

# **Europeanization and Change in Domestic Politics: Impact and Mediating Factors of the Copenhagen Political Criteria in Turkish Democracy: 1999-2005**

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## **ABSTRACT**

### **EUROPEANIZATION AND CHANGE IN DOMESTIC POLITICS: IMPACT AND MEDIATING FACTORS OF THE COPENHAGEN POLITICAL CRITERIA IN TURKISH DEMOCRACY: 1999-2005**

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This study seeks to examine what domestic factors in Turkish politics refracted the democratisation requirements laid out by the Copenhagen political criteria and what impacts the Copenhagen political criteria have made on Turkish democracy in the 1999 post-the Helsinki era. It also explains how transformation of Turkish democracy was made possible after 1999 Helsinki decision. In doing this, based on Europeanization studies, the study employs a conceptual framework comprising three-steps, which are Europeanization, goodness of fit, and mediating factors. The thesis argues that the impact of Europeanization on Turkey's democracy is institution dependent. Domestic institutions are significant in two respects. First, the institutions determine the degree of pressure for adaptation, which results from Europeanization. Second, domestic institutions have a large impact upon the strategies by which domestic actors respond to adaptational pressure facilitating or inhibiting institutional adaptation. One of the main findings of the thesis is that domestic institutions comprising parties, party system, the military, the president, civil society, the Turkish public and norms, values and traditions embedded in the Turkish polity have refracted the EU democratic reforms sometimes accelerating, sometimes retarding their translation into domestic politics and giving them a national coloring. Another conclusion is that as following 1999 Helsinki decision, "costs-benefits" equation has changed in favour of the latter from the angle of the Turkish state, it was possible for them to take courageous steps, and for the EU to play an effective anchor role in this transformation.

#### **Keywords**

Turkey-European Integration-Europeanization-Democratization-Copenhagen Political Criteria

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## List of Abbreviations

AI	Amnesty International
AKP	Adalet ve Kalkinma Partisi (Justice and Development Party)
ANAP	Anavatan Partisi (Motherland Party)
APD	Accession Partnership Document
ATO	Ankara Ticaret Odasi (Ankara Chamber of Commerce)
CEECs	Central and Eastern European countries
CHP	Cumhuriyet Halk Partisi (Republican People's Party)
CPT	Committee for the Prevention of Torture
DEHAP	Demokratik Halk Partisi (Democratic People's Party)
DEP	Demokrasi Partisi (Democracy Party)
DSP	Demokratik Sol Parti (Democratic Left Party)
DYP	Dogru Yol Partisi (True Path Party)
EC	European Community
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
ECtHR	European Court of Human Rights
EP	European Parliament
ESDP	European Security and Defense Policy
EU	European Union
FP	Fazilet Partisi (Virtue Party)
HADEP	Halkin Demokrasi Partisi (People's Democracy Party)
HRW	Human Rights Watch
IHD	Insan Haklari Dernegi (Human Rights Association)
IKV	Iktisadi Kalkinma Vakfi (Economic Development Foundation)
LPP	Siyasi Partiler Kanunu (Law on Political Parties)
MHP	Milliyetçi Hareket Partisi (Nationalist Action Party)
MUSIAD	Bagimsiz Sanayici ve Isadamlari Dernegi (Independent Industrialists` and Businessmen's Association)
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
NPAA	National Programme for the Adoption of the <i>acquis</i>
NSC	Milli Güvenlik Kurulu (National Security Council)
OSCE	Organization for Security and Cooperation in Europe
RP	Refah Partisi (Welfare Party)
RTÜK	Radyo Televizyon Üst Kurulu (Supreme Board of Radio and Television Law)
SEA	Single European Act
SP	Saadet Partisi (Felicity Party)
SSC	Devlet Güvenlik Mahkemesi (State Security Court)
TESEV	Türkiye Ekonomik ve Sosyal Etüdler Vakfi (Turkish Economic and Social Studies Foundation)
TEU	Treaty on the European Union (Maastricht Treaty)
TGNA	Türkiye Büyük Millet Meclisi (Turkish Grand National Assembly)
TGS	Türkiye Genelkurmay Başkanligi (Turkish General Staff)
TMK	Terörle Mücadele Kanunu (Anti-Terror Law)
TPC	Türk Ceza Kanunu (Turkish Penal Code)
TRNC	Kuzey Kıbrıs Türk Cumhuriyeti (Turkish Republic of Northern Cyprus)
TUSIAD	Türkiye Sanayici ve Isadamlari Dernegi (Turkish Industrialists` and Businessmen's Association)





# **CHAPTER I**

## **INTRODUCTION**

The Copenhagen political criteria allowed the European institutions to exert very strong pressure on the applicant countries to democratize their politics. As the Copenhagen political criteria set a number of comprehensive and strict requirements for the candidates, it brought about a transformation of domestic politics and reshaped political structure in the candidate countries. The applicants' objective of becoming full member of the EU brought with it very strong pressures on the candidates to adapt to the new political framework set out in the Copenhagen political criteria. Although democratization/democratic conditionality was from the very beginning on a Europeanized issue as a necessary criterion for the candidates to the EC/EU, it was at the Copenhagen Summit in 1993 that democratic conditionality was extensively and formally defined.

The EU's democratic conditionality laid out in the Copenhagen political criteria provided intense pressure on the candidates in comparison to the previous enlargements of the EU. Particularly, in the Mediterranean enlargements, the EC drew Greece, Spain and Portugal into the integration of Europe as a promotion of democracy. Although their political systems were inadequate, the EC regarded them eligible to join without obliging them to meet firm political criteria in advance. Nevertheless, the EU has adopted a different approach as regards the Central and Eastern European countries (CEEC) enlargement and Turkey's candidacy for various reasons. The EU's strategy was to force the applicants to undertake the necessary reforms to their political and human rights systems outside the EU to minimize the

risks and costs of the enlargement. Thus, the EU's democratic conditionality put an extensive pressure on these countries for transforming their political systems.

Democratisation turned into a historic challenge for the CEEC after living under totalitarian regimes for decades. For them democratisation meant first of all, the establishment and consolidation of a formal democracy as a set of rules, procedures and institutions including holding free and fair elections. Secondly, they had to establish substantive democracy in the sense that individual citizens could be extended to meaningful rights. In establishing substantive democracy, they have faced many challenges ranging from overcoming constitutional issues, improving human rights, forming representative and participatory political parties, to creating and sustaining an open media, and having an active civil society. Therefore, the challenge of democratisation was very fundamental for these countries and signified a real "systemic transformation".

Even though the requirements imposed by Copenhagen political criteria were difficult for almost all the Central and Eastern European applicants, Turkey's real challenge was due to the EU's commitment to it. Compared to the CEEC, Turkey was well positioned to meet the Copenhagen political criteria given that it was an example of a second wave rather than a third wave democracy with a considerable experience of parliamentary democracy and representative institutions. Nevertheless, looking at the development of Turkish democracy since the WWII it was evident that it was quite unstable and has gone through periodic military interventions. Thus, Turkey still needed to consolidate its democracy and had to take a number of major steps to transform into a "substantive democracy".<sup>1</sup>

As the EU viewed the integration of the CEEC as “return to Europe”, which were unnaturally separated from the rest of Europe, a sense of moral responsibility played an important factor in the EU’s enlargement policy towards these countries. EU’s approach facilitated democratisation of the CEE countries despite the intense adaptational pressure on them stemming from systemic transformation. The EU’s commitment to Turkey regarding the EU membership was far from easing democratisation efforts. As Harun Arikan argued, “Turkey seems to have attracted an entirely different response from the EU in the shape of a “containment strategy” that has lacked the necessary accession instrument and accession commitment from the EU to prepare Turkey for EU membership.”<sup>2</sup> Moreover, it seems that the criteria for EU membership applied to Turkey are stricter than that to the Central and Eastern European applicants. While the EU’s decision to grant Turkey a candidate status at the Helsinki Summit in 1999 was a turning point in the EU-Turkey relations, the EU’s policy made Turkey’s accession conditional on settling a number of political issues, including the disagreements with Greece, improvements in human rights and the solution of the Kurdish issue.<sup>3</sup> Therefore, adaptational pressure on Turkey to democratise was much more intense than it appeared. In fact, many questioned Turkey’s ability to achieve democratising reforms given that it has had a poor record of human rights and civil-military relations have exhibited a structural character.

Nevertheless, Turkey was able to meet the Copenhagen political criteria as a result of path-breaking reforms, which were sometimes referred to as “silent revolution”. The EU decided at the Brussels Summit on December 17, 2004 to open negotiations with Turkey on October 3, 2005.

The aim of this study is twofold: First, it explores what domestic factors refracted the EU democratisation requirements. Second, it shows the impact of the EU reforms on Turkish legislation. In doing this, the thesis adopts “Europeanization” as a conceptual framework and is based on a three-step approach, details of which are explained in the second chapter: First step is “Europeanization”; the second step is “the goodness of fit”; the third step is “mediating factors”.

The study also seeks to address the question why it was possible for Turkish domestic actors to change their course and attempt to undertake democratic changes. In this context it is explained how Europeanization after Helsinki encouraged the unprecedented steps in the direction of democratisation.

One of the main findings of the thesis is that domestic institutions comprising parties, party system, the Turkish military, the president, civil society, the Turkish public and norms, values and traditions embedded in the Turkish polity have refracted the EU democratic reforms sometimes accelerating, sometimes retarding their translation into domestic politics and giving them a national flavor. Another conclusion is that as following 1999 Helsinki decision, “costs-benefits” equation has changed in favor of the latter from the angle of the Turkish actors, it was possible for them to take courageous steps, and for the EU to play an effective anchor role in this transformation.

## **1.1. Contribution of the Thesis**

This thesis made some contributions to scholarly knowledge. The most remarkable aspect of this study is that it examines Europeanization taking place in a non-member country, Turkey. Almost all the previous studies on Europeanization were made on the member countries, although there were some studies dealing with Europeanization of non-member states such as that of Switzerland. As for the Europeanization of Turkey, Turkey has been in associate partnership with the EU for more than 40 years and entered into a Customs Union with it in 1996, and has undergone a profound reform process in the wake of the Helsinki decision in 1999. Due to the scope and depth of this relationship it is evident that Europeanization has brought about significant changes in the domestic structure and politics of Turkey. On the other hand, this study also differs from the other studies on Europeanization in that it applied the Copenhagen political criteria to Europeanization. A substantial part of Europeanization studies deals with the Europeanization of administrative structure. This thesis takes the Europeanization of domestic norms as its field of research. It is a fact that as this study explores the Europeanization of (democratic) norms of Turkey for a short period (1999-2005), the scope of the study has been to a large extent adoption of democratic norms at the legislative level. To investigate to what extent the Turkish state and society have internalised these norms, what kind of problems arose in this process, it is necessary for some time to pass and Europeanization of domestic norms to take root, which is the subject of another research in the subsequent years.

With respect to the specific contributions that this thesis made is that the application of the Copenhagen political criteria in Turkey points to a large extent to convergence, rather than

divergence. Europeanization process makes the members resemble each other, as the same criteria are applied to every candidate. Nevertheless, some divergence can be expected in particular in the areas, which depend on the implementation and require a change of human attitude, as is the case in the field of human rights and the rights of minorities. As in other Europeanization examples, Turkey has displayed an example of democratic convergence because the Copenhagen political criteria are clear-cut and are defined in detail in the Accession Partnership Document. Moreover, the progress reports drafted by the Commission show the areas, in which the candidate made progress and the fields, where it is criticized and should take more steps. This helps the candidate to comply with the Copenhagen political criteria and converge with the EU democratic norms. But some issues might constitute bottom lines for the candidates, beyond which no step can be taken. This is also another factor leading to some divergence. This was the case in the candidacy of Turkey too. Turkish state, for instance, insisted on solving the Kurdish issue by granting them cultural rights. But although making up a substantial part of the overall population they were not given minority rights. Turkey resisted to giving them political and group rights. Put it differently, the Turkish state sought to solve the issue within the framework of the 1923 Lausanne Treaty, which granted minority rights to the non-Muslim communities. This points to a certain divergence from the European norms taking some national colouring. But essentially, Turkey has converged with the EU democratic norms in line with the Copenhagen political criteria.

The second contribution is that Europeanization does not weaken or strengthen the state but changes the quality of its relationship with the society. Empirically speaking,

Europeanization of Turkey's norms (democratisation) has had a profound impact on the state. This is of a particular importance for a country like Turkey, which exhibited one of the most typical examples of strong state tradition. Democratisation process required the Turkish state to reshape its attitude towards the non-state actors including the citizens, civil society, and non-governmental organizations. As a result of the democratic reforms devolution of power from the state to the society is underway in Turkey. This naturally changes the kind of relationship between the societal actors and the state. It is certain that non-governmental actors have become more vocal and more strengthened in this process. But due to the freshness of the reforms still some time is required to observe the emergence of a new relationship pattern between the state and the society.

The third contribution is that Europeanization changes nation-states by exerting adaptational pressure. Degree of change depends on the degree of adaptational pressure. Extent of adaptational pressure, in turn, is a function of the degree of misfit. As the misfit between the norms of Turkish democracy and the Copenhagen political criteria is considerable, the change in domestic politics has been equally important. That is why so many people called Turkish democratic reforms "revolutionary". This is indicative of the extent of the change in the field of democracy in Turkey.

What encouraged me to use the conceptual framework, "three-step approach to Europeanization", used by Thomas Risse and all. in the book "Transforming Europe" is that in this collaborative work, Alberta Sbragia has made a research on the adoption of the Maastricht criteria by the Italian government. I based my conceptual model on her research

framework.<sup>4</sup> The only difference was that while she researched the adoption of economic criteria in a member-country, I explored the application of the (Copenhagen) political criteria in a non-member state. After having discussed my idea of using “Europeanization” framework in my study both with Thomas Risse and Alberta Sbragia, I focused on the work.

This study is in broad theoretical terms an attempt to explore the impact of international factors on domestic institutions. In this respect, it fits well into what students of international relations call “the second image reversed”, that is, the international sources of domestic change.<sup>5</sup>

## **1.2. Organization of the Thesis**

After making an introduction to the study in the first chapter, the second chapter deals with the research framework of the thesis. The study adopts “Europeanization” approach, which has many similarities to historical institutionalism. As alternative theories explaining European integration neo-functionalism and liberal intergovernmentalism are elaborated on. It is shown that both of these theories offer bottom-up approaches to the European integration providing explanations on the nature and process of integration. “Europeanization”, by contrast, takes the integration as “top-down” process, which is instrumental in analysing the impact of the European political system on the domestic structure of a nation-state. The chapter includes the questions answered in the thesis. Furthermore, the hypotheses to be tested in the subsequent chapters of the study are laid out. The second chapter includes a review on Europeanization literature as well as literature on Europeanization of Turkish politics after 1999 Helsinki decision. While there has been an



exponential growth in Europeanization studies in the 1990s, it is interesting to note that studies deliberately using “Europeanization” concept has been scant with respect to studies dealing with Europeanization of Turkey.

The chapter three concerns the basic characteristics of Turkish democracy. It is suggested that some aspects of Turkish democracy obstructed its further development. The chapter starts with the explanation of the foremost characteristic of Turkish democracy, which is strong state tradition. This feature of Turkish polity has had an impact on almost every aspect of Turkish politics ranging from the development of civil society and interest groups to the formation of political parties. Other important aspect of Turkish politics has been the salient role played by the Military in politics in contrast to other liberal western democracies. As the third characteristic of Turkish democracy it is revealed how Islamic parties or parties with religious coloring have played an increasing role in the aftermath of the 1980 Military coup. In another section of the chapter the conceptualization and evolution of minorities issue is discussed. It is argued that Turkey’s granting special rights of minorities only to non-Muslim groups in accordance with the 1923 Lausanne Treaty posed difficulties in handling the Kurdish issue in the European integration process. Also in this chapter, the characteristics of Turkish civil society as well as the weaknesses in the party system are discussed.

The chapter four argues that the EU’s human rights and democracy promotion in its enlargement policy has evolved in time. This argument is discussed by examining the three enlargement waves of the EU: the Southern European enlargement in the 1980s, the Eastern

European enlargement in 2004 and the next possible enlargement towards Turkey. It is suggested that both internal developments within the EU and foreign political changes have led the Union to make an increasing emphasis on human rights and democracy in its enlargement strategy. It is also asserted that the EU's commitment to the accession of the Eastern European states has facilitated both the integration of these countries to the EU and their democratization efforts. By contrast as the EU was not fully committed to Turkey's membership, this was to retard Turkey's democratization process.

The fifth chapter assesses the degree of "misfit" between the democratic standards of Turkey and those of the EU, which were set out by the Copenhagen political criteria. First, the Copenhagen political criteria, the accession partnership document, the national programme and its shortcomings are elaborated on. Then, Turkish democracy's deficiencies within the framework of the Copenhagen political criteria are addressed.

The chapter six concerns the changes that the EU democratic reforms have brought about in Turkey's legislation. It is revealed that the EU reforms have had a profound impact on the Turkish political system. Significant changes took place in the positive direction in the field of the civil-military relations, the rule of law, human rights and the cultural rights.

The chapter seven is dedicated to the question which factors in Turkish domestic politics refracted democratization requirements of the EU. It seeks to illuminate the response of the domestic institutions to the democratic reforms in the post-Helsinki era, and what role they played in the Europeanization process. It tries to reveal what policies and strategies domestic

institutions pursued with respect to these reforms. In Turkey's EU accession process the institutions, which played primarily a part are the Turkish political parties, the Turkish Military, civil society, the president, the party system and the norms and values embedded in the state and society. In every section, the reactions and stance of the domestic actors to the EU reforms are addressed. It is primarily argued that domestic institutions refracted the EU reforms into domestic politics giving them a national colour. Furthermore, it is also examined which factors induced the Turkish domestic actors to modify their policies and give green light to unprecedented changes towards democratization.

The chapter eight draws conclusions from the study and discusses the hypotheses tested throughout the thesis and reveals whether they were proved by the study. This chapter also sheds light on the areas where Turkey still needs to take steps within the framework of the Copenhagen political criteria.

## NOTES

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<sup>1</sup> For a comprehensive study on the challenges that Turkish democracy should overcome see Ergun Özgudun, *Contemporary Turkish Politics: Challenges to Democratic Consolidation*, (Boulder and London: Lynne Rienner Publishers, 2000).

<sup>2</sup> Harun Arıkan, *Turkey and the EU: An Awkward Candidate for EU Membership?*, (Aldershot: Ashgate Publishing, 2003), p. 30.

<sup>3</sup> European Commission, (2000), Proposal for a Council decision on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with the Republic of Turkey, COM (2000) 714, Brussels.

<sup>4</sup> Thomas Risse; Maria Green Cowles; and James Caporaso (eds.), *Transforming Europe*, (Ithaca and London: Cornell University Press, 2001).

<sup>5</sup> Peter Gourevitch, "The Second Image Reversed: The International Sources of Domestic Politics." *International Organization*, Vol. 32, No. 4, (1978), pp. 881-912.

## **CHAPTER II**

### **RESEARCH DESIGN**

The study adopts “Europeanization” approach, which has many similarities to historical institutionalism. As alternative theories explaining European integration neo-functionalism and liberal intergovernmentalism are elaborated on. It is shown that both of these theories offer bottom-up approaches to the European integration providing explanations on the nature and process of integration. “Europeanization”, by contrast, takes the integration as a “top-down” process, which is instrumental in analysing the impact of the European political system on the domestic structure of a nation-state. Therefore, in this chapter, the emphasis is given to the explanation of “Europeanization”. The chapter includes the questions answered in the thesis. Furthermore, the hypotheses to be tested in the subsequent chapters of the study are laid out. The second chapter includes a review on Europeanization literature as well as literature on Europeanization of Turkish politics after 1999 Helsinki decision. While there has been an exponential growth in Europeanization studies in the 1990s, it is interesting to note that studies explicitly using “Europeanization” concept has been scant with respect to studies dealing with Europeanization of Turkey. In the final section of this chapter, methods and data used in the thesis are elaborated on.

#### **2.1. Methodology: Three-Step Approach to Europeanization and Change in Domestic Politics**

Neither neo-functionalism nor liberal-intergovernmentalism is apt to research the change at domestic level as a result of Europeanization, as these theories help us examine the nature and process of European integration rather than the influence of the European political

system on nation-states. In other words, both of these theories take the European integration as a bottom-up process. But historical institutionalism and its derivative “Europeanization” approach are interested in dealing with the European integration as a top-down process.

Therefore, Europeanization approach enables students of political science to carry out research in some of the interesting areas and help find an answer to the below questions. How do European Union law and the EU regulations achieve their taken for granted nature in the domestic settings? Which socialization effects stem from the fact that more and more domestic political and bureaucratic actors are continuously involved in European policy-making and implementation? How do institutions in the member states change in response to the adaptational pressures originating from EU rules and regulations? How does the European integration process affect the systems of meanings and understandings including national identities?

For the purposes of my study “europeanization” is the most appropriate theoretical approach to research the impact of the European integration on the domestic political change in Turkey, as this approach is well designed to study the influence of international institutions, regulations and norms on the domestic setting. Translation of the above questions into the specific case of Turkey reveals how practical and useful it might be to employ “europeanization” in the study of the influence of the EU institutions and norms on domestic politics: How did the EU law and regulations achieve their nature in Turkish politics? How do institutions in Turkey change in response to the adaptational pressures emanating from

EU rules and regulations? How the systems of meanings and understandings in Turkey including national identity are influenced by the European integration process?

In my study “Europeanization” is defined as “the emergence and development at the European level of distinct structures of governance, that is, of political, legal, and social institutions associated with political problem solving that formalize interactions among the actors, and of policy networks specializing in the creation of authoritative European rules.”<sup>1</sup> Political institutionalization occurs through the development of formal and informal rules, procedures, norms, and practices governing politics at the European, national, and subnational levels. As this definition recognizes the interactions among several levels of governance (supranational, national, and subnational), definition of Europeanization here differs from traditional uses of the term. Traditionally, scholars generally referred to Europeanization as institution building at the European level.

In the thesis, Europeanization involves the democratic conditionality laid out in 1993 at the Copenhagen Summit as the Copenhagen political criteria. It was at this Summit that the conditions for the candidate countries were defined to accede to the European Union. Put it differently, criteria of becoming full member of the EU emerged at that time and subsequently these were specified for each country in the accession partnership documents. In fact, Europeanization of democratic conditionality emerged long before the Copenhagen Summit in 1993. It was already evident when the southern European countries acceded to the then EC in the 1980s. But, they were loosely defined and informal. At the Copenhagen Summit, they were in written form and relatively more institutionalized.

In my work, I focus on the impact of Europeanization domestically, that is at the national level, although it is recognized that the causal processes go both ways-activities at the domestic level affect the European level and vice versa. I demonstrate how the implementation of the Copenhagen political criteria brought about changes in the domestic structure. I look at the legislative changes as a result of the Turkish government's response to the Copenhagen political criteria.

This study employs a "three step" approach to research europeanization and its domestic structural impact.<sup>2</sup> First step involves the identification of the relevant Europeanization process at the European level, which are the Copenhagen political criteria in this study. Europeanization implies a particular set of processes. These processes are the starting point of my framework. They necessitate some adjustments on the Turkish domestic level so that Turkish politics can be in compliance with EU democratic norms, which are defined in the Copenhagen political criteria.

The second step in the framework involves the "goodness of fit" between the Europeanization processes, on the one hand, and national institutional settings, rules, and practices, on the other. This degree of "fit" determines "adaptational pressure". Theoretically, the higher the adaptational pressure was, the more domestic institutions would change. Adaptational pressure implies that the effect of Europeanization on domestic structures involves a process by which one set of institutions-European rules, regulations, and collective understandings-interact with another set of institutions-the given domestic



structures.<sup>3</sup> After defining the first step, which is the Copenhagen political criteria, which require Turkey to meet certain democratic conditions, in the second step we will compare these requirements to the democracy of Turkey and seek to find out to what extent Turkey meets them and where it exhibits deficiencies in its democracy. If there is a significant divergence between the two, then it is supposed that the “adaptational pressure” will be high and thus change in Turkey’s domestic institutions will be accordingly high.

The third step is the mediating factors, which are the institutions and actor strategies. In cases of high adaptational pressures, the presence or absence of mediating factors is important for the degree to which domestic change adjusting to Europeanization should be expected. Mediating factors can be multiple veto points in the domestic structure<sup>4</sup>, facilitating institutions, and cooperative cultures, learning or differential empowerment of actors.<sup>5</sup> In the third step it will be demonstrated which mediating factors in Turkey have refracted EU democratization requirements resulting from the “adaptational pressure” set out in the second step.

## **2.2. Questions Answered**

As argued above, this study basically aims at answering two questions: The first question is what the impact of the European integration has been on Turkish democracy; the second question is how the domestic institutions have refracted the EU democratization requirements. Related to these macro-level questions are micro-level questions:

- (1) Where do Turkish political parties stand on the issue of European integration, what are their differences and similarities on this issue?
- (2) How did the Turkish elite react to the EU democratic reforms?
- (3) What are the public attitudes on the issue of European integration and democratization reforms?
- (4) What is the role played by the civil society in democratization of Turkey?
- (5) How did the influential military react to the democratic reforms?
- (6) Which factors allowed for a change in Turkey's domestic politics?

Apart from these main questions, the study also seeks to explore a number of subordinated questions, which are believed to play into the analysis of the study's main research problems.

- (1) What are the basic features of Turkish democracy?
- (2) What are the impediments to democratization in Turkish politics?
- (3) What are the deficiencies of Turkish democracy within the framework of the Copenhagen political criteria?
- (4) What is the experience of Turkey in terms of democratization, civil society and liberalization?
- (5) How have the EU democracy promotion efforts regarding the candidate states evolved from the Cold War to the post-Cold War period?
- (6) Have there been any differences between the EU's democracy promotion strategies with respect to the accession countries?

### **2.3. Hypotheses**

**1. Hypothesis:** *The more there are vetoing powers in a domestic setting, the more difficult it would be to progress on the EU democratization reforms.*

The presence of vetoing powers in national politics makes it difficult for governments to undertake democratization reforms. There may be a strong anti-EU party in the system or it may even come to power alone or as a partner of a coalition government. Furthermore, some institutions in the system such as the army may not be pleased with democratization process, as they may view the steps taken against the interest of the country. Moreover, the country's political system such as fragmentation in the party system may not permit the formation of strong governments, which are supposed to take major steps in the direction of democratization.

**2. Hypothesis:** *Norms and institutions of longue durée, which are rooted in the domestic system, will exhibit significant resistance to democratization reforms, if these reform requirements are incompatible with them.*

Somewhat related to the first hypothesis but different from it considerably is whether there are norms and institutions in the political system, which are deep-rooted, clashing with the democratic changes. Presence of a strong nationalistic tradition might impede democratization of the country. Or an institution may be incompatible with the liberal democratic understanding required by the democratization reforms.

**3. Hypothesis:** *The success of the democratic reforms depends primarily on the commitment of the EU to the membership of the candidate country.*

There are two aspects determining the success of the EU democratization reforms: internal and external. The internal aspect involves the fact how democratic reforms are refracted by the domestic institutions in the candidate country. The other aspect concerns the extent to which the EU is committed to the membership of the candidate country. If the EU were seriously committed to full membership of the candidate, this would facilitate the adoption of democratic reforms in the candidate country.

**4. Hypothesis:** *Europeanization process will help the candidate country's norms to converge with those of the European counterparts.*

Europeanization process makes the norms of the candidate countries resemble to those of the other European states, as the Copenhagen political criteria require the candidate to meet certain democratic criteria.

**5. Hypothesis:** *The higher the degree of misfit between the norms of the candidate country and the democratic norms of the EU, the stronger the adaptational pressure on the candidate country will be, and thus the bigger the change in the domestic structure of the candidate country will be.*

As Europeanization process via democratic reforms require the candidate country to meet certain criteria, this brings the candidate under pressure to adapt itself to the new norms. The extent of change in the national politics of the country depends on the degree of difference between the Copenhagen democratic norms and those of the candidate country.

## **2.4. Theories of Institutional Change**

### **2.4.1. Neo-functionalism**

Among the widely employed theories of European integration is neo-functionalism. Created at the same time as the initiation of the European integration process, neo-functionalism soon became very closely associated with the EC and a particular path of European integration. Developed and refined between 1955 and 1975 by Ernest Haas, Philippe Schmitter, Leon Lindberg, Stuart Scheingold, Donald Puchala, Joseph Nye and many others, it became the most comprehensive and sophisticated general theory of European integration.

Ernest Haas, one of the leading thinkers of neofunctionalism, regarded integration as a developing and expanding process involving the twin strands of bargaining and compromise. In his view integration was like no other form of politics. For the neofunctionalists integrative cooperation based on successful cooperation in areas of low politics such as the ECSC could result in cooperation in other fields of policy including areas of high politics, for instance CFSP. Haas suggested a process of spillover of which he said that a positive experience of integrative cooperation could lead to yet more integrative cooperation thereby creating a positive cycle of integration.<sup>6</sup> The initiation of spill over was essential for the success of the integration process. This would induce the future creative action of the

European elites. Spillover was also crucial for enhancing the possibilities of integration, as it extended the number and variety of policies subject to collective action.<sup>7</sup>

Haas explored in his pioneering work “The Uniting of Europe” how the European integration efforts first created the European Coal and Steel Community (ECSC) and subsequently merged it into an integrated framework including the EEC and Euratom. He offers explanation on the ideology and institutions of integration as well as the processes of integration both at national and supranational level. He argues that the European integration was brought about not by security motivations such as the Soviet threat or the moves for cultural unity, rather by the functionalism of economy. He observes this fact as follows, “Converging economic goals embedded in the bureaucratic, pluralistic, and industrial life of modern Europe provided the crucial impetus. The economic technician, the planner, the innovating industrialist, and trade unionist advanced the movement-not the politician, the scholar, the poet or the writer”.<sup>8</sup> This statement of Haas is also an expression of the bottom-up character of the European integration process attaching more importance to the economic sectors and ending up in a final integration of the states.

Neofunctionalism has a number of premises.<sup>9</sup> As its name suggests, neo-functional approach to integration drew on earlier functionalism. A friendly critic of functionalism, neo-functionalism exhibited a highly significant deviation from it. Primarily differently from previous functionalist theories to international order, neo-functionalists reinstated political agency into the integration process. They emphasized actors and their interaction, which illustrates their emphasis on integration in terms of process rather than outcomes.

Secondly, according to neo-functionalists politics is a group-based activity. Pluralist political science investigates the politics of diversity. In many ways, as recognized by Lindberg, neo-functionalism can be read as a pluralist theory.<sup>10</sup> Thus, it tends to view society as composed of a multiplicity of interests that configure themselves into discernible groups. Politics becomes more or less rivalry between different groups for input into decision-making and influence over polity outcomes.

Thirdly, neo-functionalism was built around the supposition that an international society of states can acquire the procedural characteristics of a domestic political system. Patterns of integration would become apparent in changed behavior on the part of groups. Perceptions by these groups of shifts in the loci of authority and power would be accompanied by patterns of loyalty transfer from national governments to developing supranational arena.

In neo-functionalism causal sequence is from individuals and groups to national and intergovernmental decision-making. It lays emphasis on the autonomous power and energy of transnational society, in particular when coupled to entrepreneurial international institutions and agents. As neo-functionalism is based on straightforward social pluralism, political institutions are not attached any major role in shaping and channeling interests to central governments. Nevertheless, in neo-functionalism supranational institution is a significant component of the integration process. For functional spillover to be achieved, it is essential to set up a supranational institution. When integration in a limited, low-political sector starts, this spreads to other sectors of economy and eventually encompasses all areas

of national economies participating in the integration. Once a supranational organization is formed, this will lead to widening out of the existent scale of supranational integration.

Despite the sophisticated state of neo-functionalism, in the recent decades a number of criticisms were directed against neo-functionalism claiming that it fell short of providing a satisfactory analysis of European integration.<sup>11</sup> The most widely held criticism is in the empirical realm. In contrast to the suggestions of neofunctionalism that the technocratic imperative would lead to a “gradual”, “automatic”, and “incremental” progression toward deeper integration and greater supranational influence, the Community building process was in the form of “fits” and “starts” through a series of governmental bargains. Also, integration has only intermittently spilled over into related sectors and policies. Second criticism concerns its theoretical deficiency. Neofunctionalism lacked a specified theoretical core for precise empirical testing and improvement. This was to result in neofunctionalism’s confining only to the single case of the EC as an explanatory field. Furthermore, neo-functionalism’s *ad hoc* approach prevented it from being enriched with significant currents in general theories of international political economy in the last decades.

#### **2.4.2. Liberal Intergovernmentalism**

The other theory liberal intergovernmentalism underlines the centrality of the member states within the European Union. Advocates of this theory put heavy emphasis on the intergovernmental nature of Union negotiating in the decision-making processes. Thus, European integration is defined as “a series of rational adaptations by national leaders...”<sup>12</sup> As seen within the definition of European integration the salient role of “national leaders” is



underlined. There is an opposition to the inherent supranationalism of the Union's institutions. Liberal aspect of liberal intergovernmentalism starts with economic and social interests and defines how these interests find their way into the domestic political system. Like functionalism causal chain runs from the bottom up and the process can be described as straightforward social pluralism.

Andrew Moravcsik made the most elaborate contribution to liberal intergovernmentalism. In his version liberal intergovernmentalism is composed of three components. In the first step, preferences are identified, mobilized, and aggregated and as a result of this process national interest is defined. The second step is bargaining and negotiation in international arenas. National governments carry their preferences into international negotiations and bargain them with their counterparts in other countries. In the third and the last step he adds the institutions as the third component of his theory. Even though the first and second items of liberal intergovernmentalism, state sovereignty and intergovernmental bargains are central to liberal intergovernmentalist theory, the third item, institutions have instrumental function.

This model of rational state behavior on the basis of domestically-constrained preferences signifies that international conflict and cooperation can be framed as a process taking place in two successive stages:<sup>13</sup> First, governments identify their interests, then they seek to satisfy these interests through bargaining among themselves. Ultimately foreign policy behaviors of states are shaped through an interaction of demand and supply functions of international cooperation, of preference and strategic opportunities of governments.

Despite the presence of institutions in liberal intergovernmentalism this does not mean there is a dramatic turn to institutionalism. In liberal intergovernmentalism institutions are not responsible for forming the preferences of actors. They rather enforce agreements, make bargains credible and provide a rule-based structure. In other words, international institutions are seen as deliberate instruments to improve the efficiency of bargaining between states. In liberal intergovernmentalist view member states establish institutions as these institutions help them overcome collective action difficulties and obtain gains from exchange. Institutions fulfill such functions as the lowering of bargaining costs and the reduction of uncertainty through the provision of a forum. They are only of value to member-states as long as they have the function of enhancing the power and the position of states, in particular in international bargains. As put by Moravcsik, “functional regime theory views...international institutions as *passive*, transaction-cost reducing set of rules”.<sup>14</sup>

Liberal intergovernmentalism qualifies the role of institutions for the states as such, “The unique institutional structure of the EC is acceptable to national governments only insofar as it strengthens, rather than weakens, their control over domestic affairs, permitting them to attain goals otherwise unachievable.”<sup>15</sup> It is further suggested that EC institutions augment the power of national governments in two ways. Firstly, they increase the efficiency of interstate bargaining. Secondly, EC institutions reinforce the autonomy of national political leaders vis-à-vis particularistic social groups within their internal polity.

The EU institutions are favorable for the bargaining of nation states in three aspects: Firstly, it is a situation that states enter into without any coercion and on a voluntary basis. Secondly,

interstate bargaining takes place in an “information-rich” setting. The environment is information-rich in two ways: knowledge about the technicalities of EU policy-making is widespread and governments have a clear view of the preferences of and restrictions upon other states. Third beneficial aspect of bargaining environment in the EU institutions is that the transaction costs of EU bargaining are not high due to the long time-frame of negotiations and numerous possibilities for issue linkages, trade-offs and sub-bargains.<sup>16</sup>

### **2.4.3. Historical Institutionalism**

But neither of these theories helps us understand the changes in Turkish politics brought about by the process of European integration because both neofunctionalism and intergovernmentalism are theories, which explain the change and development in the European integration process. Which direction would it go into; at what speed should the integration be achieved; at what level should the member states participate in the integration process? These theories do not offer us enough tools to explain the changes in the politics of national governments as a result of the European integration process.

The other theoretical explanation to study European integration, which goes beyond intergovernmentalist or neofunctionalist theories, is institutional analysis. In institutionalist tradition institutions serve to organize the polity and to have an ordering influence on how authority and power is constituted, exercised, legitimated, controlled and redistributed. Institutions provide the actors with codes of appropriate behavior, effective ties, and a belief in a legitimate order. These rules and practices in turn determine what is normal, what must be expected, what can be relied upon, and what makes sense in the community.<sup>17</sup>

Institutional analysis is divided into three approaches offering different objects and goals of explanation: Rational choice institutionalism lays emphasis on intentional, interest-motivated action and seeks to make universal generalizations or predictions about what rational actors will do within a given set of institutions, seen as structures of incentives. Historical institutionalism focuses rather on the origins and development of the institutions themselves, seen as institutional structures and processes, which are explained by the outcomes of purposeful choices and historically unique initial circumstances. Sociological institutionalism or social constructivism relates to culturally framed actions, ideas, and identities that follow from culturally specific rules and norms. In the stricter rational choice sense these may or may not be “rational” or predictable through universal generalizations, even though they may be “expectable” within a given cultural setting. Standards of evaluation of these three approaches are also very different, with the historical approach pointing to the “logic of path-dependence,” the sociological approach invoking the “logic of appropriateness,” the rationalist approach referring to the “logic of interest.”

Rational choice institutionalism is best employed in identifying the interests and motivations behind rational actors’ behavior within given institutional settings. Historical institutionalism, by contrast, is the most suitable approach in delineating the origins and development of institutional structures and processes over time. It tends to emphasize sequences in development, timing of events, and phases of political change. Sociological institutionalism (social constructivism), finally, works best at delineating the shared understandings and norms that frame action, shape identities, influence interests, and affect

what are perceived as problems and what are conceived as solutions. Rather than being too general, it is sometimes accused of being too specific, and the 'cultural knowledge' it provides is useful mainly as preliminary to rational choice universalization.

Among these approaches historical institutionalism is the most relevant one for our purposes, as it takes social processes as historical phenomena. For historical institutionalists the basic point of analytical reference is the choices that are made early in the history of any policy. It is suggested that these initial policy preferences and the institutionalized commitments that develop out of them determine later decisions. So it is essential to understand initial decisions taken in the history of a policy to analyze the logic of the development of that policy.<sup>18</sup>

Historical institutionalism argues that in contrast to the emphasis of liberal intergovernmentalism on state-sovereignty, gaps emerge in member-state control over the evolution of European institutions and public policies. As these gaps are difficult to close, member-states' influence on the European integration process diminishes. Four gaps are of major importance:<sup>19</sup> the autonomous actions of European institutional actors, the restricted time horizons of decision makers, the large potential for unintended consequences, and the likelihood of changes in preferences of the heads of governments over time. Put it differently, historical institutionalism associates major role to the institutions and their influence on the European integration process. Institutions are not passive intermediaries facilitating international bargains. In time nation-states lose control over their policies and

preferences and in this process institutions prevail and exert major influence on the European integration process.

Notwithstanding its similarities with the other two institutional approaches, four characteristics of historical institutionalism are relatively distinctive.<sup>20</sup> First of all, historical institutionalists have a tendency to conceptualize the relationship between institutions and individual behavior in relatively broad terms. Secondly, they lay emphasis on the asymmetries of power associated with the operation and development of institutions. Thirdly, in their view institutional development is a process stressing path dependence and unintended consequences. Finally, they particularly tend to integrate institutional analysis with the contribution that other factors, such as ideas, can make to political consequences.

Institutions not only constitute “intervening variables”, but they also shape the wider context within which political action occurs. Institutions also have the capacity to influence the goals and the choices of actors leaving their imprint on political outcomes. In historical institutionalist terms, actors may not be fully aware of the implications of participating in institutional venues. In other words, they are not knowledgeable about institutional consequences to the full extent. When applied to the European integration, although the construction of supranational institutions was rooted in a very particular historical context, development of the European institutions became a process determined by the context of the subsequent periods, which was considerably different from its initial form. Bodies such as the Commission acquired distinctive and on-going agendas. In short, institutions tend to lock into place and form “path dependencies”.<sup>21</sup>

## **2.5. Literature Review on Europeanization**

We witness an exponential growth in “Europeanization” studies in the recent years. This increasing interest among the political scientists in studies of Europeanization derives from the evolution of European integration. A variety of factors related with the accelerating integration of the EU account for the increase in the intellectual interest in Europeanization:<sup>22</sup> the institutionalization of the single market, the advent of Economic and Monetary Union (EMU), emergence of regulatory competition unleashed by the global economy, and progress of enlargement process. As a result of these developments EU political system was created. In view of the advent of the European integration, having spent their energy to understand the nature of European integration, political scientists started to shift their attention to the impact of the European integration on domestic politics.

Europeanization does not only occur at the EU level or in domestic politics. Olsen defines five different kinds of Europeanization:<sup>23</sup> (i) Europeanization as changes in external territorial boundaries, (ii) Europeanization as the development of institutions of governance at the European level, (iii) Europeanization as central penetration of national and sub-national systems of governance, (iv) Europeanization as exporting forms of political organization and governance, and (v) Europeanization as a political project aiming at a unified and politically stronger Europe.

The form of Europeanization, which is relevant for our purposes, is its second kind, defined as the development of institutions of governance at the European level and third kind stressing its influence on national systems. When investigating the domestic impact of

European policies, analytically three mechanisms are distinguished, as a result of which, domestic institutional change is brought about.<sup>24</sup> First, and in its most “explicit” form, European policy-making may bring about domestic change by prescribing concrete institutional requirements with which member states must comply; secondly, and in a more implicit way, European legislation may influence domestic arrangements by altering the domestic rules of the game; thirdly, in its loose form, European policy does not prescribe concrete institutional requirements. Nor does it modify the institutional context for strategic interaction. But it impacts domestic arrangements even in a more indirect manner, through changing the beliefs and expectations of domestic actors.

Transformation in political structure and politics of the European states as a result of “Europeanization” happens in six forms: a process of institutional adaptation within government in relation to the coordination of EU policy and strategy; a process of transformation in the structural power of domestic actors-executive and technocrats, sub-national actors and institutions, and the strengthening of civil society; an adjustment of the domestic macroeconomic policy regime, affecting state-economy relations; an issue exerting a new dynamic within domestic party system; a pressure to redefine national identity; a strategic tool in the pursuit of foreign policy interests.<sup>25</sup>

It may also be helpful to understand what Europeanization is by explaining, what Europeanization is not. Europeanization is not convergence, for the latter can be a consequence of the former. While Europeanization refers to a process, convergence is a consequence. Europeanization can also produce divergence. Europeanization should not be



confused with harmonization either as member states may continue to produce divergent solutions to the problems. Although Europeanization and European integration are often used interchangeably, some distinction can be detected between the two concepts. Europeanization would not exist without European integration. The latter concept deals with the understanding of a process, in which countries pool sovereignty, whereas the former is about what happens once EU institutions are in place and produce their effects.<sup>26</sup>

Besides member states non-members are Europeanized too. Sciarini, Fischer, and Nicolet examined how europeanization impacted Switzerland domestically.<sup>27</sup> Claes shows in his work how Norway as a non-member state was influenced by the regulations and developments regarding energy within the EU.<sup>28</sup> Given that the EU undertook a 10-state enlargement in 2004, studies such as that conducted by Schimmelfennig et al. started to tackle the question how the EU democratic conditionality influenced the national setting.<sup>29</sup>

EU influence in the applicant countries is achieved through a variety of levers including access to negotiations and further stages in the accession process (gate-keeping), provision of legislative and institutional models, aid and technical assistance, policy advice and twinning projects and through monitoring, demarches, and public criticism.<sup>30</sup> The EU has made use of “asymmetric power” to Europeanize the policies of candidate countries. Accession to negotiations and other stages in the accession process is the EU’s most powerful conditionality lever, and therefore its strongest political tool for institutional change. With respect to policy advise and twinning projects, there is little control of the advice and expertise by the EU. Thus, the effects on the applicants’ policies are likely to be very diffuse

rather than reflect any consistent European model. Ranking of the applicants' overall progress, benchmarking in particular policy areas, and providing examples of best practice constitute "soft implementation" means of the EU. In particular, criticisms of applicants prove to be politically influential and can have a powerful impact on domestic debates about public policy.<sup>31</sup> While gate-keeping and advice and twinning mechanisms are primarily designed for applicant countries and function as EU's major conditionality instruments in the Europeanization process beyond the EU, the other three mechanisms; templates, financial assistance, benchmarking and monitoring are also employed in the EU's interaction with the EU-members.<sup>32</sup>

However, "uncertainty" undermines the use of asymmetric power by the EU. There is uncertainty not only about the content of the EU policy agenda in areas such as social policy, justice and home affairs, and taxation, but also about standards and thresholds, that is, what degree of compliance will be considered to be sufficient for the candidates to meet the EU conditions in the economic realm. Uncertainty is not confined to these areas. Various forms of radical uncertainty arise when candidates come under pressure from the EU and US providers of models, and try to draft major legislation in a short period of time and without much knowledge and expertise. As a result, radical uncertainty makes it difficult to devise effective policy strategies.<sup>33</sup>

With respect to extent of domestic change, three different degrees can be detected: absorption, accommodation and transformation. Absorption refers to the situation, when member states manage to incorporate European policies or ideas and readjust their

institutions, respectively, without changing much existing processes, policies, and institutions. In absorption, extent of domestic change is not high. Accommodation occurs when member states accommodate European pressure by adapting existing processes, policies and institutions without modifying their basic characteristics and the underlying collective understandings associated with them. The degree of domestic change taking place is modest. Transformation refers to the case, in which the extent of domestic change is high. Transformation takes place when existing policies, processes, and institutions are replaced with new, substantially different ones, or changed to the extent that essential characteristics and/or the underlying collective understandings are fundamentally modified.<sup>34</sup>

When it comes to the direction of Europeanization, one cannot suggest that there is always convergence when members implement EU policies, that is, translation of EU policies into domestic level does not always point to the resemblance of member states' policies. What seems to be convergence at the macro level, may still exhibit a considerable degree of divergence at micro-level. For instance, while the EMU gave rise to policy convergence among the 11 members on inflation and budgetary restraints, there was significant amount of dissimilarities in the institutional arrangements in the economic and fiscal policy area, that is, in the means they employed.<sup>35</sup> It seems that policy convergence is more likely than institutional convergence as policy changes are achieved more easily.<sup>36</sup>

Diez et al. identifies four understandings of Europeanization: policy Europeanization, political Europeanization, societal Europeanization and discursive Europeanization.<sup>37</sup>

### *Policy Europeanization*

This understanding of Europeanization focuses on the impact of European integration on policy making. As for the extent of change brought about by Europeanization, studies at the policy level point to a more consistent impact in comparison to macro-analyses of political structures, in which levels of Europeanization are less.<sup>38</sup> In the literature, change in the domestic environment is explained through “misfit” and adaptational pressure stemming from this misfit.<sup>39</sup> However, adaptational pressure alone is not a factor sufficient to account for the change taking place domestically. Mediating factors are responsible for the differential impact of European integration.<sup>40</sup> Two pathways leading to domestic changes are rationalist institutionalism and sociological institutionalism. On the one hand, rationalist institutionalism follows logic of resource redistribution stressing the absence of multiple veto points and the presence of supporting institutions as the main factors facilitating change. Sociological institutionalism displays a socialization and learning account concentrating on norm entrepreneurs as “change agents” and the presence of a cooperative political culture as the main mediating factors on the other.<sup>41</sup>

However, when we go a step further, we realize that further refinement is needed in the perspective of domestic institutions as mediating factors. Their explanatory value varies with the distinctive Europeanization logic emphasizing different policy types. Therefore, in cases of positive integration such as implementation of EU environmental directives, domestic institutions are functional in explaining domestic change. However, regarding policies of negative integration such as internal market in goods and services and policies of framing integration only institutional approach is not enough to explain the domestic impact of

Europe. Thus, an actor-centered perspective is needed to see the extent to which European policies have either changed domestic opportunity structures (negative integration) or beliefs and expectations of domestic actors (framing integration).<sup>42</sup> According to Bulmer and Radaelli, while regulatory competition is an appropriate tool for interpretation in negative integration, learning is the right explanatory factor in the areas of coordination such as CFSP and third pillar.<sup>43</sup> Moreover, it is not clear what would happen when domestic institutions are fragile. For instance, in countries such as Belgium and Italy, domestic institutions have been in crisis or in transition in the 1990s. Thus, they were not capable of fencing or shaping the process of Europeanization. Quite the opposite has occurred. Europeanization has become a crucial mechanism of domestic institutional change, as seen in the impact of the EMU.<sup>44</sup> Goodness of fit argument is applicable under certain conditions, namely the presence of EU policy templates or models. It is best valid for one type of policy-positive integration-rather than offering a general explanation. It assumes a clear, vertical, chain-of-command, in which EU policy is imposed from Brussels into the member states.<sup>45</sup>

#### *Political Europeanization (Europeanization of Political Processes)*

A second form of Europeanization is that dealing with the effects of European integration on domestic institutional structures and political processes. Studies concerned with political Europeanization are abundant.

A group of studies in this category takes up the impact of European integration on national executives and administrative structures. These works have emerged out of the necessity to coordinate the relations between member states at the EU level, and to apply EU policies.

Investigations of national systems EU policy coordination show that national responses have not been uniform and there have been marked differences among the member states.<sup>46</sup> Findings of Kassim suggest that these differences are profoundly rooted in national political systems.<sup>47</sup> There is no evidence that a convergence around a single administrative paradigm exists. Therefore, it may make more sense to speak of “domestication than of Europeanization”.<sup>48</sup> This is an evidence for the extraordinary resilience of national institutions. It also shows that European integration is not strong enough as an independent source of domestic institutional changes.<sup>49</sup>

The other major group of studies on political Europeanization deals with the impact of European integration on political actors such as political parties<sup>50</sup>, parliaments<sup>51</sup>, interest groups<sup>52</sup> and subnational governments.<sup>53</sup> Unlike the study of policy Europeanization, research in this subfield of political Europeanization has not produced much general theorization. As a result of these investigations, there is no consistent evidence demonstrating that European integration reinforces national governments. The study undertaken by Raunio and Hix suggests that while the ability of parliaments to control executives has declined partly as a result of European integration, during the 1990s parliamentarians have established mechanisms enforcing the governments to explain their EU policies and actions in the European arena to parliaments.<sup>54</sup> With respect to the influence of European integration on parties, it is observed that Europe fails to impact on national party systems and it is often depoliticised. While Europe becomes an issue for the governing politicians and their bureaucracies, it is not something that demands the active participation of the electorate.<sup>55</sup> Finances, electoral considerations, relations with government, opposition

status, which are based on national considerations, limit the response by national parties to the impact of the European Union.<sup>56</sup> On the other hand, Börzel argues that Europeanization does not necessarily influence the territorial structures in the same way, and shows that the impact of Europeanization on national territorial structures is diverse and “institution dependent.”<sup>57</sup>

### *Europeanization of Identities (Societal Europeanization)*

In the course of European integration process there has been an interaction between national and supranational identities, that is, at the EU level. This interaction does not mean that a single European identity will replace national identities in this process. Rather, this interaction between European and national identities gives way to the formation of a new synthesis. In this subfield of Europeanization literature, two broad areas can be detected.

The first research agenda is concerned with the creation of a European identity as a repercussion of EU norms. A great deal of research has been conducted in this area. These studies have also included those exploring how coordination in foreign policy is realized.<sup>58</sup>

The rules and norms embedded in the *acquis communautaire* induce the members to commit themselves to peace, liberty, democracy, rule of law and human rights, shape their national identities in line with the European norms.<sup>59</sup>

The second research agenda is about the meaning that people attach to the EU and the reflections that this meaning has on national identities. There is no general pattern of constructions of the EU and Europe. “Resonance” seems to be the key concept explaining

the acceptance of European supranational identity at national level.<sup>60</sup> The more European identity constructions are compatible with national identities, the easier people embrace these notions and incorporate them in their discourse.<sup>61</sup> Domestically, identity norms hinder or filter European understandings. Furthermore, loyalties toward one's nation-state and European identity need not be in contradiction to each other but might become rather supplementary.<sup>62</sup>

#### *Europeanization of Public Discourses (Discursive Europeanization)*

Studies of the Europeanization of public discourses investigate to what extent public claims make reference to the EU, European actors or policies. Findings reveal that despite the fact that the topic is a European one, national news media plays an active role in providing a national spin on a European topic.<sup>63</sup> However, studies also demonstrate that even in national identity discourses a European dimension can be found.<sup>64</sup>

When it comes to studies involving Turkey's Europeanization, it is remarkable that not many studies have been produced in view of the growth of Europeanization studies in member states. This can be explained primarily by the nature of relations between the EU and Turkey. Although Turkey has had a long history of relationship with the EU dating back as early as 1960, when Turkey signed Ankara agreement, impact of European integration in Turkey's politics has been felt profoundly just after the watershed 1999 Helsinki decision. From that time on, a substantial process of Europeanization of Turkey's politics has started. All the same studies carried out after the Helsinki decision have not employed conceptual framework offered by Europeanization research. Mostly they have used Europeanization



implicitly in the sense of the changes taking place in Turkey's politics as a result of European integration process. Deliberate attempts at using Europeanization as a conceptual tool are quite recent.<sup>65</sup> In this sense, these studies pave the way for future studies on Europeanization of Turkey.

Since both sides entered into a relationship in institutional sense after the Ankara Agreement, impact of the EU on Turkey's democratization has been low and incremental at most. This is because neither Turkey's European orientation was credible enough, nor was the EU willing to play an effective anchor role for Turkey's policy reform.<sup>66</sup> After Helsinki, the anchor/credibility dilemma shaping EU-Turkey relations was mitigated. During this period both Turkey and the EU have refrained from using non-credible threats and undertakings, which might undermine their desired objectives: Turkey's accession to the EU and the EU's anchoring of Turkey as a country whose exclusion could pose considerable challenges for Europe. This, in turn, has helped accelerate democratization process in Turkey.<sup>67</sup>

Turkey's stance to democratization has displayed a dilemma. While it embraced EU norms on human rights and democratization wholeheartedly, it rejected outside interference in domestic matters on nationalistic grounds.<sup>68</sup> This has slowed down Turkey's democratization to an important extent.<sup>69</sup> Nationalistic rejection of EU's interference in Turkey's domestic affairs stems largely from the deep-seated conviction that there is an international conspiracy to weaken and divide up Turkey-the Sevres syndrome.<sup>70</sup>

Civil society has proved to be an important driving force behind Turkey's democratization. Business community has become most vocal part of the civil society. However, divisions among them have constrained their ability to push for democratic reforms.<sup>71</sup> Although TÜSIAD has been the engine of democratization push in the business community, not all the business organizations have been as enthusiastic about Turkey's EU membership and democratization reforms. For instance, TOBB and TISK have been handicapped by the close ties and economic linkages of their members with the state.<sup>72</sup> However, the EU's anchor role is quite crucial to the progress of the broad democratization agenda. Ambiguous signals provided by the EU not only limit the power and influence of organizations such as TÜSIAD, but also empowers those groups in Turkish society who resist change.<sup>73</sup>

An appropriate mix of conditions and incentives by the EU is key for a successful transformation of an applicant country. Following Helsinki, the incentives to undertake reform in Turkey's domestic politics have increased considerably.<sup>74</sup> This helped the EU to "play a substantial role in stimulating internal change and Europeanization."<sup>75</sup> Helsinki Summit has also led to certain realignments in domestic politics. Turkish politics has been divided through a new line, which is quite different from the traditional division between the left and right. New division has been between pro-EU groups and EU-skeptics.<sup>76</sup>

After Helsinki civil-military relations have been Europeanized to an unprecedented extent. Turkey's European vocation dating back to the eighteenth century, the Turkish military's conviction that at least principally the last word should belong to civilians and its ability to learn from past experience, and the relatively effective governments since 1999, have

facilitated Europeanization in this field to a large extent.<sup>77</sup> Yet Europeanization of civil-military relations in Turkey has its limits. Legally, the military still retains its guardianship role, albeit in a significantly narrowed manner. Prospects for military's reduced role in politics are contingent upon the perceived disappearance of separatist tendencies, a decreasing threat of political Islam, and more civilian empowerment and responsibility.<sup>78</sup>

Post-Helsinki period saw Europeanization of Turkey's foreign relations. Solution of Turkey's problematic issues with Greece would remove significant obstacles to successful accession of Turkey to the EU. This, in turn, would prevent a reversal in Turkey's democratization. The EU has given the struggles of domestic actors, who seek to Europeanize Greek-Turkish relations "resources and legitimacy."<sup>79</sup> Thanks to Europeanization after Helsinki, the atmosphere has improved significantly. However, no substantial settlement could be reached between the parties yet.<sup>80</sup>

Turkey is faced with a variety of challenges in its Europeanization process. The first task is the institutional one requiring the growing integration into the EU and open coordination with the EU countries. The second task is the political one, setting up of institutional mechanisms for societal demands. The third task is the cultural one, expansion of cultural moderation and tolerance. Europeanization of Turkey is in a sense another attempt to "save the state", which has been the challenge for Turkish elites over the last a few centuries. But this time, to "save the state", it is necessary to incorporate to a regional integration, which will lead to the establishment of a welfare state at the European level.<sup>81</sup>

## **2.6. Methods and data**

Primarily I used qualitative research techniques. To answer the primary questions, to what degree the European integration affected the domestic politics in Turkey and how the domestic institutions reacted to the EU reforms, I used the content analysis method by surveying progress reports from 1998 to 2004, the amendments in the Constitution, the laws, codes and the regulations. In addition, I often made use of the reports of the NGOs such as the Amnesty International, Human Rights Watch. In Turkey, the research reports produced by the most active pro-EU civil society organization, TUSIAD was of particular importance. To find out what the reactions of the domestic institutions, political parties, president, the Military as well as the NGOs, I used discourse analysis method by surveying their statements on the websites of these institutions. I then checked whether these institutions translated their words into reality when they had the possibility to do so. In other words, I supported domestic institutions` reactions to the EU reforms with their deeds and sought to paint a more realistic picture of their policies. Statements of these institutions, which appeared in the newspapers, were also helpful to supplement the research. Book and journal articles were among the main sources I used in my research.

My research consists of four steps: In the first step I have completed the first round of research material collection. At this stage I have sorted out the documents I have collected and read the relevant ones and then redesigned my research framework. In the second stage I have written a basic research paper and further refined my research design. This stage was critical in my research process, as writing a basic research paper substantially helped to accelerate my investigation. In the third stage my primary task was to expand each section in

the basic research paper into a chapter. After completing the writing of the chapters I have detailed the research and made a final touch to complete the study in the fourth and the final step.

In general terms my research is an attempt to show how international (European norms) influenced the domestic setting. To operationalize my study I restricted my investigation to the post-Helsinki period from 1999 to 2005. I revealed how democratic norms set out at the Copenhagen Summit in 1993 were translated into national legislation.

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## **CHAPTER III**

### **CHARACTERISTICS OF TURKISH DEMOCRACY**

This chapter deals squarely with the basic features of Turkish politics, which have left its imprint on Turkish democracy. Foremost characteristic of Turkish democracy relates to its historical legacy: strong state tradition. This influenced almost every aspect of Turkish politics ranging from the development of civil society and interest groups to the formation of political parties. Other important aspect of Turkish politics has been the valued role of the military in politics, which intervened four times to restore order. It seems that the army is the symptom rather than the cause of fragile democracy in Turkey, as they were reluctant in interrupting politics and intervened when they felt obliged to do so in order to restore political democracy. Islamic politics has become a remarkable force of Turkish politics particularly in the wake of the 1980 military coup. 1990s have become the years of Islamic resurgence in Turkish politics. But their encounters with the secular establishment were in the end to produce a moderate Islamic movement exemplified by the ruling AKP. Another important aspect of Turkish politics, which became one of the widely discussed topics in the EU integration process, has been the issue of minorities. Turkey's granting special rights of minorities only to non-Muslim groups in accordance with the 1923 Lausanne Treaty posed difficulties in handling the Kurdish issue. Turkey has sought to solve the Kurdish issue by granting them individual cultural rights rather than giving them group and political rights. Largely as a result of strong state tradition civil society has been weak in Turkey. Civil society is increasingly viewed as an integral part of a viable democracy. But in the European integration process civil society has sought to assume a growing role in Turkey's integration

with the EU and adopting democratic reforms. It is also argued that weaknesses in the party system and the parties impeded development of Turkish democracy.

### **3.1. Strong State Tradition**

There is a close correlation between level of stateness and democratic development. There should be a harmonious relationship between the state and civil society. Not only a too weak but also a too strong state poses difficulties for a viable democracy to develop.

Similarly, the presence of a strong state tradition in the Ottoman-Turkish polity has been one of the most important causes for the slow development of democracy in Turkey.<sup>1</sup> The Ottoman-Turkish state has been strong and centralized, effective, highly autonomous from the rest of the society, and occupied a central and enhanced place in the political culture.<sup>2</sup> Indeed, the “output” structures of the state (the civil service, armed forces, police, and courts) in the Ottoman-Turkish polity have been too highly institutionalized. This over institutionalization of the state apparatus, coupled with the predominance of a “strong-state-tradition” in Turkish political culture impeded the emerging of more balanced relations between the state and the civil society.<sup>3</sup>

Center-periphery cleavage represented one of the important characteristics of the Ottoman society. This cleavage helps explain why a civil society did not develop in the Ottoman-Turkish polity. In the Ottoman state, the society was divided into two groups: the large mass of subjects (the *reaya*) protected by the state and the ruling class, known as Ottomans (*Osmanlilar*).<sup>4</sup> The primary purpose of the *reaya* in life was to generate wealth by engaging

industry, trade and agriculture and to pay taxes to the ruler. A small group of rulers neither produced nor paid taxes, but rather acted as instruments of the sovereign in collecting his revenues and using them to support him and his family as well as themselves. Mardin notes, “The wielders of political power, not the merchants, were the first citizens of the realm.”<sup>5</sup>

In such a system, in which status and wealth are gained not through economic production and activity, but through identification with the state, it was obvious that a bourgeois class was not to flourish. The basic social cleavage in the Ottoman state was based on a strictly political criterion. This resulted in a polity, in which status-oriented rather than market-oriented values were dominant. This was the reverse of the situation in Western Europe.

Unlike the other Middle Eastern states, the Ottoman Empire succeeded in establishing a lasting center supported by a sophisticated network of institutions. The Ottomans used various methods to maintain the center. “By co-opting in the ruling elite individuals largely recruited at an early age from religious minorities, by socializing them into the official class, by tightly controlling, though not necessarily centralizing, the system of taxation and land administration, and by dominating the religious establishment”, the center managed to impose its supremacy on the periphery.<sup>6</sup>

The Ottomans sought to bring the Ottoman aristocracy under close control so that they did not pose threat to the state. While absolute monarchs in the West had usually drawn their servants from among the small rural nobility, the Ottomans staffed the royal household with loyal slaves. This was to remove the Turkish aristocracy from its position as a ruling class.

Patrimonialism has also manifested itself in the land regime of the Ottomans. When the Ottoman administration was first established in Anatolia, all agricultural land passed to the ownership of the state. The Ottomans abolished all local feudal rights, which limited the state's control over the land and the peasants. One of the pillars on which the Ottoman state was based was the *timar* system. Unlike in the medieval European feudalism, in the *timar* system, agricultural land belonged to the state. As also noted by Inalcik, "The peasant's rights on the land passed from father to son, but he could not sell land, grant it as a gift, or transfer it without permission."<sup>7</sup> This prevented the formation of the concept of "private property". Its implication was that the periphery would find it difficult to develop into an economic class and continued to live on the margins of the centre.

The emergence of the *ayan* (notables), a local class in the eighteenth century, who possessed local social and military power with links to central government and tax-farming privileges, did not bring about any fundamental change in the nature of the relations between the local notables and the centre. Unlike the feudal aristocracy in the Western Europe, the *ayan* neither had the legal basis nor political legitimacy. Subsequently, the *ayan* was deprived of much of their de facto political influence through the centralization drive by Mahmud II (1808-1839).

Furthermore, the Ottoman state enjoyed an autonomous political power with respect to the localities, which implied among other things the authority to make laws and regulations. The State exercised this authority independently; it was not based on delegated powers. Heper

observes, “That in the Ottoman Empire autonomous powers were not granted to the localities is evident in the fact that, in the polity, one comes across legal codes covering all aspects of government and society in a manner that previous Muslim rulers had never attempted.”<sup>8</sup> That the centre did not delegate autonomous power to the localities demonstrates the distrust of the centre towards the periphery. This arrested the promotion of the localities and, thus the civil society independently from the state.

The Ottoman system worked in such a way that the local notables were doomed to stay local. As they did not dare to oppose the centre directly, they gained their wealth largely through the exploitation of the weaknesses of the centre in the localities. They had to go through indirect channels. For instance, “they had to find loopholes in the Code, bribe officials, and coerce the peasants.”<sup>9</sup> Even if they acquired economic power, they have not showed interest to turn this into political power. In turn, this limited their influence on the centre. On the other hand, the centre did not exhibit any intention to share its power or competences with the localities. It rather preferred to keep the periphery at bay. The tension between the centre and the periphery lingered on, which was never to be resolved by means of a compromise. One can observe continuity in terms of relations between the centre and the periphery in the Ottoman polity. The most distinctive feature of this relationship is the existence of an ever-present tension. This tension generated “suspicion, distrust, arbitrariness, and unethical maneuvering.”<sup>10</sup>

The Ottomans brought under control not only the old Ottoman aristocracy, but also the religious institution. The Ottoman state was sovereign vis-à-vis Islam. The orders of the

Sultan as the head of the state had to be obeyed without question by all members of the Ruling Class, including even the *Ulema (doctors of Islamic law)*.<sup>11</sup> In effect, the *Ulema* were transformed into officials, for their livelihood was provided them by the state, and the path they traveled in their career was fixed by the state.<sup>12</sup> Further, as stressed by Köprülü, “Even the Turkish rulers, who have complied with Islam most, held the state authority above everything.”<sup>13</sup>

Evidence of the supremacy of the state can be further found in the modernization efforts in the Ottoman state. For instance, although modernization attempts in the 19th century seemed to provide rights to the periphery, in fact, the center’s conception of the state and its attitude towards the periphery did not exhibit a change in its essence. The modernization efforts that the bureaucratic authority undertook aimed at strengthening the centre itself. Although The *Sened-i Ittifak* (Deed of Alliance) of 1808, *Gülhane Hatt-i Hümayunu* (Imperial Rescript of Gülhane) of 1839, the *Islahat Fermanı* (Reform Edict) of 1856, the creation of central and provincial representative assemblies and councils throughout the *Tanzimat* (Reform) Period of 1839-1876, and the convening of the first Ottoman parliament in 1877 (following the proclamation in the previous year of a constitution) are milestones in the establishment of a constitutional government, these efforts were undertaken to restrict in particular the authority of the local notables, who had no allies in Istanbul through whom they could influence the politics of the centre and legalize their status.<sup>14</sup>

Beside the high centralization of state, at the other extreme the civil society was fragile and lacked corporate, autonomous, intermediary social structures unlike those in the West, which

operated independently of the government and functioned as a cushion between the state and the individual. In the Ottoman state neither the cities nor the *ahi* guilds (artisan organizations with a strong religious coloring), assumed an autonomous role comparable to that of their counterparts in Western Europe. In the Ottomans, there was no counterpart of the church in the West either, the foremost of the autonomous corporate structures, as the religious class has had no corporate identity and depended on the state.

In cultural terms the state has a valued place in the perceptions of the Turkish people and the Ottoman-Turkish political thought. The state is attributed to, paternalistic and tutelary characteristics. Many popular Turkish expressions reflect this peculiarity. *Devlet baba* (father state), *Allah Devlete, millete zeval vermesin* (may God preserve the State and the Nation) are examples of paternalistic expressions of the state. Further, state interests are defined in the Ottomans as *Devletin ali menfaatleri* (sublime interests of the State). The state has continued to occupy the same notion in the republican political discourse. For instance, the State (always with a capital S) was defined as *kutsal Türk devleti* (sacred Turkish state) in the preamble of the 1982 Turkish constitution.<sup>15</sup>

Although the establishment of a secular Republic in 1923 marked a radical break with the Ottoman past, in terms of the relations between the center and the periphery, it exhibited a remarkable continuity. The Turkish revolution was “a revolution from above” aimed not at social-structural transformation, but rather at political and cultural change, largely confined to the center, radically changing the legitimating system of symbols supportive of political authority.<sup>16</sup> The centre comprised the past elites of the state, the military and the

bureaucracy, the Party being the only newcomer. The periphery continued to be primordial, disconnected and segmented as in the past. Therefore, in the Republican Turkey, the strong centre-weak periphery cleavage marked continuity with the past.

In the post-Atatürk era the bureaucratic elites kept the state tradition alive. Empirical studies carried out during the post-1945 multiparty period revealed unequivocally that there existed unwillingness on the part of the bureaucratic intelligentsia to accept a weak state although popular sovereignty was underscored through multi-party elections. According to a survey conducted in 1969, thirty-four of the 36 civil servants agreed that “what Turkey needs more than anything else is experienced and informed people significantly contributing to public policy” and they considered themselves as best fitting this definition.<sup>17</sup> Likewise, another study carried out in 1978 demonstrated that among all the civil servants in the central organizations of three ministries, only 16.4 percent disagreed with the statement that in comparison to other citizens civil servants judged the country’s interests better.<sup>18</sup> Similar viewpoints can be observed among the military bureaucracy, who carried out four military interventions during the 1960-1997 period with the aim of keeping the principles of the state philosophy, Kemalism in place.

One of the implications of the strong state tradition in the Ottoman-Turkish polity is the scarcity and underdevelopment of the civil society organizations. Following the emergence of voluntary associations during the Second Constitutionalist period (1908-1918), they came under strict control of the state in the single-party era. In the multi-party era the number of associations multiplied eight times to exceed 17,000 by 1960. The adoption of the liberal



1961 constitution further boosted the associational life, as it was then possible to establish association without obtaining prior permission. From 1960 to 1971, the number of associations again multiplied two and a half times reaching an estimated 42,000. Nevertheless, the vast majority of them were still small and politically insignificant local community organizations.<sup>19</sup> The 1982 constitution banned all associations from pursuing political aims, engaging in political activities, receiving support from or giving support to political parties, and taking joint action with those parties or with each other. The constitutional amendment abolished these bans in 1995. Since the 1999 Helsinki Summit, important developments have taken place in terms of the status of associations in line with the Copenhagen Political criteria. The new Law on Associations has reduced the possibility of state interference in the activities of associations and thus contributed towards the strengthening of civil society.

The 1990s saw an enhancement in the place civil society organizations occupy in Turkish politics. For instance, the role the civil society organizations played in the so-called 28 February process, which ended in the fall of the Erbakan government, illustrates the increasing power of civil society. Two largest trade unions, the Confederation of Turkish Trade Unions (Türk-İs) and the Confederation of Revolutionary Trade Unions (DISK) and the Turkish Confederation of Small Traders and Artisans (TESK) stated that secular and modern democratic republic was in danger and gave full support in a joint declaration to the NSC resolutions of the 28 February 1997. These trade unions were a few days later joined by TOBB, the Turkish Union of Chambers of Commerce, Industry, Maritime Trade, and Trade Exchange. Yet it is argued by Ergün Özbudun, a scholar of Turkish politics that it was

“doubtful whether (the joint) initiative would have been able to bring down the government if it had not been backed by credible threat of a military coup.”<sup>20</sup>

An important element of civil society in Turkey has been the media. In the post-1980 period they became champions of democracy. Even during the 1980-1983 interregnum, the press was the only opposition to the military-backed government. In particular, the constitutional amendment in 1993 abolishing state monopoly on radio and television broadcasts marked a new era of spreading of pluralism across the country through the proliferation of privately owned TV and radio channels nationally as well as locally.

In the recent years, the role of the civil society initiatives in the society and the relations between the NGOs and the state has been widely debated in Turkey. In one of these discussions a number of suggestions have been made to improve the relations between the state and the NGOs in Turkey: “Provision of a fundamental improvement in the NGO-state relations depends closely on the democratization of the state and its becoming a state of equal citizens. For the NGO-state relations to be placed on an efficient and positive basis, it is necessary to change centralist state tradition, the impact of this tradition in the public, to alter cultural habits, to remove the restrictions to association, meeting and freedom of expression imposed by the 1983 Constitution, some other laws and practices.”<sup>21</sup> It was further suggested that arbitrary and political discrimination between the NGO-state relations should be put an end to.<sup>22</sup> It was added that the state should refrain from any initiative with a view to represent the NGOs and NGOs should develop independently and cooperate with the state on project basis.<sup>23</sup>

The presence of a too strong state in the Ottoman-Turkish polity has also had implications in the development of political parties in Turkey, as they developed in the absence of an aristocracy and of entrepreneurial middle classes with political influence. Therefore, the linkages between political parties and social groups were very weak. As a civil society was absent, the Ottoman social structure was filled with ideology. The same feature of Turkish politics has continued in the republican period. In the modern Turkey a genuine middle class has not developed in the economic sense of the term till the 1970s seventies. Nor has a middle-class ethic existed during this period. Therefore, like in the local notables of the Ottoman polity, the socio-economic groups in modern Turkey could not develop horizontal ties easily.<sup>24</sup>

An important implication of this socio-economic feature in Turkish politics was that Turkish political parties have developed as a means of elite conflict. Therefore, for a long time the basic cleavage in Turkish politics was a cultural rather than “functional” (economic) cleavage. That is why although the Democrat party contained many potentially conflicting interests, the party’s opposition to the domination of the bureaucratic intelligentsia held the Democrat Party together. As a politically influential civil society has not existed, “bourgeois politics” did not flourish.<sup>25</sup>

In the absence of a civil society, that is socio-economic classes, a party-centred polity emerged. The anti-bureaucratic intelligentsia tried to substitute the party-centred polity for a state-dominant political system. Party-centred polity, political party system largely

autonomous from social groups, replaced bourgeois politics where social groups have weight in polity.

When multi party politics started and the newly formed party, Democrat Party (DP) came into power in 1950, peaceful transfer of power was highly remarkable in a polity, in which power was regarded as “absolute” and not shared with the others. Nevertheless, although the DP’s coming to power was a step forward in terms of integration of the periphery into the centre, it cannot be suggested that the DP represented the periphery to the full extent, for the DP was not able to overcome the low institutional permeation of society which it inherited from the authoritarian regime. In fact, what distinguished it from the Republican People’s Party (CHP) was its anti-bureaucratic discourse. Nonetheless, once coming to power, they were as uncompromising as the centre. They sought to politicize the bureaucratic centre and use it as an instrument of their political objectives. What followed at the end of the 1950-60 DP government was the 1960 military intervention, which was in a sense, an imposed institutional compromise. What is interesting at this point is that as Dankwart Rustow pointed, “Democracies that are not the outcome of a compromise forged in conflict are likely not to be durable.”<sup>26</sup> As the Turkish democracy was won too easily, without a struggle, it was to be interrupted after a short while. This was the upshot of the unidimensional character of power in the Turkish polity, which concentrated in the centre and the absence of multiple confrontations in the system leading to a compromise and incremental integration of the forces of the periphery into the centre.

The 1961 Constitution was a mixed one. It provided legal assurances for the autonomy of the military and the bureaucratic elites independent of the political elites. It was mixed because, while like in the 1924 Constitution sovereignty belonged to the nation, the nation would use sovereignty through “the authorized agencies”. The agencies included universities and Turkish Radio and Television-both independent of the government-the Council of State (the Turkish version of the French *Conseil d'Etat*) and the Constitutional Court.<sup>27</sup>

On the other hand, the Turkish political system began to undergo profound changes during the 1960s. Economic development caused social and structural changes such as rural immigration, urbanization, the liberalism brought by the constitution and the ideologies that developed after its introduction. This was to result in ideological polarization and political fragmentation creating a deep gulf between the two major parties.<sup>28</sup>

The polarization in politics also affected the civil bureaucracy. The homogeneity of political attitudes within the bureaucracy broke down so that it was not any longer a political force, whose views on politics and whose political preferences were uniform. In this process, sensitive public agencies were also politicized. From 1973 to 1980 coalition governments were in power in Turkey. As the coalition members heavily engaged in unrestrained patronage and nepotism, the civil servants have been reshuffled in an arbitrary manner.

The periphery came to develop into a civil society and the political parties began to make greater emphasis on responsiveness to particularistic interests than the general interest. As Ecevit has come to have a strong affinity with organized labor, for the first time in

republican history a genuine ideological distinction between the two major political parties developed. This led to the polarization of Turkish politics. The bureaucratic centre had collapsed. There were not intermediary structures, which could have exercised a moderating influence. The party-centred polity drifted toward extremism. Once again, in 1980 the military as the locus of the state intervened to put in place, Kemalism, the philosophy of the state. During the 1960s and 1970s it was the only element of the centre, which has kept its autonomy and sovereignty in the polity.

Another area, on which strong state tradition has had an impact on, was the formation and development of economic interest groups. With respect to the development of the economic middle strata, the case resembled that of the local notables. Although in the West the burghers developed into self-made capitalists, the economic middle strata in Ottoman-Turkish society lived on the margins of the polity. Although this stratum emerged as a state-made group, they always remained weak in terms of capital and were dependent on the state. This situation was in fact a natural corollary of a major feature in the Ottoman-Turkish polity. The Western modernization pattern included a series of “confrontations” resulting in compromises with the forces of periphery, the feudal nobility, the cities, the burghers, and later, industrial labor, what Turkey lacked till recently. Rather, the major confrontation in the Ottoman-Turkish polity was “unidimensional”, always a clash between the center and the periphery.<sup>29</sup>

That capitalism emerged just in the 60s in Turkey can also be attributed to an important extent to *the nonexistence of a mercantilist tradition* in the Ottoman-Turkish polity. No

attention was paid to the issue of the balance of payments. Import-export balance was disregarded. While the regulations facilitated imports, it discouraged the exports. Although the only tax on imports was a three per cent *ad valorem* duty on imports plus a small anchorage, a twelve per cent duty was imposed on exports from Turkey.<sup>30</sup> The fact that in the Ottoman society business groups did not enjoy prestige hindered their development. Neutral terms such as *bezirgan* and *madrabaz*, which were used for merchants in official documents, later gained such negative meanings as profiteer and trickster.<sup>31</sup> Although in the 19th century there existed business groups made up of Levantines-minorities engaged in trade and commerce-, they were not entrepreneurial but rather opportunistic. Thus, these groups did not develop into a class with autonomous economic power and norms. The situation did not change in the republican Turkey as late as the 1970s. The business groups depended to a large extent on the state policies and resources in areas such as import allocation, credit and investment and infrastructure.

The post-1980 economic liberalization policies marked the start of a new period in Turkey. It is argued by Heper that the policies pursued by the Motherland Party (ANAP) in the 1980s demonstrated that the party was interested in economic and not political restructuring in the sense of promoting the civil society forces. If one looked at the programme of the party in 1983, one could easily foresee that there would have been opening from the state, through the political party, to society. Privatization of the state economic enterprises, the devolution of authority and the transfer of funds to the municipalities, and the increasing emphasis placed on market forces had the capacity to reinforce the civil society. Nevertheless, it is suggested by Heper that the above policies of the party did not serve to strengthen the civil

society to a considerable extent, as the objective of these policies was to weaken further the role of the traditional bureaucratic elites in public policy-making and not necessarily to strengthen the hand of civil society elements.<sup>32</sup>

However, as argued by Heper despite the fact that the policies of ANAP in the 1980s did not help reinforce the civil society, it is asserted by Göle that the post-1980 has been a turning point in Turkish political development.<sup>33</sup> During the 1980s economic activities, political groups, and cultural identities became autonomous and thus an autonomous societal sphere began to emerge and the focus increasingly shifted from the state to society. Civil society started to free itself from the grip of the center. This was a process, which had already started in the 1950s and became even more pronounced in the 1980s. As a result of a relative autonomization of the civil society from the center, the nature of the center-periphery relations came to be redefined in favor of the latter.

Consequently it might be suggested that due to the existence of a strong state in the face of the weak periphery coupled with a political culture valuing the state and state authority, civil society, a sine qua non of a democracy has remained relatively underdeveloped in Turkey despite the progress since the 1950s. A recent study explores the reasons for the relative weakness of Turkish civil society comparing it with that in the Eastern Europe. Kubicek seeks to find out why the energy the Turkish civil society enjoyed immediately after the 1999 earthquake faded afterwards.<sup>34</sup> Above all, civic initiative having emerged due to state's incapacity in the earthquake soon realized that the state was too strong to be challenged. Secondly, civil initiative in the earthquake was not a civil society in the true sense of the



word; it lacked a proper structure, it comprised the volunteers, who, for the most part, no agenda apart from immediate relief work. Thirdly, the civil society in Turkey has not politicized and restricted their efforts to private and more discrete matters. Another difference of the civil society in Turkey from that in the Eastern Europe is that the society is much more complex and divided, for instance between the liberals and conservatives; secularists and islamists. Another important distinction between Turkey and Eastern Europe is the status of the state and state ideology. Unlike in the deligitimized communist ideology in Eastern Europe state is widely upheld and respected in Turkey. Finally, civil society initiative in Turkey has lacked the support of the masses, which was the reverse in Eastern Europe. In fact, these peculiarities of the civil society initiative during the 1999 earthquake, which made “a meteorite-like appearance-one that was initially bright and dramatic but then faded”<sup>35</sup> help us understand the reasons, which account for the weakness of the civil society in Turkey.

### **3.2. The Military in Politics**

Unlike in the Western liberal democracies, where civil and military spheres are separated and the authority of the civilians over the military was clearly established, the military has had a special role in Turkish history. The prominent role of the military in Turkish politics results from historical, socio-cultural, political factors.<sup>36</sup> Also primacy of security for the Turkish people has been a legitimizing factor for the prominent role of the army in Turkish politics.

Historically, the army has always played a central role for the Turks. The Ottoman state was a military state above all. There was not a distinction between the state and military. Put it

precisely, the military was the most important component of the ruling class along with the sultan. Close military-state ties continued in the Republican era giving the army a valued role in politics. The army was also a pioneer of modernization in Turkish history and led the westernization of Turkish state and society.

Another factor promoting the army's place in Turkish politics is the characteristics and peculiarities in the Turkish society and culture. Despite the impact of modernization, Turkish society has traditionally placed an emphasis on collective rather than individual values. Not only these notions but also military successes are valued through educational system. Turkish history teaching makes an emphasis on military victories. Furthermore, for many Turks, military service is one of the two rites of passage into manhood along with circumcision. That the Turkish public sees the military as home is evidenced in the expressions, such as "Prophet's hearth" (Peygamber ocagi) or "soldiers' hearth" (asker ocagi). The military's closeness to the man in the street facilitates its role in Turkish politics.

Moreover, in contrast to the disrepute of the politicians, the military enjoys widespread confidence among the Turkish public. Despite more than half a century experience in multi-party democracy Turkish politicians failed to enjoy the confidence of the mass mostly depending on the conditions how politics is done in Turkey. Till recently politicians were among the least trusted groups in the country. According to a survey conducted by the Eurobarometer in 2004, Turkish people list the Military as the most trusted institution with 89 percent, while the parliament and the government come closely after it with 76 percent and 80 percent respectively.<sup>37</sup> The military remained relatively free of corruption and

efficient while politicians were associated with nepotism, corruption and self-interest and incompetency. When governmental machinery was on the brink of collapse on several occasions it has been the military, to which the Turkish public has ultimately turned, to put the country in order.

An important factor contributing to the high support of the Turkish public to the military is their security perceptions. While Europe is viewed as the ultimate goal to be attained by the Turkish people, there is a profound distrust towards it on the other hand. As a repercussion of the Sevres syndrome, many Turkish people as well as politicians accuse the USA and Europe of trying to divide Turkey, when the relations worsen. This understanding lead the people to take a security oriented look and extent further support to the Army.

Nevertheless, despite the widespread public support for the military to intervene when necessary, the Turkish public is not in favor of a military rule. Prior to the military intervention in 1980, bloody warfare between leftist and rightist groups, polarization even among some segments of bureaucracy and government's inability to bring order to the country led the Turkish people to search for security. They, therefore, welcomed the military intervention on September 12, 1980 enthusiastically. People were pleased that the military restored order and ended the political violence. Nevertheless, the cost was quite high, as the military regime between 1980 and 1983 was oppressive and restrictive. Once the first elections were held in 1983, the Turkish people have elected Turgut Özal, the most civilian candidate as prime minister rather than Turgut Sunalp, a retired general.

In the multi-party period civil-military relations have been of strained nature. Richard Dekmejian investigated civil-military relations in Turkey and Egypt and devised a revised version of Claude E. Welch's scheme where "civilian rule" and "military rule" are seen as the two opposite ends of the spectrum of civil-military relations.<sup>38</sup> In his study examining the civil-military relations in the period from 1923 to 1979, Dekmejian suggested that Turkey had moved from "civilian control and military partnership" in the early Atatürk period to "civilian rule and military influence" in the late Atatürk era in the 1930s. Civilianization initiated in the Atatürk period continued after the start of the multi-party era in 1945.

During the Democrat Party (DP) rule between 1950 and 1960, the government was in form of "civilian rule-military partnership." During this period Menderes tried to reduce the role of the military while he worked to increase the power and influence of the government. Inflationary policies diminishing the purchasing power and influence of the military-civilian bureaucracy, party-political reasons including the Republican People's Party's (CHP) uneasiness about being out of power were among the reasons preparing for a coup towards the end of the 1960s. In fact, the DP did not exhibit an antagonistic attitude towards the military; it wanted to use the army against demonstrations of the opposition to show to the Republicans that they were in control of the military.<sup>39</sup> Although following this event İnönü called for the intervention of the army, neither party expected a military takeover. A group of officers decided to act in May 1960 and claimed that the takeover represented the desire of the entire military establishment.<sup>40</sup> The military takeover of 1960 marked a new pattern in the civil-military relations to be repeated three times subsequently.<sup>41</sup>

Ironically, during this period of military government, Turkey drafted its most liberal constitution. On the other hand, the 1961 Constitution created a National Security Council composed of civilian and military members. The council had the power to *submit* its basic views to the Council of Ministers to assist that body making decisions and ensuring coordination of national security. In other words, the military had a moderate influence in politics according to its status in the 1961 Constitution. Furthermore, it did not have reserved or autonomous domains either. Rather, they just participated in an advisory capacity in formulating defense and security policies.

In the aftermath of the October 1961 elections, the Republican People's Party (CHP) led a coalition government. Although winning the majority of the votes in both elections and forming its own independent governments in 1965 and 1969, the victorious Justice Party (AP) was unable to exercise full authority due to the well-planned strategies of the radical segments of the CHP. Dekmejian characterizes civil-military relations in Turkish politics in the period from the mid- to the late-1960s as a "silent partnership". During this period the military enjoyed full autonomy from the government while keeping an eye on the political activities.

Growing violence towards the end of the 1960s challenged Turkish politics. It became increasingly difficult for civilian governments to cope with the turmoil. During this period relations between the military and the government became strained. Unable to pass reform measures, Demirel was forced to resign following an ultimatum from the army on March 12, 1971, which threatened military intervention unless domestic instability and "fratricidal

strife” were put an end to by a “strong and credible” government. The 1971 military intervention marked “military control/civilian partnership” situation in the military-civilian relations by the scheme of Dekmejian. As was stated by Karpat, “The takeover of March, 1971 drew its impetus from the old tradition of the army’s association with the statist-elitists and the CHP, although it was a rather premature, only half-thought action. Once more its ostensible aim was the preservation of secularism and the legacy of Atatürk.”<sup>42</sup>

There was substantial increase in military autonomy within the state apparatus as a result of the 1971 and 1973 constitutional amendments. One such change exempted the armed forces from being audited by the Court of Accounts (Article 127). Another established the Supreme Military Administrative Court, charged with judicial review of administrative acts and actions involving military personnel, thus exempting the military from review by the civilian administrative court (the Council of the State) (Article 140). The creation of State Security Courts for dealing with crimes against the security of the state further increased the role of the military in the state, as these courts were mixed courts composed of civilian and military judges (Article 136). The language of the paragraph concerning the views of the NSC was reinforced by replacing *submits* with *recommends* and dropping the words to *assist*.

Following the end of the martial law, Ecevit of the Republican People’s Party (CHP) won the elections held in October 1973. Towards the late 1970s Turkish politics came to be quite turbulent and was characterized by instability. The 1975-1977 saw ineffective and ideological coalition of the rightist parties. After 1976 economic difficulties were combined with the rampant anarchy and disorder with armed battles between the leftists and rightists.

Ecevit's disastrous coalition government between 1977 and 1979 was replaced by Demirel's minority government. The military was concerned about the civilian governments' inability to assure internal security and tackle the economic difficulties. The political system came to a deadlock. Dekmejian suggested that in the late 1970s, civil-military relations moved to "uneasy coexistence" due to increasing ideological division between the military and the civilian government. The military acted third time to save Turkish democracy on September 12, 1980.

They have tried to remake the system by prohibiting the old parties and designing a new election law, which would increase the chances that the party receiving the most votes secured a working majority in parliament. They also drafted a new constitution, which assured the lasting influence of the military on politics. The main change to previous practice with respect to the role of the military was to specify that "decisions of the (the National Security) Council... are to be given *priority* consideration by the Council of Ministers" (Article 118, emphasis added). This was a step forward enhancing the position of the army. In 1971 according to the Constitution, the NSC decisions had merely recommendary power. The 1982 constitution further enhanced the constitutional status of the National Security Council. The broad definition of national security comprising external security but also areas such as internal security, political and economic interests of the country was a factor reinforcing the role of military in politics. The military autonomy gained in the 1971-1973 period was further strengthened. For instance, no judicial appeals were allowed against decisions of the Supreme Military Council. The 1980-1983 military rule points to a "military

rule/civilian influence” period. In these years the military increased its influence on Turkish politics as a result of political and military restructuring.

1983-1987 period was so-called “Özal Years”. From the outset on he was determined to establish the supremacy of the civilian government in the economic and political areas. He was not beholden to the military for his election. His determination to be his own man was strengthened by his recognition that the Europeans were not sympathetic to the continuation of military rule under a civilian guise.<sup>43</sup> Also Özal had a different understanding of security, putting the emphasis on economic rather than territorial realm.<sup>44</sup> Whereas initially there was a division of labor between President Evren and Prime Minister Özal, in time Özal assumed effective leadership of the executive branch. In the period following the coup between 1983 and 1989, the civil-military relations tended towards a “civilian rule/military influence” pattern.

From 1987 on the legacies of the military regime have been gradually removed from the Constitution. A 1987 referendum repealed the ban on political activities of former politicians. President Evren did not veto this. Changes made to the Constitution in 1995 repealed some provisions, such as those banning cooperation between political parties and other civil society institutions such as trade unions, associations, foundations, and professional organizations. As foreseen, the ruling National Security Council (NSC) turned into an advisory Presidential Council automatically at the end of the six-year period in 1989. But in fact, as argued by Özbudun, “In the post-1983 period, civilianization was less a matter of formal constitutional change than one of informal practice and adaptation.”<sup>45</sup>



That Özal bypassed the military's candidate for chief of the General Staff, General Necdet Öztörün in 1987 and appointed his own choice was an incident stressing the increasing control of the civilian government also in matters such as security, which has been previously in the realm of the military authority. This was one of the remarkable incidents dispelling "the mystique surrounding the military's omnipotence as an agent of the state."<sup>46</sup> This marked an era in which the place of the armed forces in the Turkish society was debated openly, which used to be a taboo previously.

In the aftermath of the elections in October 1991 the civil-military relations exhibited "civilian rule/military partnership" character. In this period, despite the influence of Özal as president, new Prime Minister Demirel and foreign minister Hikmet Cetin preferred to ally with the military to dominate the NSC. As a consequence, influence of the military grew. After Demirel became president in 1993 Prime Minister Tansu Ciller continued the existing partnership between the politicians and the officers.

The period from 1993 to 1997 saw an increasing influence of the military in Turkish politics. During this period securitization of Turkish politics happened. Kurdish separatist movement accelerated. Centrist parties in Turkish politics collapsed. Islamists enjoyed victory first in the local elections in 1994, later in the general elections in 1995. The army viewed the Kurdish secessionism and rising Islamism as threats to democracy and national unity. As the True Path-Welfare Party coalition government led by Islamist Necmettin Erbakan refused to carry out NSC recommendations adopted on February 28, 1997 basically aiming at

reinforcing secular education, he was ousted in June 1997. The so-called February 28, (1997) incident demonstrates that the Military still viewed itself as a guardian of the fundamental values of the state such as the indivisibility of the state and its secular character.

The True Path-Welfare Party coalition was replaced by a coalition government led by Mesut Yilmaz in July 1997. The new government implemented the NSC recommendations and passed the education bill. Yilmaz was intent to restore civilian influence in Turkish politics. During his prime ministership civil-military relations were sometimes tense. Twice he conflicted with the army, as he viewed that the army involved in party politics. But he was forced to step back. Subsequently relations between the short-lived Yilmaz government and the military improved until the fall of the government in late 1998.

Following the end of the minority government led by Bülent Ecevit in January, which had replaced the outgoing Yilmaz government, elections were held in April 1999. The elections brought a new minority government to power led by Bülent Ecevit. The coalition government's policies were in harmony with those of the NSC. During this period the influence of the military in domestic political affairs enjoyed societal agreement.<sup>47</sup>

On the other hand, Turkish military's intervention in Turkish politics distinguishes from that of the other countries in a few respects. The first difference of the military interventions in Turkey is that after the coups occurred power was transferred to the civilians after a relatively short period unlike in the other developing countries. For a comparison, as a typical example of long-lasting military regimes in the developing countries, Portugal can be

given, where the military regime lasted 42 years from 1932 to 1974. This situation was conditioned by a number of factors: the first is the political inheritance from Atatürk to keep the army out of politics unless the state is in danger. When order was restored, the army tended to return to the barracks, rather than hold on power for a long time.<sup>48</sup> The second is that Turkey is anchored in the western institutions such NATO, the Council of Europe, OECD. It has had an Association Agreement with the EU for more than forty years, which it seeks to be a member of. This involved it in formal obligations to respect democratic principles, which do not affect the governing elite of most developing countries.<sup>49</sup> Another difference of Turkish military interventions is that the Turkish military is not identified with a specific social class but with the state only, which in turn increased the legitimacy of its interventions in the eyes of the public.<sup>50</sup>

The 1999 Helsinki Summit decision to grant Turkey an official candidate status constituted a breakthrough in terms of the EU-Turkey relations with profound repercussions in democratization of Turkish politics.<sup>51</sup> As an implication in the following period there was substantial change in the status of the military in the Constitution. As a result of these changes, the government has increasingly asserted its control over the military. The number of civilian members of the National Security Council (NSC) has been increased and the effects of its decisions on the Council of Ministers have been weakened. The advisory character of the NSC decisions has been explicitly stressed. For the first time a civilian was appointed Secretary of the National Security Council in August 2004. Military and defense expenditures were subjected to the scrutiny of the Court of Auditors in order to enhance budgetary transparency. Full parliamentary control was provided on extra-budgetary funds

through their inclusion in the general budget. State Security Courts, which included military judges beside civil ones, were abolished.

All armed forces, which have become politicized, have had, in some form or another, a similar belief: that they have some special identification with the “national interest”<sup>52</sup>. National interest represented, above all, for the Turkish army, the indivisible integrity of the Turkish state and the secular character of the republic. Özbudun suggest that, “As long as a threat to these two fundamental values cherished by the military exists, a critical threshold will remain beyond which the military is likely to intervene.”<sup>53</sup> Nevertheless, Turkey has entered into a new era in terms of its relations with the EU since the 1999 Helsinki Summit, with which it is expected to start accession talks in October 2005. This reinforces the transformation of Turkey’s security culture into a more internationalist and liberal direction, which has been the trend since the post-Second World War period.<sup>54</sup> Therefore, it is now out of question for the army to stage a direct coup, as had been the case three times in the past. It would prefer softer and indirect methods to influence politics when it deems it unavoidable.

### **3.3. Characteristics of the Party System**

Over the years Turkish party system has exhibited a number of characteristics. Some of these features of the Turkish party system undermined democracy. Since the 1970s Turkish parties have been experiencing a process of deinstitutionalization, growing fragmentation, ideological polarization and Public support for, organizational capacity of, and identification with parties is weakening. Beside these characteristics of the Turkish party system, fractionalization and the weakening of the centrist parties; the rise of an Islamist party as a

major force in electoral and parliamentary politics; the rise of ethnic parties; the transformation of party platforms and agendas; the replacement of majority party rule by coalition or minority governments; the exceptionally long tenure of party leaders; the constancy of intra-party feuds and factional splits; the frequent party switching of the parliamentarians are the common features of the Turkish parties. Moreover, Turkish voters have displayed centrist and moderate tendencies; political patronage and clientelistic relations have proved to be important to win votes; there has been a substantial degree of control over party organizations. In addition, Turkish parties have not been mass parties but rather have exhibited a combination of characteristics of cadre, catchall, and cartel parties.

There has been a considerable change in the Turkish party system since the first free and fair elections in 1950. While the period from 1950 to 1960 party system exhibited the characteristics of bipartism, 1961-1980 period was a period of moderate multipartism. On the other hand, 1983-1991 period was a period of moderate multipartism with a dominant party. The 1990s, in which the number of parties proliferated and no single party was able to form a government alone were the years of extreme multipartism with no dominant party.<sup>55</sup> As 2002 elections brought AKP to power as a single party, the period since then can be labeled as a period of extreme multipartism with a dominant party.

The period from 1946 to 1960 was a period of a typical two-party system, in which the two major rivals were the Republican People's Party (CHP) and the Democratic Party (DP). Due to the electoral system the victories of the DP in 1950, 1954 and 1957 elections translated into large parliamentary majorities. Thanks to the two-party system, the DP and the CHP

received a large portion of the votes, majority party formed governments, and the strengths of the minor parties were limited.

Following the 1961 elections, which were held after the 1960 military intervention no party among the three parties was able to obtain a parliamentary majority due to the fragmentation of the former DP votes, which was banned by the military. This result was also due to the introduction of proportional representation (the D'Hondt version). Changes in the legal-constitutional framework of party politics and the partial lifting of the legal restrictions on the formation of religious, sectarian, and radical leftists and rightist parties aided the creation of new parties and their entry into the parliament. However, the Justice Party (AP) was able to obtain comfortable parliamentary majorities in both 1965 and 1969 elections despite the fact that the number of parties entering the parliament increased.

Elections held in 1973 in the aftermath of the 1971 military intervention as well as the following 1977 elections were to result in a fragmented parliament. While no party gained a majority in either parliament, the two major parties (the CHP and the AP) were clearly stronger than the others.

The main weaknesses of the Turkish party system in the 1970s have been defined as volatility, fragmentation, and ideological polarization. By volatility, it is meant sudden and significant changes in party votes from one election to the other. Fragmentation is the rise in the number of parties represented in the parliament. As the two highly ideological parties (the National Salvation Party (MSP), representing political Islam, and the ultra nationalist

Nationalist Action Party (MHP)) grew in the 1970s, there has been an increase in ideological polarization and these features brought the system close to extreme or polarized multipartism. The period was characterized by short-lived, ideologically incompatible coalition governments, which were not able to put an end to violence and terrorism. These years defined by instability and turmoil ended in the military takeover in 1980.

The military government sought to reshape the party system by changing the electoral laws. The 1980 military takeover influenced the Turkish party system more as compared to the previous military interventions in 1960 and 1971. The governing military authority banned all political parties. The new electoral law passed in 1983 aimed at eliminating the more ideological minor parties and turn the party system into a more stable two- or three-party system in that it introduced a 10 percent national threshold and high constituency thresholds while maintaining proportional representation in place.

The result of the 1983 elections was as expected by the military regime, for the Motherland Party (ANAP) of Turgut Özal gained an absolute majority of seats with 45.2 percent of the vote. The 1987 elections saw a rise in the parliamentary majority of the ANAP with a smaller percentage of votes (36.3). This result also owes to the changes in the electoral system favoring bigger parties to an even larger extent. Stability in the party system aimed at by the military regime had been achieved, as ANAP was able to form durable and stable majority governments as a result of the two consecutive elections. This was a sharp break from the pattern of the party system in the previous decade, which was described by short-lived and shaky coalition or minority governments.

Signs of refragmentation of the Turkish party system were already evident in the local elections of 1989 and parliamentary elections in 1995, in which three parties received more than 20 percent of the votes individually. Fragmentation of the party system after the single party governments of ANAP from 1983 to 1991 continued in the 1995 elections. The highest percentage of the votes was received by the Welfare Party (RP) heir to the National Salvation Party of the 1970s just with 21.4 percent of the vote. The fragmentation of party votes has been much higher than that of seats. The electoral system with its high national and constituency thresholds allowed the fragmentation of party votes, which has been much higher than that of seats. Moreover, stability, which characterized the party system during the 60s and 70s disappeared as major parties have lost their weight in the 1990s. In the 1990s each major tendency was represented by two parties: While the Motherland and True Path (DYP) Parties represented the center-right tendency, the Democratic Left (DSP) and Republican People's Parties represented the center left.

The main cause of the fragmentation was the emergence of two different parties both on the center-right and the center-left (ANAP and DSP) as the two traditional parties (DYP and CHP) had been banned by the military regime for a period. Once the ban on these parties and their leader lifted, they all claimed to represent the center-left or center-right. They were not willing to unite. As stated by Sayari, "This was due mainly to the reluctance of party leaders to merge into a single force and help consolidate the political forces of the center-right and the center-left."<sup>56</sup> Competition and rivalry instead of cooperation defined the relations between the two center-right and center-left parties.



In contrast to the 1980s, in which the military regime had contained the fragmentation of the 1970s, none of the three parliamentary elections in 1991, 1995, and 1999 produced a majority party government. On the other hand, although a 10 percent national threshold existed for representation in the parliament, five parties were able to gain parliamentary seats in all three elections. The political system was so crowded with the parties that the division of the parliamentary seats among many parties did not allow to create stable, durable majority governments during the 1990s.

Another important trend in the party system is the increased weakening of moderate center-right and center-left parties. In the 1995 elections both center-right and center-left obtained lowest points ever as the combined vote share of the two center-right was 38.9 percent, and that of the two center-left parties was 25.4 percent. The weakening of the centrist parties not only resulted from their inability to cope with the pressing economic and social difficulties of the country but also the infighting among their leaders and their corrupt image among the public. In contrast, the vote share of non-centrist parties increased. While the Islamic RP received 21.4 percent, and the ultra nationalist MHP obtained 8.18 percent, the Kurdish nationalist People's Democracy Party (HADEP) obtained 4.17 percent. The combined vote of the three extremist parties corresponded to 33.8 percent, one third of the total vote, though the MHP and the HADEP were unable to send representatives to parliament due to 10 percent national threshold.

The RP's success in the 1995 elections was notable. Although it did not manage to obtain a parliamentary majority to form a single-party government, it received the biggest share of the vote with 21.4 percent. This marked an increased visibility and influence of Islam and religious activism in Turkey, in particular in the periphery of the big cities. The RP also benefited from the search of the electorate for a new alternative to the centrist parties, which fell short of addressing the fundamental problems of the country such as inflation. It should also be noted that the RP has had an effective and well-functioning party organization, which was able to establish good ties with the electorate. In the subsequent elections in 1999, there was a decrease of the votes of the Virtue Party (FP), to 15.4 percent, a successor to the RP that was banned by the Constitutional Court in 1998. The FP was also banned like its predecessor by a decision of the Constitutional Court in 2001.

The other non-centrist party, which benefited from the decay of the centrist parties, has been the MHP. It finished second in 1999 with 17.9 percent of the vote in the aftermath of obtaining no parliamentary seats in the 1995 elections. The MHP's success can be mainly attributed to rising nationalism in Turkey in the 1990s. To an important extent, it was a reaction to increased Kurdish nationalism and the intensified fighting against the PKK in the southeastern Turkey.

An increasing emphasis on ethnic and religious issues represented a rise in ideological polarization. The party system in the 1990s has displayed a different kind of polarization. The nature of polarization in the 1990s was quite different from that which defined the 60s and the 70s. While there was a substantial moderation in the leftist and rightist ideologies as

the Cold War ended, the division was between the secularists and the Islamists in the 1990s. While on the one hand, the Islamists sought to expand their influence in Turkish politics and society, the secular establishment did not give up control and maintain the secular characteristics of the Republic on the other. Another dividing line was nationalism. The 1990s saw a rise in Kurdish as well as Turkish nationalism as was reflected in the ballot box. Frank Tachau, one of the prominent students of Turkish politics described the new political landscape in Turkey quite well: “Unlike the 1970s, when extremists were largely outside parliament and the vast majority of voters defined themselves as centrist, parties appealing to political extremes are now seated in the parliament and actively participate in government.”<sup>57</sup> This picture was to last till the next elections held in 2002, in which the party system experienced “a political earthquake” as a result of the landslide victory of the AKP.

Birol Akgün, a student of Turkish politics accounts the weaknesses and fragmentation in the Turkish party system for socio-economic and cultural changes in the country.<sup>58</sup> He argues that the rapid industrial development was followed by migration to the big cities from the countryside. Through increased education level, social interaction and communication opportunities the periphery in the cities became more demanding, visible and assertive. New identities and social groups emerged. These developments have contributed to the fragmentation of the Turkish parties as they led to the rise in political Islam and right-wing nationalism and erosion in the traditional left-right division.

The fragmentation in the Turkish party system in the 1990s has also forced the partners in the coalition government to reach a compromise for the decisions they have taken and their

implementation. This has not only affected the legislative but also the executive power of the coalition governments. With respect to the removal of the anti-democratic rules, regulations, the existence of many parties in power have sometimes made it difficult for the coalition partners to repeal them and pass new laws. For tactical reasons, partners in the coalition have adopted non-conciliatory approach. As a result, democratization of the legislation has been retarded even if the parties intention were not so.

High volatility is one of the key words defining the Turkish party system. High volatility in the Turkish party system is partially due to the military interventions. The repeated interruptions have fragmented not only parties but also the electorate. They have also led to increasing volatility among the voters by weakening ties between parties and their voters. The military interventions have led to the cutting off of the already weak link between the parties and their supporters.

Another explanation for high volatility is the weak link between the Turkish political parties and civil society. There are no clearly defined class parties in Turkey. Cleavages are defined along with cultural lines rather than economic classes. While this decreases the party identification among the electorate, it facilitates them to switch between different parties. The restrictions on political parties and party membership that were brought after the 1980 military intervention made it difficult for the parties to recruit supporters. Party identification problem was further exacerbated by the inability of the parties to deal with pressing economic and social problems. As argued by Özbudun, “the seemingly intractable nature of problems, increased economic difficulties, very high inflation, a huge foreign and domestic

public debt, growing inequalities in wealth, a sharp deterioration of social policies, and pervasive political corruption have created deep pessimism and disappointment among voters, many of whom do not vote for parties with any enthusiasm but choose “the least evil” among them”<sup>59</sup>. In fact, this does not just apply to Turkey but this is a typical case of disillusionment of many new democracies.

A significant factor for electoral volatility is the electoral instability in the eastern and southern provinces of Turkey, as politics in these regions has traditionally been highly personalized. As politically influential patrons have frequently switched their parties, their electorate changed their party choice too. That Turkish parties are characterized by personalism and controlled by party leaders exercising unlimited power also contributed to the weakening of party organizations. Apart from the changes in mass electoral behavior, non-electoral factors have also played their part in shaping the Turkish party system. Among these forces are the policies of the military and bureaucratic elites, electoral laws, and the actions of party elites.<sup>60</sup>

An important characteristic of the Turkish parties is that they are not mass parties. Rather they display characteristics of cadre or catchall parties with strong clientelistic features. Özbudun suggests, “if mass parties are defined as parties based on a carefully maintained membership registration system of card-carrying, dues-paying members, with emphasis on political indoctrination, no major Turkish political party qualifies as a mass party, with the possible exception of the RP.”<sup>61</sup> Therefore, party membership does not signify more than being a supporter. Many local party organizations are inactive apart from the election periods

and do not give their members political education or indoctrination. This is a further indication of weak party-electorate link among the Turkish parties.

On the other hand, overwhelmingly statist, bureaucratically dominated political culture has an impact on Turkish parties. In this political setting, the state has more power over politicians and the decision-making process than in any other Western democracy. Although this has impeded the development of Turkish political parties, it led them to prioritize their relations with the state. By implication as stated by Rubin, “This has reduced their own relationship with their constituents along with their desire or need to court a mass base by being more internally democratic and responsive.”<sup>62</sup> Put it differently, “clientelism” became one of the central characteristics of Turkish political parties.

“Clientelistic” or “patronage” politics has reinforced the fragmented and weak nature of linkages of party with society. In the patronage politics, linkages are vertical; promote the power of the national organs of a party, the parliamentary party and the party leaders. Fragmented nature of political forces makes it very difficult to organize a movement to replace a party leader. Ilter Turan noted, “When important factions try to challenge the party leader and fail, arousing the wrath of the party leader in the process, they are often left with no option other than to leave the party, usually to form a new party. These experiments rarely prove successful at the end, but they destabilize political life, sometimes bringing down governments and always by rendering Turkish politics volatile and unpredictable.”<sup>63</sup> As a result, failure of Turkish parties in changing their leaders smoothly and in a natural manner

added to the presence of the main parties and splinter parties in political system and thus helped to fragment the party system.

In the recent years, clientelistic relations between the parties and their supporters sometimes gave rise to the allegations of corruption and bribery. It was reported, "Surveys continue to indicate that corruption remains a very serious problem in Turkey. The sectors more prone to corruption are reported to be the media, government, construction, and health."<sup>64</sup> In the recent years, numerous charges of corruption were made on the parties in power before the 2002 elections. Criminal proceedings and parliamentary investigations into these charges are underway. These incidents reduced the trust of the public in the public institutions. In a recent study it was stated, "According to our survey results those who do not have trust in the central administration, the Parliament and the political parties exceed the number of people who do. In fact those who have confidence in the political parties constitute only 10 percent of the population."<sup>65</sup> These findings should be alarming in terms of the well functioning of democracy. The results should be viewed as a window of opportunity to restructure the system and restore the public confidence in the public institutions.

Despite the malaises in the Turkish party system the positive developments have been increasing elite and mass commitment to democracy. The 1960 and 1970s saw an increasing polarization between radical leftist and rightist groups, which signified low level of commitment to liberal democracy. The increasing instability and turmoil, in turn, made the military intervention legitimate in the eyes of the Turkish public. In the 1990s there has been considerable change in terms of commitment to democracy. This was to a large extent due to

the demise of the Soviet Union and disappearance of communism, which helped marginalize the radical leftist and rightist groups. There was less expectation for the military to intervene. Although the frustration among the voters with the system still persisted, this was not to correspond to a challenge to the democratic system.

Marginalization of the extreme leftist and rightist ideologies has also contributed to the establishment of successful coalitions between the parties on the left and the right. From 1991 to 1999, the coalition governments exhibited a considerable harmony among themselves. A striking example of ideological moderation has been observed following the 1999 elections, which resulted in a coalition government of the DSP, the MHP and ANAP, which was unthinkable in the Cold-War years due to the clear ideological divisions between the parties.

The 2002 elections produced shocking results.<sup>66</sup> The political landscape of Turkey changed profoundly. As many observers rightly called, it was a “political earthquake”. Nearly 500 of the 550 members of the Turkish Grand National Assembly (TGNA), along with three coalition parties in government since April 1999 failed to enter the parliament. Clearly, the winner was the Justice and Development Party (AKP), which gained a massive overall majority of 363 seats. The other party, which managed to gain representation in the parliament along with the AKP, has been the Republican People’s Party (CHP) with 178 seats. As a result of the elections, the AKP formed single-party government. Recep Tayyip Erdogan, after the ban preventing him to be member of the TGNA was removed, became prime minister.



On top of all, the election results confirm that the AKP took advantage of the economic crisis. Turkish public experienced two profound economic crises in 2000 and 2001, which reduced their purchasing power to a substantial extent. The coalition government took austerity measures to combat the financial crises and to provide economic stability. These measures further exacerbated the economic well being of the people by slowing down economic growth and increasing unemployment. All these happened during the tenure of the coalition government.

The collapse of the center right also worked to the advantage of the AKP. The combined rate of the vote of the two center right parties, the DYP and the ANAP decreased to below 15 percent. The AKP claimed the center right of the electorate and filled the vacuum in this section. The AKP also gained votes from the electorate of the MHP, as the MHP vote collapsed to less than half of its total in 1999.

Furthermore, both the rise of Cem Uzan's Youth Party (YP), which in almost three months captured 7 percent of the total vote, and that of the DEHAP (the Kurdish ethnic party), which received over 6 percent helped the AKP to dominate the election results. These two parties are thought to take away votes from the previously dominant center parties. The decline of the center-left also contributed to the rise of the AKP. The ruling DSP, which led the polls with 22 percent in the previous elections, was unable to gain any representation in the TGNA.

Obviously, the electorate saw in Erdogan and his AKP new hope, which might deliver solutions for the pressing problems of the public such as unemployment and inflation. The AKP's and Erdogan's image as not being involved in corruption also led the electorate to vote for them. Importantly, the AKP successfully rejected its definition as an Islamist party, which helped them reach well beyond the Islamist base.

By forming a single-party government after a decade, the AKP ended the era of coalition governments. While the success of the AKP has, at least for a period, put an end to fragmentation, one of the malaises of the Turkish party system, it, on the other hand, revealed strikingly that volatility remains to be an important problem of Turkish politics. The elections results were literally a “political earthquake” as it swept all the traditional parties, which dominated the Turkish political scene in the multi-party era. The AKP now became new center instead of them.

### **3.4. Conceptualization of Minorities**

Minorities issue was not a subject on the agenda within the parameters of the East-West axis during the Cold War period. Although it was an issue of international politics, ideological division between communism and capitalism prevented ethnical and minorities issue from arising as a salient item during the Cold War era. With the Cold War ended and the Soviets demised, minorities surfaced on to global politics and the Western powers came to place an increasing emphasis on this topic in their relations with the developing world, as they were released from the straight jacket of the Cold War.

The NGOs, international and regional organizations have gained more importance in the field of the protection of minorities and human rights. The countries violating human rights and ignoring the rights of the minorities have come under the scrutiny of these organizations and have been frequently harshly criticized.

The structural change in international politics has also affected the EU's policy towards the developing and candidate countries. The European Parliament, the voice of the European people has come to have become more vocal in the affairs of the EU. In the post-Cold War circumstances the EU has had more leverage and has been able to pursue more idealistic policies stressing human rights and minorities in its foreign relations, in particular with the developing countries.

When it comes to Turkey, until recently issue of minorities was alien to Turkish politics. In other words, the Turkish legislation in line with the Lausanne Treaty of 1923 recognized only the non-Muslims, such as the Jews, Armenians and the Greeks as minorities. The Kurds and the Alevis are not recognized as minorities as they are grouped in the category of Muslims and were regarded as equal citizens of the Turkish Republic. Therefore, they were not granted any special rights amounting to that of minorities. It was just after the issue of the Kurds became internationalized in the 1990s that Turkey has officially recognized the "Kurdish reality". To put it differently, the issue of minorities in Turkey has exhibited an evolution parallel to the development of global politics.

A substantial part of the criticism directed towards Turkey in the area of human rights in the 1990s related to the rights of the Kurds and Turkey's policy on this issue. Minorities issue in Turkey stems largely from the clash between the domestic conceptualization of minorities in Turkey and international standards. When the EU called on Turkey to respect human rights and the rights of minorities (basically the Kurds) in line with the international and European treaties, a clash on the definition of minorities were to take place.

Primarily, it was the fear of disintegration, which motivated Turkish officials to insist on the original version of the minority concept, as taken in the Lausanne Treaty. They believed that if certain rights were granted to the Kurds, this might eventually result in further demands leading to their independence. Also it was often claimed that Kurds' obtaining group rights might encourage other ethnic groups, such as the Laz and the Circassians to demand similar rights further leading up to the break up of the country. The paramount concern about the integrity of the state can be viewed in the relevant articles of the Constitution and the other laws. For instance, according to the Article 3 of the Turkish Constitution, the Turkish state, its territory and nation is an indivisible entity whose language is Turkish. Article 14 further bans activities, which violates the indivisible integrity of the state with its territory and nation.

Turkey's concern of disintegration has also accounted for the fact that it has not signed a number of important international conventions regarding minority rights. Even if Turkey has signed some of the conventions on the minorities, it has made reservations. Therefore, till recently, Turkey signed but not ratified the International Convention on the Elimination of

All Forms of Racial Discrimination. Turkey was among the relatively small number of states that was not a party to the important International Covenant on Civil and Political Rights. With respect to CSCE/OSCE conventions, Turkey has made a reservation stating that the term “national minorities” should refer only to those recognized in international treaties, i.e., the Treaty of Lausanne. As Turkey is a member to the Council of Europe, it is a party to the ECHR. Importantly, since 1990 Turkish authorities have recognized the authority of the European Court of Human Rights. Therefore, the judgments of this court are binding. Nevertheless, the Turkish government did not sign the Council of Europe’s Framework Convention for the Protection of National Minorities in February 1995.

But, in the process following the Helsinki Summit in 1999, in which Turkey was granted official candidate status, it has acceded to the aforementioned major international and European human rights conventions concerned with minority rights both within the UN framework and within the framework of the Council of Europe although with reservations. Furthermore, the supremacy of international agreements in the area of fundamental freedoms over internal legislation was established by a constitutional amendment. It seems that Turkey has sought to adapt the international covenants to its legal tradition. For instance, when it ratified the International Covenant on Civil and Political Rights (CCPR) on September 23, 2003, Turkey reserved the right to interpret and apply the provisions of Article 27 on the rights of members belonging to ethnic, religious and linguistic minorities in line with the related provisions and rules of the Constitution and the Treaty of Lausanne of 1923. Some were critical of Turkey’s approach. For instance Manfred Novak argues, “Since the existence of a minority, according to international practice and jurisprudence, does not depend upon a

decision by a state but requires to be established by objective criteria, this reservation is incompatible with the object and purpose of the Covenant and, therefore, invalid.”<sup>67</sup>

Turkey’s understanding of minorities can also be explained by looking at the nation-building process. The founders of the Turkish Republic were occupied with transforming a traditional, Islamic society into a modern nation-state. Therefore, it was necessary to replace the Ottoman values defined by religion and communalism with a modern understanding of nationalism. Nevertheless, the nationalism that emerged was one, which put emphasis on Turkish ethnicity, history and language. In support of Turkish nationalism, the Turkish History and Sun-Language Theses were introduced in the early 1930s. Kirisci and Winrow accounts this strong emphasis on Turkishness on the part of the officials in Ankara for the opposition to modernization, in particular from religious circles and the conviction held by Mustafa Kemal and his followers that Turkey continued to confront serious domestic and foreign challenges to its integrity and security.<sup>68</sup> By implication, this would prevent emergence of nationalism with a civic understanding placing an emphasis on multicultural values. Rather, ethnic nationalism was to prevail and consolidate in time.

From the perspective of the Kurds, in the late nineteenth century as ordinary citizens of Anatolia they did not perceive themselves as Kurds. Likewise, there was no distinct Turkish identity. The unifying bond was Islam. It was in the last period of the Ottoman Empire that they started to be aware of their ethnic identity. Upon the establishment of the Turkish Republic, an increasing emphasis on secularism and Turkish ethnic identity was to be regarded by the Kurds as at the expense of their own religious, traditional and ethnic identity.

But Kurdish and religious opposition were to be contained by the Turkish authorities. Kurdish voices, in particular those with Marxist-Leninist coloring were to be reheard in the 1960s. Emergence of the Kurdish identity was perceived by Ankara as a matter of security and a threat to integrity of the state and nation, a revival of the Sevres Treaty enjoying the support of the external powers. It was just at the beginning of the 1990s that the Turkish authorities have come to speak of “Kurdish reality”. The change of policy by the Turkish officials was as a result of the democratization wave following the end of the Cold War as well as the European integration process of Turkey.

Ercan Lacin argues that Turkey needs to revise its conceptualization of citizenship to resolve the minority issue.<sup>69</sup> Turkey’s understanding of constitutional citizenship is far from its original Western conceptualization, as it neglects differences regarding minority rights. He suggests that in the European integration process it is essential for Turkey to reshape its understanding of citizenship placing more emphasis on multiculturalism.

Although the Kurds were not recognized as a minority constitutionally, there was no legal obstacle for them to participate in political and economic affairs of Turkey. According to an expert on the issue, Turkey’s Kurdish issue became a “function of the state’s failure to reconsider the definition of its national identity in a manner that would allow Kurds express and live their ethnic and cultural identity in public.”<sup>70</sup> There are many Kurds, who escalated to the upper echelons of the society as businessmen, politicians, and artists. But that the break out of a conflict between the Turkish security forces and secessionist Kurdistan Workers Party (PKK) gave the Kurdish issue a violent character affecting not only the Kurds

living in the east and the southeastern regions of Turkey but also having an impact on Turkey's foreign relations, economy and domestic politics. Turkish security forces had to evacuate some villages for security reasons. In the meantime, Turkey's struggle against the PKK led the international community to raise criticism against Turkey for violating human rights. A state of emergency was declared in the region since 1987.

While the rights of individuals are considerably well established in international human rights instruments, those of collectivities, particularly, the rights of "national minorities" are not.<sup>71</sup> For instance, the European Convention of Human Rights nowhere refers to minority rights as such. Furthermore, though it is defined, there is not general acceptance that minorities are necessarily entitled to independent statehood- or even to territorial autonomy within an established state. Due to the ambiguity of entitlement to autonomy or independence, the issue of cultural rights, particularly the use of minority languages in education and for other official objectives become a critical issue.

As for the Kurds in Turkey, although they constitute a large group, they were not entitled minority status by the Turkish state. Arguing that every country has peculiarities of its own and thus it is not possible to apply a general theoretical framework for every individual country, Turkey dismissed the suggestions that Kurds should be recognized as a minority and it should sign and ratify the Framework Convention for the Protection of National Minorities.<sup>72</sup> From a comparative perspective it was pointed out that not all the European Union members or candidates to the EU are Party to the said Convention: For instance France and Belgium did not sign the Convention; Greece, Luxembourg, Holland and



Portugal which are members of the EU or Poland, Latvia or Lithuania which were the then candidates of the EU did not ratify it.

Turkey sought to tackle the Kurdish issue by granting individual cultural rights to the Kurds. While the extent of rights given to the Kurds may seem limited, given the hardline attitude displayed towards the issue previously, this opening up should be considered to be a major step forward. Although some politicians have proposed to solve the issue along the model of autonomy, it did not take long for this alternative to fall from the agenda. For instance, the former Prime Minister Tansu Ciller had put forward the Basque model for Turkey's Kurds. But she subsequently backed down on her suggestion.

It seems that a form of autonomy (regionalization) for the Kurds is not an appropriate way of solving the issue. Above all, any move, which may jeopardize the territorial integrity of Turkey, is not acceptable for Turkish state. Autonomy is a form of solution short of independence. Therefore, idea of giving autonomy to the Kurds would lead to the revival of the Sevres syndrome and, thus hardline position would strengthen. This may even endanger the current expansion of rights for the Kurds and put at risk further democratization efforts. Moreover, unlike Spain Turkey is located in a highly unstable and volatile region. The example of Sikhs well illustrates how granting of territorial autonomy to a particular ethnic group might lead to demands of complete independence and exacerbate the situation.<sup>73</sup> Furthermore, autonomy is not applicable in practical terms either. Autonomy is suitable for the states, where ethnic groups are geographically concentrated. Kurdish population is

scattered throughout the country. Although many Kurds live in the southeastern and eastern part of Turkey, they reside the other parts of Turkey too.

With respect to a federal solution to the Kurdish issue, this is not a realistic alternative either. Recent evidences have demonstrated federal solutions for the ethnic groups might be quite problematic. The Soviet and the Czechoslovak federal states dissolved peacefully unlike the violent unraveling of Yugoslavia. Even in Canada and Belgium there are serious problems between the ethnic groups and proposals are made for separation. Besides, federalism has long been one of the proposals of the PKK. Turkish politicians have objected to this idea out of hand. If a federal solution were put forward, it would seem that the PKK's thesis would win. Most importantly, federalism is not conducive to the elimination of the hardliners' claims that the Sevres plan is revived and Western conspiracy against Turkey continues. Both of federal and autonomous models would seem to create divisions artificially in Turkish society, where such divisions have not existed previously. After all, because of integration and assimilation some Kurdish citizens in Turkey may now not want to be separated from Turkey. Many of them perceive themselves to be Turks. It seems that further democratization and solutions, which do not amount to autonomy, federalism, and revival of the Sevres syndrome, would be appropriate to address the Kurdish issue.

### **3.5. Islamic Politics**

Rise of political Islam in the 1990s has become a source of concern that they might be a challenge to secular democracy. Once capturing power, they might overthrow secular republic and establish an Islamic regime similar to that in Iran. Despite the forced resignation

of the Islamist RP of Erbakan in 1997 on the grounds that it has become a source of anti-secular activities after having served as senior partner of the coalition government for eleven months, some features of Turkish Islam has differentiated it from the other Islamists in the Middle East.

A number of factors have had moderating influence on Islamic politics in Turkey marginalizing Islamic fundamentalism. This was in sharp contrast to Islamic fundamentalism in the Islamic Republic of Iran. Above all, secularism has a strong tradition in Turkey and became firmly institutionalized; it is even under constitutional protection. An important aspect of religion in Turkey is that it is under strict state control.

Diyanet Isleri Baskanligi (Presidency of Religious Affairs) serves to bring Islam under state control. It was established after Islamic institutions such as the Caliphate, the office of the Seyhülislam and the medrese were abolished. As a result of the legacy of secularism in the Ottoman-Turkish polity, Diyanet continues to supervise and regulate the religious realm in modern Turkey. The Council of Ministers appoints its president upon the nomination by the Prime Minister. In short, contemporary Turkey displays a remarkable continuity with the Ottoman state in the sense that religious establishment was placed under the direct supervision of the state.<sup>74</sup>

Furthermore, Sufism or folk Islam has had a moderating influence on Islamic politics. It is characterized by pragmatism, stresses personal experience rather than revealed text leaves. Therefore, it is open to innovation and thus flexible. As Binnaz Toprak argues, due to the

influence of folk Islam “They (Turks) may be religious in their private lives, but they are distinctively secular in political behavior”.<sup>75</sup> Moreover, secularism is firmly rooted among a large urban middle class of professionals, civil servants, military staff, and intelligentsia, as well as the businessmen. Turkish modernization meant for the most part westernization, which required, among others, the separation of the church and the state. Toprak further argues that liberal, progressive values associated with urban, westernized, educated elites are commonly shared by majority of the Turkish people. On the other hand, the violent left-right confrontation in the 1960s and 1970s, which ended in military interventions, has had a learning effect on Islamists taking them away from confrontation and directing them towards more peaceful and tolerant ways of change. Additionally, Turkish Islamists` long engagement in multi-party politics has also contributed to their pragmatism and taught them to act in accordance with the rules of the game.

Political Islam in Turkey can be traced back to the beginning of multiparty democracy in 1946, in which it started to influence Turkish politics. From this date on even Atatürk-established Republican People’s Party (CHP) has needed to soften its approach vis-à-vis secularism and Islam in order to win over the conservative electorate. More importantly, the newly established center-right Democrat party has sought to attract conservative votes through pursuing more responsive policies to the demands of the Muslim constituents. Nevertheless, the DP was not anti-secularist. It was rather a liberal-conservative party. Despite this, it was banned from politics by the military in 1960 coup, in part as it was viewed as a threat to the secular Republic. Its successor, the centre-right Justice Party had an Islamist faction too, although it was not an Islamic party.

Necmettin Erbakan initiated the emergence of political Islam as an independent party. He is not only the founding father of political Islam in Turkey but has long served as its leader. After serving as a Justice Party parliamentarian, he competed for the leadership of the party. Having failed to be the party chairman, he then set up Turkey's first true Islamist party, the National Order Party (MSP) in 1970. MSP was short-lived, as it was closed down in May 1971 along with the extreme left parties. "Banning" was not confined to the MSP; it was to be the fate of the many subsequent Islamic parties, which claimed to represent the Islamic electorate.

Erbakan replaced the prohibited MSP with the National Salvation Party (NSP) in 1972. A year later the NSP managed to win 11.2 percent of the votes obtaining 48 seats in the parliament and 3 seats in the senate. Prior to its banning by the military after the 1980 intervention, the NSP was in the coalition government with the centre-left CHP and the centre-right AP. The RP, another Erbakan-founded Islamist Party, succeeded the NSP.

Until the 1980s Islamic politics played a marginal role in Turkish political life. Ironically, the secular military government in the post-1980 coup promoted religious activities with the aim of marginalizing the communist threat to the state. It viewed religion as anti-thesis of communism and therefore hoped to unite the people under the umbrella of a Turkish-Islamic synthesis. As argued by Anat Lapidot, "Even though the fear of Islamic irtica (reaction) was one of the reasons for the military takeover, ironically it was the generals who introduced Islam and adopted it as part of the state ideology".<sup>76</sup>

Motherland Party (ANAP) of Turgut Özal also pursued similar policies in the 1980s. In fact, Özal always boasted on his party comprising four different currents including the Islamic faction. Political and economic liberalization policies of ANAP as well as global democratization wave helped the Islamists to develop. They took advantage of the new educational, economic or organizational freedoms and possibilities and managed to increase their power by expanding to new segments of the population. Empowering of Islamism has also much to do with socio-economic and demographic change taking place in particular in the periphery of the big cities. Islamists have managed to become voice of those, who emigrated from the countryside to the big cities and provided them network and integration of their identity with the new environment. Jennifer Noyon rightly comments on the rise of Islamic politics in the periphery of the cities; “Turkey’s Islamic resurgence was neither an attempt to return to the past nor a rejection of modernity, the West or non-Muslims. It was an attempt to come to terms with contemporary life...”<sup>77</sup> Islamism was to reach its peak in the 1990s.

The 1989 local elections gave the RP opportunity to display its administrative abilities in a number of medium-sized municipalities. The success in the municipalities and its electoral alliance with the two rightist parties would make the RP obtain 16.9 percent of the votes winning it 62 representations in the assembly in the 1991 parliamentary elections.

The 1990s were the years in which the RP made a strong showing on the Turkish political scene. In the 1994 municipal elections the RP gained 19 percent of the votes and won control of 327 municipalities including Turkey’s two most important cities, Ankara and Istanbul. But

the RP's historical success was to come a year later in the 1995 parliamentary elections, in which it succeeded to win the most of the votes with 21 percent and formed as senior partner the coalition government with the True Path Party (DYP) in 1996. It was for the first time that an Islamist party became the senior partner in the government and its leader became prime minister.

But its tenure in power lasted only eleven months. Due to a memorandum issued by the military controlled National Security Council (NSC) on February 28, 1997 demanding educational reforms to strengthen its secular character, the RP was forced to step down from the government in June 1997. In January 1998, the RP was closed down by the Constitutional Court and its leader Erbakan prohibited from politics for five years.

The Islamists were accustomed to the banning of their parties and thus were quick in reestablishing a new party. But this time the party was split as a result of intra-party rivalry for succession. In May 1998 a new party, Virtue Party (FP) was established under the leadership of Recai Kutan, a colleague of Erbakan. This party representing the main government opposition with 100 parliamentarians too was to be banned by the Constitutional Court in July 2001 on the grounds that it had "become the focus of anti-secular action". Saadet Party (SP) succeeded the FP.

The other party, which was born out of the prohibited RP, was the Justice and Development Party (AKP), led by Recep Tayyip Erdogan. In August 2001 the ban against Erdogan, who was convicted of "attacking Turkey's secular system" by reciting a poem and thus resigned

as the mayor of Istanbul was removed. The AKP whose first two initials mean purity or honesty, managed to gain a third of the votes and two-thirds of the parliamentary seats. For the first time in 15 years a single party came to power. As a result of a by-election in March 2003 Erdogan won a seat in the parliament and assumed the official leadership of the party as well as the prime ministership.

The November 3, 2002 elections were widely and correctly called “political earthquake”, as it swept the traditional Turkish parties such as the DSP of Ecevit, the DYP of Tansu Ciller, and the ANAP of Mesut Yilmaz from the Turkish political scene leaving them without any seat in the assembly. The nationalists’ MHP too has remained outside the parliament. The AKP won 363 of the 541 elected seats in the parliament. The only other party, which managed to enter the parliament was Baykal’s CHP with 178 seats.

It is obvious that economy was the most decisive factor, which determined the results of the elections in November 3, 2002. Hit harshly by the 2000 and 2001 financial crises, the Turkish public looked for a new alternative, which could bring solutions to their pressing problems of unemployment, inflation and economic contraction. The other parties except the AKP had all been tried and did not manage to solve these difficulties. Also, in the recent years in the eyes of the public, Turkish parties were increasingly viewed as corrupt. Under these circumstances, the AKP, that aimed at bringing economic stability and growth and gave impression to the public that it would pay attention to the social aspects of the economy managed to come to power as a single party government 15 years later. AKP could also be a



solution for the governance problem in Turkish politics, which lies beneath the economic difficulties.

Furthermore, AKP succeeded in distancing itself from its Islamic background and placed itself as centre-right party in the Turkish parties' spectrum during the elections campaign. In short, as suggested by Keyman and Önis, the success of the AKP lies in their embrace of global third way policies<sup>78</sup> in the November 3 elections. They suggest, "Only those parties that adapted themselves to this new agenda fared well on that day."<sup>79</sup> Other parties, which failed to deliver these policies while in the government or did not succeed in giving the impression that they would pursue such policies if they came to power, did not manage to be represented in the parliament.

Despite the astonishing success of the AKP in the polls, the secular establishment including the military was still suspicious about the party as to whether it might pose threat to secular democracy like its predecessor, the RP. It was seen that AKP was cautious not to cause tension and instability, which might endanger the government's economic policies and Turkey's accession to the EU. They rather pursued a policy of *postponement* with respect to the sensitive issues such as headscarf ban, even if this caused frustration and anger among the party's Muslim grassroots. They also suggested that solution to headscarf and other sensitive issues such as the religious high schools (imam hatip liseleri) would be resolved through *societal reconciliation*. This is an important feature of AKP, that is, reconciliation and stability are given priority over the party's supporters' demands. They were well aware that if they conflicted with the Kemalist establishment, they might suffer the fate of their

predecessor. Therefore, looking at its policies till now, it is right to suggest that AKP is a conservative-liberal rather than Islamic party and thus is no threat to the secular democracy.

Although many had questioned the compatibility of a party with an Islamic background with the democratic secular system, ironically AKP government carried out the most democratic reforms in line with the Copenhagen political criteria. This invalidated the arguments that once AKP captures power, their hidden agenda will come out and they will overthrow democratic institutions. Democratic reforms undertaken by AKP demonstrate that it is not only committed to democracy in its discourse but also in its deeds. This owes partly to the realization by AKP that democratization would promote the rights of the Muslim believers too. As pointed out by Seda Demiralp, “the reformist Islamists (AKP) are sincerely committed to the idea that the solution for practicing Muslims in Turkey is through enhancing the democratic system, not fighting it”.<sup>80</sup> In other words, AKP is well aware that democratization of the system rather than confrontation with it will be more beneficial to their group interests.

## NOTES

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- <sup>3</sup> Ergun Özbudun, "Turkey: How Far from Consolidation?", *Journal of Democracy*, Vol. 7., No. 3, (1996), p. 125.
- <sup>4</sup> Stanford J. Shaw, *History of the Ottoman Empire and Modern Turkey*, Vol. 1, (Cambridge, New York: Cambridge University Press, 1976-1977), p. 112.
- <sup>5</sup> Serif Mardin, "Center-Periphery Relations: A Key to Turkish Politics?", *Daedalus*, Vol. 102, No. 1, (Winter 1973), p. 172.
- <sup>6</sup> *Ibid.*, p. 169.
- <sup>7</sup> Halil Inalcik, *The Ottoman Empire: The Classical Age: 1300-1600*, (London: Weidenfeld and Nicolson, 1973), p. 109.
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- <sup>9</sup> *Ibid.*, p. 96.
- <sup>10</sup> *Ibid.*, p. 98.
- <sup>11</sup> Stanford J. Shaw, *History of the Ottoman Empire...*, p. 165.
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- <sup>14</sup> Heper, *State Tradition*, (1985), p. 36-37.
- <sup>15</sup> Özbudun, *Challenges to Democracy*, p. 128.
- <sup>16</sup> Ilkay Sunar, Sabri Sayari, "Turkish Democracy: Changing and Persistent Problems and Prospects", Paper delivered at the ECPR Workshop on *Late Democratization in Southern Europe*, Aarhus, Denmark, March 29-April 3, 1982, pp. 11-14.
- <sup>17</sup> Metin Heper, "Political modernization as reflected in bureaucratic change: The Turkish bureaucracy and a "historical empire" tradition", *International Journal of Middle Eastern Studies*, No. 7, (1976), p. 516.
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- <sup>20</sup> *Ibid.*, p. 139.
- <sup>21</sup> *Avrupa Birliği, Devlet ve STK'lar (European Union, State and NGOs)*, (Istanbul: Tarih Vakfı, 2001), p. 3-4.
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- <sup>24</sup> Heper, *State Tradition*, (1985), p. 99.
- <sup>25</sup> C.H. Dodd, *The Crisis of Turkish Democracy*, (Beverly, England: The Eothen Press, 1983), p. 81.
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- <sup>29</sup> Mardin, "Center-Periphery Relations...", (1973), p. 170.
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- <sup>31</sup> Halil Inalcik, "Capital Formation in the Ottoman Empire", *The Journal of Economic History*, Vol. 29 (1969), 105-106.
- <sup>32</sup> Heper, "State, Party and Society...", p. 326.
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- <sup>43</sup> Harris, "The Role of the Military in Turkey in the 1980s"
- <sup>44</sup> Nilüfer Narli, "Civil-Military Relations in Turkey", *Turkish Studies*, Vol. 1, No. 1, (Spring 2000), p. 115.
- <sup>45</sup> *Ibid.*
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- <sup>54</sup> For a study examining the development of Turkish security culture since the Ottoman State, see: Ali L. Karaosmanoglu, "The Evolution of the National Security Culture and the Military in Turkey", *Journal of International Affairs*, Vol. 54, No. 1, (Fall 2000).
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- <sup>73</sup> Kirisci and Winrow, p. 192.
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- <sup>77</sup> Jennifer Noyon, *Islam, Politics and Pluralism: Theory and Practice in Turkey, Jordan, Tunisia and Algeria*, (London: The Royal Institute of International Affairs, 2003), p. 60.
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## **CHAPTER IV**

### **EU'S HUMAN RIGHTS AND DEMOCRACY PROMOTION IN ENLARGEMENT PROCESS IN COMPARATIVE AND HISTORICAL PERSPECTIVE**

The chapter four argues that the EU's human rights and democracy promotion in its enlargement policy has evolved in time. This argument is discussed by examining the three enlargement waves of the EU: the south European enlargement in the 1980s, the Eastern European enlargement in 2004 and the next possible enlargement towards Turkey. It is suggested that both internal developments within the EU and foreign political changes have led the EU to make an increasing emphasis on human rights and democracy in its enlargement strategy. It is also asserted that the EU's commitment to the accession of the Eastern European states has facilitated both the integration of these countries to the EU and their democratization efforts. By contrast as the EU was not fully committed to Turkey's membership, this was to retard Turkey's democratization.

#### **4.1. Evolution of the EU's Human Rights and Democracy Promotion**

In broad terms, the EU's human rights policy can be divided into two periods: The one till 1985, which was basically of inward-looking character, the period from 1986 on, which has displayed an outward looking and assertive feature. In the first period the EU's engagement in human rights issues was prompted by domestic human rights violations in European countries, which was handled by the European Court of Justice (ECJ). Till the mid-1990s there was not any reference in the original constituent Treaties to the protection of fundamental rights. Nonetheless, the ECJ began in the late 1960s to affirm that respect for such rights was an element in the legal heritage of the European Community. Measures incompatible with fundamental rights were considered to be

unacceptable and judicial protection of those rights became established in the Community legal order.<sup>1</sup>

As for the EU's human rights policy in its foreign affairs while the EU's interest in external human rights developments were not absent, it was limited due to the primacy of the strategic considerations under the Cold War circumstances. East-West competition led the human rights and democracy issues to be subordinated to hard strategic topics. Authoritarian regimes were supported or undermined to large extent by calculations regarding their significance as allies in the conflict with the Soviets. When the West extended support to democratization in the third countries, it was always accompanied with the discouragement of neutralism and efforts to strengthen the electoral appeal of centrist parties against any possible challenge by the far left.<sup>2</sup> Therefore, during this period human rights and democracy was overlooked in external relations or were paid a lip service.

Two developments have induced the EU to modify its policy in the field of human rights and democracy. The first development is the change in the US foreign policy from 1976 onwards. From that time on the US foreign policy makers have pursued more idealistic human rights policy in external relations as a result of the lessons drawn from the Vietnam War, which reminded them that the US foreign policy lacked a moral dimension. This shift in the US human rights policy has affected the East-West relations gaining it a more emphasized human rights aspect from the perspective of the US politicians. This, in turn, urged the Western European allies of the US to adopt more idealistic policies stressing human rights and democracy. The second incident is the collapse of the Soviet Union in the 1989-1990 period giving rise to the emergence of independent states in the

East of Europe. Released from the straight jacket of the Cold War, the EU has placed an increased emphasis on human rights in its foreign relations. The new international setting prompted the EU to devise a stricter democratic conditionality for these countries, which aspire to join the core Europe as full members.

From the second half of the 1980s onwards the EU started to develop a more outward looking and assertive policy in the field of human rights and democracy. The first development was the publication of reports by the European Parliament (EP) from 1983 onwards. This was followed by other steps and changes in the EU in the second half of the 1980s. First of all, the Single European Act (SEA) assured that human rights issues should be an important element in the pursuit of the EU's foreign relations. Additionally, as a result of the amendments of Articles 237 and 238 of the Treaty of Rome by Articles 8 and 9 of the SEA the conclusion of both accession and association agreements conditional on the EP's assent. Furthermore, through various statements and declarations at different levels between 1986 and 1991 the link between human rights and democracy was stressed. Moreover, human rights and democracy clauses (Lome Conventions) were included into the association agreements with the African Caribbean and Pacific (ACP) countries from 1989 on. An important development at the beginning of the 1990s came about following the signature of the Maastricht Treaty or the Treaty on the EU (TEU) on February 7, 1992. Even though human rights and democratic principles are not cited in Article 2 of the TEU among the five fundamental objectives of the Union, both the TEU and the Treaty establishing the European Community (TEC) contained enough number of references on the respect for human rights and democracy. Article J (2) of the TEU allowed for the development and consolidation of respect for human rights as one of the objectives of the EU's common foreign and security policy.



By implication, the amount of declarations issued and demarches made in the framework of the European Political Cooperation (EPC) until 1992 and the Common Foreign and Security Policy (CFSP) thereafter rose considerably. Moreover, EU member states sought to coordinate their policies in an effort to hold a common position on UN General Assembly resolutions regarding human rights matters.

The 1997 Treaty of Amsterdam represented a significant progress as it affirmed that the Union “shall respect fundamental rights, as guaranteed by the European Convention of Human Rights... as they result from the constitutional traditions common to the Member states, as general principles of Community Law”. The EU recognized for the first time that it is founded on the principles of liberty, democracy, human rights and the rule of law. The same treaty article also allowed “the Union shall provide itself with the means necessary to attain its objectives and carry through its policies.”<sup>3</sup>

When it comes to the role of the EU’s organs in human rights policies, the European Commission stands out as the main executive and legislative body of the Union as it does in many other policy fields. Above all, the Commission drafts progress reports for the accession countries, whereby the achievements and shortcomings of the accession countries in the area of human rights and democracy are evaluated. The Commission plays a vital role in supporting human rights and democracy initiatives, providing funds for election support and observation, and ensuring humanitarian assistance.

Since the late 1970s, in particular in the aftermath of the direct elections in 1979, the European Parliament (EP) has played a very important role in the promotion of human rights. The EP has influenced the EU’s human rights and democracy policies through

publication of annual reports, debates, and resolutions, withholding of its assent to external agreements in cases where serious human rights violations persist, insistence upon increased funding for human rights and democratization programmes, sending of election monitors and parliamentary delegations, and regular calls upon the Commission and the Council to adopt more human rights-friendly policies.

The European Court of Justice was of primary importance when the Community's legal order regarding the human rights was not created yet. It has been the Court that has put in place the basic principles of respect for human rights, which underlie all subsequent developments.

When it comes to the human rights and democratic conditionality with regard to the candidates to the EU, it was at the Copenhagen Summit that the Union set for the first time a number of criteria for the Central and Eastern European countries (CEEC) to satisfy. By its very nature the EU's democratic conditionality set for the candidates are more extensive than the EU's democracy and human rights promotion in the third countries, as the candidates' accession is regarded by the EU as more domestic rather than international or foreign issue.

Following the TEU, accession of new members to the EU requires the unanimous approval of the Council and an absolute majority of the European Parliament. In evaluating whether a candidate country satisfies the requirements for membership, the Opinion of the Commission plays a vital role. Until the Amsterdam Treaty came into effect, there was no formal requirement apart from being a European state as specified in the Article 237 of the Treaty of Rome. Besides the relevant economic and legal criteria

and the acceptance of the *acquis communautaire*, the European Council set in June 1993 in Copenhagen a number of political criteria for accession to be met by Central and Eastern European countries. These countries must have achieved “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities”. Although these criteria were originally designed to deal with the accession of the CEEC, they were applied to all the other subsequent candidates including Turkey.

The Commission draws on many sources in forming its opinion on the candidate countries: answers given by the respective authorities to questionnaires sent to them, bilateral follow-up meetings, reports from member states` embassies and the Commission`s delegations, evaluations by international organizations (including the Council of Europe and the OSCE), NGO reports such as Human Rights Watch and Amnesty International. The assessment of the political criteria is divided into three sections in the Commission`s regular report: “Democracy and the Rule of Law”, “Human Rights and the Protection of Minorities”, and “General Evaluation”.

Prior to the Copenhagen political criteria set out at the Copenhagen Summit in 1993, no explicit criteria existed to become a member of the EU. Despite the non-existence of explicit formal criteria till the early 1990s it was held that a minimum democratic yardstick could be derived: genuine free elections, pro-democracy parties, stable government, and a liberal democratic constitution.<sup>4</sup>

## **4.2. EU's Human Rights and Democracy Promotion in Enlargement Process in Historical and Comparative Perspective**

### **4.2.1. EU's Human Rights and Democracy Promotion in the Mediterranean Enlargement**

The EU's enlargement to its south to include Greece, Spain and Portugal stood out as peculiar cases, as the EU had to support them in consolidating their newly established democracies following their accession to the Community. Greece, Portugal and Spain applied for the EC membership shortly after the collapse of their respective authoritarian regimes, and were admitted to the Community in a relatively short period given the fact that their democracies were not fully consolidated. While Greece was admitted to the EC in 1981, Spain and Portugal acceded to the Community in 1986. In this enlargement the EU was prompted by the thinking that membership would promote their domestic political stability and the process of democratization. Put it differently, the EU regarded them as eligible to join without forcing them to satisfy firm political conditions despite the shortcomings in their political systems for EC membership. Major drive, which induced the EC to apply loose political criteria to the Mediterranean countries compared to the next enlargements, was to secure stable and powerful economic and political systems in the European periphery by winning them over to the Western European system of nations. This would make them less prone to the direct influence of the Soviet Union or the influence of the Soviets by proxy through Communist parties in these countries.

In fact, Greece entered the Community only seven years after it adopted a democratic constitution. Likewise, Spain and Portugal were admitted to the EC a little more than a decade after the collapse of long lasting dictatorships. The EC overlooked the negative

economic consequences of those countries' accession to the EU as well as the instability of their political systems.<sup>5</sup>

Nevertheless, this observation does not detract from the influence of the EC on those countries before their accession. The European Community has acted as a powerful catalyst of democratization in contemporary southern Europe. It has managed to achieve this influence not through military occupations, but providing an elaborate structure of economic and social incentives for changes in group and national behavior.<sup>6</sup> The European Community has played a major role in promoting and generalizing democratic political values, above all, through "demonstration effect". Greece, Portugal and Spain have associated with European integration security, prosperity, and moderation. They have long wished to be fully recognized as equal states within the West European system. In their eyes since the 1960s that system has been more stable, more homogeneous, and more politically and economically successful than for several generations.<sup>7</sup> Demonstration effect has helped them transform their systems into more democratic ones similar to that of Western Europe.

As for the case of Greece, the Greek government was motivated to apply for full membership by the political realities of the period in the aftermath of the collapse of the military dictatorship in July 1974 and in particular the desire to preserve and consolidate Greece's unstable democratic institutions. Furthermore, given that the Cyprus crisis erupted and Greece withdrew from NATO, the membership application was also a reflection of search for security on the part of the Greek administration. Greece applied for membership in June 1975; negotiations started in 1978 and finally Greece became the tenth member of the EC on January 1, 1981. On the part of the EC, although Greek

application was premature, it gave the green light to Greece for accession to the Community in order to back its democratization.<sup>8</sup>

Even though the EC and its member states impacted the democratization process, they cannot be labeled as “exporters” of democracy. Certainly the EC and its members played a part in the transition to and consolidation of democracy in Greece. But this role was supplementary rather than central. The EC’s role in the democratization process was to a large extent as a result of its growing economic and political significance for Greece.<sup>9</sup>

In the democratic transition process it was the EC’s firm anti-dictatorial posture, which helped to frustrate attempts by the Colonels to gain a popular base of support, most notably by decreasing their ability to point to positive economic performance. Furthermore, the EC’s attitude has helped preclude the dictatorship to reach out and cultivate the support of important political elites. Since the military dictatorship undermined the future of Greece in Europe, elites believed that it had to be removed from power.<sup>10</sup>

The EC’s underwriting democracy in Greece meant that the provision of resources was contingent on the presence of democracy. This contingency was supported by strong, legally binding material commitments based on international treaties and European law. This function of the EC helped to convince domestic groups and actors that threats to democratic values and procedures were the same as threats to material interest. This increased the costs of military dictatorship in a way significantly conducive to the stability, endurance and political resilience of Greece.

Although the European Community's and its members' role in the process that led to the breakdown of authoritarian rule in Greece cannot be denied, the EC or European states can be said to play a more substantial role in the process during which democracy in Greece was established and consolidated. European Community or not, the experience of the dictatorship itself (reinforced by the threat of war with Turkey) was sufficient to discredit the idea of a return to authoritarian rule among almost all the political parties and the public.<sup>11</sup>

Spain applied for membership on July 28, 1977. It had been excluded from consideration for many years on the ground that its regime was of authoritarian nature. It was also excluded from the UN, the Marshall Plan, the OEEC, the Council of Europe and NATO. Modernization became the key word in Spain's transformation process. In fact, modernization was identified with Europeanization. The death of General Franco in November 1975 paved the way for the accession of Spain to the Community, as it provided the swift transition to democracy under King Juan Carlos. Given the return to democracy it was thought that Spain would quickly accede to the Community. But the membership delayed due to the Community's internal problems as well as the disagreements in the negotiations over agriculture, fisheries and the reduction of tariff barriers for Spanish goods. The Accession Treaty was signed on June 12, 1985 and accession to the EC occurred in January 1986.

History of Spain's accession to the EC can be viewed as a "catching up" process in three aspects: search for a renewed and accelerated economic development, succeeding in the democratic consolidation process undertaken since 1975, and finally Spain's return to European and international scene. As formulated by the writer Jose Ortega y Gasset, the

theme was based on a fundamental assertion: “Spain is the problem, Europe, the solution”.<sup>12</sup>

Spain had a highly valued strategic place for the West in the southern wing of NATO. In the early 1970s, developments in Spain’s neighborhood helped increase its geo-strategic importance to the West. Particularly, the world economic turmoil provoked by the 1973-1974 oil crisis enhanced the strategic role of the Straits of Gibraltar, as most Middle East oil reached Western Europe and the USA through the Mediterranean. Furthermore, the Yom Kippur War in October 1973 reminded the West of the significance of the Spanish bases. On the other hand, the success of Italian and French Communist parties alarmed the West that Spain might follow the same pattern.<sup>13</sup>

Even though the USA and the Western Europe diverged about the future course of Spain following the death of Franco, they both agreed that Spain had to be won over to the Western camp. While for the USA Spain’s future was above all a defense and security issue, for the Europeans it was primarily a political one. In the opinion of Europeans the chances were particularly good for return to democracy in Spain. So, they pursued an assertive policy in its democratic consolidation.

In the Spanish case, the EC provided a number of medium- and long-term incentives and guarantees favoring democratization. The Community had rejected Spain’s application for associate membership of the EEC in 1962. The Birkelbach Report drafted by the European Parliament stated that Spain was not eligible for associate membership as it was not a democratic country. The Birkelbach Report of 1962 in response to the Spanish application constituted the first yardstick to assess a candidate’s suitability for



membership to the Community. Since then the EU vetoed Spain's formal integration with the Community although it fostered relations in many areas with this country. This represented one part of the Community's strategy, which deprived Spain of the real (and imagined) interests of full integration in a quickly developing community. This strategy of the Community helped to undermine the ruling authoritarian coalition, some members of which started to view the regime's continued existence as an obstacle to their present and future prosperity. Furthermore, the veto enforced by the EC contributed to enhancing the appeal of parliamentary democracy as practiced in the eyes of Spanish elites and public opinion at large. Moreover, both before and during the transition to democracy, the prospect of EC membership brought guarantees and reassurances to those who faced a post-authoritarian future.<sup>14</sup>

Transnational networks contributed to augmenting the influence of the European institutions on democratization of Spain. Transnational party networks were highly influential in this sense. The presidents and leaders of the EP's Socialist, Christian Democratic, and Liberal groups were in constant communication with their Spanish allies, who informed them continuously about the latest developments. Spanish opposition, who were forced to live outside Spain in other Western European countries, has also influenced their European counterparts.<sup>15</sup>

Portugal formally applied for full membership of the EC in March 1977, four months ahead of Spain three years after the revolution of April 25, 1974, which ended the authoritarian regime since 1932. The negotiations were completed in March 1985 and the accession treaty was signed in June 1985, which entered into force on January 1, 1986. During the period under authoritarian rule the regime was nationalistic in character; it was

relatively isolated, but was tolerated by European states. Even though excluded from the Council of Europe, it was a member of the OEEC, a founding member of NATO. It became a member to EFTA in 1960, which stressed commercial ties among the members. In comparison to Spain, in post-authoritarian Portugal there was much less sense of historical mission in Europe, and remarkably less popular enthusiasm on the occasion of EC entry. Nevertheless, Portuguese government officials have made the link between EC entry and democratization in the mid-1970s with a view to protect the emerging liberal democracy from internal challenge on the extreme left.<sup>16</sup> From the perspective of the EC, the Portuguese application, which came immediately after democracy was restored, had to be endorsed in order for Portugal to consolidate its democracy despite the fact that it is not politically mature enough. This motive of the EC behind its positive stance towards the application of Lisbon can be clearly detected in the Commission's opinion.<sup>17</sup>

Notwithstanding a founding NATO member, the geo-strategic importance of Portugal for Europe is less clear. In contrast, Greece was an important ally of the West against the Soviet Union in the southern flank of the European defense. Likewise, Spain was in control of the strategically important Gibraltar straits and important military base for Western powers in the Mediterranean. Portugal, on the contrary, due to a traditional Atlantic vocation and a recent colonial past in western and southern Africa, has tended to look away from the Mediterranean.<sup>18</sup> Despite the weak link between the European vocation of Portugal and its democratization, the EC and its partner states have played a considerable role in both transition to and consolidation of democracy in Portugal. But like in Greece and Spain, the EC's impact in the consolidation of democracy in Portugal was more important than in its transition to democracy.

But real impact on democracy of Greece, Spain, and Portugal came about from the consolidation process of democracy prior to their entry to the EC to the post-entry period. Even though their democracies had deficiencies and were not fully consolidated, the Community admitted them as a promotion of their democracy. Pre-accession conditionality was not comprehensive when compared with the subsequent enlargements. As put by Grabbe, “Greece, Portugal and Spain were allowed into the Union with the aim of helping them consolidate democracy after entry, and they were given large financial transfers after accession over a long period to aid economic development.”<sup>19</sup> The EC mobilized enormous material resources to sustain their economic systems. Huge investments poured from Western Europe to these countries. This in turn helped to promote political stability in these countries. The EC and their members became a center of attraction for the Mediterranean states bringing economic wealth, political stability, consolidation of political institutions and democratic behavior. From the perspective of the EC and its member states both a historical mission for democracy promotion as well as strategic imperative was decisive in their democratizing stance with respect to the Mediterranean countries.

#### **4.2.2. EU’s Human Rights and Democracy Promotion in the Eastern and Central European Enlargement**

Unexpected changes triggered by the collapse of the Soviet Union caught the European politicians unprepared. Newly emerged countries to the East of Europe posed a number of challenges to the Continent. They had to build new relations with these countries from scratch. Due to the unpreparedness of the EU and its partner states, initially “short-termism” dominated their policy towards the Central and Eastern European Countries (CEEC).<sup>20</sup> In early stages their policy responses were ad-hoc. Furthermore, member states

have diverged over the appropriate response to the historic changes in the former “iron curtain”. The initial reaction of the EU partners to the developments in the CEEC was more “a conglomeration of discrete activities than the result of a well-developed coherent strategy”.<sup>21</sup> But in the subsequent years a more coherent EU policy started to emerge.

The EU leaders were not sure how to handle the CEEC issue. Enlargement towards the EU was not a quick and unanimous decision initially. Decision to enlarge towards CEEC came after debates among the member states. A series of factors have induced the EU to open the way for the accession of the CEEC to the Union.<sup>22</sup> Firstly, with the collapse of the Soviet Union, security threat coming from the Communist East was replaced with the new security challenges in the newly independent states, including issues in the area of minority issues and ethnic conflict, regime stability, and consolidation of democracy. Thus, integration of CEEC would lessen the cost of new security challenges for the EU from its immediate neighborhood. Secondly, the EU aimed at democratizing these countries within the framework of enlargement process. Democratization of the CEEC would also minimize the cost of security challenges to the EU. Thirdly, motivations to create a “common European home” and secure the “return of the CEEC to home” have driven the EU leaders to integrate with the CEEC, which had been unnaturally separated from the core Europe decades ago. Moreover, although it might be costly in the short-term, integration of CEEC would provide economic benefits in the long-term for the entire EU economies due to the expansion of the Single Market. CEEC would also provide cheap and competitive skilled labor, cheaper natural resources reducing the costs of production and service for the EU economies. Besides, the EU would have an increasing role in the economic field on global scale.

Attempts to move towards a more long-term framework for relations with the CEEC produced the European Agreements (EA). The EA were a new type of “association agreements” to meet the new challenge from the East of Europe. They were classical trade agreements, supplemented by a “political dialogue”, and backed by technical and financial assistance and economic cooperation. In proposing an association relationship, the Commission envisaged that CEEC would give practical evidence of their commitment to the rule of law, respect for human rights, the establishment of multi-party systems, free and fair elections and economic liberalization with a view to introducing market economies.<sup>23</sup> Although they were the most wide-ranging agreements ever concluded by the EU with third countries, one major criticism about the EA was that they did not establish a clear link to future membership of the EU. The other key area of discontent was that the EA brought trade liberalization and financial assistance to only limited areas excluding major sectors for the CEEC trade such as agriculture.<sup>24</sup>

EU monitored closely the steps taken by the CEEC in the direction of democracy and human rights. At times it was critical of the developments in these countries. For instance, Slovakia became target of a demarche from the EP in late 1995 for its treatment of the Hungarian minority. EU policy towards future members from CEEC was not restricted to political monitoring. A number of economic and training programmes complemented the EU’s efforts to facilitate these countries’ transformations in the post-Communist period. The most relevant of such programmes was the PHARE Democracy Programme. Originally created in 1989, the PHARE Programme provided the European Commission with a new role in coordinating Western aid to sustain the political and economic reform process.<sup>25</sup> Besides, the EU provided aid to the CEEC through “democracy programmes” from 1992 onwards. The democracy programmes have provided aid to promote

parliamentary practices, improve the transparency of public administration, promote and monitor human rights, reinforce awareness of democracy, establish an independent media, encourage local democracy, and strengthen NGOs.

Another European organization that has played an active role in promoting transformation in Eastern Europe has been the European Bank for Reconstruction and Development (EBRD). It was the first multilateral organization obliged to link loans to political conditionality. But no country has had its EBRD loans suspended on political grounds, although it was reported by the Bank that several countries had shortcomings in the field of democracy. Furthermore, transnational party linkages were significant in underscoring democratic conditionality. It should not be forgotten that the countries in Eastern Europe by and large lacked democratic traditions at the mass level when democratization process started in 1989. These transnational contacts among the parties also function as informal channels for promoting entry to the EU as well as establishing influence in Brussels once that occurs.<sup>26</sup> On the other hand, although not directly linked to the accession to the EU, the membership in the Council of Europe has been seen as the first step towards EU membership as it would confirm the democratic credentials of the CEEC. This induced the CEEC first to meet the democratic criteria set to be member of the Council.

The declarations at the Copenhagen European Council in June 1993 marked a new period signifying significant qualitative change in the EU's response to the challenges to its east. In response to the criticisms and demands by the CEEC the new EU strategy both foresaw eventual membership as a goal and brought improvement to market access. The conditions set out at the Copenhagen European Council aimed at minimizing the risk of new entrants becoming politically unstable and economically burdensome to the existing

Union, and to guarantee that the countries entering the EU were ready to satisfy all the EU rules.<sup>27</sup>

All ten East European associates then applied to join (Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia). The Copenhagen criteria required for EU membership have evidently induced these countries to undertake political reforms, and to seek to improve relations with their neighbors as well as minority rights.

The Commission report of 13 July 1994 outlined a “pre-accession” strategy, which was designed to prepare the CEEC for the EU accession. The Madrid European Council in December 1995 maintained the enlargement drive towards the East. By the end of 1995 the focus of policy debate shifted from association and pre-accession towards an eastern enlargement policy. In July 1997 the European Commission published reports requested by the Madrid European Council in three volumes, ambitiously entitled Agenda 2000. Agenda 2000 brought many of the policy and political issues into much sharper focus. At the same time, the Commission published its opinions on the membership applications. The opinions pointed out that there were problems in issues such as minority rights and the stability of institutions. But only Slovakia failed to meet the political criteria and risked the initiation of membership talks.<sup>28</sup> The EU decided in December 1997 at the Luxembourg European Council that formal accession negotiations would open only with the five East European countries that met the Copenhagen conditions most: the Czech Republic, Estonia, Hungary, Poland and, Slovenia.

Accession negotiations started formally on March 31, 1998. Accession Partnerships (APs) were proposed by the Commission to develop regulatory alignment through a “reinforced pre-accession strategy”. They have a more increased focus on helping the CEEC to adopt the *acquis* than the initial Phare assistance. They contain a precise timetable for meeting the membership criteria and allows for the transfer of additional EU aid. Due to the concern that exclusion of some countries from the first round of EU enlargement might have negative effect on the remaining applicant countries, all ten countries including Slovakia were included in the March 1998 Accession Partnerships.

The Commission published its first progress report on November 4, 1998, assessing the candidates` shortcomings and progress in terms of meeting the Copenhagen criteria. In view of the progress achieved by Latvia, Lithuania, and Slovakia by the end of 1999, the EU decided to open negotiations with them. But this would leave Bulgaria and Romania alone in an increasingly volatile Southeastern Europe.<sup>29</sup> So the EU decided at the Helsinki Summit in December 1999 to open talks with all five countries. The EU finally agreed at the 2002 Copenhagen Summit to admit ten new member states on May 1, 2004.

During the pre-accession and accession process when the negotiations started, the EU used a series of levers to bring about the transformation of the CEEC. The main technique is the EU`s gatekeeping function in deciding when each candidate can move to the next stage in the accession process. The Union utilized the below mechanisms to influence the change in the CEEC: (i) Access to negotiations and further stages in the accession process; (ii) provision of legislative and institutional templates; (iii) aid and technical assistance; (iv) policy advice and twinning projects; and (v) monitoring, demarches, and public criticism.<sup>30</sup>



An important difference of the EU's democratic conditionality with respect to the CEEC from that applied to the Mediterranean enlargement is that the scope of pre-accession conditionality for the CEEC enlargement is wider. Thus, the accession terms for the CEEC enlargement are less favorable. As a result, in contrast to the Mediterranean enlargement, the CEEC were obliged to meet all the conditions with very limited financial transfers.

Uniqueness of transformation of the CEEC is that both political and economic systems had to be transformed.<sup>31</sup> This was unprecedented compared with other cases of democratization. This situation placed double pressure on the CEEC: consolidation of democracy and the transformation to the market economy. As observed by Karen Smith, "While, in the long term, stability and security depend on the success of both transformations, in the short terms economic and political reforms may not be compatible or mutually reinforcing."<sup>32</sup> Not much attention was paid to the political implications of economic reform programmes and vice versa. Economic reforms may weaken the state as in structural adjustment programmes and may entail huge costs for the population in form of rising unemployment.

As to the question to what extent the efforts of the EU brought about democratic consolidation in the CEEC, probably the EU's most influential function has been through its "demonstration effect". The EU has presented a model to be emulated for these countries at least to a certain degree. Furthermore, the concerns of the leaders about how their countries are perceived internationally have been an important driving force behind the progress they made in the direction of democratization.

The influence of the EU on democratic consolidation of the CEEC is dependent on both internal factors (the extent to which the country is responsive to the EU pressure and seeks the rewards on offer) and on external factors (what the EU can agree to offer or to impose as sanctions).<sup>33</sup> Laurence Whitehead argued that external influence on the democratization of the CEEC depends on international actors remaining united in their support, their attention not being distracted from the region, democracy promotion remaining harmonious with other objectives such as the promotion of capitalism, the control of international crime etc.<sup>34</sup> Interestingly, geographical proximity has also become an important factor in the extent of the influence by the EU. Karen Smith observed that, “Those countries closest to Western Europe have been those where the “pull of the West” has been strongest; countries further away have been much less susceptible to Western influence on democratic consolidation”.<sup>35</sup> Comparing the degree of democratic consolidation between the Czech Republic in the West, Romania in the Middle and Ukraine in the East confirms this observation. On the other hand, peoples’ view of the EU is significant for a successful democratic consolidation. To a surprising extent, in contrast to their leaders’ declared goal of becoming full member of the EU, people of the CEEC have showed a low level of interest or knowledge about the EU at the initial phase of their independence.<sup>36</sup> This indicates that to secure and maintain people’s support for democratic consolidation, conditions should be accompanied with incentives and rewards, which should be beneficial for the men on the street.

Consequently, it can be suggested that the EU along with other Western actors have been able to promote democratic consolidation in the CEEC to an impressive extent. Since the initial stages the EU’s democratic conditionality has been an important instrument in the

democratization of these countries. This also helped to empower pro-democratic elements in these societies. As argued by Antoneta Dimitrova, “The very existence of the possibility to suspend PHARE assistance or relations under the Association Agreements has undoubtedly provided pro-democratic politicians in Eastern Europe with good argument against violations of democratic principles and human rights by their opponents.”<sup>37</sup> The same process continued in the subsequent years clearing the obstacles on the way of democratic consolidation and EU integration. Conditionality is not a strong instrument for consolidation of democracy if it is not accompanied with relevant rewards and incentives. Not only the CEEC’s positive perceptions of the EU but also the commitment of the EU to the full integration of these states and the EU’s political, financial and technical support in line with this commitment facilitated the consolidation of democracy in the CEEC.

#### **4.2.3. EU’s Human Rights and Democracy Promotion in Turkey**

Although human rights violations existed in the 1960s and 1970s and Turkey’s democracy exhibited shortcomings, the EC did not show a considerable interest in the developments in Turkey in this area. One part of the explanation lies in strategic considerations. The Cold War circumstances shaped the EU’s relations with Turkey, not the human rights issue. Turkey assumed an important function in the southern flank of NATO in the defense of the European continent against the Soviet menace. When Greece withdrew from NATO’s military command in 1974, Turkey’s role in the containment of the Soviet Union gained an additional importance. This, in turn, was to further induce the EU to subordinate human rights and democracy issues to strategic considerations. Another part of the explanation concerns political instability and violence in Turkey in the late 1970s. Under these circumstances, where political turmoil prevailed, human

rights remained as an issue of secondary importance for the Europeans. Another reason relates to the nature of human rights and democracy promotion of the EU, which remained essentially inward-looking until the mid-1980s.

Despite the weakness of the EC's influence and attempts in the promotion of Turkey's human rights and democracy during the 1960s and 1970s because of the above cited reasons the Community and its partner states showed reaction to failures in Turkish democracy in some instances. Following the execution of three DP (Democrat Party) leaders by the Military government, who took over power after a coup on May 31, 1960, the Community postponed the initiation of the "association" negotiations with Turkey.<sup>38</sup> In particular, French president De Gaulle was anxious about the executions and objected to Turkey's membership, as Turkish government decision was in contradiction with democracy tradition of Europe. Community's reaction was weaker to the coup d'état on March 12, 1971 compared to the May 1960 military intervention. Apart from the strategic considerations the primary reason for this should have been the preceding chaos Turkey was going through in the late 1960s. To a certain extent the circumstances in Turkey before the coup should have brought justification for the state forces to intervene and put the country in order. Also important is the quality of the military intervention. The March 1971 military takeover was not as harsh as the 1960 intervention. The Army did not take over power directly. In contrast to the May 1960 intervention, the Parliament was not dissolved.

1980 marks a turning point in terms of the EC's reaction and policies with respect to the shortcomings and failures in Turkey's democracy and human rights. In contrast to the previous military interventions, the EC and its member states have showed a harsh

reaction to the military takeover on September 12, 1983. Although the EC's response was mild at the initial stages of the military regime, it was to harden its attitude towards the military government in the subsequent months.

The most important reason for the changing posture of the EC is the nature of the military regime between 1980 and 1983 period. The military government in 1980 had more far-reaching objectives than those of 1960 and 1971. The 1980 military regime did not only seek to restructure the constitutional framework of the state but also tried to give shape to the political attitude of the people and to de-politicize the whole society, as it believed that it was the extreme political and ideological fragmentation and polarization in Turkish society, which gave way to political turmoil and instability, which prevailed the country before the coup in the late 1970s.

The September 1980 military takeover changed the domestic political landscape to a dramatic extent and imposed extensive restrictions on political and civil rights. The Parliament and the government were dissolved, all political parties were banned and the chairmen of four major political parties were put under custody. Martial law was imposed on the whole country, the press was monitored closely, and appointment and dismissing of civil servants became subject to the authority of the martial law officials. The military regime shut down two trade union confederations and arrested their leaders. The NSC (National Security Council) took over the authority to make legislation. All elected mayors and the members of city councils were removed from their office. The military carried out 48 executions during three years. Thousands of people were arrested and imprisoned.

Although reaction of individual states was mild to the military takeover, the European Community and the Council of Europe adopted a tougher stance as time went by. At the initial phases of the coup, the EC preferred to pursue a “wait and see” policy due to the uncertainties about the policies of the new government in Ankara although it expressed its concern about the course of events in Turkey. But a few months later the Community started to stress increasingly the importance of human rights in its dealings with Turkey. The European Parliament began to adopt a tougher posture against the military regime in Ankara to a large extent due to the initiative taken by the European socialists and liberals.

The Community started to use economic aid as a lever to force Turkey to a policy change. For instance, although it increased the amount of the aid extended to Turkey in the fourth protocol in June 1981 by 94 percent, the Community made the release of the aid conditional on the developments in domestic politics.<sup>39</sup> Observing that the new regime in Turkey continued to adopt harsh measures and there were no concrete steps taken, the Community toughened its stance and acted to isolate Turkey politically. After Turkey approved a new constitution by a referendum in November 1982 and a date for a general election was fixed as November 1983, Turkey’s relations with the Community eased somewhat. But the Community did not release Turkey the aid pledged in the fourth protocol.

On the other hand the Council of Europe reacted to the new Turkish government too. The symbolic value that the Council of Europe membership represented for the Turkish government reaffirming its being a “European state” presented an opportunity for the Council to exercise a considerable influence on the new government in Turkey. Furthermore, the Amnesty International proved to be an effective NGO in mobilizing

European institutions and public opinion. It was successful in keeping the human rights violations in Turkey on the agenda of European institutions.

Heavy European criticism over the human rights violations of the military regime made the Turkish government adopt a defensive posture and thus it felt it necessary to explain and justify its policies and actions to the European governments. Turkey's historical commitment to Westernization and its aim to integrate with Europe and its institutions and its membership in some of the European organizations increased the responsiveness of the military regime to the harsh criticism exercised by the EC and its partner states. As observed by Ihsan Dagi, "Turkey's political, ideological and institutional engagement in the Western world and the present danger of losing the gains and the accumulations of two hundred years constituted the long-term thinking that was behind the Generals' decision to return to democracy from military rule in 1983".<sup>40</sup> After three years of military regime, power passed to the Motherland Party following the general elections in November 1983.

Nevertheless, transition to civilian government in Turkey did not prevent Europe from criticizing the new government about its democratic nature and its respect for human rights. European criticism was based on the fact that the military held vetoes on the founding members of the new political parties and their parliamentary candidates and restrictions were imposed on the new political parties. Despite the return to civilian government, the EC continued to make the reactivation of relations conditional on an improvement in the Turkish human rights record. Furthermore, the military-imposed 1982 Constitution contained many illiberal, anti-democratic provisions.

During this period, the EC proved to be a significant political and economic centre in influencing the human rights policy of Özal's transitional government. Turkey's desire to normalize its relations with the EC and re-activate the association agreement increased the Community's ability to influence developments regarding human rights and democratization in Turkey. Özal was keen to improve the political relations with the Community that had suffered after 1980 coup, in order to release the blocked aid, to reactivate the Association Agreement and to increase textile exports to the Community, which suffered a drastic decrease during the 1980-1983 period.

Community and its institutions continued to level their criticism against the Turkish government during this period. Nevertheless, to the credit of Özal government, the March 1984 local elections, which were held with the participation of all present political parties and resulted in the victory of the ruling Motherland Party reinforced the legitimacy of the new government and constituted a significant step in the improvement of the Community-Turkey relations.

Keen to play a substantial role in the executive-driven structure of the EC, in the period following the 1979 direct elections the European Parliament (EP) became the most critical Community organization in terms of human rights violations and democratization process in Turkey. The EP produced frequently resolutions expressing its concern about human rights violations in Turkey and demanded their improvement. The EP became an obstacle to the reactivation of the association agreement. The Parliament took up the Kurdish issue and accused the Turkish government of launching a systematic campaign against the Kurdish citizens of Turkish origin. Apart from its increasing role in the 1979 period in the Community affairs, the reason for EP's harsh criticism against the Turkish



government was that it came under the influence of the Turkish political exiles in Europe, which had bad experiences during the 1980-1983 Military regime. In late 1985 the controversial Balfe report of the Political Affairs Committee came to the conclusion that Turkey's human rights practice was still far from "complying with the most elementary standards" and recommended continuation of suspension of the setting-up of a Turkey-Community Joint Parliamentary Committee.<sup>41</sup>

Despite the controversial nature of Turkey-Community relations during this period, there were some internal political improvements in 1986, which helped to ease the ties between both sides. The main extra-parliamentary opposition parties, the SODEP and TPP, started to be represented in the TGNA (Turkish Grand National Assembly), the ban on the public speeches of former political leaders were removed, a partial amnesty was issued resulting in the release of the detainees of the DISK and Peace Association trials, and the ratification of death sentences by the Parliament was put an end. Parallel to improvements in domestic politics, Turkish government began to restore its place in international and European institutions. It started to chair the OECD and was offered the postponed presidency of the Council of Europe. The Association Council met for the first time in September 1986 since the 1980 military takeover. The Commission released some amount of aid during 1986.

Özal government took a critical decision with considerable implications in the EC-Turkey relations and applied for membership on April 14, 1987. Many considerations played a part in Özal's initiative. It was a pragmatic move in an era when Turkey's commercial ties with the Middle East started to decline and proved to be volatile. On the other hand, Özal believed in Turkey's westernization process and that its place was in Europe and the

European institutions. Rather than being hesitant Özal was willing to discuss domestic matters with his European counterparts and gave information to the European officials as well as parliamentarians about Turkish human rights policy in his trips to Europe. Period from 1987 onwards was significant in terms of the Community's human rights policy towards Turkey as the application of the Turkish government to the EC for membership placed Turkey in the sphere of the Community's influence and made it vulnerable to external pressures stemming from the EC and its member states on the issue of human rights.

As a country, which has aspired to be an EC member, Turkey increased the pressure of the Community on itself. As stated by Dagi, "Özal himself recognized that after application for full membership in the EC, external European criticism began to increase. Therefore, when it applied for full membership in early 1987 Turkey was then liable to criticism based on the European standards."<sup>42</sup> From 1987 Turkey became more open to European criticism, which was sometimes viewed by the Turkish officials as interference in Turkish domestic affairs.

At the end of January 1987, two months before Turkey's application to join the EC, Turkish government accepted individual petition to the European Court of Human Rights (ECtHR). Two weeks after its application Turkish government took similar steps in an attempt to improve Turkey's human rights record. First, a law abolishing the long-criticized internal exile was adopted. Second, Prime Minister Özal announced on April 28, 1987 that his party would present a draft constitutional amendment to lift the ban on former political leaders. Özal's move resulted in the lifting of the provisional Article 4 of

the Constitution opening the way for former political leaders to active politics following a referendum held on September 6, 1987.<sup>43</sup>

From the application of Turkey to the EC in April 1987 onwards, Turkey has often become a discussion topic in the European Parliament. The Parliament issued a series of resolutions regarding Turkey. The agenda of the EP regarding Turkey issued around four items: the anti-democratic policies of the Turkish state, the Kurds, the Armenians and Greece and Cyprus.

The convention of the Association Council Meeting on February 25, 1988 was on the agenda. Among the topics to be discussed were democratization and human rights in Turkey, reactivation of the 4<sup>th</sup> financial protocol, lowering the customs duties, the free movement of goods and people. But the Council Meeting was not held due to the Greek government's efforts to make the Cyprus issue as one of the topics to be discussed in the Meeting and use this forum to condemn Turkey's acts against Greece. Aware of the intentions of Greece, the Turkish delegation headed by Foreign Minister Mesut Yilmaz did not attend the Meeting. In fact, after becoming member in 1981, Greece proved to be one of the most important obstacles to the improvement of Turkey's relations with the EC.

Turkish government engaged in lobbying efforts in an attempt to put back on track the relations between the Community and Turkey in the face of the Greek efforts in the opposite direction. On the other hand, Turkish government's efforts served to influence the decision of the Community in a positive manner regarding Turkey's application for membership. Turkish delegations including Prime Minister Turgut Özal, Foreign Minister

Mesut Yilmaz, and Ali Bozer visited the European capitals and the headquarters of the EC institutions during 1988 and 1989. On September 27, 1989, Özal went to Strasbourg to address the Parliamentary Assembly of the Council of Europe. The speech of Özal was important in the sense that this was the second occasion on which a Turkish Prime Minister gave a speech to the Council since the address of Bülent Ecevit on the Cyprus issue ten years ago. In his speech Özal emphasized Turkey's historical place in the European state system. He pointed to the progress made by Turkey in the field of human rights and democracy and assured that Turkish government was planning to undertake other major improvements in these issues.

The Commission completed its report on December 17, 1989 in the newly emerging international political climate, where the Community prioritized the integration of the Central and Eastern European states. Essentially, while recognizing the eligibility of Turkey for membership, the avis of the Commission viewed the membership bid of Turkey as premature and underlined that Turkey had to undertake major reforms in its democracy, political system, and economy and in social and cultural areas. As for the issue of democratization in Turkey, while the Commission acknowledged the steps taken in the field of human rights and the recognition of the identity of minorities, in its opinion these have not yet reached the level required in a democracy.<sup>44</sup>

That it took two and a half years for the Commission to prepare its report on Turkey is indicative of the Community's unwillingness of Turkey's membership bid and its effort to postpone the declaration of its negative opinion about Turkey's application. Compared with the previous Mediterranean applications this was a long period. Furthermore, it also demonstrates that the EC was facing important problems of consolidation after the

accession of three new members in 6 years` time, which needed to be absorbed given that these new members presented profound economic, political and social challenges for the Community. Considerations of the Community to create a more integrated structure in an enlarged Europe led the EC to adopt the Single European Act (SEA) in 1986, which aimed at speeding up the process of decision-making and creating a Single Market within Europe by the end of 1992.<sup>45</sup>

With the 1989 decision the Community did not give the green light to Turkey`s membership in the near future. Nevertheless, it sought not to alienate Turkey with this diplomatically worded negative decision. The new Association programme was prepared by the Commissioner Matutes and submitted to the Council of Ministers on June 6, 1990. The report pointed out that Turkey`s completion of its economic and political modernization in the near future would in fact promote the Community`s interests. But there was no reference to the membership issue. The report proposed closer integration of Turkey and the Community via the completion of the Customs Union.

The first Joint Parliamentary Committee (JPC), which had not met since the 1980 military intervention, was held on January 17-18, 1989. The issue of violations of human rights and democracy by Turkey dominated the meeting. In the absence of the Association Council meetings, the JPC of the European Parliament became the main platform, where Turkey-Community relations were discussed. Underlining the increasing salience of the JPC in Turkish-Community relations, three JPC meetings were held in 1990. While Turkey on its part sought to reactivate the Association Council and secure the release of the aid pledged in the fourth financial protocol, the European parliamentarians on their

part brought into focus the issue of democratic shortcomings in Turkish politics, human rights violations, and the Kurdish issue.

As for the consolidation of human rights and democracy in this period, despite the lack of a green light from the EC for full membership, which would certainly have served as a powerful anchor and thus contributed to the acceleration of democratic reforms, the Turkish government carried out a series of reforms. Turkey became the first Council of Europe member to ratify the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment by Turkish Parliament on February 26, 1988. The Turkish Parliament also ratified the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on April 21, 1988. On December 4, 1990, a Parliamentary Commission consisting of the representatives of all political parties was set up within the TGNA to monitor human rights violations in Turkey, to investigate allegations and complaints and to propose changes to the legislation. The Turkish Penal code and the Anti-Terrorist Law were amended through adopting Law 3713 in April 1991, whereby the Article 141, 141, and 163 of the Penal Code were lifted. As a result, communist activities did not become subject to prosecution and all pending prosecutions were suspended. With the repeal of the Article 163, religious propaganda did not constitute a criminal act any more. Another significant progress concerned the cultural rights. The law prohibiting publications issued in languages other than Turkish (Law No. 2932) was lifted.

The closure of the 1980s marked significant changes in domestic as well as international politics with considerable implications on the EU-Turkey relations and reform process. The first development in domestic politics is the end of the Özal era, during which Prime

Minister Özal of ANAP managed to come to power as a single-party government in two consecutive elections. Of pragmatic character, Özal liked to govern the state through “decrees of law-nature” bypassing the Parliament. This considerably executive-driven government style of Özal enabled him to open up in many issues and pass reform bills easily in the delicate issues such as the abolishment of the publication ban on languages other than Kurdish. When Özal became President in 1989, he started to lose the control of his party gradually, although Özal as President viewed his new post as giving him broad authorities. The new elections heralded the start of the era of multi-party coalitions, which were to dominate Turkish politics more than a decade till the November 3, 2002 elections, which was to bring the Justice and Development Party (AKP) to power as a single-party government. During this period it became considerably harder for the governments to adopt democratizing reforms due to the difficulty of winning the support of many parties, sometimes outside the government.

Another incident, which narrowed the parameters of the government in democratization process, in particular in the first half of the 1990s, was that as the PKK insurgency gained ascendancy, the Turkish government needed to mobilize substantial part of the Turkish Army into the Southeast of the country. The Turkish Army sometimes had to enter the Iraqi soil in hot-pursuit of the PKK groups. Turkish government’s insistence on harshly suppressing the PKK insurgents sparked off the heavy criticism of the European circles, in particular the European Parliament, largely influenced by the Kurdish groups in Europe.

On the other hand, international developments did not create a climate in favor of Turkey. 1989-1990 incidents, which ended the bipolar world, led to the questioning of Turkey’s

strategic value for Western Europe as well as its place in the European alliance, as Turkey's relationship with Western Europe had been founded on the circumstances of the Cold War period. Moreover, the demise of the Soviet Union led to the emergence of newly-independent states in the East of the Western Europe and provided the West to diffuse a model based on Western democracy and free market economy in the newly emerging post-Soviet states. In this new political setting, the EU prioritized the integration of these new states into the core Europe. Furthermore, the EU started to emphasize human rights and democracy to an increasing extent in its foreign relations. The 1992 Maastricht Treaty (TEU) made human rights and democracy one of the fundamental principles of the EU. Furthermore, the TEU increased the EP authority in the decision-making mechanism of the EU introducing "the assent procedure" in important decisions. All these developments helped to bring the human rights and democracy aspect of Turkey-EU relations into sharp focus. In turn, the 1990s witnessed widening of the gap in the Turkish-EU relations.

With no prospect of becoming full EU member in the near future, the Turkish governments gave weight to the completion of the Customs Union in 1995. From the perspective of the Turkish governments the Customs Union compensated the rejection of Turkey's full membership to the EU. In their eyes, it was the "final step to membership" in the EU that would have to be approached in accordance with the provisions of article 28 of the 1963 Association Agreement.<sup>46</sup> Although the Turkish politicians attached enormous value to the Customs Union with the EU, its realization did not take place easily.



It was the EP, which posed the most formidable hindrance to its realization. As on the previous occasions, in the run-up to the Customs Union, the EP became the heaviest critic of human rights violations, demanded a non-violent solution to the Kurdish issue in Turkey. Given that Turkey had to engage in wide scale military operations in the Southeast and step up measures against terrorism, the EP's accusations against Turkey and thus its resistance to approve the Customs Union grew. The closure of DEP and sentence of the Party's deputies including Leyla Zana, and other 6 MPs in December 1998 complicated the situation. Finally, because of the pressure of the EU member states, the US administration on the EP members, their resistance was broken and the Customs Union Agreement was signed on March 6, 1995 coming to force on January 1, 1996.<sup>47</sup> Rise of Islamic politics in Turkey with explicit anti-Western rhetoric played a role in mitigating the EP's posture towards Turkey. RP opposed the EU and planned to establish Islamic equivalent of the EU with other Islamic countries. Turkey's integration with rather than exclusion from the EU became a more plausible option for the EP members. Moreover, maintaining Turkey in the European sphere of influence via conclusion of the Customs Union would continue giving them a lever to put pressure on Turkey and bring about policy changes, in particular in the field of human rights and democracy.

Despite the above explained domestic and external constraints during this period, the Turkish governments have taken a number of steps in the direction of democracy. The Turkish Code of Criminal Procedure was partially amended. With these changes a number of offences, which were previously within the jurisdiction of the State Security Courts, were removed from its scope. The Turkish Parliament ratified the UN Convention regarding the children rights on December 9, 1994 with a reservation on the religious and ethnic groups. Amendment of 22 articles removed some of the restrictions on civil

liberties in the 1982 Constitution in late 1995. These constitutional amendments removed honorable mention of the 1980 military coup from the Constitution preamble and allowed trade unions, associations, foundations and cooperatives and public professional organizations to engage in politics and form links with political parties. Article 8 of the Anti-Terrorist Law was amended on October 27, 1995. The amended version of Article 8 narrowed the scope of terrorist propaganda and introduced the concept of intent “to disrupt the unity of Turkey” in written and oral propaganda. Prison sentences for terrorist propaganda were reduced to the range between one and three years. Possibility of converting punishments to fines was brought. On April 9, 1997, the High Coordinating Committee on Human Rights was established with the task of coordinating and monitoring the implementation of measures aimed at improving human rights situation. The March 1997 amendments changed the Criminal Procedure Code, which shortened the maximum period of detention for people detained for offences within the scope of the State Security Courts from 30 days to 10 days in provinces under state of emergency. Detention period in the rest of the country was reduced from 14 days to seven days.

On the part of the European governments, the Customs Union was a good way of satisfying the Turkish government’s demands for further integration with the EU. The EU did not wish to move forward to the full membership. While the Customs Union was a compromise solution for them to keep Turkey not away from the Union, the general mood in the European capitals was against the full integration with Turkey. Christian Democrat politicians started to talk about the EU as a “civilizational project” entailing Christian countries. These considerations were reflected in the Luxembourg Summit decision held in December 1997.

Luxembourg Summit held in December 1997 seemed to represent a breakthrough in Turkey's relations with the EU, as it excluded Turkey from the list of 11 countries with whom the EU envisaged to open negotiations with a view to eventual full membership. This decision of the European Council generated a deep sense of disillusionment and resentment among the Turkish elite as well as the public. From the perspective of Turkey, the EU's decision was unjust and constituted another double standard, for it excluded Turkey, while letting the newly liberated Eastern European countries to join the Club. In the view of the EU, the matter was settled, as on the part of many Europeans, in particular the Christian democrats, the EU was a "civilizational project" and Turkey had no place in this project with a predominantly Muslim population. During this period notwithstanding the importance of other factors, Turkey's identity as "other" on the part of the Europeans seemed to be the most critical issue determining the EU's stance towards Turkey.<sup>48</sup> The way Europe handled Turkey in this period accentuated the belief among the Turkish elites that the EU is a "Christian club".<sup>49</sup> Indeed, those, who had reservations about Turkey's membership, were not only Christian Democrats. Greens and the socialists too were critical about a Turkey violating human rights and whose democracy had serious deficiencies. But they rejected the idea that Turkey had to be excluded from the integration process on the basis of religion. Europe's refusal of committing itself to full membership was likely to undermine promotion of democracy and human rights in Turkey. On the other hand, Europe's unfair treatment of Turkey, which represents a major bridgehead for western influence in the Islamic world, would deprive the EU of this possibility.<sup>50</sup>

Ironically, in two years time things have changed in a drastic manner. While the Luxembourg Summit in December 1997 was a low point in Turkey-EU relations, the

Helsinki Summit in December 1999 was a u-turn from the European Council decision two years ago. From Luxembourg to Helsinki, the change in EU's foreign policy behavior regarding Turkey's candidacy was paradoxal and ambiguous. While this sharp policy change of the EU reflected its complex structure and interplay of many actors in the EU's decision-making procedure, a number of reasons account for the EU to reverse its decision from exclusion to inclusion of Turkey in the European integration process.<sup>51</sup>

The cost of isolated and angry Turkey for the EU, danger of Turkey's leaning towards authoritarianism and Islamism, increasing weight of the Social Democrat politicians in European politics, the intermediary role and influence of the Turkish immigrants on European political parties, in particular in Germany, change in Greek policy towards Turkey, the psychological atmosphere created by the 1999 earthquake in Turkey, lobbying efforts of NGOs in the EU, in particular TUSIAD, and last but not least the efforts of the US government to keep Turkey in Europe have all contributed to the EU's granting to Turkey an official candidate status at the Helsinki Summit in December 1999.

Helsinki Summit decision was a paradigmatic change in Turkey-EU relations. Its implications in Turkey's democratization process have been immense. From 1999 to 2002, a coalition government consisting of ANAP, MHP and DSP was in power. Although the government was intent on undertaking major democratization reforms, the reservations of the nationalist MHP, the Army and foreign policy bureaucracy have helped to delay democratization process. They objected to certain aspects of EU democratization reforms on the grounds that these might jeopardize the unity of Turkey. Nevertheless, the Coalition government made significant amendments to the Constitution and the legislation on the civil liberties and rights till it was replaced by the AKP

government following the November 2002 Elections. The end of the violent conflict in the Southeast, the severe impact of the 2000 and 2001 financial crises on Turkish economy and society has facilitated the adoption of democratic reforms by the Coalition government. Notwithstanding the interplay of these factors in Turkey's reform process, the most underlying reason for the drastic reform process was the EU's commitment to Turkey's EU membership. Although attached with many conditions, the EU's granting Turkey an official candidate status enhanced its anchor capacity empowering the pro-EU circles in the country and encouraged the democratic reforms.

The EU offered an Accession Partnership Document (APD) to Turkey in November 2000. The political requirements in the APD emphasized democratization, human rights and a non-violent solution of the Kurdish issue. Although it was not an explicit part of the Copenhagen political criteria, the lack of institutional preparedness of the Turkish state was a "minefield" between the liberal values of Europe and centralist tradition of Turkey.<sup>52</sup> The Turkish government prepared a "National Programme for the adoption of the *acquis*" (NPAA) on March 19, 2001. From this period to the end of their term in November 2002, the Coalition government delivered a substantial part of the items pledged in the National Programme. In December 2002, the EU announced that Turkey's advance towards meeting conditions for membership would be reviewed and that a road map for membership negotiations would be set out by December 2004. Even though December 2002 decision was far from meeting Turkey's expectation for a fixed negotiation date, it clarified the EU's posture and arguably put Turkish-EU relations on an "irrevocable path".<sup>53</sup> The EU announced a revised AP for Turkey in 2003 and increased the financial contribution to help Turkey to adopt the reforms.

Coming to power of a single-party reformist government in the aftermath of the November 2002 Elections has accelerated the reform process. Moderated as a result of the February 28 process, the Islamist-turned conservative AKP made the EU membership its top priority. AKP officials drew their lessons from the experience of the 28 process and were aware that cooperation with and integration to the system was the most suitable way for them to survive. They preferred to act within the framework of the firmly rooted secular system and purposefully distanced themselves from the Islamist label. Ironically, although the founding fathers of their original movement adopted an open anti-Western rhetoric, the AKP placed the EU democratizing reforms in the centre of their policies. The EU represented for them more freedom and rights, of which they were denied within the parameters of domestic politics. They continued with the reform process, which they took over from the preceding Coalition government and made landmark changes to the legislation and the Constitution.

Starting with the DSP-MHP-ANAP coalition government and later during the term of the AKP government, a number of path-breaking constitutional and legislative changes have been adopted between 2001 and 2005 in line with the priorities in the Accession Partnership Document. Two major constitutional reforms in 2001 and 2004 have been adopted by the Parliament and there have been eight legislative packages, the so-called “harmonization laws” between February 2002 and July 2004. New codes have been made, including a Civil Code and a Penal Code. Many other laws, regulations, decrees and circulars outlining the implementation of these reforms were produced.

These political reforms basically aimed at changing, amending or abolishing the remnants of the 1982 Constitution and other ordinary laws, which were the product of the military

intervention of 12 September 1980. Constitutional and other legislative changes adopted by the military regime restructured Turkish democracy in a radical manner. The primary motive of the 1982 Constitution was to restore the authority of the state and to maintain public order, and to prevent the recurrence of the crises in Turkish politics in the late 1970s rather than to protect the rights and liberties of its citizens.

Although there were significant amendments to the 1982 Constitution in 1987, 1993, 1995 twice in 1999, those adopted in accordance with the Accession Partnership in 2001, 2002 and 2004 were more significant given their scope and substance. Of all eight constitutional amendments, with the exception of the 1995 amendment, which involved 15 articles, the most radical and comprehensive one was that of 2001 which changed 34 articles and the most recent amendments adopted on May 7, 2004, which amended 10 articles.

While passing new legislation is an important step, it is easier when compared to applying them. It was observed by the EU that some of the legislative reforms adopted by the accession countries were ignored in their implementation. As the European Commission recognized this fact, it has come to pay greater attention to the implementation of the democratization and human rights reforms in the accession countries. The European Commission has in its regular report in 2004 on Turkey stated, “Important progress was made in the implementation of political reforms, but these need to be further consolidated and broadened.”<sup>54</sup>

In sum, Turkey has taken major steps in the direction of turning into a substantive democracy granting extensive rights to its citizens and reinforcing civil society. But

internalization of reforms by the executive and judicial authorities throughout the country and habitualization of the democratic reforms by the citizens will take some time.

When compared with the Mediterranean enlargement and the enlargement towards the CEEC, the enlargement strategy of the EU towards Turkey exhibited significant peculiarities. The underlying reason for the EU's different approach to Turkey relates to its lack of commitment to Turkey's aspiration to be full EU member for a variety of factors. The EU's drive for full integration with the CEEC was motivated by a series of factors including security, identity, historical responsibility, economy, democratization. None of these factors were strong enough in the case of Turkey to prompt the EU to give a green light for a full integration with it.

First of all, the emergence of the new states in the Eastern Europe posed security challenges for the core Europe. Accession of these countries, after meeting certain firm criteria, was a convenient way of dealing with these security threats. Geographical proximity of the Eastern Europe to the EU enhanced the importance of the EU's security considerations in the region. The CEEC bordered the EU member states. In other words, the security threats stemmed from the EU's immediate neighborhood. In terms of security, Turkey exhibits quite different characteristics. While the EU acknowledged Turkey's importance in terms of the security of the Middle East, Eastern Mediterranean, and the Caucasus, its place was still peripheral compared to the CEEC, which was located in the backyard of Europe. Put it differently, being a far away country security challenges posed by Turkey's neighborhood did not constitute a central place in the EU's security considerations. Turkey's peripheral status had been underlined by the end of the Cold War, as it no longer played a role of bulwark against the Soviet Union.



Secondly, democratization drive determined the EU's enlargement strategy towards the CEEC. Behind the EU's democratization drive of the EU was European idealism. The best way of achieving democratization of the CEEC was to set strict conditions for membership for the CEEC. Once committed to their membership, the EU backed its democratization policy with the relevant financial, technical and other means of support. Democratization of the CEEC would also help eliminate the security threats to the EU. When it comes to Turkey, although the EU was genuine in its intention in the democratization of Turkey, Turkey represented a partner, with which "a special relationship" had to be established rather than a "candidate to the EU". This stance of the EU towards Turkey has complicated its democratization efforts there. Lack of commitment by the EU to Turkey's candidacy deprived it of playing an effective anchor role. As the EU viewed Turkey's relations as a case apart, integration of Turkey was not accompanied with the sufficient financial instruments either.

Thirdly, in the post-Cold War period the EU started to emphasize a common European identity with a view to form a coherent Union, which would reach more than 25 members in early 21 century. The existence of so many countries increased diversification of the Union. Among the common elements of a more integrated Union were history and religious identity. All of the CEEC shared with the EU countries a common European history and the same religion, Christianity. The EU countries' definition of the European values as history, geography, and religion helped to exclude Turkey. This reflected the attitude of many European politicians, in particular Christian democrats during the 1990s. When applied to Turkey, with its predominantly Muslim population, Turkey did not fit at all into this common European definition. Although European history cannot be written

and read without Turkey, in the history of Europe Turkey was the “other”, against which Europe defined itself.

Another motive shaping the EU’s enlargement strategy towards the CEEC has been economic considerations. An enlarged European economy would enhance the EU’s competitive capacity in global economy in the long run. Geographical proximity facilitated the economic integration of the CEEC with Europe. As for Turkey, the EU had already reached the ultimate phase of economic integration with Turkey via the Customs Union, which is a more advanced form of economic relationship than a free-trade area. This was the most developed form of integration of the EU with a non-member country short of full membership. For many Europeans this was the last step in the relations between Turkey and the EU. With the Customs Union the EU already enjoyed the benefits of economic integration with Turkey. This was not a reason enough for the Europeans to push the relationship forward, which would pave the way for full membership.

Moreover, credibility of any European attempt to influence the process of democratization in Turkey was undermined to a significant extent by a series of factors, which was not the case in the democratization of the CEEC.<sup>55</sup> First of all, links between the Turkish parties and their European counterparts were considerably weak as the bonds of common interest between them were not compatible. Turkish parties have been a product of center-periphery cleavage, rather than a representation of different socio-economic groups, although they recently started to resemble to their European counterparts as a result of industrialization and liberalization. Secondly, Europe’s sympathetic attitude to groups, which Turkish state described terrorists, was another

impediment to Europe's influence to democratization process in Turkey. Thirdly, the historical prejudice of the Europeans about Turkey and the Turks persisted and affected negatively their approach to and relations with Turkey.

Given all the above factors Turkey found it difficult to undertake democratic reforms compared to the CEEC. When it carried out reforms in the pre-Helsinki period in 1999, these were in incremental manner. It was after the Helsinki decision in 1999 that reforms gained pace. When a single party government came to power after November 2002 elections, reform process has further accelerated.

With a view to integrate the CEEC to the core Europe, the EU applied a strict "democratic conditionality" to prevent their internal problems becoming a burden on the EU. From the outset on, it was a requirement to be democratic and respect human rights so as to be a member of the Community. But the EU's democratic conditionality was stricter in the post-Cold war enlargement of the Central and Eastern European countries (CEECs) compared to the previous enlargements, such as the enlargement of the EC to the South covering Greece, Spain and Portugal.

The EU committed itself to the enlargement towards the CEECs from the beginning on. They were provided necessary financial, technical instruments and programs from the 1990s on to consolidate their democracies and economies. Following their declaration as official candidates in Luxembourg Summit in 1997, they were presented with a pre-accession strategy providing them with a number of economic and technical instruments. So, the EU's full commitment to their integration helped to promote their democratization and human rights substantially.

When it comes to Turkey, as the EU dragged its feet with respect to the membership of Turkey to the EU, this retarded democratization and improvement of human rights in the country. In other words, although the EU applied “democratic conditionality” to Turkey, “democracy promotion of the EU” lacked an open commitment for Turkey’s possible membership. Therefore, although Turkey applied for membership to the EC in 1987, almost at the same time as the CEECs emerged as independent states, the CEECs progressed more quickly in the area of democracy and human rights since then. Even though Turkey has taken a number of steps since the end of the military regime in 1983, democratization was relatively slow and piecemeal. As observed by Andersen, “The result has been stutter-step progress on human rights in Turkey, driven substantially by internal dynamics rather than external pressure imposed on Turkey.”<sup>56</sup> Till the Helsinki Summit in 1999, the EU’s role to influence democratization and human rights policies in Turkey remained limited.

While the CEECs were offered a pre-accession strategy as they were declared “official candidates” in 1997 Luxembourg Summit, Turkey was proposed a “European Strategy”, which does not contain a candidate status neither relevant financial and technical instruments. In contrast, the CEE states have benefited from the “accession carrot” in form of extensive financial and economic support since 1994.<sup>57</sup>

When things have changed in two years time at the Helsinki Summit in 1999, Turkey was declared “an official candidate”. This was a breakthrough in terms of democratization of Turkey, for above all, the EU firmly and officially committed itself to the membership of Turkey. The new status of Turkey comprised a pre-accession strategy like other previous

CEE candidates. Nevertheless, “accession carrot,” granted to Turkey was less than that provided to the CEECs. The amount of annual ECU 177 million in financial assistance offered by the Commission’s proposal in the framework of Accession Partnership was far less than that made available to the CEE countries. Although a revised Accession Partnership adopted by the Council in May 2003 foresaw increasing annual financial assistance available to Turkey from 2004 and doubling it by 2006, the financial assistance was still incomparable to that made to the CEEC.

Furthermore, although Brussels granted Turkey candidate status at the Helsinki Summit in 1999 and this was turning point in terms of Turkey’s commitment to democratization reforms, the EU applied the criteria for membership to Turkey more strictly than to the other applicants by making Turkey’s accession conditional on its fulfilling the Copenhagen criteria. In contrast, the EU was more tolerant and constructive towards other applicants in their meeting the Copenhagen criteria.<sup>58</sup> The EU’s strategy towards Turkey was far from being helpful for the consolidation of democracy in Turkey. Nevertheless, the EU’s coupling of “democratic conditionality” with “a firm commitment of full membership” has helped to accelerate the democratization reforms in Turkey in a drastic manner. In fact, Turkey has taken revolutionary steps in the post-Helsinki period in the direction of democratization.

Ugur explains with anchor-credibility dilemma the EU’s failure to bring about policy changes in Turkey in the field of human rights and democracy till the Helsinki breakthrough.<sup>59</sup> The EU was not prepared to undertake the risk associated with Turkey’s accession due to the history of the latter’s non-credible commitment to policy reform. While the EU criticized harshly the human rights violations in Turkey, it refrained from

playing an anchor role and did not commit itself to supporting the reform process through financial and other EU instruments. In turn, the low-profile anchoring role of the EU led policy reversals in the field of human rights in Turkey and was far from inducing the Turkish governments to take major steps in this area.

As a result, it can be put forward that democratic conditionality alone is not enough to democratize an applicant if it is not accompanied with “a firm commitment of the EU to full membership of the applicant” and relevant financial and technical instruments. Turkey’s comparison with the CEEC in the EU integration process confirms this suggestion quite well.

## NOTES

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<sup>1</sup> Philip Alston and J.H.H. Weiler, "An Ever Closer Union in Need of Human Rights Policy: The European Union and Human Rights", in Philip Alston, Mario Bustelo and James Heenan (eds.), *The EU and Human Rights*, (Oxford: Oxford University Press, 1999), p. 9.

<sup>2</sup> Laurence Whitehead, "Democracy and Decolonization: East-Central Europe", in Laurence Whitehead (ed.), *The International Dimensions of Democratization*, (Oxford, New York: Oxford University Press, 1996) p. 382.

<sup>3</sup> Philip Alston and J.H.H. Weiler, "An Ever Closer Union in Need of Human Rights Policy: The European Union and Human Rights" ..., p. 9.

<sup>4</sup> *Ibid.*, pp. 234-235.

<sup>5</sup> Harun Arikian, *An Awkward Candidate for EU Membership?*, (Aldershot, Burlington: Ashgate, 2003) p. 22.

<sup>6</sup> Laurence Whitehead, "Democracy by Convergence: Southern Europe", in Laurence Whitehead (ed.), *The International Dimensions of Democratization*, (Oxford, New York: Oxford University Press, 1996), p. 261.

<sup>7</sup> *Ibid.*, p. 281.

<sup>8</sup> The European Commission stated in its opinion on Greek application for membership that there were significant difficulties in the Greek economy and that Greek democracy contained shortcomings and that it welcomed Greek application, among others, because of these deficiencies to sustain its development. With respect to the state of the economy in Greece, it is stated on page 8 that, "The Greek economy at its present stage of development contains a number of structural features which limits its ability to combine homogeneously with the economies of the present Member States. In particular, the relative size of the agricultural population, the structure of Greece's agricultural industry, and its relatively weak industrial base call for structural changes for which the Community will have to bear a share of the cost." As for the link between the Commission's favorable opinion on the Greek application and its level of democracy, the Commission's opinion states on page 9 that, "It is clear that the consolidation of Greece's democracy which is a fundamental concern not only of the Greek people but also of the Community and its Member States, is intimately related to the evolution of Greece's relationship with the Community. It is in the light of these considerations that the Commission recommends that a clear affirmative reply be given to the Greek request and that negotiations for Greek accession be opened." (Commission's Opinion on Greek Application for Membership, Bulletin of the European Communities, Supplement 2/76, 29 January 1976, COM (76) 30 final)

<sup>9</sup> Basilios Tsingos, "Underwriting Democracy: The European Community and Greece", in Laurence Whitehead (ed.), *The International Dimensions of Democratization*, (Oxford, New York: Oxford University Press, 1996), p. 317.

<sup>10</sup> *Ibid.*, p. 319.

<sup>11</sup> *Ibid.*, p. 332.

<sup>12</sup> Mathieu Trouve, "L'Espagne et l'Europe (1957-1986): La problematique des relations hispano-communautaires", Paper presented at Young Researchers' Colloque, University of Sorbonne, Paris, 31 March-1 April 2005, p. 1.

<sup>13</sup> Charles Powell, "International Aspects of Democratization: The Case of Spain", in Laurence Whitehead (ed.), *The International Dimensions of Democratization: Europe and the Americas*, (Oxford, New York: Oxford University Press, 1996), p. 287.

<sup>14</sup> *Ibid.*, pp. 296-297.

<sup>15</sup> *Ibid.*, p. 300.

<sup>16</sup> Geoffrey Pridham, "The International Context of Democratic Consolidation: Southern Europe in Comparative Perspective", in Richard Gunther, P. Nikiforos Diamandouros and Hans-Jürgen Puhle (eds.), *The Politics of Democratic Consolidation: Southern Europe in Comparative Perspective*, (Baltimore and London: The Johns Hopkins University Press, 1995), p. 178

<sup>17</sup> "The Community cannot leave Portugal out of the process of European integration. The resulting disappointment would be politically very grave and the source of serious difficulties. The accession of Portugal, which set its face firmly towards Europe almost as soon as its democracy was restored, can only strengthen the European ideal." (Commission's Opinion on Portuguese Application for Membership, Bulletin of the European Communities, Supplement 5/1978, May 1978, p. 7.)

<sup>18</sup> *Ibid.*, p. 173.

<sup>19</sup> Heather Grabbe, "European Union Conditionality and the Acquis Communautaire", *International Political Science Review*, (2002), Vol. 23, No. 3, p. 256.

- <sup>20</sup> Ulrich Sedelmeier and Helen Wallace, "Eastern Enlargement: Strategy or Second Thoughts?" in Helen Wallace and William Wallace (eds.), *Policy-Making in the European Union*, (Oxford: Oxford University Press, 2000), p. 435.
- <sup>21</sup> Heinz Kramer, "The European Community's Response to the "New Eastern Europe", *Journal of Common Market Studies*, Vol. 31, No. 2, (July 1993), p. 221.
- <sup>22</sup> Harun Arikian, *Turkey and the EU: An Awkward Candidate for EU Membership?*, pp. 18-27.
- <sup>23</sup> Geoffrey Pridham, "The European Union, Democratic Conditionality and Transnational Party Linkages: The Case of Eastern Europe", in Jean Grugel (ed.), *Democracy Without Borders: Transnationalization and Conditionality in New Democracies*, (London and New York: Routledge, 1999), p. 65.
- <sup>24</sup> Ulrich Sedelmeier and Helen Wallace, "Eastern Enlargement: Strategy or Second Thoughts?", pp. 436-438.
- <sup>25</sup> Geoffrey Pridham, "The European Union, Democratic Conditionality...", (1999), p. 67.
- <sup>26</sup> *Ibid.*, pp. 69-73.
- <sup>27</sup> See Chapter 3.1 for a discussion of the Copenhagen criteria.
- <sup>28</sup> See European Commission, "Agenda 2000: For a Stronger and Wider Union", *EU Bulletin, Supplement 5/97*.
- <sup>29</sup> Karen E. Smith, "Western Actors and the Promotion of Democracy", in Jan Zielonka and Alex Pravda (eds.), *Democratic Consolidation in Eastern Europe*, (Oxford: Oxford University Press, 2001), p. 45.
- <sup>30</sup> Heather Grabbe, "European Union Conditionality...", p. 256.
- <sup>31</sup> Karen E. Smith, "Western Actors and...", p. 34.
- <sup>32</sup> *Ibid.*
- <sup>33</sup> *Ibid.*, p. 53.
- <sup>34</sup> Laurence Whitehead, "East-Central Europe in Comparative Perspective", in Geoffrey Pridham, Eric Herring, and George Sanford (eds.), *Building Democracy? The International Dimension of Democratization in Eastern Europe* (London: Leicester University Press, 1994), p. 52.
- <sup>35</sup> Karen E. Smith, "Western Actors and...", p. 54.
- <sup>36</sup> For the views of the people in the CEEC about the EU in early 1990s, see: Richard Rose and Christian Haerpfer, "Democracy and Enlarging the European Union Eastwards", *Journal of Common Market Studies*, Vol. 33, No. 3, (September 1995), pp. 427-450.
- <sup>37</sup> Antoneta Dimitrova, "The Role of the EU in the Process of Democratic Transition and Consolidation in Central and Eastern Europe", Paper presented at the Third ECSA-World Conference, Brussels, 19-20 September 1996, p. 11.
- <sup>38</sup> For discussions regarding Turkey's association with the Community, see: Mehmet Ali Birand, *Türkiye'nin Avrupa Macerası (Turkey's European Adventure)*, (Istanbul: Dogan Kitap, 2001), pp. 101-133.
- <sup>39</sup> Ihsan Dagi, "Democratic Transition in Turkey: 1980-1983: The Impact of European Diplomacy," *Middle Eastern Studies*, Vol. 32, No. 2, (April 1996), p. 5.
- <sup>40</sup> *Ibid.*, p. 11.
- <sup>41</sup> Ihsan Dagi, "Human Rights, Democratization and the European Community in Turkish Politics: The Ozal Years, 1983-1987", *Middle Eastern Studies*, Vol. 37, No. 1, (January 2001), p. 4.
- <sup>42</sup> *Ibid.*, p. 11.
- <sup>43</sup> *Ibid.*, p. 13.
- <sup>44</sup> "Commission Opinion on Turkey's Request for Accession to the Community", (Brussels: Commission of the European Communities, December 1989).
- <sup>45</sup> Atila Eralp, "Turkey and the European Community in the changing post-war international system", in Canan Balkir and Allan M. Williams (eds.), *Turkey and Europe*, (London and New York: Pinter, 1993), pp.36-37.
- <sup>46</sup> Heinz Kramer, *A Changing Turkey: The Challenge to Europe and the United States*, (Washington: The Brookings Institution, 2000), p. 191.
- <sup>47</sup> The lobbying by Turkey was so intense that it led to the EP deputies complaining of the pressures to ratify the agreement. For instance, Claudia Roth, the chairwoman of the Greens in the EP, expressed that the EP "faced pressures from all directions" to approve the Customs Union agreement. She went on saying, "We have been facing pressures from NATO, from the United States and from all governments of the European Union and even from Socialist Party leaders... For the first time in my life, the US representative to the EU held a meeting with me to discuss the issue.", quoted from *Turkish Daily News*, 1 December 1995.
- <sup>48</sup> For discussions regarding Turkey's identity and the EU, see: Meltem Müftüler-Bac, "Through the Looking Glass: Turkey in Europe", *Turkish Studies*, Vol. 1, No. 1, (Spring 2000).
- <sup>49</sup> For survey results conducted among the Turkish elites' perceptions about the EU-Turkey relations in the wake of the Luxembourg Summit in 1997, see: Lauren McLaren, "Turkey's Eventual Membership of the



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EU. Turkish Elite Perspectives on the Issue”, *Journal of Common Market Studies*, Vol. 38, No. 1, (March 2000), p. 127.

<sup>50</sup> Carl Cavanagh Hodge, “Turkey and the Pale Light of European Democracy”, *Mediterranean Politics*, Vol. 4, No. 3, (Autumn 1999), p.62.

<sup>51</sup> For a discussion of these factors see: Heinz Kramer, *A Changing Turkey: The Challenge to Europe and the United States*, (Washington: The Brookings Institution, 2000), p. 194.

<sup>52</sup> Ozay Mehmet, “Turkey and the European Union: A Troubled Relationship or a Historic Partnership?”, in Tareq Y. Ismael and Mustafa Aydin, (eds.), *Turkey’s Foreign Policy in the 21<sup>st</sup> Century: A Changing Role in World Politics*, (Aldershot: Ashgate, 2003), p. 48.

<sup>53</sup> Katerina Dalacoura, *Engagement or Coercion?: Weighing Western Human Rights Policies towards Turkey, Iran and Egypt*, ( London: RIIA, 2003), p. 23.

<sup>54</sup> European Commission (2004), Regular Report on Turkey’s Progress towards Accession, COM (2004) 656 final, Brussels, p.167.

<sup>55</sup> Ali Karaosmanoglu, “The International Context of Democratic Transition in Turkey”, *Encouraging Democracy: The International Context of Regime Transition in Europe*, (Leicester, London: Leicester University Press, 1991), pp. 168-169.

<sup>56</sup> Elizabeth Andersen, “The Impact of Foreign Relations on Human Rights in Turkey”, in Lenore G. Martin, Dimitris Keridis, (eds.), *The Future of Turkish Foreign Policy*, (Cambridge: The MIT Press, 2004), p. 315.

<sup>57</sup> Harun Arikan, *Turkey and the EU: An Awkward Candidate for EU Membership?*, p. 30.

<sup>58</sup> Compare the EP resolutions and EC Progress reports on the candidates with respect to the issue of democratization and minorities. See for instance, the mild language used by the EP with respect to Slovakia in the face of the authoritarian tendencies in this country in European Parliament Resolution in 1995, “Resolution on the Need to Respect Human and Democratic Rights in the Slovak Republic”, Official Journal of the European Communities, No. C 323/116, Brussels.

<sup>59</sup> Mehmet Ugur, *The European Union and Turkey: An Anchor/Credibility Dilemma*, (Aldershot: Ashgate, 1999), pp. 199-238.

## **CHAPTER V**

### **TURKISH DEMOCRACY'S SHORTCOMINGS AND DEFICIENCIES WITHIN THE FRAMEWORK OF THE COPENHAGEN POLITICAL CRITERIA**

In this chapter it is shown how Turkish democracy diverged from the European and international standards within the framework of the Copenhagen criteria. First, the Copenhagen political criteria, the accession partnership document, the national programme and its shortcomings are elaborated on. Then, Turkish democracy's deficiencies within the framework of the Copenhagen political criteria are addressed. Attention is paid to address the issues immediately before and some time after the Helsinki Summit in 1999. In fact, although the Helsinki Summit in 1999 was a breakthrough in terms of Turkey's democratization, the reforms did not follow immediately after the Summit. A certain preparation period was necessary. The EU Council of Ministers approved the Accession Partnership on March 8, 2001. Till that time, steps taken by the Turkish government were minimal. It was in the second half of 2001 that the democratic reforms started to be carried out by the Turkish government. Therefore, in some instances the deficiencies in Turkish democracy were examined in this section till the end of 2001 and the start of 2002.

#### **5.1. Copenhagen Political Criteria**

When a number of Central and Eastern European states applied for the membership of the EU following their independence, the European Council in Copenhagen in 1993 set out the Copenhagen criteria, which included the conditions, applicant countries would need to satisfy in order to join the EU. Above all, to be considered as a candidate, it is necessary that the potential candidate for the EU membership should be as laid down by the Article 237 of the

Treaty of Rome a “European State”. In fact, “Europeanness” is a highly controversial concept, as there is no unequivocal interpretation of this criterion. “Europeanness” can be taken from a geographical, cultural or political perspective. When it applies to Turkey, its definition in terms of political values and commitments, rather than the emphasis made on religious and cultural identity is more appropriate, as defining it through religious and cultural lines might put Turkey’s Europeanness into question as suggested by Aybet and Muftuler-Bac too.<sup>1</sup>

The European Council in Copenhagen in 1993 laid down a set of economic and political requirements, which need to be met by the applicant countries before the accession. The political conditions for membership require that “the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and presupposes the candidate's ability to take on the obligations of membership the so-called *acquis communautaire* including adherence to the aims of political, economic and monetary union.” The last condition regarding the candidate’s ability to undertake its obligations is a reflection of anxieties among member states about the impact and difficulties of the enlargement.<sup>2</sup> In addition to these political conditions, it also set conditions of economic nature such as “the existence of a functioning economy, as well as the capacity to cope with competitive pressure and market forces within the Union”. Moreover, “the EU’s capacity to integrate new members” was also stated as an important factor in considering an applicant for membership not to slow down the momentum of European integration.<sup>3</sup>

Although not stated explicitly in the Copenhagen political criteria, the EU also stresses the resolution of bilateral issues involving border and minority questions between the acceding

members, as well as between the acceding states and existing member states, which might undermine the EU's cohesion and the development of the CFSP. Therefore, for instance the EU expects that Turkey and Greece resolve their bilateral issues in the accession process before Turkey becomes a full member.

The European Commission has elaborated on these political conditions in its *avis* of 1997 and from 1998 in the annual regular reports on candidate countries. The political conditions have also been linked with EU programmes of financial assistance, the accession partnerships and the whole pre-accession strategy. The pre-accession strategy is designed to help and guide the candidates in fulfilling the Copenhagen criteria before the accession negotiations open. It was further strengthened through the Accession Partnership Document (APD), which set out short and medium term priorities accorded to each individual state.

Critics argued that all three conditions are very broad and open to considerable interpretation; elaboration of what constitutes satisfying them has progressively broadened the criteria for membership, making the EU "moving target" for the candidates. The conditions are not fixed and definite, and new criteria have been included and old ones redefined at the summits of EU politicians. Furthermore, in contrast to the steady demands by the arbiter, the EU, from the candidates regarding the criteria, the benefits of membership do not come in stages, but only at the final phase.<sup>4</sup>

An important issue about the Copenhagen political criteria relates to their implementation. Once the applicants have made the legislative changes, the Commission has come to

emphasize the implementation of these reforms in its regular reports. Some political conditions may be fulfilled relatively easily, such as holding elections. But making merely institutional or legislative changes are not sufficient to accomplish some other political conditions such as human rights and the protection of minorities, as satisfaction of these conditions goes well beyond passing laws and require changes in human behavior, which are much more difficult to bring about. At this point, the commitment of the national governments, which are the only viable intermediaries between the EU and domestic elites and publics, is the most decisive factor.<sup>5</sup>

In the Commission's regular reports on Turkey, Turkey too was advised to pay more attention to the implementation of the legislative and constitutional changes it undertook. For instance, the European Commission in its 2004 progress report on Turkey states, "Significant progress took place also on the ground; however, the implementation of reforms remains uneven."<sup>6</sup> Given that Turkey has satisfied the Copenhagen political criteria making the required legislative changes, from now, it might be expected that the Commission makes more reference to the issues arising from the implementation of these reforms.

It should be noted that, as they were adopted as Presidency Conclusions, the Copenhagen criteria are essentially of political nature rather than of binding character.<sup>7</sup> Yet, the political nature of the criteria does not undermine its significance to any extent. As they mostly reflect the existing EU law, they might be indirectly viewed as legally binding. In particular, Article 6 of the Amsterdam Treaty renders them -except the one concerning minority protection- a clear legal character and defined them as basic principles of the EU. Likewise, Article 49 gives

those values an external dimension stating them as conditions for any European state to start negotiations for the membership of the EU. Furthermore, the Helsinki European Council of 1999 confirmed that the basis for accession to the Union is compliance with all the Copenhagen criteria. As a consequence, these criteria are an important part of the Union's Accession Strategy and constitute 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.

The pressures originating from the Copenhagen political criteria differ in an important way from those emanating from other European Union policies. Lack of compliance with traditional EU legislation is sanctioned through European Court of Justice (ECJ) judgments. By sharp contrast, lack of compliance with the Copenhagen political criteria is sanctioned in a more substantial manner through the refusal of membership into the EU. Such exclusion would certainly have costly implications for Turkey. As "full membership" is the most important factor making the EU a center of attraction for Turkey, refusal of full membership would reverse the "historic" democratic reforms.

## **5.2. Accession Partnership Document**

In the aftermath of being granted a status of candidate state to Turkey at the Helsinki Summit in 1999, Turkey was offered an Accession Partnership as a part of a pre-accession strategy by the European Commission in November 2000, which replaced the existing European Strategy. The Accession Partnership document sets out strategy, identifying short term and medium term priorities, intermediate objectives and conditions that Turkey is required to accomplish.

In the Accession Partnership approved by the EU Council of Ministers on March 8, 2001 apart from a number of steps Turkey was required to take in the direction of democratisation and improvement of human rights, the Cyprus problem and bilateral issues between Greece and Turkey over the Aegean Sea were stressed as areas Turkey had to make progress on. The Accession Partnership not only served to help Turkey in her preparations for membership by providing a basis for a number of policy instruments, but it also set a framework, which enabled Turkey to adopt a “National Programme for the adoption of the *acquis*” (NPAA) on March 19, 2001. In this programme, Turkey declared its intention to fulfill the Copenhagen criteria and complete the accession process.<sup>8</sup> Under the enhanced political dialogue and political criteria of the Accession Partnership document, drawing on the analysis of the Commission's Regular Report, the short- and medium-term priorities and intermediate objectives have been identified for Turkey.

Short term priorities include: strengthening legal and constitutional guarantees for the right to freedom of expression in line with Article 10 of the European Convention of Human Rights; strengthening legal and constitutional guarantees of the right to freedom of association and peaceful assembly and encouraging development of civil society; strengthening legal provisions and undertaking all necessary measures to reinforce the fight against torture practices, and ensuring compliance with the European Convention for the Prevention of Torture; maintaining the de facto moratorium on capital punishment; removing any legal provisions forbidding the use by Turkish citizens of their mother tongue in TV/radio broadcasting.

Medium term priorities include: reviewing of the Turkish Constitution and other relevant legislation with a view to guaranteeing rights and freedoms of all Turkish citizens as set forth in the European Convention for the Protection of Human Rights; abolishing the death penalty, signing and ratifying Protocol 6 of the European Convention of Human Rights; ratifying the International Covenant on Civil and Political Rights and its optional Protocol and the International Covenant on Economic, Social and Cultural Rights; regulating the constitutional role of the National Security Council as an advisory body; ensuring cultural diversity and guarantee cultural rights for all citizens irrespective of their origin.

In view of the Copenhagen decision and domestic reforms in Turkey, the EU revised Turkey's Accession Partnership in 2003. In its updated form the remaining reforms necessary for a full compliance with the Copenhagen criteria were laid out. While the document praised Turkey's legislative changes, it underlined the challenges Turkey should overcome. Among the challenges cited are the resolution of the Cyprus conflict, and Turkey's border disputes (i.e. in the Aegean), the ratification of international and European human rights conventions, the reform of the National Security Council (NSC), the need to strengthen the independence of the judiciary and the need to reduce regional inequalities. Numerous recommendations focused on the necessity for effective implementation of the reforms. As pointed out by Tocci, notwithstanding the progress of Turkey on paper, the key question stressed in Turkey's revised Accession Partnership is the manner in which the harmonization packages would be implemented.<sup>9</sup>



### **5.3. National Programme for the Adoption of the *acquis* (NPAA)**

The AP requires the applicant countries to prepare a national programme for adoption of the EU's *acquis* (NPAA) within a precise timetable. National Programme was drafted by the General Secretariat for the European Union of the Prime Ministership in accordance with the 2000 progress report and 8th five-year Development Plan. The National Programmes are in fact an expression of commitment representing the will of the national governments to meet the *acquis communautaire*. It is not a legally binding document. But it shows the extent of the commitment, to which a candidate country is prepared to make. In this sense, it demonstrates how serious the candidate countries are to accomplish the Copenhagen criteria.

National Programme adopted by the Turkish government was of ambiguous nature. The most significant point characterizing the National Programme of the Turkish government is that it was ambiguous in content and did not make an open commitment to major issues.<sup>10</sup> It was refrained from using concrete statements. But this might result in serious implications for Turkey. As put by an observer, "Indeed, the National Programme is not erroneous, but it is a document with serious deficiencies. That the National Programme is accepted and implemented as such will retard Turkey's initiation of accession negotiations considerably."<sup>11</sup>

For instance, although the EU was quite clear in its position with respect to the role of the military in politics, the Turkish government refrained from giving a clear statement on how it would arrange the army-government relations within the framework of the National Security Council (NSC). The National Programme only paid a lip service to the status of the NSC by saying, "The NSC, which is a constitutional institution, has the nature of an *advisory body*

regarding the areas related to national security.”<sup>12</sup> The National Programme reaffirmed that the NSC is of advisory nature in national security matters. Nevertheless, in the subsequent expression of the National Programme regarding the NSC, there is no clear commitment with respect to the future role of the NSC. Only there is a vague statement that its function and structure will be revised in the medium term.

Another ambiguous statement is the one relating to the freedom of expression. The National Programme stated among its objectives in a paragraph, “revising the Article 312 of the Turkish Penal Code *without undermining the values it safeguarded,*” and said in the proceeding paragraph, “revising the Articles 7 and 8 of the Anti-Terror Law with the same understanding”.<sup>13</sup> It is difficult to understand what “without undermining the values it safeguarded” means. What are these values to be safeguarded? At this point, one cannot help but think that the amendments to the provisions regarding the freedom of expression would maintain the restrictive character of the legislation.

With respect to the abolition of death penalty and the use of mother tongue, the National Programme is not clear either. The expressions regarding these delicate but major issues are of general nature and short.<sup>14</sup> It seems that the Turkish government sought to gain time by maintaining a certain distance to these matters in order to prepare the public for the subsequent steps. From the perspective of the EU, the matter of death penalty is clear and should be abolished. With respect to the use of mother tongue, there is a general tendency in the European countries to allow minorities to use their mother tongues. While acknowledging the

freedom on the use of the mother tongue, the Turkish government did not clarify how it would regulate this touchy issue.

Consequently, it can be suggested that although the National Programme of Turkey contained substantial commitments in many areas, it was conservative in its stance regarding some matters. These included the most controversial issues such as the abolition of death penalty, the freedom of expression, and the use of mother tongue.

#### **5.4. Turkish Democracy from the Perspective of the Copenhagen Political Criteria**

The Copenhagen political criteria require that the candidates achieve stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. In this section, it will be revealed how far Turkey has met the Copenhagen political criteria and what its shortcomings in the field of democracy and human rights are.

With respect to the quality of democracy, various definitions are made. By a narrower definition of democratic consolidation, a political setting is said to be democratic if democracy has become “the only game in town”.<sup>15</sup> This definition combines behavioural, attitudinal, and constitutional dimensions. Furthermore, there are three prerequisites of a consolidated democracy. These are a lively and independent civil society, a political society with sufficient autonomy and a working consensus about procedures of governance, and constitutionalism and a rule of law.<sup>16</sup>

On the other hand, a distinction should be made between liberalization and democratisation. Although most of the time liberalization and democratisation are used interchangeably, there can be liberalization without democratisation under authoritarian regimes. In other words, democratisation has a larger meaning and entails liberalization. While democratisation requires open contestation over the right to win control of the government in form of free competitive elections, liberalization may entail the introduction of some legal safeguards for individuals, the releasing of most political prisoners, the toleration of opposition. Although it might provide some liberal space for the people, it is narrower.

Although Turkey had a half-a-century experience of a multi-party democracy, it fell short of meeting the Copenhagen Political criteria to the full extent, which required that the applicants respect the rule of law, human rights and rights of minorities. There was a considerable “lack of fit” between Turkish democracy and the Copenhagen Political Criteria. Borrowing from Guillermo O’Donnell, Ergun Özbudun called Turkey, a “delegative democracy” referring to a democracy that is neither consolidated (institutionalized) nor prone to the danger of imminent collapse.<sup>17</sup>

#### **5.4.1. Stable Institutions**

As might be seen from the regular reports of the European Commission, institutions, which are required to be stable to guarantee democracy, are “executive”, “judiciary”, and “parliament”. The Commission reports add another element, which is of relevancy and significance in the case of Turkey, the National Security Council (NSC). The NSC is of particular importance for Turkey’s democratisation due to the influence of the military in Turkish politics.

Institutions of government, parliament and judiciary are complemented with elections, parties and organized interests and civil society in the modern society. Taken minimally, these institutions should be regarded as stable as long as they function efficiently. In this sense Turkey can be said to have democratic institutions.<sup>18</sup> But if the duration of governments, instability of coalition governments, fragility and weakness of civil society, weaknesses of the party-system are taken as yardstick, then it can be proposed that political institutions in Turkish democracy are unstable.

It is quite difficult to decide which definitions are to be taken as yardstick to evaluate the stability of the institutions in a candidate country. Therefore, as suggested by Kramer ultimately it is a political decision to propose that a country has stable democracy and fulfilled the Copenhagen political criteria.<sup>19</sup>

Most of the elements in this section were addressed in detail in the chapter III, which is dedicated to the characteristics of Turkish democracy. So, in this section these matters are covered shortly.

#### **5.4.1.1. Government**

Turkey started multi-party democracy in 1950. Since then governments are formed as a result of free and fair elections. Coming to power through elections became firmly rooted in Turkish political culture. Nevertheless, there were occasions on which the military deemed it necessary to intervene to “restore order” and assure “the indivisibility of the country” or “against threats

to the Republic.” The army intervened four times in 1960, 1971 and 1980 and in 1997 in a post-modern coup. Except for these periods, it was the public, which decided who would govern the country. Nevertheless, besides military interventions weaknesses in the party system have undermined stability of governments.<sup>20</sup>

#### **5.4.1.2. Parliament, Parties and Party System**

Turkey is a parliamentary democracy, where parties obtaining a certain number of votes in the general elections are allowed to enter the parliament and those, which obtain most of the votes from among them, are entitled to form a government. Since multi-party democracy was established, parliament has been the focus of politics and reflected the will of the public. In the formal sense Turkey can be said to display characteristics of a democracy. Nevertheless, various features of the parties and the party system have sometimes impeded the smooth functioning of the political system.<sup>21</sup>

#### **5.4.1.3. Civil Society and Organized Interests**

Turkey has a strong-state tradition. The state in Turkey is over-institutionalized. This characteristic of Turkish polity has influenced all the actors including the development of civil society. While the presence of a state is essential for a democracy to sustain, too strong a state may impede its development, which is the case in Turkey. Referring to the unbalanced feature of state-society relations in Turkey in favor of the former Metin Heper said, “Both (Turkey and Germany) countries have had strong states. In Turkey, however, the state had been stronger than the state in Germany, and, as compared to the Germans, the Turks found it more difficult to consolidate their democracies.”<sup>22</sup> Furthermore, continuity of the strong state was helped by

obedience of the people. As a result, there was not much space for the groups other than the state to flourish.<sup>23</sup>

#### **5.4.1.4. The Role of the Army in Politics and the National Security Council**

A number of formal and informal mechanisms enabled the army to exert its influence. Most of the time, the formal mechanism used by the military was the NSC. The NSC was chaired by the President of the Republic and was composed of the Prime Minister, the Chief of the General Staff, the Ministers of National Defence, Internal Affairs and Foreign Affairs, the Commanders of the Army, Navy and the Air force and the General Commander of the Gendarmerie. Article 118 of the Constitution concerning the role and the composition of the NSC stated that recommendations of the NSC had to be given “priority consideration”. While the recommendations of the NSC were not legally binding, they had a strong influence on government policy. The European Commission noted that, “The existence of this body shows that, despite a basic democratic structure, the Turkish constitution allows the Army to play a civil role and to intervene in every area of political life.”<sup>24</sup>

Legally, the status and responsibilities of the Turkish military based on the Turkish Constitution (1982), The Turkish Armed Forces Internal Service Law (1961), The National Security Council Law (1983). Following the military intervention in 1980, the status of the military was reinforced in the 1982 Constitution. A novelty in the 1982 Constitution was the right granted to the chief of staff, along with the Council of Ministers, to nominate his own candidates for membership of the Higher Education Council (YÖK), which oversees the higher education in Turkey. This was an attempt to ensure that the curriculum conforms to

Ataturkist principles. Nevertheless, the right to ultimately choose the YÖK members was under the competence of the president. But, it was suggested that this right granted to the Chief of Staff was not in conformity with the role of an armed forces in a democracy.

Another point criticized with respect to the civil-military relations was the subordination of the Turkish Military to the Prime Ministry rather than to the Ministry of National Defense (MND). Turkish Military was against a change in this situation, as their main concern was that given the way in which the political system operated in Turkey, politicians would then seek to exercise patronage and interfere in the day to day running of the armed forces.<sup>25</sup>

Furthermore, the army exercised almost exclusive control in defence budget and defence procurement. According to official data, the national defence budget amounted to 7 % of the consolidated state budget. Theoretically, any money spent on defence was subject to strict administrative and parliamentary controls. Nevertheless, practically, the Turkish Military had complete freedom to determine how the funds were spent. When the government submitted its budgetary proposals to parliament, traditionally, no party in the parliament challenged defence spending. Likewise, the military's evaluation of its procurement needs was subject to the approval of the defence minister. In practice, the defence minister signed the proposals presented by the Military.

Moreover, the RTÜK law arranging the legal framework for TV and radio broadcasting allowed for a representative of the National Security Council to be appointed to the Audio-



visual High Board. Additionally, the State Security Courts, which dealt with political crimes, included military judge. This was in violation of the rule of law according to the ECtHR.

#### **5.4.2. Rule of Law**

One of the important requirements of democracy is the existence of rule of law meaning that the state must be restricted, and bound by the law, and legal rules. In its acts and decisions, the state must rely on the “rule of law”. The acts and decisions of the state should be checkable so that the parties or individuals outside the state can be protected against the possible wrongdoings of the state authority.

The issue of the rule of law posed some difficulties in Turkey: There were deficiencies in the functioning and organization of the judiciary. State Security Courts undermined the rule of law as they were special courts and included military judges. In some instances, military courts dealt with the cases of the civilians. The legal system had some weaknesses in providing fundamental rights to the people.

Many acts of the executive and administration were outside the scope of judicial review.<sup>26</sup> In a state of law it is an indisputable point that all the acts of the executive and administration are subject to the judicial review. The acts of the executive and administration, which are outside the review of the judiciary, were explicitly stated in the Turkish Constitution. These included the acts of the President, the rulings of the Higher Military Council (YAS), the decisions of the Higher Council of the Prosecutors (HSYK).

It was stated in a report drafted by TUSIAD, “The mere existence of judicial review does not constitute an adequate guarantee for the existence of the rule of law and its smooth functioning. In order to speak of the rule of law, existence of “an efficient, effective, independent and impartial judicial review” is necessary.”<sup>27</sup> To ensure this, it was proposed by the report that articles 105, 125/2, 129/final, 148, 159 and Provisional Article of the Constitution had to be overhauled in line with all decisions of the ECtHR with respect to the functioning of the rule of law in Turkey and all real dimensions of the “right of fair trial”.<sup>28</sup>

Furthermore, Turkish legislation included provisions constraining the rights of the individual in favor of the state. This situation was another factor undermining the rule of law. There were many articles in the Turkish legislation restricting fundamental rights of the citizens. Articles 13 and 14 of the Constitution, Articles 7 and 8 of the Anti-Terror Law, Articles 158, 159, 311, 312 of the Penal Code were among the most referred provisions imposing sanctions on the fundamental rights of the citizens. Another important problem with these provisions was that the acts, which constituted a crime, were vague and unclearly defined.

With respect to the judicial system one of the difficulties is that there are not enough magistrate posts mainly due to budgetary constraints. It was estimated that 15,000 magistrates were necessary for the proper functioning of the system. On the other hand, unpleasant working conditions, low salaries affect the judicial system adversely.

In civil justice and the normal criminal court system, the judicial procedures are very slow. For instance, the duration on average in juvenile courts was 655 days in 2000. Efficiency of the

judicial system is undermined with excessive workload. As of 2000, more than one million criminal cases were pending. That judges depended on decisions of the Supreme Council of Judges and Public Prosecutors constituted a problem. Major changes within the judiciary might take place as a result of the appointment of a new government and cabinet reshuffle.

One of the issues undermining the rule of law was the State Security Courts (SSC). They were set up by the military regime in 1982 under Article 143 of the Constitution and started to operate in 1984. SSCs dealt with overtly political crimes. The Article 143 of the Constitution described SSCs as special courts, “established to deal with offences against the indivisible integrity of the State with its territory and nation, the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and offences directly involving the internal and external security of the State.”

Due to their nature, it was thought that the SSCs did not provide defendants a fair trial. Obtaining confession was overtly relied compared to traditional investigative methods. The prosecutor was relatively stronger than the defense lawyer. Trials were extremely slow. During the trials many defendants were held in custody without any clear justification of the judge. Doubts were raised about the impartiality of the judges: one in three SSC judges were military judges, who were serving military personnel and therefore subject to military discipline. In Europe the SSC was the only example of its kind in the sense that civilians could be tried at least partially by military judges. In 1998, the ECtHR stated that the presence of a military judge in the SSC panel was in violation of the ECHR. In July 1999, the ECtHR decided about the applications by individuals lodged in 1994-1995 and concluded that the applicants had

been denied the right to have their cases heard by an “independent and impartial tribunal” as they had been tried by a SSC.

As regards the SSCs, among the recommendations of a study carried out by the Lawyers Committee for Human Rights was their abolishment above all and transfer of their functions to the existing penal courts.<sup>29</sup> Recognizing difficulty of abolishing the SSCs under the political circumstances of the time, some other recommendations were made addressing different aspects of the work of the SSCs. These included the removal of the military judges from the judicial panel in all cases, the removal of the executive influence over the Supreme Council of Judges and Prosecutors, empowerment of the prosecutors to take independent action, granting lawyers free access to their clients, providing legal access to all detainees within a maximum period of 48 hours.

The Parliament adopted the Constitutional and legal amendments removing the military judge in the SSCs, which entered into force on June 22, 1999. This was an important improvement in the functioning of the SSCs, although there were still some concerns about the full rights provided to the defendants in these courts.

Another deficiency in the Turkish legal system undermining the rule of law was that the military courts dealt with the civilians’ cases. For instance, in 2000, the military courts dealt with 22 cases involving 38 civilians with respect to the charges of abuse of the right to freedom of expression. In 2001, the military courts dealt with 176 cases involving 358

civilians. Most of the cases were concerned with charges of fraud in avoiding military service or obstructing, intimidating and insulting soldiers on duty.

### **5.4.3. Human Rights**

In the recent years Turkey became the target of much criticism of violating human rights. From the perspective of the Turkish state, it was quite difficult to strike a balance between safeguarding human rights and fighting against separatist terrorism. Some of the problems were as a result of terrorist activities. On the part of the state, criticism exercised against Turkey for violating human rights was not justified, as long as the very existence of the country was at stake. It was stated that those criticizing governments “usually point to the human rights issue but they fail to recognize the reason for taking measures against terrorism and tend to brand these measures as violations of human rights without fully examining the actual problem.”<sup>30</sup> Hikmet Sami Türk, State Minister in charge of human rights, while acknowledging the existence of deficiencies in the field of human rights and democratization in Turkey, drew attention to the two factors, which undermined the development in these areas over the last years. First was the war against a “separatist terrorist movement” for 15 years.<sup>31</sup> The second was the “fundamentalist attacks against secularism”. These two sensitive issues imposed limitations on the progress in the area of human rights. The limitations, in particular to those on the freedom of conscience, would be eliminated step by step.

Moreover, it was criticized that the European Parliament’s (EP) approach to the democracy and human rights situation in Turkey was almost solely concerned with the “Kurdish Problem”.<sup>32</sup> It was further said that the EP’s approach overlooked that Turkey was a

democracy and that her democratic institutions functioned and that it was the only Muslim country that has been struggling to reconcile democracy with its Islamic legacy. Moreover, the EP was said to be violating international law, as it used the term “the Kurdish people” in its resolutions. Since a people were entitled to self-determination, the use of this term would mean that the Turkish citizens of the Kurdish origin had the right to secede.

Despite the ratification of many significant international conventions, Turkey did not accede to a number of important human rights instruments such as the UN Convention on the Elimination of All Forms of Racial Discrimination, the Statute of the International Criminal Court, the UN International Covenant on Civil and Political Rights, the UN International Covenant on Economic, Social and Cultural Rights.

The Council of Europe started to put the human rights situation in Turkey under the monitoring procedure in 1996. It has published an information report on “Honouring of obligations and commitments by Turkey”, which was published in January 1999 on the basis of a visit in Turkey by rapporteurs in September 1998. The information report concerned an evaluation of the situation in Turkey with an emphasis on practices of torture and ill treatment, rule of law, freedom of expression, imprisoned former DEP parliamentarians, constitutional reform and respect for the rights of Turkish citizens of Kurdish origin. Turkish authorities were also recommended to make progress on the situation. Council of Europe’s Committee paid another visit to Turkey in March 2000 to prepare a report on the situation in the country. Again, the Committee visited Turkey in May 2001 and reported about the developments in Turkey.

In the years prior to the adoption of democratization packages in accordance with the Copenhagen political criteria, the state had a restrictive attitude in the field of human rights. In 1999 the authorities have closed several branches of the Turkish Human Rights Association either for a temporary period or for an indefinite period. For 2001, the European Court of Human Rights (ECtHR) found that Turkey had violated provisions of the European Convention of Human Rights (ECHR) in some 127 cases (although 43 of these are not final, as an appeal to the Grand Chamber is possible). These cases mainly concern violations to the Convention such as freedom of expression, ill treatment by the security forces and lengthy police custody. Turkey has agreed to resolve 53 of these cases through friendly settlements.

#### **5.4.3.1. Freedom of Expression**

By the estimates of the Turkish Human Rights Association there were more than 300 provisions in Turkish law and regulations restricting freedom of expression, religion, and association. These constraining articles were to a large extent produced by the military government following the intervention in 1980.

The most widely referred legal provisions to restrict the freedom of expression in Turkey were articles 7 and 8 of the Anti-Terror Law, Articles 158, 159, 311 and 312 of the Criminal Code and the relevant articles, in particular Articles 13 and 14 in the Constitution. Their narrow interpretation by the judiciary was an important factor in curbing freedom of expression. These articles basically concern the unity of the state, territorial integrity, secularism and respect for formal institutions of the state. Many politicians, journalists, writers, trade unionists or NGO

employees were convicted and sentenced for their statements, public speeches, published articles or books, on the grounds that they violated the above articles of the Turkish legislation.

Article 312 of the Turkish criminal code imposed three-year prison sentences for incitement to commit an offence and incitement to religious or racial hatred. Turkish courts were criticized of being arbitrary in their judgments for the crimes concerning the Article 312 of the criminal code.<sup>33</sup> For instance, in 1999 the mayor of Istanbul Recep Tayyip Erdogan was sentenced to 10 months' imprisonment under Article 312 for reciting a poem, which was allowed by the Ministry of Education to be read in schools. Likewise, Akin Birdal, the president of the Turkish Human Rights Association, was imprisoned in July 1999 under Article 312 for a speech in which he called for "peace and understanding" between Kurds and Turks. But he was released on health grounds in September 1999 immediately before the Helsinki Summit in December 1999. His release was widely believed to be a gesture before the Helsinki Summit, which was to take place at the end of the year and also the Istanbul OSCE Summit in November 1999. But he returned to prison in March 2000. Due to this conviction under Article 4 of the Law on Association he had to resign both his post as president of the Association and his membership. Under Article 81 of the Law on Political Parties, as he was convicted, he might not stand for any political office nor join any political party during his life time.

Article 159 of the criminal code imposed three-year prison sentences for insulting "Turkishness, the Republic, the Grand National Assembly, and the spiritual personality of the government, ministries, the military, security forces or judiciary of the state." Many journalists faced trials and convictions and even imprisonment under Article 159. Also human rights



defenders were tried by the Turkish courts in reference to the Article 159. Article 158 has similar provisions to protect the president and the organs of the state against insult.

Article 8 of the Anti-Terror Law (Law 3713) imposed three-year prison sentences for “separatist propaganda”. The Anti-Terror Law punished many non-violent offences including those publicly and strongly criticizing political violence. For instance the publisher Fatih Tas was prosecuted under Article 8 an Istanbul State Court for translating and publishing writings by Noam Chomsky summarizing the history of human rights violations in Turkey. But in February 2002 Tas was acquitted.

One could be imprisoned for two years for “undermining the institution of military service”. The provisions outlawing criticism of military service were regulated in the Article 155 of the Turkish penal code. “Insulting the memory” of Mustafa Kemal Atatürk could bring one up to seven and a half years in prison under the Law to Protect Atatürk.

Article 169 of the criminal code required the prosecution of those for “supporting for an illegal armed organization”. The Justice Ministry announced that statements deemed as supporting the prisoners` hunger strikes during the hunger strike crisis in 2000 was subject to the prosecution under Article 169 of the criminal code.<sup>34</sup> The president and board members of the Ankara branch of the Human Rights Association were tried at Ankara State Security Court for making a public statement on the prison crisis in January 2001 under the Article 169.

The preamble, Articles 13 and 14 and Articles 22, 26 and 28 of the Constitution were also referred to restrict freedom of expression in Turkey. The latter two articles prohibited the use of languages other than Turkish.

Articles 13 and 14 of the Constitution imposed considerable constraints on the freedom of expression. Article 13 stated, “Fundamental rights and freedoms may be restricted by law, in conformity with the letter and spirit of the Constitution, with the aim of safeguarding the indivisible integrity of the State with its territory and nation, national sovereignty, the Republic, national security, public order, general peace, the public interest, public morals and public health, and also for specific reasons set for in the relevant Articles of the Constitution.”

Similar restrictive provisions were stated in the Article 14: “None of the rights and freedoms embodied in the Constitution shall be exercised with the aim of violating the indivisible integrity of the State with its territory and nation, of destroying fundamental rights and freedoms, of placing the government of the State under the control of an individual or a group, or establishing the hegemony of one social class over the others, or creating discrimination on the basis of language, race, religion or sect, or of establishing by any other means a system of government based on these concepts and ideas.”

Moreover, in the original Preamble to the Constitution there was a general statement expressing the conditions, for which restrictions could be placed by the state: “no protection shall be accorded to thoughts and opinions contrary to Turkish national interests, the principle

of the indivisibility of the existence of Turkey with its state and territory, Turkish historical and moral values or the nationalism, principles and reforms of Atatürk”.

Various provisions of the International Covenant on Civil and Political Rights, signed by Turkey in 2000 and Article 10 of the ECHR, ratified by Turkey in 1954 assured expressions of non-violent opinion. As pointed out by Süheyl Batur, on the freedom of expression, and in particular in many of its decisions concerning Turkey, the ECtHR has defined the limits of freedom of expression and prohibited the expressions, “(that can be regarded as) incitement to the use of violence, hostility or hatred between citizens”, “where such remarks incite to violence against an individual or a public official or a part of the population”, “(that) constitute an incitement to armed struggle or an uprising”, “(that) openly refuse democratic rules” and “(that) contain racist rhetoric and are based on racism”.<sup>35</sup> The ECtHR attaches a particular regard to the scope, content, means of expressions in its judgments. Another point, which is taken into account by the Court, is “in addition to any calls for violence or disruption of order, whether there were any uprisings or armed action in connection with these statements”. Therefore, many Turkish citizens convicted for non-violent expression of thought have applied to the ECtHR and won their cases.

Moreover, Article 90 of the Turkish Constitution provided the superiority of the provisions of international treaties over Turkish domestic legislation. Nevertheless, the attitude and interpretation of the judiciary were important in this case. Turkish prosecutors and judges have tended not to take into consideration the jurisprudence of the ECHR and its succession of

judgments against Turkey on matters of free expression in their interpretations of domestic law.

In its July 1999 judgment, the European Court of Human Rights stated that in eleven cases Turkey had violated the freedom of expression as safeguarded by the European Convention of Human Rights. By the official estimates there were around 9,000 prisoners for crimes connected to freedom of expression as of 2000. An important number of journalists, intellectuals, writers and politicians have been detained for expressing views and opinions. Official sources reveal that in 2000, 261 persons have been sentenced under Articles 159 and 312 of the Penal Code and 324 under the Anti-Terrorist law. For 1999 these figures were 347 and 1,347 respectively.<sup>36</sup>

With respect to the freedom of expression, Human Rights Watch published a report in September 2000,<sup>37</sup> in which a special emphasis was placed on Article 10 of the European Convention on Human Rights (ECHR). In the HRW's recommendations, the Justice Minister, in his capacity as president of the High Council of Judges and Prosecutors, was suggested to issue a circular explaining to prosecutors and judges that sentences imposed for the expression of non-violent opinion had been in contravention of Article 10 of the ECHR, which superseded domestic Law under the Turkish Constitution. It was also recommended that the Justice Ministry and other ministries had to further set up a training program to ensure that all the relevant institutions and units within the judicial system and the executive understand the obligations under Article 10 to take into consideration freedom of expression. The European

Union and the Council of Europe could provide the funding and expertise for the training program.

#### **5.4.3.2. Freedom of the Press**

Although generally the press was free in Turkey, much of the criticism regarding the freedom of the press pointed out that certain laws constraining freedom of expression was applied arbitrarily. In other words, there were no clear-cut criteria. It was also asserted that these provisions were often used against the criticism of the state policy regarding the role of Islam, the Kurdish or other minority, the nature of the state, or the role of the security forces. According to critics, violations of these laws also led to the arrest of non-violent demonstrators, writers, and journalists, banning of several books and publications, closing of newspapers and journals. While in 2000 there were 40 journalists in prison, in 2001 some 80 journalists were imprisoned for political activities or for allegedly violating various laws.

Many journalists and writers were tried and convicted under Article 8 of the Anti-Terror Law banning separatist propaganda. Even highly respected columnists writing for mainstream publications, who had previously addressed taboo topics at one time, might be prosecuted at another. For instance, in 1998 writer and journalist Oral Calislar and publisher Muzaffer Erdogan were prosecuted due to Calislar's book "Kurdish Issue with Öcalan and Burkay" on charges of "separatist propaganda" because of the quotations in his interviews.<sup>38</sup> Concerning arbitrariness and decisions of the judges changing from year to year, Ahmet Altan, a leading columnist and novelist, said, "You can say there is no freedom of expression, you can say there is press freedom, and you are right in both statements...The borders are not clear, you can't

know where they are. The application of the law is arbitrary. But in many ways the arbitrariness is worse. You don't know when you will get into trouble.”<sup>39</sup>

Another interesting point put forward was whether a journalist or writer was to be prosecuted or not for his writings depended to an important extent on the social status and the affiliation of the violator as was the case in the rest of the world. Those writing in the mainstream press enjoyed the most freedom to write and express their views. If criminal proceedings were started against such writers and journalists, they were usually never detained or they were acquitted or their sentences were suspended. But critics claimed that it was hard to say that the same freedom was enjoyed by Kurdish nationalist newspapers and radical left-wing journalists and writers, whose activities and publications were mostly categorized as among “separatist propaganda”. It is not infrequent that these publications and newspapers were closed and their writers and journalists were tried and convicted.

Another factor having an effect on the decision to prosecute and convict a writer and publication is the prevailing political climate in the country. Ragip Duran, a journalist, who worked for both foreign and Turkish press, published two articles concerning an interview with the PKK head Öcalan at different times in the newspaper. He was sentenced under Article 7 of the Anti-Terror Law, which prohibited conducting propaganda for illegal organizations for publishing articles based on the interview with the PKK head Öcalan in *Özgür Gündem* in 1994.<sup>40</sup> When the interview was published, the PKK and the security forces engaged in an intense fighting. Although following his first interview with Öcalan in March 1991, he had published his article in *Cumhuriyet* and he had not been prosecuted. This was a time in which

President Özal was keen on solving the Kurdish issue and Süleyman Demirel, the then leader of the True Path Party (DYP) spoke about the “Kurdish reality”. Although the same provisions of the Article 7 of the Anti-Terror Law existed at both times, the decision to prosecute Mr. Duran or not was seemingly motivated by the political climate with respect to the Kurdish issue.

Islamic press has also faced restrictions under the relevant provisions constraining freedom of expression.<sup>41</sup> Due to the islamization of the society and revival of political Islam in the 1990s, the Islamic press flourished. Islamic press, television and radio channels have occupied a wide range from radical to moderate in the Turkish press spectrum. They have been subject to criminal proceedings under two main laws. The first one is the Law No: 5816, known as “the law to protect Atatürk”, which penalized those “publicly insult or curse the memory of Atatürk”. The other law, the judiciary has increasingly referred to, in the prosecution of the Islamist press was the Article 312 of the penal code, which banned “openly inciting people to enmity and hatred by pointing to class, racial, religious, confessional, or regional differences...”

Apart from the clauses in the Turkish criminal code, anti-Terror Law and the relevant provisions restricting the freedom of expression in the Turkish Constitution, certain articles of the Constitution contained restrictions with respect to the freedom of the press. The Article 28 read, “The publication shall not be made in any language prohibited by law”. There were general restrictions of Article 26, which applied to the expression and dissemination of thought and opinions in writing and other media.

Moreover, the Ministry of Interior published a list of terms, whose use in official documents and government owned media was prohibited. Furthermore, activities of some publishing firms have been suspended; periodicals and books have been seized. By the judgment on December 14, 2000 of the Istanbul State Security Court No: 4, all publishing or broadcasting of information describing Turkey in “a state of weakness” was banned. This judgment was adopted as a result of the prison crisis in 2000 and 2001. There was criticism on the part of the newspapers and journalists, which complained that this was an “act of censorship” aimed at prohibiting, in practice, the publication of news and pictures especially concerning the F-type prison protests.

#### **5.4.3.3. Freedom of Broadcasting**

General restrictive approach in the Turkish Constitution and other legislation has also affected the freedom of broadcasting. The increase in the number of prosecutions and banning in the field of broadcasting went hand in hand with the development of broadcasting sector in Turkey. Almost a little more than a decade ago, Turkey did not possess a single private channel. Since 1963, there was a monopoly of the state-run Turkish Radio and Television (TRT). Legally, private broadcasting was permitted on July 8, 1993 through the amendment of the Article 133 of the Constitution.

With the introduction of private television, there has been an increase in the level of free expression. Many taboo subjects like Kurdish issue and political Islam have been openly discussed on private channels. But permission in private broadcasting was quickly followed by



its regulation. Radio and Television Law (RTÜK) was introduced on April 13, 1994. Article 4 of the law regulated broadcasting principles and imposed certain restrictions. It stated, among other things, that broadcasts could not contradict, “the national and spiritual values of society” and “the general morality, civil peace, and structure of the Turkish family”. The law also banned broadcasting in Kurdish. According to the Article 33 of the RTÜK law, radio television stations could be given a warning or be closed for a temporary period up to one year.

In 1998, RTÜK (Supreme Board of Radio and Television) closed a number of national television channels such as Kanal D, Show TV, and Kanal 21 for several days. Metro TV of Diyarbakir was closed for one month for violating the Article 4, “instigation of separatist propaganda”. Local governors were also instrumental in banning radio stations. In 2001, RTÜK continued to prohibit temporarily a number of Radio/TV stations. For example, in August 2001 the RTÜK punished 10 stations with closure from 1 to 365 days basically for unacceptable comments on current events. Furthermore, on September 26, 2001, the BBC and Deutsche Welle were banned from broadcasting in Turkish on the basis of Article 26 of the RTÜK law (prohibition of retransmission).

#### **5.4.3.4. Freedom of Association and Peaceful Assembly**

In the field of freedom of association and peaceful assembly, the Article 33 of the Constitution contained general rules and certain restrictions on the right to form associations. As suggested by Süheyl Batum, there was a need to amend certain articles in particular 15, 16, 17, 19, 20, 21, 23 of the Law on Assembly and Demonstrations (No. 2911- 06/10/1983)<sup>42</sup>. Further,

Associations Law had to be overhauled in line with the ECtHR decisions concerning the Article 11 of the ECHR and anti-democratic influences had to be eliminated.

Procedure for establishing NGOs in Turkey was long and difficult and operation of NGOs was under state control. Their receipt of financial aid from outside Turkey was subject to governmental approval. They needed official permission to organize conferences or distribute leaflets. Unless the Council of Ministers did not issue a decree of permission, NGOs were not allowed to set up umbrella institutions and arrange institutional collaboration with other NGOs on an international scale. NGOs and branches of NGOs, which were active in the field of human rights, were warned by the state or on some occasions closed down, particularly in regions under emergency rule. For instance, the Diyarbakir Branch of the Human Rights Association has been closed and opened several times by administrative decision of the Governor.

When Turkey published its national program to adopt the requirements of the *acquis*, the HRW made Ankara a number of recommendations with respect to meeting the criteria laid out in the Accession Partnership Document in line with the Copenhagen political criteria.<sup>43</sup> Turkish government was called on, to reopen the three branches of the Human Rights Association (IHD) which have been closed down by local governors, remove obstacles to EU and other foreign funding for the IHD, and withdraw the numerous criminal charges brought against IHD officials for their non-violent activities. It was also recommended to Ankara by the HRW that the Law on Associations had to be thoroughly revised in order to provide a basis for the well development of civil society. It was also added that in overhauling this law,

international standards, in particular the relevant articles of the ECHR had to be taken into account.

#### **5.4.3.5. Banning of Political Parties and Politicians**

Restrictions on the freedom of expression and the provisions in the Turkish penal code as well as in the political parties law (PPL) have led to the banning of a number of political parties and politicians. In fact, like the journalists, writers, which were penalized under such articles concerning freedom of expression of the TPC as Articles 155, 158, 159, 311 and 312 and Article 7 and 8 of the Anti-Terror Law, the politicians were convicted under the same provisions of the legislation.

Furthermore, according to the 1982 Constitution, “persons who have been convicted of disclosing state secrets, of involvement in ideological or anarchistic activities or of incitement and encouragement of such activities shall not be elected as deputies, even if they have been pardoned” (Art. 76/2). Therefore, they might not be founders of political parties, either (PPL, Art. 8/1) There were also strict provisions in the Article 11/f of the Law on the Election of Members of Parliament, which determined the criteria for not eligible for membership of the parliament.

Due to the restrictions imposed by the Article 76 of the Constitution, a number of politicians were unable to run for the elections held in November 2002. Among the politicians banned from the elections were Recep Tayyip Erdogan of Justice and Development Party (AKP), Necmettin Erbakan, the former chairman of the closed RP, Murat Bozlak, the former chairman

of the pro-Kurdish Democratic People's Party (HADEP) and Akin Birdal, who wanted to be a candidate for HADEP. In view of these prohibitions it was observed that Turkish state did not change its basic understanding of fight against "separatist terror" and "the Islamic reactions" despite the reforms adopted in 2002.<sup>44</sup>

It was proposed by Bülent Tanör that the words, "disclosure of state secrets, involvement in ideological or anarchistic activities or incitement and encouragement of such activities" in the Constitution (Art. 76/2), and the paragraphs 2, 3 and 4 of Article 11/f of the (LEMP), which enumerated those who were not eligible for membership of the parliament had to be removed.<sup>45</sup> It was suggested that if the LEMP were amended in this way, there would be no harm in maintaining the provision of Article 8/1 of the PPL.

Many of the politicians were penalized for "incitement" under the Article 312 of the Turkish Penal Code. For politicians a conviction under Article 312 practically meant the end of political life. Among the most notorious cases is the sentence imposed on former Prime Minister Necmettin Erbakan for a speech he gave in March 1994. The same week a twelve month sentence was imposed on Hasan Celal Güzel, former Education Minister and leader of the Rebirth Party, for a speech he made in Kayseri in 1998 in which he directed a severe criticism against the headscarf ban. Under Article 81 of the Law on Political Parties, both Güzel and Erbakan might not stand for any political office nor join any political party during their lifetimes.

More recently in 2001 two elected members were expelled from the Parliament under Articles 68 and 69 of the Constitution. They and three other members of their party were banned from politics for five years. One of these persons, who faced criminal proceeding, attempted to take oath while wearing a headscarf. In the view of the Constitutional Court, this was an anti-secular activity.

Further, the former mayor of Istanbul, Recep Tayyip Erdogan was removed of political rights and sentenced to a year's imprisonment for reciting a poem, which was written by a republican poet and officially confirmed for use in public schools. Following the verdict of the Court, the EU expressed its concern on the restrictions on the freedom of expression in Turkey. The EU, in a statement of September 25, 1998 noted, "with regret the ruling of a Turkish Appeals Court" and expressed "concern at the implications for democratic pluralism and freedom of expression, which prosecution of democratically elected politicians for non-violent expression of their views is bound to have".<sup>46</sup>

Political parties were not immune to prohibition either. Since 1983, the total number of political parties banned by the Constitutional Court reached 21. Following the closure of the Refah Party in January 1998, the Turkish Constitutional Court ordered in February 1999 the closure of the pro-Kurdish Democratic Mass Party (DKP) for promoting separatism. In May 1999 the Constitutional Court received an application against the Islamist Fazilet Party, which replaced the closed Refah Party and it shut down the Fazilet Party in June 22, 2001 and its assets were confiscated for carrying out anti-secular activities. Fazilet was the fourth Islamic party to be banned in Turkey.

In the meantime, the ECtHR decided on July 31, 2001 that the closing of the Refah Party by the Turkish Constitutional Court in 1998 was not in violation of the principle of freedom of association under Article 11 of the ECHR. The ECtHR was of the opinion that the dissolution of the Refah Party “could reasonably be considered to meet a pressing social need for the protection of democratic society”.<sup>47</sup>

With respect to the case of Sadak and others versus Turkey, in which the applicants claimed that, as their party (DEP) was closed down, they had been stripped of their parliamentary mandates, the ECtHR decided in June 2002 that this violated the Article 3 of Protocol No 1 (right to free elections) of the ECHR. Moreover, the Rights and Freedoms Party (HAK-PAR), which was set up in February 2002, also faced a closure case on charges that its statute and programme contained elements contrary to the “indivisible unity of the State and the nation”.<sup>48</sup>

As for the developments in 2003 the Constitutional Court decided to ban the People’s Democratic Party (HADEP). Legal proceedings were started against the Democratic People’s Party (DEHAP) with a view to closing it. It was also decided by the Supreme Court that DEHAP was responsible for presenting forged documents to participate in the November 2002 elections. In November 2003, the ECtHR announced its decision with respect to the closure of the Socialist Party of Turkey in November 1998 and found Turkey in violation of the Article 11 of the ECHR.

#### **5.4.3.6. Death Penalty**

The question of capital punishment in Turkey did not attract much attention domestically as well as in the world until Öcalan was captured, tried and sentenced to death by the State Security Court in Turkey in 1999. Although Turkey did not abolish the death penalty, a *de facto* moratorium was maintained since 1984. While Turkey was a member of the Council of Europe and party to the ECHR, it did not sign the Appendix Protocol No. 6 of the ECHR, abolishing the capital punishment. Therefore, it remained one of the few member states of the Council of Europe not to have abolished the death penalty. The last executions in Turkey occurred in October 1984. At that time, it attracted much international criticism. Since then, the courts have imposed death sentences. But none of them was carried out because of the moratorium.

Under the Anti-Terror Law, passed in April 1991, hundreds of pending death sentences were turned to terms of imprisonment. Turkish Penal Code (TPC) had already been amended by the Turkish parliament in November 1990, as a result of which, the number of offences punishable by death fell from 29 to 13. The remaining 13 offences included political offences, such as separatism (TPC, Article 125).

Öcalan and death penalty issued against him marked the relations between the EU and the Turkish state. After Öcalan was captured in Kenya in February 1999, he was imprisoned in Imrali Island in the Sea of Marmara. Following his capture, the EU gave its official reaction to his case in a declaration at the General Affairs Council of February 22, 1999 and expressed its expectation of a fair trial and stressed its opposition to death penalty. This was in turn reacted

by the Turkish Ministry of Foreign Affairs, which stated that questioning the independence of courts in Turkey was unacceptable.<sup>49</sup>

Öcalan was sentenced to death on June 29, 1999 unanimously by the Ankara State Security Court No: 2 under Article 125 of “treason and separatism” of the TPC. The Court stated “he carried out acts aiming at the separation of parts of the territory which are under the sovereignty of the state by inciting and leading the armed terrorist organization which he founded”.<sup>50</sup> The Court was also in the view that given the severity and continuity of his actions and the grave, imminent and great danger to the country, the application of Article 59 of the TCP, which allowed for commutation of a death sentence, was not possible.

The EU was quick in reacting. The EU Presidency declared on the same day of the Court verdict, on June 29, 1999 its hope that “Turkey will follow what has invariably been the practice for the last fifteen years and not carry out the death sentence passed on Mr. Öcalan.”<sup>51</sup>

The newly elected EP also called on the Turkish authorities not to carry out the death sentence against Öcalan in a Resolution on July 22, 1999. It was further said in the resolution, “(the European Parliament) expects the Supreme Court of Appeal to reverse the verdict against Mr. Öcalan as a violation of Turkey’s international legal commitments under the European Convention on Human rights.”<sup>52</sup>

As is seen the EP was strong in its reaction to the death sentence of Öcalan. It also claimed that the trial against Öcalan was questionable due to the procedure used by the State Security Court and the fact that his trial involved a military judge. EU’s reaction to the case of Öcalan



can be explained by the fact that the Kurdish issue has gained considerable attention in Europe and has enjoyed a great deal of sympathy. One observer has noted that, “the stance taken by many decision makers springs from this sympathy more than from principles.”<sup>53</sup>

Moreover, it was claimed by Amnesty International that the trial against Öcalan violated both national law and international standards for fair trials. Thus, it called for a full retrial before an independent and impartial tribunal, in which “death penalty is not a possible punishment and under conditions which ensure the strictest compliance with fair trial standards enshrined in national and international law.”<sup>54</sup> It expressed its concern that given the political atmosphere and the Öcalan trial, it was (now) possible that Turkey was set to take a step backwards and resume executions, on which a *de facto* moratorium was kept since 1984.

Nevertheless, in the eyes of many Turks, the execution of Öcalan was a decision, in which emotions ran high. He was seen as the principal perpetrator of a war, which claimed more than thirty thousand lives. Since the period he was captured, a national euphoria dominated the public. Following his capture it was expressed that, “The photograph, which shows Abdullah Öcalan in front of the Turkish flag, symbolically documents the victory of Turkish nationalism over the Kurdish separatism.”<sup>55</sup> It was obvious that without the sensitive Öcalan issue, abolishment of death penalty from the Turkish legislation could have been achieved more smoothly.

The death sentence against Öcalan has been appealed before the Turkish Supreme Court and the execution of the death sentence needed the confirmation by TGNA. Moreover, following

the confirmation by the Supreme Court, the sentence could also be appealed to the European Court of Human Rights.

The ECtHR asked Turkey in November 1999 to postpone the execution of Öcalan in order to enable the Court to effectively examine the admissibility and merits of the applicant's complaints under the ECHR. In January 2000, the Turkish government agreed to defer the execution for a temporary period until the end of this process in the ECtHR.

Following the capture of Öcalan death sentences continued to be imposed by Courts on the basis of the Anti-Terror Law. While in 2000, 17 people were sentenced to capital punishment; this number was 10 between January and August 2001. Nevertheless, the *de facto* moratorium on carrying out the death penalty was maintained.

#### **5.4.3.7. Prisons and Enforcement of Sentences**

The conditions in Turkish prisons were far from meeting the standards set by the Council of Europe or the minimum standards of the UN. Most prisons were overcrowded and lacked adequate medical care. The number of prisoners in Turkey was 72,500 as of 2000. Amnesty was considered as a solution to the overpopulation in the prisons. Prison officers often included military personnel. Frequently the prisoners staged uprisings.

Plans were proposed by the Turkish government to restructure the whole prison system. By the new restructuring new type (so-called F-type) prisons were to be built. In these new prisons, small cells for 1 to 3 prisoners were to replace the current big dormitories (up to 80 prisoners

in one room). The F-type prisons were designed to receive criminals convicted of being a member of terrorist organizations. The basic motivation behind the building of new F-type prisons was the deficiencies in controlling the terrorist organizations in prisons. The other prisons were to be converted to a room system with cells for 2, 4 or 6 prisoners. It was stated by the Turkish government, “Experience in dormitory-system prisons has shown that members of terrorist organizations who confess their offences, give information about their organization or fail to observe the organization’s discipline during police interrogation or during trial are interrogated under torture by their organizations, killed or forced into acts such as hunger strikes.”<sup>56</sup>

Despite the statement by the officials that the new prisons were to meet the basic international standards, there was criticism on the part of the prisoners and human rights organizations that the new system would isolate prisoners. It was stated, “In principle, the move to cells could improve prison conditions. But without opportunities for prisoners to leave the cell unit, the new system could amount to an isolation regime that will cause prisoners mental and physical harm.”<sup>57</sup> The Council of Europe also welcomed the prison reform in Turkey and it was admitted that large-capacity dormitories posed difficulties in accommodating inmates. But following its visit to Turkey on October 5-17, 1997, CPT (Committee for the Prevention of Torture) of the Council of Europe cautioned in its report, “It is imperative for moves towards smaller living units to be accompanied by measures to ensure that prisoners spend a reasonable part of the day engaged in purposeful activities outside their living unit.”<sup>58</sup>

Following revolts in 1996, a major prisoner revolt was repressed in September 1999. When the Turkish government decided to implement the new prison system in autumn 2000, this met strong resistance by the prisoners. Violent demonstrations and hunger strikes took place. The prisoners demanded, among others, improvement of prison conditions. An important number of prisoners, who involved in the strikes had been charged and convicted under the Anti-Terrorist Law.

The hunger strike seemed to be ended when a group of well-respected journalists and writers as well as representatives of the Human Rights Commission of the Turkish Parliament, met Justice Minister Hikmet Sami Türk on December 9, 2000. After this meeting, the Justice Minister Türk said in a press conference that the F-type prison program would be reviewed and the Article 16 of the Anti-Terror Law would be amended allowing prisoners to emerge from their units during the day. The prisoners, nevertheless, went on their strike as the minister refused to put his statement in writing. The lawyer Hüsni Öndül, president of the Turkish Human Rights Association (IHD), expressed, “The government refused to talk to the IHD and other civil society organizations about these prisons until fifty-fifth day of the hunger-strike. By then the government was only interested in solving the particular issue of the hunger-strike, and had put itself in the position of talking to the most extreme and radical groups-that narrow sector of the prison population which was ready to use death as a solution and a weapon.”<sup>59</sup>

When the Turkish security forces intervened on 19-22 December 2000 against hunger strikers and protestors in an operation named “Operation to Return to Life” to transfer the prisoners to F-type prisons, this resulted in 32 deaths. Due to a call by the EU for an independent

investigation into the incidents, the CPT paid a visit to Turkey on January 2001 and prepared a report in April 2001. According to the report of the CPT, some of the 32 casualties took place as a result of disproportionate use of force such as the use of firearms and tear gas. Nevertheless, it was acknowledged that following these events; efforts were made by the authorities to minimize the casualties resulting from hunger strikes. The CPT expressed, “The delegation was on the whole impressed by the management of hunger-strikers in the prisons and hospitals.”<sup>60</sup>

Upon the death of the first hunger striker on March 21, 2001, civil society organizations expressed their concern that other deaths might follow. Holly Cartner, Executive Director of the Europe and Central Asia Division of the Human Rights Watch said, “This was an avoidable crisis and an avoidable fatality”.<sup>61</sup> European Commissioner Verheugen and EU High Representative Solana were called on to intervene to put an end to the hunger-strike and it was claimed, “It seems likely that prisoners will abandon the hunger-strike as soon as isolation is lifted and they are given an opportunity to participate in out-of-cell activities. A prompt initiative may save many lives.”<sup>62</sup> Turkish officials were recommended to enter into dialog with the strikers. Expressing his concern about the deaths due to fasts on his visit to Ankara, Lusius Wildhaber, the chairman of the ECtHR said that the lack of dialog between the inmates, their families, NGOs and the state had to be surmounted and the problem had to be solved.<sup>63</sup> On the other hand, the number of deaths as a result of hunger strikes reached some 40 people towards the end of 2001.

The hunger strikes protesting against the F-type prisons continued, and total number of deaths reached some 57 as of 2002. Many of the inmates were conditionally freed due to health grounds by the courts. In the police raid on the flats housing “solidarity” strikers in the Küçükarmutlu district of Istanbul, in November 2001, four people died and 20 people were arrested. Hunger strikers outside the prisons ended the “solidarity” strike in May 2002, and it was said that they would continue their protest through political means. From the perspective of the Turkish officials, the hunger strikers were ordered to strike by their organizations. They said, “In the past five years, sixteen inmates, held for terror offences, have been killed by members of their organizations. It has become apparent that most of those who lost their lives during the death fast and those who were burned to death during the prison interventions were persons sacrificed by their organizations in this way.”<sup>64</sup>

Trial of nine members of the Turkish Medical Doctors Union, who had been charged with urging hunger strikers to commit suicide, resulted in acquittal. Also in December 2001, the Ankara State Security Court decided to acquit 29 defendants charged with “supporting an armed gang” brought in relation to statements on F-type prisons.

“Three Doors, Three Locks” proposal put forward by four Turkish bar associations, was rejected in January 2002 by the Minister of Justice on the grounds that it violated the Article 16 of the Anti-Terror Law. The proposal intended to improve isolation conditions in the new F-type high security prisons by allowing for the locks to three cells to be opened. This measure would make it possible for groups of nine prisoners (three inmates from each cell) to meet in the corridors. Instead, Ministry of Justice issued a circular on January 10, which allowed

groups of up to ten inmates to meet for five hours each week. Nevertheless, there were certain conditions attached such as participation in communal activities, in particular education, sport or other socio-cultural activities. The *CPT* recommended that the conditions attached, namely communal activities had to be removed.<sup>65</sup>

#### **5.4.3.8. Torture and Ill-treatment**

Allegations of torture and ill treatment were frequently directed against the Turkish state. It was claimed that in many of the cases torture took place during periods of detention incommunicado in police stations before detainees were brought to court. It was stated in the European Commission's Regular Report on Turkey in 1998, "These cases put into question the effective control and supervision of the security forces. Appropriate standards of discipline are lacking for these officials. Criminal prosecution of civil servants for alleged offences emerging from their duties is generally subject to permission from the administrative authorities."<sup>66</sup> It was also alleged that prosecuted and convicted law enforcement officers received comparatively light sentences for torture and ill treatment by European standards.

In the view of the Turkish authorities, there was no systematic torture in Turkey and, when isolated cases took place, the government did not support them. The report by the United Nations Commission on Human Rights in January 1999 stated that the number of tortures reported increased, in particular in the first half the 1990s as "an inevitable part of the campaign against terrorism."<sup>67</sup> According to the report there was notable improvement in the number of torture and mistreatment allegations starting with the second half of the 1990s mainly owing to the reduction of the rate of terrorism, the new legislation and increased

training of personnel.<sup>68</sup> Pointing out that many of the torture allegations concerned those during the custody period, the report suggested a further reduction of the period under custody. A book published by MP Sema Piskinsüt, which stated “starting in 1996, and particularly from 1998 there is a decrease in torture during interrogation and in prisons...” confirmed decline in the number of torture allegations.<sup>69</sup>

Despite the criticism against Turkey for failing to control torture and ill-treatment cases, a series of developments in the positive direction took place. A law adopted by the Turkish Parliament in March 1997 reduced the duration of police custody. The new law stipulated that for suspected crimes falling under the purview of State Security Courts, a person in police custody had to be brought before a court within four days at the latest. With respect to detentions under the jurisdictions of the State Security Courts, the Committee for the Prevention of Torture (CPT) of the Council of Europe, recommended that, “all persons deprived of their liberty by the law enforcement agencies-irrespective of the offence of which they are suspected- to be granted, as from the outset of their custody, the right of access to an independent lawyer.”<sup>70</sup> In the new law in the provinces, in which a state of emergency was applied, the period was reduced from thirty to a maximum of ten days. According to the new arrangement, detainees under state of emergency had an access to legal counsel. Despite this development the new periods of police custody stipulated by the new arrangement were still longer than was in the European Union.

In October 1998, a “Regulation on Apprehension, Detention and Release Procedure” entered into force. This regulation aimed at improving the implementation. On the other hand, the



Prime Ministry issued a circular in June 1999 for the effective implementation and verification of this Regulation. Training courses for the police officers started in November 1998. Moreover, the TGNA adopted a law, which changed the articles 243, 245 and 354 of the Penal Code redefining torture, ill treatment and abuse of power against individuals by public officials. The amendments also brought higher penalties for public officials who commit such offenses, or medical personnel who produce fake reports on torture cases. Prime Ministry's circular marked the start of a new phase in terms of improvement in the field of torture and mistreatment as the necessary legal and regulatory framework was already to an important extent in place, now the implementation of these provisions took priority. This was also stated in the recommendation of the CPT of the Council of Europe, which called on the Turkish authorities to treat the full and rigorous implementation of the compliance monitoring procedure as "a matter of highest priority."<sup>71</sup>

A positive development for 2000 was the publication of nine reports on torture in Turkey by the TGNA Human Rights Committee. The Committee drafted these reports by inspecting police stations and prisons in 1998-2000 and making interviews with prisoners, their families and officials. While the reports acknowledged an improvement over the period, in particular in the attitude of police and prison personnel, lack of supervision and inspection of the system by governors and chief prosecutors were criticized.<sup>72</sup>

The European Commission's Regular Report on Turkey in 2000 drew attention to the deficiencies with respect to pre-trial detention.<sup>73</sup> It was stated that there had to be an automatic review (including the physical presentation of the detainee to the judge) of the legality of all

detention in police custody at the very latest on the 4th day of detention, in accordance with the provisions under the ECHR. It was also stressed that forensic doctors had to be able to examine the detainees during the pre-trial detention period, as recommended by the Committee for the Prevention of Torture (CPT) of the Council of Europe. Moreover, it was indicated that due to a protocol signed in January 2000 between the Ministry of Justice, the Ministry of the Interior and the Ministry of Health, unnecessary hurdles were put in the way of visits to detainees by their lawyers. An important development in the year 1999-2000 was the start of human rights education in police academies as a part of curricula.

In a circular issued on July 24, 2001 by the Minister of the Interior the duties and obligations of law enforcement and other security officers concerning custody, formal arrest, detention and interrogation of suspects were clarified. The circular stated explicitly that the use of torture and ill treatment was forbidden. In another circular dated September 26, 2001, the regional authorities were called on to intensify efforts for the prevention of human rights abuses.

Another significant progress in 2001 was that Article 19 of the Constitution was changed reducing the period of police custody in cases of collective offences to four days before the person detained was brought before a court.

Despite the continuing concern regarding torture and ill treatment, the number of public officials facing criminal proceedings for acts of torture and mistreatment increased. By the data provided by the Turkish authorities, during the period 2000-2001, 1,472 proceedings for charges of mistreatment and 159 proceedings for charges of torture were opened against

security officers. As a result of these proceedings while 50 were expelled from service, 36 people faced imprisonment.

#### **5.4.4. Minorities**

##### **5.4.4.1. Kurdish Issue**

The European officials have frequently voiced that Turkey had to resolve the issue through peaceful means. However, Turkey has consistently refused to negotiate with the PKK, which it viewed as a violent, separatist terrorist organization. In its 1998 Regular Report, the European Commission stated, “Turkey will have to find a political and non-military solution to the problem in the south-east...A civil solution could include recognition of certain forms of Kurdish cultural identity and greater tolerance of the ways of expressing that identity, provided it does not advocate separatism or terrorism.”<sup>74</sup>

Kurdish issue was probably the most difficult task for Turkey to handle on the way to the EU accession, especially since it involved “concerns of security against separatism”.<sup>75</sup> The EU’s call for a political solution of the issue was not plausible from the perspective of Turkey’s domestic politics. The conflict with the PKK had claimed more than 30.000 lives. Turkey rejected outright any negotiation with a “terrorist” organization. It was out of question for any political party to take a step in this direction.

With respect to the use of Kurdish language, since the Law on Publications in Languages other than Turkish had been repealed in 1991, the publication of material in Kurdish as well as other languages has been possible. This was a period, in which Turkish state recognized the

“Kurdish reality” and started to extend more space for the Kurds in cultural sphere. Use of Kurdish has been allowed in cultural activities but could not be used in “political communication” or education. It was not permitted to use Kurdish in radio and television broadcasting either.

Following the capture of the head of the PKK, Öcalan, Turkish Parliament adopted in August 1999 the Repentance Law (No 4450), applicable for a six-month period and granting amnesty to PKK members who surrender and provide information on their organization. Although Öcalan called on the PKK guerillas to end attacks on Turkish targets and retreat from Turkish territory in August 1999 and Demirel met with the representatives of the HADEP party to discuss the Southeastern issue, this did not bring much opening on the problem.

In the 2000s, expression of pro-Kurdish views brought about a number of implications. People were prosecuted mostly under the Articles 7 and 8 of the Anti-Terror Law, Articles 311, 312 and 159 of the Turkish Penal Code and Articles 13 and 14 of the Turkish Constitution. Newspapers and magazines were forbidden and pro-Kurdish associations were closed down. Publishers were tried and convicted and their material and publishing houses were confiscated. Intellectuals, writers, journalist and politicians were put on trial and convicted.

Four Kurdish deputies, Hatip Dicle, Orhan Dogan, Selim Sadak and Leyla Zana were imprisoned in 1994 for supporting an armed illegal organization, PKK. Fikret Baskaya was sentenced in 2001 to sixteen months in prison under Article 8 of the Anti-Terror Law for “disseminating separatist propaganda” in a newspaper article about the trial of Abdullah

Öcalan. In the same year, Murat Bozlak, the former chairman of the mainly Kurdish People's Democracy Party (HADEP) was sentenced to imprisonment.

In February 2000, three mayors from the Southeast being members of the pro-Kurdish HADEP party was accused of having ties with the PKK and jailed. In the same month, 18 executives from HADEP were sentenced to 3 years and 9 months in prison on the ground that they initiated hunger strikes in the aftermath of Öcalan's capture.

A closure proceeding against the People's Democracy Party (HADEP) was opened in 1999. The Rights and Freedoms Party (HAK-PAR), which was established in February 2002, also faced a closure case on charges that its statute and programme had elements contrary to the "indivisible unity of the State and the nation".

Notwithstanding relative freedom in publishing newspapers and magazines in Kurdish, publications were sometimes confiscated and their publishers were prosecuted by the Turkish authorities.<sup>76</sup> By the High Council for Radio and Television (RTÜK) law, broadcasting in Kurdish was not permitted. The Law on the Organization and Broadcasts of Radio and Television Stations (Statute 3984) required all broadcasting to be in Turkish. Nevertheless, there was an increasing tendency by Turkish authorities to tolerate such broadcasting. While Turkish authorities sometimes permitted broadcasting in Kurdish, radio and television stations broadcasting in Kurdish was sometimes subject to prohibitions depending on the political climate in the country. On the other hand, music cassettes in Kurdish were sold legally.

Nevertheless, prohibition of the use of Kurdish in political arena was strictly pursued. Article 81 of the Political Parties Law prohibited parties from using any language other than Turkish in their written material or at any formal or public meetings. For instance, Leyla Zana's use of Kurdish in the Turkish Parliament in the oath taking ceremony triggered legal proceedings against her and her DEP colleagues. In 1994, DEP was banned for "separatism" and Leyla Zana and three other DEP members of parliament were sentenced to fifteen years' in prison for "membership of an armed organization". In July 2001, the ECtHR found their trial as unfair.

As for the use of Kurdish in education, Turkish authorities did not allow the use of Kurdish neither in schools nor in private courses. According to Article 42(9) of the Turkish Constitution, "No language other than Turkish shall be taught as a mother tongue to Turkish citizens at any institutions of training or education. Foreign languages to be taught in institutions of training and education in a foreign language shall be determined by law." Legally, it fell under the competence of the National Security Council to decide which languages might be taught.

#### **5.4.4.2. Non-Muslim Minorities**

As for the non-Muslim minorities, even though there were a number of problems, the non-Muslim communities coexisted peacefully with the Muslim Turkish population. Their rights were well regulated in the 1923 Lausanne Treaty. Moreover, compared to the rest of the society, they did not even constitute one percent of the whole population.

Turkish state officially recognizes only three minorities in accordance with the Lausanne Treaty: Armenians (50,000), Jews (25,000) and Greeks (5,000). Each minority is free to manage its own churches, schools and hospitals. They are required to register with the state authorities. A department attached to the Ministry of the Interior is in charge of the minorities. But other non-Muslim minorities do not enjoy similar privileges extended to the three recognized minority groups, such as the Orthodox Assyrians.

There was an increasing tolerance towards non-Muslim religious communities. According to a circular issued by the state in December 1999 religious communities were not to seek permission from the state before restoring buildings of charitable institutions and those consecrated for worship. No particular difficulties were reported for non-Muslim minorities recognized by the 1923 Lausanne Treaty in terms of using their languages. Nevertheless, there were difficulties faced by the Christian churches in the issue concerning ownership of property. The Orthodox Seminary Halki was closed since 1971.

In 2000 due to commemoration of the Christian jubilee a series of ecumenical activities among main religious minorities were sponsored by the Turkish state. A circular was issued to the local authorities by the Prime Minister on June 12, 2001 reaffirming the rights of Syrian Orthodox Turkish citizens, who had emigrated, to return to their villages in the previously state of emergency declared region. Supported by Sezer, the opening of another Syrian Orthodox church in Istanbul was permitted by the government in 2001.

Although their rights were protected by the legislation in accordance with the 1923 Lausanne Treaty, non-Muslim minorities faced difficulties with respect to their lack of legal personality and property rights, and a prohibition on the training of clergy in Turkey. With respect to non-Muslim religious communities, only properties declared under Law No 2762 of 1936 are recognized, and all properties not listed in 1936 were confiscated by the Turkish state or might be subject to confiscation.



## NOTES

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- <sup>2</sup> Heather Grabbe, “European Union Conditionality and the Acquis Communautaire”, p. 251.
- <sup>3</sup> For both economic and political conditions see European Council (1993), Presidency Conclusions, Copenhagen, 10-11 December, General Secretariat of the Council, Brussels.
- <sup>4</sup> *Ibid.*, p. 251.
- <sup>5</sup> Geoffrey Pridham, “EU’s Enlargement and Consolidating Democracy in Post-Communist States”, *Journal of Common Market Studies*, Vol. 40, No. 3, (2002), p. 961.
- <sup>6</sup> European Commission (2004), Regular Report on Turkey’s Progress towards Accession, COM (2004) 656 final, Brussels.
- <sup>7</sup> Mustafa Fisne, *Political Conditions for “Being A European State”*, (Afyon: Afyon Kocatepe Universitesi, 2003), p. 63.
- <sup>8</sup> For full text of the programme NPAA, see [http://www.europa.eu.int/comm/enlargement/turkey/pdf/npaa\\_full.pdf](http://www.europa.eu.int/comm/enlargement/turkey/pdf/npaa_full.pdf).
- <sup>9</sup> Nathalie Tocci, “Anchoring Turkey to the EU,” in Nathalie Tocci and Ahmet Evin (eds.), *Towards Accession Negotiations: Turkey’s Domestic and Foreign Policy Challenges Ahead*, (Florence: European University Institute, 2004), p. 197.
- <sup>10</sup> For drawbacks in the National Programme see: Aysegül Uzun, “Siyasi Kriterler Cercevesi`nde Katilim Ortakligi ve Ulusal Program`in Karsilastirilmesi (Comparison of the Accession Partnership and the National Program within the Framework of the Political Criteria)”, in Cengiz Aktar (ed.), *Avrupa Birligi`nin Genisleme Süreci (The Enlargement Process of the European Union)*, (Istanbul: Iletisim Yayinlari, 2002), pp. 77-99.
- <sup>11</sup> *Ibid.*, p. 80.
- <sup>12</sup> Türkiye Ulusal Programi (Turkish National Programme), (Ankara: ABGS, 2001) p. 22.
- <sup>13</sup> *Ibid.*, p. 17.
- <sup>14</sup> *Ibid.*, p. 20.
- <sup>15</sup> Juan Linz/Alfred Stepan, *Problems of Democratic Transition and Consolidation*, (Baltimore: The Johns Hopkins University Press, 1996), p. 5.
- <sup>16</sup> *Ibid.*, p. 10.
- <sup>17</sup> Ergun Özbudun, “Turkey: How Far from Consolidation?”, *Journal of Democracy*, Vol. 7, No. 3, (1996), p. 136.
- <sup>18</sup> Heinz Kramer, “Die Türkei und die Kopenhager Kriterien: Die Europäische Union vor der Entscheidung”, *SWP-Studie*, S 39, Berlin, (November 2002), p. 13.
- <sup>19</sup> *Ibid.*, p. 14.
- <sup>20</sup> See chapter III for the military interventions and weaknesses of the party system in Turkish politics.
- <sup>21</sup> See for a discussion of these features chapter III.
- <sup>22</sup> Metin Heper, “The Strong State as a Problem for the Consolidation of Democracy: Turkey and Germany Compared”, *Comparative Political Studies*, Vol. 25, No. 2, (July 1992), p. 169.
- <sup>23</sup> See section entitled “Strong state tradition” in chapter III for a discussion of the development of civil society and organized interests.
- <sup>24</sup> European Commission Regular Report on Turkey’s Progress Towards Accession, 1998, p. 14.
- <sup>25</sup> *Ibid.*, p. 44.
- <sup>26</sup> *Hukuk Devleti ve Yargi (The State of Law and the Judiciary)*, TUSIAD, Istanbul, Publ. No. TUSIAD-T/97-12/221, (December 1997), p. 25.
- <sup>27</sup> *Perspectives on Democratization in Turkey and EU Copenhagen Political Criteria: Views and Priorities*, TÜSIAD, Publ. No: T/2001-07/305, Istanbul, July 2001, p. 30.
- <sup>28</sup> *Ibid.*
- <sup>29</sup> *Obstacles to Reform: Exceptional Courts, Police Impunity and Persecution of Human Rights Defenders in Turkey*, (New York: Lawyers Committee for Human Rights, 1999), pp. 50-51.
- <sup>30</sup> Mesut Senol, is an advisor at the Prime Minister’s Office, responsible for Human Rights. Mesut Senol, “Latest Developments Regarding Human Rights in Turkey”, *Perceptions*, (December 1998-February 1999), Vol. III, No. 4.
- <sup>31</sup> Hikmet Sami Türk, “Human Rights in Turkey”, *Perceptions*, Vol. 3, No. 4, (December 1998-February 1999).

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- <sup>33</sup> “Questions and Answers: Freedom of Expression and Language Rights in Turkey”, *Human Rights Watch*, New York, (April 2002), p. 1.
- <sup>34</sup> *Ibid.*, p. 2.
- <sup>35</sup> Süheyl Batum, *Perspectives on Democratization in Turkey and EU Copenhagen Political Criteria*, TÜSIAD, Istanbul, Pub. No: T/2001-07/305, (July 2001), p. 17.
- <sup>36</sup> European Commission’s Regular Report on Turkey, 2001, p. 24-25.
- <sup>37</sup> Human Rights Watch Report, Vol. 12, No. 10 (D), September 2000.
- <sup>38</sup> International Helsinki Federation (IHF) Annual Report on Turkey, 1998, Vienna, p. 2.
- <sup>39</sup> Quoted from “Violations of Free Expression in Turkey”, *Human Rights Watch Report*, (New York, 1999), p. 51.
- <sup>40</sup> *Ibid.*, p. 56.
- <sup>41</sup> For more information concerning the prosecution of the Islamist press, see: “Violations of Free Expression in Turkey”, *Human Rights Watch Report*, (New York, 1999), pp. 63-67.
- <sup>42</sup> Süheyl Batum, *Perspectives on Democratization in Turkey and EU Copenhagen Political Criteria*, TÜSIAD, Istanbul, Pub. No: T/2001-07/305, (July 2001), p. 20.
- <sup>43</sup> “Comments on Turkey’s National Program for the EU Accession Partnership Agreement”, *HRW*, April 2001, p. 2.
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- <sup>45</sup> Bülent Tanör, *Perspectives on Democratization, Political Parties section*, TY/171/1997, TUSIAD, Istanbul, 1997.
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<sup>73</sup> Ibid., p. 15.

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## **CHAPTER VI**

### **IMPACT OF EUROPEAN INTEGRATION ON TURKISH DEMOCRACY**

This chapter reveals how the EU democratic reforms have influenced the Turkish political system; in what areas there have been changes. It is seen that the impact of the EU reforms have been profound in Turkish politics and the amendments in the Turkish legislation have democratized the Turkish political institutions deeply. Nevertheless, there were cases of non-compliance, in particular in the field of human rights. Implementation of the reforms was far from perfect. At this point, training and socialization of those applying the rules and regulations into the new norms are of crucial importance for the success of the democratization.

#### **6.1. The National Security Council and the Role of the Military**

In the post-Helsinki process, major steps were taken to ensure the civilian control of the military. As a result of these amendments, civilian control of the military was aligned with the practice in the EU member countries. First notable step was that in the face of the ruling of the ECtHR, the military judge in the State Security Courts was replaced with a civilian judge in 1999.

As part of the constitutional package in October 2001, the provision of Article 118 regarding the status and the composition of the National Security Council (NSC) was changed. As a result of these changes, the number of civilian members of the NSC was raised from five to nine while the number of the military members remained at five. Another change was

stressing the advisory nature of this body, which was limited to recommendations. The government was to “evaluate” them rather than to give them “priority consideration”. The provision that “the NSC will report to the Council of Ministers the views it has reached and its suggestions.” in the Law on the National Security Council was repealed.

The member of the NSC in the Supervision Board of Cinema, Video and Music has been removed by a change to the relevant Law. The representative of the Higher Education Board (YÖK), who was chosen by the Chief of General Staff, was removed. Likewise, a representative selected by the Secretary General of the National Security Council was removed from the High Audio-Visual Board (RTÜK).

Under the seventh “reform package” of July 2003, major changes were made to the duties, functioning and composition of the NSC. The extended executive and supervisory competences of the Secretary General of the NSC were removed in an amendment to the Law on the National Security Council. Provisions granting the NSC unlimited access to any civilian agency was abrogated. The changes under the seventh reform package were implemented in a Regulation issued in January 2004. This Regulation helped to transform the office of the Secretariat General of the NSC into a body serving the solely consultative function of the NSC. The Secretariat was deprived of the authority to undertake national security investigations on its own initiative. Special funds, which were directly allocated to the NSC, were brought under the exclusive control of the prime minister. The NSC underwent significant internal restructuring, which led to a substantial reduction in the staff and the abolition of some units. In accordance with the legislation coming into force in

December 2003, the secret status of decrees governing the activities of NSC General Secretariat was abolished.

Another change is that the post of Secretary General was no longer exclusively reserved for a military representative. For the last time, a military representative was appointed to replace the outgoing Secretary General for one year in August 2003. The frequency of the meetings of the NSC was reduced from once a month to once every two months. Upon the completion of tenure of the military representative as the General Secretary, he was replaced with a senior diplomat in August 2004. As a result of this change, for the first time a civilian became the General Secretary of the NSC.

With respect to the transparency of defence expenditures new regulations were issued. The Court of Auditors, upon request of Parliament, was authorized to audit accounts and transactions of all types of organisations. The competence of the Court of Auditors entailed the state properties owned by the armed forces too.

Further measures were adopted on the transparency of the military expenditures. In December 2003 the Law on Public Financial Management and Control was changed to provide the inclusion of extra-budgetary funds in the budgets of the relevant administration i.e. Defence Ministry as of January 1, 2005 and the dissolution of these funds by December 31, 2007. Other measures adopted concerned ex post audit of military and defence expenditure. A regulation adopted in February 2004 enabled the Court of Auditors, upon the request of the President of Parliament, to audit military and defence expenditures. In an

amendment to the Constitution in May 2004, state property owned by the Military became subject to the control of the Court of Auditors. There was an important decrease in defence expenditure. Expenditure made on education for the first time surpassed the spending on defence in 2004.

Defence spending increased from 6.985 billion euros to 8.198 billion euros, raising the share of defence spending in the budget from 6.7 percent in 2004 to 7.2 percent in 2005. Nevertheless, with a share of 9.7 percent in the central budget, education expenditure is higher than defense spending for the second successive year.<sup>1</sup>

## **6. 2. Rule of Law**

Many steps were taken to ensure the rule of law in Turkey since 1999. With respect to the SSC, the first move was the civilianisation of the SSC. In June 1999 military judges were removed from the State Security Courts (SSC). The existence of military judges in these courts was viewed by the ECtHR as undermining “the independence and impartiality” of the SSC. As part of the package of constitutional amendments in May 2004, the SSCs were totally abolished and replaced by Regional Serious Felony Courts (also referred to as Heavy Penal Courts). The office of the Chief Public Prosecutor for State Security Courts was also abolished. Instead, prosecutions before the Regional Serious Felony Courts are handled by the office of the Chief Public Prosecutor. New specialized courts were established so as to improve the efficiency of the judicial system. Rights of defence were strengthened.

A new law on the prosecution of civil servants and other State officials adopted in December 1999 facilitated the criminal prosecution of security forces officials. By the new law, the opening of prosecutions is not any longer subject to a preliminary agreement by the local administrative councils.

Following the amendment of the Article 90 of the Constitution as part of the reforms adopted in May 2004, the principle of the supremacy of international and European treaties ratified by Turkey over national law was agreed. In case of a conflict between international agreements regarding human rights and domestic legislation, the international agreements will have to be taken into account by the Turkish courts. This was an important step in terms of upgrading the domestic law to international standards, which reinforced the rule of law.

Adoption of a new Penal Code in September 2004 was another significant step strengthening the supremacy of law and fundamental rights of the people. The newly adopted Penal Code heightened the provisions of the Criminal Code to international standards. As a result of this change, sanctions against certain human rights violations were adopted and many provisions, which had undermined fundamental rights and freedom, were removed.

With respect to training of the judges and prosecutors, a number of programmes were initiated since 1999 on the issues such as the effectiveness of the judiciary, alternative measures for imprisonment, human rights issues, EC law and forensic medicine law. In July 2003 a Justice Academy was set up to train judges and prosecutors. It started to function in 2004.



Following the reforms undertaken in 2002 the right of defence for detainees falling under the scope of the State Security Courts was improved. Detainees prosecuted for collective offences falling under the competence of the State Security Courts were permitted to access to a lawyer after 48 hours.

In 2002, the Code of Civil Procedure and the Code of Criminal Procedure were changed. This provided for retrial in civil and criminal cases, in which in the view of the ECtHR, ECHR and its Additional Protocols were violated. The Law on juvenile courts was amended, as a result of which, young people could be tried in juvenile courts not at the age of 15, but 18. The National Judicial Network Project helped to computerize the judicial system and increase the efficiency of the judicial operations.

Following the reforms in 2003, the Law on the Establishment and Trial Procedures of Military Courts was amended so as to end military jurisdiction over civilians. So, civilians were to be no longer tried by the military courts for “inciting soldiers to mutiny and disobedience, discouraging the public from military duty and undermining national resistance” under Article 58 of the Penal Code.

The Law on Establishing the Intermediate Courts of Appeal was approved by the TGNA in September 2004. The establishment of the Courts of Appeal was a significant step in reducing the case load of the Court of Cassation and enabling it to focus on its function of giving guidance to the lower courts on points of law of general public significance.

Besides the above mentioned changes, a number of other amendments and newly adopted legislation in 2004 helped to reinforce the rule of law. These include amendment of the Law on Notification, amendment of the Regulation on Apprehension, Detention and Statement Taking, the amendment of the Law on Juvenile Courts, the amendment of the Commercial Code (to establish specialized courts to hear maritime cases), and the amendment of the Law on Family Courts. A new Regulation on Legal Aid was adopted.

In terms of the average trial period considerable progress was made. Average trial period decreased in the Serious Felony Courts, the Criminal Courts of First Instance and the Juvenile Courts. As a result of the rise in the number of civil courts, the average number of cases before each court decreased. Despite a certain increase since 1999, the number of judges and prosecutors remained stable. Nevertheless, compared to other civil servants, the salaries of judges and public prosecutors were increased in May 2004.

With respect to the prosecutions brought under Articles 159, 169 and 312 of the Penal Code and Article 7 of the Anti-Terror Law, since January 1, 2004 the defendants were acquitted in many cases prosecuted under these Articles.

In 2005 important steps were taken with the entry into force on June 1, 2005 of the Penal Code, the Code of the Criminal Procedure, the Law on Enforcement of Sentences and the Law on the Establishment of the regional Courts of Appeal. The adoption of the new Code of Criminal Procedure is major step forward. It brings the concept of cross-examination of

witnesses during trials, which did not previously exist in the Turkish legal system. It establishes the concept of plea-bargaining. It also increases the discretion of prosecutors, who are now able to assess the strength of the evidence before preparing an indictment, in order to reduce the number unmeritorious prosecutions.<sup>2</sup>

### **6.3. Human Rights**

Since 1999 Turkey undertook two constitutional reforms and eight legislative reform packages. With the constitutional change in October 2001 major progress was made in the field of the freedom of expression, the freedom of the press, and the freedom of association and peaceful assembly. Through deleting a number of restrictions in Articles 13 and 14, the grounds for limited fundamental rights and freedoms were reduced. The principle of proportionality was a novelty, according to which, any restriction of the rights protected should be proportionate.

Following the constitutional amendments in October 2001 three reform packages were adopted in February, March and August 2002 in Acts No 4744, 4748 and 4771. The new provisions brought major changes in Turkey's legislation addressing a wide spectrum of human rights issues, including the death penalty, the exercise of fundamental rights and freedoms, pre-trial detention and legal redress.

From August 2002 to October 2002, four reform packages were adopted. They were enacted in January 2003 in Act No. 4778 (the fourth package), in February in Act No. 4793 (the fifth), in July in Act No. 4928 (the sixth), and in August in Act No. 4963 (the seventh). The

reform packages addressed a number of human rights and democracy issues including the fight against torture, broadening the scope of fundamental freedoms such as the freedom of expression, association, demonstration and peaceful assembly, enhancing legal redress and improving cultural rights. Authorities also issued a range of regulations and circulars in order to implement measures from the reform packages of 2002 and 2003.

The May 2004 constitutional reform addressed a range of issues as regards human rights. The fields covered are abolishing all remaining death penalty provisions; broadening freedom of the press; aligning the judiciary with European standards; and establishing the supremacy of international agreements in the field of fundamental freedoms over internal legislation.

September 2004 adopted new Penal Code improved a range of areas with respect to human rights, discrimination and torture. Furthermore, a new Press Law was passed in June 2004. In July 2004 a new Law on Associations and a Law on Compensation of Losses Resulting from Terrorist Acts were adopted. Authorities issued a series of regulations and circulars to help implement the legislation.

Turkey took a number of steps in adopting international human rights instruments. In April 2002 the 1969 UN Convention on the Elimination of All Forms of Racial Discrimination was ratified by the TGNA. Nevertheless, due to the reservation made by Turkey to Article 22 of the Convention, cases concerning Turkey could only be referred to the International Court

of Justice with its consent. Turkey signed the European Agreement Relating to Persons Participating in Proceedings of the European Court of Human Rights.

In June 2003 Turkish Parliament ratified the UN International Covenant on Civil and Political Rights and the UN International Covenant on Economic, Social and Cultural Rights. Nevertheless, Turkey made reservations to these Covenants with respect to the right to education and to minorities` rights. In June 2003, Protocol No. 6 to the European Convention on Human Rights (ECHR) on the abolition of death penalty except in times of war or the imminent threat of war was ratified by the Parliament.

In January 2004 Turkey signed Protocol No. 13 to the ECHR regarding the eradication of the death penalty in all circumstances. In February 2004 Turkey signed the First Optional Protocol to the International Covenant on Civil and Political Rights, providing for recourse procedures that extend the right of petition to individuals. The Second Optional Protocol on the abolition of the death penalty was signed in April 2004. Turkey ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict in October 2003. The International Convention on the Protection of the Rights of All Migrant Workers entered into force in January 2005.<sup>3</sup>

In June 2004 the monitoring procedure on Turkey, which had been in force since 1996, was lifted by the Parliamentary Assembly of the Council of Europe as a result of Turkey`s progress since 2001 in the field of constitutional and legislative reforms. Instead, Turkey

became subject to a post-monitoring procedure, focusing on a number of fields with respect to Turkey's obligations under the ECHR.

As a result of the progress achieved with respect to the execution of judgments of the ECtHR, in particular in 2004, it was possible to retry Leyla Zana and the other former DEP parliamentarians. Since the new legislation entered into force, there has been a steady increase in the number of applications to the ECtHR with respect to Turkey. Therefore, the number of cases in which Turkey was in violation of the ECHR increased accordingly.

From October 2000 to October 2001, the ECtHR decided that Turkey had violated provisions of the ECHR in 127 cases. Nevertheless, 43 of these cases were not final, as an appeal to the Grand Chamber was possible. Turkey's violations concerned the areas pertaining to the freedom of expression, mis-treatment by the security forces and length of police custody. 53 of these cases were resolved through friendly settlements.

For the period between October 1, 2001 and June 30, 2002 1874 applications were made to the ECtHR. Of these, the majority (1125) were concerned with the Article 6 of the ECHR ("the right to a fair trial"). While three hundred and four were related to Article 5 ("right to liberty and security"), two hundred and forty six applications were made under Article 3 ("prohibition of torture"). One hundred and four cases referred to Article 11 ("freedom of assembly and association") and 95 to freedom of expression (Article 10).

In the next period the number of applications to the ECtHR regarding Turkey increased significantly reaching 2614. In the period from October 2002 to October 2003 the ECtHR decided on 92 cases regarding Turkey. According to the Court, Turkey was in violation of the ECHR in 43 cases. Turkey was right just in one case. Turkey agreed to settle 47 cases through friendly means.

From October 2003 to October 2004, the number of new applications to the ECtHR was a little higher than that in the previous period reaching 2,934. From the 161 judgments regarding Turkey, Turkey was found guilty of violating the ECHR on 132 occasions. 23 cases were resolved through friendly settlements. 2 cases were decided in favor of Turkey.

May 2004 constitutional amendment established supremacy of international agreements in the field of human rights reinforcing the Turkish judiciary's capacity to give direct effect to the ECHR. According to official sources, from January 2004 to October 2004 more than 100 judgments made reference to the ECHR and the case law of the ECtHR and resulted mainly in acquittals.

In January 2002 Turkish government withdrew the derogation made in 1992 regarding Article 5 of the ECHR ("right to liberty and security") with respect to provinces under emergency rule. The previous maximum period of ten days under custody was decreased to four days with a possibility of three days extension in the areas under emergency rule, before the detainee is brought before the court.

Retrial for criminal and civil cases was made possible to comply with the rulings of ECHR following the adoption of the third reform package. This change would only address decisions taken pursuant to applications made to the ECtHR after August 2003.

Mehmet Tarhan, who has declared his conscientious objection to compulsory military service was detained on 8 April 2005 and was imprisoned in the military prison in Sivas where he has remained since then. Amnesty International considered Mehmet Tarhan to be a prisoner of conscience and called for his immediate release. The human rights organization also urged the Turkish officials to introduce an alternative civilian service for conscientious objectors, which is not discriminatory or punitive.<sup>4</sup>

The new Penal Code passed on September 26, 2004 enhanced the protection of women's rights. However, these legislative changes were not implemented to the full extent, as adequate funding was not available from the central budget. The need for women shelters is especially urgent as they play a critical role in situations where women's lives are at risk. In spite of the legal changes made, there is still a drastic shortage of shelters in Turkey. 13 shelters are not enough for a country with a population of more than 70 million.<sup>5</sup> Furthermore, human rights groups urge the authorities to develop mandatory training programmes for the police, medical personnel, gendarmerie officials, members of the judiciary and other professionals who may be a first point of contact for women who have experienced violence.<sup>6</sup>



The European Court of Human Rights has taken an important decision on the headscarf and upheld the Turkish government's headscarf ban. The court's Grand Chamber rejected the appeal of Leyla Sahin, who had expected to qualify as a medical doctor in Turkey, but was prohibited from medical school after she refused to take off her headscarf. This decision was critical as many students looked to the ECtHR to remedy their cases, as they were not allowed to attend the universities with headscarf. Now that the ECtHR did not change the headscarf ban, question marks arose over the future of the problem. According to Amnesty International, "Turkey's ban on headscarves clearly infringes the right to religious practice and expression. The ECtHR has been powerful force in extending basic freedoms in Turkey, but it missed an important opportunity in this case to stand firmly behind principles of freedom of religion, expression, and non-discrimination."<sup>7</sup>

#### **6.4. Enforcement of Human Rights**

With regard to the enforcement of human rights, Turkey has set up a range of bodies since 1999. Since October 5, 2000, Turkey adopted a law setting up a number of bodies: the Human Rights Presidency, the High Human Rights Board, the Human Rights Consultation Boards and the Investigation Boards. The Reform Monitoring Group and provincial and sub provincial human rights boards were established. Nevertheless, by European Commission's 2004 Regular Report on Turkey, the impact of these bodies was very limited.<sup>8</sup>

Although governmental human rights institutions have had a positive impact on raising public awareness of human rights, they are inadequate to bring about a significant improvement in view of their lack of independence, composition, limited powers and

apparent reluctance to investigate adequately serious reports of human rights abuses. Unless these shortcomings are addressed, increasing amount of financial assistance to the Boards for training will not be enough. According to Amnesty International, “These institutions are not adequate mechanisms to address this need and are not in line with the Paris principles”.<sup>9</sup> The Paris Principles state that, in order to fulfill crucial functions, national human rights institutions should be provided precisely defined powers to investigate on their own initiative allegations of human rights abuses. It was also suggested that human rights boards had to learn from the experience the CPT has built up in carrying out such visits throughout Europe over a decade and a half.<sup>10</sup>

The Turkish government has made considerable progress with a view to strengthen its monitoring and reporting mechanisms, as well as the dialogue with human rights NGOs. The Parliamentary Human Rights Investigation Committee conducted inspections in detention centers. Comprising representatives of the Ministries of Interior, Justice and Human Rights, an Interministerial High Human Rights Board was created in December 2001. Coming together on a monthly basis, the Committee aimed at monitoring the implementation of legislation and the human rights situation on the ground. Human Rights Consultation Board was established to function as a permanent forum of exchange of views between the Government and NGOs.

The Human Rights Presidency in Ankara is in charge of monitoring the implementation of legislation in the field of human rights. It is organizing awareness campaigns in the local media, and special hotlines and complaint boxes. An application desk was set up for every

provincial and sub-provincial Board, with the aim of assessing all applications. Between October 2001 and June 2002, 1192 applications were filed. Of these, 924 concerned directly human rights violations. From the hundred and twenty cases investigated, 146 were referred to the judiciary. Nevertheless, some civil society organizations in the field of human rights had reservations with respect to the Human Rights Boards, in particular their composition, which in some cases has included members of the security forces. But due to a regulation published in November 2003 representatives of the security forces on these Boards were removed. This eased the participation of the civil society members in these boards.

With respect to training on human rights, a joint European Commission- Council of Europe initiative on “Police, professionalism and the public in Turkey” was agreed in January 2002. Nevertheless, some technical problems impeded its operation. Beside the police and the gendarmerie, this initiative targeted the civil servants, in particular the judiciary, for whom a training programme on ECtHR case law was initiated in May 2003.

The Parliamentary Human Rights Investigation Committee went on to collect complaints regarding human rights abuses and called on the relevant authorities to follow up and redress the situation when necessary. Between October 2003 and June 2004 the number of complaints it received reached 791. On the other, the Committee was instrumental in giving procedural advice to citizens who wanted to apply to the ECtHR in the aftermath of the exhaustion of domestic applications.

A Human Rights Violations Investigation and Assessment Centre was set up within the Gendarmerie Command in April 2003. As of August 2004 it received 339 applications. In February, a human rights Investigation Office was set up by the Ministry of the Interior in order to inspect the police stations. Concerning the fight against discrimination, Turkey ratified the 1969 UN Convention on the Elimination of All Forms of Racial Discrimination in April 2002.

Between October 2004 and March 2005, 565 individuals have filed complaints to the Human Rights Boards and the Presidency. Given the number of the boards, this figure was low, suggesting limited awareness of the existence of the boards and/or low level of trust. The Parliamentary Human Rights Investigation Committee continued to receive complaints on human rights abuses. Reportedly, the number of complaints was 1,307 from October 2004 and June 2005.<sup>11</sup>

### **6.5. Capital Punishment**

In 2001 Article 38 of the Constitution was revised limiting the death penalty to cases of terrorist crimes and to times of war or imminent threat of war. As a result of the August 2002 reforms, capital punishment in peace time was abolished. Due to its touchy character, it led to lengthy debates in the coalition government, since it concerned the case of Öcalan. The death penalty in time of peace was converted into life imprisonment. Nevertheless, prisoners convicted of terrorist crimes must serve their full sentence. From September 2002 onwards, existing death sentences were converted into life imprisonment. From 1984 till August 2002, based on the Anti-Terror Law, there was a moratorium on death penalties imposed by courts.

In June 2003 Turkish Parliament ratified Protocol No. 6 of the ECHR forbidding the death penalty except in times of war and the imminent threat of war, which entered into force in December 2003. Subsequently, following the changes in 2004, capital punishment was abolished in all circumstances. Turkey signed Protocol No. 13 to the ECHR about the abolition of the death penalty in all circumstances in January 2004. Any provisions relating to the death penalty was deleted from Turkish legislation following the constitutional changes in May 2004.

Regarding Öcalan, the ECtHR decided in March 2003 that Turkey was in violation of Articles 3, 5 and 6 of the ECHR concerning the applicant's complaints particularly as regards the capital punishment, and his detention and trial. Nevertheless, in July 2003 both Öcalan and the Turkish Government took steps to proceed this case further to the Grand Chamber. The ECHR decided in May 2005 that Öcalan, sentenced to lifetime imprisonment, did not receive a fair trial in Turkey in 1999, as he was not allowed proper access to his lawyers and facilities necessary for his defence. Following the verdict of the Court, the Committee of Ministers from the Council of Europe, to which the ECHR is attached, decided on July 5, 2005 to postpone the debates on the ways to implement the verdict for several months.<sup>12</sup> This means that the Court's ruling on this highly touchy issue will not be on the agenda in the run-up to October 3, 2005, the scheduled date for starting accession negotiations between Turkey and the European Union. It is anticipated that the discussions regarding the implementation of the Court's verdict will not be finalized in less than two years.

## **6.6. Torture and Ill Treatment**

As regards the prevention of torture and mistreatment, major steps were taken. In 2002 pre-trial detention periods in police custody were reduced to a maximum of four days, with a possibility of extending it three days more in the provinces, where emergency rules still applied. In these provinces, it was still possible for detainees to return to custody for periods of up to ten days. During this period, the detainee did not have access to a lawyer or relatives. As part of the fourth reform package, Decree 430 was changed. Thus, in provinces under emergency rule, the period was reduced from ten to four days each time an individual was returned to police custody. Emergency rule was already lifted in all provinces as of November 30, 2002. As a result of these changes, access to a lawyer and health checks were ensured when detainees were taken out of prisons for interrogation. The decision of a judge, who must see the detainee in question, is required before permission is granted to take individuals from prisons or detention houses.

It was stated in the European Commission's 2004 Regular Report on Turkey, "Although many of the recommendations of the Council of Europe's Committee for the Prevention of Torture and Ill-treatment (CPT) and the relevant UN bodies have been acted upon, a number have still not been followed up by the Turkish authorities."<sup>13</sup> Therefore, as of the end of 2004 it was still necessary for Turkey to continue its fight against torture and ill treatment despite the major successes achieved in these areas.

Following the amendments to Articles 107 and 128 of the Code of Penal Procedure in February 2002, relatives of the detainee was to be informed of the arrest of custody extension “without delay” and “by decision of the prosecutor”.

The amendments to Article 16 of the Law on the Establishment and Prosecution Methods of the State Security Courts (LSSC), made it possible for detainees who fall under the scope of these Courts to have access to a lawyer after 48 hours in detention. Under the fourth reform package Paragraph 4 of Article 16 of the LSSC was repealed. As a result of these changes, it became possible for defendants under the competence of the State Security Courts to access to a lawyer as from the outset of deprivation of liberty.

The sixth reform package repealed the provisions prohibiting lawyers from being present during statement taking when they were defending those being tried under the scope of State Security Courts. Under the seventh reform package the Code of Criminal Procedures was further changed by giving priority to torture and ill-treatment cases. So as to reduce the risk of impunity, hearings can be carried out during judicial recess and cannot be adjourned for more than 30 days, unless there are compelling reasons to do so.

Following an amendment introduced by the second “reform package” to Article 13 of the Civil Servants Law, civil servants, found guilty of torture and mis-treatment were made liable to pay the compensation stipulated by the ECtHR.

Efforts were made to increase awareness of human rights among the security forces. Training at the Police Higher Vocational Education Schools has been extended from nine months to two years, and human rights courses were added in the curriculum. Amendments to the Law on the Duties and Competencies of the Police in the third “reform package” of August 2002 introduced some safeguards against possible abuses by the police by restricting their discretionary authority.

In January 2003 the Law on the Trial of Civil Servants and other Public Officials, and Article 154 of the Code of Criminal Procedures were changed. Following these amendments, it was not required any more to take permission from superiors in order to open investigations on public officials in cases of torture and mis-treatment. Following the adoption of the fourth reform package Articles 243 (torture) and 245 (ill-treatment) of the Penal Code were amended in order to prevent sentences for torture and mis-treatment from being suspended or converted into fines.

In January 2004 following an amendment to the Regulation on Apprehension, Detention and Statement Taking, the rights of detainees were strengthened. In April 2004 a circular was issued calling on all law enforcement officials to avoid methods that may cause allegations of ill treatment of detained persons. The Military Criminal Code and the Law on the Establishment and Trial Procedures of Military Courts in January 2004 was amended to align the detention procedures of the military courts with those of other courts.



As of 2003, a policy of “zero tolerance” towards torture was pursued. Legislation regarding this area was reinforced. Zero tolerance policy against torture bore fruits. As a result, there was a serious decline in torture cases. According to the data provided by the Human Rights Association, in the first six months of 2004, 692 complaints regarding torture received, pointed to a 29 % decrease on the first six months of 2003. Nevertheless, reportedly, torture outside of formal detention centres remained an important problem.

On occasion of its visit to Turkey on September 7-15, 2003, CPT delegation of the Council of Europe testified to the pursuit of “zero tolerance policy” towards torture. Stating that the facts found in Turkey were encouraging in general, the delegation expressed its happiness about the Government’s attitude with respect to torture saying, “The Government’s message of “zero tolerance” of torture and ill-treatment has clearly been received, and efforts to comply with that message were evident.”<sup>14</sup>

Upon allegations of “systematic” torture in Turkey the European Commission sent a fact-finding mission in September 2004 in order to investigate the situation as regards torture and ill treatment in Turkey. Following the visit of the mission, it was confirmed that the Government has been seriously implementing its policy of zero tolerance in the fight against torture.

On the other hand, according to official statistics there was also significant progress in the fight against impunity. Of 2454 law enforcement agents who were tried in 2003 on allegations of torture or ill treatment, 1357 were acquitted and of the 854 defendants that

were convicted, 138 were jailed. Efforts were made to ensure the attendance of the accused law enforcement agents, which used to be a problem previously. The accused could avoid attending trials for many years, therefore causing their cases to exceed the statute of limitation. In February 2004, the Minister of the Interior issued a circular to ensure the attendance of the accused at trials in relation to torture and ill treatment.

The report published by CPT on its visit between 16 and 29 March 2004 confirmed that, there has been a considerable improvement in detention facilities and in the treatment of people in custody. After its visit to a number of prisons and detention centers in Turkey the CPT reported that, “Resort to severe methods of ill-treatment appears now to be a rare occurrence in that part of Turkey (Izmir). The overall message received from both detained persons and other interlocutors was that there had been distinct improvement in recent times in the manner in which persons were treated whilst in police and gendarmerie custody.”<sup>15</sup> A number of attorneys in the southeast and other regions also stated that torture and ill-treatment had become considerably less common. According to the accounts of observers police demonstrated greater care in their treatment of detainees and protestors during the year.<sup>16</sup>

Doctors have been trained in a project to address a lack of forensic experts specialized on detecting torture and miss-treatment. The training has taken place in line with the Forensic Medicine Institution’s “Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment” and the Istanbul Protocol. In an effort to

improve the quality of medical examinations, the Forensic Medicine Institute has moved to forensic medicine examination rooms from courthouses to hospitals and health centers.

According to the reports of NGOs, a significant improvement was achieved in access to a lawyer during pre-trial detention. Of those accused of crimes in relation to the State Security Courts in the first quarter of 2004, 46 % requested and were provided access to their lawyers, while the figure for the same period in 2003 was 28 %. There has also been progress in informing relatives when suspects are taken under custody.

In April 2005, trial of police officers for alleged torture in Iskenderun started after a delay of six years. NGOs were critical of the delays regarding the prosecution of officials having allegedly involved in torture. According to Amnesty international “The repeated delays have called into question the ability of the courts to bring suspected perpetrators of human rights violations to justice.” The human rights NGO further said, “The Turkish authorities must take steps to ensure that all allegations of torture are immediately investigated thoroughly, independently and impartially, and any perpetrators are brought swiftly to justice.”<sup>17</sup>

Amnesty International stated that despite the government’s programme repeated incidence of torture and ill-treatment in Turkey revealed that further precautions were needed in order to root out torture by state agents. The organization set out the conditions for the eradication of torture and suggested that “if they do occur, there will be a reaction from the authorities which prevents the perpetrator from repeating the act, which satisfies conditions of justice

and reparation, and which condemns the act in such a way that other public officials will be deterred from similar conduct.”<sup>18</sup>

## **6.7. Prison System**

Reforms in the prison system and conditions have brought about substantial improvements in this area. In autumn 2000, the Turkish officials decided to implement a reform of the prison system, which envisaged a change from dormitories, housing 80 or more people to room system with fewer inmates in F-type and other kinds of prisons. Despite some deficiencies, this was an important step forward to provide better conditions for prisoners.

Adopted in July 2002, the Law on the Establishment of Prison Staff Training Centres provided a legal basis for the Prison Training School in Ankara. The law established the principles and procedures regulated Prison Staff Training Centres. Curriculum for the in-service training of prison and detention house personnel was changed by the Ministry of Justice in January 2003 with a focus on human rights and fighting treatment-treatment particularly. A new school in Ankara for training prison staff became operational in 2003.

With respect to reforming the prisons, a range of significant legislative changes was adopted in 2001. In May 5, 2001 Law amending Article 16 of the Anti-terrorist law was passed allowing inmates convicted of terrorism and organized crime to participate in education, sport and other social and cultural activities in common living areas. Open visits became possible once a month. A circular was issued by the Ministry of Justice in October 2002 lifting all conditions attached to participation in communal social activities.

Law on the Institution of the Judge Enforcement, which was adopted on May 16, 2001 allowed for the establishment of 140 enforcement judge offices. They are in charge of making decisions on actions taken regarding convicts and detainees and handling complaints relating to such actions. In order to implement this law, a regulation was adopted by the Minister of Justice on August 7, 2001. As of May 2004, 11 923 complaints on actions taken as regards prisoners and detainees were received since the set up of the system in 2001. While of these applications, 3 659 were acted upon, 319 were partially accepted and acted upon and 7 945 were rejected by the Enforcement Judges. A substantial part of the applications (5 554) were related with disciplinary punishments.

Another law adopted in 2001 is the Law on the Establishment of Monitoring Boards for Punishment Enforcement Institutions and Detention Houses (June 21, 2001). This law made it possible to set up Monitoring Boards with a view to conducting inspections and drafting quarterly reports for the Ministry of Justice and other relevant bodies, on the living and health conditions, transfers and disciplinary measures in penal institutions.

As regards the external supervision of prisons, the number of Monitoring Boards established reached the target of 129 as of 2002. They were in charge of conducting inspections and drafting quarterly reports for the Ministry of Justice and other relevant bodies on living and health conditions, transfers and disciplinary measures in penal institutions. The Boards comprised lawyers, doctors, pharmacists, psychologists, and members of other professions. Between January and July 2002 period 3963 suggestions were submitted for improvements

in 460 reports by the Monitoring Boards to the Ministry of Justice. NGOs kept a certain distance to the monitoring boards due to the reservations with respect to their composition. Between January and August 2004 the Monitoring Boards made 1,193 recommendations, of which 451 were acted upon.

An important step was taken to reduce overcrowding in prisons. The Law No 4758 on Conditional Release and Postponement of Punishments (the so-called “Amnesty Law”) was adopted on December 8, 2000 and entered into force in May 2002. As of September 2002, 43576 prisoners were released based on this law. Nevertheless, writers, journalists in prison for crimes concerning freedom of expression did not benefit from the Amnesty Law. Official sources stated that there were 64 296 people in prisons and detention houses as of December 2003. Of these people 37 056 were convicted prisoners and 27 240 were detainees.

Due to the hunger strikes and deaths the Penal Code was reformed. In February 2003 two new offences were introduced in order to increase security in prisons and prevent hunger strikes. Under Article 307/a of the Penal Code persons convicted of bringing or using weapons and certain communication devices into prisons are sentenced between two and five years. Article 307/b brought for those convicted of offences such as preventing prisoners and detainees from meeting a lawyer or friends, sentences of one to three years. Another important provision of the article is that preventing prisoners and detainees from being fed became an offence. Those found guilty of this offence are punished with sentence between two and four years. In case somebody dies as a result of malnutrition, period of sentence extends to 10 to 20 years.

In February 2003 a number of articles of the Law on the Administration of Prisons and Detention Houses were also amended as regard the provision of food and entry into prisons. According to an amendment to Article 4 prisoners and detainees on death fast will be informed by the prison doctor about the physical and psychological consequences of their actions. This amendment also stipulates that in case of any serious health danger, they will be taken to hospital, if necessary against their will.

A report issued by the CPT in December 2005 pointed out to the high standards of material conditions of detention in F-type prisons. However, the report also stated that, “the communal activities programme in operation at the time of the visit was disappointing”. CPT report recommended that the Turkish authorities take all necessary measures to develop activity programmes in the prisons. According to the CPT, if the possibilities in this respect are fully exploited, these prisons could rightly be viewed as a model form of penitentiary establishment.<sup>19</sup>

Official sources state that in May 2005 there were 58.670 people in jails and detention houses. Of these, 31.812 were convicted inmates and 26.858 were prisoners detained on remand. The number of prisoners released as a result of the adoption of the new Penal Code reached 14.431 by May 2005.<sup>20</sup>

## **6.8. Freedom of Expression**

Turkey has made important progress in one of the most criticized areas, the freedom of expression and lifted most of the restrictions on the rights of the people to express views, which do not contain violence and upgraded the relevant provisions to international standards. Regarding legislative changes with respect to freedom of expression, amendments were made to Articles 159 and 312 of the Turkish Penal Code, as well as Articles 7 and 8 of the Anti-Terror Law following the adoption of the first “reform package” in February 2002. An additional change was introduced to Article 159 of the Penal Code in the third “reform package” in August 2002.

Article 159 of the Turkish Penal Code (“insult to the State and to State institutions and threats to the indivisible integrity of the Turkish Republic”) was amended to reduce prison sentences. For instance, the maximum penalty was reduced from six to three years’ imprisonment. The fines for criticising Turkish laws were abolished. Nevertheless, the actual definition of the offence did not change. Following the second amendment to Article 159 in August 2002, expressions of criticism of the institutions are no longer penalized unless there was no intention of “insulting” or “deriding” those institutions. As part of the seventh reform package, the minimum sentence under Article 159 of the Penal Code was reduced from one year to six months.

Article 312 of the Turkish Penal Code (“incitement to hatred on the basis of differences of social class, race, religion, sect or region”) was amended. The definition of the offence was changed by adding a new element, which is “in a way that may be dangerous for public



order”. A new type of criminal offence was added to the amended Article. “Insulting part of the people degradingly and in a way that hurts human dignity” became punishable by six months to two years in prison.

The notion of “propaganda in connection with the (terrorist) organisation in a way that encourages the use of terrorist methods” was introduced in the amendments to Articles 7 and 8 of the Anti-Terror Law. Another change was increasing sentences for such offences. For other offences prison sentences were maintained or reduced. The bans on television and radio broadcasting were reduced, but fines were increased, and the notion of “visual” propaganda was added as a new element. Article 8 of the Anti-Terror Law was repealed as part of the sixth reform package.

The seventh reform package consolidated the previous amendments to Article 7 of the Anti-Terror Law. The expression “terrorist methods” in the provision, “propaganda in connection with the (terrorist) organisation in a way that encourages the use of terrorist methods” was replaced with the expression, “resorting violence or other terrorist means”. On the other hand there was a ten-fold increase in fines, and the length of prison sentences-, which were increased last year, - remained at one to five years.

Following the entry into force of the first legislative changes in February 2002, there were fewer cases brought under Articles 159 and 312 of the Turkish Penal Code. But other grounds were used to bring the cases regarding freedom of expression before the court. For

instance, there was an increasing tendency to use Article 169 of the Turkish Penal Code for cases concerning freedom of expression.

But the scope of Article 169 of the Penal Code (“aiding and abetting terrorist organisations”) was narrowed under the seventh package by deleting the provision sanctioning “actions which facilitated the operation of terrorist organisations in any manner whatsoever”.

By the official sources, the number of the cases filed by public prosecutors and in the conviction rate in relation to alleged breaches of amended Articles 159 (“insulting the state and the state institutions”), 169 (“adding and abetting terrorist organizations”) and 312 (“incitement to racial, ethnic or religious enmity”) of the Penal Code and Article 7 of the Anti-Terror Law (“propaganda in connection with the (terrorist) organisation in a way that encourages the resort to violence or other terrorist means”) between 2001 and 2003. Furthermore, all those who had been convicted under the repealed Article 8 of the Anti-Terror Law (“propaganda against the indivisible unity of the state”), were freed from prison. Following the change to Article 159, prison sentences were shortened. By the official sources, following the implementation of the amended provisions by the State Security Courts, 2 204 people were acquitted. Due to the narrowing of the scope of the crimes regarding terrorism as a result of the amendments, there was a steady decline in the number of detained people: The number of people detained for terrorist-related crimes was 8 657, 8 298, 7 745, 6 137 and 5 809, respectively for 2000, 2001, 2002, 2003 and April 2004.

As a result of the new Penal Code, adopted in September 2004, the scope of some provisions that were used to convict those expressing non-violent opinion was narrowed. According to the new Article 216 (which largely corresponds with the current 312), someone can be convicted under this article only in cases, in which his “incitement to enmity and hatred” constitutes a “clear and close danger”. There was also narrowing of the scope of the Article 305, which penalizes individuals who receive financial benefits from abroad for “activities in contravention of fundamental national interests” in comparison to the Article 127 of the new Code. Because of these improvements in the freedom of expression, human rights organizations reported a considerable decrease in prosecutions under legislation restricting freedom of expression.<sup>21</sup>

Although the new Penal Code certainly brought significant improvements, it still continues to include various restrictions on fundamental rights. Some provisions were carried over from the old Penal Code. For instance, Article 159 which criminalized acts that “insult or belittle” various state institutions, reappears as Article 301 of the new Penal Code in the section entitled “Crimes against symbols of the state sovereignty and the honor of its organs” (Articles 299-301). Concerns remained that this section could be used to punish legitimate expression of dissent and opinion.<sup>22</sup> The final qualification of the article in paragraph 4 states that expressions amounting to “criticism” rather than “public denigration” are not punishable. Nevertheless it is quite problematic to draw a distinction between criticism and denigration. Vagueness of the crime may lead to arbitrary interpretation by prosecutors and judges.<sup>23</sup>

Furthermore, there are reports by human rights organizations that in numerous incidents individuals are being prosecuted or have been given monetary fines or custodial sentences for the peaceful expression of non-violent opinion. In some cases, decisions of the Court of Appeals are in contravention of international standards. Emergence of such problems appears to “derive from an apparent resistance by prosecutors and members of the judiciary to the reforms”.<sup>24</sup> Human rights NGOs have criticized the prosecution of people under the Article 301 as “a flagrant violation of the international standards and, in particular of the International Covenant on Civil and Political Rights”.<sup>25</sup>

Trial of Orhan Pamuk, Turkish novelist of international standing, attracted widespread attention domestically as well as internationally. He was charged with “insulting Turkishness” under article 301 of the criminal code. He had told the Swiss magazine *Das Bild* in February 2005 that, “Thirty thousand Kurds and one million Armenians were killed in these lands.” With respect to the prosecution, Holly Cartner, Europe and Central Asia director at Human Rights Watch, said, “The trial of Orhan Pamuk will show the world which direction Turkish justice is heading,” and added, “The right signal would be prompt acquittal and a strong statement from the bench affirming that Turkish law protects freedom of expression.”<sup>26</sup> Finally, the case against Orhan Pamuk was dropped in January 2006. Sisli Court of First Instance No. 2 had been waiting for the authorization of the Ministry of Justice to proceed with the case, but reportedly threw it out after the Ministry wrote to the court declaring itself legally incompetent to intervene.<sup>27</sup>

It was reported that prosecution of individuals under the Article 301 was carried on in 2006. On February 15, 2006 Mr. Kaboglu, former head of the Human Rights Advisory Council and Mr. Oran, member of this Council, will appear before the Ankara penal Court of First Instance. They have been charged under Articles 216/I and 301/II of the new Penal Code, for “inciting hatred and enmity” and “humiliation of the courts authority”. They had prepared a report, which was released in October 2004. The report had called on Turkey to grant more rights to minorities as well as overhaul its approach to national identity. An investigation was subsequently started against the author of the report and the chairman of the Council.<sup>28</sup>

#### **6.9. Freedom of the Press**

With respect to freedom of expression, the provision that “publication shall not be made in any language prohibited by law” has been deleted in 2001. The first “reform package” in 2002 amended Article 8 of the Anti-Terror Law. Fines for publishers found guilty of offences of “terrorist propaganda” were increased from a minimum TL 100 million to a minimum TL three billion.

The second “reform package” brought amendments to the Press Law. It was in fact far from removing restrictions on the freedom of the press. Through the amendments in the Press Law, it became possible to confiscate the printing equipment of publications found to be acting against the basic principles of the “integrity of the nation, republican order, or the country’s national security”. Nevertheless, there was improvement in terms of the punishment for such offences. The maximum suspension for a publishing company found

guilty of such offences became shorter, as has the maximum length of imprisonment for those, who go on publishing suspended periodicals.

In the third “reform package” the Press Law was amended to replace prison sentences for crimes regarding the press with heavy fines. Under the fourth reform package Article 15 of the Press Law was changed. The new provisions protect the owners of periodicals, editors and writers from being forced to reveal their sources.

Under the seventh reform package, Articles 426 and 427 of Law No 765 were changed. According to a paragraph added to Article 426, scientific and artistic works, and “works of literary value” are exempted from the scope of the article banning publications on the grounds of moral principles. The amended Article 427 stipulates that confiscated publications can no longer be destroyed or burned on the grounds of “hurting people’s feelings” or “exploiting people’s sexual desires”.

Following the changes to Article 30 of the Constitution in 2004 as regards the protection of printing facilities under no circumstances it was allowed any longer to confiscate and seize the printing equipment of a publishing house. As a result of the Press Law adopted in June 2004 an important progress was made to enlarge press freedom. The new Law reinforced the right of journalists not to disclose their sources; the right to reply and correction was strengthened; fines replaced the prison sentences to a large extent; sanctions such as the shutting down of publications, halting distribution and confiscating printing machines were removed; and the possibility of confiscating printed materials, such as books and periodicals,

was reduced. Furthermore, Turkish publications can be owned or edited by foreigners. These improvements in the freedom of the press have been welcomed by journalists. But it is pointed out that the new version of the Press Law, which took effect on April 1, 2005, allows “making propaganda for an illegal organization or its aims” to be punished by one to three years in prison, with the heavier penalty if the offence is committed by the media.<sup>29</sup>

According to official sources there was a considerable decrease in the number of cases resulting in sanctions. As of 2004, it was stated that the majority of cases against journalists were not brought under the Press Law. Nevertheless, the legislation most widely used to prosecute the media were still Articles 159, 169 and 312 of the Penal Code and Articles 6 and 7 of the Anti-Terror Law.

Despite considerable improvement in the freedom of the press, there were still reports in 2005 that writers and journalists were prosecuted. In one of these incidents the prosecution of Fatih Tas, owner of the Aram publishing house, was continued for publishing a Turkish translation of “Spoils of War: Human Cost of America’s Arms Trade” by John Tirman. Tas was charged with “insulting Turkishness” and “insulting the security forces” under article 301 of the Turkish criminal code, and with “insulting the memory of Kemal Atatürk” under Statute 5816, the Law to protect Atatürk.<sup>30</sup>

#### **6.10. Freedom of Broadcasting**

As to the broadcasting, under the first “reform package”, Article 8 of the Anti-Terror Law was amended. Through these changes, there was a decrease in the maximum closure period

for radio or TV channels for propaganda against the unity of the State from fifteen to seven days.

The changes to the High Audio-Visual Board (RTÜK) Law in the third “reform package” allowed for “broadcasts in the different languages and dialects used traditionally by Turkish citizens in their daily lives”. This was a major progress, which opened the way for broadcasting in languages of subgroups in Turkey. The Government issued a Regulation on the Language of Radio and TV Broadcasts in December 2002 to implement the changes made in August 2002. Through this Regulation the state broadcasting corporation, TRT was allowed to broadcast in languages and dialects traditionally used by Turkish citizens.

By this Regulation broadcasting in these languages was to take place for four hours per week on radio and two hours per week on television. Programmes can only target adults on the subjects of news, culture and music. Nevertheless, programmes should respect the fundamental characteristics of the Republic and the indivisible integrity of the state. In May 2002 the ban in relation to references to broadcasts promoting “pessimism” and “desperation” was removed.

It became lawful to re-transmit foreign broadcasting. In practical terms, as from May 2002 the prohibition on the re-broadcasting of the BBC World Service and Deutsche Welle programmes, which had been imposed in August 2001, was lifted.



The previously adopted legislation regarding the broadcasting in languages other than Turkish was implemented in 2004. State broadcasting corporation TRT broadcast the first programmes on radio and television in languages and dialects other than Turkish in June 2004. Broadcasts were aired in Bosnian, Circasian, Arabic and the Kurdish dialects of Kirmanci and Zaza.

Under a new regulation published in January 2004 beside the state broadcaster TRT private national television and radio channels were allowed to broadcast in languages other than Turkish. Another part of the regulation provided for opening the decisions of the High Audio Visual Board (RTÜK) to judicial appeal.

Nevertheless, it was reported that the Broadcasting Law was still used by RTÜK to impose sanctions, including fines and the suspension or cancellation of the broadcasting license. For instance, in March 2004 RTÜK ordered the closure for 30 days of ART TV, a local television channel broadcasting from Diyarbakir for violating “the principle of the indivisible unity of the state” when, in August 2003, it broadcast two Kurdish love songs.

#### **6.11. Freedom of Association and Peaceful Assembly**

In the field of the freedom of association and peaceful assembly, Article 33 of the Constitution was amended in October 2001 changing the general rules and restrictions on the right to form an association. The second reform package contained amendments to the Law on the Establishment of Associations. (LEA) Restrictions imposed on contacts with foreign counterparts were lifted by deleting Articles 7, 11, 12 of the LEA, which regulated relations

with international organizations. Moreover, the grounds for banning association were narrowed. The previous justification that there should be a “probability” of it committing a crime was deleted. All references regarding “languages banned by the law” were removed. The minimum age for an organiser of an association or gathering was reduced from 21 to 18 years. The amendments in the fourth and seventh reform package further eased restrictions on the freedom of association.

Under the third “reform package” the Law on Associations was further revised. Due to these changes a range of restrictions on the scope of associations were deleted. The new amendments allowed for the civil servants to establish associations and the associations to carry out activities for civil defence purposes.

A further change to the Law on Associations in the August 2002 reform package allowed for the setting up of a new body responsible for associations within the Ministry of the Interior, as opposed to the current Directorate General for Security. This department became operational in August 2003. Amnesty International was given permission to open a branch in Turkey in March 2002.

Under the second “reform package” amendments were made to the Law on Public Meetings and Demonstration Marches, in particular removing Article 21. This change extended to public organisations the right to hold meetings and demonstrations. The third “reform package” brought further amendments. A certain progress was made in the procedures regulating active participation by foreigners in gatherings, as an advance 48 hours

“notification” replaced the requirement for “authorization”. Likewise, the general notification period for meetings to be held was reduced from 72 hours to 48 hours.

Official sources show that there were fewer restrictions on public demonstrations than in the past: in the first eight months of 2004 the number of prohibited or postponed demonstrations was 12 in comparison to 41, 95 and 141, respectively for 2003, 2002 and 2001.

The ability of Governors to postpone meetings was restricted under the seventh reform package. Meetings can be prohibited only on the condition that there is a “clear and imminent threat of a criminal offence being committed”.

In August 2002 restrictions on the showing of films, the holding of concerts and the staging of theatre plays in public places were lifted. A notification obligation of 48 hours in advance replaced the requirement for prior authorization for performances.

With respect to foundations, under the third “reform package” establishing international co-operation for Turkish foundations as well as for foundations set up abroad became possible. Due to the changes to the Civil Code and the Law on Foundations in 2003, Turkish associations and foundations were entitled to open branches abroad and join international or foreign bodies. Foreign bodies were permitted to function and to open branches in Turkey upon receiving authorization from the Ministry of the Interior in consultation with the Ministry of Foreign Affairs.

Following the changes in 2003, confirmation by a judge within 48 hours is needed for any decision taken by the provincial administrative authorities as regards the confiscation of associations' declarations, announcements, and other publications.

Under the seventh package the restrictions imposed on the setting up of associations by people convicted for certain crimes, and by those who used to be members of an association or political party that was shut down by a court verdict, were eased. The scope of associations, which involved higher education students, was widened. They are permitted to establish associations not only regarding educational and recreational matters, but also as regards art, culture, and science.

In July 2004 a new Law on Associations was adopted by Parliament. The new law removes restrictions imposed on the establishment of associations on the basis of race, ethnicity, religion, sect, region, or any other minority group. The new law removes the requirement to apply for a prior permission to open branches abroad, join foreign bodies or hold meetings with foreigners. All restrictions on student associations are lifted; informing local government officials of general assembly meetings is not required any more; all civil society organizations are permitted to establish temporary and informal platforms or networks. Furthermore, by the new law governors are required to issue warnings before taking legal action against associations and a court order is necessary for the security forces to enter an association's premises.

Under the new law associations are allowed to undertake joint projects with, and receive financial support from, other associations and public institutions. The new law removes the requirement to seek prior permission to receive funds from abroad. Nevertheless, these provisions were vetoed by the President for contravening the Constitution.

The local authorities were instructed by a circular issued in June 2004 by the Ministry of the Interior to deal with demonstrations, marches and press conferences in a way that does not impinge on the rights of peaceful assembly and avoids placing restrictions on the organizers. In another circular issued in August 2004 by the Ministry of the Interior the security forces were required not to resort to disproportionate use of force.

Nevertheless, a May 2004 circular of the Directorate General for Foundations required that all foundations, including religious foundations, seek permission prior to applying to participate in projects whose funding is provided by international organizations, including the European Commission.

A circular dated January 2004 clarified the necessary requirements for obtaining permission to open branches of foreign associations and foundations in Turkey, and for other international activities and cooperation. Permission is given on a temporary basis and it depends on the authorities' decision whether the organizations intending to cooperate share similar goals. Furthermore, among the requirements is annual reporting to the authorities regarding all the activities covered. Public meetings in which foreigners participate should be notified of to the Directorate General of Security.

It was reported that human rights defenders continued to face significant judicial harassment. For instance, 50 court cases and 3 investigations were launched against the Human Rights Association since August 2004.<sup>31</sup>

### **6.12. Political Parties**

The Article 68 in the Constitution as regards the principles to be observed by political parties was changed in 2001. Imposition of sanctions on a political party was made dependent on the condition, whether “actions” committed by members violating a number of basic principles are endorsed by the party as a whole. Principle of proportionality of the crime committed by the party was brought as a novelty. Rather than to dissolve the party permanently, the Constitutional Court may decide to ban the political party in question partially or completely in relation to the gravity of the “actions”.

As for the law on political parties, Article 101 of the Political Parties Law (PPL) was changed under the second “reform package” in accordance with the amendment made to Article 68 of the Constitution. Following the changes in PPL a political party may be deprived of financial assistance rather than being closed down by the Constitutional Court. Although the grounds for penalizing political parties remained the same, it became more difficult to shut down a political party.

The fourth reform package made a number of amendments to the Law on Political Parties basically so as to align this with the constitutional changes in October 2001. These changes

further reinforced provisions making it more difficult to shut down a political party. A “three-fifths majority” is needed in the Constitutional Court to dissolve a political party.

According to the amendment to Article 100 of the PPL, a case for shutting down a political party may only be filed for “reasons stipulated in the Constitution”. The amended Article 102 of the PPL grants a right to appeal against the request of the Public Prosecutor of the Court of Appeals to close down a party. Article 104 of the law was amended to make it possible to impose sanctions on rather than to close down political parties. Other part of the Article provides that political parties can be deprived of “partially or fully of state assistance”. Through the amendment of Article 11 of the law, the minimum sentence in prison for violations of the law was increased from three to five years.

Criminal proceedings were underway to close down a number of political parties. In March 2003, the People’s Democracy Party (HADEP) was closed permanently by the Constitutional Court. It was claimed by the authorities that the new changes regarding deprivation of state funding were not valid in this case, as HADEP did not reach the minimum 10 % threshold to benefit from state assistance. In February 2005 the Court of Cassation rejected a case, brought in March 2003 by the General Prosecutor, demanding the closure of seven political parties.<sup>32</sup>

## **6.13. Minorities**

### **6.13.1. Kurdish Issue**

The Kurdish issue was one of the most delicate issues for the Turkish state. Despite the widespread concern of disintegration, the Turkish government has managed to remove the restrictions on the Turkish citizens of Kurdish origin.

With respect to the cultural rights, Articles 26 and 28 of the Constitution were amended in 2001 constitutional amendments. This amendment abolished the provision banning the use of languages prohibited by law. Through the third “reform package”, it became possible to broadcast in the different languages and dialects used traditionally by Turkish citizens in their daily lives. In 2003 under the sixth reform package important progress took place on the use of language. The amendments allowed for radio and television broadcasting in languages and dialects traditionally used by Turkish citizens. This change applied to both private and public broadcasters. Both broadcasting and teaching started in 2004.

Under the fourth reform package, the amended Article 6 of the Law on Associations allowed for the possibility of using foreign languages in their non-official correspondence. As a result of the amendment to the Civil Registry Law under the sixth reform package, parents were allowed to name their children, as they want, unless the names given comply with “moral values” and do not offend the public.

As regards the educational rights, under the third “reform package”, the Law on Foreign Language Education and Teaching was amended. This amendment allowed for the



possibility of learning different languages and dialects traditionally used by Turkish citizens in their daily lives. It also became possible to open private courses for the same purpose as long as this does not undermine the “indivisible integrity of the state”. As a result, six private schools began teaching Kurdish (Kirmanci dialect) in 2004.

The seventh reform package facilitated restrictions on the location of teaching establishments. It also brought changes to the legislation on teaching of foreign languages and learning of different languages and dialects. It was stated that it fell under the scope of the Council of Ministers to regulate and decide which languages were to be taught. The previous condition of approval by the National Security Council was removed.

An East and Southeast Action Plan was initiated, aiming at improving the situation in the region following the end of the 15-year conflict. The plan included measures relating to public administration, economy, health and education. As a part of the Plan, the “return to village programme” sought to implement a resettlement scheme for those who have been displaced by the events in the region. According to the UN Secretary General Representative for Displaced Persons` Report, the number of displaced persons was between 378,000 and one million.<sup>33</sup> As a result of the measures taken, a sizeable number of villagers returned to their villages. The state of emergency in the Southeastern region, which was in force since 1987, was lifted.

A law on “social reinsertion” adopted by the Parliament entered into force on August 6, 2003. A partial amnesty and reduction in sentences for persons engaged in the activities of an

illegal organization was implemented through this law. The leaders of the organization as well as those who have committed crimes were excluded from the scope of this law.

In July 2004 a Law on Compensation of Losses Resulting from Terrorist Acts was adopted. The objective of this law is to compensate those in the Southeast who have suffered material damages since the start of the Emergency Rule period (19 July 1987).

It was commented by Baskin Oran that Turkey has been undergoing “the second modernization tsunami”, in the form of the EU harmonization packages.<sup>34</sup> The first tsunami was that of Kemalism, which had successfully transformed the country at its time. As a result of the second tsunami, the Sevres syndrome will have been overcome. Thanks to the second tsunami, Turkey is transforming from a “nation-state” to a “democratic state.” Differently from the nation-state of the 1920s, the new democratic state of the 21st century requires that the “sub-identities” be respected.

### **6.13.2. Non-Muslim Minorities**

In the post-Helsinki process, there has been an increased tolerance towards the non-Muslim communities, namely the Greek Orthodox, Armenian, Catholic and Syrian Orthodox Churches, as well as the Jewish minority.<sup>35</sup> In particular, a considerable improvement was made in terms of their rights to their properties.

According to a December 1999 circular, no prior permission has been necessary for the religious communities to restore buildings of charitable institutions and those consecrated for

worship. In the August 2002 under the third “reform package”, some of the difficulties of the non-Muslim minorities were addressed. The amendment to the Law on Foundations eased some problems to property rights. As of August 2002, the “Community foundations” are allowed to acquire and dispose of property, “regardless of whether or not they have the statute of foundations”. Moreover, these communities are entitled to register the property they actually use on the condition that they can prove ownership. But a few conditions were attached to this amendment: In order to acquire and dispose of new property permission is needed from the Council of Ministers. A six month-period as a deadline for filing applications to register property in use was set. In line with the January 2003 Regulations, 2 234 applications were filed for registration of property, of which 287 were accepted. Applications were received from a list of 160 foundations in the Regulation.

In June 2004, a Regulation on the Methods and Principles of the Boards of Non-Muslim Religious Foundations was adopted. This Regulation aimed at addressing the problems with respect to elections to the boards of foundations belonging to the non-Muslim communities.

## NOTES

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- <sup>1</sup> 2005 European Commission Progress Report, (Com (2005) 561 final), Brussels, 9.11.2005, SEC (2005) 1426, p. 13.
- <sup>2</sup> Ibid., p. 15.
- <sup>3</sup> Ibid., p. 18.
- <sup>4</sup> “Turkey: Conscientious objector subjected to ill-treatment and death threats from fellow inmates”, *Amnesty International*, AI Index: EUR 44/022/2005, 8 June 2005.
- <sup>5</sup> “Turkey: Implementation of reforms is the key”, *Amnesty International*, AI Index: EUR 44/010/2005, 11 March 2005.
- <sup>6</sup> “Turkey: Memorandum on AI’s Recommendations to the government to address human rights violations”, *Amnesty International*, AI Index: EUR 44/027/2005, p. 12.
- <sup>7</sup> “Turkey: Headscarf Ruling Denies Women Education and Career”, *HRW*, New York, November 16, 2005.
- <sup>8</sup> 2004 European Commission Regular Report on Turkey’s Progress towards Accession, Brussels, 6.10.2004, SEC (2004) 1201, (COM (2004) 656 final, p. 32.
- <sup>9</sup> “Turkey: Memorandum on AI’s Recommendations to the government to address human rights violations”, p. 2.
- <sup>10</sup> “Turkey: Enhanced Police Station Monitoring will Prevent Torture”, *HRW Letter to Deputy Prime Minister Abdullah Gül*, New York, April 22, 2005.
- <sup>11</sup> 2005 European Commission Progress Report, (Com (2005) 561 final), Brussels, 9.11.2005, SEC (2005) 1426, p. 21.
- <sup>12</sup> *Turkish Daily News*, July 6, 2005.
- <sup>13</sup> 2004 European Commission Regular Report on Turkey, p. 34.
- <sup>14</sup> CPT/Inf (2004) 16, Council of Europe, Strasbourg, June 18, 2004, p. 10.
- <sup>15</sup> “Conclusions”, CPT/Inf (2005) 18, Council of Europe, Strasbourg, December 8, 2005.
- <sup>16</sup> Turkey: Country Reports on Human Rights Practices-2004, *The Bureau of Democracy, Human Rights and Labor, The US Department of State*, February 28, 2005, p. 3.
- <sup>17</sup> “Turkey: Protecting the torturers? Grave concerns at trial proceedings in Iskenderun”, *Amnesty International*, Press Release, AI Index: EUR 44/015/2005, 21 April 2005.
- <sup>18</sup> “Turkey: Memorandum on AI’s Recommendations to the government to address human rights violations”, p. 3.
- <sup>19</sup> “Conclusions”, CPT/Inf (2005) 18, Council of Europe, Strasbourg, December 8, 2005.
- <sup>20</sup> 2005 European Commission Progress Report, (Com (2005) 561 final), Brussels, 9.11.2005, SEC (2005) 1426, p. 24.
- <sup>21</sup> Turkey Section, IHF 2005 Report, *International Helsinki Federation for Human Rights*, p. 3.
- <sup>22</sup> “Turkey: Concerns about new Penal Code should be addressed”, *Amnesty International*, Press Release, AI Index: EUR 44/011/2005, 23 March 2005.
- <sup>23</sup> “Turkey: Article 301 is a threat to freedom of expression and must be repealed now!”, *Amnesty International*, Public Statement, AI Index: EUR 44/035/2005, 01 December 2005.
- <sup>24</sup> “Turkey: Memorandum on AI’s Recommendations to the government to address human rights violations”, p. 8.
- <sup>25</sup> “Turkey: Continuous Assaults on the Freedom of Expression”, *The International Federation for Human Rights (FIDH)*, 29 December 2005, at [http://www.fidh.org/article.php3?id\\_article=2942](http://www.fidh.org/article.php3?id_article=2942).
- <sup>26</sup> “Turkey: Pamuk Trial Tests Commitment to Free Speech”, *HRW*, New York, December 8, 2005.
- <sup>27</sup> “Turkey: Court drops case against novelist Orhan Pamuk”, *Amnesty International*, Public Statement, AI Index: EUR 44/001/2006, 23 January 2006.
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- <sup>29</sup> Turkey- 2005 Annual Report, *Reporters Without Borders*, at [http://rsf.org/print.php3?id\\_article=13732](http://rsf.org/print.php3?id_article=13732).
- <sup>30</sup> “Turkish Publisher Threatened with Up to Six Years’ Imprisonment”, *HRW Letter to Minister of Justice*, New York, December 1, 2005.
- <sup>31</sup> 2005 European Commission Progress Report, (Com (2005) 561 final), Brussels, 9.11.2005, SEC (2005) 1426, p. 28.

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<sup>32</sup> Ibid., p. 29.

<sup>33</sup> 2002 European Commission Regular Report on Turkey's Accession Towards Accession, (Com (2002) 700 final), Brussels, 9.10.2002, SEC (2002) 1412, p. 43.

<sup>34</sup> Baskin Oran, *Türkiye`de Azinliklar (Minorities in Turkey)*, (Istanbul: TESEV, 2004), pp. 124-125.

<sup>35</sup> For a study looking into the minorities in Turkey see: Nigar Karimova and Edward Deverell, "Minorities in Turkey", *Occasional Papers*, No: 19, The Swedish Institute of International Affairs, Stockholm, (2001).

## CHAPTER VII

### MEDIATING FACTORS

This chapter is dedicated to the question which factors in Turkish domestic politics refracted democratization requirements of the EU. It seeks to shed light on the response of the domestic institutions to the democratic reforms in the post-Helsinki era, and what role they played in the Europeanization process. It tries to reveal what policies and strategies domestic institutions pursued with respect to these reforms. As will be seen from the below assessment the underlying reason for landmark domestic political reforms in Turkey has been the change in favor of the latter in the costs-benefits equation. While domestic political reforms entail security problems such as disintegration and political instability due to the opening up in particular in minority issues, following the 1999 Helsinki decision, which declared Turkey an official candidate for membership, the EU has showed readiness to share the risks arising from Turkey's reforms. This, in turn, was to induce Turkish state to undertake democratic changes. In Turkey's EU accession process the institutions, which played primarily a part in reforms are the Turkish political parties, the military, civil society and the president. In each relevant section, their reactions and stance to the EU reforms are addressed. It is primarily argued that while there have been serious objections to reforms from some Turkish domestic institutions leading to slowing down of the integration process, Turkish elites are mainly pro-EU. In Turkish politics, there is no "hard-euroskeptical" party in the sense that integration with the EU is totally rejected. Furthermore, in the wake of the coalition government of the 1999-2002 era, coming to power of a pro-EU single-party

government, which Turkish politics did not witness for a decade was an important breakthrough helping to accelerate the reforms.

### **7.1. Empowerment of Turkey's European Bid**

A number of factors have promoted the integration of Turkey with the EU and, thus facilitated the adoption of landmark democratic reforms. In other words, a series of developments have helped to empower pro-EU actors while weakening eurosceptical tendencies. Empowerment of pro-EU actors was to lead to acceleration of democratization in Turkish politics.

Of all the factors, the most decisive is the strengthening of Turkey's pro-EU circles by the EU itself. The first decisive change in this process came at the Helsinki Summit on December 10-11, 1999, where the European Council decided to grant Turkey a candidate status for full membership like all other Eastern and Central European applicants. As suggested by Aydin and Keyman with the EU's decision in Helsinki, Turkey-EU relations have gained in "certainty".<sup>1</sup> As a result, the EU's decision was to encourage the pro-EU actors in Turkey to take major steps in the way of democratization.

Nevertheless, it should be kept in mind that without the defeat of the PKK terrorism, which lasted 15 years, it would have been quite questionable whether the government would dare to take such major steps to meet the Copenhagen political criteria. At least one point is clear: even if the democratizing reforms had been undertaken, they would not have been achieved under the shadow of PKK terrorism to the extent to which they were accomplished now.

Despite the euphoria for the Helsinki decision and the initial positive reactions immediately following the Summit on the part of the Turkish government, the accession process in this period was not without problems and it was not possible for the government to make necessary legislative changes for the initial months. For instance, the arrest of the pro-Kurdish People's Democracy Party (HADEP) mayors strained the relations between Turkey and the EU. Yet, a number of positive steps have been taken. Nonetheless, the importance of the initial period as emphasized in the Commission's regular report of 2000 was "the launching in Turkish society of a wide-ranging debate on the political reforms necessary with a view to accession to the EU"<sup>2</sup>

Finally, the government declared on September 21, 2000 that it adopted a report prepared by the Prime Ministry as a reference on reforming the legislation in accordance with the Copenhagen political criteria. The government approved the set up of a Human Rights Department attached to the Prime Ministry to coordinate the activities of the bodies and institutions working in the field of human rights. Moreover, the Human Rights Advisory Body was established which would function as a liaison between governmental and nongovernmental human rights organization.

The European Commission announced the Accession Partnership (AP) for Turkey on November 8, 2000, in which it specified the reforms Turkey is expected to undertake to meet the Copenhagen Criteria. Except for Cyprus, which was included among the issues to be solved in the short-term, the Turkish government responded the AP positively. Upon



Turkey's initiative the Cyprus and Aegean disputes in the short-term priorities of the AP were placed under a new paragraph defined as "enhanced political dialogue".<sup>3</sup> Eventually, the AP was approved by the European Council on March 8, 2001. Turkey adopted its National Programme for the Adoption of the Acquis (NPAA) on March 19, 2001, which included economic and political reforms to accomplish the Copenhagen criteria.

Turkey adopted broad amendments in 34 articles of the Constitution in September 2001, which included an increase in the number of civilians in the NSC and improvements in human rights. While the 2001 Progress report underlined how crucial the constitutional changes were for Turkey's democratization, it stated that the situation on the ground has hardly improved compared to the last year and Turkey did not meet the Copenhagen political criteria yet.<sup>4</sup> The report also drew attention to the fact that the NPAA had shortcomings compared to the AP.<sup>5</sup>

Towards the end of the year Turkey removed its veto to the European Security and Defense Policy (ESDP) and agreed to a formula assuring that the EU force would not be used in the Aegean and Cyprus. As regards the Cyprus issue, as the Turkish Cypriots initially refused to return to talks, it was stated by the EU that Cyprus would be among the first group of entrants to the EU even in the absence of a settlement.<sup>6</sup> In response, Turkey threatened with the annexation of the northern Cyprus. Finally, following two letters from Denktaş to Klerides an agreement to resume negotiations on January 16, 2002 was reached.

Nevertheless, the tension between the EU and Turkey seemed to fade when Ecevit and Cem went to Laeken on December 14, 2001 for the EU Summit. Expressing delight over the EU invitation to Turkey to participate in the European constitutional convention in March 2002, as well as the positive discourse about Turkey in the post-summit declaration, Ecevit said this was “the first time the EU has made such concrete references to our chances of membership.”<sup>7</sup>

The government passed two harmonization packages, to change the relevant legislation in parallel with the 34-article constitutional amendment, respectively in February and March 2002. As the new amendments changed the articles in the legislation, for instance as regards death penalty, the nature of the NSC and the use of the mother tongue by the minorities they were of fundamental nature.

On the other hand, despite the progress achieved in the direction of meeting the Copenhagen political criteria, 2002 witnessed a number of tensions. The EU maintained its resistance to Turkish demands for a pledge on a specific date for Turkey’s accession negotiations and argued that Turkey’s reforms were not sufficient to satisfy the Copenhagen criteria. EU Commissioner Verheugen said, although the reforms were an improvement in “the Turkish context,” they were “inadequate from a European perspective.”<sup>8</sup>

Furthermore, although the partners of the Coalition government displayed a harmonious relationship which has been unprecedented in Turkish politics, the government started to give the impression of being pulled in different directions by Yılmaz and the ANAP and

Deputy Prime Minister Bahçeli and his Nationalist Action Party (MHP). Bahçeli has had some reservations to the integration with the EU and has been bitterly critical of the idea of seeking an EU membership “at any cost”. The most pro-EU member among the three party chairmen, Yılmaz went so far as to say, “In opposing the EU, no one should try to hide behind the military”.<sup>9</sup> The two coalition partners have been in disagreement particularly over the controversial issue of the abolition of the death penalty, whose objective in the opinion of euroskeptic Bahçeli was to prevent the implementation of the death penalty against the PKK head Öcalan.

Tensions within the government and Turkish politics were further exacerbated by a scandal on February 10, 2001, about the unlawful acquisition and publication of hundreds of e-mail messages of Karen Fogg, the EU representative in Turkey. The leaking of the messages, which showed details of Fogg’s efforts to move the Turkish political elite towards meeting the EU demands, further galvanized the euroskeptics.

In early 2002 the EU and Turkey relations seemed to diverge. Although talks have been taking place in Cyprus between the two sides, there was not any progress. In turn, the EU continued to warn Turkey not to block the Southern Cyprus’s accession to the EU, which was to happen even if there was not a settlement of the issue. Turkey again retaliated with considering the possibility of annexation with the Northern Cyprus. A surprising statement came from the Turkish Army. General Tuncer Kilinc said Turkey needed new allies and that it would be “useful if Turkey engages in a search that would involve Russia and Iran” while continuing to foster relations with the United States.<sup>10</sup> In fact, Kilinc’s statement underscored

the increasing resentment among the euroskeptics, even though Ecevit said that Kilinc's comments were only his personal views.<sup>11</sup>

Ecevit's health problems starting with May created a political vacuum, which first caused intracoalition calculations for new alternatives in the post-Ecevit era and finally forced the government to call for elections on November 3, 2002 putting an end to the coalition of record-breaking longevity.

The Coalition government made a last effort before the EU Copenhagen Summit in December 2002 to influence the EU's decision about Turkey's candidacy positively and adopted a third harmonization package in July 2002 despite the blocking by Bahceli's MHP. The amendments included, among others, abolition of the death penalty except for in times of war or during the imminent threat or war, broadcasting for ethnic groups in their mother tongues and establishment of language courses in minority languages. Also, the move of Ecevit and Yilmaz to undertake these democratizing reforms as well as Bahceli's opposition to them reflected their considerations to win over the electorate in November 2002 elections. As commented by an observer harmonization laws passed in 2002 were "the most positive changes made during the whole history of the Turkish Republic".<sup>12</sup>

Overall, despite some controversies among the coalition partners, in particular between enthusiastically pro-EU Yilmaz and euroskeptic Bahceli, the government was successful in promoting the integration of Turkey with the EU by undertaking the required democratizing reforms in the period following the landmark Helsinki decision by the EU, which granted

Turkey “candidate status” in December 1999. Coalition government’s longevity, which is not typical of Turkish politics, was also helped by the nonexistence of alternative government choices given that the other parties in the Parliament, the True Path Party (DYP) of Tansu Ciller and the Virtue Party (VP) of Recai Kutan already had an ill-fated coalition during 1996-1997, which was forced to step down under military pressure and did not possess the parliamentary strength to challenge the government. Subsequently, VP was further fragmented by splitting into two new parties due to its banning. Importantly, Ecevit and Bahçeli were able to overcome their ideological differences and cooperated in an exemplary manner while also successfully controlling their parties. In this, Bahçeli’s leadership played an important part which made it possible to transform the MHP from radical extremism of the political spectrum to centre right, which was also facilitated by the fall of communism and spread of a global democratization wave.

Nevertheless, during this period euroskeptical and nationalist tendencies were still strong and slowed down Turkey’s EU integration process.<sup>13</sup> While all the parties have displayed nationalist tendencies, the MHP was most vocal among the euroskeptics. Although acknowledging a possible EU membership in the Party Programme, they wished Turkey to integrate with Europe “in an honourable and just manner.”<sup>14</sup> The Turkish Army’s stance was also important in fashioning the EU democratizing reforms. Traditionally pro-western, pioneer of modernization, the Turkish Army was in favor of integration with Europe on its own terms by maintaining Turkey’s national sovereignty as much as possible, in particular in sensitive issues like the rights of minorities, protection of human rights. They believed that the reforms in these fields might increase separatism and cause disintegration of Turkey.<sup>15</sup>

The fact that the Turkish Military Staff was led by a hardline cadre under the leadership of Hüseyin Kivrikoglu was also a factor in military's adopting a tough position towards some of the democratizing reforms. Kivrikoglu even went so far as to accuse Western Europe of wanting to weaken Turkey since the creation of the Turkish Republic, pointing out to the willingness of EU countries to tolerate the presence of terrorist organizations opposed to Turkey on their territory.<sup>16</sup>

As a result, some of the reforms demanded by the EU were watered down due to the reservations of the euroskeptics with respect to "national interest". Due to these reservations, in the words of Heinz Kramer, the reforms were "half-hearted" in this period.<sup>17</sup>

Paradoxically, while the economic crises Turkey experienced in 2000 and 2001 caused the Turkish economy to shrink and impoverished the Turkish people drastically, it helped Turkey move further towards the EU.<sup>18</sup> Put it differently, the crises underlined the significance of the external actors to bring about economic as well as political stability in Turkey. With this understanding in mind, Ecevit invited Kemal Dervis, one of the deputy chairmen of the World Bank and appointed him as the Minister of State for the Economy after the February 2001 crisis to restore the confidence of the international financial community in the Turkish economy. The government accelerated economic and political reforms to satisfy the EU's Copenhagen criteria. While the economic crises were bad for the well being of the economy, they promoted the necessity of undertaking the required reforms by the government to come out of the financial crises and prevent the possibility of a

subsequent political turmoil. In short, the financial crises in 2000 and 2001 helped to empower the pro-EU circles urging to proceed with the democratizing reforms.

The November 3, 2002 parliamentary elections in Turkey was rightly called by many observers as a political earthquake as it changed the political landscape profoundly by replacing the three coalition parties in the Parliament with Recep Tayyip Erdogan's Justice and Development Party (AKP) and Baykal's Republican People's Party (CHP). The elections enabled the AKP to gain a massive majority of 363 seats and form a single-party government.

The most important implication of the elections in terms of EU integration is that as it put an end to the fragmentation of the Turkish party system in the last decade by opening the way for a single-party government, it made possible for the pro-EU AKP to continue democratizing reforms without any significant resistance from the Parliament. Now that the euroskeptic MHP was outside the Parliament, it was in a considerably weakened position to oppose the democratization reforms. In this context, the November 2002 elections were an important turning point as it assured the establishment of a pro-EU single-party government, which accelerated democratization process.

Once coming to power, the AKP made EU integration as its first priority and immediately focused on this issue. After quickly adopting two democratization packages in line with the Copenhagen political criteria, Erdogan paid visits to 14 of the 15 EU capitals and sought the support of the USA for EU membership when he met President Bush on his visit in

Washington in December 2002. While, despite the intense efforts of the AKP government, the Copenhagen Summit decision did not satisfy the Turkish expectations of a firm date to start the negotiations, it was a step forward as it stated that it would start accession talks with Turkey “without delay” if Turkey satisfied the Copenhagen criteria, about which a decision would be taken in December 2004. The AKP government reacted positively by stating that it would complete the political reforms by the end of 2003 and reiterated its readiness for the resolution of the Cyprus issue based on the Annan Plan.<sup>19</sup>

The AKP government passed the sixth legislative package for democratization on July 15, 2003, which included improvements in teaching and broadcasting in languages other than Turkish. The government also passed a bill to grant conditional amnesty for some members of PKK and its successor KADEK on July 29, 2003. The seventh democratization package adopted by the government made significant changes to civil-military relations. With the amendments in the package, composed of the military staff and politicians, powerful National Security Council (NSC)’s profile was reduced while the authority of Turkey’s elected governments was increased.<sup>20</sup>

It is clear that the amendments in the new democratization package were facilitated by the Military’s recognition of the necessity of undertaking political reforms. Importantly, the acceleration of the EU integration process and empowerment of the pro-EU actors in Turkish politics impacted the Army’s stance and led it to facilitate the reforms in a cautious manner rather than obstruct them. Part of the credit should be given to moderate Hilmi Özkök, the new Chief of the Turkish General Staff (TGS), who has had a more liberal stance to the



reforms in comparison to a more hardline one of the previous Chief of TGS, Hüseyin Kivrikoglu. Özkök proved to skillfully balance the differences within the armed forces and the democratization requirements for EU membership. In other words, without his willingness to cooperate and seek compromise, the political reforms might have faced the danger of reversal.<sup>21</sup>

Erdogan sought to clear the way for accession negotiations and remove the obstacles in front of EU membership. With the subsequent legislative changes the AKP abolished the death penalty unconditionally and Leyla Zana, the former Kurdish parliamentarian, who had been in prison for a decade, was released along with two fellow activists. She met Foreign Minister Gul and was permitted to travel to Brussels. The AKP government made some other amendments to the Constitution in May 2004. The eight democratization package passed in July 2004 repealed the provision that allowed for the nomination of a member of the High Audio-Visual Board (RTÜK) by the Secretariat General of the National Security Council. Most recently government adopted a new Penal Code and the Law on Associations.

On the other hand, Erdogan gave firm support to the UN peace plan for Cyprus backed by the EU to help ensure Turkish Cypriot approval in a referendum in April 2004 and thus to remove a stumbling block in the way of Turkey's EU accession. He successfully managed to change Turkey's traditional policy of maintaining the status quo in the island by sidelining the veteran Turkish Cypriot leader Rauf Denktas, who steadily opposed the Annan Plan through the support of the nationalist circles in Ankara including the Turkish bureaucracy and the military establishment. Despite Erdogan's struggles the Cyprus issue remained

unresolved. The Greek Cypriots were allowed to enter the EU along with the other 9 applicants although they rejected the Annan Plan in an overwhelming majority, while the Turkish Cypriots continue to suffer international isolation despite their affirmative vote to the Plan.

In addition to the advantages of Turkey being governed by a reformist one-party government, developments in international political conjuncture have facilitated Turkey's EU integration and thus democratization in Turkish politics. September 11, 2001 Islamist terrorist attacks underlined the significance of Turkish model, which successfully demonstrated that democracy is compatible with Islam. Furthermore, it is obvious that Turkey with a well-trained, second largest military in NATO could contribute to the EU, which seeks to play a global political role. Given that the focus of world politics is now the Middle East and the USA's desire to reshape Middle Eastern region through projects like the Greater Middle Eastern Initiative, Turkey's geostrategic significance is further enhanced. These global political considerations helped Erdogan to persuade the majority of the EU leaders with his argument that "Turkish entry would help prevent a clash of civilizations" while "helping the EU to become a global power".<sup>22</sup>

Consequently, although the EU has been previously consistently critical of undemocratic practices, shortcomings in the field of human rights and minority rights, the EU's impact remained limited. In the pre-Helsinki period, democratization was largely achieved through Turkey's endogeneous dynamics. As a result, steps taken in the direction of democracy and human rights were incremental. During this period EU criticism has sparked off on some

occasions fierce reactions domestically and European states were frequently accused of carrying intentions of dividing up Turkey enhancing the Sevres syndrome prevalent among the Turkish public. The Turkish state was very cautious not to lose its tight grip on the country; power had been largely centralized. This was especially visible in the case of the Kurdish issue. While Turkey was fighting against PKK, EU's criticisms of human rights went largely unheard by Turkish authorities, since democratization in the presence of a real threat to the country entailed a high risk of dismemberment. Moreover, the EU only offered sticks rather than carrots. Criticism in the field of human rights was not accompanied with sufficient moves by the Union reassuring Turkish authorities that the EU did not have any intention of dividing up the country.

After 1999 both of these conditions were eliminated. First PKK was effectively defeated and its leader Öcalan was arrested and put in jail. Defeat of PKK and the capture of its head by the Turkish state have triggered a string of developments. In the hands of Turkish authorities, the PKK head Öcalan changed his rhetoric and advocated greater democracy and repented the casualties caused by the PKK. He urged the already extremely weakened PKK militants in the mountains to lay down their weapons. "The Kurdish parliament in exile" dissolved. On the part of the Kurds, the retreat of PKK gave way to the rise of the moderate Kurdish groups.

Secondly, once Turkey was given an official candidate status at the Helsinki Summit in 1999, the EU has come to change its stance on the Kurdish issue. The EU has used a much more subtle language in the Accession Partnership document (APD) in November 2000 in a

marked contrast to the 1998 progress report. The APD has carefully avoided using the term “minority”, the use of which had strained Turkey-EU relations on numerous occasions. Also, the document emphasized cultural rather than minority rights. This change of attitude on the part of the EU has helped Turkish authorities to moderate their approach on the Kurdish issue. As put by a scholar, “the absence of references to minority rights and political solutions specially referring to Kurds meant that hard-liners could not argue their classic case centred on the notion of Sevres syndrome.”<sup>23</sup> As a result a process of moderation has started in the Kurdish issue, leading up to granting of cultural rights to the Kurds.

Unprecedented steps were taken by the coalition government in power starting with the October 2001 reforms followed by August 2002 amendments addressing both the Kurdish issue and the role of military in Turkish politics. Teaching of Kurdish education and its use in broadcasting was allowed; death penalty abolished; the number of the military’s representatives in the NSC was lowered. Although the democratization reforms were watershed in the history of Turkish Republic, their domestic costs were substantially reduced. Thanks to a moratorium Turkey has not implemented death penalty decisions by the courts since 1984; the PKK had been effectively defeated and its head Öcalan imprisoned; it was unlikely that the Kurdish People’s Democracy Party (HADEP) could pass 10 percent threshold in national elections to enter the Parliament; the power of the army in fact was not restricted in practical terms. Although the number of civilians in the NSC was increased from five to nine, this was indeed of symbolic nature. As the influence of the military rested on widespread public support, the mere reduction of their number in the NSC signified little.

Reformist AKP continued the reforms. Turkish state including the military has given tacit consent to these changes.

As is seen cost-benefit balance regarding democratization was substantially altered in favor of the benefits from the perspective of the Turkish state. On the side of benefits Turkey was given the prospect of full-membership. This meant that the EU was ready to share the burden of the costs Turkey's reforms would entail. Indeed, the 1999 Helsinki decision was just a symbolic gesture, albeit an important one. The EU gradually started to provide benefits including financial aid and reinforce the membership perspective of Turkey. In 2003 it revised the Accession partnership document increasing the financial aid given to Turkey. In 2002 Summit it pledged that it would start negotiations with Turkey "without delay" after revising its situation in 2004 whether it was qualified or not. These steps have further tipped the costs-benefits equation at the expense of the costs.

To find out to what extent Turkey has democratized through Europeanization, it would be apt to ask the question what would happen if Turkey had not been declared a candidate to the EU? In other words, to what extent would Turkey democratize if it had not been given an official candidate status? To answer these questions one should, I think, look at the endogenous dynamics of Turkey's democratization. It would not be wrong to suggest that till Atatürk external factors have played an important role in the modernization of Turkey during Tanzimat and Islahat periods. However, drive for the reforms were managed by the state. Atatürk has set a precedent and both dynamics and impetus for the reforms have come

from within the country, albeit from above. After him a process of modernization was initiated made by Turks.

After the transition to multiparty era both internal and external dynamics have played a role in the modernization of the country. While in the transition to multi-party democracy external factors such as alliance with the West after the start of the Cold War was determining factor, Turkey's most liberal 1962 Constitution was devised by one of Turkey's domestic actors, the military. When Turkey applied for membership in 1987 in the era of Özal, external (European) leverage became stronger. There was already consensus among the parties and public in Turkey to remove the anti-democratic legacy of the 1980 Constitution. The EC has functioned as an anchor for the democratic amendments. Nevertheless, the EU's anchor capacity was limited and democratic reforms came not smoothly, rather painfully. Implementation was very problematic.

Turkey's democratization and modernization would of course continue without the EU membership perspective, but Turkey would not resemble other European democracies. One should bear in mind that Turkey has been undergoing a process of westernization and modernization for more than two centuries. Turkish elite and public are western oriented. Therefore, Turkey's internal dynamics would continue democratization process. But in this case, steps taken in the direction of democracy would remain limited. The state would relax its grip on the civil society slowly and incrementally. After all, even without the EU membership, we are in the midst of a global democracy trend. Therefore, even a Turkey

without an EU membership perspective would not remain unaffected by this democratization wave.

In short Turkey's democratization *per se* would be limited in comparison to its democratization in the EU accession process, as understandably the costs of democratic opening for the Turkish state would be higher without membership perspective. Change in the applicant country is profound leading to the transformation of the whole system in the most un-fit cases. This is due to two major benefits that the EU provides to the applicant.<sup>24</sup> First, the EU's conditionality gives a framework to work towards, contributing to surmount inertia and avoiding a process of prolonged search for a domestic political consensus on institutional models in some areas. Second, the accession process gives a number of incentives for rapid institutional change that consolidate reforms and help to protect them from sectoral lobbying and backsliding. As such an institutional framework for change did not exist in the absence of membership perspective, it would not be possible to bring about profound and lasting changes not only in Turkey, but also in any other applicant country.

## **7.2. Elite Support for European Integration**

Although the policies of the EU regarding Turkey is important in terms of Turkey's responses, democratization reforms would not have been achieved to that extent if the perceptions of the Turkish elites about the EU had been negative. In other words, Turkish elites' positive attitude about the European integration facilitated Turkey's integration with the EU and, thus the required democratic changes.

In spite of the presence of some reservations among a few circles with respect to the conditions set in the Copenhagen political criteria, Turkish elite are in general supportive of the Turkey's integration process with the EU. In fact, Turkish Euroskeptics are not diametrically opposed to pro-EU circles. Both the pro-EU and Euroskeptical groups favor Turkey's EU membership. As argued by Oguzlu, "These (the Euroskeptics) are not opposed to Turkey joining the EU but are inclined to interpret democratization along the EU accession process as potentially threatening if the EU does not offer realistic timetables for Turkey's accession."<sup>25</sup> For instance, while the Euroskeptics supported most items in the Accession Partnership document, they displayed resistance to the cultural rights granted to the minorities due to the concerns that such reforms might lead to disintegration of Turkey. If the definition of Szczerbiak and Taggart is taken as a yardstick, Euroskeptics in Turkey could be categorized as "soft-euroskeptics", as they are not opposed to the integration with the European Union.<sup>26</sup>

The Nationalist Action Party (MHP) has been the major source of eurosceptic opposition. But the military's elite, left-wing nationalists and extremists have also repeatedly voiced their concern or opposition on certain EU issues. But the Army, despite its reservations was careful to distance itself from an "anti-EU" position overall as it believes NATO member Turkey's economic and political future rests in Europe. On the other hand, support for membership has come more from business circles, liberals and, from the mainstream right parties. NGOs have been very supportive and outspoken of the EU.<sup>27</sup> A survey conducted among the parliamentarians in 2002 showed that most parliamentarians believed in the necessity of improvements in the democratic institutions and human rights for obtaining full



EU membership.<sup>28</sup> Finally, Erdogan's AKP made the EU membership issue as the number one priority of its foreign policy and took major steps in this direction.

It is difficult to assess to what extent Turkish politicians and the public is motivated in their support for EU reforms by their true belief in democratic norms (*cultural approach*). It cannot be denied that "instrumentalism" plays an important part for the support of the Turkish people to EU-induced amendments (*calculus approach*). For instance, when one reviews the reforms adopted by the Turkish governments, in particular since Turkey submitted its application to the EC in 1987, one can detect that most of the reforms have been passed immediately before the European Council meetings. It is obvious that securing a positive decision from the Summits has been a motivating factor for Turkish politicians. Moreover, when one looks at the vast amount of change since the 1999 Helsinki Summit, it can be seen that the EU membership perspective has made an important impact on the change of behavior of the Turkish elites (Vink 2003).

However, some of the credit should be given to the argument that Turkish politicians' endorsement of reforms stems from their sincere embrace of democratic values. Turkish elite has turned its face towards Europe and accepted European norms since 18<sup>th</sup> century. Since that time Turkey has been going through a modernization (westernization) process, which reached its climax through the revolutions of Atatürk in the Republican era. Atatürk defined "attaining the level of modern civilization" (muassir medeniyet-the West at that time) as the objective of Turkish nation. The beginning of the Cold War period following the Second World War helped Turkey to further integrate with the West. During this period, it

participated in many Western organizations such as the Council of Europe, NATO either as a founding member or at their beginnings.

Even though most of its past imperial geography entailed the Islamic countries, it remained aloof from the region through a policy of non-interference while fostering its relations with the European countries. Therefore, for Turkey's elites, the model to be emulated was the West and Europe; they did not look to the East for inspiration. During this period, Turkish elites have undergone a socialization process of European norms and values. Therefore, one can conclude that at least some part of their actions is driven by their belief that this is the appropriate kind of behavior. This will be understood better, when external constraints such as EU accession on Turkish elites' behaviour disappeared after Turkey became a full member of the EU.

In fact, Turkish elites have not explicitly used "Europeanization" to overcome internal resistance, but what they have meant, when they have pushed for the EU reforms, was that Turkey had to carry on its modernization process, which had started more than two centuries ago. This resonated well with the Turkish public and elite, as to Europeanize Turkey fitted well into Turkey's modernization project.

Debates around EU integration process have functioned as a prism reflecting ideological division between the parties. The main dividing line has been nationalism. On the nationalist side are the Euroskeptics, which have reservations with respect to the EU democratization

reforms. Among these are the army, left-wing nationalists, and extremists, primarily the MHP.

The nationalist reaction to the European integration process has been more intense in Turkey than it has been in the other candidates. There is an increasing recognition that European integration process requires the applicants to reconsider the concept of sovereignty, shifting the emphasis on a vision of “post-modern state”. One of the requirements of this post-modern state is that multiple identities are recognized and minority rights are promoted. This understanding of post-modern state and liberal internationalism was in direct conflict with the earlier concept of modernist or authoritarian understanding of nationalism based on a single identity. Although nationalist reactions to the European integration process was prevalent in the other EU candidates, tensions arising from the clash between post-modern and modern visions of state are more pronounced in the Turkish context due to the country’s historical legacies and the peculiarities of its nation-building process.<sup>29</sup>

Mainly, it is the MHP (Nationalist Movement Party), which has consistently opposed some of the legislative reforms. Nevertheless, after coming to power in 1999 in a three-party coalition, although maintaining its distanced stance to and refrained from appearing to back democratizing changes, it was obliged to accept many of them as a partner of the government. In late 2002, when it became certain that elections would be held, the MHP toughened its approach with respect to the democratizing reforms and actively opposed them. Its attitude resembled that of an opposition party rather than a party in the government. After remaining outside of the parliament following the November 2002 elections, its stance

with regard to the democratization reforms has been most vocal and the party exhibited open opposition living up to that of a euroskeptical opposition party. But during this period its influence is restricted due to the fact that it is speaking from a position of weakness as it is outside of the parliament.

In other words, another factor, which determines a party's position with respect to the EU reforms, has been whether a party is in the government or in the opposition; or in the parliament or outside of the parliament.

By the same token, centre of the right DYP (the True Path Party) was supportive of the reforms although it was an opposition party in the parliament during 1999-2002. The ANAP and DSP received the endorsement of this party, during the voting sessions when some EU reform proposals were brought to the parliament when there was a deadlock in the government due to the opposition of the MHP. Nevertheless, the DYP was left outside of the parliament in the wake of the November 2002 elections. In this period, the DYP adopted a hardline stance with respect to the EU integration process. For instance, it lent its support to Denktaş, who opposed a solution in Cyprus based on the Annan Plan, which is a prerequisite for joining the EU.

An interesting aspect of the Turkish elites' response to the EU integration was that the Left has adopted a highly nationalistic attitude on many of the major issues involved. The forerunner of the leftist parties in Turkey, CHP has been established by the state, not by the masses. For long it has remained a party of the elites, representing republican values, rather

than the interests of the class it was supposed to represent. Furthermore, the emergence of a true worker class came very late in Turkey. As a strong worker class did not develop in the western sense, Leftist parties have not been truly representative of any particular class. They were rather catch-all parties like any other Turkish party. This has precluded their evolution into the kind of leftist parties represented in the West. They remained closely associated with the state and thus relatively closed to transnational and liberal internationalist influences. As observed by Önis, “Parties of the center left in Turkey do not appear to have been particularly influenced by debates on multiculturalism, liberal internationalism and third way politics, which seem to have occupied the European social democratic left during the recent era. This seems to be limiting the pace of progress on the path to EU membership.”<sup>30</sup>

When the November 2002 elections brought a single party government for the first time since 1991, the EU integration process accelerated. Pro-EU AKP focused on the democratic reforms. The empowerment of the pro-EU process resulted in the solidarity of the weakened opposition parties around Denktas. The grouping around Denktas represented the resistance to the EU integration process, as he was against the implementation of the Annan Plan for the reunification of Cyprus, which was a prerequisite for Turkey’s accession to the EU. Supporters of Denktas were joined by a euroskeptical NGO, ATO (Ankara Chamber of Commerce), which has adopted a distanced attitude to the EU in contrast to most Turkish NGOs.

Nevertheless, despite their coming together, solidarity and increasing resistance to the EU accession process, their influence was rather limited due to their weakened position and the

acceleration of the reform process. After all, except the CHP, (Republican People's Party) all the other parties were left outside of the parliament after the November 2002 elections.

On the other hand, the entry of ten new members into the EU in May 2004 reinforced the sense of isolation on the part of Turkey. Staying outside the Union made a psychological impact on the Turkish elite. While on the one hand it increased the resentment among the Turks towards the EU given that even late comers in the post-communist region and Cyprus, which voted against the Annan Plan were allowed to join, on the other hand, the sense of isolation helped Turkish governments to proceed with democratization reforms in an effort to catch up with the EU "boat"

### **7.2.1. Domestic Institutions**

In this section it is squarely discussed how the political parties, the military, the president and civil society organizations have responded to the EU reforms, what their stance with respect to the EU has been. A particular emphasis is given to the policies of the main Euroskeptical party, the MHP as well as the activities of the main pro-EU civil society organization, TUSIAD.

#### **7.2.1.1. Political Parties**

##### **7.2.1.1.1. AKP**

Ironically, although the AKP had an Islamic pedigree and its predecessors have adopted a strong anti-Western posture, it was during the tenure of the AKP government, in which

Turkey achieved the most radical democratization reforms, which brought Turkey closer to Europe.

Rejecting to be an Islamist party, the AKP managed to convince the electorate that it would not pursue a confrontational agenda against the secular establishment. Rather, it pledged to focus on the EU membership issue and to overhaul the economic difficulties, which became a pressing issue for the Turkish public, which were heavily hit by the two financial crises in 2000 and 2001. The AKP's policies to win over the public were drawn from a survey of 41,000 people. The survey showed that Europe and economic improvement dominated popular concerns.

Once coming to power in 2002, the AKP focused on the EU issue and took steps to fulfill the Copenhagen criteria. It revised the Constitution and adopted 5 democratization packages known as harmonization laws. Notwithstanding the positive steps taken by the AKP in the direction of the EU membership and nonexistence of an Islamist agenda, the secular establishment including the military was initially cautious and had serious misgivings about the sincerity of the policies of the Erdogan government.

In fact in view of the major steps taken, the AKP was more serious and sincere than any Turkish government regarding the EU membership. It was experienced and learnt its lesson from what has happened in the past with the previous religious parties pursuing an Islamist agenda and what might happen if it too clashed with the secular establishment.

The formation and policies of the AKP owe a great deal to the 28 February process. The 28 February process resulted in profound changes in the composition, ideology, and leadership of the Islamic movement. The discourse of the Islamist parties prior to the 28 February condemned Western culture for its corrupting effects on the lives of devout Muslims and the devastating consequences of Western political and economic domination for Muslim societies. Democracy was viewed as an element of an infected Western system.

By contrast, the newly established AKP makes stress on civil society and praise Western democracy. It sought to foster Turkey's relations with the Western world primarily through the promotion of Turkey's EU membership. A quick glance at the election manifesto reveals that fundamental rights and liberties occupy a significant place in the party's discourse. International and European human rights documents are appreciated. It is pledged that necessary amendments in the Constitution and the legislation would be made to elevate fundamental rights and liberties to the level in the international contracts and in particular in the Copenhagen criteria.

While Erbakan made his first visits abroad to the Muslim countries and sought to establish Islamic equivalents of NATO and the EU, the AKP party programme acknowledged that Turkey has been in close relation with Europe both geographically and historically. It is stated that relations with European nations would continue to be at the top of the list in Turkey's foreign policy agenda. It is also assured that Turkey will rapidly deliver its promises in its relations with the EU and the conditions, which the Union demands.<sup>31</sup>



The conflict between the secularists and the Islamists in the 1990s and finally the 28 February incident taught the Islamic politicians that secularism is a deeply rooted element in Turkish society and politics.<sup>32</sup> This led the AKP officials to revise and moderate their views. Furthermore, the AKP became aware that notwithstanding having a majority in the parliament and being a single-party in the government, pursuing an Islamist agenda would make their work in the government extremely difficult, as they were surrounded with powerful domestic and international forces, which might easily pose a challenge to their power.

Therefore, the AKP sought to develop a political ideology bringing together the competing and conflicting religious, nationalist, liberal, and conservative currents in Turkish politics. In order to increase their legitimacy and recognition not only by their Islamic grassroots but also by the wider public, they stressed similarities and convergences between the political discourse of moderate Islam and other political opinions. These efforts of the AKP politicians resulted in the secularization of the political discourse of political Islam.

The AKP politicians were well aware that expanding human rights and democracy as requirements of the Copenhagen criteria would promote the rights of those in their ranks wishing to express non-violent views, as it was also they, who previously suffered from the constraints and punitive provisions of the Turkish legislation and Constitution. Erdogan himself had been banned from politics for reciting a poem of a republican poet. The EU, therefore, represented more freedom and rights not only for the Kurdish citizens but also Islamists. The prominent AKP official and the chairman of the Parliament Bülent Arinc said

that, “I was strongly against the EU. But you had to move towards this objective and project... Fundamental rights, assurance of these rights, freedom of expression, freedom of opinion, freedom of individual on the basis of the European Convention of Human Rights. This lies beneath our love (for the EU).”<sup>33</sup> Therefore, when looked at the efforts of the AKP government to further the EU reforms from this perspective, it is easy to understand why they are keen on the EU and stress human rights and democracy.

With respect to the Kurdish issue, the AKP declared that it viewed the issue as not only being a terror issue but a multi-faceted matter. It stated, “The way to end terror requires an approach by the State, respectful of basic rights and freedoms, and a way of thinking, which sees economic development and security as pieces of the same whole.” It pledged to pursue “a sustainable policy, which goes beyond the identification of the reality respectful to sensitivities of the entire society.” It made reference to the cultural diversity in the region. It stated, “On the condition that Turkish remains the official and instruction language, our Party regards the cultural activities in languages other than Turkish, including broadcasting as an asset.” It also said that the elimination of troubles in the region would be possible within the scope of the democratization. In line with this democratization plan, it pledged to abolish entirely the State of Emergency practices.<sup>34</sup>

Regarding the Cyprus issue there is a determination in the Party programme to “certainly” solve the issue in the Island. In Cyprus a state administration composed of two sovereign communities similar to that in Belgium is suggested. It is acknowledged that the entry of the

Southern Cyprus to the EU without a solution to the problem would make it more complicated.

All these promises and assurances point to a strong commitment by the Party to Turkey's EU bid. In fact, it surprised all of those, who had profound mistrust and misgivings about the Party and thought that it had a hidden agenda, which would emerge once it captured the power. Indeed, the policies of the AKP showed that it was European oriented not only in its discourse but also in its deeds. It proved to live up to the promises it made in the party programme.

Erdogan lobbied intensely throughout Europe to persuade EU politicians for Turkey's future membership. While seeking to receive a date to start accession talks with the EU, he often reminded to the EU leaders that the EU would cause a significant damage if it barred a Muslim country that shares its democratic values. But in case of Turkey being given a date, it might have repercussions well beyond the European continent. He said that, "the Islamic world's opinion of Europe will improve. Turkey will emerge as a model showing how the culture of Islam and democracy can live together."<sup>35</sup>

The AKP seized every opportunity to enhance its legitimacy and Turkey's chances for EU accession. Erdogan even applied to the European Peoples' Party (EPP) group for membership in early 2003 saying that his party is both "conservative and democratic" implying its suitability.<sup>36</sup> While this strategy would not only serve to further legitimize the AKP government in the eyes of the European politicians and in domestic politics, it would

also neutralize the main opposition group, the Christian Democrats to Turkish entry into the EU. The Christian democrats would find their objection much more difficult to maintain in logic if they admitted the AKP as one of their partner parties. Finally, on January 28, 2005 the AK Party along with Ukraine President Viktor Yushchenko's Our Ukraine were approved unanimously acknowledging "similarities of the AKP to Christian democratic parties in Europe and importance of having a strong partner in Turkey", and was given observer status within the centre-right European People's Party.<sup>37</sup>

The AKP government, as it pledged in its program, expanded the cultural rights of the Kurds in Turkey. It also amended the legislation regarding the freedom of expression opening the way for the release of the Kurdish politicians in prison. In line with the changes in the RTÜK law, the Turkish state television TRT started to broadcast Kurdish language programme on June 9, 2004. At the same time, four prominent Kurdish activists including Leyla Zana, who were sentenced for having connections with a terrorist organization in 1994, were released following a retrial in April 2004 as part of the judicial reforms. The EU welcomed these developments. Günter Verheugen, the EU's enlargement commissioner said, "Today's decision is a sign that the implementation of political reforms which Turkey has been introducing in the past few years is gaining ground."<sup>38</sup> These developments revealed the AKP government's determination to secure an affirmative decision at the December 17 Summit, which would take place in a few months' time.

Notwithstanding these positive developments, Erdogan was careful not to call the Kurds living in Turkey a minority. He granted cultural rights to the Kurds but viewed the issue in

line with the state policy, which gave minority rights solely to the non-Muslims communities in accordance with the 1923 Lausanne Treaty. He said, “There is not a concept like “Kurdish minority” in Turkey.” He also opposed to the Kurdish issue being considered as an ethnical issue and said, “We have three red lines: ethnic nationalism, regional nationalism and religious nationalism.”<sup>39</sup>

Since the November 2002 election campaign the AKP was determined to change the status quo in Cyprus by allowing for the unification of the island under a state, one of the requirements laid out in the Accession Partnership Document.<sup>40</sup> Initially, Erdogan suggested a solution similar to the Belgian model. Later he agreed to a solution in Cyprus based on the Annan Plan, which foresaw the unification of the island following a referendum in both parts. He aimed to provide for the entry of a unified island into the EU. If Southern Cyprus were allowed to join the EU alone, it might acquire a leverage to block Turkey’s entry as a member of the EU at the other side of the negotiating table.

Furthermore, if Turkey did not take any step in the direction of the unification of Cyprus, the international community would continue to charge Turkey with inhibiting a solution in the island, as was the case in the past. Therefore, Erdogan pursued a pro-active approach with respect to the Cyprus issue and said that Turkey would always be one step ahead and would not be a party walking out of the negotiating table.<sup>41</sup> In this way, he wanted to show the EU that it had a genuine will for a solution in the island. Nevertheless, following an overwhelming “no” by the Southern Cyprus and a clear “yes” by the Turkish side to the Annan Plan, which envisaged the unification of the island in the referendum held on April

24, 2004, the Southern Cyprus was allowed to join the EU alone. Although Erdogan did not manage to provide for the accession of a unified Cyprus to the EU, his efforts were taken note of and his goodwill was welcomed by the Union.

In the aftermath of being granted a date to Turkey by the EU on December 17, 2004 to start accession negotiations, a number of incidents have cast a shadow on the recent efforts of the AKP and Erdogan to further democratize the country. It seemed that Turkey's reform drive was losing momentum. In the first incident, the AKP government failed to prosecute police officers responsible for violently dispersing a peaceful International Women's Day protest in Istanbul. The inaction of the government with respect to the incidents drew the criticism of the civil society organizations such as the influential businessmen association TUSIAD as well as the EU circles. Another development, which led to increasing concerns, was Erdogan's decision to sue Turkey's "Penguen" (Penguin) satirical magazine for publishing drawings showing his head attached to various animals. With respect to these developments, it was commented by the head of the Brussels office of the TUSIAD, Bahadir Kaleagasi, "Since the beginning of this year, the action of the government has been showing signs of fatigue...In part this was due to the fact that the government had concentrated all its efforts on the December 17 European Council Summit."<sup>42</sup>

The Islamic democracy discourse is traditionally viewed by the secular elite as "takiyye", which refers to temporary avoidance of religious obligations out of necessity. Similar misgivings were also held about the AKP, when it first came to power in November 2002. But the AKP government has acted like a party carrying the responsibility of being "in

power”, avoiding any clash with the secular establishment. It sought to raise its legitimacy and establish itself a center-right party and avoid not being portrayed as an anti-system party such as the WP. Regarding the Islamist aspect of the AKP, it was noted, “Although the AKP includes members of various tarikats (Islamic orders), there is no indication that the party is dominated by, much less answerable to, a specific tarikat or religious leader.”<sup>43</sup> While the AKP government has tried to defend the religious rights of its pious Muslim electorate, it did not turn it into a regime crisis. Three years on, there is no sign that the AKP has a hidden agenda, as many feared initially. To the country, given its performance in power, its relations with the EU, its insistence on remaining within the system, and its efforts to legitimize itself both domestically and internationally, the AKP has been an insurance of the integration of the Islamists to the system, rather than a threat to it.

For the sake of stability and conciliation, the AKP even sacrificed fundamental issues on which the Islamist segment of its electorate expected a solution, risking their alienation to the Party. Although the AKP has claimed to be natural defender of religious rights as part of a wider democratization agenda in its election manifesto, it opted to remain silent on such sensitive issues as headscarf when it came to power not to jeopardize democratic reforms. As stated by Tepe, “The irony of all this is that before the AKP came to power, the headscarf question was being freely debated both among Islamists and in society at large. Since then, the rise to power of an Islamic-inspired party has sapped the impetus of such discussions as Islamist groups have fallen largely silent.”<sup>44</sup> The AKP hoped for an outside solution for the issue. When the European Court of Human Rights (ECtHR) upheld Turkey’s current headscarf ban, the AKP government’s official reaction has been to keep its silence. This is

indicative of the extent to which the AKP government gives priority to consensus with the secular establishment over the resolution of fundamental problems of its electorate.

A recent incident has further reassured those, carrying suspicions about the AKP's Islamist past. The Party declared itself as a conservative democratic party following an international conference held in Istanbul on January 10, 2004. In the speech he delivered at the conference, Prime Minister Tayyip Erdogan accused the AKP's predecessors of acting as a "political community", on the basis of a certain ideology and appealing only to supporters of that ideology. Describing this as dangerous politics of polarization he drew a clear line between religion and politics. He asserted that establishing a party in the name of religion would be an injustice done to the religion and stressed that the resolution of this problem lies in maintaining a secular system.<sup>45</sup> The AKP's recognition of the most fundamental secular principle marks a paradigm shift. Kanra describes this change as "a clear paradigm shift in Islamic politics, responding to the conditions of the day." Drawing a comparison between Christianity and Islam he suggests "It is hard here not to see the proximity between Islam's response to Turkey's secular status quo and the reaction of Christianity to the Roman rule".<sup>46</sup>

AKP has undergone a process of transformation following an extensive period of *political learning*. The moderate looking AKP was the product of many years of strategic responses to horizontal (ie judicial, military) constraints on the movement's political attitude and democratic experience by the party elites seeking to gain power.<sup>47</sup> That is why the AKP has shown utmost care to maintain its hard-won recognition and "legitimacy, survival" have been among the key objectives for the party. They are aware that price they would pay,



would be very high if they sent wrong messages to the international community as well as the Turkish public. Therefore, they concentrated their efforts on integrating themselves to the system, rather than remaining as an outcast, which might make them vulnerable to existential challenges.

Consequently, it can be suggested that both interest and ideology-related reasons account for the AKP government's commitment to political reforms and EU accession. From the perspective of the AKP the EU accession and reforms are the most effective means to raise its legitimacy and convey a moderate image of its Islamist aspect both to the international community and the secular establishment in Turkey. Moreover, for the AKP to continue to survive unlike its predecessors, who have been banned numerous times, the EU accession and reforms are of critical importance. Furthermore, ideological reasons are responsible for the democratic reforms adopted by the AKP government. The party program has put a special emphasis on democratic rights and freedoms.

#### **7.2.1.1.2. MHP**

Among the Turkish political parties MHP's stance with respect to the EU and EU reforms require a special attention, as it was the main force in Turkish politics having serious reservations to Turkey's EU accession. It did not hold a total objection to the EU but in its view Turkey cannot and does not have to make concessions on a number of issues, which might undermine national unity, territorial integrity and national interests. The below section throws light on the attitude and policies of the MHP on the EU reforms, which became a salient topic in Turkish politics in the wake of the Helsinki decision in December 1999. It

was an ironic coincidence that in the same year MHP formed a coalition government along with ANAP and DSP, which was expected to undertake the landmark reforms in Turkish history. Notwithstanding its opposition, as a coalition partner MHP passively became part of the EU reforms, to some of which it showed strong resistance.

Traditionally, radical Turkish nationalists regarded the West and Europe in general as “a threat ready to inflict incurable ills including cultural imperialism on non-Western societies.”<sup>48</sup> Therefore, during the Cold War era their attitude towards the West was defined by open hostility, as a corollary of which, Europe’s “Common Market slavery” was rejected on economic and political grounds.<sup>49</sup> Like Islamists, they preferred closer relations with neighboring Islamic countries. But when the then prime minister Özal applied for membership to the European Community in 1987, as it was seen that though a future membership of Turkey was not quite probable in the short- and medium-term but a distant possibility, the MÇP viewed a further application to the EC as unavoidable in its programme of 1988. Bahçeli also admitted that there was a change in MHP’s policy with respect to the EU in the aftermath of the Cold War and said, “The MHP kept a certain distance to the EU till the early 1990s.”<sup>50</sup> Nevertheless, whereas economic aspects of integration with Europe were considered a necessity, as radical Turkish nationalists attached a considerable value to the protection of Turkish culture and beliefs, social and political integration with Europe was not foreseen.<sup>51</sup>

In the wake of the collapse of the Soviet Union, radical Turkish nationalists have welcomed the emergence of Turkic republics in Central Asia as well as in the Caucasus with euphoria.

It was said that now, with almost 200 million Turks around the world, “Turanism was not a fantasy but a reality.”<sup>52</sup> This newly gained dynamism as a foreign policy opening in Eurasia coincided with the loss of Turkey’s strategic role on the part of the Europeans given the disappearance of the Soviet threat to European security. In response to Turkey’s rejection by the European Community, the MHP voiced economic union with the Turkic republics as an alternative to Turkey’s entry to the EC. Özal-designed Black Sea Economic Cooperation Organization was referred to as another alternative to the EC. Before the Customs Union with the EU entered into force in 1995, the issue was debated in the parliament. MHP stated that Turkey had to have “balanced relations” with Europe and the Customs Union with the EU be decided by a referendum.<sup>53</sup> It was also said that the Cyprus question did not have to be a precondition to the entry into the Customs Union.<sup>54</sup>

The 1990s were the years of change for the radical nationalist movement following the years of collapse in the aftermath of the coup d’etat in 1980. In those years MHP sought to regain its force and restore its organization throughout the country. In the wake of founding leader Türkeş’s death, a new cadre assumed the control of the party under the leadership of Bahçeli in the second half of the 1990s. Bahçeli sought to polish the image of the party removing its identification with the “mafia” and place the party into the “centre.”<sup>55</sup> The new MHP was to make a very successful comeback in the upcoming elections.

MHP came out of the April 1999 elections as the second party with 18 per cent of the vote doubling its share compared to the previous elections. How was it possible for this inexperienced party to enjoy an unexpected victory making it an important partner of a three-

party coalition? The election results, above all, revealed that the country's political center eroded, as a result of which, being an untried party, MHP appeared as one of the candidates, which attempted to fill the political vacuum. Post-1980 neo-liberal economic policies have marginalized groups in the periphery and thus reinforced reactionary currents among the Turkish population, leading them to express their anger by lending support for the MHP. Most importantly, MHP emerged as an important actor of Turkish political scene due to ascendancy of Turkish nationalism as a reaction to the PKK insurgency in which the number of soldiers and civilians killed had reached 30,000 by 1999. Political scientist Hakan Yavuz argues that the success of the MHP in the 1999 elections was facilitated, to an important extent, through the securitization of politics due to the existence of external and internal threats such as the Islamists and separatist Kurdish movement.<sup>56</sup> In other words, this threat definition contributed to the radicalization of Turkish nationalism and thus the rise of the MHP.

Whereas the MHP's foreign policy program during the 1999 elections signified a hawkish position towards the European Union, the Turkish republics and Cyprus were stated as the most important areas of interest. While it approved of Turkey's membership goal in "principle", it proposed a revision of Turkey-EU relations. As a new alternative the establishment of an Eastern Mediterranean Union was proposed. It was stated that as the EU has imposed a multitude of conditions on Turkey, "Turkey must make it clear that it will not accept such biased and alienating attitudes imposed by the EU".<sup>57</sup>

After the MHP came to power in a three-party coalition including Ecevit's centre-left DSP and Yilmaz's centre-right ANAP, it realized that it had to accommodate the responsibilities of being a partner of the coalition government and its ties to its grassroots supporters. MHP also had to take into account its newly gained, though nationalist, but slippery constituents. Therefore, it appeared to have adopted a tough stance on the critical issues such as the Cyprus question, Kurdish separatism and the death penalty in an effort not to lose face with its core nationalist electorate.

During its term in government from Spring 1999 to Fall 2002 it exhibited a strong resistance to the EU reforms particularly above mentioned for the MHP critical national interest related issues leading sometimes to deadlocks within the government. But in the end, it had to compromise, if not all, but many of them. Regarding MHP's strategy in the coalition, it was said that underneath the tough image being displayed by the MHP there was an unwritten agreement wherein it took a strong position on a certain issue and opposed it, whereas its other coalition partners joined forces and pushed through the legislation. But the MHP didn't do anything to block the bills either.<sup>58</sup> With respect to the resistance exhibited by the MHP to EU reforms, Bahçeli said, "Turkish nationalists are the major obstacle in front of classical intellectual disease that weakens national sensitivities and policies."<sup>59</sup>

MHP was not in favor of giving cultural and minority rights to any group in Turkey, as this would lead Turkey to disintegrate. In Bahçeli's opinion, the Copenhagen criteria were "a means of motivation as well as a target for Turkey" to reach the standards of the advanced countries."<sup>60</sup> However, he said, "the problem resides in the fact that the Copenhagen criteria

are put forward as an insurmountable wall of minority rights in front of Turkey in the entry process to the EU.”<sup>61</sup> Bahçeli expressed his reservations with regard to cultural and ethnical rights raised in Accession Partnership Document (ADP) prepared by the European Commission at the end of 2000, which would cause “ethnic conflict and division” in Turkey.<sup>62</sup> On March 18, 2001, the government announced that three coalition partners had finally reached a compromise on the commitments Turkey would like to make to the EU.

Cyprus has become one of the hot topics, on which the MHP displayed a hardline stance. But it was subsequently accused of selling it out by its core electorate, when it yielded to the coalition decisions as it did in many of the other issues. It was unthinkable for the party to give up its traditional nationalist-conservative hardline stance on this highly sensitive issue, as Cyprus enjoyed for years the status of “national taboo”, on which no concessions could be made. Referring to the negotiations taking place in New York under the auspices of the UN, Bahçeli said that despite the fact that both in terms of historical and current approach Turkish side was right, he was concerned that it was always Turkey and Turkish Cypriots, who were expected to make concessions and step back.<sup>63</sup> During the negotiations in New York he expressed his support to the argument of TRNC president Rauf Denктаş, who suggested that any solution on Cyprus should take into account the fact that there were two communities and two states in the island. In his address, in which he evaluated the Helsinki Summit on December 10, 1999 he welcomed the EU’s decision to give Turkey “candidate status” and it was in his opinion as a result of “Europe’s rediscovery of Turkey’s geopolitical importance.”<sup>64</sup> He was positive about the EU Summit’s treatment of the Cyprus issue as well

and stated that “the expressions about Cyprus as well as Aegean issues do not contain new demands and nor do they have disturbing aspects.”<sup>65</sup>

When the EU declared the ADP on November 8, 2000, Bahçeli raised his opposition to the way, Cyprus was handled in the document. In his view, the ADP was both systematically and in substance a step backwards when compared to the Helsinki Summit decisions at the end of 1999.<sup>66</sup> He stated, “Above all, the Turkish-Greek balance established in Helsinki was distorted and Cyprus issue was put forward as a precondition.” and he further added, “(Beside this), it is understood that the path to full membership of the Southern Greek Administration was sought to be opened.”<sup>67</sup>

When the Laeken Summit decisions in December 2001 were declared, it was seen that the EU continued with its determination to let the Southern Cyprus enter into the EU in a round of enlargement together with other nine countries, which would take place in May 2005. Upon the publication of the 4th Progress Report by the European Commission prior to the Laeken Summit in December 2001, Bahçeli seemed not contented with the paragraphs in it regarding Cyprus and called on the EU to “give up viewing the Cyprus issue through the looking glass of the Cyprus Greek Administration”.<sup>68</sup> Pointing to the pro-Greek Cypriot stance in the Progress Report, Bahçeli said, “It should be known that no fait accompli will be permitted in Cyprus” and that “We, as Turkish nationalists, stand with Rauf Denktaş in our full capacity”.<sup>69</sup>

MHP has been very critical of the European approach regarding Kurdish separatist terrorism. He sometimes has gone to the point of openly charging the EU with giving refuge to the PKK terrorists and lending support to them. Regarding the European reactions to the death penalty decision confirmed by the Court of Cassation on November 25, 1999, Bahçeli alleged Europe with backing terrorism. Bahçeli said, “They (Europeans) were not able to criticize themselves about their relations to the terrorist organization, to which they have provided refugee and in the flourishing of which, they have played a role directly or indirectly”.<sup>70</sup> For him, this was a double standard reflecting Europe’s political considerations in this issue. In Bahçeli’s view Europe also undermined the universal values by not making a distinction between terrorism and human rights. In his address to the MHP MPs immediately before the Helsinki Summit on December 10, 1999, Bahçeli warned the Europeans not to link the execution of the PKK leader Apo to the issue of Turkey’s full membership to the EU adding that Turkey would like to integrate with Europe “in an honourable and just manner.”<sup>71</sup>

Bahçeli was also critical about the visit to be paid by the EU wing of the European-Turkish Joint Parliamentary Commission to the imprisoned DEP deputy Leyla Zana at the late February 2000, but they were unable to do this as the the Turkish officials did not let them visit her. Referring to this incident, he said, “There might be those admiring the PKK and their supporters within the EU. But carrying these (issues) to the EU-Turkey relations and considering these in the framework of democracy and human rights is an unacceptable situation.”<sup>72</sup> In his address to the MHP MPs, he also criticized the Swedish Foreign Minister Anna Lindh, who started her visit by meeting with representatives from human rights



organizations and then held talks with People's Democracy Party (HADEP) mayors from cities in the Southeast.

Apart from the MHP, there was no other party that openly objected to the lifting of the death penalty. MHP leader Bahçeli was critical of the EU's demand on the abolition of the death penalty and called on the EU to put forth its determination on the efficient struggle against terrorist organizations that threatened peace and democracy in Turkey.<sup>73</sup> It was quite difficult for the MHP to step back from its hardline stance on the abolition of the death penalty as it might save leader of the PKK Ocalan from execution. This represented a too crucial position for MHP to avert as more than any other party it had turned the fight against the PKK into a "banner" for itself. Therefore when the unconditional abolition of the death penalty was on the agenda, it was anxious not to give the message to the public that Ocalan was getting off the hook. Nevertheless he was not in favor of disrupting the coalition either. Maintaining a balance between the heavy pressure from his party's rank and file and his party's being in the government Bahçeli has preferred to leave the issue to the Parliament.<sup>74</sup>

When early election option emerged during the illness of Ecevit in the summer of 2002, MHP toughened its position on the EU in the hope of winning back some of its lost nationalist votes and blocked the EU reforms. MHP appealed to the Constitutional Court for the cancellation of death penalty<sup>75</sup> and 6 articles in the harmonization laws<sup>76</sup> in a bid to force parliament to reverse its decision regarding the death penalty and minority rights.

One of the issues MHP has displayed strong opposition to has been TV broadcasting in Kurdish. MHP's resistance was based on the view that broadcasting in Kurdish would be one of the moves, which could result in the disintegration of Turkey. In accordance with this line of thinking MHP expressed that allowing TV broadcasting in Kurdish would hurt the unity of the country.<sup>77</sup> It also expressed that granting of cultural rights to the Kurds might only divide the country.<sup>78</sup> Referring to TV in Kurdish language Bahçeli said, "Nowhere in the world has it been seen that democracy has developed by playing with ethnic identities."<sup>79</sup> After 35 articles of the Constitution were changed in September 2001, he was furious about the issue of broadcasting in foreign languages and said that, "It is out of question to help make an arrangement, which might damage societal harmony, national and unitary structure of the Turkish nation and state".<sup>80</sup>

Among the long debated issues in the parliament were articles 312 and 159 of the Turkish Penal Code. These have become major impediments in relaxing restrictions on freedom of expression. MHP was against the total abolishment of these articles and instead preferred qualified restriction on freedom of expression on the ground that total abolishment might encourage separatism and thus cause division of Turkey. Despite the negative vote of the MHP the amended forms of the articles 159 and 312 of the Turkish Penal Code (TCK) were adopted at last on February 6, 2001.

With respect to the article 312 of the Penal Code, Bahçeli expressed that, "It is wrong to make a direct connection between the actions regulated by the article 312 and freedom of expression and democracy."<sup>81</sup> Bahçeli indicated that not religious and ethnical differences

but common values and objectives should be predominant. He further said, "I would like to express my wonder about what policy those politicians favoring for the the total abolishment of the article 312 would pursue, if this article were abolished?"<sup>82</sup> He was concerned that the total abolishment of the article 312 would undermine cultural and societal fabric of Turkey. Pointing out that there were similar regulations in other European countries, MHP deputy chairman Şevket Bülent Yahnici stated that, "Why isn't France demanded to change this article in its law and to grant more human rights and freedom of expression?"<sup>83</sup>

By the beginning of 2002, a series of incidents have led the MHP to further adopt a more hardline attitude on the changes to the articles 312 and 159 of the Penal Code, which have become major obstacles in relaxing restrictions on freedom of expression. The protests and campaign waged by some Kurdish activists in Çanakkale on Kurdish education rights have antagonized the MHP. Another development was that the Swedish Institute distributed brochures during a meeting in Izmir, which included information stating that "Turk" did not refer to a nation but signified a language group.<sup>84</sup> This incident caused uproar among the radical nationalists and further antagonized the MHP. Moreover, as it approved of tight-belt IMF economic policies, the MHP had lost some of its credibility among the masses. It was also accused as a coalition partner of "selling out Cyprus", one of the strongholds of Turkish nationalism. In contrast to the election promises it was not able to fight against the corruption when it came into office either. Given all these factors, its policy perimeters in the government became narrower and it has lost its flexibility to make concessions on EU reforms including changes to be made to the articles 312 and 159 of the Penal Code.

Bahçeli defended the preservation of the article 312 of the Penal Code stating, “In all the democratic countries of the world, actions and provocations, which aim at undermining and damaging public order and all the provocative speeches and activities, which instigate class, ethnic and religious discrimination are accepted as crime”.<sup>85</sup>

The parliament has approved elections to be held on November 3, 2002. At the same time, on August 3 the parliament voted to approve a package of human rights reforms it hopes will clear the way for Ankara to join the Union. MHP has voted “no” en bloc on all reform items in the package. This indicated that when now it was certain that the government would no longer continue to live on from November 2002, the MHP could adopt a more uncompromising attitude and behave like a real opposition party. It was no more restricted by the duties of the coalition government and now could improve its “moderate image” in the eyes of its electors. During this period, the MHP has sought to display to the electorate on every possible occasion that that it did not change in fact its stance on critical national issues.

Bahçeli, when introducing the election programme for November 2002 elections which was called “honourable future of Turkey”, in fact summed up the stance of the MHP during its term in the coalition government with respect to the EU reforms saying, “MHP opposed both the EU’s inconsequent demands and pro-surrender views in our country on its own.”<sup>86</sup>

In 3 November 2002 elections, the AKP gained a landslide majority in the parliament enabling it to form a single-party government. Along with the AKP the only party obtaining seats in the Parliament was the CHP. All the other parties could not pass the 10 percent

national threshold and remained outside the TGNA. This was a major blow to traditional parties of the Turkish political spectrum such as ANAP, DSP and DYP as well as the MHP.

Due to the landslide victory of the AKP, MHP remained not only outside of the government but also outside of the parliament. As it was not in the parliament any more, the party experienced difficulties in reaching out to the public and appearing in the press and on television as an opposition party. It sought to appeal the public through open-air meetings and sought to make coalitions with other parties and organizations. In this way it tried to overcome the disadvantage of speaking from the position of weakness.

In the wake of the elections, held on November 3, 2002, the newly founded AKP was able to form a strong one party government as it enjoyed a landslide victory. Coming from an Islamic background, the AKP surprised many observers and started to adopt dramatic legislative changes which are of democratic, liberal and progressive nature. An external development would further boost EU democratizing efforts and help promote pro-EU coalition while undermining the EU skeptics' situation. At the EU Copenhagen Summit in December 2002, it was declared that if Turkey met the Copenhagen political criteria in December 2004 Summit, the negotiations would be started without delay. All these developments have created a pro-EU atmosphere and helped to push the EU reforms further.

In the meantime, although the MHP maintained its reservations with respect to the EU, its position was quite weakened due to the empowerment of the pro-EU coalition.<sup>87</sup> Therefore,

now as a pro-EU atmosphere prevailed, the influence of the MHP opposition was considerably limited.

The MHP addressed its criticism to the newly elected AKP about its policies regarding Cyprus, reforms in the field of democracy and human rights in an effort to receive a date from the EU at the end of 2004 Summit. Bahçeli accused the AKP's democratization understanding of "only dealing with the national and unitary structure of Turkey and of being only limited to instigating ethnical and religious discrimination."<sup>88</sup>

Due to the referendum to be held on the Annan Plan in April 2004, the Cyprus issue became the hot topic between the Eurosektics and the pro-EU coalition. In other words, Cyprus became a dividing line, which helped to clear the positions. Those, who had most reservations about the EU, stood with Denktaş and opposed the Annan Plan and those, who advocated the EU democratizing reforms, promoted a solution based on the Annan Plan.

A support rally for Cyprus was organized in Istanbul in early February 2003 by "the Initiative for solidarity with Denktaş and TRNC", which was attended by the political parties opposing the Annan plan. The participants carried Turkish and TRNC (the Turkish Republic of Northern Cyprus) flags and shouted slogans, "Turkey, shoulder on shoulder with Denktaş", "Independent Turkey", "The defense of Turkey starts from Cyprus". Denktaş's message was read in the meeting: "...A big game is played. This reminds me of the Turkey of 1919. This time, bitter poison is offered through the hand of the UN and with the European patent. Turkish army will leave the island, Turkish flag will be forbidden, the Greeks will be

resettled in the North in a way to surround the Turks ... Cyprus will be integrated into Greece by the way of the EU and thus Turkey will be surrounded from the South as well.”<sup>89</sup>

While Ex-Minister of Foreign Affairs from the DSP Sükrü Gürel spoke in the meeting and said, “Cyprus is a forward front of defense for Turkish nation” and referred to the Annan Plan as a “plan of disintegration”, DYP deputy chairman Nevzat Ercan’s statement was equally emotional as he compared Cyprus with religion: “Cyprus is what our belief is.”<sup>90</sup>

Although the number of participants was at around 1,500, they represented diverse groups. Among the other participants were the IP (Workers Party) chairman Doğu Perinçek<sup>91</sup>, the Rector of the Istanbul University Prof. Kemal Alemdaroğlu, known to be a staunch defender of Kemalism, the Foundation of 68ers, Ülkü Ocakları (grassroots organization of the nationalists affiliated with the MHP) the representatives from the Associations of Atatürkist Thinking. While expressing their opposition to the Annan Plan, they said that they stood with Denктаş.<sup>92</sup>

When the Annan Plan was introduced on November 11, 2002, Bahçeli had said that the Plan was against the interests of the Turkish Cypriots and Turkey as it was a revision of the 1960 agreements, therefore said that it was, in its current state, “unacceptable”.<sup>93</sup> Bahçeli had paid a visit to the TRNC president Rauf Denктаş to show solidarity with him on his hardline stance on the solution of the Cyprus issue based on the Annan Plan.<sup>94</sup>

The MHP expressed its support to Denктаş at the Istanbul Meeting organized by “the Initiative for solidarity with Denктаş and TRNC”. MHP’s Deputy Chairman Ş. Bülent Yahnici reiterated its party’s solidarity with Denктаş.<sup>95</sup> The MHP also attended the speech given by Denктаş in early March 2004 in Ankara in which he showed his opposition to the Annan Plan. Before the April referendum in Cyprus, Denктаş delivered a speech to the Turkish Parliament, in which Prime Minister Erdoğan was not present, and pointed out that the Plan would marginalize Turkey as well as TRNC. Bahçeli supported Denктаş, saying, “I agree on his every sentence. Denктаş is not alone.”<sup>96</sup> Subsequently the MHP joined Denктаş in his “no” campaign to the Annan Plan on the solution of the Cyprus issue and Bahçeli visited him and anti-Annan Plan party UBP leader Eroglu in Cyprus and warned that the Annan Plan was a “trap”.<sup>97</sup> When the majority of the Turkish Cypriots have voted affirmatively for the plan, the MHP regarded the situation as a new “fait a complit”.<sup>98</sup>

Before the March 28, 2004 referendum, Bahçeli launched an opposition campaign against the AKP policies on Cyprus considering it to be a “national security problem”. He “warned” Erdoğan and visited the political party leaders and called on all the MHP organizations, party supporters and NGOs to oppose to the AKP on Cyprus.<sup>99</sup>

Following the changes in the articles on the freedom of expression in line with the EU reforms, four previous DEHAP parliamentarians were released in early June 2004 for retrial, who had been jailed for supporting and their links to the PKK. The MHP accused the EU of forcing Turkey to free the parliamentarians, which would pave the way for the step-by-step politicization of the PKK. In the wake of these developments, in his speech called “the



historical call for duty”, Bahçeli called on the citizens and the institutions of Turkey not to allow “the internal and external provocations” to “shadow Turkey’s future”.<sup>100</sup> In the mid-June 2004 he wrote a 17-page letter of warning and suggestions and sent it to 5000 people.<sup>101</sup> Among those, to whom, the letters have been sent were also the army generals. When the news appeared in the press, one of the MHP representatives declined this being an invitation to the army to intervene in the situation saying that, “This is a special letter, not a call to the Army for a coup d’etat, this is a press briefing.”<sup>102</sup> Initially, the Military remained silent. Later it was said that all the 313 generals to whom the letters have been sent have returned them.<sup>103</sup> The MHP denied this saying that there was not a mass return of the letters up to that time.<sup>104</sup> Subsequently it was claimed that the army discarded the letters without reading them.<sup>105</sup>

The MHP was critical of the 6 October 2004 Progress report of the European Commission as well as the Impact report calling the deficiencies stated in the reports as the “list of demand and pressure” of the EU.<sup>106</sup> According to the MHP, the report would allow for the retrial of the PKK head Apo. It opposed among others the redefinition of minorities including the Kurds and the Alevis, which amounted to the revision of the Lausanne Treaty.

Bahçeli criticized the harmonization laws issued by the AKP government considering them “the revival of the Sevres Treaty” and “the violation of the Lausanne Treaty” accusing the AKP of being “the puppet of the EU”.<sup>107</sup> When the Brussels Summit neared, where negotiations would take place over whether to give a date to Turkey to start negotiations for EU membership, the MHP intensified its opposition to the EU reforms. Bahçeli hosted the

media representatives, in which he delivered a speech saying, “We do not find the AKP’s win-win formula right in an effort to receive a negotiation date from the EU. In time it is seen that, the winner is someone else while the loser is Turkey.”<sup>108</sup> Following this the MHP organized a protest rally in Istanbul in which Bahçeli severely criticized the AKP’s policies as well as the EU and said, “We will not let this country to be divided”.<sup>109</sup>

Following the EU Summit in Brussels on December 16-17, 2004, Devlet Bahçeli pointed out that the EU foresaw “a model outside a full membership, a kind of special status and privileged partnership.”<sup>110</sup> He said, “When one considers the Summit decisions, it will be easily understood that the real aim is to keep Turkey under the control and on the trajectory of the EU.”<sup>111</sup> He warned that the date, October 3, 2005 given by the EU to Turkey to start the negotiations is a void date as it is conditional on the recognition of the Southern Cyprus.<sup>112</sup>

After AKP came to power as a one party government, the opposition activities of a euroskeptical NGO, namely ATO (Ankara Chamber of Commerce), caught attention. In the pro-EU atmosphere of this period, ATO chairman Sinan Aygün joined the Euroskeptics in an effort to counterbalance the pro-EU reform struggles. ATO produced many reports, statistics, and books defending a reserved stance to the EU. ATO chairman Aygün gave open support to Denktaş. The Chamber was very vocal in its euroskeptical views and seemed to represent the views of the extremely weakened opposition parties, which remained outside of the parliament in the November 2002 elections. ATO chairman Sinan Aygün was even charged with “acting like party a chairman rather than ATO chairman” and was sarcastically asked

whether he considered “entering politics in a party such as MHP or Workers Party, which held similar views with him.”<sup>113</sup>

On many occasions, Aygün has expressed his reservations with respect to the EU reforms. He seemed in many cases to counterbalance the activities of pro-EU NGOs and thus frequently charged the TUSIAD for its pro-EU stance. For instance, he criticized the approach of TUSIAD with regard to Cyprus and said, “It is pity that, they say that (whatever its cost, we have to join the EU). This is a 450-people association. Thus, it should not be believed by looking at TUSIAD that businessmen think so. I have 125 thousand members. It is said that the ratio of those wanting to join the EU at all costs is at 80 per cent... does the ratio of those wanting to join the EU at all costs reach 80 per cent or remain at 5 per cent? They should hold a referendum to learn under what conditions and how much the people want the EU...”<sup>114</sup>

Aygün was critical about the European Commission’s Progress report in December 2004 as it counted the non-Muslim groups in Turkey as minorities and overestimated their numbers and said, “The reference of the minorities issue is Lausanne. The founders of the state have recognized only the non-Muslims as minorities.” and added “According to the EU, the Turks in Turkey are a minority.”<sup>115</sup>

Aygün also charged that the Customs Union with the EU was not in the interest of Turkey and said, as “the cost of the Customs Union reached 79.5 billion dollars, it should be suspended.”<sup>116</sup> With respect to the Cyprus issue, Aygün stressed that a solution in the island

would not be enough to enter the EU, Greece and the EU would demand next the solution of the issue on the territorial waters in the Aegean.<sup>117</sup>

#### **7.2.1.1.3. ANAP**

Under the leadership of Özal ANAP prided in uniting four currents in Turkish politics, conservatism, nationalism, liberalism, and a commitment to social justice. But when the party leadership passed on to Mesut Yilmaz, most of the religious conservative elites in ANAP started to desert the party. The Party became less plural in outlook as the liberals and nationalists were the only factions remaining in the party. As the European integration process accelerated following the Helsinki decision in 1999 granting Turkey an equal status along with the other candidates, Europeanism and liberal views gained ascendancy in ANAP.

His democratic credentials, his western education, his experience as a free entrepreneur, his interaction with European values and political understanding as a result of his trips to Europe and interactions with the European political elites were among the factors making Mesut Yilmaz a convinced liberal and Europeanist.

His style of managing party affairs proves that there is intra-party democracy in ANAP to a certain extent. Given the tradition of strong charismatic leadership, clientelistic relations, and strong party discipline as the main features of Turkish parties, Yilmaz was among those few leaders, who gave ear to the opinions and suggestions within the Party. There was frank debate over the political choices and issues confronting the party. But once the leader made up his mind and announced it, it became the party policy. Existence of open debate and

deliberation within the party shows that there are at least some aspects of democratic administration, which are lacking in many parties in Turkish politics.

Furthermore, Yilmaz grew up in an upper-class urban environment and received a good education and mastered two European languages, German and English. He graduated from Istanbul Alman Lisesi (Istanbul German Lycee), one of the best urban high schools in Turkey, and from the Faculty of Political Science of Ankara University in 1971. He pursued graduate studies at the Faculty of Economics and Social Sciences at Cologne University in Germany. After his return from Germany, he went into the private sector and became a businessman until 1983.

All these helped to contribute to his becoming an advocate of liberal economy, supporter of European integration and champion of liberal views. In the three-party coalition between 1999 and 2002 he became the most vocal proponent of European integration reforms.

He believed that Turkey is at a crossroads between the fears of the past and the objectives of future, that is, between closing itself up and integrating with the contemporary world and becoming a modern state.<sup>118</sup> There are great expectations from the 21st century. Now, it is time to put into practice, the slogan, leader Turkey. From economy to human rights all the Turkish citizens should be provided with the first class life standards. In his view for Turkey to reach these aims it needs the infrastructure of the European Union. The EU would also provide the suitable basis to remove the ethnical, religious and sectarian strains and the secular-anti-secular polarization in Turkey.<sup>119</sup>

He argues that if Turkey were left outside the EU, this would be the biggest injustice to be done to the Turkish people.<sup>120</sup> For Turkey to be part of the EU, it is necessary to take calculable risk. He claims that many circles in Turkey did not grasp what the EU membership was. It is neither a devil, which crashes and swallows those, which enter into it. Nor is it a magic stick, which can solve all the problems all of a sudden. He suggests that European Union policy is a national policy and cause. Therefore, everybody should contribute to this cause.

While he acknowledges that Turkey does not have to base its policy solely on one choice, the EU, he states that for Turkey the EU has a meaning well beyond being one of its foreign policy alternatives.<sup>121</sup> Above all, there existed Turkish nation's struggle of westernization for more than 200 years. Furthermore, there is the objective of contemporary civilization (muassir medeniyet) pointed out to by the founders of the Republic. The EU is a concrete form of both of these progresses. Turkey's giving up its target for any reason or downgrading it to the level of other alternatives would signify discarding 200-year struggle. Notwithstanding the significance of Turkey's relations with its neighbours in the Black Sea, Central Asia, and the Middle East, it would be a strategical mistake to view these as alternative to the EU.

He draws a comparison between the Ottoman Empire and Turkey.<sup>122</sup> In his view, the reason, which led to the collapse of the Ottoman Empire, the most powerful, greatest Empire of its time was that it lost its ability of opening itself to the novelties, development and progress.

He cautions that Turkey does not have to make the same mistake. In this sense, the EU is the most important instrument of development and progress for Turkey. Integration with Europe would develop, advance and enrich Turkey. To further his argument how beneficial the EU entry would be for Turkey, he gives the case of Spain as an example before and after the EU membership.

Yilmaz points to the two aspects of the obstacles for Turkey to overcome on the way to the EU membership.<sup>123</sup> While the first group of obstacles is visible, the second group is invisible. The visible hurdles are the problems regarding the *acquis* of the EU and the criteria regarding the membership. The real problem is the invisible obstacles. The foremost of the obstacles, that Turkey should overcome on the way to the EU membership is the burden, Turkey is going to bring to the EU budget. When all the candidates along with Turkey become members, the EU will have 28 members. Turkey alone may take almost 10 percent of the Union budget. This is one of the points, which makes the EU members seriously consider. The second invisible hindrance is the Turkish population of 65 million, to which Europe will open its doors through the free movement. The third problem is the image, which the Turkish citizens living in Europe for long years made. Europe is concerned about serious cultural complications along with religious factor. To overcome these obstacles is as important as fulfilling the criteria laid out in the written documents.

With respect to the death penalty, he stated that capital punishment was being removed from the judicial system in the European geography unlike in the other continents. It was recognized that this sort of punishment was far from being dissuasive. He was against

hanging Öcalan. In his opinion executing Öcalan would open the way for his being a hero. This opportunity did not have to be given to him.<sup>124</sup> He stated that even in Albania capital punishment is abolished. But the efforts of Yılmaz to remove death penalty were obstructed by the MHP, which insisted on the execution of Öcalan. MHP was against a change to the Constitution regarding death penalty. Yılmaz sought to bring a solution to the issue by finding a middle way. He proposed repealing the Article 125 of the Turkish Penal Code without an amendment to the Constitution. Instead of capital punishment Yılmaz proposed, “life imprisonment”.<sup>125</sup>

Regarding the freedom of using the mother tongue, he states that in the context of individual rights and liberties, people in Europe are entitled to learning a language or dialect other than the official language of the country, of which they are citizens. Yılmaz proposed the French model to the issue of education in Kurdish. He reminded that in France the courses in mother tongue are given as optional courses. In his view granting these rights did not strengthen the separatist movements; rather it led to their decline. This process would not be any different in Turkey either. This possibility would result in the people with ethnical identities identifying more with the Turkish upper identity.<sup>126</sup> Yılmaz stated that people in Europe are not barred from broadcasting in their mother tongues or dialects either. These, apart from being the most natural rights, are the rights, which are not possible to prohibit in any way given the communication possibilities of the modern world. He thought that contrary to the concerns broadcasting in Kurdish would not be threatening for Turkey rather it would strengthen it. The real threat was, in his view, the continuation of the existing situation.<sup>127</sup> Notwithstanding his agreement to granting cultural rights to the Kurds in Turkey, he was



against the solution of the issue on the basis of ethnical group rights. He was against a minority concept except for that established in the Lausanne Treaty.<sup>128</sup>

As to the concerns that the opening up in the area of culture in line with the Copenhagen criteria might be risky for Turkey's territorial unity and integrity, Yilmaz argued that the EU is an assurance rather than a risk for Turkey's territorial unity and secularism.<sup>129</sup> First of all, undermining territorial integrity of one of its members cannot be an issue, which the EU can demand. To the contrary, protection of territorial integrity of its members is a factor of stability for the EU. There is no country whose territorial integrity was endangered after becoming an EU member. What the EU requires from Turkey is as follows: Protecting its territorial integrity is the basic right of every state. But the measures to be taken for the territorial integrity should not restrict individual rights extremely; the methods used should befit a democratic state. Therefore, Yilmaz promoted the change of restrictive provisions in the Turkish legislation, including those in the Turkish Penal Code, Political Parties Law, and Election Law.

Yilmaz was so keen on fulfilling the Copenhagen requirements of the EU that he even confronted the influential military, which along with some civilians, he believed, obstructed the legislative changes. A crisis between the Army and Mesut Yilmaz erupted in the Summer of 2001.<sup>130</sup> He was concerned that it was not possible to adopt the already prepared legislative changes to the Article 312 of the Turkish Penal Code, Anti-terror Law and Press Law before the publication of the Progress Report on Turkey on November 12, 2001. This would result in the adoption of a negative decision in the following Summit in December

2001. He pointed to the “national security requirements” as the factors inhibiting the amendments to the legislation. He said at the 7th ANAP Congress that he was in favour of opening the national security issue to debate and suggested that nowhere in the world national security is left only to the military. He argued that collective security in the world is possible with the integration to the other democracies, as democracies do not fight each other. Therefore, in his view the most secure insurance to guarantee national security in Turkey is the EU membership.<sup>131</sup> Proposal of Yilmaz of opening “national security” to debate at the party congress was responded harshly by the military.

Yilmaz believed that prior to the Copenhagen Summit in December 2002, arrangements were necessary in three areas:<sup>132</sup> First of all, ban on teaching the mother tongue should be abolished. Private course possibility could be provided with an administrative arrangement. But Turkey’s official language and language of education is Turkish. Secondly, ban on broadcasting in Kurdish on radio and television should be removed. Broadcasting on one of Turkey’s state television channels two hours a day would solve this issue. Reportedly, Med TV is already watched with satellite antennas by 3.5 to 4 million people. Thirdly, people are concerned that if death penalty was abolished Öcalan would be granted amnesty. Through a legal arrangement capital punishments could be converted into life imprisonments without a possibility of granting amnesty. In this way while the public conscience was relieved it would be possible to fulfill the EU commitment to abolish death penalty. Yilmaz suggested that if Turkey took steps in all these fields and demonstrated its good will in favour of a solution in Cyprus, it would not only be possible to start accession talks but also to suspend the membership possibility of Southern Cyprus.

One of the efforts that Yilmaz made for Turkey's EU membership process was to have a book prepared, titled "On the way to the EU" (AB yolunda).<sup>133</sup> Speeches and writings of Yilmaz as well as the articles in the press were compiled in the book. He described the profile of the neo-European Turk in the book in 13 points, which Turkey's EU membership process demands. He defined the advantages, benefits that Turkey's EU membership could bring and the responsibilities of the Turkish people for achieving this objective.

Yilmaz has been in favor of a solution in Cyprus and supported the change of the status quo in the Island. He noted that not only Greece and Southern Cyprus but also Turkey would continue to be damaged in case the Cyprus issue remained unresolved. In his view, it should be the Turkish side, which forces and looks for a solution in the Island. Turkey should not give an image of the side avoiding a solution in Cyprus. He endorsed direct negotiation proposal of Denktas with his Southern Cyprus counterparts.<sup>134</sup> Yilmaz favored a confederal structure in Cyprus recognizing the sovereignties of both sides.

#### **7.2.1.1.4. CHP**

CHP's stance with respect to the EU integration has been ambiguous. For instance, while it criticized the government for accepting the Annan Plan as a basis of negotiation, it on the other hand said that it favored a solution in Cyprus. It stated that it recognized that the Turkish side should show certain flexibility and adopt a compromising approach on the issue of land in the Island.<sup>135</sup>

There are clear commitments of the CHP that it would carry Turkey to full EU membership as soon as possible. The CHP views Turkey's EU membership as "societal transformation project", which will elevate Turkey to the level of contemporary civilization. Moreover, it is suggested that EU membership is Turkey's right based on agreements and Turkey is a part of Europe with its history and geography.<sup>136</sup>

It is also well known that CHP is pro-European not only in its rhetoric but also in its deeds. For instance, when the debates took place in the European Parliament in October 1995 on the customs union of Turkey with the EU, Baykal and CHP representatives worked for the completion of the Customs Union and sought to convince the Socialist group of the European Parliament for an affirmative vote. Baykal helped to turn the balance in the Parliament in favor of Turkey by delivering a speech to the group of the Socialists.

CHP suggested that it was the modernization struggles of the previous CHP governments, which paved the way for Turkey's EU ambition. CHP endorsed the Accession Partnership Document as well as the commitments in the National Programme, as it believed that it would promote human rights, democracy and allow for an affirmative decision at the Summit in 2004.<sup>137</sup>

According to CHP, the EU membership is a "historic opportunity." A crisis erupted when AKP wished to add a clause in the Turkish Penal Code (TPC) making adultery a jailable offense; CHP opposed this move. In response, AKP withdrew the reform package on the TPC endangering start of negotiations between Turkey and EU. Baykal commented the

withdrawal of the TPC as a “historical mistake” in terms of EU-Turkey relations. In his view, Turkey did not have to miss “the EU opportunity” for the third time.<sup>138</sup>

CHP showed sympathy for the identity search amongst the people of Kurdish origin as well as the Alevis. Traditionally, Kurds and Alevis have been among the supporters of the Party. Notwithstanding this sympathy for identity politics, it was against an alliance with ethnical parties. When SHP called on CHP to participate in the 28 March 2004 local elections in alliance with the other left parties including DEHAP, EMEP, ÖDP, ÖTP, SDP, CHP rejected this call suggesting that HADEP is pursuing a policy on the basis of ethnicity.<sup>139</sup>

With respect to the rights of the Kurds, while it is responsive to their rights, it exhibits some peculiarities. Although Baykal endorses broadcasting in Kurdish, in his opinion it should be undertaken by private televisions not by the state television. In his view, if the state broadcasted in Kurdish, it might be necessary for it to broadcast in other languages too making the matter complicated.<sup>140</sup> In fact, the views of CHP regarding the reforms with respect to the Kurdish issue are not clear. While Baykal states that it is necessary to open up in the Southeastern issue and to bring novelties in the field of democratization and freedom, it is not clear what he meant by these openings and novelties.<sup>141</sup>

Raising question marks about whether it was sincerely in favor of a resolution of the Cyprus issue, it endorsed the group rejecting the Annan Plan in the Referendum held on April 24, 2004. CHP’s ambiguous attitude regarding the EU issue can be explained by two factors. Firstly, unlike the other leftist parties around the world, CHP, even though it is a leftist part,

did not evolve through a movement from below. Rather, it was established from above. Therefore, it identified itself with the state, establishment, and republican values. It represented status quo rather than change. For long, it was said to be a party of elites. So when the rights and freedoms of masses were in question, CHP was in difficulty in finding a compromise between the requirements of the republic and the demands of people. Secondly, CHP's being in opposition determined its stance. While it opposed the EU steps taken by the AKP on the way to the EU integration, in fact it meant to oppose the AKP, the party in power.

CHP was in favor of adopting a tough stance in the negotiations with the EU and not giving any concessions on the issues such as Cyprus. As the AKP government negotiated with the EU officials on the final shape of the Presidency statement at the Brussels Summit in December 2004, Baykal held a press conference and said that Cyprus pre-condition and initiating negotiations of open-ended nature were unacceptable and thus Turkey had to suspend its relations with the EU. According to the CHP officials this was a move to strengthen the hand of the AKP government and another way of saying, "leave the table and as an opposition party we will support you on the decisions you will take from now."<sup>142</sup> He further said that he was against a proposal except for full membership.

Baykal harshly criticized the government for committing itself at the Brussels Summit in December 2004 to signing a protocol, which includes the Southern Cyprus in the Ankara Agreement.<sup>143</sup> Baykal claimed that with this signature Turkey would lose the legal foundation, which it had gained through the London-Zurich Agreements. Now, Turkey

would recognize only the Southern part as the Cyprus state. This would be an important blow to the arguments of Turkey on Cyprus. In Baykal's opinion, this could have been prevented by putting a reservation to the document signed that signing the protocol would in no way amount to the recognition of the Southern Cyprus as the Cyprus State.

With respect to the 2004 Progress Report, Baykal was not satisfied with a number of points. In his opinion the statement of the government defining the 2004 Report as "positive and balanced" was a big mistake. Along with the adultery crisis, the welcoming approach of the government regarding the Report would result in Turkey losing its "negotiating position".<sup>144</sup>

According to Baykal, the statement in the Report that defines the negotiations with Turkey as open-ended might bring Turkey a "special status" rather than grant it full membership. Moreover, the Report was defect, as it demanded the pullout of the Turkish troops from Cyprus, the opening of the Armenian border with Turkey as soon as possible, the opening of the priest school in Heybeliada and recognition of the Alevis as Muslim minorities. The report also required a restriction to the political power of the military, attachment of the Turkish General Staff to the Ministry of National Defense.<sup>145</sup>

He was critical of the EU comments defining the Alevis as well as the Kurds as minority, which does not have a serious basis. Opening a minority debate is artificial. He acknowledges that there exists a problem regarding ethnic identity. Nevertheless, he argues that Europeans cannot know the issues better than the people themselves that suffer these problems. While it is not obvious where Turkey will arrive in 10-15 years in the EU

integration process, it is very clear that initiating these debates from now would plunge Turkey into trouble.<sup>146</sup> Baykal criticized the government's attitude saying, "We give whatever the EU wants, and get pleased with whatever they give." Reiterating that the European Commission's stance about Turkey is not clear, he claimed that this would put Turkey in an unclear, troubled process, which requires concessions.<sup>147</sup> Baykal was in the view that the EU was trying to create an artificial minority problem and stressed that since the Ottoman period, there have been interventions in this way.

#### **7.2.1.1.5. DSP**

Being a nationalist, Bülent Ecevit intervened in Cyprus in 1974 to save the suffering of the Turkish Cypriots at the hands of the Greeks. He also suspended the relations with the EC in 1978 believing that Turkey would not be able to fulfill the responsibilities of the associate partnership with the EC. Also after the EU issued a decision at the Luxembourg Summit in December 1997 excluding Turkey from a list of prospective EU members, this prompted Ecevit to accentuate nationalist aspect of his personality. He said prior to the 1999 elections, "Just as I was a nationalist then (1977), I am a nationalist now."<sup>148</sup> But when the historic 1999 Helsinki decision was taken granting Turkey an equal candidate status, DSP focused on the EU reforms and viewed the EU membership among the main objectives of foreign policy. From 1999 to 2002 he with his coalition partners undertook major EU reforms with a view to meeting the Copenhagen criteria.

In line with the state policy, Ecevit advocated a two-community solution in Cyprus. He was against the establishment of a link between the Cyprus issue and EU membership. In other



words, he objected to the resolution of the Cyprus issue being a criterion for the EU membership. Hence, for instance he put his reservation to a paragraph in the Accession Partnership Document referring to the solution of the Cyprus issue among the short-term objectives.<sup>149</sup> Nevertheless, he was aware that it was necessary to show goodwill and take steps in the direction of the solution of the issue before acceding to the EU.

With respect to death penalty Ecevit justified his opposition to capital punishment as a part of the Copenhagen requirements. He suggested that he had been a proponent of abolishing capital punishment long before the issue became an item of the EU reform process.<sup>150</sup> He said that he had objected to death penalty since the 1970s and he had given a speech against death penalty while the execution of Deniz Gezmiş<sup>151</sup> was debated in the Parliament.

Ecevit's views regarding the Kurdish issue evolved in time. Till recently he viewed the issue solely as a problem of socio-economic development. In his opinion, what lies beneath the problems in the region is the semi-feudal heritage, which prevails in the area. Initially, DSP did not seem receptive to demands for ethnic cultural rights. Ecevit's cure to the issue of the Southeast was economic investment and land reform, which would wipe out the feudal system. Even though he maintained his initial attitude on the Kurdish issue, the EU integration process in the post-Helsinki period led him to add new elements to his thinking. For instance, when he received a delegate from the European Parliament in March 2000 he reiterated his argument that there is not a "Kurdish problem" in Turkey and the problem in the "Southeast" stemmed from the feudal structure and it was rather an issue with economic and social aspects.<sup>152</sup> Ecevit also claimed that Kurdish is not a language but a "dialect".

But as part of the EU democratization reforms Ecevit agreed to adopt changes to the legislation, which would respond to the cultural aspects of the Kurdish issue. Ecevit made a distinction between the use of mother tongue and broadcasting and the education in Kurdish.<sup>153</sup> He was in favor of permitting the use of mother tongue by the Kurdish citizens and the broadcasting in Kurdish. However, he was against the inclusion of Kurdish into educational curriculum. He accentuated that it was not possible to add another foreign language into education.

While on the one hand Ecevit advocated measures to promote liberalisation of Kurdish language courses, he proposed opening of Turkish language courses for the Kurdish citizens on the other.<sup>154</sup> In his opinion the priority of those living in the Eastern and Southeastern Turkey was not to learn Kurdish but Turkish. He expressed that he was from the beginning on against the prohibition of mother tongue and advocated the freedom of mother tongue even as a banned politician after 1980 period. In Ecevit's view it was not possible to hinder this as radio and televisions broadcast from everywhere around the world.

Ecevit and his coalition partners adopted amendments strengthening the civilian control of the Army. It is known that Ecevit opposed the 1980 Military government and worked for civilianization and democratization of Turkish politics in the post-1980 period. However Ecevit acknowledged that the Turkish Military has occupied a special place in Turkish politics unlike in the other democracies. He suggested that the Turkish Military was the pioneer of westernization back in the Ottoman era and every novelty was brought by the

Army to Turkey.<sup>155</sup> Therefore, it was nothing but natural that such an army expresses its views on every topic. Defending the Turkish Army against the criticism that they along with Atatürkism were the primary obstacles to the EU membership, he said that the Army is not against the EU but against the games of the circles, which wish to undermine the Lausanne Treaty and bring up the Sevres Agreement instead.

#### **7.2.1.2. Military**

The Military has had some reservations not about the principle of EU membership, but rather the possible impact of the fulfilment of the Copenhagen criteria on the nature of the Turkish regime. Military officials stated that no other European country had faced the same threats as Turkey and that the Copenhagen criteria had to be put into practice by “taking into consideration the interests and realities of the country.”<sup>156</sup>

Quite often the Military became the target of criticism that it was against the EU. The Army denied these criticisms saying, “The military can not be anti-EU. Because the EU is in geopolitical and geostrategic terms an obligation of modernization objective pointed out by Mustafa Kemal Atatürk to the Turkish society”.<sup>157</sup> Some were critical of the military’s evaluation of the EU membership as a “geopolitical obligation”. It was said that while it was possible to view NATO and OSCE as a “geopolitical obligation”, EU is primarily and in essence a “system of values”.<sup>158</sup>

In the aftermath of Turkey being granted the candidate status at the Helsinki Summit, the Turkish government has started to prepare itself to meet the Copenhagen criteria. In

accordance with these attempts, the Human Rights High Coordination Board Secretariat Chairman Gürsel Demirok drafted a report in February 2000 and proposed radical reforms for human rights and democratization. The NSC (National Security Council) raised objections to some proposals in this report including “the comprehensive citizenship concept”, the lifting of the ban on Kurdish language broadcasting and restrictions on the military’s dominance in politics.<sup>159</sup> Upon omissions on these points of the report, Gürsel Demirok quit his post. It was suggested that debates between the military and the Human Rights Board over possible amendments to the NSC led to the resignation of Demirok. Similar sensitivities of the Army reflected itself in the Accession Partnership Document (APD) prepared in 2001. The Military has also played an active role in the negotiations regarding Cyprus and European Security and Defense Policy (ESDP), which are closely related to the EU issue.

The Military’s resistance to a number of the demands by the EU encouraged the National Action party, the second largest coalition party, to continue opposing any change. Nevertheless, the Military was disturbed to be portrayed as an anti-EU group and therefore sought to put a distance to the MHP (Nationalist Action Party) the main Eurosceptic group. For instance, when the EU integration process accelerated during the single party government of AKP and historical steps were taken over Cyprus and Kurdish issue and, the MHP sent letters to 313 generals and called on them to intervene and warn the government. The generals returned all these letters to MHP.<sup>160</sup>

Despite their attention not to appear against the EU, in some instances, the Military representatives openly and harshly criticized the Union. For instance, Ilhan Kilinc, the General Secretary of the NSC said, “It is certainly necessary that Turkey should look for new alternatives. The best way of doing this is, I believe, an alternative entailing the Russian Federation, including Iran and not ignoring the USA.”<sup>161</sup> He added that the EU never helped Turkey and that the EU had a negative view on the issues relating to Turkey.

As for the Kurdish issue, the Military had first-hand experience of daily life in the impoverished southeast of Turkey. This experience of the Military soon convinced it that social and economic circumstances were fuelling support for the PKK. During the early 1990s the Turkish General Staff (TGS) several times proposed that the government had to invest in the Southeast and create employment.<sup>162</sup>

The Army was particularly anxious that opening up in the Kurdish issue might be exploited by the PKK. After the Army enjoyed a victory over the PKK in 1999 and captured its chief Abdullah Öcalan, the PKK issued a peace call to the Turkish state. In the eyes of the military, this was a move to politicize the separatist movement. It cautioned that the PKK might use such slogans as ethnic identity, education and broadcasting in mother tongue, empowerment of the local administrations in its attempt to rally support of the society.<sup>163</sup>

With respect to the minority issue, the military seemed determined not to back down on the Lausanne Treaty. For the military as well as for most politicians the unitary structure of the Turkish state is beyond dispute. It was stated that there is single sovereignty, single country

and single nation in this unitary state. It was pointed out that the minority issue is of extreme importance for Turkey's security. It was said, "There is no common definition of the minority concept in any international document. Above all, all the documents in question view the minority rights as individual rights. Ethnic, cultural, religious and linguistic differences do not necessarily result in the creation of national minorities."<sup>164</sup> For the Army, the EU's attempts regarding the minorities go beyond the cultural rights and enter the field of political rights. It was said that the criticism of 10 % threshold by the EU is solely based on the difficulty of a certain group being represented in the Parliament.

Regarding the execution of Öcalan, Chief of Staff Kivrikoglu said that the Army was a party to the issue as it fought against him for 15 years and thus they were emotional over the Öcalan issue. He left the decision to the politicians and said, "Now the politicians should sit and think whether the interest of the country lies in his hanging or in another direction... TSK is not the sole owner of the country."<sup>165</sup>

As to Cyprus, the TGS remained committed to Turkish state policy, shared by both the Ministry of Foreign Affairs and most politicians, of a confederal solution to the Cyprus problem, which in their opinion is the only guarantee of Turkish Cypriots' safety. In private, military officials also cite strategic considerations about Cyprus. They think that Turkey would never again allow a potentially hostile state, dominated by the Greek Cypriots, so close to its southern coast.<sup>166</sup>

With respect to the Annan Plan, the military refrained from giving a clear view. Özkök said, “If looked at the Plan as a whole, we can say that despite the existence of positive aspects, some of our demands were not met and serious problems might arise in the implementation of the Plan.” In the opinion of Özkök, the most important matter regarding the Plan is including the derogations into the primary sources of the EU law, which aim at protecting the founding Turkish state.<sup>167</sup>

Furthermore, the military was also concerned about the EU’s idea for a European rapid reaction force, which would borrow NATO assets. Forming a military structure and army outside NATO might undermine Turkey’s strategic importance and military power. This might also tilt the military balance between Greece and Turkey in favor of the former.

In view of the point reached in the relations between Turkey and the EU and democratization reforms adopted by Turkey, it can be said that the influential actor of Turkish politics, the military gave a tacit assent to the democratic changes taking place to fulfill the Copenhagen criteria.

For the changing stance of the military with respect to democratization reforms if not all but an important part of the credit should be given to the Chief of General Staff Hilmi Özkök. Following installing his team, he took the military into a politically less intrusive posture. As chief of staff, Özkök exhibited a different profile than his predecessors- characterized by respect for civilian authority, by an emphasis on the need for institutional reform, and by his recognition that the military does not have a monopoly on patriotism. He was criticized of

being too soft as Turkey's top general. Responding to his critics, he said that his responsible, moderate, constructive, uniting and careful approach not to damage the nation and state was misunderstood. He added, "I command a military generation, who wants to obey the leadership of mind rather than the strength of voice".<sup>168</sup> Despite the suspicions of some top officers, he endorsed the government's attempts to prepare Turkey for the EU accession process. He also has given the green light to the government's risky initiative on the Cyprus issue, raising Turkey's diplomatic profile.<sup>169</sup>

Looking at the changes on the status of the military following the August 2002 and 2003 amendments, one cannot help but ask: how come could the most powerful institution of Turkey give its consent to the reforms helping to dismantle it? In fact, on the face of it, the changes on the status of the military in line with the Copenhagen political criteria may give one the image that the Army has lost its grip on Turkish politics and entered a process of dissolution. Democratic reforms have also involved security risks to Turkish state and territorial integrity, in particular as a result of changes regarding Kurds, expansion of political space with respect to the Islamists.

On a closer inspection, however, it emerges that this judgment is not true. This is not to say that post-Helsinki changes are not important. To the contrary, it is for certain that Turkish democracy did not witness such extensive democratic openings probably in half a century. However, the Army still retains its autonomy in most critical areas assuring its guardianship role of the Republic. Furthermore, democratic changes took place in a peaceful political climate, in which Islamist and separatist Kurdish threat had already been wiped out by the



army. The military was vigilant that these two threats did not pose a threat to the state. Put it differently, the costs arising from EU democratic reforms were minimized by the army; benefits seemed to be much bigger in the equation.

To start with, the Army still maintains its autonomous status with respect to its guardianship role through some legal mechanisms. Article 35 of the Turkish Armed Forces Internal Service Law (TAFISL) and Article 85/1 of the Turkish Armed Forces Internal Service Directive (TAFISD) entrusted the military protection and preservation of the Republic. Article 35 of TAFISL states: “The duty of the Turkish Armed Forces is to protect and preserve the Turkish homeland and the Turkish Republic as defined in the constitution.” Article 85/1 of the TAFISD reads, “It is the duty of the Turkish Armed Forces to protect the Turkish homeland and the republic, by arms when necessary, against *internal* and external threats.” Against the criticism of the EU, the Military asserted that such provisions existed in almost every state and protection of the country was the most important task for any armed forces.<sup>170</sup> It seems that military does not intend to give up its guardianship role of fundamental principles of “secularism, territorial integrity, and democracy”, and is determined to retain a legal autonomy, though restricted, to perform this function against threats, which may arise in the future.

Moreover, article 2a of the National Security Council (NSC) Law (1983), which defines national security in broad terms, is still maintained. Article 2a of the NSC Law states that: “National security means the defence and protection of the state against every kind of external and internal threat to the constitutional order, national existence, unity, and to all

interests and contractual rights in the international arena including in the political, social, cultural, and economic spheres.” As the “national security” constitutes the main reference point for intervention by the military in Turkish politics, it extended potential cases, which army would regard as threat and, thus involve in politics.

The army also managed to maintain the status of the chief of the Turkish General Staff (TGS) to minimize influence of the politicians in the military. Appointed by the President, the chief of staff’s rank is ahead of the Minister of Defence and second only to the prime minister in protocol. It was argued by the EU that the chief of staff had to be responsible to the Ministry of Defence like in other liberal democracies. This proposal of the EU was opposed by the Army, which suggested that the current arrangement stemmed from the *sui generis* status of the military in Turkey and it was not necessary to change it.<sup>171</sup>

Furthermore, although the number of the army representatives in the NSC was lowered and the NSC decisions’ advisory nature was emphasized through the EU amendments, these amendments addressed only institutional aspects of Army’s weight in Turkish politics. True power of the army does not so much rest on their numerical superiority in the NSC but on the popular support they enjoy from the Turkish public. According to a recent survey, the Army continues to be the most trusted institution in Turkey with 89 percent. Interestingly, the EU, with 51 percent, comes far behind the Turkish military in this respect.<sup>172</sup>

This fact was reflected in the statement of the previous chief of Staff Hüseyin Kivrikoglu, who, as to the debates regarding the amendment of Article 118 of the Constitution, raising

the number of civilians in the NSC from five to eight, said, “Let it be hundred civilian members if necessary.”<sup>173</sup> This meant that even if there were an increase in the number of the civilian members of the NSC, this would not influence the way in which decisions were taken. Decisions in the NSC are not taken through voting, each member tells his view, then a consensus is reached. Numerical reduction of the army representatives in the NSC is just of symbolic nature, albeit an important one. NSC functions as a platform, in which the army makes its views known to the government, not as a voting body. Besides, the army uses other informal mechanisms to convey their views to the politicians on the critical decisions.

On the other hand, the Army’s tacit consent to the EU democratic reforms was in part due to the elimination of two existential threats to the Republic: Islamists and secessionist Kurdish nationalism. Once these twin threats were removed, a political climate, conducive to democratization, was created. There is no guarantee that the army will keep a low profile with respect to these issues in the future. In fact on some occasions the Military expressed its discomfort about the liberal terrorism law issued in accordance with the EU reforms.<sup>174</sup> After US occupation in Iraq, PKK militants took refuge in the Northern Iraq and resumed assaults in the Turkish territory. The US forces have concentrated their efforts on the suppression of the insurgents in the south and relaxed control in the Northern Iraq. In the face of mounting terrorist activities from Northern Iraq to Turkey, the Army demanded more competences to fight against secessionist Kurdish groups. It remains to be seen how the fight against terrorism may affect EU reforms.

One of the reasons why the Army did not get in the way of EU reforms is that once the perceived Islamist threat was eliminated following the 28 February process, Islamists have split up and gone through a period of transformation. The reformist wing of the Islamists has founded AKP. Initially, the Army had serious misgivings about them. But over time it emerged that they were not intent to clash with the secular establishment and keen on Turkey's European orientation. That the AKP has by and large exhibited a conciliatory approach with the actors of Turkish politics, in particular with the Army, has contributed to the Military keeping a low profile. Whereas AKP has expressed its discontent with such issues affecting its Muslim electorate as headscarf, status of Imam Hatip Liseleri (Religious High schools), they stressed societal consensus for the resolution of these issues and did not allow them to turn into a political deadlock. This, in turn, helped the Army to exhibit a permissive attitude towards the EU reforms adopted, while the AKP was in power.

### **7.2.1.3. President**

President Sezer worked to promote the integration of Turkey with the EU and welcomed the reforms undertaken in this direction. Nevertheless, coming from bureaucratic background as an ex-chairman of the Constitutional Court, he was quite cautious in his choosing of the words relating to the EU reforms, such as the Kurdish issue, Cyprus. Unlike the previous presidents such as Özal and Demirel, who came from a political background and frequently stepped beyond the symbolic nature of their missions, he preferred to remain within the boundaries of his position as the president of the republic and commented the presidency in narrow terms.

He represented the official Turkish line on the issues regarding the EU. With respect to the Cyprus issue he expressed that it was unacceptable to establish a link between Turkey's EU candidacy and the Cyprus issue. He criticized the European Parliament resolution, which demanded the pullout of the Turkish troops from Cyprus saying that this was out of question.<sup>175</sup>

Nevertheless, unlike the Turkish Military he did not consider other countries to be alternative to the EU. Referring to the call of the Secretary of the National Security Council, Org. Ilhan Kilic, for Turkey's searching for new alternatives to the EU such as rapprochement with Iran and the Russian Federation, he said that Turkey was preparing for the full membership of the EU by completing the reforms swiftly and added that there was no change in Turkey's policy.<sup>176</sup> He further said full membership of the EU always became the objective of the Turkish people and governments.

Referring to but not openly citing the Kurdish issue, he advocated that Turkish nation concept is used as "upper identity".<sup>177</sup> He suggests that the state is unitary and recognizes the sub-identities provided that they remain within the scope of private life, as different sub-identities are the richness of the society. Furthermore, accentuating ethnic, religious or sectarian identities except for cultural rights would undermine national unity as well as nation-state. To clarify the upper identity-sub-identity issue, he commented on Turkish nationalism stated in the Turkish constitution. He stressed that Turkish nation is not an ethnic concept but a political one linking being a Turk not to ethnic origin rather to the legal bound of citizenship.

### **7.3. Public Support for European Integration**

Turkish people's attitude with respect to the European integration and the democratization reforms does not exhibit much divergence from that of the Turkish elite. Turkish public supported Turkey's integration with the EU in an overwhelming majority, which was to facilitate the adoption of landmark reforms. Their attitude is also important in the implementation phase of democratic reforms.

The support of Turkish people to the European integration has exhibited a consistent character. One can hardly find any opinion poll, in which the support extended to Turkey's integration with the EU is below 60 percent. An opinion poll conducted by TESEV in June 2002 showed that 64 percent of the respondents are in favour of Turkey's EU membership.<sup>178</sup>

But a further look at the opinion poll reveals that there are some reservations in the people's support to the EU integration and democratization reforms. When asked whether they would support EU membership if Kurdish language education as a special course were a vital precondition, 58 percent of the respondents said "no". Similarly, 54 percent said they would not accept the lifting of the death penalty for all crimes and convicts as a precondition for Turkey's membership.

The controversies in this opinion poll reveal that Turkish people have on the one hand concerns about national security and independence and are thus quite cautious and hesitant about the minority rights and the PKK issues but on the other hand favor the EU membership

and democratization reforms. The reservations of Turkish people can be attributed to the 15-year fight against the PKK terrorism, which claimed 35 thousand lives reinforcing nationalist feelings among the Turks. Also, it has much to do with the “Sevres syndrome” which, helps to maintain the latent mistrust towards the West and causes the Turkish public to view politics from the perspective of security.<sup>179</sup> According to the same study of TESEV, Turkish people view in the EU membership above all economic benefits but also prospects of improvement in the quality of politics and democracy, decrease in the corruption.<sup>180</sup>

Other opinion polls, which have been conducted more recently, continue to confirm Turkish people’s support to the EU. Turkish people are among the most enthusiastic EU supporters. According to an opinion poll of the German Marshall Fund of the USA dating June 2004, seventy-three percent of Turkish citizens favor joining the EU compared to the European average of 30 percent.<sup>181</sup> Likewise, Eurobarometer of Spring 2004 reveals that of all 28 current members and the candidate countries (Croatia, Romania and Turkey), coming only second after Luxembourg, seventy-one percent of Turkish respondents favor the EU membership.<sup>182</sup>

Nevertheless, interestingly enough, following the December 2004 decision of the EU to start accession talks with Turkey in October 2005, Turkish people’s positive view of the EU has come to decline gradually. While 62 per cent of the Turkish public stated that membership of the EU would be a “good thing” in Autumn 2004, this figure declined to 59 percent and 55 percent, in Spring 2005, and Autumn 2005 respectively.<sup>183</sup>

First explanation of this non-negligible decline about the image of the EU on the part of the Turkish public lies in the nature of the bargaining process, which manifested itself once more at the Summit 2004, which gave the image to the Turkish public that the EU was the side demanding concessions from Turkey and Turkey was the one, which was resisting to the EU's demands. Secondly, the Turkish people's expectations from the EU were high. But soon they started to realize that the EU did not have a magic stick, which may change lives of the men in the street overnight. Thirdly, the Turkish people have observed that although the Turkish Cypriots have endorsed the Annan Plan designed to unify the island, the Greek Cypriots rejected it in an overwhelming majority in the referendum held in 2004. Promise by the EU officials that if the Turkish side supported the Plan, embargo imposed on them would be removed, did not materialize. This has also contributed to the declining image of the EU among the Turkish public.

With respect to *societal Europeanization*, relatively low level of Europeanization of Turkish people's identity is noteworthy as compared with the EU citizens. Although according to survey results national identities are still much more powerful than a commonly shared European identity across the EU, Turkey stands out as the country where pride in national identity is the strongest of all the countries surveyed. An overwhelming majority (96 percent) of the Turkish public say that they are "proud of being Turkish" whereas the rate of those who are proud of their nation is considerably lower in the EU member states (86 percent). Whereas only 48 percent of the Turkish public state that they are proud of being European, 68 percent of people in the EU say they are proud of being European. In terms of being proud of being European, Turkish people rank lowest.



Similarly, while there is almost nobody who does not feel himself European in the EU, 7 percent of the Turkish respondents express that they do not feel themselves as Europeans.<sup>184</sup> These results indicate that Turkish people have not gone through a substantial process of Europeanization of their identities yet. Although most Turks feel European, unlike the citizens of many EU member states they have stayed outside the EU for many decades. They were outsiders rather than insiders. They are not quite familiar with EU supranational identity unlike the other EU citizens. Furthermore, the survey also reveals another aspect of Turkish identity. Turkey's nation building process has citizens' close identification with the state. Nevertheless, it might be expected that Turkish people's European identity will reinforce when they get more socialized into the EU and get more information about the EU institutions. It is clear that they will feel more "insider" the more they approach the EU membership and make use of its benefits.

### **7.3.1. Civil Society**

Turkey's integration process with the EU was also facilitated by an increasingly active civil society. Indeed, civil society's role in the EU integration process has been twofold: Civil society has been both the object and subject of the EU integration. On the one hand, the EU integration itself empowered the civil society in Turkey, contributing further to its development. Promoted through the EU integration, civil society has, in turn, functioned as an important driving force behind the EU reforms. In particular, during the initial period of the EU integration, in which reforms progressed at a slow pace, civil society has assumed an important part for the acceleration of the reform steps.

Besides promoting the EU integration, Turkish civil society organizations have been themselves empowered by the integration process through amendments to the legislative framework, in which they work, EU's direct financial assistance and, its project-based support. But most importantly, the EU integration has increased the credibility of NGOs in domestic politics. Despite the presence of NGOs prior to the 1999 Helsinki decision, they did not occupy the same place as they do now. Post-Helsinki European integration process has turned them into influential actors of Turkish politics. Governments and political parties have had to pay at least lip service to NGOs, supporting them at discourse level. NGOs have been invited to meetings with the governments, which have cooperated with them in legislative work they have carried out in accordance with the Copenhagen political criteria. According to NGO accounts, AKP government has been especially interested in the participation of NGOs in the EU integration process.<sup>185</sup>

Global democracy wave in the aftermath of the disappearance of the bipolar world influenced the development of civil society in Turkey. In this new era, civil society organizations represent a wide spectrum including voluntary organizations working in various fields, think tank organizations, social movements and citizens' initiatives, non-governmental organizations, trade unions and professional chambers. It is estimated that today there are some 150.000 civil society organizations in Turkey.<sup>186</sup> This figure includes fellow businessmen associations, foundations, professional chambers and think-tanks. The quantitative change also reflects itself in the change of discourse. Civil society is often mentioned as a prerequisite of democracy and democratisation in Turkey. There has been a change in the discourse of the state actors too. Publicly, they say that they side with the civil

society organizations. An important part of the credit in this change should be given to Turkey's EU accession process in the recent years, which has gained momentum in the post-Helsinki period.

Despite the increasing importance of civil society in Turkey and quantitative expansion, it has shortcomings and there are obstacles in front of civil society organizations. Main impediments stem from state-centred politics, shortcomings of democracy and some obstructive legislative regulations. Keyman argues, "Despite their support at discourse level, state actors and political parties make no contribution to translate this support into a qualitative structure. Indeed, the practical approach of these actors is more inhibiting than encouraging."<sup>187</sup> Therefore, still some time is needed for civil society organizations to assume much role in the promotion of democracy in Turkey.

More than any other group, business community, notably big business has been active in the promotion of Turkey's EU membership. It was closer relations with the EU and desire to become its full-member, which played an instrumental role and contributed a powerful external anchor in the efforts of the Turkish business groups to promote democratic reforms. Other powerful forces such as the increasing maturity of private capital seeking to free itself from traditional dependence on the state and thus achieve a new pattern in state-business relations have also been at work.<sup>188</sup>

It cannot be denied that the Turkish business community has served Turkey's integration with the EU and has become an important force of democratization in Turkey. Nevertheless,

they were handicapped by a number of shortcomings, undermining their influence on Turkey's politics.<sup>189</sup> Above all, despite expansion of their autonomy thanks to the 1980 neo-liberal reforms, their dependence on the state has still somewhat continued: The business community is both lender to and borrower from the state institutions. There exist interlinkages between the activities of the state and those of a number of large business groups. Internal divisions or conflicts in the business community also limit their ability to adopt a more radical democratization agenda. Another limitation is the fact that big business has a tendency to conceive of democracy in rather instrumental terms as they view democracy as a means to an end rather than something, which is desirable in itself. All of these factors have, as a consequence, undermined their ability to act as a major agent of democratization in Turkish politics.

The legacy of strong state tradition has shaped the business-government relations and the influence of the business community on the government in Turkey. The political elites have never seen business an equal partner in the policy-making process. Governments have tried to corporatize them in order to control, rather than being responsive to their demands. Unlike in Britain and the USA, where liberal economic tradition prevailed, government has tended to intervene in the economy in Turkey. Business-government relations in Turkey are not like those in the Scandinavian countries either, where decisions are taken by the voluntary collaboration of government-labor-capital. Although France shares some common characteristics with Turkey, the French government is more inclined to consult business before decisions are taken.<sup>190</sup>

Influence of the business community on the EU democratization reforms has been determined to a large extent by their degree of independence from the state and possible gains from the EU integration. The Turkish Industrialists and Businessmen Association (TUSIAD) is relatively the most autonomous business organization and a clear winner of Turkey's EU integration due to their members' intense relations with the global and European business community. Therefore, it was the most vocal association in its plea for democratization.

The Union of Turkish Chambers and Stock Exchanges (TOBB)'s democratization report, the "Eastern Question" has been the forerunner of similar reports and generated widespread controversy both within and outside the organization and, thus, proved to be a once and for all affair. The semi-official character of TOBB and the legacy of state corporatism limited the ability of the organization to make significant progress in pushing the government for democratization.

The Independent Industrialists and Businessmen Association (MUSIAD) represented the emerging Anatolian capital with Islamist leanings and were composed of small and medium sized firms. After the 28 February process, they have been enthusiastic about the EU democratization reforms in the hope that the EU integration would expand their religious rights and freedoms and protect them against the pressure of the state.

Whereas Turkish Employers' Confederation (TISK), has paid a lip service to democratization issue, it has refrained itself from participating in the democratization wave due to the legacy of state corporatism.<sup>191</sup>

They have not only been involved in lobbying activities at the EU level, but also informed the public about the importance of the integration with the EU and urged the government to further democratize and accelerate democratization reforms. Also other specialized NGOs working in a particular field and pro EU think-thanks such as Turkish Economic and Social Studies Foundation (TESEV) and Economic Development Foundation (IKV) further promoted the EU democratization reforms through their activities.<sup>192</sup>

Moreover civil society organizations initiated campaigns. For instance, Avrupa Hareketi 2002 (the European Movement 2002) launched a campaign entitled "The place of Turkey is the EU. Yes...I agree!" recruiting the support of hundreds of people to promote Turkey's EU membership. This initiative became very popular among the public. In the campaign statement it was expressed, "Europe is the direction towards which Turkey progressed for centuries...the EU signifies Turkish citizens having equal rights of opportunity in every field in the future. The EU is investment, job, profit, science and technology. We call on the Turkish people, who believe in the EU whatever their political line: Let's come together and embrace this process."<sup>193</sup>

Upon the great interest shown in this campaign, it was continued with another initiative, called "there is not another tomorrow."<sup>194</sup> Differently from the previous campaign, which

aimed at rallying the support of the public, the second campaign targeted the parliamentarians. The campaign wished to urge them to further the EU reforms.

On another occasion the business world and civil society organizations including Avrupa Hareketi 2002, IKV, ITO, MUSIAD, TUSIAD, TESEV issued a call in the Turkish dailies entitled “Promoting a solution in Cyprus” calling on the Cyprus people to vote for the unification of the island in the referendum to be held on April 24, 2004. In the call it was expressed that “by saying “no” the Turkish Cypriots will either face the risk of continuing a life having no political and economic connection with abroad as the citizens of a state, which is not recognized internationally or by saying “yes” they will prefer a life, which assures their sovereignty on their soil and their identity, allowing them the possibility of integrating with the outside world through the EU citizenship as an equal partner of a United Cyprus Republic, and the citizens of Cyprus Turkish State.”<sup>195</sup> Moreover, civil society organizations have contributed to the promotion of dialog and solution of the enduring problems between Greece and Turkey, opening the way for Turkey’s accession to the EU. <sup>196</sup>

Nevertheless, not all the civil society organizations have been actively supportive of Turkey’s integration with the EU. Major labor unions in Turkey such as TÜRK-İS (Türkiye İsci Sendikaları Konfederasyonu-Confederation of Turkish Labor Unions) have exhibited a heavily nationalistic outlook, and, thus, if not anti-EU, they have been lukewarm and skeptical towards the EU reforms. Their arguments centered on the loss of national sovereignty and national interests. Neo-Kemalist civil society organizations such as the Association for Atatürkist Thought (Atatürkcü Düşünce Derneği, ADD), the Foundation for

Kemalist Thought (Atatürkcü Düşünce Vakfı, ADV) have extended “qualified support” to Turkey’s integration with the EU.<sup>197</sup> On the other hand, although having achieved valuable work as regards the human rights violations, Turkish human rights organizations have not been effective to put a direct pressure on the state, as they were associated with terrorist and criminalist activities. Therefore, they lacked popular support from the Turkish public and did not enjoy the similar status as the business organizations in their dealings with the state institutions.<sup>198</sup>

#### **7.3.1.1. TUSIAD**

Among the many pro-EU civil society organizations TUSIAD deserves a special place. The most vocal in the business community to endorse the EU membership and required democratic reforms is TUSIAD. In the absence of a clearly pro-EU, dedicated or strong Turkish political party, they functioned as a major impetus behind the EU reforms, warning the governments in cases of backlash in democratization reforms and encouraging them to further reform efforts when they slowed down.

TUSIAD is a voluntary non-governmental organization. It was established in 1971 with the aim of supporting and spreading free enterprise. The foundation of TUSIAD marked a landmark in the sense that it represented the first voluntary association of businessmen in Turkey. Its establishment was also unprecedented as for the first time the big business emerged as a crucial actor in Turkish politics in terms of defending their collective interests against other segments of society. An organization of this kind has also expressed for the first time a collective concern about the social, political and economic problems of the



country. As of 2001 TUSIAD has had a membership of 471 firms, which are among the biggest 500 Turkish companies. In their areas of activity TUSIAD members represent 47 % of the total value added, which is created in Turkey.<sup>199</sup>

TUSIAD has undergone a significant transformation period since its establishment. The evolution of TUSIAD can be roughly divided into three distinct stages. The first period is the 1970s, during which the dominant import-substitution model of industrialization (ISI) reached a crisis point. The problems stemming from the implementation of ISI such as chronic shortages of foreign exchange have been felt closely by TUSIAD members. TUSIAD made its presence felt in the public scene as a key political actor through its widely advertized criticisms. Furthermore, in the initial years following its inception TUSIAD focused its activities on rooting liberal economy in Turkey, where economy was dominated by the state.

The second period starts with the 1980s in which Turkey saw a radical departure away from the inward oriented industrialization model of the 1970s, towards a more open, export-oriented model economy. After democracy was restored in 1983, TUSIAD has come to occupy significant public space. It levelled criticisms against the popular policies such as rising budget deficits and inflation towards the end of decade under Özal government. During this stage TUSIAD played a role in the development of free market economy with all its institutions. What is common during these two phases of TUSIAD's evolution is that its approach was primarily motivated by economic considerations.

The 1990s represented the third phase in TUSIAD's evolution, in which the organization adopted an explicit agenda for democratization in a marked departure from the previous two decades. From 1990 on TUSIAD has taken an interest in areas other than economy such as education, election systems, social security. 1995 was a milestone in terms of TUSIAD's activities as well as for Turkey's relations with the EU, as Turkey's integration with the EU has taken number one priority on TUSIAD's agenda thanks to the establishment of the Customs Union between Turkey and the EU. In accordance with Turkey's EU membership bid TUSIAD has gone through an internal restructuring process, in which, among others, a new "Committee for Adaptation to the EU" was set up, to which all the other committees contributed their work.

External influences as well as internal developments have played a part in the adoption of a wider democratization agenda by the organization. Externally, the collapse of the Soviet Union, the global diffusion of democracy, as well as the increasing emphasis put by the EU on democracy and human rights influenced the understanding of the business community profoundly. Domestically, TUSIAD's concerns to legitimize itself, its attempts to increase its autonomy vis-à-vis the state have contributed to the association focusing its efforts on democratization of Turkish politics.<sup>200</sup>

TUSIAD sought to present itself to the society as a voluntary organization aiming at serving the interests of the wider public rather than those of a narrow economic interest group. Indeed, while instrumental benefits, particularly economic ones of a possible EU membership were main driving force behind the association's endorsement of democratization, one

should not overlook TUSIAD's "development and westernization mission" right from the start when it was founded in 1971. Its objectives were declared as "serving Turkey's democratic and planned development and her rise to the level of Western civilization."<sup>201</sup>

Its organizational characteristics have given TUSIAD a considerable edge in influencing the government, the public opinion and the international community. Its selective membership, which is composed of only big industrialists, provides the organization a strong financial base. The small selective membership also ensures homogeneity. Despite the presence of cleavages, differences of interest are not significant enough to undermine the basic homogeneity of the organization. TUSIAD is led by prominent businessmen who have large influence in the business world. All these organizational features make it a very influential association.

While its activities were primarily focused on the economic domain in the pre-1990 era, beginning with the 90s it published reports touching on political reform issues including democratization. These included suggestions for good governance as well as economic and political stability. When TUSIAD published a report titled "Perspectives on Democratization in Turkey" in 1997, it attracted strong reaction from the state as well as the military due to its controversial character, which for the first time directly dealt with the taboo issues such as the place of military in politics, the freedom of expression including cultural rights for the Kurds.

In addition to being a target of criticism of the central authority and the army, the 1997 report has elicited extensive public debate. Its immense resonance in the Turkish society as well as its institutions results from the fact that it constituted a milestone as it openly criticized policies of the state and its institutions in the field of democracy and human rights and also questioned the enhanced role of the army in Turkish politics. This was one of the strong reminders to the Turkish society that the Cold War ended and a new pro democracy period started to emerge. TUSIAD's 1997 report, which was published following the establishment of a Customs Union between Turkey and the EU, assessed Turkey's achievements in terms of meeting the Copenhagen criteria set out in 1993. It was the most comprehensive and the longest among all the EU reform assessment reports TUSIAD has ever published. Underlining its pioneering mission, one of the initial subtitles of the report is "Call to Contribute to Democracy". As if TUSIAD were aware about the criticism it might receive, in another section of the report it sought to answer the question, whether this initiative of TUSIAD to improve Turkey's democratic credentials was its duty or not.

While the report assessed Turkey's chances to democratize as highly strong given the international pro democracy conjuncture with the end of the Cold War, it listed comprehensively the areas in which Turkey has deficiencies in its legislation in terms of democracy, human rights and rule of law and put forward suggestions to overcome these. Due to the criticism it elicited from the military and other segments of the state TUSIAD's push for democratic reforms has been somewhat subdued in the aftermath of the 1999 Helsinki Summit.

As a matter of fact TUSIAD's style in its relations with the government was exceptional, because TUSIAD has sometimes chosen to adopt a confrontational attitude towards government. This was not typical in a state-centred polity like that of Turkey as no group would dare to conflict with the state. TUSIAD did not pursue a linear pattern in its relations with the governments. Many factors have been decisive. "The ideology of the party in government, the disposition of the government to business, the degree of challenge from the left, the political structure of the country, and the economic policies of the governments, all had an impact on TUSIAD-government interaction."<sup>202</sup> Organization developed its own tradition of pressuring governments through public appeals. As seen in Turkey's EU reforms TUSIAD invested in political campaigns when it deemed it necessary. These were reported on the radio and television and received a wide coverage from the press.

Arguably, TUSIAD has been the most prominent NGO backing Turkey's democratization reforms as required by the EU political criteria. One of the reasons why TUSIAD has been a strong advocate of Turkey's integration with the EU lies in their preference of a more liberal and less protected economy, which is open to the European market. As Arat rightly suggests they seek a higher share of scarce foreign exchange and credits to finance their large-scale operations.<sup>203</sup> The EU integration would help pour more foreign direct investment into Turkey, which would also be beneficial to joint ventures, in which Turkey's big business is to take part. Turkey's EU integration would also assure a stable economic growth as well as political stability. A stable economic expansion is in favor of the big business, as this would enlarge high income customer base with a high purchasing power that can afford to buy

durable and compared to other products relatively expensive goods such as autos, washing machines, televisions, which are produced by the big industrialists.

Nevertheless one should not be mistaken to connect the big business's support to Turkey's integration with the EU just to their economic interests. It should be stated that members of TUSIAD genuinely supported democratic ideals. One of the evidences for this can be found in their mission statement following their establishment in 1971 which declared their objectives as "serving Turkey's democratic and planned development and her rise to the level of Western civilization."<sup>204</sup> It is therefore seen that their advocacy to EU's democratizing reforms conform to their ideals.

TUSIAD has contributed to the democratizing EU reforms of Turkish politics in a number of ways. It has encouraged and sometimes put pressure on the Turkish governments to accelerate and continue with the reforms by holding press briefings and conferences and paying visits to, holding meetings with the government officials and political parties. It has also collaborated with the other pro-EU NGOs to further the reforms in Turkey, which has for instance ended up in campaigns as has been exemplified by "Yes to Europe" campaign. It has sought to inform the public by disseminating information through its publications including reports, regular publications such as the monthly review, *Görüş*. The reports also included policy suggestions and improvement proposals in the reforms of the Turkish governments. It has also organized panels, dinners and conferences on the EU-related topics. At international level, it has attempted to receive the support of the national and international NGOs, governments, and EU institutions and European business community for Turkey's

EU accession by lobbying and paying visits to them. Thanks to its economic power TUSIAD was able to address a wide audience through reporting of its publications and activities in dailies and other media. As a result, TUSIAD has been among the most prominent Turkish NGOs, which helped accelerate and further Turkish governments' reform struggles, and thus contributed to democratization of Turkey.

In the wake of the Customs Union with the EU, TUSIAD opened a representation in Brussels in 1996 to lobby for Turkey's EU membership, which was followed by another office in Berlin in May 2003 and an information bureau in Paris at the end of the year with the same purpose in mind. It sought to influence the European business community through visits and face-to-face meetings on the problematic areas such as the Cyprus issue. On the eve of the Helsinki Summit in December 1999 TUSIAD members visited eleven member countries, where they also met ministers and prime ministers.

In the aftermath of the Helsinki Summit in 1999, TUSIAD focused its attention on the EU presidents of each period. For instance, Sweden, Germany and Spain were visited during this period. In November 2001 TUSIAD met with the European parliamentarians, who were in Turkey for EU-Turkey Joint Parliament Meetings and said to them that, "EU membership is for Turkey a target that is not to be renounced."<sup>205</sup> Immediately before the Laeken Summit in December 2001 TUSIAD sent a letter to European Commission and the prime ministers of the EU members, in which it requested the EU to "give a clear message to the Turkish public" that Turkey would be member to the EU if it met the Copenhagen criteria.<sup>206</sup> For TUSIAD, this was important to create confidence among the Turkish people.

In 2002, TUSIAD intensified its lobbying activities at the EU institutions and member states before the critical 2002 Summit. During the Seville Meeting in June 2002 it ensured the explicit support of the UNICE, the umbrella organisation of the European business community, which handled the issue of Turkey's membership among the topics of prior importance of its agenda.

In 2003 TUSIAD continued visiting European politicians as well as the members of the European business community. For instance TUSIAD president Tuncay Özilhan met the Belgian Prime Minister Guy Verhofstadt in November 2003 immediately before the Copenhagen Summit in December 2003 and sought to receive his support on Turkey's EU membership and said that, "Turkey's contribution to the EU will be much more than the problems which are claimed to emerge because of its membership."<sup>207</sup> As with the other UNICE summits TUSIAD enjoyed once more the backing of the European business community in July 2004.

In domestic politics TUSIAD closely monitored the government's reform efforts and when necessary issued warnings and publicized them on radio, television and in the written press. TUSIAD suggested to the coalition government to make an "Agenda for the year 2000" which would serve as a road map for Turkey to achieve the economic, social as well as political reforms. These reforms would also help Turkey satisfy the Copenhagen criteria. The reforms in the field of democracy would include, among others, amendments in the articles punishing the freedom of expression in the Law of Political Parties, Turkish Penal Code and the abolishment of death penalty.<sup>208</sup>



Pointing out to the inertia of the government for its initial period, TUSIAD suggested the Turkish parliament not to go on summer vacation in 2000 so that it could “complete 80 % of the legislation necessary for adapting to the EU acquis,” which would heighten the negotiation power of the government at the Nice Summit in December 2000.<sup>209</sup> TUSIAD called on the government to proceed with the reforms saying, “Do not make the train slow down and do not allow it to become slower.”<sup>210</sup> Claiming that not much has been achieved for the solution of Turkey’s problems it explicitly criticized the government in its High Council Meeting (Yüksek İstişare Konseyi Toplantısı), in the presence of the cabinet ministers, for losing time through its inactivity in its relations with the EU despite the positive decision at the Helsinki Summit in 1999.<sup>211</sup> TUSIAD also pointed out that the Turkish government had to solve the Cyprus issue and deal with the issue of broadcasting in mother tongue, as part of democratization process and also to meet the Copenhagen criteria.

Following the crisis in November 2000, Turkey suffered another financial crisis in February 2001 with devastating effects on the financial market. In the aftermath of the February 2001 crisis TUSIAD’s attitude towards the coalition government changed particularly as it pressed more strongly for economic restructuring and democratic reforms. Till that time TUSIAD had prepared reports and presented these to the policy-makers but had not published them. Arguing that the criticism and warnings made behind closed doors have not become effective, it decided to make all its criticism in front of the public. TUSIAD also warned those seeking formulas other than outside the framework of democracy to overcome the crisis and called on them to remain within the framework of democracy.<sup>212</sup> Complaining about the lack of enthusiasm in the government as well as among the public regarding the

future of the country TUSIAD said, “We should recreate this enthusiasm and make our people enter a climate of nationwide campaign”<sup>213</sup> This could provide the energy necessary to cope with the urgent problems Turkey has been facing. Furthermore, TUSIAD thought that the financial crisis Turkey was in, was mainly as a result of “governance crisis” and thus what was needed was to renew the political system in Turkey, as a first step of which a revision in the cabinet had to be made.<sup>214</sup>

Political aspects of the Copenhagen criteria were further set out for Turkey in the Accession Partnership Document through regular progress reports of the European Commission and in particular through the 2000 progress report. TUSIAD published a report in May 2001 on the developments in Turkey in accordance with the 2000 progress report. According to TUSIAD there were ten important headings of democratizing reforms, which were also mentioned in the Copenhagen political criteria. These ten titles were political parties law, election system, abolishment of death penalty, freedom of thought and expression, cultural and individual freedoms, prevention of torture, the status of the National Security Council (the NSC), obstacles to rule of law, legislative immunity and parliamentary inquiry, right of assembly.<sup>215</sup> The report sought to reveal how the political criteria were handled in the National Program to adapt to the EU and how political reforms were implemented. While the report praised the achievements of Turkey in the direction of democratization, it stated that there were still many steps to be taken.<sup>216</sup> Later, TUSIAD has published studies investigating each single topic in greater detail covered in the report.

TUSIAD welcomed the positive steps taken by the government in the second half of the year, in particular, the amendments made to the constitution. It evaluated the 34 amendments made to the Constitution as “a very important step taken on the way to democratization and EU membership.”<sup>217</sup> It hoped that the consensus among the coalition partners might be extended to the political reforms in 2002.<sup>218</sup> It urged the government to take the initiative on the Cyprus issue for a solution and issue harmonization laws. It expressed, “the Cyprus issue should not constitute an obstacle to Turkey’s EU membership.”<sup>219</sup> TUSIAD emphasized that Turkey should evaluate well the year 2002 so as to come to the point of demanding from Europe the starting of negotiations. Otherwise, the government was warned of the danger of remaining alone and an unclear future about the relations with the EU as the full membership perspective would be given to the other candidates Bulgaria and Romania in the December 2002 Summit.<sup>220</sup> Stressing the importance of the EU reforms in 2002, it was also said, “2002 will be a year of Europe for Turkey”.<sup>221</sup>

When it came to the debates regarding the articles 312 and 159 of the Turkish Penal Code, TUSIAD underlined the importance of “the specification about the feature of the crime and its substance at international standards.”<sup>222</sup> This would provide protection for citizens against the state in domestic law. It stated that unless they did not have elements of “insult; provocation and encouragement to use of violence and force, revolt, insurgency, terrorist act”, individuals’ expressions did not have to be considered a crime.<sup>223</sup>

TUSIAD informed the public about the significance of the year 2002 by making announcements in the Turkish dailies. TUSIAD further drew the attention of the Turkish

public to the EU Summit in 2002 asking, “What is waiting for us in case we did not get a date?”<sup>224</sup> Due to Ecevit’s sickness and non-agreement among the coalition members on meeting the Copenhagen political criteria, political environment started to become unclear beginning with the third quarter of the year. Given the negative political climate in Turkey TUSIAD warned the coalition parties of reaching a consensus on the EU reforms before the 2002 Summit and reiterated the importance of this “national project” for Turkey.<sup>225</sup> Moreover, TUSIAD stressed once again the “urgency” of the EU reforms before the EU Summit in December 2002.<sup>226</sup> When in August 2002 the TGNA managed to agree on the EU harmonization package, this achievement was praised by TUSIAD, which stated that, “The Parliament has accomplished a historical duty.”<sup>227</sup>

One of the developments towards the end of 2002 is that TUSIAD has established Foreign Policy Forum with the Boğaziçi University with the aim of discussing important foreign policy issues including Turkey’s relations to the EU. In the aftermath of the November 3, 2002 elections TUSIAD welcomed the landslide victory of the (Islamist-turn-liberal) AKP carrying them into power as a one-party government. According to TUSIAD, one-party government would make it possible to take non-populist decisions, which were necessary to carry out reforms in the country.<sup>228</sup>

TUSIAD reiterated its support to the Annan plan and stressed the new version of the plan offered favorable conditions for Turkey.<sup>229</sup> It was also stated that the solution of the Cyprus issue would be in favor of Turkey as well as Turkish Cypriots before Southern Cyprus entered the EU alone on May 1, 2004.

During the debates on the EU harmonization laws in the Parliament TUSIAD drew attention to the article 8, the code on fight against terrorism in the 6th democratization package and said, “It is clearly seen that the amendments made to the article 8 are not satisfying for the EU institutions as well as domestic public opinion...What is needed is the complete abolishment of this article given that the Copenhagen political criteria are the precondition for the start of the negotiations for the full membership to the EU.”<sup>230</sup> It also pointed out that the 7th adaptation package had to be passed “without any changes in the Parliament”.<sup>231</sup> The 7th adaptation package regulated among others civil-military relations making changes in the status, rights and responsibilities of the military dominated powerful institution National Security Council (NSC).

Following the government’s issuing of 6. and 7. democratization packages, through which most of the Copenhagen political criteria were completed, TUSIAD stated that what was expected now was the implementation of this package in “a convincing manner” with “a political determination”.<sup>232</sup> While TUSIAD on the one hand suggested the government to work on the Annan plan, which reflected a compromise from the perspective of Turkey, on the other hand, it called on the EU “not to remain indifferent to the developments in Turkey”.<sup>233</sup> It was pointed out that the implementation of the democratizing reforms should be made according to “zero tolerance principle”.<sup>234</sup>

Within the framework of “European horizons programme” of the European Commission, in September 2003 TUSIAD started to broadcast the radio programme and web page “the European Post”, which is designed to inform the Turkish public on the EU-Turkey relations.

TUSIAD expressed its satisfaction with the government's decision to start the negotiations on the Cyprus issue based on the Annan plan claiming, "The success of the negotiations in the direction of the entry of the united Cyprus to the EU before May 1, 2004 will allow us to use this historic opportunity."<sup>235</sup>

The government sought to include in the Turkish Penal Code the adultery as a crime triggering heated debates in the public. Arguing that such a move was distorting the positive climate generated by the draft of the Turkish Penal Code, TUSIAD called on the government to revise its decision.<sup>236</sup> When the government persisted on the inclusion of the adultery as a crime, TUSIAD said, "Government's inconsistent statements on the Turkish Penal Code are playing into the hands of the anti-Turkey lobbies." and "We as TUSIAD expect that common sense prevails on this issue."<sup>237</sup> TUSIAD welcomed the European Commission's report about Turkey on October 6, 2004 expressing, "a historic achievement was recorded on Turkey-EU relations."<sup>238</sup>

When Turkey was given the green light by the EU on December 17, 2004 to start accession talks in the next year, TUSIAD's attention has shifted to the successful completion of accession negotiations. Besides, TUSIAD has once again drawn attention to the resolution of the Cyprus deadlock and stressed the importance of the micro issues and the implementation of the democratic reforms.

As seen TUSIAD has acted as an active civil society organization since its establishment and has managed to influence the government to a certain extent. After the 1999 Helsinki

decision placing Turkey in the EU trajectory more certainly, TUSIAD's activities have gained additional importance. An interesting observation is that TUSIAD's promotion of democracy in Turkey has depended heavily on the strength of the EU as an external anchor. Put it differently, TUSIAD's power in itself to induce change in domestic politics is limited as was the case in the pre-Helsinki period. If the signals provided by the EU for Turkey's candidacy had been weak, TUSIAD's attempt to pursue the wider democratization agenda would not have been as vigorous as it was. As observed by Önis, "democratization impulsive originating from the business community in Turkey is not sufficiently strong in itself in the absence of a powerful external anchor such as the European Union. This, in turn, highlights the crucial synergy that exists between domestic and external actors in the democratization process and the vital role that the EU can play in this context."<sup>239</sup>

### **7.3.2. Media**

Media has also played a significant part in Turkey's integration with the EU. When the governments have made critical mistakes on the way to the EU, the media did not refrain from warning them, and harshly criticized them on some occasions. It monitored governments and their reform steps. For instance, when the AKP has attempted to make adultery a jailable offense, it attracted the criticism of the secular media and the AKP had to remove this provision from the Turkish penal code under the heavy pressure of the civil society including the press.

The Erdogan government carried out all the necessary requirements in the Accession Partnership Document to fulfill the Copenhagen criteria. In his view now the ball was in the

court of the EU. But shortly before the European Commission published the Progress Report on Turkey in October 2004 and gave its opinion whether Turkey met the Copenhagen criteria to initiate the accession negotiations, a crisis raised doubts about the Erdogan government's sincerity about democratization. The AKP government had included a clause in the Penal Code that made adultery a jailable offense, which led to objections from the Turkish opposition.

In response, the AKP withdrew the penalty reform bill from parliament. This raised the possibility that Turkey would fail to pass the penal reforms in time for a progress report on the country's application due on October 6. Turkish opposition, the public as well as the EU reacted harshly. The secular press has fiercely attacked the AKP government's insistence on adultery provision. EU officials stated that the adoption of the Penal Code was "critical" to Turkey's joining the Union.<sup>240</sup> Seeing that insistence on the adultery clause would undermine Turkey's chance of receiving a date from the EU and his government would come under continued criticism, Erdogan backed down and removed the clause making adultery a jailable offense. The Parliament passed the Penal Code reforms in an emergency session on September 26, 2004 and cleared the way for Turkey's accession.

When we examine the responses given to the decision taken by the European Council at Brussels on December 17, 2004 to start accession talks with Turkey, we observe that the media's reaction has been quite positive and enthusiastic. However, we can also detect that some members of the media, in particular, the nationalist newspapers and writers have questioned the Brussels decision. Moreover, we can see "Europeanization of the discourse"



of the press in the European integration process. This tendency has been most visible in the Islamic press, which has undergone a transformation process following the so-called “February 28 decisions”. The Islamic press has abandoned a purely Islamic discourse and put the emphasis on human rights including religious rights, and democratization. In this context, EU membership represented an important instrument for the assurance of these rights. Therefore, the Islamic media has embraced the EU membership and the reforms carried out in line with the Copenhagen criteria. They have frequently made references to the EU and EU reforms.

The Turkish media has, by and large, described the decision of the European Council on December 17, 2004, as “historic”, a “success”, and an “important step”. Most widely read, secular, mainstream daily *Hürriyet*’s headline after the 17 December decision was “EU celebration in Ankara”.<sup>241</sup> Another representative of the secular press, *Sabah* daily was more enthusiastic about the 17 December decision and depicted it as “European revolution”.<sup>242</sup> Comments of *Sabah* were quite optimistic about the details of the European Council’s decision. Although it has traditionally adopted a critical attitude about the Islamists, this time, the newspaper praised Prime Minister Erdogan. Murat Yetkin, columnist of liberal daily, *Radikal*, has looked at the decision from the perspective of Europe and described the Brussels decision as “a small step for Turkey, a big step for Europe”.<sup>243</sup> Yetkin expressed that this decision carried more importance for Europe, as it would change its social fabric with a Muslim Turkey. It would also make Europe more embracing of different cultures, much stronger in global politics. Erdal Güven, another columnist of liberal *Radikal* has said, “Turkey has succeeded” at Brussels. “Finally, the EU’s door has been opened to Turkey.”<sup>244</sup>

Islamist press has welcomed the 17 December decision enthusiastically. Yeni Safak described the decision as “historic step, historic move”.<sup>245</sup> Mustafa Karalioglu, a columnist of Yeni Safak, has put the title for his article “A live history of a dream”.<sup>246</sup> According to the columnist this was “the most important incident of Turkish-Islamic history.” Fehmi Kuru from the same newspaper has considered the Brussels decision “a historic success” and compared this with the fall of the Berlin Wall.<sup>247</sup>

Notwithstanding the positive mood about the December 17 decision in the Turkish press, some have questioned it and drew attention to the negative aspects in its details. For instance, Emin Cölasan, known to be a staunch Kemalist, was very critical of the reaction given to the Brussels decision. In his view, decision was far from a “triumph” as described by the rest of the media and the government had to make significant concessions on its “red lines”.<sup>248</sup> Therefore, the government had to apologize to the Turkish public for these concessions made to the EU. Similarly, Altemur Kilic, a columnist close to nationalist action movement, was critical of the way, Turkey-EU relations progressed, and described the pro-EU circles sarcastically as “the lovers of Brussels”.<sup>249</sup>

## NOTES

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- <sup>3</sup> *Hürriyet (Turkish daily)*, December 5, 2000.
- <sup>4</sup> European Commission (2001) Regular Report from the Commission on Turkey’s Progress towards Accession, November 13, 2001, Brussels, SEC (2001) 1756, p. 13.
- <sup>5</sup> *Ibid.*, p. 103.
- <sup>6</sup> “Turkey: New Year Optimism”, *Turkey Update*, CSIS, December 21, 2001.
- <sup>7</sup> *Ibid.*
- <sup>8</sup> “Turkey and the European Union: Heading for a Break?”, *Turkey Update*, CSIS, March 8, 2002.
- <sup>9</sup> *Ibid.*
- <sup>10</sup> Quoted in “Turkish general causes controversy with call for Turkey to stop seeking EU membership,” *Eurasia Insight*, March 13, 2002.
- <sup>11</sup> “Turkey and the European Union: Heading for a Break?”, *Turkey Update*, CSIS, March 8, 2002.
- <sup>12</sup> *The Observer*, August 4, 2002.
- <sup>13</sup> For factors slowing down Turkey’s integration with the EU during the term of the coalition government, see: Gamze AVCI, “Turkey’s Slow EU Candidacy: Insurmountable Hurdles to Membership or Simple Euro-skepticism?”, in (eds.) Ali Carkoglu, Barry Rubin, *Turkey and the European Union*, (London, Portland: Frank Cass, 2003), pp. 149-170.
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- <sup>22</sup> “Turkey and the EU: Starting the Long Last Chapter”, *Turkey Update*, CSIS, December 21, 2004.
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- <sup>24</sup> Heather Grabbe, “European Union Conditionality and the Acquis Communautaire”, *International Political Science Review*, Vol. 23, No. 3, (2002), p. 263.
- <sup>25</sup> Tarik Oguzlu, “The Impact of Democratization in the Context of the EU Accession Process on Turkish Foreign Policy”, *Mediterranean Politics*, Vol. 9, No. 1, (Spring 2004), p. 104.
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- <sup>31</sup> For both party programme and election manifesto see: <http://www.akparti.org.tr>.
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## CHAPTER VIII

### CONCLUSION

In the post-Helsinki process, Turkey has carried out landmark democratization reforms. These reforms were literally revolutionary, in that they did not come about in an incremental manner and their scope was unprecedented. This study evaluated the EU reforms, their impact, and how they resonated in the Turkish domestic setting, what the reactions of domestic institutions and actors were. The reactions of the domestic institutions were determined to a substantial extent by the features of Turkish democracy. It is also discussed what factors have allowed for the adoption of democratic changes after Helsinki.

Some of these qualities of Turkish democracy proved to be significant obstacles in the democratization process. First of all, Turkey has a strong state tradition. Unlike in many other Near Eastern countries, where clergy, groups or tribes outside the state enjoyed autonomous status, the state in the Ottoman-Turkish tradition established an absolute supremacy both over the religious authority and the aristocracy. The power in the Ottoman-Turkish polity was uni-dimensional; the state was not interested in sharing it with any other community or group. This contributed to the creation of center-periphery cleavage in the society. Those, who associated themselves with the state, enjoyed the privileges and authority of the state; they did not pay taxes. In return, they were assigned with protecting the country. Reaya (the people), on the other hand, had to pay taxes and produce. Even the wealthy commercial communities were not able to obtain any rights vis-à-vis the state.

An Ottoman aristocracy did not flourish, as they were not powerful enough to pose challenge to the central authority. When they had the opportunity to confront the state, they preferred indirect ways to take advantage of its weaknesses. They were not interested in gaining

autonomous rights. Although Islam enjoyed a highly valued status and authority in the Ottoman state and society, the Ottoman state never became a sharia state in the sense that the State was governed according to religious rules. The state or its representative sultan enjoyed a supreme authority over the clergy.

All the land belonged to the state. This precluded development of private property concept. Strong state tradition was supported by the political culture. People have valued the state and tended to hold it above the individual. The end product in this polity was over-institutionalized state and highly upheld and respected state tradition. It is evident that although the existence of central authority is a prerequisite for a democracy to survive and flourish, over-institutionalization of state machinery might be an impediment to its consolidation, which is the case in Turkey.

Development of a strong state tradition has shaped the evolution of the whole political system and actors. By implication democracy and its institutions exhibited considerable divergence from the Western European counterparts. The Ottoman Empire could not adapt to the socio-economic transformation, industrialization, and liberalization, which the West went through. It reached its natural limits and declined. Industrialization is a quite new phenomenon in Turkish history. Emergence of true industrial groups can be traced back only to the 1950s. True socio-economic classes have started to crystallize in the 1970s. As the boundary between the classes was blurred, the left and right political parties in Turkey did not differentiate from each other much. They did not represent the socio-economic classes, as a clear division between the classes did not exist in Turkish society till recently. Turkish political parties rather exhibited a center-periphery cleavage, which was inherited from the Ottoman tradition.

On the other hand, Turkish political parties' dependence on the state in terms of resources led them to be careful in their relations with it. Uni-dimensional tendency in terms of power allocation, which is similar to that in the state, can be observed in the Turkish political parties. The power and authority within the parties are accumulated in the hands of the party leader. This results in the creation of patronage-clientelistic relations in the political parties preventing development of intra-party democracy. Another characteristic of Turkish political parties is the fragmentation among them. As there is no intra-party democracy within the parties, change of party leaders does not take place smoothly. Once a leader captures the party leadership position, he does not give up this post easily. Potential opponents to the leader know that their chances of challenging the leader in the party are minimal. Thus, they leave the party establishing their own group.

Moreover, the party fragmentation was contributed to by the military interventions. As the military regimes banned the old parties and politicians, new parties and leaders entered the political scene. When the old ones in the mean time surmounted the obstacles, and made a come back to politics, they had to compete with new parties for the same electoral segment. Another characteristic, which define Turkish parties and party system is high volatility. This quality of political parties is closely related with fragmentation of political parties. Turkish political parties do not have a stable supporters base.

Turkish parties' links with the society are weak. Staying out of power is very costly. As the financial resources are limited and are provided to those, who are in power, if the parties' chances of coming to power are low, this is viewed as a weakness by the parties' grassroots. In turn, this contributes to their alienation from their parties. Also in some places, in

particular feudally structured southeastern provinces of Turkey, party allegiance amounts to allegiance to the feudal leader. As the tribe leader changes his party, his supporters change the party too.

In short, the Turkish party system showed serious weaknesses of volatility, fragmentation, polarization, and an overall decline in the organizational strength of political parties. Its implication was that Turkish politics was characterized by short-lived, ideologically or personally incompatible governments from the 1970s to the end of the 1990s except for the 1983-1991 period, where the two consecutive MP (Motherland Party) governments were in power. The ensuing instability or impasse was to call the intervention of the Army. Also, lack of compromise among the partners of coalition governments precluded the adoption of necessary democratic amendments and changes to the 1982 Constitution and ordinary legislations, which had been made with a philosophy of reinforcing the central authority and executive and thus refashioning fundamental rights and liberties in a restricted manner.

On the other hand, Turkish civil society did not flourish in the Western sense as it found it difficult to develop in the face of a strong state. Civil society is regarded as an integral part of democracy nowadays. Although in the Republican era the number of non-governmental organizations (NGOs) multiplied, most of these did not exhibit civil society character. European integration process, in particular the Post-Helsinki period was a landmark in terms of development of civil society. One way of having their voice heard and have an impact on government policies was to exert influence on the government via the European Union.

Another feature of Turkish democracy is the special place the army has in Turkish politics. Unlike in other Western liberal democracies, the Turkish Army's task has not only been the

defense of the country. In addition to its defense function, the Turkish Army influenced Turkish politics directly or indirectly. The Turkish Army has taken over power three times in the modern era, in 1960, 1971 and 1980. The last time it was in 1997 that the Army has intervened in politics in a so-called “post-modern” coup. In its interventions, the Military has aimed at restoring order, protecting the fundamental principles of the state or safeguarding the unity of the country.

In fact, Turkish Army’s place in politics was of a paradoxical nature. They have emerged as the defenders of the political democracy against the continual failure of the civilian governments to implement or protect it. They proved to be the “guardians” of democracy. But they did not become “rulers”. Unlike its counterparts in Latin America or in Southern Europe, the Turkish military never identified politically with a specific social class but with the state only. When it believed that two of its fundamental values “the indivisible integrity of the Turkish state” and “the secular character of the republic” were in danger, it intervened.

Islamic politics in Turkey is quite a new phenomenon when compared to the duration of Turkish multi-party democracy. They never occupied a significant place in the Turkish Republican history and remained largely marginal in party politics. Their rise corresponds to the post-1980 period. Internationally, the success of the Iranian Islamic Revolution has encouraged the Islamic politicians in Turkey. On the other hand, the 1980 military regime, although inherently opposed to them as the guardian of Kemalist principles, have tolerated the Islamists and reinforced the Islamic schools and Islamic education. They viewed them as the antidote of Communism and Communist threat, which were among the warring camps in the political turmoil in the late 1970s till the Army seized power in 1980. Reign of moderate

Islamist Prime Minister in the 1980s has contributed to the strengthening of Islamic element in Turkish politics and society.

On the other hand, from the late 1980s to the 1990s Turkish society has undergone a transformation process as a result of economic liberalization and industrialization. Rural population have immigrated from villages to cities and inhabited the peripheries of big cities. They have sought to find a synthesis between the necessities and circumstances of the city and their background. They turned out to be the most important electoral groups of Islamist politics. Put it differently, Islam was both a way of coping with modern life and an expression of identity. In this sense, their rise in Turkish politics should be understood as a sociological rather than a political phenomenon.

When the Turkish Army warned Turkey's first ever Islamist Prime Minister Erbakan on February 28, 1997, and forced him to step down on the grounds that the government has been the source of anti-secular movements, Turkish Islamist movement has entered a new and substantially different phase. The so-called February 28 (1997) process has contributed to the moderation of Islamists. We observe in this new era the transformation of the young-generation wing of the Refah Party into a conservative-liberal party, the AKP. The AKP managed to capture the most votes of the Turkish electorate and came to power as a single-party government following the November 2002 elections. Once coming to power, they focused on the EU democratic reforms. Ironically, although once they were the most vocal critics of the EU, they turned into the staunchest and sincere defenders of the EU reforms process. They were aware that Europeanization and passing of reform bills would open up Turkish politics and bring freedoms and rights they long demanded. As a result, although Islamic politicians were once regarded as a serious threat to secular democracy, and

democratic consolidation, they turned out to be the most significant driving force of the democratization and EU democratic process.

Another aspect of Turkish democracy, which refracted the EU democratization reforms, is how the minorities issue was approached. Issue of minorities became a problematic area, which needed to be dealt with by the Turkish state in the European integration process. In the Cold War period, it was not a salient issue in Turkish politics. Within the parameters of the East-West divide, security prevailed over human rights and democracy. But when the Iron Curtain was dismantled, Western governments were free to pursue more idealistic human rights policies. The EC emphasized human rights in its relations with Turkey and became a harsh critic of the human rights violations there. From the mid-1980s on, the Kurdish issue became one of the most regular items on the EC agenda.

The modern Turkish Republic inherited a minority concept from the Ottoman Empire, called “Millet System” and this concept was embodied in the 1923 Lausanne Treaty. Lausanne Treaty only recognized the non-Muslim communities as minorities such as the Jews, the Greeks and the Armenians. The Turkish citizens of Kurdish origin were viewed as “citizens” like the rest of the Turkish society and were not granted any minority rights. Throughout the Cold War era, this was not a problem. But once the East and the West entered a period of rapprochement and détente in the late 1970s and the 1980s, democracy and democratization surfaced on global politics and ethnicity and ethnic politics gained ascendancy.

In this new international setting, the Kurds became more demanding and more vocal about their rights. Some groups among them chose to resort to the use of force to secure the recognition of their rights. Internationally, they sought to exert influence via the foreign



governments and international organizations. They sought to influence the EU and the European Parliament in particular. The EU called on the Turkish government to find a non-violent solution to the Kurdish conflict. In the European integration process, the Turkish state first recognized “the Kurdish reality” in the late 1980s and then granted them cultural rights in the post-Helsinki period. But the Turkish state carefully avoided to give them political rights and refrained from giving them group rights. Consequently, the Kurdish insurgency was a threat to the stability of regime and consolidation of democracy from the 1980s to the 1990s, but now this threat seems to be eliminated, in part as a result of the European integration process.

The European integration has become a very influential instrument of Europeanization and democratization of Turkish politics and society. But the EU’s democracy promotion function was considerably different from each other in its three enlargements. While the EU was sympathetic to the Mediterranean enlargement and the CEEC enlargement, it resisted to the full membership of Turkey. In turn, this undermined its anchor capacity and became a retarding factor in the democratization of Turkish politics and society.

Both international setting and internal factors related to the Community itself determined its enlargement strategy. In the Mediterranean enlargement, the security imperatives and democratization mission of the Community led it to further democratic transition and consolidation of the regimes in Portugal, Spain and Greece. These three countries played an important function in the security of the European continent. Moreover, the Communist parties backed by the Soviets in these countries threatened to take over power and posed considerable challenge to the Western Europe. On the other hand, the Community and its partner states have had sincere historic mission of democratization, which based on European

idealism. As a result, they opened their doors to Greece, Spain and Portugal as a promotion of their democracies even though democracy in these countries exhibited significant shortcomings and deficiencies.

In the recent enlargement bid of the EU towards the CEEC, in addition to security, European idealism, an additional element played a role, identity. But this time there were significant changes both in terms of international setting and the EU's own nature, which conditioned the terms of the enlargement towards the CEEC. The enlargement criteria were stricter than those applied to the Mediterranean enlargement. The EU applied an idealistic and strict human rights and democracy criteria to the CEEC. The end of the Communist menace enabled the Union to be more demanding in human rights norms. Moreover, the Union wanted to minimize the risks including the security risks associated with the accession of the CEEC. As diversification increased, differences in terms of common democratic norms and principles had to be eliminated so that coherency of the Union could be achieved. On the other hand, the EU, at least some groups, in particular the Christian democrats stressed European identity in an attempt to create a "common European home." The CEEC belonged in this common European home due to their historical, geographical and cultural proximity to the core Europe. The EU was fully committed to their full membership. This facilitated their democratization process.

As for the case of Turkey, Turkey's integration exhibits some peculiarities, which exist neither in the Mediterranean enlargement nor in the CEEC enlargement. Neither security, nor identity played a positive role in the enlargement drive of the EU to Turkey. When the Cold War was over, Turkey's security function as a bulwark against the Soviet Union diminished. No security imperative existed for the EU to undertake an enlargement towards Turkey. On

the other hand, when the EU defined a common European identity in the 1990s, Turkey's place in this new identity description was controversial. With an overwhelmingly Muslim population, Turkey seemed to represent an "awkward partner" rather than a candidate for full-membership. The EU's unclear commitment to Turkey's candidacy helped to delay its democratization efforts. It was after the Helsinki Summit in 1999, when the EU declared its official commitment to the candidacy of Turkey by giving it an equal candidate status like all the other CEEC that a breakthrough came in terms of democratic reforms.

In this thesis a "three-step" approach to Europeanization was employed. First step involves the identification of the relevant Europeanization process at the European level, which are the Copenhagen political criteria in this study. The second step in the framework involves the "goodness of fit" between the Europeanization processes, on the one hand, and national institutional settings, rules, and practices, on the other. This degree of "fit" determines "adaptational pressure". In the second step, it is demonstrated to what extent Turkey meets the requirements of the Copenhagen political criteria and where it exhibits deficiencies in its democracy. The third step is the mediating factors, which are the institutions and actor strategies mediating EU democratic reforms. In the third step it is revealed which mediating factors in Turkey have refracted EU democratization requirements resulting from the "adaptational pressure" set out in the second step.

Many mediating factors played a part in Turkey's democratization process. Arguably, the most significant mediating factor was the empowerment of Turkey's European integration and, thus pro-EU circles in Turkey through the EU itself, which helped to start a series of path-breaking reforms when it granted a candidate status to Turkey at the Helsinki Summit in 1999. Similarly, in the following period, the EU's attitude vis-à-vis Turkey was to become

decisive in the adoption of democratic reforms. Importantly, one of the mediating factors is the reaction of those actors in the Turkish political system with some reservations about the democratizing efforts through the EU. They at some points in this process effectively blocked or succeeded in limiting the scope and substance of the democratic changes.

Another important mediating factor was the fragmentation in the Turkish party system, which was overcome in the November 2002 elections. The November 2002 elections brought a strong reformist single-party government into power, accelerating the democratization reforms in Turkey. The government has had no important opposition in the Parliament, which could show resistance to amendments undertaken. Importantly, in this period of single-party government the influential actor in Turkish politics, the Military did choose not to resist the democratic changes due to the empowerment of Turkey's European integration bid. The other important mediating factors are substantial support of the Turkish people as well as of the political elite given to the European integration process. Put it differently, despite the existence of profound euroskeptical tendencies among the Turkish people, they are basically pro-European. This characteristic of the Turkish people facilitated the adoption of democratising reforms in Turkish politics.

This study also showed the mechanisms of change and degree to which Europeanization has had an impact on democratisation of Turkey in the preceding chapter. Move towards democratisation came after the costs-benefits equation involving democratic opening has altered in favour of the latter. With the 1999 Helsinki decision declaring Turkey an official EU candidate the EU has demonstrated its readiness to share the burden resulting from Turkey's accession. In the pre-Helsinki period the EU used to be an outsider critical of flawed democracy of Turkey. This has undermined its anchor capacity to influence the

reform process in Turkey. After the Helsinki decision the EU was not any more an outsider from the perspective of Turkey and thus its criticisms were viewed as those levelled against a future club member. Therefore, reactions to these blames were not denial or defiance, rather compliance and change on the part of the Turkish state. The Helsinki decision not only promoted Turkey's prospects for membership, it also enhanced the EU's anchor capacity.

The EU acquired an important leverage on Turkey: denial of membership. If Turkey did not comply with the requirements of the Copenhagen criteria, the EU had the opportunity to cut off negotiations and suspend Turkey's full membership prospect. Of course, this was an important leverage inducing domestic reforms in the country. Therefore, with respect to the extent to which Europeanization has brought about democratisation in Turkey, it can be easily suggested that EU has played a substantial anchor role in terms of the wide scope, pace and profoundness of reforms. Turkey's democratisation would certainly continue without a EU membership perspective thanks to its internal dynamics and its tradition of change from above. But without the EU accession process it would not be possible to achieve such extensive democratic openings, as it would be difficult for the domestic political actors to reach a consensus on delicate issues. Furthermore, the scope and pace and depth of democratisation would certainly be limited.

Despite the major steps taken, the EU's conditionality has significant deficiencies, which may affect democratisation process of Turkey adversely. First deficiency is called "moving target" problem. At the end of the day, an applicant's membership decision is a political one. All of the EU members should sit down and decide whether an applicant country should be allowed to join the club. It is not like other sorts of conditionalities. As suggested by Grabbe, EU demands "are not just a set of conditions to receive defined benefits, but an evolving

process that is highly politicised, especially on the EU side. The linkage between fulfilling particular tasks and receiving particular benefits is much less clear” than any other conditionality.<sup>1</sup>

Another deficiency concerns the EU’s ambiguity over Turkey’s membership. Concerns by the EU politicians and public about Turkey’s accession still persist. These are in fact non-Copenhagen related criteria such as Turkey’s size, rapid growth of its population, its economic level, immigration wave, its volatile political geography, and its Muslim identity. These question marks have reflected themselves in the 2004 regular report of the European Commission. There was an overemphasis by the Commission on the open-ended and long-term nature of the accession process, the prospect of cutting off the negotiations, and the possibility of permanent restrictions on the free movement of persons from Turkey into the EU.<sup>2</sup>

A further problem is that of time inconsistency. Within the accession process, candidates are required to carry out reforms in the short and medium term, but they enjoy the benefits (that is, membership) in the long term. As for Turkey, although accession negotiations started in 2005, Turkey will be allowed to join the EU a decade later at the earliest. Turkey is demanded to implement fundamental reforms and successfully complete 35 chapters of negotiations over the *acquis communautaire*. On the other hand, the EU should deal with the absorption of its Eastern European members and tackle the adoption of the new Constitution. The earliest date to include Turkey in the new budget will be 2014. From then on, the Union’s significant financial benefits will be extended to Turkey. This situation undermines Turkey’s incentives to engage in difficult reforms in the short-term.<sup>3</sup>

This study has investigated how Turkey has undergone Europeanization process. For the most part, the thesis has addressed political Europeanization of Turkey, that is, democratization. However, the start of Europeanization in the Ottoman-Turkish polity was with the Europeanization of identity. Europeanization of identity has occurred first at the level of state. A process of societal Europeanization followed. Europeanization at the level of state led to political Europeanization, that is, the Europeanization of political processes. Europeanization of state could only result in the consolidation of democracy. The recent Europeanization attempts through the EU are important for Turkey to progress towards the next phase of democratization, that is, that of deepening democracy.<sup>4</sup>

As for the testing of hypotheses, it is shown below to what extent and how the hypotheses were proved by the thesis.

**1. Hypothesis:** *The more there are vetoing powers in a domestic setting, the more difficult it would be to progress on the EU democratization reforms.*

This hypothesis was tested and proved, as the number of vetoing powers in the Turkish political system determined not only the pace of the EU democratic reforms but also its scope.<sup>5</sup> The military, the Nationalist Action Party (MHP), the foreign policy bureaucracy, and nationalist circles in the other parties and institutions and in the society have showed a considerable resistance to the EU democratization reforms in the initial phase of the post-Helsinki period. Therefore, at the beginning steps taken were restricted and the reform process was slow. Also, notwithstanding the unprecedented harmony among the coalition partners (ANAP-MHP-DSP), the nationalist wing of the coalition government, MHP made some reservations to the EU reforms such as language and cultural rights, death penalty, the

civil-military relations and expansion of the freedom of expression. Therefore, due to the existence of multiple vetoing powers in the initial period the democratizing reforms were half-hearted and with reservations.

But when a new single party AKP government came to power, the reforms accelerated. It put an end to the era of the coalition government, which was on some occasions unable to reach a compromise on certain reforms. Coming to power of a strong single party government put an end to the fragmentation in the decision-making mechanism. AKP government proved to be a reformist one and focused on the EU reforms. Both due to the strengthening of the reform process and the accommodating stance of the new chief of the General Staff, Hilmi Özkök, the military gave its tacit assent to the reforms. In the second period, if not diminished, the resistance of the multiple vetoing powers was considerably weakened.

**2. Hypothesis:** *Norms and institutions of longue durée, which are rooted in the domestic system, will exhibit significant resistance to democratization reforms, if these reform requirements are incompatible with them.*

EU democratizing reforms require the attitudes of the domestic actors to change and adapt to the novelties brought about by the reform process. EU integration process means pooling of sovereignty to Brussels to a certain extent. This change of understanding was not easy to accept for a country, which has displayed one of the typical examples of strong state tradition. This tradition necessitated the accumulation of power and authority in the centre. By contrast, the EU reform process required diffusion and delegation of power to the periphery at domestic level and to Brussels at external level. Nationalist response to the EU reform process should be understood within this framework. Independent statehood tradition,



expanding space for the civil society, granting cultural rights to the Turkish citizens of non-Turkish origin and moderation in Turkish nationalism giving way to moderate patriotism, promotion of tolerance proved to be important challenges for the Turkish state and society.

**3. Hypothesis:** *The success of the democratic reforms depends primarily on the commitment of the EU to the membership of the candidate country.*

Apart from the readiness of the domestic actors to embrace the EU democratization reforms, the underlying factor, which can give impetus to the reforms in a country, is the extent of the commitment of the EU to this country. It was shown in the thesis that as the EU was not willing to take the risks, associated with Turkish membership, it did not fully commit itself to the candidacy of Turkey. This retarded the democratization and improvement of human rights in Turkey. This hypothesis is confirmed by comparing three enlargements of the EU in historical perspective. It is the attraction of full-membership, which minimizes risks of the reform process for the candidate facilitating it to adopt the reforms. Notwithstanding considerable democratic progress in the pre-Helsinki period, the real breakthrough came after the Helsinki decision committing the EU to full membership of Turkey.

**4. Hypothesis:** *Europeanization process helps the candidate country's norms to converge with those of the European counterparts.*

Europeanization process makes the members resemble each other, as the same criteria are applied to every candidate. Nevertheless, some divergence can be expected in particular in the areas, which depend on the implementation and require a change of human attitude, as is the case in the field of human rights and the rights of minorities. As in other Europeanization

examples, Turkey has displayed an example of democratic convergence because the Copenhagen political criteria are clear-cut and are defined in detail in the Accession Partnership Document. Moreover, the progress reports drafted by the Commission show the areas, in which the candidate made progress and the fields, where it is criticized and should take more steps. This helps the candidate to comply with the Copenhagen political criteria and converge with the EU democratic norms. But some issues might constitute bottom lines for the candidates, beyond which no step can be taken. This is also another factor leading to some divergence. This was the case in the candidacy of Turkey too. Turkish state, for instance, insisted on solving the Kurdish issue by granting them cultural rights at individual level. But although making up a substantial part of the overall population they were not given minority rights. Turkey resisted to giving them political and group rights. Put it differently, the Turkish state sought to solve the issue within the framework of the 1923 Lausanne Treaty, which granted minority rights to the non-Muslim communities. This case illustrates a certain divergence from the norms with some national coloring. But essentially, Turkey has converged with the EU democratic norms in line with the Copenhagen political criteria.

**5. Hypothesis:** *The higher the degree of misfit between the norms of the candidate country and the democratic norms of the EU, the stronger the adaptational pressure on the candidate country will be, and thus the bigger the change in the domestic structure of the candidate country will be.*

Confirming the hypothesis in the case of Turkey, it was the degree of misfit between the norms of Turkey and those of the Copenhagen political criteria that determined the adaptational pressure and the scope of change. Although Turkey has an important experience of multi-party democracy of more than half a century, its democracy exhibited some

shortcomings such as the civil-military relations, the human rights, minority rights, and the rule of law. Therefore, if not an authoritarian country, Turkey was a “defect democracy”. This means that all the democratic institutions are in place, but the democratic system is not stable enough and experiences collapse and restoration periods as has been the case three times in Turkish history. On the other hand, it exhibited considerable shortcomings in the rule of law, human rights. When applied to the Copenhagen political criteria, the misfit was significant. So was the adaptational pressure. Turkish political system came under intense pressure during the EU democratization process. The change in the domestic structure of the Turkish political system was equally high. That is why so many people called Turkish democratic reforms “revolutionary”. This is indicative of the degree of the change in the field of democracy in Turkey.

As a result of the landmark reforms Turkey has achieved a substantial progress in the area of democratisation and human rights. Clearly, there is a visible difference between Turkey prior to the Helsinki process and Turkey of today. Today’s Turkey has attained international standards in democracy and human rights. It is no longer a country, which is harshly criticized on international and regional forums for violent human rights abuses.

Turkey’s advance in those issues is well acknowledged by the once its most outspoken critics. Human Rights Watch stated, “The EU candidacy process, combined with a general reduction in political violence and a strong growth in the size and confidence of civil society has produced a strong dynamic...In respect for freedom of expression, religion, association and assembly and respect for minorities Human Rights research finds a consistent and important trend of improvement.”<sup>6</sup>

In another report drafted by the Committee for the Prevention of Torture (CPT) of the Council of Europe, it is stated, “Over the last two and a half years, the Turkish authorities have been engaged in a *vast programme of legislative reforms* which has included *numerous positive changes* in areas related to the CPT’s mandate.”<sup>7</sup> In the preliminary remarks, the report mentioned Turkey’s achievements. For instance, the report confirmed that all detained persons regardless of their suspected offence now had a formal right of access to a lawyer as from the outset of their custody. The report also welcomed the fact that as of November 2002, the state of emergency was lifted in the rest of the Southeastern Anatolia. Furthermore, the report recognized the legislative and regulatory changes to combat effectively torture and other forms of ill treatment.

Following a visit to Turkey on June 11-12, 2003, the Commissioner for Human Rights of the Council of Europe released a report with respect to developments in Turkey in the field of human rights and democracy. While confirming the progress achieved, the Commissioner underlined the importance of the reforms for Turkey. He also drew attention to the fact that Turkey was only at the start of its path of applying *substantial* and *courageous* reforms. He made a particular stress on the application of the reforms and stated, “From now on, it must be assured that the new measures are applied in judicial decisions and administrative practices...” and added, “The application of the reforms will demand the definitive abandonment of certain older habits, among which, the tendency by the prosecuting authorities to open procedures against a number of associations’ activities.”<sup>8</sup>

Despite these visible positive changes, there are still some areas left, where Turkey needs to take action and make further progress. The first and foremost challenge concerns the issue of implementation. Most of the democratic and human rights legislation are in place. Now what

needs to be done is for the Turkish government and authorities to ensure the full implementation of the reforms carried out. On the other hand, it is also a fact that notwithstanding the importance of passing laws, it is easier when compared to changing human behaviour. Habitualization of these norms by those officials applying these laws and internalisation of democratic norms by Turkish citizens will be a difficult challenge. It takes a long time to create a “civic culture”, perhaps generations.

Among the issues, which need to be dealt with, the return of a huge number of internally displaced people (estimated at between 2.5 and 3 million) to the Southeastern provinces stands out. They had to evacuate their places due to the security concerns. On the other hand, the village guard system consisting of 60,000, which was a part of the security measures in the region, needs to be addressed.<sup>9</sup> A recent report evaluates the situation of internally displaced people: “If the government operationalizes its planned IDP agency, develops a credible plan for demobilizing the village guard system, participates in the UNDP project, and uses the Compensation Law to channel funds toward IDPs rather than as a bureaucratic scheme for withholding resources, it will have convincingly changed course.”<sup>10</sup>

On October 3, 2005, accession process started between Turkey and the EU. Before accession talks started, first the screening process commenced concerning the analytical examination of *the acquis*. Parties have completed the screening process in the field of education and culture and science and research in November 2005. In December 2005, the European Council adopted a revised Accession Partnership for Turkey. Austria held the EU presidency for the first half of 2006. It had proved to be the most important obstacle in Brussels on December 17, 2004 and had insisted on a special partnership with Turkey rather than opening the way for full membership. Despite the concern that the new president of the EU, Austria might

drag its feet and postpone the start of accession talks to the term of the next president, the Foreign Minister of Austria, Ursula Plasnik reassured that Austria would not pose any obstacle to Turkey's EU accession during its EU presidency.<sup>11</sup>

## NOTES

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<sup>1</sup> Heather Grabbe, “European Union Conditionality and the Acquis Communautaire”, *International Political Science Review*, Vol. 23, No. 3, (2002), p. 252.

<sup>2</sup> Nathalie Tocci, “Europeanization in Turkey: Trigger or Anchor for Reform?”, *South European Society and Politics*, Vol. 10, No. 1, (April 2005), p. 77.

<sup>3</sup> *Ibid.*, p. 78.

<sup>4</sup> Metin Heper, “The European Union, the Turkish Military and Democracy”, *South European Society and Politics*, Vol. 10, No. 1, (April 2005), p. 43.

<sup>5</sup> George Tsebelis, “Decision Making in Political Systems: Veto Players in Presidentialism, Parliamentarism, Multicameralism and Multipartyism”, *British Journal of Political Science*, Vol. 25, (1995), pp. 289-325.; George Tsebelis and Xenophon Yataganas, “Veto Players and Decision-making in the EU After Nice: Policy Stability and Bureaucratic/Judicial Discretion”, *JCMS*, Vol. 40, No. 2, (2002), pp. 283-307.

<sup>6</sup> Advisory Note to Journalists Covering the Release of Regular Report on Turkey and Recommendations, *HRW*, Backgrounders, 04/10/2004, p. 6.

<sup>7</sup> CPT/Inf (2004) 16, Council of Europe, Strasbourg, June 18, 2004, p. 9.

<sup>8</sup> Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, Council of Europe, CommDH (2003) 15, Strasbourg, December 19, 2003, pp. 45-46.

<sup>9</sup> For areas, which require progress, see: Nowak, Manfred, “Human Rights in Turkey”, Presentation on October 28, 2004 at the Diplomatic Academy of Vienna on the occasion of an International Symposium on Turkey-Austria-the European Union.

<sup>10</sup> From the “Conclusion” of the “Prospects for Internally Displaced Kurds in Turkey”, Human Rights Watch Report, Vol. 17, No. 2(D), March 2005.

<sup>11</sup> “Austria: Accession will start in our term” *Hürriyet (Turkish daily)*, February 19, 2006.

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