkey and EU are sometimes perceived by Turkish public opinion as stated particularly against Turkey to exclude that country from the enlargement process. This seems to be a direct result of the prejudice existed in Turkey as such that EU has a prejudice against itself and thus frequently uses double standard. This perception sometimes causes the emergence of important reactions not only against EU itself but also against many of its member states as it was after the Luxembourg European Council in 1997. This prejudice also prevents Turkey from seeing its shortcomings and thus the development and implementation of appropriate policies to overcome them. Our examination may help overcome this prejudice by showing that these conditions are not set out only against Turkey. Indeed, a more careful look shows that these conditions are old enough not to be perceived as a product of the prejudice in Europe against Turkey. Generally speaking, the roots of the values stated in the Copenhagen political criteria can be discovered in the Pre-Modern Era. Their development has shaped the modern Europe represented best by the European society of states today. In fact, in as early as the 19th Century, the precedent states of the members of the European society of states laid down some conditions to accept other states to the newly emerged European state system. Collected under the name of 'the standards of civilisation', these conditions were not defined as clearly as the Copenhagen criteria are today. However, besides possession of other

features, the notion also implied to be a "liberal" state guaranteeing certain basic individual rights, particularly for foreigners. After the II.W.W, leading formal institutions of the European society of states, including EC, were constructed on these values. In fact, the members of the European society of states have been involved in the task of promoting the political values stated in the Copenhagen political criteria to the countries in their periphery. Their efforts through these institutions have played an important role on the transitions experienced by many states in accordance with those values, especially from the early 1970s onward. Following the end of the Cold War, as their ambitions for promoting these values have strengthened, activities in this direction by the members of the European society of states and leading European institutions have increased in both number and variety. Furthermore, these institutions set adherence to those values as pre-conditions for membership to themselves. Similarly, main security organisations in the region have followed this trend, considering promotion and consolidation of these values as an urgent security matter. Consequently, apart from being prerequisite for accession to the EU, the political values stated in the Copenhagen political criteria have become the elements of the ideology that seems to be dominant in the European society of states in the post-Cold War period. Depending on this ideology, the members of that society have recommended a state model for the new independent republics after the end of the Cold War. There emerged a strong trend towards a model state having stability of institutions guaranteeing democracy, the rule of law, respect for human rights, respect for and protection of minorities. These political values began to represent the standards for being a modern and contemporary state. Consequently, in order to take a respectful place in the contemporary world, Turkey must obey this trend. Otherwise, it will face many problems in relations with both main international organisations and other states because many of these conditions are began to be used as a foreign policy means by these international actors.

Similarly, the values stated in the Copenhagen political criteria, particularly democracy, the rule of law, and the human rights, have been among the fundamental principles of the EC/EU from the very beginning. The founding fathers of the EC dreamed an integrated Europe shaped by these values. However, heavy economic character of the EC during the 1960s and 1970s prevented the member states from making common efforts in accordance with them. Parallel to the accelerated attempts for political integration from the early 1980s onward, these values began to gain explicit legal status under the Community law. Particularly in post-Cold War period, the EU seems to become a 'community of values' instead of acting merely by economic considerations. The Copenhagen political criteria represent the best formula of those underlying values for the EU. This development is extremely important for the countries, including Turkey, that wish to become a member of the EU. These values have become the definite pre-requisites for the accession to the EU. There is no possibility for their modifications or making them as subject of negotiations. Moreover, a mere subscription to these criteria by any applicant country is not enough to become the member of the EU. They are also supposed to be in effect in the applicant countries. This fact has been underlined many times for Turkey by the Commission particularly in its recent regular reports on the progress of this country towards accession to the EU. Therefore, Turkey should give more importance to the actual implementation of the laws adopted in the direction the Copenhagen political criteria.

There is a very close connection between the values stated in the Copenhagen political criteria. They are interrelated and thus indivisible from each other. Any development or improvement in one field automatically affects the situation of the others. For example, the situation of the human rights in a state is widely accepted as an indicator of the quality of democracy there. In fact, they are not just a measure of democracy; they provide a basis for democracy and lay at the core of democratic processes. The struggles for specific rights in the past constituted the foundations of the present democratic institutions.

Therefore, any future reform attempt in Turkey in the direction of these criteria should reflect a more unified political approach rather than being in the nature of partial improvements.

The future EU-Turkey relations should be based on a more logical approach instead of exaggerated reactions that are basically in sensitive nature not only against EU itself but also against many of its member states. This approach requires improving the situation in Turkey on the basis of the Copenhagen political criteria to strengthen its position vis-a-vis the EU instead of giving up its long-lasting goal "being a European state" and trying to find other partners.

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