No: 730

European Union and Turkey:
Reflections on the Prospects for Membership



Edited by
Nanette Neuwahl - Halûk Kabaalioğlu

THE UNION OF CHAMBERS AND COMMODITY EXCHANGES OF TURKEY
TURKISH UNIVERSITY ASSOCIATION FOR EUROPEAN COMMUNITY STUDIES
MARMARA UNIVERSITY EUROPEAN COMMUNITY INSTITUTE

MARMARA ÜNİVERSİTESİ YAYINEVİ

TOBB - Union of Chambers and Commodity Exchanges of Turkey
Publication No: 2006 - 28

TUNAECS - Turkish Universities Association for European Community Studies
Publication No: 2

Marmara University Publication No: 730
European Community Institute Publication No: 13

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European Union and Turkey: Reflections on the Prospects for Membership

xv + 387 pages

ISBN. 975-400-286-X

ISBN. 975-400-286-X
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January 2006. All rights reserved.

Editorial assistance: Kılınç, Gökhan

Design: Alpay, Özcan
Printing and Binding: Lito Printing House
Phone : +90 216 346 22 52
Fax : +90 216 345 13 47
E-mail: litomatbaa@yahoo.com

MARMARA ÜNİVERSİTESİ YAYINEVİ

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FOREWORD

Nanette NEUWAHL *
Halûk KABAALİOĞLU **

Montreal and Istanbul, 2006

The present collection of essays is a selection of TUNAECS papers (Turkish University Association for European Community Studies) given in Istanbul and published with the support of Union of Chambers and Commodity Exchanges of Turkey (TOBB) and Marmara University, European Community Institute with the addition of six more papers on various other issues pertaining to EU-Turkish relations.

The purpose of the book is to inform a varied audience about some of the implications of the opening of negotiations between the European Union and Turkey. The authors are academics from a variety of (European and other) countries, including Turkey. They cover the disciplines of politics, law and economics, but try to make their analysis accessible to the general public. The focus is on post-2004 debates. It addresses the issues which the authors consider most important following the decision to open accession negotiations.

The accession negotiations between the European Commission and Turkey commenced on 3 October 2005 with the screening process. The negotiations are open-ended and although the date of their conclusion is uncertain, it may be predicted that they may take about 6-7 years at the maximum.

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In one or more of the EU-member countries the political elites will want to take guidance from the opinion of their citizens via referenda. At this point in time, that would carry the risk of rejection. Whereas the population in Turkey is generally in favour of joining the EU (close to 70%), on average 52% of Europeans are against Turkey joining the EU. (Eurobarometer opinion poll published 18 July 2005 and reported in European Voice of 21 July 2005), but support varies from state to state. In France and Germany 21% advocate Turkish membership, while in the UK the figure is 45%. Support is lowest in Austria where only 10% favour Turkish entry, and highest in accession patron Poland (54%). If a referendum would be held in any of these countries, there is a risk that it would turn out negatively, though much depends on the timing of the referenda and on the information available to the electorate. Possibly, a well-informed public opinion in any European country (or in a EU-wide referendum, should that possibility be created) might be in favour of Turkish accession in 2016. Needless to say, there is no guarantee.

But even before the people get a say in the matter, there is a possibility that a Member State, such as the "Republic of Cyprus", for political reasons refuses to renew the negotiating mandate of its representatives in the talks with Turkey. In this respect the decision-making process is inherently intergovernmental. According to the Treaty on European Union all the Member States have to approve enlargement, and while it is the European Commission who negotiates on the European side, in practice it acts under a mandate from the Member States.

It is also conceivable that Turkey at any particular moment in time no longer fulfils the economic, political and other criteria for membership. The so-called Copenhagen criteria, named after the summit in which they were first established and re-baptised Ankara criteria by some because of their particular significance for relations with Turkey, will continue to apply until the moment of entry. This means that throughout the accession period Turkey must be seen to be striving towards 100 percent compliance in order to remain eligible, and any slackening can be used as an excuse or a pretext for delaying the negotiations. Although Turkey qualifies for entry now, the goal posts are changing; compliance is not a fixed but a moving target and the political repercussions in Turkey may be considerable. The latter is not necessarily to Europe's advantage.

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In sum, the future of Turkish membership is unclear. In some circles in the EU, there is a preference for a privileged partnership, a special associated status of Turkey. Turkey has already made clear that it is not willing to contemplate anything short of full EU membership, but the issue can always be revived if membership does not seem to be achievable. It is realistic to suggest that implicitly, a privileged partnership, a special associated status, is Plan B.

In the meantime, the accession negotiations have already started, plunging Turkey into a long period of adaptation to the *acquis communautaire* and convergence with EU standards and norms. This process, unless there are no major hurdles such as gross human rights violations in Turkey or a change of course on the part of the EU, is likely to culminate in eventual integration of Turkey to the EU as a full member with all the rights and obligations involved. It may be stipulated that the negotiations will support the socioeconomic transformation in Turkey, reinforce the spirit of reform and modernization in the legal, political and social system, and trigger fundamental changes in Turkish society.

Research topics for the future

The Turkish accession process offers an enormous potential for groundbreaking research, a potential that has only started to be explored. In the opportunities for research one needs to distinguish the question of the outcome of the accession negotiations (the form and quality of participation in the EU and the reasons why) from that of the impact of the accession process during the ten-year period of uncertainty that starts on October 3.

One may ask what might be the implications for the Turkish accession perspective of the negative results of the referenda in France and the Netherlands on the Treaty establishing a Constitution for Europe. In one view, after the rejection of the constitution by the citizens of these two founding members it should now have become easier for Turkey to accede as ratification of the constitutional treaty is put on hold and political integration is delayed. The European Union is likely to concentrate on economic instead of political integration. Consequently, cultural differences between Turkey and the EU or issues of identity can hardly be cited as a reason for rejecting the accession of Turkey, since such questions do not have a role in a Common Market. As Turkey is bound to the EU by virtue of

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a Customs Union since 1995, as she complies with the internal market legislation of the EU and has harmonised her competition regime with that of the European Union, there is no good reason for saying No to its becoming part of the supranational decision-making and enforcement process. If the point can be brought home to the European electorate that the free movement of persons is not threatening but enhancing their welfare and employment chances, then Turkey may well be a Member sooner rather than later. There is, however, some convincing to do.

The French and Dutch referenda can be taken as an expression of displeasure of the electorate in those founding Member States over not having been consulted on matters of importance. In particular, their opinion was never heard in respect to the euro or indeed any of the costly enlargements that have taken place so far. It is, therefore, not surprising that they indirectly – and massively - expressed a negative opinion on the performance of Brussels over the years. The "democracy deficit" of the EU is not a new issue, and its reduction has been on the EU's agenda for years.

However, the outcome of the referenda may be an additional excuse for giving Turkey a worse deal than Spain over agricultural policy and a worse deal than, say, Finland over regional policy, but not necessarily a worse deal than Poland over the free movement of workers. In the case of the Eastern European countries, there are up to seven years' exclusions from labour mobility, and there has been talk of a permanent exclusion of Turkish workers from the European labour market. The wisdom of such a move is of course debatable and would be interpreted as an insult by Turkish public opinion, whatever the results of research into the effects of this mobility on general welfare in the EU. It can be compared to the US's exclusion of all Asians after 1920; it comes down to racism in the end as there is no objective reason to exclude a Turk from labour mobility merely on grounds of nationality.

Arguably, in this realm of logic there is less reason now than ever to keep Turkey out. But the participation of that country in European integration may negatively influence the federalisation process which otherwise may have incurred only a temporary setback: the fact that in France there was talk on a referendum on Turkish accession (and therefore the possibility of Turkish accession was presented as a distinct possibility) may well have helped to increase the objections against the type of

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federalisation that was projected into the Treaty on the European constitution. Today Europe can be classified as slightly more than a confederation but less than a federation. If it were to move on to become a federal state, the similarity of the participating states would become an important issue, as federalism without similarity is doomed to failure. The figure of closer cooperation, that is, the use of the EU's institutions for collaboration of eight or more Member States may perhaps offer a way out of this problem. How this could apply in case of a Turkish accession is a matter of some speculation at this moment in time.

The substantive political effects of Turkish membership on the EU have hardly been investigated, in part because membership is so far away and in part because hitherto it was always the EU who called the shots rather than the applicant countries. This is natural, except when accession is more in the interests of the EU than the potential member. The European Commission has always been able to impose conditions on any acceding country in the assumption that accession was far more important for those countries than for the EU itself. One may ask whether this is the same in the case of Turkey, as its size and regional importance have allowed it to play a geopolitical role of importance independently of the EU. In addition, there may come a time when Turkish membership becomes more important to the EU. Turkey may therefore have more to say in the shaping of Europe than she realises.

The relevant research on this subject is still in its infancy. The existing literature on EU membership tends to focus on the question why or why not Turkish membership should be pursued. Not everyone shares our belief that membership will eventually emerge because it is in the interest of all the governments concerned, Turkey as well as the EU itself.

However this may be, with all their controversial and partly thought through implications, the accession negotiations take place in a window of opportunity.

Whereas the Turkish desire for membership is longstanding and has roots which go back to the 18th century, there is little understanding of this in Europe, where many leaders still have unspoken objections of a cultural or religious nature against Turkish membership. Leaving aside the beliefs of the population, this miscommunication between political elites is

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astonishing because, especially for Turkey, Europe is the civilisation that is most tolerant of cultural and religious differences. When Turkey strives to establish a modern, secular state, it does so out of a determination to share the same fundamental humanistic conceptions as it believes Europe to possess. (G. Turunc, *La Turquie aux marches de l'Union européenne*. L'Harmattan 2001.) The cement that keeps Europe together and that Turkey aspires to, is an idea, a view on humanity and on the world, the confirmation of freedom and dignity of the human being, the proclamation that man has inalienable rights that are superior to all powers.

Today a more moderate strand of diplomacy is emerging. In this, the parties are helped by globalisation, in which not only Europe but also Islamic countries need to take into account the changing nature of the world. Because of this, it is wrong to speak of Europe as a Christian club, or to view relations between countries in terms of a clash of civilizations, at a time when leading classes of many Islamic countries argue that the world is entering a phase of post-Islamism. Turkey and Europe are sharing fundamental values, and leading classes are, at least verbally, less extremist and more cooperative. There is less tension than is suggested by Huntington's popular theory of the Clash of civilizations would suggest.

The people of the states concerned are not following this trend, as is visible from a casual perusal of the media, whose immediate, alarmist messages help to strike terror in the minds of the ordinary citizen. Thus, for instance, the murderer of film-director Theo van Gogh in the Netherlands hit the news when he vowed that he would do it all over again should he be released from prison. (It earned him a life jail sentence). In a reality show a US congressman proposed the bombing of the holy sites of Islam as a response to extremist terrorist deeds (he was just kidding – he said). The events in London and Sharm el Sheikh are the latest additions in a series of attacks on civilians intended to scare the people. Faced with a growing resentment, and with home-grown as well as imported terrorism, governments are really moved by a commonality of interests. The terrorists have been Arabs, Pakistanis and Kurds; no Turks. Turkey has been a victim of terrorism. This sharing of problems should bring Turkey closer to Europe, as joint strategies are required and mutual trust is essential. Both can also learn from each other by communicating and jointly searching for the best solutions.

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The opening of accession negotiations would appear to be a good foreign policy choice for the European Union, but it is not without risks. One such risk is that Turkey may be "lost" before it is able to stabilize its current society with its secular, pro-western outlook and modern democratic principles. Whereas Europe is currently promoting reforms in Turkey and a liberal treatment of extremist movements in the interest of human rights and fundamental liberties, the Islamist government in Turkey is using EU pressure for liberalisation as a means for weakening the fundamentals of the secular State. Taken to extremes, this can lead to a reversal of the very values Europe is keen on furthering. Arguably, a long waiting period before accession is in the interest of Turkey because it could help her to maintain her balance as a regional power and moderate and secular state with a predominantly Islamic population by strengthening the quarters that protect secularism without giving up the European ideal. Admittedly it can be difficult to strike the right balance. Alternatively, a quick accession would be possible, on a conditional basis, if it should turn out that the long wait favoured destabilisation.

For Europe there is a risk also that if a door will be shut, the chance will be missed to integrate into Europe a young, growing population which the continent so desperately needs as a demographic answer to its problems related to ageing : pension provision, innovation and basic social standards all are part of Europe's challenges of the future. Immigration from Eastern Europe, including the candidate countries and the Ukraine, is not necessarily going to solve this.

Given the uncertainty of a positive outcome of the accession negotiations, one may wonder what will be the effects of these on the economy of the candidate country. The eastern European countries experienced a boom prior to their accession to the EU. Is this the same in case of Turkey, a country that has already held very close trading relations with the EU since the Ankara agreement? Would Turkey be able to attract the foreign investment that has been lacking in the past? In the negative, would this affect the prospects of accession?

These are some of the issues that came up in the works of TUNAECS, the Turkish equivalent of the European Community Studies Association.

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The Contents of the Book

To set the background, *Dartan* and *Hatipoglu* provide a brief history of EU-Turkey relations and explain the Post-December 2004 prospect of EC accession.

Arikan and *Vassallo* examine the possible effect of Turkish accession on deepening the Union. Like any candidate member and perhaps even more so, Turkey can alter the balance within the Union. *Arikan* and *Vassallo* discuss whether Turkey would be a more supranational or a more federalist player inside the Union. They look especially at the implications of Turkish accession for the use of the Community's budget, at foreign policy, international aid, cultural identity, military strategy and economic development. They predict that Turkey's federalist attitude will vary according to the direction which the integration process will take: If the integration process will include high politics (security) issues. Turkey will favour the intergovernmental process. If instead the integration process is mainly about economic and monetary issues, Turkey will favour a Community approach characterised by supranationalism. In each case this is what would give Turkey the most leverage. The added value of a supranational institution over a confederation lies in the community method as exemplified not only in the institutional setup and the specific decision-making procedures, but also in the legal doctrines of supremacy, direct effect, exclusivity and solidarity. For Turkey this transcends the limits of the Customs Union encapsulating the current EU-Turkey relations. In high politics, supranationality is less palatable.

Arguably, governments of current member states who have similar interests are more likely to be « accession patrons » and actively coax the entry of Turkey into the Union. Thus the UK and Poland are mostly in favour of Turkey because they think this precludes federalisation in the field of high politics.

In a related piece of research, *Donnelly* investigates how Turkey would fit into the main European debates, opposing federalists and intergovernmentalists, free marketeers and socialists, and Christianity and other religions or ideologies. The orientation of Europe on these questions determines what is required of Turkey to be part of this organisation. Of

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course, with the ratification of the treaty establishing a constitution for Europe being on hold, the verdict on several of these issues is still pending.

It is a truism to say that Member States are in favour of enhancing the interest of the Union only when, in their perception, it is most compatible with their own. In the field of foreign policy it is difficult to say in advance what the long-term interests of a Union of 25 or more member States are. *Pfetsch* describes how the European Union is slowly taking responsibility as a regional actor. As seen from the EU's side, Turkey fits well into this picture. As *Zucconi* observes, the EU is able to follow in the footsteps of the United States who is in the process of reshaping its foreign policy.

Turkey too is shaping its foreign policy. As *Nas* points out, Turkey is in a unique position and can use it to her benefit: this country is neither part of Europe nor of the middle or near east and that may play to her advantage if she is able to instrumentalize both her European and her eastern assets. Can she do it as well within or outside the framework of a European Union? Arguably, (in the assumption that both the EU and Turkey are indeed intent on enhancing their influence in the region), even a privileged partnership between the EU and Turkey would enhance the leverage of both in this periphery. However, the more Turkey is involved in the EU, the more it can play its role as a bridge, because the combined power of Turkey and the EU is increasing exponentially as the decision-making power of the bridge-builder increases in the EU.

When it comes to fundamental values such as democracy, human rights and the rule of law, it is often argued that the interests of the EU and Turkey coincide. It is here that Turkey-EU relations have had the most impact. In that regard, *Şeşen* writes on the recent ground-breaking process of legal reform in Turkey precipitated by the effort to fulfil the Copenhagen criteria.

Yet on the other hand it could be argued that Islam on the one hand and freedom and democracy on the other are uneasy bedfellows. If it comes to Islam or the Muslim culture, what about the fundamental values, including tolerance and cultural diversity that are part of Europe's identity? Where are the limits to cultural diversity? In fact, it could be argued that culturally Turkey is not all that different from Greece or any other Balkan state, but the European politicians and public do not distinguish Turks from Arabs. *Dobson* assesses Turkey's EU accession in the light of the EU's premise of

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cultural diversity. *Hülsse* investigates why the German Bundestag does not contemplate favourably Turkey becoming a member of the EU, and *Silvestri* observes the beginnings of a European way of approaching Muslim interests in their societies.

Szymanski employs a comparative perspective and analyzes the similarities and differences between two countries, one of them a recent EU member and the other a candidate country, i.e. Poland and Turkey.

Wiener explains how European integration studies are in their third generation and how the Turkish question is illustrative of the constitutional and institutional developments of the EU today.

Kovacs considers the potential impact of the accession process on the economic development of the country.

Lastly, *Karabacak* and *Olgun* focus on an important issue that directly influences Turkey-EU relations; the not-yet-resolved Cyprus problem. *Olgun* assesses the effects of EU policy towards Cyprus on the current impasse concerning the political situation on the island while *Karabacak* approaches the issue from the point of view of Turkish Cypriots.

The hesitation of the academic world to make any forecasts or recommendations is illustrative of, if not endemic to the uncertainties which changing international orders bring about. Yet, uncertainty is also the ground for the development of new ideas and new theories. It is the purpose of this book to contribute to this debate.

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TRIBUTE TO THE ORGANIZERS: OPENING SPEECH BY HALİM METE, VICE-PRESIDENT OF THE UNION OF CHAMBERS AND COMMODITY EXCHANGES OF TURKEY

Mr. President of the Union of Chambers and Commodity Exchanges of Turkey, Hon. Consuls-General, Distinguished academics and distinguished members of non-governmental organizations, Distinguished members of our media, Distinguished guests.

I wish to extend to you all my best regards and welcome you to this conference organized by the Union of Chambers and Commodity Exchanges of Turkey, Marmara University and TUNAECS (Turkish Universities European Community Studies Association).

We are living through a historic period in Turkey-European Union relations. Accession to the EU has been a major issue on Turkey's political agenda for a very long time. We have all looked forward to starting the "negotiations for membership" which constituted the core of the process of EU accession and now expect a successful outcome.

Turkey's efforts aimed at fulfilling the Copenhagen political criteria have been clearly appreciated by the EU and the governments of the EU Member States. As Mr. Günther Verheugen, the Commissioner responsible for enlargement, stated explicitly on September 6 2004 during his visit to Turkey, we have clearly reached a certain threshold in fulfilling the Copenhagen political criteria. Despite some shortcomings at the levels of enactment of laws and implementation, the achievements realized so far are testament to proving that democratic principles and conditions have seriously begun to gain ground in Turkey. Therefore, Turkey's efforts to institutionalize these principles and values and to accelerate the process of accession must be praised. During this period, it is obvious that different business institutions (among them, the Union of Chambers and Commodity Exchanges will have a leading role), labor unions, other non-governmental organizations, media organizations and academic institutions will help this reform process to gain further impetus by monitoring developments closely and by making necessary contribution when appropriate. This in itself is a

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significant indication that democratic values are being adopted by society as a whole.

We are now able to clearly observe that Turkish society conceives of the prevention of human rights violations and protection of individual rights and freedoms as inseparable duties of the modern state and that people may not be deprived of these fundamental rights for the sake of collective interests. Significant steps have been taken towards the adoption of the rule of law.

Turkey is currently engaged in an irreversible process of reform. The significance of the decision reached at the EU Summit in Helsinki, and the reform impetus it stimulated, have become increasingly apparent in Turkish society. The process of EU candidacy has contributed to the development of a transparent and accountable public administration that is open to democratic participation. Moreover, the Turkish people conceive of EU membership not as a project creating advantages in the short run or as a matter of national pride, but as a system within which all the rules and institutions of the modern state have reached the highest form of development and within which political and economic stability and security are guaranteed. The positive effect of the pre accession process shall create an important stimulus to further reform when negotiations actually start following the screening process. From now on, the Turkish people must act as the protector of EU norms, in collaboration with EU institutions.

The Heads of State and Government meting within the European Council reached a decision on the opening of negotiations according to the content of the European Commission's progress report on Turkey which had been published in October of the same year. The decision was controversial and could be reached only after intense discussions among the Member States including Austria and South Cyprus that expressed their negative stance. Even after the decision was made, it cannot be said that there is total agreement among the EU states and societies regarding the eventual accession of Turkey as a full-fledged member of the EU.

In its report, the Commission stated that Turkey has fulfilled the political criteria, but added that democratization is an ongoing process and the diffusion of the legal reforms to the practitioners and citizens may take some time. Our European friends must keep in mind that one of the advantages provided by the initiation of these negotiations is the positive atmosphere and impetus it created in favor of further reform and

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transformation despite temporary setbacks and backlashes. The initiation of negotiations shall help Turkey to proceed through this reform process in a more predictable fashion and accelerate the harmonization effort. In this framework, many institutions, especially universities and non-governmental organizations will assume an important role in overseeing the application of new legislation. It must be kept in mind that the initiation of constructive, objective and wide-ranging reforms will change the destiny of Turkey. In particular, judicial reform, reform of the Turkish Penal Code, further protection of Women's rights and the elimination of all practices involving the use of torture are sensitive issues which must be faced openly. It is obvious that uncalled for steps such as talk of attaching a criminal sanction to adultery, efforts to limit freedom of expression, and such do not contribute to the process of Turkey's EU accession. The EU authorities adopt a very sensitive attitude towards developments in Turkey. We must prevent this attitude from being detrimental to the process of accession. Those provisions of the Penal Code which concern the right to express ideas will be the primary points to be emphasized by the EU at this point. The way to solve these problems is by taking all necessary steps aimed at a strengthening of fundamental rights and freedoms.

There exists no country where the practice of democracy is entirely perfect, including the EU Member Countries. Bearing this in mind, I believe that the negotiations will proceed rapidly and effective measures will be taken on both sides for a healthy adaptation and harmonization to EU norms and standards, enabling Turkey to take the place it rightly deserves in the European integration process. I would like to stress once more the importance of doing our best to avoid a making any mistake which would prevent Turkey from acceding to the EU.

I would like to extend my gratitude to President Rifat Hisarcıklıoğlu who provided his support for this organization of the Conference, to the other members and personnel of the Union of Chambers and Stock Exchanges for their contributions, to Prof. Dr. Halûk Kabaalioğlu, the President of TUNAECS, and to the Turkish and foreign speakers who will provide us with their valuable contributions. I also congratulate the staff of the EC Institute of our University especially the Director Prof. Dr. M. Dartan and his colleagues who contributed to the organization of the conference and extend my best regards to all of you.

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THE FUTURE OF TURKEY –EU RELATIONS: POST-DECEMBER 2004

Muzaffer DARTAN*
Esra HATİPOĞLU**

Abstract

Turkey-EU relations are based on the 1963 Ankara Agreement. The customs union envisaged in the Association Agreement came into effect in 1996. Relations accelerated after the Helsinki European Council of 1999 whereby Turkey was declared as a candidate state. Following a period of extensive legal reform in Turkey, the EU decided to open accession negotiations with Turkey. The opening of negotiations heralds a process of change and reform in Turkey. The article explores the progress of Turkey-EU relations and analyzes the current phase by providing some insight into the nature of membership negotiations.

INTRODUCTION

Turkey has been a part of Europe for centuries. Therefore, it would be misleading to restrict a discussion about EU-Turkey relations only to the Turkish attempt to achieve EU membership in the post- Second World War period. In other words, these current efforts represent, in concrete terms, the final level of the process of Turkish affiliation with the Western world going on since the *Tanzimat*. By the second half of the 20th century, after becoming a member of a variety of European oriented institutions and organizations, such as the Council of Europe, NATO and the OECD,

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Turkey applied for *"associate membership"* in the European Economic Community (EEC) in 1959, just after the establishment of the Community. The *"Association Agreement"* (Ankara Agreement), signed on 12 September 1963 gave relations between the Community and Turkey a legal, treaty basis.[1]

After a long process of ups and downs in Community – Turkish relations, the prospect of full membership arose again when Turkey was granted *"candidate status"* at the European Council's Helsinki Summit of 10-11 December 1999.[2]

THE ANKARA AGREEMENT, ADDITIONAL PROTOCOL AND CUSTOMS UNION

According to Article 2 of the Ankara Agreement, the EEC – Turkey Partnership consisted of three stages, namely, *"the preparatory stage"*, *"the transition stage" and "the final stage"*. The *"preparatory stage"* that begun as the Ankara Agreement entered into force on 1 December 1964 ended when the Additional Protocol took effect, on 1 January 1973.[3] The *"transition period"* governed by this Protoicol was completed in 22 years, when the Customs Union became operational, on 31 December 1995,[4] in compliance with the provisions of the Additional Protocol. The Ankara Agreement and the Additional Protocol envisaged the gradual application of the four main freedoms (free movement of goods, persons, services and capital) in the EC-Turkey economic integration process.

In principle, the first of the four main freedoms, "free movement of goods and Customs Union", was envisaged to take effect over a transition period of 12 years (for some specific products, this period was determined as 22 years). The *"final stage"* was expected to be based on the Customs Union and the strengthening of coordination in economic policies as well as the conclusion of full membership conditions between the parties. Therefore, the Customs Union was only one of several steps within a much wider process. Besides the Customs Union, trade in agricultural products, there were to be free movement of services, the free movement of workers, the freedom of establishment, and Turkey's gradual participation in other common policies of the Union was also an objective of the partnership model that was established by the Ankara Agreement.

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However, the Ankara Agreement did not specify a period for the final stage and left this question to the parties as defined in Article 28:

> As soon as the operation of this Agreement has advanced far enough to justify envisaging full acceptance by Turkey of the obligations arising out of the Treaty establishing the Community, the Contracting Parties shall examine the possibility of the accession of Turkey to the Community.

This stage begun with the entry into force of the Customs Union on 1 January 1996 and is currently continuing. To put it another way, by implementing the Customs Union before full membership, Turkey committed itself to a process that was different, a process no other candidate country has ever engaged into during the history of EU enlargement.

Nowadays, there is a widespread perception that economic matters constitute the least problematic area in Turkey's adaptation to the EU. In addition, the IMF-directed restructuring process of the Turkish economy overlaps with that envisaged by the EU. As a result of implementing the Customs Union without being represented in the centre of decision-making, Turkey has demonstrated a strong *"political will"* by its dedication and commitment to applying *the Common Commercial Policy"* that is determined with the particular economic and political interests of the EU member states in mind.

The Turkish government applied for full EC membership in 1987. The European Commission declared that while Turkey was qualified for full membership, Turkey was not ready to enter into membership negotiations. The Community concluded that it was necessary to maintain deepening partnership relations between the parties as well.

THE 1999 HELSINKI SUMMIT AND POST – HELSINKI PHASE

By the early 1990s, the EU had become favourably inclined to the accession of new members in line with its enlargement policy to Eastern Europe. In this context, Turkey deservedly expected to be included into this group as a result of its full membership application of 1987. This was all the more natural given that when Turkey had already established its initial relations with the then EEC in 1959, those Eastern European countries, which were pursuing EU membership only since the early 1990s, had,

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because of the influence of the USSR since the Second World War, been complete *"outsiders"* -members of the Warsaw Pact, COMECON.

As a NATO member in the Cold War period, Turkey was a reliable ally for the EU, and via the Ankara Agreement, Turkey had already taken an important step on the path of integration with the EU. Contrary to Ankara's expectations, however, Turkey was absent from *"Agenda 2000"*[5], a report defining the EU's enlargement strategy and issued by the Commission in the middle of 1997. As a reaction to this, the Turkish government did not attend the December 1997 Luxembourg Summit[6], which aimed to examine, negotiate and reach a consensus over Agenda 2000, and declared an end to the political dialogue with the EU. Moreover, Turkey did not attend the European Conference in London in March 1998, despite having been invited.

The European Union's approach to Turkey negatively affected Turkish public opinion, and anti-EU partisans began to manipulate public opinion based on the opinion that *"the EU's intrinsic intentions had been uncovered"*. As a result, these reactions and Turkey's determined position stimulated EU leaders into reconsidering the situation. The European Commission prepared a European Strategy for Turkey and efforts designed to rebuild Turkey's confidence regarding the EU were stepped up in 1999 Cardiff Summit.[7] In July, Turkey presented its own strategy to the EU for improving relations. According to the conclusions of the Cardiff European Summit, the Commission published its first Progress Report on Turkey in the same year.

Eventually, with the Conclusions of the European Council in Helsinki in December 1999, Turkey was designated officially as a candidate country. The Helsinki Conclusions stated that

> Turkey is a candidate State destined to join the Union on the basis of the same criteria as applied to other candidate States. Building on the existing European Strategy, Turkey, like other candidate States, will benefit from a pre-accession strategy to stimulate and support its reforms.

In accordance with the Helsinki European Council conclusions, similar to other candidate countries, the Commission prepared an *"Accession*

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Partnership Document"(APD) for Turkey that was adopted on March 8, 2001.[9]

The APD included the tasks that Turkey should undertake in the short- and medium-terms. Turkey was required to carry out political, judicial, economic and structural reforms under the Copenhagen Criteria (Political criteria, economic criteria and incorporation of the Community Acquis). Initially, the political criteria were highlighted, and EU officials reminded Turkey on every possible occasion that those criteria were a precondition for starting negotiations. These reforms, based on extending democracy, the rule of law, and human rights were welcomed by Turkey in accordance with the commonly held view that *"we should make these reforms not because the EU requires us to do so, but as a modern society, Turkish people needs to implement them."* Yet, it should also be noted that the EU's requirements accelerated the reform process in Turkey.

In line with the ADP, the Turkish government approved its *National Programme for the Adoption of the Acquis*[10] and presented it to the Commission. Composed of six main chapters, the National Programme scheduled the political, economic, social and institutional reforms which were required in the APD.

The EU Commission prepared a *"Revised Accession Partnership Document"*[11] that reviewed Turkey's improvements in satisfying EU expectations as well as the necessary steps for the next period. In accordance with the *"Revised Accession Partnership Document"* the Turkish National Programme[12] was also revised. Therefore, Turkey manifested a strong political will by preparing a comprehensive and ambitious *"National Programme"* document which included a definite schedule for the implementation of reforms and dealt with the financial aspects of the detailed measures needed to fulfil the Copenhagen political criteria.

In other terms, the societal consensus needed to ensure the success of the *"National Programme"* was brought about by the support of the Parliament, the Government, and public sector bodies as well as by most non-governmental and professional organizations.

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Since 1998, the EU Commission has been scrutinising Turkey's success in fulfilling the Copenhagen Criteria as well as that of other candidate countries by means of the annually published progress reports. In December 2002, the European Council[13] had also declared a similar decision at the Copenhagen Summit:

> The Union encourages Turkey to pursue energetically its regorm process. If the European Council in December 2004, on the basis of a report and recommendation from the Commission decides that Turkey fulfils the Copenhagen political criteria, the European Union will open accession negotiations with Turkey without delay.

Later, in its Strategy Paper, that accompanied the 2003 Progress Reports[14], the Commission stated that:

> The Commission will next year assess the progress made by Turkey towards meeting the accession criteria as requested by the Copenhagen European Council. The Commission will issue a report and a recommendation before the end of October 2004 on whether Turkey fulfils the Copenhagen political criteria. This should allow European Council to decide, at its meeting in December 2004, on possible opening of accession negotiations with Turkey.

Finally, just before the publication of the October 6, 2004 Progress Report[15] on Turkey, The Brussels European Council in June 2004 concluded that:

> The Union reaffirms its commitment that if the European Council decides in December 2004, on the basis of a report and recommendation from the Commission, that Turkey fulfils the Copenhagen criteria, the EU will open accession negotiations with Turkey without delay.

Eventually the Commission's Progress Report on Turkey on October 6, 2004 recommended the heads of states and governments of EU Member States, who would assemble at the EU Summit in December 2004, to start accession negotiations because Turkey had fulfilled the Copenhagen political criteria.

Although Turkey has already engaged in wide-ranging reforms designed to fulfil the Copenhagen political criteria, it would at the moment be

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misleading to claim that the EU is totally satisfied with the implementation of those reforms, which are perceived as the starting point for the negotiations. In that respect, before the *"Progress Report"* published on 6 October, EU authorities had frequently expressed arguments such as the following: *"Turkey has taken important steps in fulfilling the criteria. We cannot disregard these efforts. Yet, we should also recognize the importance of implementing those reforms."*

In response to this line of thinking, Turkey put forth a different argument:

> In any case, the negotiations will take a long time. Within this period it will be possible to monitor the implementation of the reforms contained in the eight previous harmonisation packages. Therefore, we had better start accession negotiations in early 2005 in order not to waste any more time. Moreover, there have been other candidate countries, with which you started negotiations before they had fulfilled the political criteria.

Furthermore, despite the positive opinion about starting negotiations with Turkey, the Progress Report included some special conditions peculiar to Turkey. However, at the Helsinki Summit, the EU had confirmed Turkey's candidacy on the basis of *"equal terms with other candidates and without any discrimination."*

THE 2004 PROGRESS REPORT AND THE RECOMMENDATION OF THE EUROPEAN COMMISSION

The EU Commission prepared two reports influencing the decision of the Council on 17 December 2004.[16] One of them was the *"2004 Progress Report on Turkey"* published on 6 October 2004. The other one was the *"Impact Report"* drawn up to make an assessment concerning issues arising from Turkey's membership perspective. Unfortunately, these reports have not been subject to in-depth discussion and/or analysis in Turkey except for reaction against specific paragraphs (mentioning non-Sunni Muslim minorities, non-Muslim religious minoritis, relations with the South Cyprus Administration and Armenia, as well as dams and irrigation schemes in the Euphrates and Tigris river basins), which generated social disquiet in Turkish public opinion. Yet, those issues are merely the tip of the iceberg. Moreover, much of the commentary surrounding these reports was flawed or factually inaccurate.

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This is not entirely surprising given that the concept of the EU has long been evaluated emotionally in Turkey both by pro-Europeanists and by anti- Europeanists. Within this context, the translation of the *"Progress Report"* into Turkish was neglected in the period between 6 October – 17 December 2004. As a result, its contents were actually not well-publicised. Therefore, public opinion about the *"Progress Report"* was mostly driven by evaluations by informed EU supporters or EU opponents. However this may be, , the general public was more pessimistic about the Report than the government itself.

An evaluation of the *"EU Commission's Recommendation to EU Council and European Parliament"* reveals the need for an evenhanded examination of EU – Turkey relations. The decisions taken by the EU should be viewed on their merits and not be interpreted entirely from either an optimist or pessimist position. It is important to handle all different issues with composure and considering possible outcomes under a variety of conditions, taking care also to determine various strategies for every possible condition in the future.

In evaluating the *"2004 Progress Report on Turkey"*, the *"Impact Report"* and the *"EU Commission's Recommendation to EU Council and European Parliament"*, a cautious approach should be taken and implicit language should not be disregarded by focusing merely on the positive aspects of the recommendation. That is perfectly legitimate to suspect that some want to put obstacles in the way of Turkey's membership, or to convert Turkey's candidacy to a special partnership status rather than full membership. For instance, Jacques Toubon, a prominent figure in the EPP-ED group in the European Parliament, has openly opposed Turkey's EU membership suggesting instead a *"special partnership"*. This view is shared by many leading European political figures, including the head of the German CDU, Angela Merkel.

All these developments have created suspicions and they can be considered contrary to the perspective given in the 1999 Helsinki Summit conclusions which stated that "The candidate countries are participating in the accession process on an equal footing and that "Turkey is a candidate Country destined to join the Union on the basis of the same criteria as applied to other candidate countries".

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In essence, the *"Progress Report and Recommendations"*, which recommended starting negotiations with Turkey, give cause for concern when evaluated in the light of the understanding described above. The statements emanating from the EU authorities and the EU countries, have reinforced this line of thinking. As explained by then Commission President Romano Prodi at a press conference:

> It is a qualified yes that is accompanied by a large number of recommendations of following up and monitoring of the situation in Turkey, and some specific recommendations on the conduct of negotiations.

By way of a response, the supporters of EU membership have repeatedly declared that such statements are natural, since European public opinion is not prepared for Turkey's membership. They have stressed the need to remind the electorate that the approval contained in the *"Recommendation"* takes into account the existence of serious opposition. Arguably, however, Turkey's striving at EU membership has been around since a long period of time and should never have come as a surprise for European public opinion. Why beating around the bush and then presenting public opinion in European countries with a *fait accompli*. In addition, the EU has almost entirely disregarded the negative impact of similar statements on the motivation of the Turkish public in the pre- accession period, which requires social cohesion.

As a consequence, the assessments below would seem relevant in light of the *"Progress Report"*, and the *"Recommendations"*:

1- Despite the presence of various risks, Turkey's main priority for the EU, as explained in the *"Impact Report"*, has been the country's contribution (population, size, geographical location, security and military potential etc.) to the EU in its role as a global actor. Otherwise, the EU was not expected to derive any crucial economic benefit from Turkey's membership. Again according to the same Report Turkey's accession would also help to secure better energy supply routes for the EU. Indeed, Turkey's contribution to the EU's global role as a result of its geo-political situation, size, long history of NATO membership and military capacity have been the focus of much attention in the EU Member States and European defence and security elites become increasingly interested in Turkey as a partner that can

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significantly boost Europe's weight as an international actor and increase EU's strategic clout in the key regions of the Middle East and Persian Gulf. The possibility of sending home a risky message to other Muslim countries, post-September 11, as well as to the Muslim population living in European countries that would be implicit in a negative reply to Muslim-populated Turkey was another frequently discussed topic among Europeans. "A more powerful EU with more vital roles in the Middle East, Central Asia and the Caucasus after Turkey's accession" has become a seriously discussed argument. Actually, the EU's need of Turkey in the above-mentioned areas is not simply a matter of coincidence. All these debated issues overlap with the contents of *"A Secure Europe in a better World: European Security Strategy[17]"*, which is based on *"A Secure Europe in a better World"* report prepared and presented by Javier Solana for the 12-13 December 2003 Summit[18]. On the other hand, a report published on 6 September 2004 by *"the Independent Commission on Turkey[19]"* with the support of British Council and Open Society Institute, consisting of a group of distinguished European policymakers led by former Finnish President Martti Ahtisaari, examined Turkey's contribution to the EU with reference to the country's geo-strategic location, the security of European energy resources, and the strength of the Turkish armed forces.

2- The EU has implied that the financial support of the Union will depend on different parameters and will be determined by conditions existing after 2014. It was stated that *"the budgetary impact of Turkish membership to the EU can only be fully assessed once the parameters for the financial negotiations with Turkey have been defined in the context of the financial perspectives from 2014 onwards. The nature and amount of transfers to Turkey would depend on a number of changing factors, such as the EU's policies and any special arrangements agreed with Turkey in the negotiations as well as the budgetary provisions in place at that time, in particular the overall budgetary ceiling."*

3- The EU has explicitly expressed the desire for a permanent safeguard clause on the free movement of labour for Turkish citizens the fact that this approach is contrary to the basic philosophy of the Union. In the "Impact Report" it was stated that *"With over three million, Turks constitute by far the largest group of third-country nationals legally residing in today's EU. Available studies give varying estimates of expected additional migration following Turkey's accession. Long transition periods and a permanent*

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safeguard clause can be considered to avoid serious disturbances on the EU labour market."

4- In relation to the weight of Turkey in the decision-making process of the EU and for the institutional changes, the "Impact Report" stated that *"Turkey's accession, assessed on the basis of the Constitution for Europe would significantly affect the allocation of European Parliament seats of current Member States, in particular the medium-sized and large countries. In the Council, Turkey would have an important voice in the decision-making process in view of its population share which would be reflected in the Council voting system."* Therefore, the Commission has implicitly warned those countries about this eventuality.

5- Due to subjective conditions, Turkey's accession process will be different from other countries, and efforts will be exerted to reflect this difference in the negotiation process.

The recommended negotiation process is proposed to take place within the framework of an Intergovernmental Conference in which all member states are represented and in which decisions are taken by unanimity. Turkey will be asked to fulfil obligations resulting from the EU acquis, before the opening of negotiations on related chapters. Accession negotiations will take place in the framework of an Intergovernmental Conference where decisions require unanimity. Such a system will almost certainly politicise the negotiation process by providing the right of veto to all member states. Cyprus is expected to create problems in regard to the opening and the closure of each chapter. Furthermore, it was also stated that progress in the negotiations would not only depend on Turkey's convergence with the EU, but the EU would also need to prepare itself sufficiently given the Union's capacity to absorb new members, while maintaining the momentum of European integration. (This was not mentioned in the Conclusions of December 16-17 European Council.)

It was stated that the negotiations will constitute an open-ended process whose outcome can not be guaranteed beforehand. Furthermore, it was also stated that regardless of the outcome of the negotiations or the subsequent ratification process, relations between the EU and Turkey must ensure that Turkey remains fully anchored in European structures.

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There were also implications of the need to develop a mechanism to confirm the appropriate implementation of reforms. Although *"the suspension of negotiations in case of serious and persistent breach of democracy, human rights, and the rule of law"* is a clearly known fact, it was now stated in written form. This may be evaluated as a sign of deep distrust towards Turkey among Europeans.

The EU Commission will employ a different way of conducting negotiations with Turkey when compared to other candidate countries. Formerly, the opening of negotiations was almost regarded as a sign of membership. Yet, in this case a special emphasis was placed on the Commission's ability to suspend negotiations. Therefore, this may pave the way for a special *"privileged EU – Turkey partnership"* as well as providing the EU with suitable grounds to influence Turkey on specific political issues such as the Cyprus conflict, Aegean disputes, and so forth.

DECEMBER 16-17, 2004 EUROPEAN COUNCIL PRESIDENCY CONCLUSIONS

The European Council took many decisions concerning the wider enlargement process but Turkey was a major agenda item too. Before the Summit, the positions of the Member States, the EU and Turkey still diverged even though the negotiations had started long before the Summit, with various drafts of the Presidency's Conclusions being revised several times.

The most important achievement of Turkish diplomacy was that Turkey received a date -October 3, 2005- for the opening of the accession negotiations. However, the opening of negotiations came with conditions to be fulfilled before then. Firstly, the European Council wanted Turkey to bring into force six pieces of legislation (the law on associations, the new Penal Code, the law on intermediate courts of appeal, the code on criminal procedure, legislation to establish the judicial police and the law on execution of punishments). Secondly, the EU wanted Turkey's agreement to sign a Protocol concerning an extension of the existing Turkey-EU Customs Union to the new member states including Cyprus which provoked discussion about the recognition of Cyprus. Turkey refuses to extend recognition to the Greek Cypriot entity before an agreement on reunifying the island has been concluded.

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On the other hand, there are still some hints (conditions for possible suspension of negotiations, conditions for transitional arrangements or derogations after the accession and conditions for alternative solutions if the negotiations fail) that can be regarded as possible issues that may come to the surface during the negotiations.

According to Paragraph 23, the suspension clause could be activated by the Council by means of qualified majority in the event of a serious and persistent breach of principles of democracy, human rights, fundamental freedom and rule of law. This *"brake clause"* can easily be considered as controversial and represents another important difference from previous negotiations in that it would amount to a right of initiative to any Member State in the process enabling to block the negotiation process. Close monitoring has also always been implicit in previous negotiating processes. This has been true for all other candidate countries but, for Turkey, the Commission has adopted a stricter approach. Within this context, it was accepted that the Commission would not only continue issuing yearly Progress Reports but that accession negotiations with Turkey would take place within the framework of an Inter-governmental Conference where decisions require unanimity. Thus, it is clear that the EU will monitor Turkey closely in the coming years.

In this sense, it was inevitable that Brussels' criticised use of the force by the police on Women's Day Protest at the occasion of the Turkey-EU Troika meeting[20] will be noted by the EU. There was a joint statement[21] to this effect by the representatives of the EU-Jean Asselborn, current President of the Council of the European Union, Olli Rehn, European Commissioner in charge of Enlargement and Dennis MacShane, British Minister for Europe, ahead of the meeting.

As for transitional arrangements or derogations after accession, it is also obvious that the EU takes a different attitude towards Turkey. It has been a key issue of EU doctrine in previous accession negotiations up until now that for the proper functioning of the EU, there should be no permanent derogations from EU law, and no opting out provisions for new Member States. Here, nothing has been decided yet but at least one less benign interpretation is that the door is being opened politically by the EU itself to the possibility of a *"second-class membership"*.

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As regards the conditions for alternative solutions if negotiations fail, Paragraph 23 openly states that the negotiation process is open-ended without a guaranteed outcome. It means that the door is also opened for a *"privileged partnership"* as an alternative to *"full membership"*.

Overall for Turkey, this result is a case of a glass that can be considered as either half full or half empty. However, it reflects important realities. Whatever may happen, Turkey now has a timetable and some sort of a road map for the future. It is now known that the accession negotiations with Turkey will start on October 3, 2005 depending on the fulfilment of the conditions related to Cyprus and with bringing into force the required legislation.

Although there will be some changes later, the procedure to be used in accession negotiations is also more or less clear. They will take place in the framework of an Intergovernmental Conference where decisions require unanimity. After the formal opening of the negotiations, there will be a screening process. The substance of the negotiations will be broken down into a number of chapters, each covering a specific policy area.

Before, the formal start of the negotiations Turkey has to satisfy some responsibilities. The first two of these are so-called conditions for starting formal negotiations; the signing of the Additional Protocol of the Ankara Agreement before October 3, 2005 and bringing into force some of the required legislation. Besides, Turkey also has to prepare its structural framework (negotiation team and choose its Chief negotiator) on which the whole negotiation process is grounded. .

The EU has also some responsibilities. The European Commission has to propose a negotiating framework for accession talks with Turkey to lay down the guiding principles, the substance and the procedures for the accession negotiations. According to the discussions during the Turkey-EU Joint Parliamentary Assembly Meeting in Strasbourg on 23-24 February 2005 and EU Troika (March 7, 2005) in Turkey, the EU will prepare the framework for Turkey by July 2005 and the screening process will start after October 3, 2005. The EU also has to prepare a *"Revised Accession Partnership Document"* for Turkey. Although this Document was expected to be published by April 2005, the EU has decided to release it in late Fall 2005.

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THE NEXT STAGE IN TURKEY - EU RELATIONS: NEGOTIATIONS

It is expected that negotiations with Turkey will take a long time to complete. During this period Turkey will have to "learn" more about the EU and its operational procedure. Furthermore, the implementation of the acquis will not automatically bring about the expected higher levels of prosperity. The expected positive results of negotiations will only appear in the long run and may create some disappointments in the meantime. There are various challenges that lie ahead for both Turkey and the EU once accession negotiations start.

It is true that as the decision on whether to open negotiations with Turkey was drawing closer, the debate over Turkey's accession into the EU has heated up. Just a few days before the release of the Progress Report of Turkey, the French President Chirac proposed to amend the French Constitution to be able to add the requirement of a referendum for the future EU enlargements. Valery Giscard d'Estaing, former French President and President of the European Convention said that "Turkish *entry would mean the end of Europe.*" Thus, it seems that in the EU; either implicitly or explicitly, there is an expectation and *"hope"* that negotiations with Turkey will take an excessively long time that will allow the EU to put off dealing with the difficult issues that are expected to result from Turkish membership.

When considering future elections in the EU Member States, it is likely that current EU politicians would like to delay the most complex issues to future governments who will therefore start giving a hard time to Turkey from the very beginning by raising various objections to the closing of various chapters, as they did even with the former Central and Eastern European Countries (concerning environmental standards, stopping organised crime and human trafficking etc. Please see **Annex I**) Furthermore, the requirement for Turkey to provide evidence that most of the measures are being implemented will definitely slow the negotiation process.

On the Turkish side, it seems that the general attitude in public and government regarding the complexity and difficulty of the negotiation process has not registered or been understood properly. The negotiation

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process will definitely be complicated and long, so that the expected positive results of the process will only be viewed in the long run. Turkey may even have to deal with around 35 chapters, which will be a different treatment than the other Central and Eastern Countries, which would mean that the negotiation process will potentially touch all aspects of life.

On the other hand, many Turks believe that Turkey has already made enough concessions in order to secure the negotiation date (Cyprus, minority rights, penal code etc.), and now it is the EU that has to make concessions. In this sense, the resolution of the Cyprus issue before the start of negotiations by the government will be a critical issue as well.[22] As for Cyprus, the general belief in Turkey is that Turkey has taken sufficient initiatives for the resolution of the issue within the framework of the Annan Plan, it is now the EU's turn to keep its promises. The general expectation in Turkey now is that the EU needs to show leadership on this issue , in cooperation with the UN, to get a solution acceptable to both sides as quickly as possible. However, in reality, we can also see clearly in the Conclusions of the December 16-17, 2004 European Council, the EU will continue demanding further political reforms during the negotiation process. The European Parliament and many Member States will continue forcing Turkey to change its handling of certain sensitive issues.

In the case of Turkey, there is another important aspect to consider. Starting from the Copenhagen European Council in 1993, the EU had an established accession criteria and a defined procedure to deal with the candidate countries. However, now the EU is in a position to use the excuse of the problems experienced by the EU in the latest enlargement and impose stricter conditions on Turkey.

Now, the proper implementation and enforcement of new legislation will be more strictly and closely monitored by the EU. The EU has already started to display this change in its approach. The Commission's proposed negotiating framework for membership talks with Croatia, that will start negotiations on March 17, 2005 can be viewed as an example of this change. One of the main indications of change, according to the new framework concerning the style of the negotiations[23] is that EU legislation and standards are not broken down into 31 chapters but into 35 chapters and it was also stated that the negotiations will be conducted chapter by chapter. The EU will also specify benchmarks for the provisional closure and where

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appropriate also for the opening of individual chapters. It is most probable, as was also stated in the 16-17 December 2005 European Council Conclusions that the same procedure will be applied to Turkey as well.

On the other hand, it must also be known that negotiations will not be negotiations in the real meaning of the word. In fact, there is not much to negotiate about, except *"transition periods"* that allow New Members more time to adopt particular rules after it joined the Union. (Please see **Annex II**).

There is also one more thing that Turkey has to realise. The EU, its structure, its decision-making mechanisms are not the same as other international organisations like NATO, the UN or Council of Europe that Turkey joined long ago. EU membership will require Turkey to accept the fact that the EU will touch every aspect of the political system and the economy of the country. Furthermore, Turkey should accept that for the EU to continue functioning properly, there is a need for unity of action by all Member States and mutual trust between them. That's why, it is important to note here that, the EU would like to be able to see the will and efforts of the candidate state in implementing common rules so more than in the Member States themselves. Therefore, during the negotiation period, the EU is much more involved in areas that may be considered purely domestic issues.

On the other side of the coin, by taking into consideration all the discussions after the European Council in December about the holding of referendums, it is obvious that during the negotiations, political discussions will (should) not be the one and only dimension of the process.

In this sense the latest Constitutional arrangement for the holding of a referendum in France, suggests that additional obstacles may beset Turkey's road to membership. In this sense the fact that the decision to accept Turkey into the Union may ultimately depend upon domestic politics rather than an objective evaluation of negotiation results because as we all know there is a historical perception of Turks as being religiously and culturally different from Europeans. It is a deep-seated perception that will be making itself felt throughout the entire negotiation process. Thus, this may make Turkey's destiny dependent on the dilemmas of a single country's political discourse. Referendums on Turkey's membership may be used a *"democratic*

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mechanism" justifying a *"no"* to Ankara. If this is the case, then Turkey should be well-prepared and design a proper cultural policy that will go hand in hand with the negotiation process and improve its image in Europe. All sections of Turkish society will need to be involved in the process.

There is also a reference to this in the Commission's conclusions and recommendations as well. In the recommendations the Commission also suggested to Turkey a strategy consisting of three pillars (one concerning cooperation to reinforce and support the reform process in Turkey, in particular in relation to the continued fulfilment of the Copenhagen political criteria, the other concerns the specific way of approaching acession negotiations and the last one entails a substantially strengthened political and cultural dialogue bringing people together from EU Member States and Turkey).

There is definitely, another dimension to this which will necessitate Turkey reacting to external critics with sang-froid and not with nationalist rhetoric and aggression. The latest example of this kind of behaviour was related to criticism by EU officials that the Turkish government slowed down in the implementation of reforms after it had won a date from Brussels to start accession talks.

During the negotiation period, economic stability and Turkey's ability to attract foreign direct investment will also be a matter of importance. This will be important in order to overcome the image of Turkey as potential labour exporter country.

On the other hand, before starting negotiations, both Turkey and the EU gave priority to meeting the political conditions of the Copenhagen criteria, thus neglecting mainly the second and the third criteria for future arrangements. It is also true that, with regard to the economic criteria, thanks to the Customs Union, Turkey will not start from scratch. However, it should also not be forgotton that membership will require deeper integration in terms of health and safety regulations, product standards etc.

Turkey will not need to meet the Maastricht convergence criteria prior to membership, however it needs to show that it can sustain at least good economic performance. According to many Europeans Turkey's political and economic life is still very volatile, thus EU analysts are not convinced

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that Turkey passed the *"point of no return."* Thus, any negative trends in Turkey's political and economic sphere will affect EU elites and public opinion, forcing them to rethink the viability of Turkey's *"European vocation."* In fact, any political or economic crisis in Turkey -- the likelihood of which cannot be excluded -- will be serving as an additional proof for Europe's widespread stereotypes of Turkey as a poor and underdeveloped country that is not ready for membership.

It is also true that the costs of compliance with EU rules will be very high especially in some areas. These costs have to be borne by both the public and private sector. Many Turkish businessmen (especially SMEs) will find it harder to compete when they begin to act in accordance with the EU rules. Then, all these complaints will be directed at the government and most likely the government will lose some support. The Turkish government should immediately take precautions and start informing those concerned about the short-term costs and long-term gains of meeting EU standards.

Turkish society has to be prepared for EU membership as well. In this sense, the best way to prepare Turkish population for membership would be (apart from propaganda actions) to speed up implementation of the newly promulgated legislation. As the new laws will be coming into effect in earnest, the people will be getting used to the new economic/political/legal environment that the new EU-type laws will be shaping. There's simply no better way to help the population understand what the EU is about.

Turkey should also draw lessons from the most recent phase of EU enlargement. In the light of all the developments experienced by the Central and Eastern European Countries, it is possible to reach the following conclusions:

In this sense Heather Grabbe[24] listed the experiences that could be drawn from previous negotiation processes. According to Grabbe, first of all it is important for Turkish counterparts to regard the Commission negotiators as allies whose job is to prepare a candidate country in the sense that no EU Member States' governments say 'no' to accession at the end of the process. Before starting negotiations, it is also important to carefully plan the financing of accession preparations because not all directives will cost the same to implement.

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If all the negotation processes of the Central and Eastern European Countries are analyzed, it is evident that, it is much better for a candidate country not to ask for many concessions. The more a candidate country seeks to obtain in negotiations, the less it really gets from the EU. The creation of a priority list is necessary.

Turkey should also be prepared for the fact that the real negotiations and bargaining will only take place in the last few years of the negotiation process. During the negotiations, Turkey should also expect EU's interference in foreign policies as well. The EU tends to exert pressure on candidate countries to align policies with the EU from the very beginning.

Now, it is up to Turkey to prove that Turkey is willing and able to do whatever is necessary to become an EU member (the implementation of legislation passed so far), to persuade the EU public, to coordinate its other foreign relations with the EU; to inform the Turkish public about the scale and cost of the changes needed to meet the EU's requirements and make the Turkish public aware that negotiations may be last a longer period than expected and will require a consistent strategy over lengthy period of time.

It is up to the EU to try to see Turkish membership not as a threat to European identity, to acknowledge the changes that have taken place in Turkey so far, to work jointly with Turkey on reforms that will accommodate Turkey as a Member State, to make membership conditions clear and to help Turkey in improving its image in Europe by preparing European opinion for Turkish membership.

The accession talks may well last for 10-15 years, naturally, it is difficult to predict what the end result will be. What is important to keep in mind, though, is that the negotiation process is a two-way street in more than just one sense of the term. Turkey will evolve through the reform process, but the EU will itself be undergoing dramatic changes as well. One possible scenario is that Turkey is rejected by the EU at very end of the road under the pressure of European public opinion in the member-states. Referendums on Turkey's membership may be used as a "democratic mechanism" justifying a "no" to Ankara. But, theoretically, a Norwegian scenario cannot be excluded as well. It is possible to imagine a situation, say, 15 years from now, whereby an economically strong and more politically mature Turkey would not be interested in membership in awkward and overly

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bureaucratised European structures. As is the case with Norway now, Turkey, too, might believe it would be more profitable "to go it alone," while having good-neighbourly political/economic links with the "unmanageable" EU.

Endnotes

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Annex I - TRANSITIONAL ARRANGEMENTS

	COUNTRIES											
Negotiation Chapters	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Free movement of goods	-	+	-	-	-	-	+	+	+	-	-	+
Free movement of persons	+	-	+	+	+	+	+	+ (safeguard)	+	+	+	+
Freedom to provide services	+	+	-	+	+	+	+	-	+	+	+	+
Free movement of capital	+	+	+	+	+	+	+	+	+	+	+	+
Company law	+	+	+	+	+	+	+	+	+	+	+	+
Competition policy	+	+	+	-	+	-	-	+	+	+	+	-
Agriculture	+	+	+	+	+	+	+	+	+	+	+	+
Fisheries	-	+	-	-	-	+	-	+	+	-	-	-

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	COUNTRIES											
Negotiation Chapters	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Transport policy	+	+	+	+	+	+	+	+	+	+	+	-
Taxation	+	+	+	+	+	+	+	+	+	+	+	+
Economic and monetary union	-	-	-	-	-	-	-	-	-	-	-	-
Statistics	-	-	-	-	-	-	-	-	-	-	-	-
Social policy and employment	+	-	-	-	-	+	-	+	+	-	-	+
Energy	+	+	+	+	-	+	+	+	+	+	+	+
Industrial policy	-	-	-	-	-	-	-	-	-	-	-	-
Small and medium-sized enterprises	-	-	-	-	-	-	-	-	-	-	-	-
Science and research	-	-	-	-	-	-	-	-	-	-	-	-
Education and training	-	-	-	-	-	-	-	-	-	-	-	-

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	COUNTRIES											
Negotiation Chapters	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Telecom,informa ion technologies and postal services	+	-	-	-	-	-	-	-	+	-		-
Culture and audio visual policy	-	-	-	-	-	-	-	-	-	-	-	-
Regional policy and coordination of structural instruments	-	-	-	-	-	-	-	-	-	-	-	-
Environment	+	+	+	+	+	+	+	+	+	+	+	+
Consumers and health protection	-	-	-	-	-	-	-	-	-	-	-	-
Cooperation in the field of justice and home affairs	-	-	-	-	-	-	-	-	-	-	-	-
Customs union	-	-	-	-	+	-	-	+	-	-	-	-
External relations	-	-	-	-	-	-	-	-	-	-	-	-

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	COUNTRIES											
Negotiation Chapters	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Common foreign and security policy	-	-	-	-	-	-	-	-	-	-	-	-
Financial control	-	-	-	-	-	-	-	-	-	-	-	-
Financial and budgetary provisions	-	-	-	-	-	-	-	-	-	-	-	-
Institutions	+ (to be addressed later, as appropriate	+	+	+	+	+	+	+	+	+ (to be addressed later, as appropriate	+	+

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Annex II

NEGOTIATION PROCESSES OF NEW MEMBER STATES: TRANSITIONAL ARRANGEMENTS CHAPTER BY CHAPTER[1]

Chapter 1-Free Movement of Goods

"The principle of Free Movement of Goods means requires a common regulatory framework (technical standards, product certification, metrological definitions) to ensure products can move freely from one part of the Union to another just as they would within the boundaries of an individual country. The transposition of harmonised European product (products for which common harmonised standards have been adopted) legislation (covering conformity assessment bodies, accreditation bodies, standardisation and market surveillance) represents the vast majority of the content of this chapter"

Latvia- Hungary-Czech Rep. - Slovakia
None

Cyprus
In the field of medicinal products for human and veteniary use (Directive 2001/82/EC and Directive 2001/83/EC) until the end of 2005.

Estonia
It was decided that the Commission may grant Estonia a derogation allowing it to place on its market Baltic fish exceeding the established dioxin limits until the end of 2006, under the following conditions:

a) Estonia must demonstrate that the average level of human exposure to dioxins in Estonia is not higher than the average levels in the current EU,
b) Estonia must demonstrate that an information system is in place to fully inform consumers, especially certain vulnerable groups of the population, in order to avoid potantial health risks,
c) Estonia must implement the necessary measures to ensure that such fish or fish products are not marketed in other Member States,
d) Estonia must carry out monitoring of the levels of dioxins in fish from the Baltic and annually report the results to the Commission.

[1] The whole text is based on "Enlargement of the European Union-Guide to the Negotiations Chapter by Chapter.", http://europa.eu.int/comm/enlargement/negotiations/chapters/index.htm, December 2004.

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Malta
In the field of medicinal products for human and veteniary use until the end of 2006; Malta may authorise the use on its territory of the term "milk chocolate" to designate the product referred to in point 5 of Directive 2000/36/EC, on condition that the term is accompanied in all cases by an indication of amount of dry milk solids laid down for each of the products in the format described in the Directive.

Lithuania-Slovenia
The EU has accepted one transitional arrangement for Lithunia until January 1, 2007 and for Slovenia until the end of 2008, concerning the renewal of marketing authorisation for pharmaceuticals.

Poland
In the field of medicinal products for human and veteniary use (Directive 2001/82/EC and Directive 2001/83/EC) until the end of 2008; with regard to the marketing authorisation for medical devices issued under Polish legislation prior to the entry into force of legislation transposing Directive 90/385/EEC, with a validity period extending beyond the date of accession will be valid until their expiry or end of 2005 whichever the earlier.

Chapter 2-Freedom of Movement for Persons

"The acquis covers basically four areas of free movement of workers, mutual recognition of proffessional qualifications, citizens' rights and coordination of social security schemes. There are also some links with other freedoms, the social policy and employment and justice and home affairs."

Cyprus
None

Malta
Malta has been granted a special arrangement:

For the first 7 years after the date of accession, Malta may impose restrictions unilaterally in urgent and exceptional cases where the influx of workers from the EU creates pressure on the local labour market or particular sectors. After the first 7 years since the date of membership, in case of great influx of workers from the EU, Malta may seek a remedy with the EU institutions.

Czech Rep.-Estonia- Hungary- Latvia- Lithunia- Poland- Slovakia- Slovenia
A 2 year period during which national measures will be applied by current Member States to new Member States (depending on how liberal these national measures are, they may result in full labour market access); after this period, reviews will be

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held (one automatic review before the end of the second year after the accession and a further review at the request of the new Member State affected) and this procedure includes a report by the Commission but leaves the decision on whether to apply the acquis up to the current Member States;the transitional arrangement should in principle come to an end after five year, but may prolonged for a further two- year in those current Member States where there would serious disturbunces of the labour market or threat of such distruption; safeguards may be applied by the Member States up to the end of the 7th year. Furthermore, a standstill clause will apply, whereby current Member States labour markets can not be more restricted than that prevailing at the time of the signature of the Accession Treaty;current Member States muast give preference to candidate country nationals over non-EU labour.

Chapter 3-Freedom to Provide Services

"The acquis relates to Article 43 EC on the freedom of establishment and Article 49 EC on the freedom to provide services (financial services: banking, insurance and investment services and securities markets; craftsmen, traders and farmers; self-employed commercial agents)"

Malta-Czech Rep.
None

Cyprus
For taking up and pursuit of business of credit insitutions until the end of 2007.

Estonia-Hungary-Latvia-Lithuania-Poland
Transitional arrangements until the end of 2007 to reach the minimum level of compensation.

Hungary-Poland
For raising the minimum capital requirements until the end of 2007, Hungary and Poland must ensure that the own funds of undertakings do not fall below the highest level reached with effect from the date of accession.

Hungary
Hungary has been granted a transitional arrangements until the end of 2007, whereby the level of cover provided in Hungary by an investment firm from another Member State may not exceed the minimum level of compensation referred to in Directive 97/9/EC.

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Latvia-Estonia-Lithunia
Exclusion of credit unions, lower levels of bank guarantee and investor compensation until the end of 2007.

Slovenia
For the protection of the level and scope of the domestic deposit-guarantee scheme for deposits with bank and for the protection of domestic investor-compensation scheme regarding the funds of investors with an investment bank until the end of 2005; for savings and undertakings established before February 20, 1999 until the end of 2004.

Slovakia
To reach the minimum level of compensation until the end of 2006.

Chapter 4-Free Movement of Capital

"Under this chapter, Member States must remove all restrictions in national law on the movement of capital between themselves, but also with third countries (with some exceptions) and adopt EU rules to guarantee the proper functioning of cross-border payments and transfers of all forms of capital (payments and transfers of money over the borders, transactions allowing transfer of ownership of assets and liabilities, the area of payment systems)"

Cyprus-Hungary-Poland-Czech Rep.
A 5- year transitional period for the acquisition of secondary residences.Nationals who are resident are exluded from the scope of the transitional arrangements.

Czech Rep.-Slovakia
A *7 year transitional period* for the acquisition of agricultural and forestry land.
Malta

Malta is granted the right to maintain on a permanent basis its national legislation regarding the acquisition of secondary residences. Malta may maintain restrictions, on a non-discriminatory basis, on the right of the EU citizens who have not legally resided in Malta for at least 5 years, to acquire and hold secondary residences.

Lithuania-Estonia-Czech Rep.-Slovakia-Hungary-Latvia
A *7 year transitional period* for the acquisition of agricultural and forestry land. Possibility to extend this transitional period by 3 years if Hungary invokes safeguard clause. Nationals of the Hungary's self-employed farmers are excluded from the scope of the transitional arrangements.

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Poland
A *12 year transitional period* for the acquisition of agricultural and forestry land. Possibility to extend this transitional period by 3 years if Poland invokes safeguard clause. Nationals of the Poland's self-employed farmers are excluded from the scope of the transitional arrangements.

Slovenia
As regards the real estate market, Slovenia was granted the possibility to resort to the general economic safeguard clause provided for in the Accession Treaty for a period of up to a maximum of 7 years after the date of accession.

Chapter 5-Company Law

"Under this chapter, Memer States must adopt and apply harmonized rules required for the proper operation of companies in the internal market (directives on the public disclosure on the identity of those empowered to represent a company, its financial situation, raising, maintenance and alteration of capital of public liability companies, accounting law, protection of intellectual and industrial rights and the Regulation replacing the Brussels Convention on jurisdiction and the enforcement of judgements in civil and commercial matters and the Rome Convention on the law applicable to contractual obligations)"

Cyprus-Malta-Latvia-Lithuania-Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
A special mechanism was agreed with all acceding countries on industrial property rights concerning pharmaceutical products. They have also accepted the EU's proposal on pharmaceutical products and Community Trademark.

Chapter 6-Competition Policy

"The competition acquis covers both anti-trust and state aid control policies. It includes rules and procedures to fight anti-competitive behaviour by companies (restrictive agreements between undertakings and abuse of dominant position), and to prevent governments from granting state aid which distorts competition in the Internal Market. Generally, the competition rules are directly applicable in the whole Union , and Member States must fully co-operate with the Commission on the enforcement of these rules."

Czech Rep.-Poland
A transitional arrangement is agreed whereby the incompatible state aids will be continued until the end of 2006 with the aim of restructuring the steel industry.

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Cyprus-Hungary
For phasing out of incompatible fiscal state aid for off-shore companies until the end of 2005.

Hungary-Malta
For phasing out of incompatible fiscal state aid for small and medium sized enterprises until the end of 2011.

Hungary
For phasing out of incompatible fiscal state aid granted by local authorities until the end of 2007.

Poland
For phasing out of incompatible fiscal state aid for small enterprises until the end of 2011 and medium sized enterprises until the end of 2010; for the conversion of incompatible fiscal state aid to beneficiaries in the motor-vehicle manufacturing sector into regional investment aid; aid is limited to 30% of the eligible costs, regardless of the regional aid ceiling for other types of investment. The fiscal aid will be discontinued when the stipulated aid ceiling is reached. For investments that relate to standards for which a transitional arrangement has been granted under the Environment Chapter and for the duration of that transitional arrangement, the aid intensity is limited to the regional aid ceiling with a 15% supplement for SMEs. For existing IPPC installations covered by a transitional arrangement under the Environment Chapter, aid intensity of 30% is agreed until end 2010. For the IPPC-related investment not covered by a transitional arrangement under the Environment Chapter, aid intensity of 30% is agreed until October 31, 2007. For large combustion plants, an aid intensity of 50% was agreed for investments that relate to a transitional arrangement granted under the Environment Chapter.

Hungary-Slovakia
For the conversion of incompatible fiscal state aid to beneficiaries in the motor-vehicle manufacturing sector into regional investment aid; aid is limited to a level that corresponds to 40% of the maximum aid ceiling. The fiscal aid will be discontinued when the stipulated aid ceiling is reached.

Poland-Hungary-Malta
For the conversion of incompatible fiscal state aid for large companies into regional investment aid; aid is limited to a maximum of 75% of the eligible investment costs if a company has started the investment/obtained the entitlement for the tax exemption before January 1, 2000, and to 50% if the company has started the investment/obtained the entitlement for the tax exemption after January 1, 2000. The fiscal aid will be discontinued when the stipulated aid ceiling is reached.

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Malta
For implementing its seven-year restructuring plan at the shipyards that have started in 2002 until the end of 2008; for Maltese small firms to continue benefiting from incentive packages that were given under the old Industrial Development Act until the end of 2011; for Maltese small firms to continue benefiting from operating aid under the Business Act; for the orderly and complete adjustment of the market in the importation, stocking and wholesale marketing of petroleum products until the end of 2005.

Slovakia
A transitional arrangement is agreed whereby the incompatible fiscal State aid to one beneficiary in the steel sector is to be discontinued until the end of 2009 or when aid reaches a pre-determined amount, whichever comes first. The objective of aid is to facilitate the ordered rationalisation of excess staffing levels, the resulting total coat being comparable to the aid.

Latvia-Lithuania- Estonia-Slovenia-Czech Rep.-Poland-Hungary-Slovakia, Cyprus-Malta
The Accession Treaty sets out rules dealing with the so-called existing aid measures.

Chapter 7-Agriculture

"This chapter covers a large number of binding rules, many of which are directly applicable. The proper application of these rules and their effective enforcement by an efficient public administration are essential for the functioning of the common agricultural policy. It also covers detailed rules in the veterinary field, which are essential for safeguarding animal health and food safety in the Internal Market, as well as in the phytosanitary field, including issues as seed quality, harmful organisms and plant protection products."

It is the *largest of the negotiation chapters*. It covers: Agriculture Guarantee Funds; trade mechanisms; quality policy; organic farming; Farm Accountancy Data Network;state aids; arable crops; cereals, oilseeeds and protein crops; non-food, processed cereals, potato starch, cereal substitutes, rice; sugar; fibre crops; fruit and vegetables; wine and alcohol; bananas; olive oil; tobacco; milk and milk products; beefmeat, sheepmeat; pigmeat; rural development; control system in the internal market; identification and registration of animals; control at the external borders; animal disease control measures; animal health- trade in live animals and animal products; public health protection; animal welfare; zootechnical legislation; harmful organisms; quality of seds and propagating material; plant variety rights; plant protection products/pesticides; animal nutrition.

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Czech Republic-Slovakia
Concerning direct payments, Czech and Slovak farmers will receive direct payment lower than the old Member States until 2013.

Czech Republic
Czech Republic obtained some concessions regarding the wine and alcoholic drinks; enrichment of wine with sucrose was permitted in Czech Republic;terms and conditions for the use of the name Slivovice have been agreed; designation for Czech "Karlovarska borka" has been agreed; transitional arrangements in the public health sector have been agreed for Czech Republic: 44 meat establishments, 1 egg establishment and 7 fish establishments (until the end of 2006);Czech Republic may continue to permit marketing on its territory of feeding stuffs based on yeast species Candida utilise cultivated on vegetable fibres until 2 years after the date of accession.

Cyprus
In the field of state aid, Cyprus was given the possibility (in addition to national direct payments) to grant transitional and degressive national aids in certain sectors until the end of 2010; it was also agreed that Cyprus may grant special support to its deprived areas for a period of 5 years from the date of accession; in the field of specialised corps, Cyprus had a 5 year transitional arrangements; in the field of wine and alcohol Cyprus was granted specific planting rights and designation for wines have been agreed for Cypriot wines.

Malta
In the field of state aid, it was agreed that Malta may use of special temporary state aids in certain sectors to support agricultural producers, processors and recognized retailers of imported agricultural products; these state aid measures are specificially adapted to the Maltese agricultural situation and degressive over time for a period of up to 2014; Malta has the possibility to support of agricultural goods from Gozo to Malta for a period of 5 years from the date of accession; in the field of specialised corps, Malta had a 5 year degressive transitional arrangement in which to give aid to individual tomato producers; in the field of wine and alcohol Malta was granted specific planting rights and a transition period until the end of 2008 for the enrichment of wine from indigenous variety;in the field of rural development (the whole territory is classified as less-favoured area) Malta was granted a temporary measure to assist full-time farmers in adapting to the new market environment in replacement of semi-subsistence measure; was granted adapted conditions regarding the support measure to set up producer groups.

Cyprus-Malta-Hungary-Poland
In the field of livestock and animal products they had a 5 year transitional arrangements for marketing of drinking milk that does not comply with the EU fat

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content requirements (such milk may only be marketed in the Member States in question or exported to a third country).

Cyprus-Malta
Cyprus and Malta had a 5 year transitional arrangements for reducing the stocking density to the levels allowed under the EU beef premium rules.

Hungary
Wine growing areas have been established for Hungary;enrichment of wine with sucrose was permitted in Hungary; designation for wines (indication for quality wines, terms for sparkling wines and for liquor wines) have been agreed for Hungarian wines; designation for alcoholic drinks (e.g. geographic, traditional etc.) have been agreed for Hungarian "Palinka" (and others); transitional arrangements in the public health sector have been agreed for Hungary: 44 red meat establishments (until the end of 2006).

Poland
A 3 year transitional arrangement to set criteria for the preliminary recognition of producer organizations in the fruit and vegetables sector at five producers ana a minimum value of marketable production of 100000euros;the decision to classify Poland into a wine growing zone and obligation to register and classify the wine varieties was posponed until accession; designation for alcoholic drinks (e.g. geographic, traditional etc.) have been agreed for Polish "vodka", "Polish cherry" and "herbal vodka from the North Lowlands, aromatised with extract of bison grass"; a 5 year transitional arrangement to set the threshold for the recognition of producer group in the tobacco sector at 1% of the guarantee threshold for all production regions in Poland; 1 year transitional arrangement for the allocation of milk quota to individual producers and be exempted from the payment of additional levies in the first quota year; a 3 year transitional arrangement relating to which additional breeds are entitled to receive the suckler cow premium; transitional arrangements in the public health sector have been agreed for Poland: 332 meat establishments (until the end of 2007), 113 milk establisments (until the end of 2006) and 40 fish establishments (for 3 years); transitional arrangements for the quality of raw milk; transitional arrangements for the market placing of certain plant protection products until the end of 2006.

Latvia-Lituania-Slovenia-Malta-Hungary-Poland-Czech Rep.
Certain establishments have been granted a transtional period in order to upgrade to fully meet structural requirements for hen cages; there are also transitional periods on certain parts of seed quality legislation.

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Lithuania-Slovenia
Certain food establishments have been granted a transitional period in order to upgrade to fully meet EU requirements.

Estonia
In the area of state aid, Estonia had the possibility to grant a national dairy premium in 2004, on the condition that it was not higher than the pre-accession level. In the organic farming, Estonia had granted transitional arrangements including the use of untreated seeds, planting material and propagating material not produced by the organic production, certified organic apiaries to use non-organic sugar as bee-feeding until the end of 2005 and the use of organic farming of potassium preparation and domestic peat in 18 months after the date of accession. In the area of suckler cows, Estonia had a 3-year transitional arrangement relating to additional breeds were entitled to receive the suckler cow premium. In the field of rural development, with certain conditions, Estonia was granted the possibility to support afforestation of abandoned land between 2004-2006.

Slovakia
A 3 year transitional arrangement for state aids for its warehouse receipt and goods receipt system; wine growing areas has been established for Slovakia; enrichment of wine with sucrose was permitted in Slovakia; designation for wines (indication for quality wines, terms for sparkling wines and for liquor wines) have been agreed for Slovak wines; designation for alcholic drinks has been agreed including Slovakian spirit drinks; transitional arrangements in the public health sector have been agreed for Czech Republic: 1 meat establishment, 1 fish establishment (until the end of 2006);

Slovenia
In the area of direct payments, Slovenia had the possibility to top up to the total level of direct support for the farmer on a product by product basis prior to accession under a Common Agricultural Policy (CAP) like national scheme on a basis increasing 5 points each year starting from 2004. In the area of state aid, it was agreed that Slovenia may grant degressive State aid for the production of oil pumpkins for a period of 5 years from the date of accession. In the field of specialised crops, winegrowing areas were established for Slovenia with transitional arrangements, including the designation Slovenian wines. Concerning livestock and animal products, Slovenia was granted a transitional arrangement of 1 year for the allocation of milk quota to individual producers and was exempted from the payment of additional levies in the first quota year.

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Chapter 8-Fisheries

"The acquis on fisheries consists of regulations, which do not require transposition into national legislation. However, it requires the introduction of measures to prepare the administration and the operators for participation in the Common Fisheries Policy (in the areas of market policy, resource and fleet management, inspection and control, structural actions and state aid)"

Malta

In the field of access to waters and resources Malta asked and been granted special arrangements:

establishment of a 25-mile fishing zone limited to small-scale fishing based on the length of the boats and on the power of the engine. Also, trawlers not exceeding an overall length of 24 meters shall be authorised to fish in the 25-mile management zone within certain trawlable areas; their fishing effort will be based on the current level of capacity in the area.

the number of vessels that can participate in the lampuki (dolphinfish) fishery shall be limited to maximum of 130, and the allocation and laying down of Fish Aggregating Devices in the fishing season shall be open for all Community fishermen on a non-discriminatory basis, but only starting from outside 12 miles for non-Maltese fishermen.
All vessels exceeding an overall length of 12 meters which are authorised to fish in the 25-mile management zone will be included on a list.

These conservation measures wil be non- discriminatory and will be applied in the entire 25-mile management zone.

The EU has also agreed to include lampuki (dolphinfish) in Annex IV of Regulation (EC) 104/2000.

Latvia

Latvia has requested:
-a derogatory regime for certain waters (a specific conservation regime in the Gulf of Riga);

-the inclusion of further species in the regulation on the common market organisation (Baltic sprat)

As regards Latvia's request for a specific management regime in the entire Gulf of Riga, the EU has prosed to inculde Regulation (EC) 88/98 in the list of acts requiring adaptation by reason of accession. The adaptation to Regulation (EC)

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88/98 shall be drawn up during the interim period in comformity with the following guidelines to be specified in the relevant Annex to the Accession Treaty:

the engine power of the vessels authorised to fish in the Gulf of Riga must not exceed 221kW;

the vessels authorised to fish in the Gulf of Riga will be included on a list;
the list shall be established in order to ensure that the overall fishing capacity, measured in engine power (kW), shall not exceed that observed in a period representative of the current level of activity in the Gulf of Riga.

These technical measures for conservation will be non-discriminatory and applied in the entire Gulf of Riga. The general principles (relative stability, exclusive Community competence) and a general methodology for determining the access to resources still have to be agreed.

Poland
EU has agreed to include sprat of the Baltic region in Annex IV of Regulation 2000/104/EC, provided that the conditions laid down in the Article 24 of the Regulation are met. This will allow support in the form of flat-rate aid to independent intervention measures by producer organisations.

Lithuania-Estonia-Slovenia-Cyprus-Hungary-Czech Rep.-Slovakia
None

Chapter 9-Transport Policy

"Transport legislation aims at improving the functioning of the Internal Market by promoting efficient and environment and user-friendly transport services. The transport acquis covers the sectors of road transport, railways, aviation, maritime transport and inland waterways. Member States are required to adopt and implement legislation concerning technical and safety standards as well as social standards."

Hungary and Poland
The transitional arrangements foresee to reciprocally restrict the access to the national transport markets for an initial period of 3 years; they have been granted transitional arrangements during which national axle-load limits may be maintained with regard to certain vehicles in international traffic complying with Directive 96/53/EC laying down for certain road vehicles circulating within the Community the maximum authorised weights in international traffic (Hungary may maintain Hungarian axle-weight limits on non-upgraded parts of the Hungarian road network until the end of 2008 and Poland may maintain Polish axle-weight limits on non-

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upgraded parts of the Polish road network until the end of 2010); they have been granted transitional arrangements as regards Directive 91/440/EEC permitting the limitation of access to the Trans-European Rail Freight Network under certain conditions until the end of 2006, however at least 20% of the annual total capacity of the Trans-European Rail Freight Network in these countries shall be preserved for railway line shall be indicated by the infrastructure manager in the network statement.

Czech Rep.-Estonia-Lithuania-Slovakia
The transitional arrangements foresee to reciprocally restrict the access to the national transport markets for an initial period of 2 years.

Cyprus
The transitional arrangement as regards Regulation (EEC) No 3821/85 until the end of 2005 during which vehicles registered before January 1, 2002 and engaged exclusively in domestic transport operations will not have to comply with the requirement of installation and use of tachograph. Drivers of such vehicles shall record their driving times and rest periods using a personal log book.

Hungary
Hungary may maintain Hungarian axle-weight limits on non-upgraded parts of the Hungarian road network until the end of 2008; transitional arrangements for the phasing out of certain noisy aircraft until the end of 2004.

Poland
Poland may maintain Polish axle-weight limits on non-upgraded parts of the Polish road network until the end of 2010.

Malta
A transitional arrangement allowing that certain of the items stated in Directive 96/96/EC on the roadworthiness tests for motor vehicles and their trailers shall not be tested as regards motor vehicles engaged exclusively in domestic transport operations in Malta until the end of 2004; a transitional arrangement until the end of 2004 during which the minimum tax rates laid down in Directive 99/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures shall not apply in Malta to vehicles engaged in international transport operations; according to another arrangement, motor vehicles engaged exclusively in domestic transport operations in Malta need not be equipped with speed limitation devices stipulated in Directive 92/6/EEC until the end of 2004.

Latvia
The transitional arrangement as regards Regulation (EEC) No 3821/85 until the end of 2005 for vehicles registered before January 1, 2001, and engaged exclusively in

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domestic transport operations will not have to comply with the requirement of installation and use of tachograph. Drivers of such vehicles shall record their driving times and rest periods using a personal log book.

Lithuania
The transitional arrangement as regards Regulation (EEC) No 3821/85 until the end of 2005 during which vehicles produced before 1987 and engaged exclusively in domestic transport operations will not have to comply with the requirement of installation and use of tachograph. Drivers of such vehicles shall record their driving times and rest periods using a personal log book.

Latvia-Lithuania
To reach the full level of the financial standing required for the admission to the occupation of transport undertakings engaged exclusively in domestic road haulage and passenger transport operations.

Lithuania-Hungary
A transitional arrangement as regards Directive 92/14/EEC for phasing out the operation of noisy aircraft. The transitional arrangement has been granted to Hungary until the end of 2004 with regard to aircraft from certain third countries, for Lithuania until the end of 2004 with respect to third country at Kaunas International Airport.

Estonia
Estonia was granted a transitional arrangement regarding the access of non-fresident hauliers to the national road transport market of other Member States to be phased in gradually. The transitional arrangements forsee to reciprocally restrict the access to the national transport markets for and initial period of two years for Estonia.

Slovakia
The transitional arrangement foresees to reciprocally restrict the access to the national transport markets for an initial period of 2 years. Any Member State can prolong the initial period for a period of up to 5 years.

Slovenia
None

Chapter 10-Taxation

"It largely covers indirect taxation, as concerns Value-Added Tax (VAT) and excise duties. It lays down definitions and principles of VAT. Excise4 duties on mineral oils, tobacco products and alcoholic bevrages are regulated at EU level as

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concerns the structure of the duty, the level of minimum rates and the holding and movement of excisable goods. With regard to direct taxation, the acquis covers some aspects of corporate taxes and aims mainly at removing obstacles to cross-boder activities between enterprises."

Cyprus-Hungary-Poland-Slovenia
They are allowed to maintain reduced VAT rate on restaurant services until end 2007.

Cyprus
A 1 year transitional arrangement during which it may apply an exemption from excise duties on mineral oils used for the production of cement, and a 1 year transitional arrangement during which it may apply an exemption from additional excise duties on all types of fuel for local passenger transport.

Czech Rep.-Poland, Slovakia-Slovenia
They are allowed to maintain reduced VAT rate on construction until end 2007.

Czech Rep.-Estonia-Hungary-Latvia-Slovakia
They are allowed to maintain reduced VAT rate on heating until end 2007 (for Latvia until end 2004 and for Slovakia until end 2008).

Cyprus-Malta
A transitional arrangement until the end of 2007 (for Cyprus) and until the end of 2009 (for Malta) to maintain the VAT zero rate on foodstuffs and pharmaceutical products.

Estonia
A transitional arrangement until the end of 2008 to ensure full compliance with Directive 90/435/EEC (Parent-Subsidiary Directive).

Latvia-Lithuania- Estonia-Slovenia-Czech Rep.-Poland-Hungary-Slovakia, Cyprus-Malta
They can maintain a higher turnover threshold than the level provided for in the acquis to exempt SMEs from VAT, and can exempt international passenger transport from VAT.

Latvia-Lithuania- Estonia-Slovenia-Czech Rep.-Poland-Hungary-Slovakia,
A transitional arrangement to postpone compliance with the EC legislation on the level of cigarette excise duty rates until after accession (for Czech Rep. and Slovenia until the end of 2007, for Slovakia, Hungary and Poland until the end of 2008, for Estonia, Latvia and Lithuania until the end of 2009, in case of Czech Rep.

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the transitional arrangements cover other tobacco products and and for Estonia smoking tobacco.)

Poland
For maintaining VAT zero-rate on books until the end of 2007 and a super-reduced VAT rate on foodstuffs and agricultural inputs excluding machinery until April 2008; lower excise duty rates on cigarettes until the end of 2008; 1 year transitional arrangement for maintaining reduced excise duty rate on certain ecological fuels.

Czech Rep.-Hungary-Slovakia
They are granted a derogation to apply the reduced excise duty rate to the production of fruit spirit for personal consumption (for a maximum production of 30 litres of fruit spirit per producing fruit grower's household per year in the case of the Czech Rep., and for a maximum of 50 litres in the case of Hungary and Slovakia).

Chapter 11-Economic and Monetary Union

"Candidate countries will participate in Economic and Monetary Union (EMU requires the adoption of the Single Market acquis especially on free movement of capital; prohibition of direct financing of the public sector; prohibition of privileged access of the public sector to financial institutions; independence of Central Bank etc.) from the date of their accession while not adopting the euro at the outset because the Treaty requires that an assessment of the sustainability of the government's financial position be performed before accession and the candidate countries will not have participated in the Exchange Rate Mechanism, which is not open to the candidate countries prior to accession".

Cyprus-Malta-Latvia-Lithuania-Estonia-Slovenia-Hungary-Poland-Czech Rep-Slovakia
None

The opt-out status being disregarded for the candidate countries, no transitional periods or special arrangements are permitted, nor have been requested by any of the countries.

Chapter 12-Statistics

"The main issue here whether the countries are able to produce accurate and harmonised data in a permanent and sustainable way. It depends on the general administrative capacity of the country, its public service performance and the capacity to recruit and retain qualified people."

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Cyprus-Malta-Latvia- Lithuania -Estonia-Slovenia -Hungary-Poland-Czech Rep-Slovakia
None

Chapter 13-Employment and Social Policy

"It includes minimum standards in fields such as labour law, equal treatment of women and men in employment and social security, and health and safety at work. Specific binding rules have also been developed in public health (on tobacco control and surveillance and control of communicable diseases) and recently also with respect to non-discrimination on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation."

Cyprus-Lithuania –Estonia-Hungary-Czech Rep-Slovakia
None

Poland
A transitional arrangement until the end of 2005 for the Directive on work equipment with respect to the equipment installed before December 31, 2002.

Malta
A transitional arrangement until July 31, 2004 in the manufacturing sub-sectors of food and beverages, textiles, clothing and footwear, transport equipment, electrical machinery, appliances and supplies, and furniture with respect to the working time limits provided by the working time Directive; a transitional arrangement until the end of 2004 with respect to collective agreements existing December 12, 2001 in the above-mentioned manufacturing sub-sectors where these agreements contain clauses relevant for Article 6 (2) of the working time Directive with validity beyond July 2004; a transitional arrangement until January 1, 2006 for the Directive on work equipment with respect to equipment already in use on the date of accession.

Latvia
A transitional arrangement until July 1, 2004 for the Directive on the minimum safety and health requirements for the use of work equipment by workers at work in respect of work equipment already in use on December 13, 2002; a transitional arrangement until the end of 2004 for the Directive on minimum safety and health requirements for the workplace with respect to installations already in use on March 27, 2002; a transitional arrangement until the end of 2004 for the Directive on minimum safety and health requirements for work with display screen equipment with respect to equipment already in use on June 1, 2001.

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Slovenia
Transitional arrangements until the end of 2005 for Directives related to exposure to noise (Directive 86/188/EEC), chemical, physical and biological agets at work (Directive 96/94/EEC and Directive 91/322/EEC).

Chapter 14-Energy

"EU energy policy objectives include the improvement of competitiveness, security of energy supplies and protection of environment. The energy acquis consists of rules and policies, notably regarding competition and state aids (including in the coal sector), the internal energy market (opening up of the electricity and gas markets, promotion of renewable energy resources, crisis management and oil stock security obligations), nuclear energy and energy efficiency."

Hungary
None

Czech Republic
A transitional arrangement until the end of 2004 to implement the market opening provisions of Article 18 of the Directive 98/30/EC related with gas.

Poland -Czech Rep. -Cyprus-Malta-Estonia-Latvia-Lithuania-Slovenia-Slovakia-Malta
Transitional arrangements for the implementation of the obligation to maintain 90 days of oil stocks. (For Czech Rep. and Slovenia until the end of 2005; for Malta until the end of 2006, for Cyprus until the end of 2007, for Poland and Slovakia until the end of 2008 and for Estonia, Latvia and Lithuania until the end of 2009)

Estonia
A transitional arrangement until the end of 2008 to implement the market opening provisions of Article 19 (2) of the Electricity Directive 96/92/EC; the extension of the eligibility of the research fund for coal and steel to oil shale.

Chapter 15-Industrial Policy

"This acquis does not require transposition into the national order of the candidate countries. It consists of general competitiveness policy guidelines established both at the horizantal and sector-specific levels, that are not legally binding on the Member States."

Cyprus-Malta-Latvia-Lithuania -Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
None

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Chapter 16-Small and Medium-sized Enterprises

"The acquis covers the area of enterprise policy, distributive trades, tourism and social economy and decisions setting up consultation procedures and Community programmes, or of recommendations. These do not require transposition into the national legal order of the candidate countries nor implementation and enforcement measures (except the Directive on tourism statistics)."

Cyprus-Malta-Latvia- Lithuania -Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
None

Chapter 17-Science and Research

"The acquis consists of a large number of Council and Commission Decisions concerning two areas namely Framework Programmes of European Community activities in the field of research, technological development and demonstration and of the European Atomic Energy Community for research and training activities and Science and Technology Cooperation agreements with third countries."

Cyprus-Malta-Latvia- Lithuania -Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
None

Chapter 18-Education and Training

"The acquis consists of a 1977 Directive (education of the children of migrant workers), action programmes and Conclusions, Resolutions or Declarations of the Council or the Council and Ministers of Education meeting within the Council on various issues (equality of opportunity; illiteracy; safety in schools, facilities for minorities etc.)"

Cyprus-Malta-Latvia- Lithuania -Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
None

Chapter 19-Telecommunications, IT and Postal Services

"The candidate countries need to adopt a national telecommunications policy for the development of the sector consistent with Community policy; to prepare market players for the pressure of competition expected when they join the EU; to prepare

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the telecommunications market through the transposition and implementation of Community legislation, in particular through price re-balancing; to ensure the objective enforcement of the regulatory framework through an adequately resourced and well trained independent regulatory authority and to address the communications needs of under-developed regions, especially the adoption of a universal service policy. As for postal services, candidate countries need to adopt a national postal policy for the development of the sector consistent with Community policy; to prepare market players for the pressure of competition expected when they join in the EU and to prepare the postal market through the transposition and implementation of Community legislation."

Cyprus-Malta-Latvia- Lithuania -Estonia-Slovenia-Hungary-Czech Rep.-Slovakia
None

Poland
A transitional arrangement until the end of 2005 on the further opening to competition of postal services.

Chapter 20-Culture and Audiovisual Policy

"The focus of this chapter is alignment by the candidate countries with the Television Without Frontiers Directive (legal frame reference for the free movement of television broadcasting services in the EU to promote the development of a European market in broadcasting and related activities."

Cyprus-Malta-Latvia- Lithuania -Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
None

Chapter 21-Regional Policy and Coordination of Structural Instruments

"The acquis is covered by a framework regulation laying down general provisions on the Structural Funds as well as by a series of implementing regulations and decisions, which do not require transposition into national legislation. However, the candidate countries need to comply certain requirements: to have the appropriate legal framework allowing for the implementation of the specific provisions in this area; to agree with the Commission a provisional NUTS classification for the implementation of Structural Funds; to design a development plan; to have the appropriate procedures for multi-annual programming of budgetary expenditure in place; to ensure the implementation of the partnership principle at the different stages of programming, financing, monitoring and evaluation of Structural Funds assistance; to comply with the specific monitoring

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and evaluation requirements, in particular as regards the ex-ante evaluation of the development plan etc."

Cyprus-Malta-Latvia- Lithuania -Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
None

Chapter 22-Environment

"Environment policy aims to promote sustainable development and to protect the environment for present and future generations, and is based on the integration of environmental protection into other Community policies, preventive action,the polluter pays principle, fighting environmental damage at source and shared responsibility. The acquis covers horizontal legislation, water and air pollution, management of waste and chemicals, biotechnology, nature protection, industrial pollution and risk management, noise and radiation protection."

Estonia-Latvia-Lithuania-Malta-Poland-Slovakia
The requirements for the storage of petrol and its distribution from terminals to service stations (Directive 94/63/EC) will be gradually achieved. (in Estonia-until the end of 2006; in Latvia- until the end of 2008; in Lithuania-until the end of 2007; in Malta- until the end of 2004; in Poland- until the end of 2005 and in Slovakia-until the end of 2007)

Latvia-Lithuania-Malta-Poland-Slovakia-Slovenia-Czech Rep.-Cyprus-Hungary
They dispose of additional time o achieve recovery and recycling of packing waste (Directive 94/62/EC)

Latvia-Lithuania-Malta-Poland-Slovakia-Slovenia-Czech Rep.-Cyprus-Hungary-Estonia
They dispose of additional time to build canalisation and treatment facilities for urban waste waters (Directive 91/271/EEC)

Czech Republic-Slovakia
As regards the large combustion plants (Directive 2001/80/EC), emissions from a limited number of specifically listed new plants will be fullyin line with the acquis until the end of 2007; to achieve the recovery and recycling targets for packing waste and to build canalisation and treatment facilities for urban waste waters an additional time was granted.

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Hungary
As regards the large combustion plants (Directive 2001/80/EC), emissions from a limited number of specifically listed new plants (put into operation after 1987) until the end of 2004

Poland
As regards the large combustion plants (Directive 2001/80/EC), emissions from a limited number of pre-1987 plants until the end of 2015;as regards the integrated pollution prevention and control (Directive 96/61/EC) until the end of 2010; the specific requirements concerning radiological equipment will not apply until the end of 2006 to avoid an unnecessary interruption of medical diagnoses; for the storage of petrol and its distribution from terminals to service stations until the end of 2005; as regards heavy fuel oils, Poland ia allowed to use fuel oils with a sulpher content higher than required under the acquis until the end of 2006;as regards the landfillof waste until the end of 2012; certain discharges of dangerous sustances into the aquatic environment (Directive 76/464/EEC) are allowed until the end of 2007.

Cyprus
In the field of air quality, Cyprus disposes of a 1 year transitional arrangement; an additional time for the treatment of urban waste water.

Malta
To adapt tanker fleet on VOC emissions until the end of 2004; to bring the Delimara power station in line with EU standards, to phase out methyl bromide, to reduce nitrates and fluoride in water and to reach the overall recycling target until the end of 2005; to allow indusrty to adapt to EU rules on dumping dangerous substances into the sea and to complete waste water infrastructure until March 2007, for the recycling of the plastics until the end of 2009; to keep ban bottling of soft drinks in plastic bottles until a new environmentally friendly bottling regime is introduced until the end of 2007; Malta will apply a derogation whereby Maltese hunters can continue hunting quails and turtledoves in spring and for trappers to continue trapping seven songbirds, quails and turtledoves in spring and autumn until the end of 2008.

Latvia
Emissions of volatile organic compounds from storage of petrol (Directive 94/63/EC) until the end of 2008; recovery and recycling of packing waste until the end of 2007; landfill of waste until 2004; treatment of urban waste water until the end of 2015; quality of drinking water until the end of 2015; integrated pollution and prevention control until the end of 2010; storage of asbestos waste until the end of 2004 and health protection of individuals against ionising radiation in relation to medical exposure until the end of 2005.

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Lithuania
Emissions of volatile organic compounds from storage of petrol until the end of 2007; recovery and recycling of packing waste until the end of 2006; treatment of urban waste water until the end of 2009 and air pollution from large combustion plants until the end of 2015.

Estonia
Emissions of volatile organic compounds from storage of petrol (Directive 94/63/EC) until the end of 2006; landfill of of oil shale (Directive 94/63/EC) until the end of 2009; treatment of urban waste water until 2010; the quality of water intended for human consumption (Directive 96/83/EC) until the end of 2013; for industrial and air pollution from large large combustion plants until the end of 2015, in the area of nature protection, a geographical exemption for the strict protection of lynxes under the Habitats Directive (Directive 92/43/EC).

Slovakia
Certain discharges of dangerous sustances into the aquatic environment (Directive 76/464/EEC) are allowed until the end of 2006; integrated pollution and prevention control until the end of 2011;specifically listed waste incinerators in Slovakia will comply with the relevant Directive until the end of 2006.

Slovenia
Recovery and recycling of packing waste (Directive 94/62/EC) until the end of 2007; treatment of urban waste water until 2015; the quality of water intended for human consumption (Directive 96/83/EC) until the end of 2013;integrated pollution prevention and control (Directive 96/61/EC) until the end of 2011;

Chapter 23-Consumer Protection

"The acquis consits of the following areas: misleading advertising; product liability; doorstep sales; consumer credit; dangerous imitations; package travel and holiday tours; product safety; unfair terms in consumer contracts; time-share, distance selling; comparative advertising; prices on foodstuffs; guarantees for sale of consumer goods and injunctions. It also contains a Council Decision establishing a Community system of information on home and leisure accidents and three Commission decisions on a consumer committee and scientific committees."

Cyprus-Malta-Latvia- Lithuania -Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
None

Chapter 24-Justice and Home Affairs

"Negotiations on the Justice and Home Affairs acquis are not about transition periods but necessary for building confidence. There is also a need to ensure that candidate countries are equipped to meet adequate and acceptable standards of implementation on issues such as border control, illegal migration, drug smuggling, money laundering, organised crime, police and judicial cooperation, data protection and the mutual recognition of court judgements. (Schengen acquis)"

Cyprus-Malta-Latvia- Lithuania-Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
None

Chapter 25-Customs Union

"The Customs Union acquis consists almost exclusively of legislation which is directly binding on the Member States.It includes the Community's Customs Code and its implementing provisions; the Combined Nomenclature, Common Customs Tariff (CCT) and provisions on tariff classification, customs duty reliefs, duty suspensions and certain tariff quotas; and other provisions such as those on customs control of counterfeit and pirated goods, drugs precursors and cultural goods and on mutual administrative assistance in customs matters as well as Community agreements in the areas concerned, including transit."

Cyprus-Latvia- Lithuania -Estonia-Slovenia-Poland-Czech Rep.-Slovakia
None

Hungary
As regards the import of aliminium not alloyed in Hungary, the EU granted a transitional period until April 30, 2007, enabling Hungary to import at a lower rate than the CCT, with a schedule of implementation involving the progressive increase of tariff duties and the progressive decrease of import volumes. The final consumption, or the processing of the product in question, will take place on the territory of Hungary on the basis of the existing acquis provisions on end-use.

Malta
As regards the import of certain textile products into Malta, Malta got a transitional period until the end of 2008 to import at a lower rate than the Common Customs Tariff, with a schedule of implementation involving the progressive increase of tariff duties within an annual maximum quota. All the materials will be used on the territory of Malta, on the basis of the existing acquis provisions on end-use.

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Chapter 26-External Relations

"It covers the Community's economic and trade relations with third countries and international organisations as well as cooperation and assistance (the common commercial policy and the development policy of the Community)."

Cyprus-Malta-Latvia- Lithuania-Estonia-Slovenia -Hungary-Poland-Czech Rep.-Slovakia
None

Chapter 27-Common Foreign and Security Policy

"Due to the particular nature of the acquis (no legal instruments), no tranposition into the national legal order of the candidate countries is necessary. The candidate countries are expected to give active and unconditional support to the implementation of the common foreign and security policy in a spirit of loyalty and mutual solidarity. They must ensure that their national policies conform to the common positions and defend these common positions in international arena."

Cyprus-Malta-Latvia- Lithuania -Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
None

Chapter 28-Financial Control

"The acquis covers only a limited number of Regulations, it rather refers to general, internationally agreed principles of sound financial management and control. The European Commission is called to assess the existing financial contro systems in the candidate countries with regard to five elements: Public Internal Financial Control; External Audit; Control Measures relating the EU Own Resources; EU Pre-accession funding and future Structural Action and the Protection of the EU financial interests."

Cyprus-Malta-Latvia- Lithuania Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
None

Chapter 29-Finance and Budgetary Provisions
"This chapter covers the rules cncerning the financial resources necessary for the funding of the EC budget (own resources). These own resources are made up mainly from contributions from the Member States based on the traditional own

resources from customs and agricultural duties and sugar levies and a resource based on VAT and a resource based on the level of gross national income (GNI)."

Cyprus-Malta-Hungary-Slovenia
The EU grants a temporary budgetary compensation in the period 2004-2006 with the aim of ensuring these countries do not experience a deterioration in their net balance vis-à-vis the EU budget compared to the positive position they were in 2003 as recipients of pre-accession aid. (for Czech Rep. 389 million euros; for Cyprus 300 million euros, for Malta 166 million euros and for Slovenia 131 million euros-expressed in 1999 prices)

Latvia- Lithuania- Estonia-Slovakia- Cyprus-Malta-Hungary-Slovenia-Czech Rep.-Poland
The EU will provide them with funds from a special temporary cash-flow facility in period 2004-2006 to improve their budgedary positions.

Chapter 30-Institutions

"It covers the composition and functioning of institutions and bodies established under the Treaties and secondary legislation"

Cyprus-Malta-Latvia- Lithuania -Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
During the few months between accession in May 2004 and the European Parliament elections in June 2004, it was agreed that the new Member States would be represented by an adequate number of deputies by their national Parliaments. After November 2004, a reviewed voting system based on the principles defined by the Nice Treaty would be applied. As from May 1, 2004, ten new Commissioners appointed by the Council, one from each new Member States, shall join the current Commission. Members of the new Commission would take up its duties with effect from November 1, 2004. The number of judges of the European Court of Justice and the Court of First Instance would be increased to 25. With regards to other institutions, organs, bodies, committees and agencies, the acceding countries would be adequately represented in accordance with the existing applicable rules.
Nine additional official languages (Czech, Estonian, Latvian, Lithuanian, Hungarian, Maltese, Polish, Slovenian and Sovak) would be added to the existing official languages.

Chapter 31-Others

"It covers some specific protocols, provisions and declarations to be annexed to the Accession Treaty. The issues negotiated under this chapter were not stated in the acquis communautaire, they are deemed necessary depending on the particular

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features of each candidate country. It is a negotiating box in which a number of elements do not belong in other negotiating chapters have been placed."

Cyprus-Malta-Latvia- Lithuania -Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
European Development Fund
Research Fund for Coal and Steel
European Central Bank
European Investment Bank
Safeguard Clauses
Implementation and management of pre-accession funds in the new Member States
Creation of a Transition facility for institution building for the benefit of new Member States after accession
Arrangements for the interim period
Schengen facility
Eligibility of the new Member States for expenditure starting on January 1, 2004
Joint Declaration: One Europe (European Council in Copenhagen, December 12-13, 2002)
Joint Declaration on the Court of Justice of the European Communities
General Joint Declaration
Declaration by the European Commission on the general economic safeguard clause, the internal market safeguard clause and the justice and home affairs safeguard clause.

Latvia- Lithuania -Estonia-Slovenia-Hungary-Poland-Czech Rep.-Slovakia
Declaration by the Federal Republic of Germany and the Republic of Austria on the free movement of workers: Latvia, Lithuania, Estonia, Slovenia, Hungary, Poland, Czech Rep.,Slovakia.
Declaration by the Federal Republic of Germany and the Republic of Austria on the Monitoring of Nuclear Safety

Lithuania -Estonia-Slovenia- Poland-Czech Rep.-Slovakia
Joint Declarations: The Czech Republic, the Republic of Estonia, the Republic of Lithuania, the Republic of Poland, the Republic of Slovenia and the Slovak Republic

Hungary-Slovenia
Declaration by the Republic of Hungary and the Republic of Slovenia on Article 24 of the Act of Accession

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Cyprus
Provisions on Cyprus
Protocol on the British Sovereign Base Areas

Malta
Protocol on abortion
Declaration by the Republic of Malta on the island region of Gozo.
Declaration by the Republic of Malta on neutrality.
Declaration on the free movement of workers: Malta
Declaration by the Republic of Malta on the maintenance of VAT zero-rating.

Lithuania
Kaliningrad protocol and declaration
Ignalina nuclear power plant
Declaration with respect to Estonian and Lithuanian fishing activities in the Svalbard zone
Declaration on the free movement of workers: Lithuania
Declaration on the transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation
Declaration by the Republic of Lithuania with respect to Lithuanian fishery activities in the Regulatory Area of the North-East Atlantic Fisheries Commission.

Latvia
Declaration on the free movement of workers: Latvia
Declaration by the Republic of Latvia on the weighting votes in the Council
Declaration by the Republic of Latvia on Fisheries
Declaration by the Republic of Latvia on Article 142a of Council Regulation (Ecc) No 40/94 of 20 December 1993 on the Community trade mark.
Declaration by the European Commission on the conclusions of the Accession Conference with Latvia.

Hungary
Declaration on the free movement of workers: Hungary

Poland
Declaration on the free movement of workers: Poland
Declaration by the Republic of Poland concerning competitiveness of the Polish production of some fruit.
Declaration by the Government of the Republic of Poland concerning public morality.
Declaration by the Government of Poland on interpretation of derogation from the requirements laid down in Directive 2001/81/EC and in Directive 2001/83/EC.

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Slovenia
Declaration on the free movement of workers: Slovenia
Declaration on the development of the Trans European Network in Slovenia
Declaration on the future regional division of the Republic of Slovenia.
Declaration on Slovenian indigenous bee Apis mellifera Carnica (kranjska cebela)

Slovakia
Bohunice V1 nuclear power plant
Declaration on the free movement of workers: Slovakia

Czech Rep.
Bilateral Agreement between the Czech Rep. and the Rep. of Austria regarding the Temelin nuclear power plant
Declaration by the Czech Republic on Transport Policy
Declaration by the Czech Republic on workers
Declaration by the Czech Republic on Article 35 of the EU Treaty

Estonia
Joint Declaration on the hunting of brown bears in Estonia.
Declaration on the free movement of workers: Estonia.
Declaration on oil shale, Internal Electricity Market and Directive 96/92/EC of the European Parliament and of the Council of December 19, 1996 concerning common rules for the internal market in electricity (Electricity Directive): Estonia.
Declaration with respect to Estonian and Lithuanian fishing activities in the Svalbard zone.
Declaration by the Republic of Estonia on Steel.
Declaration by the Republic of Estonia on Fisheries.
Declaration by the Republic of Estonia on the North East Atlantic Fisheries Commission (NEAFC).
Declaration by the Republic of Estonia on Food Safety.

Annex III-Negotiations

	COUNTRIES											
Negotiation Chapters	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Free movement of goods	*Opened:* May 2001 *Closed:* Dec. 2004 (provisionally closed in June 2002)	*Opened:* June 1999 *Closed:* Dec. 2002 (provisionally closed in Nov. 2000)	*Opened:* June 1999 *Closed:* Dec. 2002 (provisionally closed in Dec. 1999)	*Opened:* June 1999 *Closed:* Dec.2002 (provisionally closed in Dec. 2000)	*Opened:* June 1999 *Closed:* Dec.2002 (provisionally closed in May 2001)	*Opened:* March 2001 *Closed:* Dec.2002 (provisionally closed in March 2001)	*Opened:* May 2001 *Closed:* Dec.2002 (provisionally closed in May 2001)	*Opened:* May 2001 *Closed:* Dec.2002 (provisionally closed in May 2001)	*Opened:* June 1999 *Closed:* Dec.2002 (provisionally closed in March 2001)	*Opened:* March 2002 *Closed:* Dec.2004 (provisionally closed in June 2003)	*Opened:* March 2001 *Closed:* Dec.2002 (provisionally closed in March 2001)	*Opened:* June 1999 *Closed:* Dec.2002 (provisionally closed in March 2001)
Free movement of persons	*Opened:* Oct. 2001 *Closed:* Dec. 2004 (provisionally closed in June 2002)	*Opened:* May 2000 *Closed:* Dec.2002 (provisionally closed in June 2001)	*Opened:* May 2000 *Closed:* Dec.2002 (provisionally closed in Oct. 2001)	*Opened:* May 2000 *Closed:* Dec.2002 (provisionally closed in March 2002)	*Opened:* May 2000 *Closed:* Dec.2002 (provisionally closed in June 2001)	*Opened:* June 2001 *Closed:* Dec.2002 (provisionally closed in June 2001)	*Opened:* June 2001 *Closed:* Dec.2002 (provisionally closed in Nov. 2001)	*Opened:* June 2001 *Closed:* Dec.2002 (provisionally closed in June 2001)	*Opened:* May 2000 *Closed:* Dec.2002 (provisionally closed in Dec. 2001)	*Opened:* March 2002 *Closed:* Dec.2004 (provisionally closed in Dec. 2003)	*Opened:* June 2001 *Closed:* Dec.2002 *(provisionally closed in June 2001)*	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)

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COUNTRIES												
Negotiation Chapters	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Freedom to provide services	*Opened:* Jan. 2001 *Closed:* Dec. 2004 (provisionally closed in Nov. 2001)	*Opened:* July 1999 *Closed:* Dec. 2002 (provisionally closed in May 2001)	*Opened:* July 1999 *Closed:* Dec. 2002 (provisionally closed in March 2001)	*Opened:* August 1999 *Closed:* Dec. 2002 (provisionally closed in March 2001)	*Opened:* July 1999 *Closed:* Dec. 2002 (provisionally closed in Feb. 2001)	*Opened:* August 2000 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* July 2000 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* Jan. 2001 *Closed:* Dec. 2002 (provisionally closed in May 2001)	*Opened:* July 1999 *Closed:* Dec. 2002 (provisionally closed in Nov. 2000)	*Opened:* Dec. 2002 *Closed:* Dec. 2004 (provisionally closed in Sep. 2004)	*Opened:* July 2000 *Closed:* Dec.2002 (provisionally closed in May 2001)	*Opened:* July 1999 *Closed:* Dec.2002 (provisionally closed in Nov. 2000)
Free movement of capital	*Opened:* Autumn 2000 *Closed:* Dec. 2004 (provisionally closed in July 2001)	*Opened:* Autumn 1999 *Closed:* Dec. 2002 (provisionally closed in Spring 2001)	*Opened:* Autumn 1999 *Closed:* Dec. 2002 (provisionally closed in Spring 2001)	*Opened:* Autumn 1999 *Closed:* Dec. 2002 (provisionally closed in Spring 2000)	*Opened:* Autumn 1999 *Closed:* Dec. 2002 (provisionally closed in Spring 2001)	*Opened:* Autumn 2000 *Closed:* Dec. 2002 (provisionally closed in Spring 2001)	*Opened:* Autumn 2000 *Closed:* Dec. 2002 (provisionally closed in Spring 2001)	*Opened:* Autumn 2000 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)	*Opened:* Autumn 1999 *Closed:* Dec. 2002 (provisionally closed in March 2002)	*Opened:* Spring 2001 *Closed:* Dec. 2004 (provisionally closed in June 2003)	*Opened:* Autumn 2000 *Closed:* Dec.2002 (provisionally closed in Spring 2001)	*Opened:* Autumn 1999 *Closed:* Dec.2002 (provisionally closed in Spring 2001)

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Negotiation Chapters	COUNTRIES											
	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Company law	*Opened:* May 2000 *Closed:* Dec. 2004 (provisionally closed in June 2001)	*Opened:* Dec. 1998 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* Dec. 1998 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* Sep. 1998 *Closed:* Dec. 2002 (provisionally closed in June 2000)	*Opened:* Sep. 1998 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* July 2000 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* July 2000 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* Sep. 2000 *Closed:* Dec. 2002 (provisionally closed in Nov. 2000)	*Opened:* Dec. 1998 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)	*Opened:* March 2001 *Closed:* Dec. 2004 (provisionally closed in Dec. 2001)	*Opened:* Nov. 2000 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* Dec. 1998 *Closed:* Dec. 2002 (provisionally closed in June 2000)
Competition policy	*Opened:* March 2001 *Closed:* Dec. 2004 (provisionally closed in June 2004)	*Opened:* May 1999 *Closed:* Dec. 2002 (provisionally closed in June 2002)	*Opened:* May 1999 *Closed:* Dec. 2002 (provisionally closed in Oct. 2002)	*Opened:* May 1999 *Closed:* Dec. 2002 (provisionally closed in Nov. 2001)	*Opened:* May 1999 *Closed:* Dec. 2002	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in Nov. 2001)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in Nov. 2001)	*Opened:* Nov. 2000 *Closed:* Dec. 2002	*Opened:* May 1999 *Closed:* Dec. 2002	*Opened:* Nov. 2000 *Closed:* Dec. 2004	*Opened:* May 2000 *Closed:* Dec.2002 (provisionally closed in Oct. 2002	*Opened:* May 1999 *Closed:* Dec. 2002 (provisionally closed in Nov. 2002)

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Negotiation Chapters	COUNTRIES											
	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Agriculture	*Opened:* March 2002 *Closed:* Dec. 2004 (provisionally closed in June 2004)	*Opened:* June 2000 *Closed:* Dec. 2002	*Opened:* June 2000 *Closed:* Dec. 2002	*Opened:* June 2000 *Closed:* Dec. 2002	*Opened:* June 2000 *Closed:* Dec. 2002	*Opened:* June 2001 *Closed:* Dec. 2002	*Opened:* June 2001 *Closed:* Dec. 2002	*Opened:* Dec.2001 *Closed:* Dec. 2002	*Opened:* June 2000 *Closed:* Dec. 2002	*Opened:* Nov.. 2002 *Closed:* Dec. 2004	*Opened:* June 2001 *Closed:* *Dec. 2002*	*Opened:* June 2000 *Closed:* *Dec. 2002*
Fisheries	*Opened:* March 2001 *Closed:* Dec. 2004 (provisionally closed in May 2001)	*Opened:* April 1999 *Closed:* Dec. 2002 (provisionally closed in April 2000)	*Opened:* April 1999 *Closed:* Dec. 2002 (provisionally closed in May 1999)	*Opened:* April 1999 *Closed:* Dec. 2002 (provisionally closed in April 2000)	*Opened:* April 1999 *Closed:* Dec. 2002 (provisionally closed in April 1999)	*Opened:* Oct. 2000 *Closed:* Dec. 2002 (provisionally closed in Oct. 2001)	*Opened:* March 2001 *Closed:* Dec. 2002 (provisionally closed in May 2001)	*Opened:* Oct. 2000 *Closed:* Dec. 2002 (provisionally closed in June 2002)	*Opened:* April 1999 *Closed:* Dec. 2002 (provisionally closed in June 2002)	*Opened:* May 2001 *Closed:* Dec. 2004 (provisionally closed in June 2001)	Opened: Oct.2000 *Closed:* Dec.2002 (provisionally closed in Oct. 2000)	Opened April 1999 *Closed:* Dec. 2002 (provisionally closed in April 1999)

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Negotiation Chapters	COUNTRIES											
	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Transport policy	*Opened:* June 2001 *Closed:* Dec. 2004 (provisionally closed in June 2003)	*Opened:* Nov. 1999 *Closed:* Dec. 2002 (provisionally closed in May 2001)	*Opened:* Nov. 1999 *Closed:* Dec. 2002	*Opened:* Nov. 1999 *Closed:* Dec. 2002 (provisionally closed in March 2002)	*Opened:* Nov. 1999 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)	*Opened:* Nov. 2000 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)	*Opened:* Nov. 2000 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)	*Opened:* March 2001 *Closed:* Dec. 2002 (provisionally closed in Oct. 2001)	*Opened:* Nov. 1999 *Closed:* Dec. 2002 (provisionally closed in June 2002)	*Opened:* June 2001 *Closed:* Dec. 2004 (provisionally closed in Dec. 2003)	Opened: Nov. 2000 *Closed:* Dec. 2002 (provisionally closed in April 2002)	Opened: Nov. 1999 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)
Taxation	*Opened:* July 2001 *Closed:* Dec. 2004 (provisionally closed in May 2002)	*Opened:* Nov. 1999 *Closed:* Dec. 2002 (provisionally closed in April 2002)	*Opened:* Nov. 1999 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)	*Opened:* Nov. 1999 *Closed:* Dec. 2002 (provisionally closed in June 2002)	*Opened:* Nov. 1999 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* May 2001 *Closed:* Dec. 2002 (provisionally closed in June 2002)	*Opened:* May 2001 *Closed:* Dec. 2002 (provisionally closed in March 2002)	*Opened:* June 2001 *Closed:* Dec. 2002	*Opened:* Nov. 1999 *Closed:* Dec. 2002 (provisionally closed in March 2002)	*Opened:* Oct. 2001 *Closed:* Dec. 2002 (provisionally closed in June 2003)	*Opened:* June 2001 *Closed:* Dec. 2002 (provisionally closed in March 2002)	*Opened:* Nov. 1999 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)

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Negotiation Chapters	COUNTRIES											
	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Economic and monetary union	*Opened:* March 2002 *Closed:* Dec. 2004 (provisionally closed in April 2002)	*Opened:* First half of 1999 *Closed:* Dec. 2002 (provisionally closed at the end of 1999)	*Opened:* First half of 1999 *Closed:* Dec. 2002 (provisionally closed at the end of 1999)	*Opened:* First half of 1999 *Closed:* Dec. 2002 (provisionally closed at the end of 1999)	*Opened:* First half of 1999 *Closed:* Dec. 2002 (provisionally closed at the end of 1999)	*Opened:* Second half of 2000 *Closed:* Dec. 2002 (provisionally closed at the end of 2000)	*Opened:* First half of 2001 *Closed:* Dec. 2002 (provisionally closed in the first half of 2001)	*Opened:* Second half of 2000 *Closed:* Dec. 2002 (provisionally closed at the end of 2000)	*Opened:* First half of 1999 *Closed:* Dec. 2002 (provisionally closed at the end of 1999)	*Opened:* June 2002 *Closed:* Dec. 2004 (provisionally closed in June 2002)	*Opened:* First half of 2001 *Closed:* Dec. 2002 (provisionally closed in the first half of 2001)	*Opened:* First half of 1999 *Closed:* Dec. 2002 (provisionally closed at the end of 1999)
Statistics	*Opened:* Oct. 2000 *Closed:* Dec. 2004 (provisionally closed in Dec. 2000)	*Opened:* March 1999 *Closed:* Dec. 2002 (provisionally closed in June 1999)	*Opened:* March 1999 *Closed:* Dec. 2002 (provisionally closed in June 1999)	*Opened:* March 1999 *Closed:* Dec. 2002 (provisionally closed in June 1999)	*Opened:* March 1999 *Closed:* Dec. 2002 (provisionally closed in June 1999)	*Opened:* April 2000 *Closed:* Dec. 2002 (provisionally closed in June 2000)	*Opened:* April 2000 *Closed:* Dec. 2002 (provisionally closed in June 2000)	*Opened:* Oct. 2000 *Closed:* Dec. 2002 (provisionally closed in Dec. 2000)	*Opened:* March 1999 *Closed:* Dec. 2002 (provisionally closed in June 1999)	*Opened:* Oct. 2000 *Closed:* Dec. 2004 (provisionally closed in Dec. 2000)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in *June 2000)*	*Opened:* March 1999 *Closed:* Dec. 2002 (provisionally closed in June 1999)

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Negotiation Chapters	COUNTRIES											
	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Social policy and employment	*Opened:* Oct. 2001 *Closed:* Dec. 2004 (provisionally closed in April 2002)	*Opened:* Sep. 1999 *Closed:* Dec. 2002 (provisionally closed in March 2000)	*Opened:* Sep. 1999 *Closed:* Dec. 2002 (provisionally closed in May 2001)	*Opened:* Sep. 1999 *Closed:* Dec. 2002 (provisionally closed in Oct. 2000)	*Opened:* Sep. 1999 *Closed:* Dec. 2002 (provisionally closed in Nov. 2000)	*Opened:* Feb. 2001 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* Nov. 2000 *Closed:* Dec. 2002 (provisionally closed in March 2001)	*Opened:* Nov. 2001 *Closed:* Dec. 2002 (provisionally closed in Nov. 2001)	*Opened:* Sep.1999 *Closed:* Dec. 2002 (provisionally closed in March 2001)	*Opened:* Oct. 2001 *Closed:* Dec. 2004 (provisionally closed in April 2002)	*Opened:* Feb. 2001 *Closed:* Dec. 2002 (provisionally closed in *May 2001)*	*Opened:* Sep. 1999 *Closed:* Dec. 2002 (provisionally closed in *Nov. 2000)*
Energy	*Opened:* Second half of 2001 *Closed:* Dec. 2004 (provisionally closed in second half of 2002)	*Opened:* Second half of 1999 *Closed:* Dec. 2002 (provisionally closed in first half of 2001)	*Opened:* Second half of 1999 *Closed:* Dec. 2002 (provisionally closed in second half of 2001)	*Opened:* Second half of 1999 *Closed:* Dec. 2002 (provisionally closed in July 2002)	*Opened:* Second half of 1999 *Closed:* Dec. 2002 (provisionally closed in second half of 2000)	*Opened:* First half of 2001 *Closed:* Dec. 2002 (provisionally closed in second half of 2001)	*Opened:* First half of 2001 *Closed:* Dec. 2002 (provisionally closed in first half of 2002)	*Opened:* First half of 2001 *Closed:* Dec. 2002 (provisionally closed in first half of 2001)	*Opened:* Second half of 1999 *Closed:* Dec. 2002 (provisionally closed in second half of 2001)	*Opened:* First half of 2002 *Closed:* Dec. 2004 (provisionally closed in second half of 2004)	*Opened:* First half of 2001 *Closed:* Dec. 2002 (provisionally closed in second half of 2001)	*Opened:* Second half of 1999 *Closed:* Dec. 2002 (provisionally closed in first half of 2001)

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Negotiation Chapters	COUNTRIES											
	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Industrial policy	*Opened:* Second half of 2001 *Closed:* Dec. 2004 (provisionally closed in second half of 2001)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in second half of 1998)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in first half of 1999)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in first half of 1999)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in first half of 1999)	*Opened:* Second half of 2000 *Closed:* Dec. 2002 (provisionally closed in second half of 2000)	*Opened:* Second half of 2000 *Closed:* Dec. 2002 (provisionally closed in second half of 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in second half of 2000)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in first half of 1999)	*Opened:* Second half of 2002 *Closed:* Dec. 2004 (provisionally closed in July 2002)	*Opened:* Second half of 2000 *Closed:* Dec. 2002 (provisionally closed in second half of 2000)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in first half of 1999)
Small and medium-sized enterprises	*Opened:* May 2000 *Closed:* Dec. 2004 (provisionally closed in May 2000)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in Nov. 1998)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in Nov. 1998)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in Nov. 1998)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in Nov. 1998)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in Nov. 1998)	*Opened:* May 2000 *Closed:* Dec. 2004 (provisionally closed in May 2000)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in Nov. 1998)

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Negotiation Chapters	COUNTRIES											
	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Science and research	*Opened:* First half of 2000 *Closed:* Dec. 2004 (provisionally closed in May 2000)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)	*Opened:* First half of 2000 *Closed:* Dec. 2004 (provisionally closed in May 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)
Education and training	*Opened:* First half of 2000 *Closed:* Dec. 2004 (provisionally closed in May 2000)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)	*Opened:* First half of 2000 *Closed:* Dec. 2004 (provisionally closed in May 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* Second half of 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)

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Negotiation Chapters	COUNTRIES											
	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Telecommunication, information technologies and postal services	*Opened:* Oct. 2000 *Closed:* Dec. 2004 (provisionally closed in Oct. 2001)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in May 1999)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in April 1999)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in April 1999)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* March 2001 *Closed:* Dec. 2002 (provisionally closed in April 2002)	*Opened:* Oct. 2000 *Closed:* Dec. 2002 (provisionally closed in March 2001)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in May 2000)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in May 1999)	*Opened:* Nov. 2000 *Closed:* Dec. 2004 (provisionally closed in Nov. 2002)	*Opened:* Nov. 2000 *Closed:* Dec. 2002 (provisionally closed in April 2001)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in June 1999)
Culture and audiovisual policy	*Opened:* May 2000 *Closed:* Dec. 2004 (provisionally closed in Nov. 2000)	*Opened:* Sep. 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 1998)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in Oct. 2000)	*Opened:* Nov. 1998 *Closed:* Dec. 2002 (provisionally closed in July 2002)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in March 2001)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in Dec. 2000)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in Oct. 2000)	*Opened:* Nov. 1998 *Closed:* Dec. 2002 (provisionally closed in Dec. 2000)	*Opened:* Oct. 2000 *Closed:* Dec. 2004 (provisionally closed in Dec. 2002)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in Nov. 2000)	*Opened:* Oct. 1998 *Closed:* Dec. 2002 (provisionally closed in May 2001)

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Negotiation Chapters	COUNTRIES											
	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Regional policy and coordination of structural instruments	*Opened:* Nov.2001 *Closed:* Dec. 2004 (provisionally closed in June 2004)	*Opened:* April 2000 *Closed:* Dec. 2002 (provisionally closed in April 2002)	*Opened:* April 2000 *Closed:* Dec. 2002 (provisionally closed in April 2002)	*Opened:* April 2000 *Closed:* Dec. 2002 (provisionally closed in June 2002)	*Opened:* April 2000 *Closed:* Dec. 2002 (provisionally closed in July 2002)	*Opened:* March 2001 *Closed:* Dec. 2002 (provisionally closed in June 2002)	*Opened:* March 2001 *Closed:* Dec. 2002 (provisionally closed in June 2002)	*Opened:* March 2001 *Closed:* Dec. 2002 (provisionally closed in July 2002)	*Opened:* April 2000 *Closed:* Dec. 2002 (provisionally closed in Oct. 2002)	*Opened:* March 2002 *Closed:* Dec. 2004 (provisionally closed in Sep. 2004)	*Opened:* March 2001 *Closed:* Dec. 2002 (provisionally closed in July 2002)	*Opened:* April 2000 *Closed:* Dec. 2002 (provisionally closed in July 2002)
Environment	*Opened:* July 2001 *Closed:* Dec. 2004 (provisionally closed in June 2003)	*Opened:* Dec. 1999 *Closed:* Dec. 2002 (provisionally closed in July 2001)	*Opened:* Dec. 1999 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* Dec. 1999 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* Dec. 1999 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* March 2001 *Closed:* Dec. 2002 (provisionally closed in Nov. 2001)	*Opened:* Nov. 2000 *Closed:* Dec. 2002 (provisionally closed in June 2001)	*Opened:* June 2001 *Closed:* Dec. 2002 (provisionally closed in Oct. 2002)	*Opened:* Dec. 1999 *Closed:* Dec. 2002 (provisionally closed in Oct. 2001)	*Opened:* March 2002 *Closed:* Dec. 2004 (provisionally closed in Nov. 2004)	*Opened:* March 2001 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)	*Opened:* Dec. 1999 *Closed:* Dec. 2002 (provisionally closed in March 2001)

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	COUNTRIES											
Negotiation Chapters	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Consumers and health protection	*Opened:* Oct. 2000 *Closed:* Dec. 2004 (provisionally closed in Oct. 2000)	*Opened:* April 1999 *Closed:* Dec. 2002 (provisionally closed in May 1999)	*Opened:* April 1999 *Closed:* Dec. 2002 (provisionally closed in May 1999)	*Opened:* April 1999 *Closed:* Dec. 2002 (provisionally closed in May 1999)	*Opened:* April 1999 *Closed:* Dec. 2002 (provisionally closed in June 1999)	*Opened:* Oct. 2000 *Closed:* Dec. 2002 (provisionally closed in Oct. 2000)	*Opened:* Feb. 2001 *Closed:* Dec. 2002 (provisionally closed in Feb. 2001)	*Opened:* Oct. 2000 *Closed:* Dec. 2002 (provisionally closed in Oct. 2000)	*Opened:* April 1999 *Closed:* Dec. 2002 (provisionally closed in May 1999)	*Opened:* July 2001 *Closed:* Dec. 2004 (provisionally closed in July 2001)	*Opened:* Oct. 2000 *Closed:* Dec. 2002 (provisionally closed in Oct. 2000)	*Opened:* April 1999 *Closed:* Dec. 2002 (provisionally closed in May 1999)
Cooperation in the field of justice and home affairs	*Opened:* June 2001 *Closed:* Dec. 2004 (provisionally closed in Oct. 2003)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in March 2002)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in Nov. 2001)	*Opened:* June 2001 *Closed:* Dec. 2002 (provisionally closed in June 2002)	*Opened:* June 2001 *Closed:* Dec. 2002 (provisionally closed in April 2002)	*Opened:* June 2001 *Closed:* Dec. 2002 (provisionally closed in March 2002)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in July 2002)	*Opened:* April 2002 *Closed:* Dec. 2004 (provisionally closed in Dec. 2004)	*Opened:* June 2001 *Closed:* Dec. 2002 (provisionally closed inJune 2002)	*Opened:* May 2000 *Closed:* Dec. 2002 (provisionally closed in Dec. 2001)

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	COUNTRIES											
Negotiation Chapters	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Customs union	*Opened:* June 2001 *Closed:* Dec. 2004 (provisionally closed in July 2002)	*Opened:* March 1999 *Closed:* Dec. 2002 (provisionally closed in the first half of 1999)	*Opened:* May 1999 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* May 1999 *Closed:* Dec. 2002 (provisionally closed in March 2002)	*Opened:* May 1999 *Closed:* Dec. 2002 (provisionally closed in the first half of 2001)	*Opened:* March 2001 *Closed:* Dec. 2002 (provisionally closed in the second half of 2001)	*Opened:* March 2001 *Closed:* Dec. 2002 (provisionally closed in the second half of 2001)	*Opened:* May 2001 *Closed:* Dec. 2002 (provisionally closed in the second half of 2002)	*Opened:* May 1999 *Closed:* Dec. 2002 (provisionally closed in the first half of 2001)	*Opened:* May 2001 *Closed:* Dec. 2004 (provisionally closed in Nov. 2002)	*Opened:* Oct. 2000 *Closed:* Dec. 2002 (provisionally closed in the first half of 2001)	*Opened:* May 1999 *Closed:* Dec. 2002 (provisionally closed in the second half of 2001)
External relations	*Opened:* First half of 2000 *Closed:* Dec. 2004 (provisionally closed in the second half of 2000)	*Opened:* First half of 1999 *Closed:* Dec. 2002 (provisionally closed in the first half of 1999)	*Opened:* First half of 1999 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 1999 *Closed:* Dec. 2002 (provisionally closed in the first half of 1999)	*Opened:* First half of 1999 *Closed:* Dec. 2002 (provisionally closed in the first half of 1999)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 1999 *Closed:* Dec. 2002 (provisionally closed in the second half of 1999)	*Opened:* First half of 2000 *Closed:* Dec. 2004 (provisionally closed in the first half of 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 1999 *Closed:* Dec. 2002 (provisionally closed in the first half of 2001)

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COUNTRIES												
Negotiation Chapters	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Common foreign and security policy	*Opened:* First half of 2000 *Closed:* Dec. 2004 (provisionally closed in the first half of 2000)	*Opened:* First half of 1998 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 1998 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 1998 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 1998 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 1998 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2004 (provisionally closed in the first half of 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 1998 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)
Financial control	*Opened:* Second half of 2001 *Closed:* Dec. 2004 (provisionally closed in the second half of 2002)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the second half of 2001)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the second half of 2001)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 2001 *Closed:* Dec. 2002 (provisionally closed in the second half of 2001)	*Opened:* First half of 2001 *Closed:* Dec. 2002 (provisionally closed in the second half of 2001)	*Opened:* First half of 2001 *Closed:* Dec. 2002 (provisionally closed in the first half of 2001)	*Opened:* First half of 2000 *Closed:* Dec. 2002 (provisionally closed in the first half of 2000)	*Opened:* First half of 2002 *Closed:* Dec. 2004 (provisionally closed in Oct. 2003)	*Opened:* First half of 2001 *Closed:* *Dec. 2002 (provisionally closed in the second half of 2001)*	*Opened:* First half of 2000 *Closed:* *Dec. 2002 (provisionally closed in the first half of 2000)*

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Negotiation Chapters	COUNTRIES											
	Bulgaria	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Romania	Slovakia	Slovenia
Financial and budgetary provisions	*Opened:* Second half of 2001 *Closed:* Dec. 2004 (provisionally closed in June 2004)	*Opened:* First half of 2000 *Closed:* Dec. 2002	*Opened:* First half of 2000 *Closed:* Dec. 2002	*Opened:* First half of 2000 *Closed:* Dec. 2002	*Opened:* First half of 2000 *Closed:* Dec. 2002	*Opened:* First half of 2001 *Closed:* Dec. 2002	*Opened:* First half of 2001 *Closed:* Dec. 2002	*Opened:* First half of 2001 *Closed:* Dec. 2002	*Opened:* First half of 2000 *Closed:* Dec. 2002	*Opened:* Dec. 2002 *Closed:* Dec. 2004 (provisionally closed in June 2004)	*Opened:* First half of 2001 *Closed:* *Dec. 2002*	*Opened:* First half of 2000 *Closed:* *Dec. 2002*
Institutions	*Opened:* First half of 2002 *Closed:* Dec. 2004	*Opened:* First half of 2002 *Closed:* Dec. 2002	*Opened:* First half of 2002 *Closed:* Dec. 2002	*Opened:* First half of 2002 *Closed:* Dec. 2002	*Opened:* First half of 2002 *Closed:* Dec. 2002	*Opened:* First half of 2002 *Closed:* Dec. 2002	*Opened:* First half of 2002 *Closed:* Dec. 2002	*Opened* First half of 2002 *Closed:* Dec. 2002	*Opened:* First half of 2002 *Closed:* Dec. 2002	*Opened:* First half of 2002 *Closed:* Dec. 2004	*Opened:* First half of 2002 *Closed:* *Dec. 2002*	*Opened:* First half of 2002 *Closed:* *Dec. 2002*

Source: "Report on the Results of the Negotiations on the Accession of Cyprus, Malta, Hungary, Poland, the Slovak Republic, Latvia, Estonia, Lithuania, the Czech Republic and Slovenia to the EU", Commission Departments, 2005.

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TURKEY'S EU MEMBERSHIP: IMPLICATIONS FOR THE FUTURE DIRECTION OF THE EU INTEGRATION PROCESS

Harun ARIKAN[*]
Francesca VASSALLO[**]

Abstract

The EU enlargement process has become an important element affecting the EU's on-going evolution. New member states can alter the balance within the Union especially when it comes to the choice between a supranational or a federalist approach to integration. Turkey's membership bid has brought into the analysis new factors, be they advantages or not for the country's full EU membership. The authors discuss the different elements that will make Turkey a more supranational vs. a more federalist player inside the Union, linking those options to Turkey's odds of receiving support for its membership application from the EU member states. Elements such as the EU budget, foreign policy, aid, cultural identity, military positions and economic development are variables that will determine the relationship between Turkey and the Union. The conclusions show that Turkey appears to be a future member state that will support any integration attempt, depending on the country's assessment of its own interests. Turkey will be an important player, no matter what.

INTRODUCTION

Despite the current crisis in the European constitution ratification process, or maybe because of it, October 3, 2005 is set to become a defining moment along the path of European integration. On that day the EU of 25 member states are scheduled to start accession talks with Turkey. From the time of the Ankara Agreement in 1963 the European integration project has

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clearly taken different directions, but the final destination of an "ever closer" Union, implicit already in the ECSC treaty and arguably nearing its aim with the Constitution, was never surrendered. The planning and debates that have surrounded the EU's evolution since the Single European Act (1987) have yielded two conflicting conceptions about where the EU should be heading.

The intergovernmental position of the earlier stages of integration focused on the dominance of the state sovereignty in an integrating community, in the sense that the latter's tasks and goals would never, supposedly, eliminate the need for a state-centered policy making action. In brief, the EU was merely the product of what member states wanted it to be, with its limitations and capacity of action. With the states as the real center of power within the union, member states with particular interests and resources were clearly expected to have a stronger influence over the full integration project.

The supranational aspect of the debate, instead, proposed a situation in which the EU's institutions were designed to become the eventual heart of policy-making. Member states had to accept the EU as a new source of power that would operate above nation-states' governments for the interest of the integrated European community. In such a situation, the Union's structures would be above national interests and individual states would have a tougher time affecting specific policy making decisions.

The evolution of the European Union's enlargement since its creation has shown that the larger the community has become, the more complicated the functioning of the EU institutions. More precisely, every time the EU has expanded, federal views seen to have been watered down because of the higher number of member states involved. The most recent enlargement, the largest ever in the history of the EU, has only reminded scholars that each time a new member joins a group of countries that have functioned together for some time according to pre-determined rules, the effective operation of the EU institutions and of its goals needed to be reconsidered. The case of Turkey as a possible future EU member is particularly relevant in its possible impact on the attitudes, goals, policy-making decisions and commitment of all the current EU member states. Its inclusion in the Union will affect the pace as well as the final result of the European integration process.

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The regular report on Turkey's progress with regards to the Accession Treaty conditions, lastly released by the EU Commission in October 2004, is directly relevant for the EU to make its final decision on Turkey's EU membership status.[1] The opening of negotiations with Turkey will not automatically lead to future EU membership.[2] The EU Commission's negotiating framework for the accession talks with Turkey (released on June 29, 2005) emphasizes the "open-ended" aspect of the process.[3] At the same time, no previous EU candidate state has ever failed to complete the negotiations stage leading to full membership status, and the prospect of eventual EU membership for Turkey is not openly disputed at this time.[4] However, the German elections scheduled for September 18, 2005 may seriously harm the chances of a unanimous support to a future EU membership for Turkey, if the Christian Democrats (CDU) will win control of the government. Yet, since the accomplishments achieved by the Turkish government since 2002 disappointment are irreversible, Turkey is for now still well on its way to membership.[5]

As a way to discuss some of the possible implications that Turkey's future membership in the EU will bring to the European integration project, this chapter addresses specific issues that will directly or indirectly affect the balance between contrasting models of integration. It appears evident that some member states within the Union favor a more intergovernmental/multi-speed integration of the EU, whereas others support more strongly a full supranational, federal approach to a future enlarged European Union. The possible entry of Turkey into the mix can influence either group of member states or their interpretation of the future of European integration. Depending on the particular element considered, foreign and security policy or budgetary issues for instance, Turkey can contribute to a *deeper* or a *wider* integration for the Union it hopes to enter.

To see how Turkey may "side" in the integration debate, it is important to first examine some of the most pertinent and challenging issues of the Turkish membership application. The next section presents an overview of specific factors linked to Turkey's status as an applicant and some of its possible challenges as a future potential EU member. The third section addresses the implications of Turkey as a EU member for the European institutions and its possible advantages and disadvantages for current EU structures. On this basis it is possible to at least tentatively forecast, in the fourth section, Turkey's possible impact as a new player within the EU. In

hindsight it is the belief of the authors that Turkey would be a member with useful assets but also challenging burdens.

SPECIFIC ISSUES OF TURKEY'S MEMBERSHIP BID

According to most of the literature on Turkey's EU application, different factors would account for the delays that the integration and accession process announced in the Ankara Agreement has incurred: the country's size, the specific geo-political location of Turkey, the cultural and religious diversity, the challenge of integrating the country into the European construction and, even more importantly, the perception of the contribution Turkey can pledge towards the European Union's development.

Turkey's size seems to be the most controversial issue on the path of accession to the EU. Turkey is perceived as 'too big' and 'too underdeveloped': the Union is concerned about the cost/risk factors involved in Turkey's accession.[6] Regarding the cost factor, the financial implications of the Turkish prospective membership are not to be underestimated, because of its relatively less developed economy, its large agricultural sector[7] and its low level of GDP per capita.[8] Officials in Brussels and in the capitals of the EU Members believe that Turkish membership in the EU could create new and sizeable pressures on the existing policies of the Union. According to the research institute Osteuropa-Institut in Germany, Turkish accession might cost the EU budget 14 billion euro a year.[9] A similar study conducted by the Center for Studies on Turkey in Germany has estimated a different cost 'with a total of € 8.2 billion, compared to the accession of Spain which cost €7.2 billion'.[10] The problem with any such estimate is that it is difficult to weigh the time-factor, which may play a significant role exactly in this particular enlargement. For a combination of reasons, Turkey cannot join the EU before 2014, as established by the negotiating rules of the EU Commission, in order for the next EU financial framework to be determined first. During this long accession period, both Turkey and the EU will have changed considerably. As Kirsty Hughes suggests: "estimating Turkey's likely impact on the EU budget is difficult [...], since EU policies will change in the next decade and the EU budget for 2015 is not yet known".[11] Furthermore, when estimating the costs of the Turkish accession to the EU, the dynamic character of the Turkish economy, including its future

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potential, should of course be taken into account. Given recent economic growth in the country, Turkey has already achieved levels of performance in a number of sectors which are on a par with several new member states of the EU. In comparison to Poland, for instance, a EU member only since May 1, 2004, Turkey enjoyed last year a higher GDP, but at the same time a lower employment rate, a lower percentage of workers with tertiary education, as well as a higher poverty risk.[12] Bond levels are blissfully unaffected by the vagaries of the Constitution for Europe. As the Foreign Minister of Turkey, Abdullah Gül, stated: "I do not doubt that, by the completion of our structural reforms, and by the time of full membership, Turkey's economy will not be a burden to the EU".[13]

Turkey's results in the economic sector alone may not do the trick. According to Ugur,[14] the EU's assessment of the possible risks of accepting Turkey into the Union is ultimately independent from the (perception of) Turkey's achievements with regards to the accession criteria. Overall, the size of Turkey is a concern in financial terms, and that makes Turkish accession more problematic than those of the previous entrants. Nevertheless, anything is relative and there are a number of attenuating factors which would alter the EU's cost calculation in the longer term:

- Major reforms of key EU policies, including the CAP, Regional Policy, and the Structural Funds will take place before Turkey's entry - the failed compromise on any possible EU budget agreement, including the reforms for CAP specifically, at the latest EU Council summit on June 15-17, 2005 does potentially worsen Turkey's negotiating position in the fall of 2005;

- Turkey will have made much progress towards meeting the economic criteria before accession, especially since the country is aligning already with the economic acquis, so far even without the financial support of the PHARE program.[15]

- The length of transition periods still have to be agreed upon in relation to some key policy such as the Common Agricultural Policy and European Regional and Structural Policy.[16] All this would affect the costs and benefits of EU entry and their timing.

Apart from the budgetary factor, there is another variable that is causing concern for the EU in regards to Turkish membership: the accession of

Turkey would change the power distribution in the EU decision-making process. Considering that Turkey is a big country in terms of population, it would be one of the most influential states in the institutions of the Union. In fact, Turkey will have much more influence in the European Parliament and in the Council of Ministers than France or the United Kingdom. A recent study suggests that the "vote and share of Turkey in the Council and in the Parliament would be equal or very close to that of Germany. Thus, Turkey could be a significant ally for the big countries as well as the small ones".[17] According to Hughes' estimates,[18] Turkey will become the largest member state based upon population in a EU of 28 by 2025, with about 87 million people. The weight of such a factor cannot be disregarded when thinking about the possible impact Turkey will have on the future integration path of the Union.

It should be noted, however, that Turkey would not have enough power to propose or block a decision on its own.[19] As one scholar has recently pointed out: "*Germany and Turkey*[20] will be strong players but unable to block proposals even together ... they will be able to block proposals with a third large country. The large countries are not in a position to push through proposals on their own due to the need for a majority of countries as well as population".[21] What effect future, more flexible closer cooperation will have on decision-making remains to be seen, but as things stand now, the implications of Turkey's accession on the institutions of the EU seem manageable.[22]

In terms of policy orientation, Turkish membership would have at least two implications for the power distribution of the EU decision-making process. Firstly, Turkish membership would shift the balance of power in favor of the poorer countries.[23] Given that new members from Central and Eastern Europe and prospective members such as Bulgaria, Romania and Turkey are relatively poorer countries, this might create solidarity among the countries with a lower GDP on the grounds of common interests in many policy areas of the EU.[24] Secondly, Turkey's entry would lessen the possibility of a "north-south" cleavage occurring within an enlarged Union. Arguably, the 2004 enlargement of the EU, bringing in eight Central and Eastern European countries, increases the collective influence of the member states in Northern Europe, which they may use on grounds of geographical proximity and common interests in many policy areas. From

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this perspective, Turkey's membership could restore the balance between the northern and southern countries in an enlarged Union.[25]

An additional important contribution Turkey will make to an enlarged EU is in regards to the future *European* identity. The history of the Turkish application to the EU has repeatedly shown the difficulty of how to enter a Union that had an official European identity. The dilemma is actually two-fold, because it addresses culture at large and religion specifically. This last element in particular, the religious factor, has been portrayed as a possible obstacle to final EU membership for Turkey. At the moment, many scholars have responded to the cultural identity issue of EU membership with very supportive positions in regards to Turkey. First, new member states are indeed expected to potentially fit into the type of Union they are entering, but the definition itself of what "European cultural identity" represents is in the end dynamic, and adaptable to an enlarged Union. The possible problem Turkey faces in relation to blending in with the EU cultural identity[26] is not much of a hurdle since the EU has become a multi-cultural project.[27] Specifically, this position helps the integration of Turkey into the Union, and actually gives Turkey a possible asset since its membership will increase the diversity of an EU cultural identity.[28]

The Treaty establishing a Constitution for Europe has indirectly addressed the cultural/religious issue of the Union. In the preamble, the member states are agreeing on "drawing inspiration from the cultural, religious and humanist inheritance of Europe" which does not define, once again, what Europe is supposed to mean, but the words in the quote are capable of conveying the idea of a Europe-centered cultural project. The constitution counters any concerns about membership of a country where the majority of the population is Muslim, in article I-2,[29] which clearly enshrines the multicultural European project. On the Turkish side this has allayed fears of the reinforcement of a "Christian Club" with Christian values being institutionalized in the latest treaty. Although some research on the key variables supporting European integration in the ten newest member states has concurred that "Christian religious traditions, particularly Roman Catholicism, have contributed to the ideological and cultural support of the European Union"[30] and more directly "Religion matters in the East, but not as directly as in the West."[31] Yet, in a truly multicultural European identity Turkey will have as much a chance to influence the future integration process[32] as the current member states do.

Further on this last point, it is crucial to recall that one of the reasons scholars think Turkey ought to become a member state is that it reinforces its success as an example of a Muslim country with a fully functioning secular democracy.[33] This advantage is what has earned Turkey credits and an increase in the number of fervent pro-Turkey politicians and- "application patrons", a term coined by Müftüler-Baç and McLaren to denote a EU member state supporting accession by a particular candidate country.[34] If it is correct that Turkey clearly did not have any strong support inside the EU before 1999, the UK, Spain, Italy and also Greece seem to have been taking Turkey's side against the French government's position on the start of the accession negotiations.[35] The alignment of Turkey's EU patrons has indeed become even more interesting after the "NO" to the EU Constitution ratification in France (May 29, 2005) and in the Netherlands (June 1, 2005). The list of patrons encouraging continuation with the negotiations process has now become more visible. Jack Straw, the British Foreign Minister, whose country is holding the presidency at the beginning of the negotiations talks with Turkey, and Joschka Fischer, the German counterpart, have both underlined the importance for the EU to keep its commitments to the decided negotiation date.[36] The previous EU Commissioner for Enlargement, Günter Verheugen, and the current Enlargement Commissioner, Olli Rehn, have underlined the benefits from further enlargement as well as the need to avoid any one country veto of the enlargement process.[37] The EU itself seems now to be more officially committed to convince the public opinion of the need to go forward with the negotiations talks on October 3. The EU Commission President Barroso has overall recognized the relevance to strengthen the dialogue with the European citizens on many issues the EU is now addressing, including Turkey's possible future membership. The EU is scheduled to spend €40 million to spread the word about the positive aspects of enlargement and Turkey's chances to join the Union.[38] The Commission's timing could not truly have been more perfect because the latest Eurobarometer data confirm that 52% of those interviewed in EU member states are against letting Turkey in. The worries for the Commission specifically should be related to two elements: 1) the surveys took place before the failed referenda; 2) a majority of the same respondents still supported enlargement overall to other candidate countries.[39]

The actual impact of the failed ratification of the Constitutional treaty on Turkey's membership bid has already been considered even before the

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"NOs". In April 2005, both Turkey and the EU presidency under Luxembourg specifically stated that a failed ratification would not affect the negotiation's schedule since the Constitution and Turkey's membership are separate issues.[40]

After the failed referenda, the original pro-Turkey patrons within the EU Council remained determined to support Turkey's membership and the EU's official commitment to the negotiations. Whereas the French President asked for a reconsideration of the speed of enlargement, possibly during a special EU summit, the EU Council of June 2005 ignored the idea. The UK, Spain, and very recently Poland seem to have created a new axis to support a more intergovernmental view of further EU integration, their interest in supporting the beginning of negotiations with Turkey stems from the country's important geographic location,[41] as the gateway to the Middle East. Indeed, the stability of Europe is closely linked to the situations in the Middle East, the Balkans and Central Asia, and the very stability of Turkey. As Eralp points out "Turkey's role is quite crucial in the promotion of stability, primarily because Turkey is one of the few countries in her region with long-term ties to the West and with a relatively stable system in comparison to the rest of the region."[42]

The recent accession of Cyprus after the failure of the referenda in April 2004 has also given extra credit to the Turkish commitment[43] to follow the guidelines set by the EU Commission to eventually start negotiations. The support of EU insiders has clearly helped Turkey to *market* its potential assets better than before. Previously enlargement was mainly seen as a one-way investment by the Union in the new member state, benefiting the Union only in the long term. By contrast, the investment and commitment Turkey has shown over the last 2 years enable the EU to positively assume that Turkey's advantages as a EU member state might well be available from the very first day of full membership.

Factoring in all the elements that characterize the Turkish application to the EU is the best way to assess how Turkey can affect the way the EU institutions function and the final results of Brussels-guided policy-making decision process.

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BROADER IMPLICATIONS FOR THE EU STRUCTURE: PROS AND CONS

Of all the possible repercussions Turkey's membership may have, the EU governments seem to be most concerned about the political risk factor of Turkish accession. That is, this specific accession could undermine the deepening process of the EU: Turkey's accession would increase economic, political and even cultural diversity within the EU, which might cause its structure and common policies to become more heterogeneous and less cohesive. By implication, one might argue that the Turkish accession is likely to slow down the deepening process of the EU and thus make the federal vision of European integration more difficult.[44] As many believe that the inclusion of Turkey in the EU system could shift the configuration of the EU political system to a more flexible arrangement of differentiated integration, the country's size on its own clearly would not determine Turkey's position *vis-à-vis* the future integration of the Union.

Arguably, Turkey's accession to the EU could foster the deepening aspect of the integration process, since its admission would require further reforms in the EU system. The experience of previous enlargements clearly shows a trend, as successive enlargements have always forced the Union to make institutional and procedural changes in the EU system, resulting in multiple supranational structures that enabled the EU to function effectively. Indeed, soon after the first two Mediterranean enlargements with Greece, respectively Spain and Portugal, the EU concluded the Single European Act of 1987 and ratified the Treaty of the European Union in 1993. Similarly, the 1995 enlargement of the Union with Austria, Finland and Sweden was one of the decisive factors that forced the EU to make changes to the EU system; they are those laid down in the Amsterdam Treaty. More recently, the 2004 enlargement wave prompted the need for procedural and institutional changes within the EU resulting in the 2001 Nice Treaty and paving the way for the Treaty on the European Constitution. Basically, all previous enlargements have resulted in more power transfers from national institutions to supranational EU institutions in Brussels. From this perspective, it is not totally groundless to argue that the Turkish accession could catalyze the reform process through institutional reform within the supranational decision making structure.

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The dilemma that has grown out of the failed ratification of the EU Constitution in France and the Netherlands has not yet clearly negatively impacted Turkey's chances. If there is evidence in the latest Eurobarometer that opposition to Turkey's membership has increased, the level of commitment to following the schedule of negotiations has remained untouched. At this point the German elections in September 2005 are a much more serious concern to Ali Babacan, Turkey's chief accession negotiator, than any failed referenda on the EU Constitution ratification. Case in point the data TNS-Sofres has collected with regards to the "NO" voters in the French referendum. Turkey's application issue did not represent overall an important element to reject the EU Constitution, although 35% of the respondents on the right and extreme right mentioned it.[45]

The failed referenda in two founding EU member states are not directly affecting the speed of the negotiations process. On the other side, the likely electoral victory for the CDU in Germany in the fall, before the October 3 date, may very well prevent the start of the accession negotiations. Since the EU requires the unanimous approval of the negotiating framework for the accession talks to begin in early October,[46] a German government of a different political color from the current Socialist-Green one may jeopardize the beginning of the negotiations. It has been clear for a while that Turkey's membership into the EU will be not only a key element in the electoral campaign of the CDU, as the party manifesto states,[47] but also a point of contention that may easily change the electoral results.

Turkey's influence on the evaluation of the EU system will depend heavily on the perception of Turkish political elites in relation to the future of Europe. Indeed, once Turkey joins the EU as an influential member state, Turkey's European vision regarding further European integration will become important,[48] especially given that European integration has been (and still is) an elite driven process.[49] If on the one hand in Turkey popular support for EU membership (averaging about 60% in the last five to ten years[50]) increases the chance of achieving EU membership in the future, the political elites' position may actually undermine the odds. Political actors in the Turkish political system do not share the same passion for the EU that ordinary citizens seem to have.[51] Specifically, Turkish political parties are not really true believers in EU accession as they are simply forced by the voters' enthusiasm to promote entry into the EU, merely following the

public's EU membership dream rather than taking an active stance.[52] If this situation continues after the accession, Turkey is likely to develop a strong profile inside the EU, simply due to the elites' interest in retaining electoral votes.

Contrary to what happened in other EU member states with regards to the European integration process, political elites in Turkey do not really drive or lead the membership path to the EU, they are simply followers of whatever the people's position is.[53] The elites' supposedly *weak* commitment to achieving membership is nonetheless dismissed by Kramer because of a clear "European vocation" that "remains the top priority for the Turkish business elite, the military leadership, and the traditional political elites that still dominate Turkey's politics."[54] In the end, political and economic interests seem to filter the Turkish elites' interpretation of their current and future involvement with the EU, as a candidate country and as a EU member state.

The views of the Turkish elites on the future developments of the European integration currently appear to be vague. For example, although a number of statements by Turkish officials at the European Convention[55] underlined the need for flexibility in the European integration process, including simplifying the decision making procedures of the EU institutions and clarifying the division of competencies between the Union and the member states, there is still no candid and clear declaration from Turkey about how the country would like to see the Union develop in the future.[56] Similar uncertainties and vagueness can also be observed in the report of Turkey on the future of Europe, which presented the views of various civil society organizations, academics and representatives of the media.[57] The wording and style of the report leave room for different interpretations about how Turkey perceives European integration. On the one hand, the report supports the increase of 'the competences of the European Parliament' through its effective participation in the decision-making procedures; on the other hand, it opposes any reform undermining 'the contribution of national parliaments to the EU decision making processes.'

The dual position among Turkish elites has two possible explanations. Firstly, although some issues in post-Maastricht European integration, such as widening *versus* deepening, 'old Europe' *versus* 'new Europe', 'small states' *versus* 'big states' and 'federalist' *versus* 'intergovernmental', have

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arisen in Europe, generating critical debates in domestic politics, these discussions and their implications for EU-Turkey relations have rarely been addressed in Turkish domestic politics. Consequently, although Turkish political elites have been strongly supportive of Turkish accession on the grounds of political and economic gains,[58] they seem to have a lack of information on the issues that Europe has been facing. The second possible explanatory factor could be the lack of support coming from Europe. The EU's policies towards Turkey have vacillated between the more rigid and critical, and the more positive approach.[59]

Along the same lines, it can be predicted that a positive EU approach towards Turkish membership could change the perception of Turkish political elites regarding European integration. The recent increase in popular support for accession to the EU in Turkey would support the above contention. Kirişci[60] has discussed the presence of "virtuous cycles" where the EU's positive encouragement for any additional accomplishment on the part of the Turkish government has been met by an equally positive impetus among elites in Turkey to complete the tasks ahead. According to this analysis, the virtuous cycle reinforces itself and all possible costs and obstacles the elites and the public opinion have to face are immediately overcome by virtue of the expectancy of the future benefits of a EU membership.

Drawing a cost-benefit analysis on the basis of Turkey's economic power is less obvious. The impact of Turkey on the EU budget is certainly an issue in this context, but the size of the Turkish economy will not have a strong effect on the EU-wide economic system. According to Hughes' projections in a EU of 25, Turkey would have a moderately positive effect of 0.1-0.3% of GDP within the EU. In addition, migration flows at the moment are estimated at 2.9 million with regard to long-term migrants from Turkey to the other member states. That figure would not be a problem since several of the larger EU member states are in desperate need of a younger labour force as their population ages, and are battling a widening demographic deficit.

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THE TREATY ON THE BROADER CONSTITUTION AND THE AWKWARD EU MEMBER?

The role of Turkey as a fully-fledged EU member will certainly be peculiar. On one side, Turkey will be the country that has had the longest association and accession process so far. For this reason Turkey has had plenty of time to study and learn about the EU and its members, and therefore it may theoretically be more prepared than other previous new member states to act within the Union. On the other side though, Turkey is also the candidate country that has had to face the most compelling challenges on its way to full EU membership.[61] This position may not result in many concrete advantages emerging suddenly on the day of accession unless perhaps it has caught up with the entire acquis requirements: the Turkish government will likely lose influence if it needs opt-outs in certain policy areas in which it cannot meet EU membership requirements. Since the EU has embraced the so-called "principle of differentiation",[62] acknowledging that member states may need to proceed at their own pace, according to their own feasible schedule, it is possible that not all requirements are met. The EU has basically supported the creation of different speeds of accession, allowing some states to enter in better shape than others. Only countries that had spent a good amount of time dealing with the most problematic challenges of the accession were ready to be players once they became EU member states. Turkey may be one of those.

At the same time, the prospect of possible additional complications coming from Turkey once inside the Union would not be unexpected Turkey might well be a new "awkward member" along with the United Kingdom. As one scholar puts it: "there is an argument concerning the fringe countries in the EU as they are acknowledged for their unwillingness to share their sovereign powers. Some fear that Turkey with a "different" political/consensual culture may bring the workings of the EU mechanism to a halt".[63] Such argument could even be supported on the grounds that Turkey has a strong "nation state tradition" with a strong sensibility to sovereignty, thus possibly opposing a transfer of power to Brussels in regards to sensitive policy areas. A study by Lauren M. McLaren indicates that a considerable part of Turkish elites are anxious about a potential loss of national sovereignty after Turkish entry into the EU.[64] The same study also suggests that Turkish elites support their country's accession to the EU mainly on economic and social grounds, not for political reasons.[65]

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The possibility of Turkey's concern over a federal type of European integration due to a likely loss of sovereignty is subject to debate. Turkey's strong state tradition should not be taken as a political constraint for the position the country could adopt regarding the EU's integration progress. There is no necessary link between nationalism and anti-integrationist tendencies. Turkey might avoid a hard-line stand towards the deepening process: the Turkish government has a good record and sufficient experience from working with European institutions. The country has long been part of the supranational European human rights system,[66] providing a soft-law type of framework for European intervention in the domestic politics of Turkey, and noticeably increasing EU leverage over Turkish politics.

The recent reaction to the failure of the Constitution ratification referenda has added a new element of discussion: the possibility of the EU itself delaying/opposing both deepening and widening, bringing back memories of Eurosclerosis. If this "worst-case-scenario" situation will indeed materialize, Turkey's efforts throughout the negotiations process to support either widening or deepening of the Union as a future member will not likely help much. At that time, for Turkey taking either side would not improve the country's chances of completing the negotiations of all 35 policy chapters.[67]

Furthermore, Turkey is a member of NATO and has been a constructive partner in the European security umbrella over a long period of time. In some cases, this element could work against Turkey, if the country does not fully support other member states' efforts[68] to push through with a more complete Common Security and Defense Policy exclusively along EU lines. The reality of stretched borders for the EU can bring fears of instability for the Union,[69] which Turkey can help with by supporting a more EU-centered security policy[70] and at the same time using its long time NATO experience to convince other European partners to support it too.

Given the fact that national preferences do affect any EU policy decision,[71] it is important to determine how Turkey's changed relations with Greece are crucial components of the country's future commitment to integration. The collaboration with the Greek government over the last five years is evidence that Turkey is ready to step up political efforts to improve

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communication and dialogue with other member states – an essential component of any process of successful European integration, case in point before October 3, 2005 will be the signing of the protocol extending the Ankara Agreement to the ten new member states, including the Greek Cypriot government. Even when qualified majority voting is the rule, the EU often seeks unanimity or at least consensus. Turkey's political relations both with the EU itself and with its individual members are such that the country is ready to become a powerful player inside the Union.

All these considerations s indicate that Turkey could be a constructive EU member rather than an "awkward partner". Turkey is unlikely to take a hard-line position to a federal form of European integration as long as the federal system is based on shared power, while preserving the diversity and national identity of the member states. For this reason Turkey will have allies in the UK, Spain and also Poland, member states with a specific interest in a looser version of European integration for the EU.[72] Yet, as Kirsty Hughes predicts

> There is a risk that Turkey as a member state could resemble the UK and be a rather awkward player – but it is more likely than the UK to understand the political nature of the Union. It will also resemble in some ways the new member states of central and Eastern Europe in some of its policy interests, and in other ways will have much in common with Mediterranean member states like Greece, Spain and Portugal.[73]

Whether the positions of the French and Dutch governments will change considerably after the "NOs" to the EU Constitution in their countries may affect the level of opposition to Turkey's future integration preferences as a EU member. In France, the opposition to the Turkish application is broad, although the French President Jacques Chirac has repeatedly and openly supported the Turkish government's efforts. At the same time, the French government cannot ignore the share of the "NOs" that came from the extreme right supporters. The people rejecting the Constitution ratification in France and the Netherlands seem to be against the specific features of the Constitutional agreement rather than either widening or deepening directly. In brief, they do not like how the European integration is taking place, but they still support overall integration and enlargement.

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It is clear that, overall, Turkey's impact on the development of the EU will be substantial from many points of view, due to the country's multiple features.

CONCLUSION

Whether Turkey becomes a supporter of a more federal EU rather than a more intergovernmental Union will depend on the EU's priorities with regards to individual policy areas. It appears from the elements discussed throughout the chapter that in any event Turkey as a EU member state will be a main player in the integration process.

If power and security issues are to be priorities on the future integration agenda, Turkey's geographic position, NATO partnership experience and specific example as a secular Muslim democracy are keys to its role in any prospective EU decision. Turkey will likely play the intergovernmental card to restate its power position, making sure its government gets credit for its commitment to the EU.

If, instead, economic and monetary integration as well as cultural and social development are the main priorities for the EU in the future, Turkey may have a more difficult time to be heard. In this situation, Turkey's bets will be on supporting a more federal, supranational integration that will allow the EU to accommodate diverse interests within the Union, not only the interests of the main actors.

Turkey's perception on the future of Europe will depend on the newly enlarged Union itself, the political direction it may assume and the implications of that assumption. After the 2004 enlargement, the degree of flexibility in the European integration appears to be institutionalized in the new Constitution of the EU. As the Financial Times describes it: "The EU, especially after the latest Big Bang enlargement, is already well into the territory of "variable geometry", where like-minded members form inner core groups such as the euro or the Schengen arrangements dispensing with border controls".[74] The new integration style has also implications for the EU-Turkey relations. The degree of flexibility in the European integration could radically affect the EU's options. At one extreme, a more deeply integrated EU would make Turkey's membership more difficult, if not impossible, while at the other extreme, a differentiated integration would

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create a 'multi-speed' and /or a 'multi-tiered EU' within which Turkey might be more easily accommodated. Of course what 'membership' would actually mean in a future EU of 25 or more is currently uncertain.[75]

The European integration situation in the summer of 2005 does not seem to provide enough coherent clues. The Constitution ratification problem has turned into a hurdle that is currently delaying the speed of integration. Whether the failed referenda in France and in the Netherlands will stop integration or simply redirect it, it is too soon to guess. The details of the "NO" voters especially portray a very confused position. If the EU slows down, and it becomes entangled in internal arguments, the chances of a "smooth" negotiation process for Turkey will diminish. Turkey may end up paying the price of a failed EU Constitution. However, it is important to remember that the Danish "NO" to the Maastricht Treaty did not delay the 1995 enlargement, and the Irish "NO" to the Nice Treaty has a similar lack of impact on the 2004 enlargement in the end. Since Turkey will not enter the EU at least until 2014, caution would suggest that there is plenty of time to solve any possible enlargement problem linked to the (for now) failed ratification.

The future direction of EU integration will determine the level of success the Union achieves. The intergovernmental approach will likely please those member states that are not willing to lose more sovereignty, whereas the federal path of integration will strengthen the position of member states that have been supportive of a more assertive Brussels. In the end, whether the European Union takes an intergovernmental or federal approach, Turkey has all the necessary assets to contribute as a full EU member state to the future success of the EU. Turkey in the EU will be a country in support of the European project it has constantly and incrementally moved closer to. Whether or not the EU Constitution is ratified, Turkey needs to focus exclusively on closing those 35 chapters that separate the country from a goal Ankara has envisioned a long time ago.

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FEDERAL, SOCIALIST AND CHRISTIAN FOUNDING MYTHS OF THE EUROPEAN UNION AND PROSPECTS FOR TURKISH ACCESSION

Shawn DONNELLY*

Abstract

The politics of European identity are dominated by battles over founding myths, ideas that are entrenched in the institutional structure of the EU. The intergovernmental-federal divide, the liberal-social divide in economic and social policy, and the divide over secular and Christian democratic principles in the EU all determine how European actors behave in EU politics, and they play a role as well in how Europe deals with the question of Turkish accession.

The politics of European identity and a decision about desirable members is intertwined with discourses about the nature and purpose of European integration. The politics of Turkish accession just like the politics of developing and ratifying a constitution for the EU, evoke such a strong politicisation of the parties involved that efforts to fashion these discourses into founding myths of European integration and identity have become a key component of European politics. These founding myths are plural in nature, and have competed with one another for decades in the attempt to define who Europeans are, and what purposes European integration ought to serve. Indeed, the manner in which these competing founding myths have been incorporated into the institutional structure of the European Union has ensured that they continue to contradict each other up to the present day. Although these myths are not new, they are more important than ever in the context of the political decisions Europe must make on widening and deepening. The myths shape and are themselves shaped by the current phase

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of European politics. They can be understood as social constructs competing for the meaning and direction of European politics.[1]

There are three principal disputes about the nature of European integration that shape present politics in the European Union. The first dispute is the intergovernmentalist-federalist divide. For some, the story of European integration has been one of intergovernmental co-operation. The institutions of the European Union work for the national governments, and may only act in so far as the national governments allow them to do so, regardless of what powers and responsibilities they may be deemed to have. This is not only a frequent theme of literature in political science,[2] but also a desired political principle promoted and protected by a long line of political actors in many European countries. Their counterparts on the other side of the political spectrum promote a federal state-like structure for the European Union that would subjugate the governments of the member countries.

In addition to their different approaches to institutional competencies, the two sides of the spectrum also promote different views of political culture and identity in Europe. Those who adhere to intergovernmentalism demand respect for the diversity of nationally based European publics and remain sceptical about the capacity to build a pan-European identity attached to the European Union. Those who promote federalism seek ways to show that a transnational European identity and political culture is both developing and worthy of further promotion in the search for greater European unity. For this reason, the intergovernmentalist-federalist divide is not simply a matter of descriptive accuracy or scientific proof about the realms of the practically possible, but also a matter of ideological conviction about what sort of European Union is desirable.

The second dispute is the divide between the promoters of liberal market and social market economics. For the promoters of liberal market economics the greatest success of European integration has been its market-making activity. Negative integration has led to national governments reducing barriers to trade, investment, and the flow of labour across national boundaries. At the same time, the European Union has developed rules and regulations that ensure a level playing field, and adequate regulation of the European market to ensure the protection of consumers, shareholders and producers. Promoters of the European Social Model, on the other hand, view European integration as an opportunity to ensure the rights of

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employees and socially needy people across the European Union, both in the light of its diminishing barriers to trade, investment and labour mobility, as well as at the micro level of the company. The social market economy agenda comprises not only the regulation of companies and public bodies, but also the inclusion of employees and so-called stakeholders, those who are directly affected by decision-making, in the decision making processes of public bodies throughout the EU and, among extreme supporters, within the private sector itself.

The liberal market- social market divide finds its natural point of resonance in political debates over the benefits and detractions of economic globalisation, and the effects that it has (and should be allowed to have) on the social and regulatory policies of national governments. Proponents of a European Social Model have latched on to discussions of ethics, competitiveness and political governability in order to emphasise that there is an alternative to the American way of ensuring economic growth and employment.

The third dispute is the divide between a secular political order, and a political order based on Christian democratic principles. For promoters of a secular political order, the state has no place in the affairs of religious institutions, and religious institutions and symbols have no place in the institutions of the state. The separation of church and state is considered by its opponents to be an indispensable component of rational government and a bulwark against the abuse of public institutions and private freedoms by religious actors and groups. For advocates of a Christian Democratic order, the organised support of religious groups for the democratic state is considered to be an intrinsic part of Western European democracy. Christian Democrats close to the political centre believe that their movement serves to broaden public support for democratic institutions and processes in countries where historically that support could not be taken for granted. For other supporters of Christian democracy, it is the Christian component and not the democratic one, which drives their support for the recognition of Christian democratic principles in European politics and in the European draft constitution. The latter group poses a much stronger challenge to the inclusion of citizens from other religions, and thus to the accession of Turkey to the European Union.

The result of these three disputes is that the politics of European identity and the politics of European integration are permeated with cross-cutting cleavages over the desired nature of the European Union itself, and its relationship with member countries and citizens. This not only has important implications for the existing member states of the European Union, but also for countries that have applied for membership. For Turkey, there will not only be implications for what impact the European Union might have on the country, but also under what conditions the European Union will sustain the offer of accession negotiations in the first place. Now that Turkey has fulfilled as many of the preconditions for negotiations as other states have done before them,[3] it is instructive to take a look at what Europeans think about themselves as they open negotiations with Turkey and start thinking about what a possible Turkish membership would mean for them. While much attention has focused upon whether Turkey is ready for Europe, increasing discussion within the European Union's has revolved around whether Europe is ready for Turkey. A deeper investigation of these three divides will help us to understand where the opportunities for and constraints on Turkish accession lie in European politics.

THE INTERGOVERNMENTALIST-FEDERALIST DIVIDE

The idea of European unification has accompanied European politics for centuries. Europe is one of the most fragmented geopolitical areas on earth, and the fact that it is more united at present than at any other point in history is a testament to the ability of political entrepreneurs to make mutual commitments and create common institutions to overcome the divisions that have caused them so much difficulty in the past.[4] Both the nature of this unification and the nature of its trajectory are matters of deep disagreement. These disputes have found their way into recent negotiations over the EU's most fundamental rules: the Nice Treaty and the Constitution respectively. One of the factors the existing member states will take into account when assessing the applications of new members is where they side on this thorny issue. In concrete terms, the proponents of each side will be looking either for signs of conformity with the *acquis communautaire* (a misleading term given the large degree of mutual recognition and open coordination of policy, rather than harmonisation),[5] or for an attachment to the primacy of mutual respect for national differences in the commitment to and implementation of common goals.

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On one side of the spectrum, proponents of federalism believe that only a truly federal construction will put an end to the European history of war and discord.[6] In practice, the federal ideal has suffered more than one misfortune that has robbed it of support. In more than one country the idea of federal union has been associated with forceful attempts at European unification, and it has shattered on the pride of national governments with longer-standing national myths that resist submission to a higher, constraining power. Germany is one of the very few countries that constantly and vigorously support the idea of a federal Europe. For German political culture, European unification on a negotiated basis is the mechanism through which the political class shows its commitment to the rules of a civilised and progressive society that stands in contrast to its own history as a failed democracy and totalitarian dictatorship. National independence, in contrast, is associated with the sort of conservative forces that brought discord and war in Europe, and which could bring it again if the forces of nationalism are not buried under the weight of a European construction. The Hitler Card, if one may call it that, proved to be a particularly potent weapon for Helmut Kohl as the first Chancellor of a reunited Germany as he sought to convince German voters to support the 1992 Treaty on European Union, and more particularly, the most federal of its provisions: those on the European Central Bank.[7] The omen of war, destruction and pestilence was projected onto the screen for a public that was sceptical of further European integration, and that had found a source of national pride in the deutsche mark, the national currency that gave its name to the phenomenon of "deutsche mark nationalism"

In many other European countries, the idea of subordinating national independence to a foreign institution, even if their people have a say in its operation, bears too much resemblance to past attempts at forced unification.. As recently as 1942, much of Europe had been unified under German military leadership, and after 1945, much of central and eastern Europe was dominated by the military might of the Soviet Union.[8] One could also add to this the French expansion under Napoleon to 1805. The countries which suffered this fate have reservations against surrendering national sovereignty which are easily understood once this frame of mind is made apparent. The attachment to the rights of national governments to decide the rules of governing the European Union is particularly evident in those countries that have had direct experience with Soviet military intervention to quell uprisings and independence movements. The

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governments of Poland and the Czech Republic in particular have quickly developed a reputation for national-mindedness in European affairs.

The United Kingdom and France also place an emphasis on national independence that flies in the face of federalist dreams, based on their own mythologies of national greatness. Indeed, the idea of European union was ballooned twice by Jean Monnet in the form of a Franco-British Union, once during the First World War, and once during the Second. On both occasions, grave concern about the ability of Paris and London to successfully coordinate a joint war effort against Germany was evident. On neither occasion was the French civil servant able to convince either government that such a move was desirable.[9]

In the United Kingdom, the idea of national independence is strongest. The myth of British national greatness has its roots not only in British traditions of treating Europe as one sphere of interest alongside the Commonwealth and the Atlantic partnership, but also in the fact that Britain was the only European country now in the EU to survive the German attack and the Napoleonic threat before it with its independence intact. Combined with the idea of the Empire as a confirmation of Britain's national greatness, the idea of British independence played and still plays a central role in British political thinking today.[10] This feature is evident in the British press, which continues to cultivate the image of Europe as somewhere where one shops or travels, but not as a place from which the UK should be taking orders. This is one of the principal reasons why British voters have never been able to warm to the idea of the single European currency,, and why the country has been described as the 'awkward partner' in European politics.[11]

The thinking of the French political class has developed a moral, more nuanced approach that combines support for greater European integration, whilst preserving the most central vestiges of national sovereignty. The idea that Europe is a tool to be used in the pursuit of French national interests predominates over relatively minor constraints on French policy in selected areas, which explains why successive French governments, unlike those in the UK, have never been unwilling to fully support a federalist project.[12]

The history of Europe's first peaceful integration project, the European Coal and Steel Community of 1952, the subsequent failure to create a

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European Defence Community, and the establishment of the European Economic Community in 1958, all show that other European countries had an equal dislike from the very start for European institutions that acted independently of the national capitals. The Coal and Steel Community was truly federal in nature, with a supranational High Authority endowed with interventionist powers, but this frustrated national governments so much that they refused to allow the European Commission to be endowed with similar powers. The proposed European Defence Community died in part due to the reluctance, in France, to cede autonomy to yet another European institution. While the Economic Community foresaw the gradual introduction of measures that could see a national government outvoted by other member states, a stop was called to this by De Gaulle's 1965 boycott of EEC affairs in the Empty Chair Crisis, and later by the so-called Luxembourg Compromise, which allowed a government to veto proposed rules that violate its vital national interest. This state of affairs persisted until the 1986 Single European Act, when qualified majority voting was extended to cover most aspects of the Single Market, but the Compromise lurked in the background.

Whilst national governments and the voters that support them continue to support the idea of a Europe of states, the EU's more federal features have been developed in the institutions in Brussels, in Strasbourg, and in Luxembourg. None has been more powerful than the European Court of Justice, which interprets the treaties and creates rules through case law that effectively tie the hands of national governments and of the European institutions as well.[13] Beyond this, the Commission wields the power of a cartel office (thanks again to the Court), the European Central Bank decides interest rates for twelve member countries, and a plethora of policy areas covering virtually anything that can be regulated has been communitised, i.e., transferred into the area of EU politics, where individual European governments can now be outvoted in the establishment of binding rules that everyone must implement.

The national governments have taken care, however, to ensure that the federal aspects of EU politics do not escape their control. Apart from dominating the decision-making in the Council of Ministers, they also favour rules that are open to interpretation, such as framework legislation and the open method of coordination, and value the myriad of specialist committees that oversee and advise the work of the European

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Commission.[14] These modes of governing the EU reward those countries with a respected group of experts in their field who participate in committees at the European and national levels in the pursuit of optimal rules and best practices.

The result of these developments is that policy-making in Europe is best described as multi-level governance, in which national governments create common rules and institutions, but hold on to critical levers of power . This implies that European and national actors must all work together if they are to create any new rules and regulations at all. It also means that national governments remain involved in the implementation of existing goals and rules that have been instituted at the European level. This has long-lasting implications for decision-making in the EU that are both formal and informal in nature.

With respect to the formal implications, the super-majorities required to pass legislation pertaining to the single market in the Council of Ministers provide all national governments with ample opportunity to influence legislation.[15] The Treaty of Nice, which was designed to facilitate the passage of legislation in the Council with the use of less troublesome supermajorities, not only retained these high thresholds, but raised the bar even higher. The percentage of weighted votes required to pass legislation in the Council was increased marginally, but not so much as to ensure that large countries could block legislation as easily as they could beforehand. Their interests were protected further by a second majority procedure requiring support by states representing at least half of the Union's population. By admitting ten new member states to the EU in 2004, the EU did not change this. Clearly, support for a larger Europe was not to be mistaken for support for a federal Europe.

Indeed, the fear of the German government, and an important reason why it lobbied the rest of Europe so strongly for the introduction of a Constitution for Europe, was that the intergovernmental tendencies of Europe entrenched in the Treaty of Nice and espoused by the Member States would be too strong to allow for further integration in a federalist direction.

The informal implication of this intergovernmentally tinted system of governing Europe is the influence of policy experts and politicians operating

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outside of the arenas in which binding rules are made.[16] This activity is particularly apparent in the areas of macroeconomic and employment policy, in which the open method of coordination dominates. In macroeconomic policy, all members of the EU, whether members of the single currency zone or not, participate in a formal process known as the Broad Economic Policy Guidelines (BEPG). Through the BEPG, each national government provides information on its macroeconomic policy to the other member states and to the European Commission, and in return receives feedback from them regarding its appropriateness in the context of common goals.[17] The purpose of this procedure is to coordinate and exchange views, not to exercise formal authority over the macroeconomic policy of national governments. The same is true with regard to employment or labour market policy.

There are other procedures even more informal than this. Without even a set procedure for producing reports, benchmarks and opinions, the finance ministers of the countries participating in the euro meet in a group known as the Euro-12 Council. Without any powers, it exists as an informal forum for governments to discuss and potentially coordinate their policy demands in the forum of the Council of Economic and Finance Ministers (ECOFIN). As ECOFIN is the only formal body which might be able to negotiate with the European Central Bank about the general economic policy goals of the European Union, and as not all members participate in the euro, the Euro-12 Council is a natural, informal venue in which national representatives may fulfil the function of policy coordination.

This type of policy making is bound to increase in the future as the EU develops a more distinctively variable geometry. This principle, by which a group of eight or more member states may elect to create and participate in a new European institution or procedure, was designed last-minute in the Amsterdam Treaty and subsequently confirmed in the Nice Treaty, and it will allow decision-making overlaps of the kind existing between the Euro-12 Council and ECOFIN in a Union of 25 countries.

In a European Union developed in this way, Turkey will benefit less from proclaiming a preference for intergovernmentalist politics, and more by demonstrating legal, economic and policy-relevant expertise in these transnational policy arenas.. These capacities not only serve to cultivate links between professionals across Europe to increase the clout of the

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countries involved, they are a means by which the legitimacy of national viewpoints can be promoted to other European governments involved in the formulation of EU policies, and by which the legitimacy of European policies for domestic constituents can be enhanced. Therefore, Turkey's active involvement in European governance mechanisms and its experience in policy reform are valuable resources in increasing Turkey's influence in the EU.

THE LIBERAL MARKET – SOCIAL MARKET DIVIDE

From the beginning of its existence, the European Union has been supported both by those who wish to see it develop as a pan-European market economy, and those who see it as a vehicle to greater social responsibility, solidarity and government intervention in the economy to promote competitiveness in the face of expanding trade and financial flows. Although much of the EU's activity favours the expansion of market activity, calls for various kinds of solidarity among regions and European citizens, and the further development of social regulation have strengthened since the early 1990s.[18]

This vision of the European Union was necessarily tied to the particular type of national state that political advocates favoured. For the advocates of a market economy, the principal challenge after the Second World War was to reduce the degree of state intervention in the economy. Among the original members of the European Economic Community, however, only Germany was truly committed to reducing the traditional interventionist role of the state in the economy. The policy of ordo-liberalism promoted by Ludwig Erhard, which forced the widespread prohibition of cartels, and the emphasis of economic over social policy, ensured that Germany became one of the most market-oriented members of the European Community. Had the United Kingdom had been a member of the Community at that time, the political support for the market option could have been greater than in turned out to be.

Since the signing of the Single European Act in 1986, the European Community has moved steadily in the direction of the market economy. Its greatest achievement was to build down the barriers that once isolated consumers and producers in the various member countries, although the volume of European regulation has increased rapidly since the 1990s. In

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part, enthusiasm for markets reflects the legacy of stagflation, the discrediting of Keynesian economics by the early 1980s, and the search for new ways of increasing growth and employment. In the 1990s, this direction was further strengthened by the agreement to launch monetary union in Europe with an institutional structure of rules on fiscal policy that forced the reduction of state spending, and hence state involvement in the economy. The demands of monetary union membership and the fact that all new member states must commit to adopting the euro, means that this decision will have ongoing effects over the next few decades. [19]

For advocates of an interventionist state, the principal challenge after the Second World War was to modernise the economy and to minimise tensions between capital and labour. In the great compromise known as embedded liberalism, the progressive opening up of trade and the building down of barriers to trade and investment were allowed to proceed only as far as political expediency allowed. For the French state in particular, centralised rationing and allocation of capital, close ties between the state, banks and industry, constituted the centrepiece of the grand strategy for economic modernisation and for preserving social peace under conditions of rapid structural economic change until the middle of the 1980s.[20] In so far as the European Community was able to facilitate these activities, they could count on French support. The common external tariff and the common agricultural policy both contributed to the protection and promotion of a modernised French economy supported by a developmental state. It was only when the activities of the Community threatened to challenge those of the French state that French support for the Community turned into opposition. Dismay at the interventionist activities of the Coal and Steel Community's High Authority in French industry led to resistance, and support for an intergovernmentalist Economic Community. More famously, however, the Gaullist ideal of an interventionist developmental state was responsible for the death of attempts at introducing qualified majority voting in the Community's Council of Ministers. If this had been allowed to proceed, the requirements of free trade in the single European market would have undermined the French state's interventionist tendencies. It required the failure of Mitterrand's policy of nationalisations and demand-side economic management in the early 1980s, and the additional pressure of the European Court of Justice's prohibition of non-tariff barriers to trade in the Cassis de Dijon case of 1979 to open the door to negotiations on the completion of the Single Market, and –as a means to

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achieve this- the introduction of qualified majority voting in the Council of Ministers.

Despite this movement in the direction of a market economy, the social market and interventionist tendencies in France and other countries have not come to an end. Instead, national and regional governments negotiate with the European Commission in order to promote the case of state involvement in the economy, thereby upholding a procedure by which they negotiate interventionist policies, with the Commission acting as a referee. Europe is awash with regional development policies that involve direct state investment or subsidies to attract private investment or keep it committed to existing activities. At the same time, national industrial policies continue to operate within the parameters set by the European Commission's Directorate General for Competition Affairs. Rather than banning intervention, DG Competition has proven to be open for negotiations with national governments regarding the conditions under which intervention may take place. Prominent examples in the last year include the hostile takeover of the Franco-German pharmaceutical company Aventis by the French company Sanofi, and French action to save the ailing engineering company Alstom from a German takeover. In both cases, the French government declared that its national interest superseded that of any international commitments it might have, including those to the European Union. While DG Competition rejected this claim, it did negotiate with the French government and granted it lenient conditions.

Beyond state interventionism, the idea of a European Social Model as an alternative to arms length relationships between employers and employees, and a minimum of social regulation and social services, has been a vision of socialist Europeanists last since the early days of European integration. In the coal and steel industries, codetermination of workers and management was an inbuilt principle by the 1950s. Due to the dominance of the national governments, and until the organisation of unions and employers at the European level, corporatist bargaining on European regulation was not possible then, and regulations on working conditions and other social aspects of life were not developed. It was only in the 1990s, after the Single European Market programme had been promoted in the 1986 Act that demands for more social policy activism reached the point where they could produce results. In Germany, these demands had always been present, for they reflected the country's high degree of social

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protection and worker co-determination in national industry. After reunification, however, under the economic pressures of the single market, and amidst growing concerns for Germany's economic competitiveness, German interest in the European social model became paramount. At this juncture, French political discourse began to deal seriously with the question of whether France's economic modernisation should lead it in the direction of an Anglo-American liberal market economy, or in that of a social model known as Rhenish capitalism.[21]

The results of these pressures have been modest. In 1992, the European Union appended a Social Protocol to the Maastricht Treaty, to which the UK did not subscribe, and inserted it as a Social Agreement into the Amsterdam Treaty after the Blair government entered office and became the last government to sign on to the deal. The social agreement commits the Member States to take note of several broad social policy goals when formulating their national and European regulations. It also grants employers and unions at the European level a role in European legislation with which they may collectively block legislation not to their liking, or take the problem into their own hands and thereby avoid legislation by the member states. To date, these provisions have not resulted in an increase in social legislation, and, social policy of the member states remains an area of responsibility for the national governments which they tenaciously guard.

The lack of consensus over the balance between market and social goals in Europe was demonstrated in 2004 during the negotiations over the draft European Constitution. During that debate the issue over the right to work was raised. In English, the term 'right to work' is ambiguous. It can mean that everyone has the right to a job, in the sense that theoretically, individuals could take their cases before the courts to secure a paid position or compensation from the government. The idea of a legal right to a job was indeed popular in many countries after the Second World War, and it remains so to this day not only in Eastern Europe but also in the Mediterranean. Interestingly, the Rome Treaties establishing the European Economic Community originally enshrined a right to work.. In the German version, however, the precision of the language allowed the government to insist that the right to work meant the *freedom* to work: that no one could prohibit one from working. This placed the responsibility back on the individual to find gainful employment.

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Another aspect of social solidarity, and one that will play a central role in the debate over Turkish membership, is the issue of the EU's Cohesion Funds. The Union provides funds to aid poorly developed regions through investments in human capital and infrastructure. Although these funds predate the Maastricht Treaty of 1992, it was then that the principle of solidarity amongst the countries of the European Union was strengthened as a defining principle of the Union. This was important at the time, and it continues to be so, because cohesion funds were explicitly legitimised by the costs of economic adjustment for countries undergoing radical restructuring, and by the goal of promoting an even standard of living throughout the union. This is probably the most serious concrete source of discord in the European Union today, as new, poorer member states make demands for money, older donor countries refuse to pay more and traditional recipient countries refuse to accept less.

Despite attempts to rationalise the programmes that fall into this category, the decision-making has never escaped from the stranglehold of interstate bargaining on a unanimity basis, and they are already poisoning the relationship between the new and old member states. The practical implication is that no new substantial monies should be expected to come out of this fund in the foreseeable future. This will affect the position of Turkey as well.

Despite the overwhelming emphasis of liberal market over social market and interventionist policies in the European Union, both directions are fought for by groups based on claims that reach back to the beginning days of European integration and that have consistently secured a place in European institutions and constitutional policies. In recent years the debate over which direction the European Union ought to move in, has become a bitter political battle that has since flowed over into academic debate.[22] What is more, the debate over market and social policy combined with the debate over federalism and intergovernmentalism is giving rise to deep-running disagreements affecting both the EU Turkey, discussed further below.

THE SECULARIST – RELIGIOUS DEMOCRATIC DIVIDE

The third division in European politics affecting Turkey concerns the place of religious beliefs in the political order of the European Union and its member states. In the early years of European integration, Christian

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Democrats were able to make a connection between their beliefs and integration that has persisted and grown over time, even if it is not accepted by the broad majority of the public. Not all founding members of the European Coal and Steel Community and the European Economic Community were Christian Democrats, but many of the key actors were. Robert Schumann of France, Alcide de Gasperi of Italy, and Konrad Adenauer of Germany were the most prominent figureheads of the movement toward European integration. That they were Christian Democrats and founding fathers or framers at the same time, led credibility to the claim that there was an intrinsic relationship between the European experiment and the normative beliefs that connected them across national boundaries and over barriers of language. Indeed, the programmatic contention by Christian Democracy in the 1950s that nationalism was an evil to be buried and replaced by European unity was part of one of its underlying founding myth.[23] In this light, it is not surprising that the Jean Monnet's determination to improve the lot of his fellow human beings[24] is portrayed as a driving force of his efforts to unite Europe and part of the Christian Democratic tradition, even though it does not appear that he played this card in attempting to convince countries to integrate.

The importance of the Christian Democratic movement in consolidating democracy in continental Europe has also flown into the myths about the secret of Europe's post-war success at democratic renewal and economic development. The greatest achievement of Christian Democracy in the realm of political development was twofold. It united a previously fragmented religious community under a single banner encompassing enough to win office, thereby stabilising European politics to a degree it had not achieved in the period leading up to the Second World War. Second, and more important, by rejecting the demands of its more zealous religious supporters, the Christian Democratic movement was able to manifest itself in several continental European countries as a catch-all party that incorporated supporters from other camps through the use of cross-cutting cleavages.

The dominance of Christian Democratic politicians in launching European integration in the 1950s made it possible for some to view European integration as a project with Christian Democratic roots, of which democratic consolidation was but one component. Robert Schuman, who immortalised himself with the declaration introducing the plan to establish

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the Coal and Steel Community on May 9, 1951, made ample reference to the inspiration of that plan by Christian values. Konrad Adenauer, the first Chancellor of the Federal Republic of Germany, identified with this view and underlined it prominently.[25] This impression was kept alive throughout the EU's reconfiguration in the 1980s because Christian Democratic parties stood on the liberal market side of the debate over economic and social policy, and as governing parties they took part in building the single European market. Helmut Kohl's Christian Democrat convictions and his determination to bind a united Germany into a federalist Europe that would irretrievably prevent a return to Germany's totalitarian past came to be incorporated into the narrative about the Christian nature of the European project.

What is more controversial is whether there is any good reason to explicitly mention Christian Democratic values in treaties covering European Union. This issue has most recently been brought up in the debate over the European Constitution, in which some actors demanded that a reference to God be placed within the constitutional text, and in which the Vatican demanded an explicit reference to the Christian heritage of Europe[26] that would necessarily exclude those of Jewish and Muslim faiths, which share the same deity. Although the idea found resonance among some French voters, among others, it raised the ire of the French government, which defended a strongly secular stance resembling that found in Turkey, in the banning of headscarves in French schools in 2004. Given the lack of agreement in the Convention on these issues, the reference to religious entities was dropped before the heads of government signed the treaty establishing the European Constitutional Treaty.

This issue is not likely to go away. On the contrary, the Turkish candidacy for membership in the European Union is forcing a more explicit debate in Europe about whether a Muslim country could be a member of the EU. The most explicitly conservative quarters argue that Turkey's accession would be the end of Europe, a denial of the philosophical and cultural heritage that supports a vibrant civil society and the rule of law.[27] These concerns seem to be strongest in countries dominated by Catholicism, such as Italy and Spain,[28] weaker in countries dominated by Protestantism in the north of Europe, and weakest, of course, in countries where secular values dominate. Countries in which the Orthodox Church is strongest appear to be split between Greece, which officially supports Turkish membership, and

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Greek Cyprus, which demonstrated little support for reunification with the Turkish Republic of North Cyprus.

The 2004 enlargement of the European Union cut both ways. Most countries acceding to the Union had a long history of Socialist government, meaning that populations were discouraged from taking up religious beliefs. On the other hand, Catholicism became a core element of the anti-establishment movement, as in Poland during the Socialist dictatorship, and remains a strong part of Polish identity to this day. Despite this, Poland supports Turkish membership, in part because it expects Turkey to side with the intergovernmentalists in European affairs (see above). Finally, although no one can really expect Greek Cyprus to genuinely support Turkish membership after their vote to decline reunification of the island on the basis of the Annan Plan, the Greek Cypriot government otherwise pays close attention to the preferences of Athens, which favour Turkish membership.

The foregoing implies also that countries in which one of the major parties is Christian Democratic will prove to be of particular importance in the question of securing Turkish membership. In Germany the current Social Democratic government is sympathetic to Turkish membership in the European Union. The Christian Democratic party opposes Turkish membership as a threat to the Christian democratic principles which it believes are at the heart of the European Union, and formed a grand coalition with the Social Democrats in October 2005. As negotiations with Turkey started before Chancellor Merkel could take office, they will continue for the time being. However, future German governments could use their influence to deny Turkish membership by findings reasons to object, no matter how small. The attitudes of political parties will therefore play a crucial role in determining the continuation and conclusion of talks.

The issue of whether religious symbols may be banned in state buildings typifies the secular-religious divide in Europe. The constitutional debates in Germany over the wearing of the headscarf in schools, which was only resolved by allowing the constituent states of the federation to find their own solutions, and the legal ban in France demonstrate the political explosiveness of this issue. Again, the directions chosen reflect the political and religious traditions of the regions and governments involved, and more relevantly, their divisiveness in France and Germany, two countries with

very different approaches to the issue. The separation of religion and state in France, to which the Turkish model also adheres, was simply strengthened by the recent banning of the headscarf in schools. In part this is an internal matter, but the French are not unaware of the signal it sends to migrants from new member countries. The neutrality principle in Germany, on the other hand, allows state sponsorship of religious institutions outside of schools, and permits regional administrations to either ban all religious symbols, or to allow them equal status.

In sum, the secular-religious divide in European politics is becoming more heated and controversial, and it will undoubtedly play a role as Europe discusses membership for Turkey, but it is unlikely to be as central as many people fear, as other issues from the federal-intergovernmental and the liberal-social divides show their impact as well. This state of affairs is likely to persist as long as the Turkish party system continues to reflect the degree of moderation and consolidation that it has displayed since the last election. At the same time, Europe has been sending overt messages to the Turkish public to the effect that EU membership will have no effect on the headscarf question in Turkey, which remains an issue of national politics.

COALITIONS AND EUROPEAN INTEGRATION

The strongest of these various divides is intergovernmentalism. Although pure intergovernmentalism is increasingly rare in EU politics, the power that the principle has over the behaviour of the Union is striking. The basis of an alliance between intergovernmentalists and the proponents of a liberal market economy was laid down by Margaret Thatcher's Bruges speech of 1989, in which she viciously attacked both the federalist aspirations of the European Commission under Jacques Delors and the aspirations of European Socialists for a European Social Model.

A strong coalition between federalist and socialists has been prevented by the fact that national governments resist giving up any of their social policy responsibilities to the European Union. In the European Union's three pillar structure, domestic social policy constitutes an area which is protected from any form of majority voting, in which the Commission has no powers of initiative for legislation, in which the European Parliament has no right to information or consultation, and in which the European Court of Justice has no competence to impose binding rules. To the extent

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that the member states pursue social policies, they coordinate them rather than harmonising rules or establishing uniform European standards. For this reason, there is no perspective for long-standing Socialist projects such as a single European pension funds, a single European unemployment insurance fund, a single European health insurance. In addition, most rights that workers have in the workplace remain issues of national social legislation and regulation outside of the realm of European rules.

The impact of this politics can be seen in the Macroeconomic Dialogue that accompanies monetary union. The European monetary union ties the hands of national governments when it comes to spending money to increase employment. The process was initiated by a political agreement to coordinate labour policy initiatives in order to increase employment without spending more money. In the time that has passed since its introduction, however, attempts at reaching common substantive policies have failed on account of national desires to retain autonomy in this area.

IMPLICATIONS FOR TURKEY

Turkish membership will be harder to secure than that of the ten countries that were admitted to the Union in 2004. Turkey's candidacy will not be bound up with a historic and heroic attempt to incorporate a large group of countries in a short period of time that diverts European attention away from the details of negotiating membership for any one country. This implies more intensive scrutiny for Turkey.

The intergovernmental-federal divide in European politics is one that works in Turkey's favour for the present. Most of the EU's member states are on the intergovernmentalist side of the issue, and have demonstrated their reluctance to commit to a more federal system by turning over the decision on a more federalist draft constitution to their voters, resulting in rejection in France and the Netherlands. Turkey's similar view of EU affairs will fit in well with the rest of the group. The most federalist of the EU member states, Germany and France, did not object to accession talks with the Turkish government, despite the inevitable rumblings of domestic opposition.

The liberal market-social divide in European politics is also one that works in Turkey's favour. The thrust of EU policy clearly benefits the

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liberal market side of this issue, as does the inclusion of many new countries into the Union that put direct economic competition pressure on the old member states.[29] Turkish membership, combined with the country's economic and administrative reforms since 2001, fit this development well.

The weakness of social transfers in the EU will mitigate the issue of economic transfers to Turkey for the EU. This is not positive for Turkey in direct economic terms, but an issue that can be partially rectified by bilateral negotiations during the last stage of accession, as Poland's Krasniewski administration showed at the 2004 summit in Copenhagen, when the Treaties enshrining accession were signed.

The secular-religious divide has to be taken seriously as an issue of public opinion alongside questions of legal and administrative adaptation. Some countries with an electorate of committed Christians may still approve of Turkish membership for other reasons, but in order to improve its chances in these countries, Turkey and Europe will need to convince citizens and decision-makers alike on two fronts. The first is the comparisons between the Christian Democratic movement in Europe and a Muslim Democratic movement in Turkey. The second, which follows from this, is the appropriateness of that new development in the European context.

FINAL WORD

The politics of Europe is more than the sum of these three divides. The EU often repeats its mantra that it is a community of values. Its members expect that these values be internalised by applicant countries, but it is insightful for candidates to be aware that Europeans are not united on what those values are, declarations to the contrary. If the EU is portrayed as a community of values, it will also be important to find a discourse of appropriateness that both Turks and other Europeans will be able to accept as facets of the European Union's founding myths.

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Endnotes

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WORLD ORDERS AND THE ROLE OF THE EUROPEAN UNION AND THE ISSUE OF TURKEY'S MEMBERSHIP

Frank R. PFETSCH*

Abstract

The global role of the European Union is related to the overall framework existing on the world stage. I therefore draw attention to the dominant configurations namely, the US's unilateralism advocatedted by the present administration the European multilateralism, and the triangular regionalism prevailing in the economic domain. I then report on the different views that exist within the EU discourse about Turkey's EU membership. Finally, I analyze how the different views on Turkey fit in the various configurations of world order and especially in the EU world view.

THE UNITED STATES UNILATERALISM AND THE SCHOOL OF REALISM: IMPERIAL HEGEMONY OR THE HEGEMONIAL STATE

There are two dominant paradigms in International Relations theory: The traditional national power politics of the so-called Realist school and the multilateral internationalism of institutional Liberalism. Both approaches can be found in US foreign policy. The Realist theory has different labels: unilateralism, hegemonialism, superpower hegemony, imperialism, etc. The Bush Administration has opted for unilateralism (consultative unilateralism, instrumental multilateralism, internationalism à la carte) with all the ingredients of a new foreign policy doctrine, as opposed to the more multilateral approach of the Clinton Administration that preceded it.

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What are the characteristics of the foreign policy doctrine of George W. Bush?

Some important criteria can be mentioned together with geopolitical implications.

- Foreign policy doctrines are those represented by a continuous flow of unilaterally communicated declarations about national interests situated beyond the national frontiers of a state. President Bush after the September 11 events focused on security and the threat by terrorists when he launched the war against Saddam Hussein in Iraq. While the war against the Taliban regime in Afghanistan could demonstrate the relations between terrorism and a "rogue state"; this relationship together with weapons of mass destruction could only be made credible to the public by deliberate misinformation and demagogic manoeuvres .

- In order to reach a broad public, political messages had to be simple, clear, black and white, and reductionst: "*either – or*". Thus, President Bush juxtaposed "Good and evil", "world of fear and world of progress" in his State of the Union speech in January 2002 and in his speech in Washington, February 26th 2003, where he also coined the expression "axis of evil" (Iraq, North Korea, Syria).

- To legitimize its political actions the US's doctrine has put forward references to a) the better political system, democracy versus dictatorship, the "great nation", "honour and integrity", the "Greatness of America"; b) higher values including peace, liberty and security; c) securing vital interests; d) moral principles like human rights. With a missionary vision a "New World Order" was promulgated in which President Bush, in line with the tradition of "making the world safe for democracy", proclaimed the aim of liberating Iraq from the despotic rule of Saddam Hussein and referred to the values of "peace, freedom and liberty"[1].

- President Bush used the September 11 terrorist attack as a legitimating factor for the wars against Afghanistan and Iraq. "Night fell on a different world" said Bush shortly after the 11th of September 2001. "It is in the national interest of the United States to fight international terrorism in these countries."

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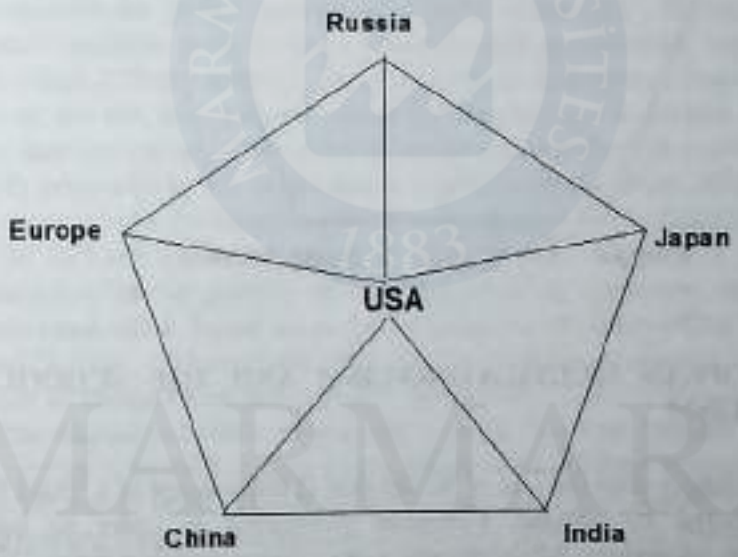
The "new doctrine" of the Bush Administration focuses on a "pre-emptive" strike beyond the frontiers of the United States, according to the "think tank" around the "American Enterprise Institute" to which belong the most influential members of the administration. Among them, Paul Wolfowitz stated already in the 70s stated that peoples under dictatorships must be rescued, if necessary by military force. In 2003 he said in the National Security Council: "We must be prepared to stop rogue states with their terrorist clientele before they are able to use weapons of mass destruction against the United States or against allied countries."

Figure 1: US Unilateralism



The Bush doctrine can thus be summarized as follows: Only a permanent, undisputed military supremacy by the United States can guarantee worldwide security and order. If necessary, pre-emptive force is a legitimate instrument for the fight against international terrorism, the diffusion of weapons of mass destruction, and for the promotion of democracy and market economy. In Afghanistan and Iraq for the first time this strategy was implemented. However, this doctrine of "hegemonic internationalism", also called "universalistic nationalism" can only be promoted if supported by an economic (and consequently militarily strong) regime, as Paul Kennedy has

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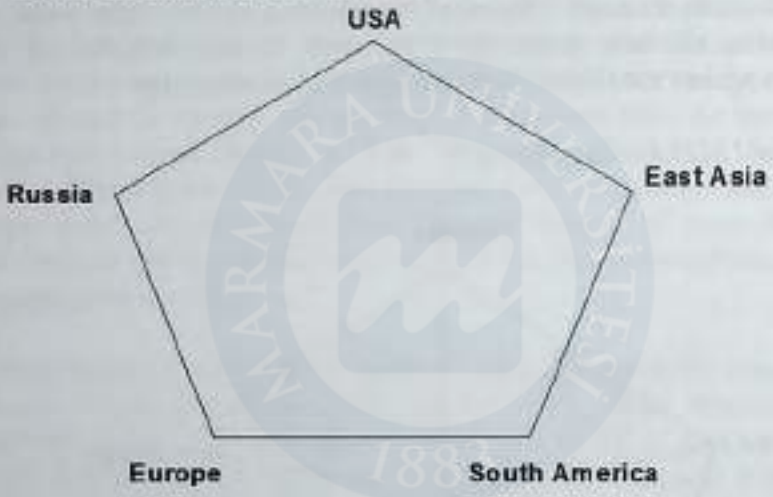
described in his book "The Rise and Fall of Great Powers". There are some doubts as to whether there are sufficient resources and skills to rebuild Iraq and Afghanistan and put them on democratic feet[2]. The present situation in these two countries shows quite clearly the failure of the Bush doctrine.

Figure 2: European Multilateralism



EUROPEAN MULTILATERALISM AND THE SCHOOL OF LIBERALISM

Immediately after the end of World War II the concept of a "third force" was promoted by various European politicians in order to balance superpower supremacy. Multilateralism can assume different forms: During the period of superpower dominance there was in fact a political multilateralism, by virtue of the position of Europeans as well as by the Third World or the "The Non-Aligned Movement", who tried to counterbalance block supremacy. Multipolar were also the economic approache of regional integration (trilateralism, discussed below), and the cultural perspective targeted by Samuel Huntington's "Clash of Civilizations". (See further below.)

"Institutional Liberalism" as a variation of multilateralism, put forward the idea to actively overcome the so-called security dilemma, i.e. by

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integrating states into an international or regional organization one could avoid the dynamic of arms race and make the world more peaceful. In the context of the European Union, the European Council determined the tenets of its foreign policy at its meeting in Thessaloniki on June 20th, 2003. In the "Strategy-Paper of the High Representative of the European Union on the Common Foreign and Security Policy", Javier Solana proposed a strategy of multilateralism to the European Council in the following words: "...we need to build an international order based on effective multilateralism" (Solana 20.6. 2003). It is claimed in this document that the Union with its 25 member states, with more than 450 million people and a quarter of the global Gross National Product, has become a global actor and it was incumbent on it to observe this role which was in keeping with its responsibility for global security. As "global challenges", Solana mentions regional conflicts, poverty and epidemies, bad government, especially in weak states ("failed states"), the environment and energy resources, and most of all, the new dangers posed by international terrorism, organized crime and the spread of weapons of mass destruction. These problems are equally perceived by all populations. In public surveys from 2002 the latter three appear to be the top priorities. The challenges, the strategic paper says, can be tackled with three strategic instruments: Support of developed democracies for the stability of their neighbouring countries; secondly, an international order based on a "more effective multilateralism" with the United Nations as framework, and, thirdly, specific responses based on a mixture of military and non-military instruments. The EU policy, however, must be shaped in a more active way (early, fast, and capable of "robust intervention"), be more coherent (coordination of different instruments), and more effective (more defence, diplomatic and civil capabilities, threat identification through coordinated secret service findings). Finally, the EU should increase the development of strategic partnerships with the US, Russia, Japan, China, Canada, and India. For its implementation this foreignpolicy strategy requires a shared determination, a common will of action, which currently seems to be absent.

REGIONALISM (REGIONAL MULTILATERALISM, ECONOMIC TRILATERALISM AND CULTURAL POLYCENTRISM)

The term 'region' has various connotations[3]: As distinct from national and sub-national regionalism, international regionalism can be understood as a process through which "a limited number of states [are] linked by a

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geographical relationship and by a degree of mutual interdependence"[4]. Geographic, economic, cultural, and political indicators can account for defining regional integration. There are basically three different forms of international regionalism: regional multilateralism, economic trilateralism, cultural polycentrism.

Regional Multilateralism

Already in the 1940s during the talks preceding the foundation of the United Nations there were two opposite approaches. Whereas the British Prime Minister of the time, Winston Churchill, favoured an organization based on regional structures for the world peace organization, the then US President, Franklin Delano Roosevelt, wanted a truly universal organization. As is well known, Roosevelt finally put his position through. In the following years, however, regionalism became the organizational setup in all parts of the world. "Applied to specific forms of economic and political interdependence the most important regional organizations are the North American Free Trade Area (NAFTA), the European Union (EU), the Association of South East Asian Nations (ASEAN); others such as the Mercado Común del Sur (MERCOSUR) in South America or in Africa the West African Economic and Monetary Union (WAEMU) and the Southern African Development Community (SADC) may be mentioned as well. These regional organizations have, however, quite different degrees and forms of integration."[5]

Economic Trilateralism

It seems that in international economic relations, a rather different new pattern of regionalism is emerging. Caused by integration processes and the globalization of the markets, a so-called neo-liberal competition is emerging, developed as a challenge to the European economic and social project. Europe increasingly finds itself in rivalry with primarily two, possibly three regional competitors, namely, NAFTA in North America, ASEAN plus three states (Japan, China, South Korea) in East and Southeast Asia and finally the Latin American market of Mercosur in South America. Such a relationship of constructive rivalry, which in all probability will not overstep the threshold of violence, could serve as a unifying element, unite the states of Europe, and increase their identity. In this context it might well

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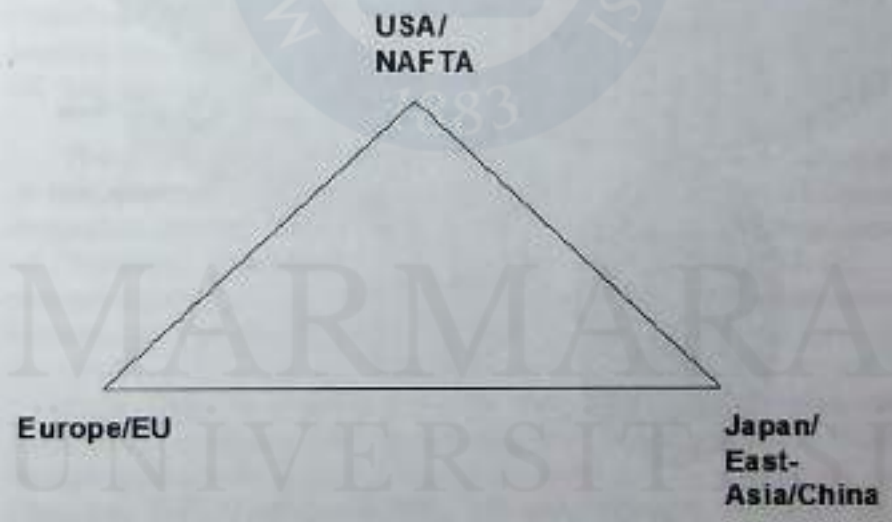
occur, as Euro-politicians stressed as early as the 70s, that Europe's identity will be shaped on the international stage.

The regional trilateralism which this doctrine implicitly refers to is that between the North American Free Trade Area (NAFTA, with the US), the European Union (with Germany and France), and the East Asian economic power (with Japan and, in the future, China). It is a triangle based on economic relationships and interdependence, the interdependence among these three economic poles determining world economic affairs and fostering world peace. The thought that economic relationships do not carry the germ of violent conflict, but rather foster peace, has been stated by Liberal theorists from Kant to Hirschmann. Because this model is more economic than political, however, it downplays the so-called security dilemma.

Figure 3. Economic Trilaterism



Cultural Polycentrism

Quite a different international relations model is the one developed by Samuel Huntington (1996). It is based on the existence of a variety of civilizations (See **Figure 4**: Civilizations according to Huntington). According to him there are eight civilizations: The Western-Christian, Orthodox-Christian, Islamic, Latin American, Sinic, Confucian, Hindu, and

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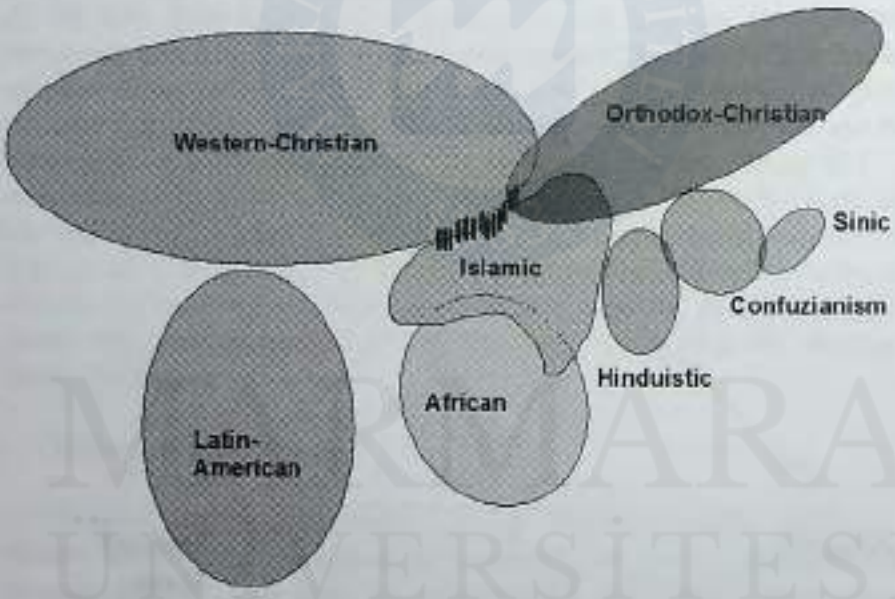
African civilizations, all of which possess a conflict potential that transcends the national framework. Confrontation or even warlike rivalry occurs at the borderlines of such civilizations, especially between the Western-Christian and the Islamic world. This statement (or rather hypothesis) can be verified in some cases, but not in others. The link for the supposed causal relationship between "civilizations" and "clash" can be found in the political will to instrumentalize cultural patterns for political purposes, such as in the case of the policy of ethnic cleansing in Bosnia or Kosovo. Only in the case of such instrumentalisation is civilization the driving force to warlike rivalries.

Figure 4: Civilizations according to Huntington



THE FOREIGN POLICY OF THE EUROPEAN UNION: REALITY AND IMPLEMENTATION

Already in the early stages of the formation of European Political Cooperation (EPC), the important characteristics of European foreign policy can be discerned, both in respect to institutional dynamics and in in material organization.The European Political Cooperation started as a loose, informal cooperation between states in the external arena. In the course of

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its development the EPC has become increasingly institutionalised. Only in 1987 it received a secretariat headed by a secretary-general appointed by the Council. This informal and flexible institutional character accounts to a large extent for EPC's initial success . The initiative to create a forum for the creation of foreign policy stems from initiatives of German and French politicians who had come to power at the end of the 60s. The necessity for cooperation has to be seen in the light of the "northern" enlargement of the European Community as well as of the Helsinki Process in the first half of the 70s. The climate of détente that marked the Conference on Security and Cooperation in Europe (CSCE) was, so to speak, the soil in which the Western powers could find a common platform for negotiations.

For many years EPC was conducted outside the EC institutions. In course of its development it got more intertwined with the EC; the connecting factor between both institutions was foreign trade policy, because according to the EEC treaty this aspect of foreign policy was a Community competence. With the Treaty of Maastricht the EPC has become the "second pillar" of the European Union. The fusion of EPC and EC took place.

The development from European Political Cooperation to Cooperation of Foreign and Security Policy (CFSP) shows the pattern of the European integration process: The institutional as well as the material developments of European foreign policy shows a duality composed of an intergovernmental (cooperation between governments) and a supranational (executed by European bodies) approach.

Right from the beginning a new pattern of EC/EU foreign policy emerged: In contrast to the foreign policy of nation states, the EC/EU's foreign policy was and is a region-to-region policy, multilateral in its character. This started with the Euro-Arab Dialogue, continued in the Barcelona process which originated in the Mediterranean and subsequently extended to other regions of the world (Asia: EC ASEAN; also ASEM); South America: EU–Mercosur; Africa: EU–SADC). This inter-regional approach of the EU, which explicitly aims at supporting regional integration in other parts of the world, is based on the experience of European integration that regionalisation brought along peace and welfare.

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The instruments of European foreign policy greatly surpass those of nation-states. The European Community, by virtue of its powers under the Treaty on European Union, can sign all kinds of agreements with third countries and act with a single voice in the area of international relations. One can distinguish trade agreements, association treaties with overseas territories, general association treaties as well as the so-called European agreements. Many international agreements signed by the Community can be classified either as trade and cooperation agreements or as association agreements. As of 2004, the Union, especially through the European Community is a party to more than 1,200 agreements.

European policy can also take the form of common standpoints and common actions, which are two ways to express the common foreign and security policy provided for in the Treaty on European Union. Both the common standpoints (Art. 15 Treaty of the European Union, TEU) and common actions (Art. 14 TEU) are decided by the Council of Ministers. The standpoints passed thus far within the framework of the Common Foreign and Security Policy (CFSP) have primarily concerned the former Yugoslavia, Africa, the Middle East, Central Asia and Haiti, the common actions have primarily concerned Bosnia and Herzegovina, the Balkans, the Middle East, Russia as well as Africa (Congo, Rwanda, South Africa).

In the debate on widening versus deepening the integration process, two different patterns appear regarding the foreign policy. On the one hand there is the concept of a "core Europe" proposed by the German Christian Democrats Schäuble and Lamers (and supported in some quarters of the EU); on the other hand there is the concept of "strategic Europe" proposed by German Foreign Minister of the Green party, Fischer, and based on geopolitical considerations[6].

The new strategic dimension – the Treaty on a Constitution for Europe speaks of "structured cooperation" – deviates from a cultural or political Europe that is oriented towards a political community based on identifiable cultural patterns. The foreign policy considerations primarily consider security and stabilization factors. On this line of strategic thinking we find the advocates for an admission of Turkey to the EU (see below).

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The Inter-regional Foreign Policy of the EC/ EU

During the Spanish Presidency in the second half of 1995 we can find, by way of random example, many examples to illustrate the workings of the EU's Common Foreign and Security Policy. Thus, the *New Transatlantic Agenda* and the *US-EU Action Plan* gave rise to more than 100 joint actions, ranging from measures for Bosnia's reconstruction, foreign aid coordination, trade and investment liberalization, through the fight against crime and drug trafficking, to transatlantic culture and student exchanges. With the "Euromed Initiative", passed in November 1995 in Barcelona, a program for political, economic, and cultural cooperation was agreed between the 15 EU member states and 12 Mediterranean littoral states plus Israel and Syria) Aid to developing countries, liberalization, and economic reforms were also on the agenda. Another big topic concerned the dialogue between the regions (Europe – Asia; Europe – the Arabic world). Further examples of joint foreign-policy actions of that time are the *Framework Cooperation Agreement* with the Mercosur countries from December 1995 and the European Parliament's vote for a customs union with Turkey, approved by the Association Council earlier in the same year.

As an instrument of common foreign policy, the EC/ EU Trade and Aid Initiatives alone comprise about 80 Billion DM (or about 40 Billion Euros). For the period between 1996 and 1999 liabilities to the states of the Mediterranean amounted to about 6.5 Billion US$, to the Central and East European states including Russia and Ukraine to about 10 Billion US$, and to the ACP states to about 16 Billion US$. In addition to this, EU contributions are directed at Palestine for the benefit of the Middle East peace process and the former Yugoslavia is given reconstruction aid. These diversified financial flows show that although the Union does not yet in fact have a comprehensive foreign policy, it has made giant steps forward.. Given its foreign trade policy instruments the EU quickly acquires a reputation as an industrial and trading network of nations heavily involved in chequebook diplomacy.

Due to its regional involvement the EU tries to actively play its part in the shaping of the international environment. In this regard the Union's foreign policy shows a pattern very different from national foreign policy: it is an inter-regional foreign policy. Already in the 70s the foundations for a regional foreign policy were laid with the Euro-Arabic Dialogue. After the agreement on the Northern Dimension (Baltic littoral states) the Stability

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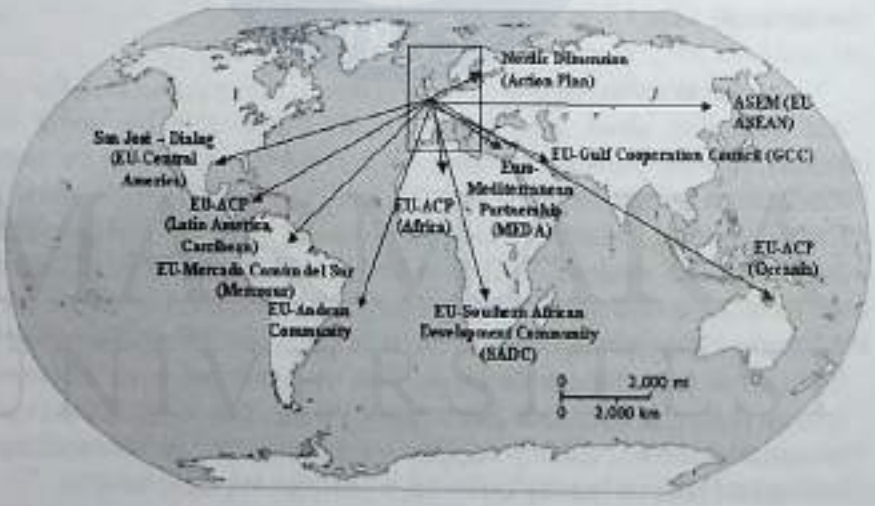
Pact for South East Europe was established in order to bring peace to the unstable Balkan region. The numerous interregional cooperation agreements with the Association of South East Asian Nations ASEAN followed in 1972, with Mercosur in 1992; With Central America there was the so-called "San José" Dialogue, with the Andes states the ministerial "Civil Society" Dialogue, with South African countries the EU-SADC cooperation, with East and South East Asian countries the Asia-Europe-Summits ASEM in 1996 (See **Figure 5**: EU Global Agreements). Already in the beginnings of the European Economic Community association agreements were signed with 77 former colonies in Africa (48 countries), the Caribbean (15), and the Pacific (14). Even if the majority of these are economic agreements, they always -explicitly or implicitly- glorified the regional European integration model as a peace and welfare promoting regional organization.

Figure 5. EU Global Agreements



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The European Community was also active on the cultural scene, and also here, the regional approach was important. It was actively involved in international cultural policy inside as well as outside of Europe by establishing Jean Monnet chairs (dealing with European integration) at universities (See **Figures 6 and 7**). Within the European Union of 25 member states, nearly 600 of these chairs have so far been established; including some 70 professorships in the 10 new member states; added onto this are the chairs of candidate countries, Turkey (4), Romania (4), and Bulgaria (4); outside Europe there are nearly 30 educational establishments focused specifically on Europe.

THE EUROPEAN UNION: POLITICAL UNION OR FREE TRADE AREA? POLITICAL COMMUNITY OR INTERGOVERNMENTAL ORGANIZATION?

The European Union has to be seen as a completely new type of a regionally integrated political entity: It is composed of democratic states that jointed togethervoluntarily and have transferred national power to a central organ. it is thus completely different to all existing nation state dominated arrangements in past history. This complex political system composed of intergouvernemental and communitarian elements is by its very nature vulnerable and its historical development shows ups and downs at the same time.

At the time of writing (2005) Europe is standing, again, at a crossroad: What should and could be the "finality" of European Union? Will the Union, recently enlarged by ten, subsequently by twelve or more states, be able to function politically? The question of Turkey's admission has heated up the discussion about European identity and finality. Should it become 'an ever closer Union' as some want to have it, or should it become 'an ever wider Union' as some others see it?

There are mixed answers: On the one hand the Union with the decisions taken in Nice has prepared itself adequately for enlargement, but the politicians' long hesitation showed that the political system thus created will hardly be capable of working and that more modifications will be required. The Constitutional Treaty approved in 2004 by the European Council has taken into account some of these necessities, though not as much as the

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integrationists had hoped. The EU will decisively change its structures, its "esprit communautaire", and its identity. With the enlargement the Union will become a looser entity with most probably less cohesion and less efficiency. Heterogeneity will increase; the European identity will be altered by Turkey's and possibly others' entry. The Union can demonstrate its unity and its common interests through federalization, differentiated progression, or reinforcement of bonding features like the European heritage, common policies, complementary cultures etc.

There is hope that the Community's "team spirit" can be kept alive: To start with, one can show that widening and deepening are not necessarily incompatible and mutually exclusive. On the contrary, in history almost every step of enlargement was accompanied by more integration. The Convention's work for a constitution has led to a European President and a European Foreign Minister, together with several improvements regarding the efficiency of the decision-making processes as well as with respect to the demarcation of competences. Depending on further decisions by the member states one can see if the simultenaity of broadening and deepening will continue and will characterize the Union's development in the first decade of the new millennium.

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Bold arrows/ underlined countries = more than 25 Jean Monnet Chairs per country
Source:http://europa.eu.int/comm/education/programmes/ajm/ajm/directory_fr.html (20.04.04)

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THE TURKISH QUESTION

The question of Turkey's admission to the European Union has become the focus of multiple considerations of economic, political, socio-cultural and strategic aspects. In Europe as well as in Turkey the issue touches on the very question of identity. Mutual suspicion has frequently dominated the process of convergence; on both sides there are pro and anti accession coalitions. In the European debate[1] one can distinguish three different positions in the European discourse:

The contra position

On the one hand there is the position that Turkey is so culturally different from Europe that it does not belong to Europe's self-image. The European awareness of identity, weakly developed anyway, would be in danger and this would undermine the political union that such an understanding of self would help bring about. For the second time an Islamic fundamentalist party opposing Kemalist secularisation and the laicist republic, has won the Turkish national elections and been able to increase the religious influence in politics through a skilful placing of its personnel resources. With its 800,000 square kilometres would be the territorially biggest country of the EU, but only 3% of its territory lies on the geographically defined European continent. Turkey, therefore, has to be seen as a non-European state of Asia Minor. In religious and cultural terms Turkey belongs to the Islamic civilization, and historically "Europe" has always defended itself against the Islamic world. Cultural arguments aside, Turkey with its high birth rates (more than 2% increase in population per year in the last years) will have about 90 million people in 2012/14 and is set to become the most populated country of the Union. With an average income of about 5,500 Euros per person (2003) Turkey would also be the poorest EU country, i.e., 23% below the EU15 average. These arguments have been presented by, among others, the President of the Constitutional Convention, Mr. Giscard d'Estaing, and have been maintained by the conservative parties in Germany and France, too.

Also political arguments play their part. Europe is in need of a clear border, according to the leader of the French presidential party, Mr. Juppé,

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so as not to become estranged from itself and to be able to play any political role of significance beyond that of a free trade area. Also the designated party leader, Mr. Nicolas Sarkozy who was Economic and Finance Minister in Chirac's cabinet expressed himself against Turkey's membership during the period of the European elections, clearly opposing Chirac's yes to Turkey. His reasons are shared by many. After the admission of 10 new states in 2004 the European resources would be overstretched in case of Turkey's admission. The Turkish economic power comes to about 20% of the average European Gross National Product only. Poverty in large parts of Anatolia would enhance migration. Further arguments against accession, that are constantly repeated by European politicians, are the persistent human rights violations and the allegations regarding the Armenian atrocities in 1915. After the end of the Cold War Turkish foreign politics seemed orientated upon an enhanced partnership with the US and a de facto alliance with Israel. Admittedly, the trilateral partnership Ankara-Washington-Jerusalem is a "Western" alignment, but not a European one. Also the orientation of Turkey towards the Turkic peoples in Central Asia leads away from Europe.

The pro-entry position

On the other hand one can find the defenders of Turkey's admission. Europe, according to their argumentation, must remain open for any European State that meets the Copenhagen accession criteria (democracy, human rights, market economy, acquis communautaire). In this respect Turkey has made substantial progress, abolishing capital punishment and widening the scope of cultural rights for ethnic groups such as the Kurds. In two great constitutional amendments and seven harmonization packages with altogether 148 amendments the legal foundations for a Turkish democracy have been strengthened. Turkey had applied for accession decades ago (1987). In 1999 it obtained candidate status at the Helsinki Summit and in 2002 in Copenhagen it obtained a conditional pledge to commence accession negotiations. From this approximiation,, it is sometimes argued, the Union cannot withdraw. More important, however, are the geo-strategic arguments: Turkey constitutes a bridge between Europe and the Asian continent. It borders the unstable regions in the Middle East as well as the Balkan countries; therefore being an important

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country also for European security needs. As a NATO member the admission is of US interest as well. In addition, Turkey holds one of the keys to the solution of the Cyprus question. These considerations are key aspects of the strategic position held by, among others, the German Foreign Minister, Joschka Fischer. The Green politician will also have taken into account the polls, which show that 80% of the 600,000 Turks living in Germany would vote for the Social Democratic and Green parties.

The in-between position

A third position intends to offer Turkey a "privileged partnership". This aims at s Turkey's approximation to the Union without incorporation into the European institutional system. The EU already has developed multifarious and flexible levels of cooperation that can serve as a model for a special relation with Turkey. This position is maintained by the leader of the German Christian Democrat Union, Angela Merkel, and this idea was also launched by the former President of the European Commission, Romano Prodi. There exist various graduated schemes for countries to be linked to the European Union beyond their incorporation into the institutional system. The Union established different forms of cooperation and association including for example, dialogue, association agreements, conferences, etc. Already in 1995 the EU has signed a customs union agreement with Turkey that has come into force in 1999, for the benefit of economic advantages associated with the internal market. Merkel holds that the entry of Turkey as full member of the EU would overstretch the European Union and would have negative consequences for the labour market and for the European Parliament where Turkey would have more than hundred seats. A strategic partnership would avoid the sensitive question of religion and leave aside the question of European identity. At the same time a special status for Turkey would also support the democratic reforms of the last years that had been achieved without EU membership; the mere perspective of it had sufficed to bring them about.

The conflict about these different positions to some extent influenced the 2004 European Parliament election campaign in Germany. There were supporters of all three positions. At the end of the day, however, the decision on Turkey's membership in the EU will primarily be (in Max

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Weber's) terms "not a value-free scientific but a normative political one". Since, as mentioned before, the question of Turkey's accession touches on the very question of identity, the decision can only be a normative one.

How do these different positions fit in the New European Foreign Policy Strategy and in the Turkish frame of action?

If we simplify the foregoing, we can say that the pros and cons of Turkish accession centre on two different points of view: Those who plead for admission emphasise most of all the foreign and security policy aspects, and geopolitical, energy policy, and also legal considerations. Those who argue against admission stress primarily historical, cultural, and socio-economic aspects. In economic terms the liberal free trade concept and the customs union concept face each other, in other words: the political Europe of a community and the economic Europe of a commercial society are opposing conceptions. Thehe pro arguments best fit in with the new foreign policy strategy launched by Solana.

As to the Turkish positions, Çarkoğlu and Rubin (2003) suggest that Westernization and Europeanization continues to be an elite project that has found the support of the majority of the Turkish population as well as of the Parliament. But the observations of committed Europeanists have to be met with scepticism. A profound analysis of Turkish societal complications and contradictions shows a more differentiated picture.

From the angle of Turkish foreign policy, Turkey has not just one option, namely the one for Europe. She can be influential in Central Asia with regard to the Turkic peoples. Her freedom of action as a national actor could be larger while remaining more autonomous. She can act on all sides, to the West and towards the East. There are, however, links between internal policy and the conduct of foreign relations: the orientation towards the West requires internally more democracy, more liberty, more wealth etc. The orientation towards the East can imply a more oriental government. It is up to the Turkish government to decide whether the priority is with a democratic society with the rule of law and human rights supported by the integration strategy with the EU or rather with a larger freedom of action in its foreign policy at the expense of democratic values.

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SUMMARY OR HOW DOES TURKEY FIT IN THE PANORAMA OF DIFFERENT WORLDVIEWS AND ESPECIALLY THE NEW EUROPEAN FOREIGN POLICY STRATEGY

Seen from the European world view, Turkey fits best into the framework of the so called "effective multilateralism" which goes hand in hand with the inter-regional foreign policy approach by the European Union. This foreign policy strategy embraces partially also the unilateral approach of American unilateralism in that it touches on security issues (terrorism) in the periphery of Europe and on the idea of a stable and democratic region around the Mediterranean as well as in the Middle East. In this regard European multilateralism and American unilateralism converge. Also the model of economic trilateralism shows some similar views about the position of Turkey on the one side and Europe and the United States on the other. For both of them, Turkey is important as a way of access to the rich oil fields (pipe lines) in the Middle East and in Central Asia. It is only and foremost with respect to the model of cultural polycentrism that Europe (as well as Turkey) is divided and America not.

As to the internal structure of the European Union the debate on Turkey's admission circles around two different points of view: Those who plead for admission give special emphasis to the foreign and security policy, to geopolitical, energy policy, and legal considerations. Those who argue against admission stress primarily historical, cultural, and socio-economic aspects. In economic terms the liberal free trade concept and the customs union concept face each other, in other words,: the political Europe of a community and the economic Europe of a commercial society are opposing conceptions. This is to say, the pro arguments best fit in with the new foreign policy strategy launched by Javier Solana and the contra arguments point at the internal political community perspective.

Endnotes

[1] For more information see Frank R. Pfetsch: Die geopolitischen Implikationen der ‚Neuen Weltordnung'. In: Petermanns Geographische Mitteilungen, 2004/2

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[2] Will the US succeed in establishing a democratic regime with parties, trade unions, and social civic institutions? Do the Moslem groups accept an open civil society and support a western type of state? Will there be something like an Islamic democracy in an heterogenic state with different religious and ethnic groups? All these questions do not have a clear cut answer.

[3] In very general terms a region can be understood as an entity that under specific economic, geographic, climatic, political, cultural or other aspects forms a unity that is distinct from the surrounding environment. Politically the term 'region' has three different meanings. First, it can refer to the geographic notion of regions, i.e. a continent like America, Europe, Asia; secondly, it can refer to sub-national units like *Länder* in Germany, *Province* and *Regioni* in Italy, or *Régions* in France; thirdly, it can have the meaning of transnational interregional cooperation like that between the regions of different countries, i.e. the region of "Saar, Lorraine and Luxembourg", the "Alpes-Adria" region with more than fifteen regions and states participating in the North of Italy, and there are eight trans-border cooperation arrangements (Euro-regions) with Poland and five with the Czech Republic.

[4] *International Regionalism*. Joseph S. Nye, Jr., ed. (Boston: Little Brown and Company, 1968), p.vii.

[5] Much more loose forms of regional integration are represented by the African Economic Community (AEC), the Asia Pacific Economic Cooperation (APEC), the Central American Common Market (CACM), the Caribbean Common Market (CARICOM), the Common Market for Eastern and Southern Africa (COMESA), the East African Cooperation (EAC), the Union Economique et Monétaire de l'Afrique de l'Ouest (UEMOA), or the Organization of African Unity (OAU).

[6] See Frankfurter Allgemeine Zeitung of 6th March 2004.

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THE UNITED STATES AND EUROPE'S TURKISH CONNECTION: EUROPE'S TURN TO MANAGE IT

Mario ZUCCONI*

Abstract

The paper argues that Europe should be looking at Turkey in terms of broader international strategy and that the lack of a substantial debate on Turkey has first of all to do with that defective aspect of Europe. The author notes the continuity of the main Western powers' interest in keeping Turkey within the Western sphere of influence evident at the end of World War Two in the post-Cold War context. There has been continuity in the role Turkey has played in the broader strategies of Western powers. Washington's postwar foreign policy concerning the Eastern Mediterranean had to do with the strategic imperative of the continued control of that region and related to Washington's recognition of a "vital" interest in Turkey and its surrounding region in relationship to the postwar international order. The author draws attention to the continuity of that interest for the West. Accordingly, the demand for a broader and more incisive role of the European Union in the region grew enormously after the end of the Cold War. And, like for the United States in 1946-47, it seems increasingly to befall on the EU to keep Turkey anchored to the West. The crescendo of political reforms in the country, in connection with an intensified relationship with the Union, testifies to the productivity of that very relationship. Thus, there is clearly a role to play for Europe, but it does not seem that Europe is yet a qualified actor.

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INTRODUCTION: AN INSUBTANTIAL DEBATE

In December 2004 the European Union (EU) took the historical (if controversial) decision to start accession negotiations with Turkey – accession negotiations being a process from which, so far, accession has always ensued. Yet the European debate that led to that decision was for the most uncritical. All that officials would venture in favour of accession negotiations was that the "EU simply cannot afford to say no" to Ankara. And, significantly, the debate about Turkish membership continues to this day to be largely unsubstantial.

The more than forty years of waiting for formal accession talks, since the Ankara Agreement (1963) first suggested the possibility of Turkey's membership in the then European Community, provide in themselves self sufficient reason for considering that decision "historical".[1] Those four decades were marked by progress, difficulties, and instances of outright rejections of Turkey's aspirations, at different times. A particularly serious setback was the 1997 Luxembourg European Council's refusal to open the negotiations phase while that was instead allowed for a number of Eastern European countries. The democratic and economic credentials of some of those countries were arguably comparable to, or even less than those of Turkey.[2]

Thus, even more, the historical significance of the December 2004 decision has to do with the fact that Turkey has always been treated as a special case and as a "different" country. Since the late 1970s other Mediterranean countries in poor economic and political conditions started the accession process and were rapidly accepted as members. Then, as said, the former Communist ones came in the 1990s. Whatever the reservations related to their becoming part of the Union, about none of those candidate countries European officials have ever commented that it "ha[d] a different culture, a different approach, a different way of life," as Valery Giscard D'Estaing did in December 2002 with regard to Turkey.[3] The former French President was far from being an isolated voice. And that same sort of hostility to Turkish membership continued to be frequently voiced, by commentators and officials, in subsequent years.[4]

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In fact, such positions are not isolated references to cultural differences. They are recurrent patterns that characterise the way in which the European countries have always attempted to reinforce their own common identity – that is, by way of the social and cultural construction of an "other". As was amply documented by Iver Neumann, during many centuries the "Turk" was the expedient, "dominant other" that afforded the Europeans a common identity otherwise unthinkable for "Christian" countries ever at war with one another.[5] In an echo of that deeply rooted cultural bias, Germany's *Frankfurter Allgemeine Zeitung* last October challenged the EU Commission's favorable position on Turkey by pointing to that country's cultural alienness and the "kinship" Europeans have always felt "even when they were at war with each other"[6] (a statement of inadvertent ethnocentrism if not faux-pas, especially if written in Germany.)[7]

There are, of course, other, more tangible reasons that make the decision to board the accession train a historical one. Thus, a broader way of looking at the process of democratic consolidation of a country such as Turkey is in the context of economic and political globalization – with more advanced rules compelled by the institutional inclusion being part of that context. Turkey's size and geopolitical relevance make that consolidation most important to Western countries. Then there are strategic considerations such as the country's geographical position and Turkey's function as inter-continental "bridge" or "crossroads," including as concerns energy transit routes (Turkey's crucial importance in this respect became evident in its role in the sanctions against Iraq in 1990 and afterward.)[8] Finally, Turkey' is often referred to as a regional "powerhouse," by which it is meant that it is the largest economy in the region and also the most industrially advanced one, which adds much to its strategic importance[9] and makes Turkey into one of today's "pivotal states" at present.[10]

Paradoxically, to many news commentators and the public in Europe, what experts consider a strategic asset is a liability and a risk factor that making Turkey's inclusion in the Union problematic, if not altogether undesirable. "More democracy is needed in the enlargement process," wrote a recent commentary in London's *Financial Times*, "[...] European leaders need to understand that many Europeans citizens do not share their strategic view and do not want to have a common border with Iraq."[11] And if the EU talks about Turkey almost solely through the Commission's "regular reports" related to enlargement, that shows the same concern that Brussels has for

Latvia or Bulgaria, for example,– with the added negative factors, of Turkey's very large population, its history of labor-export and, of course,the cultural differences discussed above.

In recent years, also as a consequence of the inclusion or upcoming inclusion of a dozen new countries, Brussels has begun to recognize its own power in transforming the political environment around it and, for the first time, has started to think about ways for further expanding its political influence in the adjacent regions. Even so, the Union countries remain defective in their ability to secure their vital interests by building broader international strategies or intervening on "high politics" international issues.

The contention here is that Europe should be looking at Turkey also in terms of broader international strategy and that the lack of a substantial debate on Turkey has first of all to do with that defective aspect of Europe. While this is no place for reviewing the broad debate about the effectiveness and the reach of the EU's common foreign and security policy (CFSP), and more in general of its external relations, that contention is backed in this paper on a comparison of the awareness about the strategic relevance of Turkey in Washington after World War Two and the present debate on the Turkish case in Europe.

RECOGNIZING TURKEY'S STRATEGIC RELEVANCE

The first point which needs be stressed here is the continuity of the main Western powers' interest in keeping Turkey within the Western sphere of influence evident at the end of World War Two. There has always been, that is, continuity in the role Turkey has played in the broader strategies of those Western powers.

As Washington was gradually identifying, during the last part of the war, the main elements of its international strategy and of the postwar order – a combination of new international frameworks and of actual power – the Eastern Mediterranean, Turkey and the Middle East increasingly began to take center stage. And in the months following the end of the war in Europe, in late 1945 and early 1946, Washington was torn between the political pressure to disengage from the different war theatres and the awareness that there were new responsibilities befalling on it in the defense of its expanding interests and, more broadly, of those of the its closest Western allies.

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It was first Moscow's insistence in keeping its troops in Northern Iran, despite the end of hostility in Europe, that made Washington suspicious about possible Soviet plans to have a government there "amenable to Soviet demands and hostile to other foreign nations," similarly to what had already happened in a number of countries in Central and Southeastern Europe.[12] And when pressures from Moscow mounted on Ankara for a revision of the regime of the Straits and for territorial adjustments in the Eastern part of the country, officials in Washington reacted with great alarm based on that lesson of the Soviet politics in Iran. Then, when also Greece became in danger of falling under Soviet influence due to the civil war in the country, the Truman administration took action, projecting, for the first time in peacetime, the power of the United States in the direction of Europe. Washington's policy of containment had its first concrete application in Turkey and Greece, in early 1947.

What Washington was then recognizing was that Iran, Turkey and Greece constituted a bulwark that protected what officials there were increasingly defining as US economic and strategic interests in the Near and Middle East as a whole, the focal point of which was Middle Eastern oil. Greece and Turkey stood for control of the Eastern Mediterranean and a land corridor to the Middle East and to the Persian Gulf.[13]

A specific position regarding Turkey was first elaborated in an important Memorandum on the Near Eastern and African Affairs (NEA) of the State Department dated 15 August 1946. The Memorandum made a number of points. First of all, NEA warned, Moscow's primary objective was to obtain control of Turkey. In such a case, it would be difficult for the United States to prevent the Soviet Union from obtaining control of the whole Near East and Middle East – the territory lying between the Mediterranean and India. Moreover, past experienced suggested that when the Soviet Union obtained predominance in an area, all Western influence was gradually eliminated. And finally, since the United States had vital resources and communications interests in the area, it was in the vital interest of the United States that the Soviet Union should not by force or by the threat of force succeed in its unilateral plan with regard to the Straits and Turkey.[14] Another Memorandum by the Joint Chiefs of Staff, of 23 August 1946, plainly stated that Turkey was "the most important military factor in the Eastern Mediterranean and the Middle East."[15]

The second point that needs be clarified here is that, whatever the centrality the Soviet factor was to acquire in Washington's postwar foreign policy, the first causal element of the emergence of that policy concerning the Eastern Mediterranean had to do with the strategic imperative of the continued control of that region in a context in which Britain was proving less and less capable of doing so. In other words, Washington's growing awareness of the need to get involved in the Eastern Mediterranean was synonymous with the realization that in the past Great Britain had provided the security framework for the control of that very region but that now London was abandoning that role.

As far back as mid-1944 the State Department's Office of Near Eastern and African Affairs was of the opinion that British and American interests in the area were absolutely identical.[16] At that same time, Washington became increasingly concerned about the decreasing ability of the British to keep controlling that area. In October of that year, the US president received the following letter from Lincoln Mac Vaugh, a close adviser to Roosevelt and then US Ambassador to the Greek and Yugoslav governments in exile in Cairo:

> Evidence is [...] plain here of Britain's inability to defend alone her Empire against powerful pressures under conditions of modern war. I doubt if in any part of the world it can appear so clear as here [...] that militarily speaking, the British empire is anachronistic, perfect for the eighteenth century, impossible for the twentieth. Every day brings its evidence of weakness and dispersion, of consequent opportunism, and dependence on America's nucleated strength. No one, I feel, can keep his eyes and ears open here and fail to believe that the future maintenance of the Empire depends on how far England consents to frame her foreign policy in agreement with Washington, and how far we in our turn realize where that Empire, so important to our own security, is most immediately menaced. British fumbling in the Balkans, fears of what may happen in Palestine, uneasiness as to Syria, doubts regarding Turkey, and alarm over growing Soviet interest in Iran, Saudi Arabia, Egypt and the whole North African coast [...] all seems to me to teach the same lesson in their varying degrees.[17]

To the recognition that the region constituted a major strategic interest of the United States and that such an interest had been defended in the past in the framework of the British imperial policies, the Soviet factor was then to

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add further urgency in making Washington realize the need to invest resources in maintaining that same region under control. This then, as indicated, would grow into an overall approach as the scope of US postwar foreign policy broadened. In an often quoted Memorandum of early March 1947 (London had already asked Washington to take over in helping the conservative forces in Greece), Under Secretary of State for Economic Affairs William Clayton was to suggest a general, strategic approach. Great Britain, Clayton stated, was fast losing the reins of world leadership. There were two powers which could pick up those reins: the United States and the Soviet Union. And it was necessary for the United Sates to do so, Clayton suggested, if another war was to be avoided.[18]

The taking over by the United States was gradual, if not slow. For some time after the end of the war, the expectation in Washington was still one of complete disengagement from the Balkans as well as from Turkey and Iran. Congress was strongly urging the Truman administration in that direction. As late as February 1946, the US Joint Chiefs of Staff was arguing that Washington should avoid military commitments in the area because of geographic distances and impracticability of secure lines of communications. At that time, the Chiefs of Staff's suggestion was that the US should act solely through the United Nations in relation to that region. However, not more than one month later, tensions with Moscow over Iran made the Truman administration recognize that the UN had serious limitations. That same year, repeated Soviet pressures on Turkey made Washington acknowledge the need for a firmer stand towards Moscow's policies and compelled it to thoroughly revise and integrate its policies toward the Eastern Mediterranean and the Northern Tier.[19]

With London anxious to withdraw its troops from Greece, on 17 September 1946 British Foreign Affairs Secretary Bevin met with US Secretary of State James Byrnes and they together decided that if Britain was unable to militarily assist Turkey, Greece and Iran, the US should take over the task. Shortly afterward, Clayton suggested that Washington should go beyond military assistance and include political and economic dimensions as well. Finally, when London proceeded with its military withdrawal, in February 1947, a consensus rapidly developed within the Truman administration that they faced no alternative but to move into the vacuum created by Britain's withdrawal. As indicated by the Clayton memorandum mentioned above, by now the administration was looking at this regional

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problem as being part of a general strategy for the defense of US international interests and the containment of the Soviet Union.[20]

What followed during the Cold War decades is well known. The deepening and geographically widening confrontation between the US and the USSR froze both their respective spheres of influence and consolidated the role of the United States as the main world power regulating the international order. Turkey's formal participation in the Atlantic alliance also satisfied the interest of Turkish elites in being part of the Western community. In other words, for almost half a century, the security framework that anchored Turkey to the West remained organized by Washington and by US led institutions.

Consistent with that role, during decades (and still today) analyses of the relationship with Turkey produced in the United States – and not solely official analyses but also academic ones – have tended to stress the important strategic role that Turkey has played (and plays.) During decades, in those analyses the strategic role of Turkey balanced off, in the value attached to the relationship, Turkey's poor record in its building of democratic institutions, human rights and minority protection. However, as further explained below, after the end of the Cold War the role played by the United States with regard to Turkey and the Eastern Mediterranean began to change.

THE ANALOGY WITH THE POST-COLD WAR PHASE

Many lessons can be learnt from the experience of that early postwar period that can help qualify Europe's present approach to Turkey and to the Eastern Mediterranean region. The first one relates to Washington's recognition of a *"vital" interest* in Turkey and its surrounding region in relationship to the postwar international order. A second point to derive from that experience is the *continuity of that interest* for the Western countries that emerged in the early analyses in Washington – already during the war years. Related to that is the awareness that the *British Empire had been the security framework* (an Empire "so important to our security," as the lucid analysis of Ambassador Mac Vaugh put it) through which that US interest had been defended in the past. And finally, most important was the consequence derived from that analysis, as early as 1944 and 1945, that *Great Britain's waning power* and its losing the "world leadership" *demanded that the US take over* in that role.

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Clearly, a thorough analysis of the analogies and differences between the postwar years and those that followed the end of the Cold War regarding the Western position would require much more space that the next few pages of this short essay. Even so, some parallel conditions in those two moments in time can be used here to better explain the character of the recent European debate on Turkish accession to the Union. Granted that there are difference in the US and European relationship with Turkey (institutional access in the latter case,) the analogies and differences to be drawn mostly concern the general assessment, in those two moments, of the importance attached to that relationship.

To begin with, can an analogy between the waning of Britain's role in the region immediately after World War Two and that of the United States today be suggested? In some way it can – especially when one looks at the evolution of Washington's overall role as a conditioning factor of world order.

The international context has profoundly changed, of course – but so did the international outlook of the United States. In the past, a proactive, global foreign policy of the United States had first of all to do with the presence of a global challenger. And after the Cold War, with no enemy posing an existential threat, the global interests and commitments of the United States increasingly shrunk to selected – if still many – issues to which the American state was still willing to commit resources. Moreover, if the existence of a global challenger afforded Washington also a rationale, domestically, for intervening in different parts of the world, that rationale disappeared when the Soviet Union renounced earlier imperialist policies and then itself disintegrated. The relationship between foreign policy and domestic politics fast changes with the former now much less delegated to leaders and experts and more dependent on domestic politics. Then, the terrorist attacks against the United States dictated altogether new priorities to the country's foreign policy, further narrowing the scope of that foreign policy from broad global strategies to immediate politics requirements.

In addition to the evolution of US foreign policy, the political role of the European Union in the Eastern Mediterranean became more relevant – for reasons of proximity, economic interdependence and migration flows. At the same time, the disappearance of the East-West line of confrontation changed Turkey's standing in high international politics and relegated it and its

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problems to the region. And the strong pull toward Europe among the Turkish elite was now also related to the need to escape isolation and relative irrelevance. In particular, because of the greatly diminished role in world politics, NATO could now no longer satisfy even the symbolic need for integration with the West strongly felt by the elite.[21]

Together with its gravitational power after the Cold War, Europe's evolving policies of institutional inclusion proved most influential. The desire of many Eastern and Southern European countries for institutional inclusion had to do both with cultural identity and with the fear of becoming marginalized while the fast pace of globalization dictated higher levels of international interaction and of normative integration. And, as indicated, with NATO playing a much diminished international role, in Turkey the expectations related to the need for institutional integration largely turned to the European Union.

It is true to say today that, the demand for a broader and more incisive role of the European Union in the region grew enormously after the end of the Cold War. And, like for the United States in 1946-47, it seems increasingly to befall on the EU to keep Turkey anchored to the West. The crescendo of political reforms in the country, in connection with an intensified relationship with the Union, testifies to the productivity of that very relationship. Thus, there is clearly a role to play for Europe, but it does not seem that Europe is yet a qualified actor.

CONCLUSION

Unquestionably, the EU external reach has grown enormously in recent years. The EU countries have begun to recognize the international influence they can exert – especially economic and political influence. In contrast with the weak CFSP mechanism, the Union has discovered that its greatest influence derives from the transformational power of its policies of institutional inclusion, in particular over countries coming out of authoritarianism and communism. Started as a reluctant response to the demand for EU institutional relations and membership from Eastern European countries, the EU's Eastern enlargement turned into an effective policy for transforming Europe's international environment. "The incentive for reform created by the prospect for membership has proved to be strong – *enlargement has arguably been the Union's most successful foreign policy*

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instrument," states the March 2003 "Wider Europe-Neighbourhood" Communication from the Commission to the Council and European Parliament.[22] And, coming after the other historical decision of December 2002 (concerning the accession of eight formerly Communist countries, in addition to Malta and the Republic of Cyprus,) the Commission's Communication for the first time attempted to build a broader, ambitious strategy based on that political instrument and aimed at "develop[ing] a zone of prosperity and friendly neighbourhood."[23]

Such an awareness of its own strategic capability and possible strategic reach is a major new development in the political evolution of the Union (it is also significant that it first came from the Commission.) It would then be important that that awareness also translate into an ability to more adequately assess the unique importance of relations such as those with Turkey, an ability to consider that country's accession to the Union on the basis of more substantial reasons (beyond "inevitability") and an ability to build a better, more consistent policy toward Turkey.

In contrast with the debate among American officials in those early postwar years and during the Cold War, today in Europe there is little appreciation of the extraordinary strategic importance of Turkey in world politics – and that both at the level of political leadership and of public opinion. Nobody has ever articulated the need to develop a more general strategy toward that region based on the collective European interest in it and why there seems to be a demand for a more pronounced European role. Nobody has ever presented to the European public the European interest in Turkey and surrounding region as "vital" and as synonymous with that of the United States, even though oil coming from the Persian Gulf and the Caspian Sea is certainly more vital to Europe than to the United States.

It would be hard to argue that such a region is not as relevant to today's Europe as Washington recognized it was to it at the conclusion of World War Two. And if Europe has its own policy in relationship to that region that policy does not seem capable of dealing with many aspects of stability and order there. When Saddam Hussein invaded Kuwait in August 1990, Denmark was importing 70 per cent of the oil it needed only from that country. And Copenhagen had no tools to redress the situation outside its reliance on the framework of regional policies centered on and led by the United States.

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In fact, there lies part of the explanation for the difference with the European approach today. It is impossible to have a strategy without having the necessary capabilities. And, while after World War Two the US fast emerged as the main organizer of world order, the postwar European state and European institutions grew within that international order organized by the United States. If a great success story because of their solid economic recovery and health, the EU countries developed both with a deficit of security capabilities and in the absence of broad international strategies of their own – those capabilities and strategies being, as indicated, largely supplied by the US. The European collective mechanisms developed since the early 1990s for a common foreign and security policy have proved and remain largely inadequate to tackle international issues even when those issues created enormous political pressures on the European countries, such as the crises in the Balkans in the 1990s.

In brief, having developed in a security framework largely organized and conditioned by the United States, the European Union and the individual European countries remain largely limited in their ability to deal especially with "high politics" issues in the international arena – with issues of world order and that often require hard instruments of intervention. If in the past there was continuity in treating the one with Turkey as a strategic relationship, Europe remains mostly incapable of looking around itself in those terms. And that inability also means that the relationship is analyzed and often based on superficial political arguments and individual capitals' idiosyncrasies, on claims brought up from distant historical events, and on that cultural factor discussed at the beginning of this paper. It means to leave that relationship be kept hostage to very specific problem a member state may have with Ankara, as in the case of Greece for decades and the Republic of Cyprus at present.

To maintain that Brussels' is incapable of recognizing the strategic relevance of that Turkish connection to it is not to belittle the role played by the European Union, especially in the most recent years, in helping Turkey in the process of political modernization and integration into the Western community of nations. In fact, the EU can count its contribution to the recent political evolution of Turkey as one of its most striking successes.[24] What has been missing, again especially in the most recent phase, is the European ability to look dynamically at its own interests, capabilities and evolving security framework within which it has so far developed.

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While the EU's helping to bring about and monitoring political change in Turkey remains a most important activity, Brussels needs also to look at relations with that country in the context of the broadening responsibilities which befall on it with regard to stability and in the Mediterranean and in the context of a necessary broader strategic outlook concerning adjacent regions. In contrast with the public debate concerning Turkey's accession which has developed so far, a much more substantial one is needed in Europe. Leaders must explain that "not want[ing] to have a common border with Iraq" is a luxury Europeans can not longer afford – and in fact not a matter of democracy.

As indicated, the security framework that assures the international interests of the EU is fast changing. And that also implies that the admission of Turkey into the Union has at present a different meaning than if it had been carried out in 1963 or in 1987. Today, that admission is related to a responsibility the European Union cannot avoid in the defense of its own interests and more generally in its contribution to international stability.

Endnotes

[1] The Agreement Creating an Association Between the Republic of Turkey and the European Economic Community, or "Ankara Agreement", entered into force on 1 January 1964. Art. 28 of the Agreement explicitly cites full membership in the European institution as an eventual outcome of the process envisioned in the agreement itself. Ankara applied for membership in 1987.

[2] 1997 was not the only setback. After being recognized as candidate state by the Helsinki European Council of December 1999, the Brussels Council of December 2002, while proceeding with the "big bang" enlargement to ten new members, asked Ankara to submit to another test itwo years time before the decision related to accession negotiations. In 1997, Turkey was on a par with other countries with which the EU started accession negotiations. Moreover, comparing data related to the year before the start of accession negotiations (1999 for Rumania and Bulgaria, 2004 for Turkey), Turkey appeared to be in better shape than both Romania and Bulgaria or one of the two with regard to GNP per capita at purchasing power parities (PPP), growth rate at constant prices, rate of inflation, lower employment in agriculture, more developed services sector, and current account as percentage of GNP. Data are from the IMF and EU Commission.

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[3] *Le Monde*, 9 November 2002.

[4] For instance, in the summer of 2004 then Cardinal Joseph Ratzinger reminded all, from Rome, that in 1683 the Turks had reached the gates of Vienna.

[5] See Iver B. Neumann, *Uses of the Other: The East in European Identity Formation* (Minneapolis: University of Minnesota Press, 1999). See also Meltem Muftuler-Bac, "Through the Looking Glass: Turkey in Europe", *Turkish Studies*, 1. 1. (Spring 2000), who stresses how "Turks represented all that was negated in European identity: savage, barbarian, despotic, oppressive, violent and a threat to European civilization". Those are disposition and stereotypes not solely of the past. In March 1997, at a meeting of European Christian democratic parties in Brussels, Helmut Kohl defined the European integration as a "civilization project" in which a Muslim country such as Turkey has no place. *Financial Times*, 5 March 1997.

[6] 6 October 2004. On the same date another German daily, *Die Welt* concluded, a: "Turkey is not Europe and will never be Europe". The debate about Turkey has grown in importance also due to the growing relevance of the Turkish vote in recent elections there.

[7] Such comments are, among others, inconsistent with the record of actual Ottoman participation in European alliances during centuries of unending conflict among the "Christian" states. The Paris Conference that concluded the Crimean war, in 1856, described the Ottoman empire as "part of the European concert."

[8] A few bibliographical references that discuss the geopolitical dimension of the problem are the following. Feroz Ahmad, "The Historical Background of Turkey's Foreign Policy," in L.G. Martin and D. Keridis (eds.), *The Future of Turkish Foreign Policy* (Cambridge, Mass.: MIT Press, 2004); Ewan W. Anderson, *The Middle East: Geography and Geopolitics* (New York: Routledge, 2000); Henry J. Barkey, "Turkey and the New Middle East: A Geopolitical Exploration," in H.J. Barkey (ed.), *Reluctant Neighbor: Turkey's Role in the Middle East* (Washington, DC: United States Institute of Peace Press, 1996); Saul Bernard Cohen, *Geopolitics of the World System* (Lanham, Md.: Rowman and Littlefield, 2003); Sadi Erguvenc, "Turkey; Strategic Partner of the European Union," in *Turkey and European Union: Nebulous Nature of Relations* (Beytepe-Ankara: Turkish Foreign Policy Institute, 1996); Graham Fuller, "Conclusions: The Growing Role of Turkey in the World," in by G.E. Fuller and I.O. Lesser (eds.), *Turkey's new geopolitics: from the Balkans to Western China* (Boulder: Westview Press, 1993); John Gault, *The European Union: Energy Security and the Periphery*. Occasional Paper Series, no. 40

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(Geneva: Centre for Security Policy, 2002); Fiona Hill, "Caspian Conundrum: Pipelines and Energy Networks," in Martin and Keridis (eds.) *The Future of Turkish Foreign Policy*, cit.; Alan Makovksy, "Turkey," in R. Chase, E. Hill, and P. Kennedy (eds.) *The Pivotal States: A New Framework for U.S. Policy in the Developing World* (New York: W. W. Norton, 1999); Meltem Müftüler-Bac, "Turkey's Role in the EU's Security and Foreign Policies." *Security Dialogue*, 31.4 (2000); Oktay F.Tanrisever, "Turkey and Russia in Eurasia," in Martin and Kerisis (eds.) *The Future of Turkish Foreign Policy*, cit.; Paul Williams, "Turkey's H_20 Diplomacy in the Middle East," *Security Dialogue*, 32.1 (2001.

[9] Dimitris Keridis, "Foreign Strategies and Domestic Choices: Balancing Between Power Politics and Interdependence," in Martin and Keridis (eds.), *The Future of Turkish Foreign Policy*, cit.

[10] Robert Chase, Emily Hill, and Paul Kennedy, "Pivotal States and US Strategy," *Foreign Affairs*, 75.1 (1996.)

[11] Sylvie Goulard, "France's malaise is teaching Europe a lesson," *Financial Times*, 18 May 2005.

[12] Memo by Wallace Murray to the secretary of state, 22 September 1945. See US Department of State, *Foreign Relations of the United States: Diplomatic Papers* (Washington, D.C.), 1945, VIII, p. 417. (These volumes are heretofore referred to as *FRUS*.)

[13] Bruce R. Kuniholm, *The Origins of the Cold War in the Middle East: Great Power Conflict and Diplomacy in Iran, Turkey and Greece* (Princeton, NJ: Princeton University Press, 1980), p. 374.

[14] *FRUS*, 1946, VII, p. 838.

[15] *FRUS*, 1946, VII, pp. 857-858.

[16] Kuniholm, *The Origins of the Cold War in the Middle East*, cit., p. 301.

[17] 15 October 1944 letter from Mac Vaugh to Roosevelt, cited by Kuniholm, *The Origins of the Cold War in the Near East*, cit., pp. 97-98.

[18] FRUS, 1947

[19] See Kuniholm, *The Origins of the Cold War in the Near East*, cit., p. 212.

[20] See Kuniholm, *The Origins of the Cold War in the Near East*, cit., Chapter 6.

[21] On this see also Meltem Muftuler-Bac, "Turkey's Predicament in the Post-Cold War Era," *Futures*, vol. 28, no. 3.

[22] Communication from the Commission to the Council and European Parliament, *Wider Europe-Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours*, COM (2003) 104 final (Brussels, 11 March 2003.) Emphasis added.

[23] Ibid.

[24] For a recent assessment of the role of the EU in the political evolution of Turkey see Mario Zucconi, *Dual Revolution in Turkish Politics and Role of the European Union*, Ethnobarometer Working Paper no. 9 (Rome: Ethnobarometer, forthcoming)

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INTERCULTURAL DIALOGUE BETWEEN CIVILIZATIONS: TURKEY AS A 'BRIDGE'?

Çiğdem NAS*

Abstract

Samuel Huntington's 'clash of civilizations' thesis has been one of the most well-known and also contested conceptions of the post-Cold War era. The view that civilizations are based on different world views and thereby inherently discordant with each other is based on an overemphasis on discrepancies rather than commonalities. A country such as Turkey is frequently suggested as a model country that can act as a bridge between civilizations mainly between the East and the West. It incorporates characteristics of different civilizations being a part of different continents and cultural areas, being both Muslim and secular, European and Asian. The paper aims at analyzing the role of 'bridge', Turkey's attributes that may contribute to and preclude such a function

The view that international politics will essentially be determined by the existence of and conflict between different civilizations dominated the discourse of international politics in the 1990s. One of the best-known authors who hold this view, Samuel Huntington, has been fiercely criticized either because his theory was considered simplistic and reductionist or because it was condemned as a self-fulfilling prophecy[1]. In the approach of the topic the basic unit of analysis, i.e. civilization, is in itself a highly contested concept. According to Braudel, "Civilizations are separate beings, whose long lives transcend comprehension. They are extremely old and they continue to live within each of us and they will pursue us for a long time to come.[2]" As defined by Bruadel, civilizations are

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the result of spaces, i.e. geographical characteristics of human settlement, of societies that carry and activate civilizations, as well as of demographic and economic factors in any given society. Civilizations provide us with our mental imagery, with symbols and meanings. Thus, in this understanding it is possible to see civilizations as 'common mentalities' and 'mental toolboxes'.[3]

The relation between the terms 'civilization' and 'culture' is a peculiar one. Clifford Geertz borrows Max Weber's definition in clarifying his understanding of 'culture': Culture is constituted by "webs of significance man has spun"[4]. Geertz quotes Goodenough's definition of culture as "whatever it is one has to know or believe in order to operate in a manner acceptable to its [a society's] members"[5]. Braudel draws attention to the fact that while the two terms are sometimes used interchangeably; at other times civilization and culture are seen as complementary concepts, the former denoting spiritual or mental features, the latter essentially denoting physical creations[6].

According to Braudel, the history of civilizations is a history of continuous exchange between them; however this exchange does not affect the autonomy and authenticity of each civilization[7]. The contention that there exist non-intersecting and divergent civilizations and that as such there may be irreconcilable differences between them is difficult to prove given the fact that we cannot discern monolithic blocs of civilization in today's world. Civilizations have been permeated by the effects of other civilizations and are constantly in a state of flux and adaptation, and this aspect is sometimes underestimated The denomination "Islamic civilization", for instance implicitly refers to the overbearing role of Islamic religion in shaping the cultural, economic and political systems of the countries that are considered to be of that civilization. But at the same time it conceals a considerable variety in attitudes, including different interpretations of Islam and different world views, almost as to render unhelpful the entire label. Needless to say, globalization of our days has much exacerbated the traditionally existing permeability of civilizations, making it even more difficult to conceive of monolithic civilization blocs. Thus, it becomes appealing to suggest that the concept "civilization" denotes particular common themes, shared meanings, values and symbols that bond cultures together that are other wise heterogeneous. While globalization brings about a convergence in values and lifestyles, it also

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exposes differences between geographical locations that could result in conflicts and struggles. This may be beneficial: According to François Burgat "...the more people are informed about other cultures, the more they will realize the extent of their shared values".

Increasing interaction and communication take place in an environment of growing inequality and instability. According to Kishore Mahbubani, the process of modernization and economic development is bound to lead to "an explosion of cultures" which will be very difficult to control "in a world full of inequalities"[8]. The bridging of the physical distance between civilizations by using modern means of communication and transportation is not matched by a similar closing of the gap which exists in terms of economic and social welfare. By virtue of the media, multitudes of people are able to follow day by day the increasing inequality and the persisting injustice in today's world. Steady communicative networks bring people closer together by making their intellectual and psychological realms meet but at the same time they pull them apart by highlighting differences and divergences.

In the Muslim world one can observe a growing resentment of the West, especially of western policies towards the Middle East. The dominant ideological currents in the Islamic world are objecting to the diffusion of western civilization under the banner of globalization. The frustration of the populations of various countries, especially in the Moslem world, besieged by authoritarian governments, problems of underdevelopment, and economic and social troubles translates into resentment against the west and western policies that have in the past been supportive of authoritarianism and are therefore seen as having contributed to their plight. This has instilled a growing disillusionment with western values, even universalized ones like human rights and liberal democracy. In the minds of many people the West is seen as domineering, exploitative, and deceitful, and anything that comes from the west is to be viewed with suspicion and aversion. There is a tendency in the Moslem world to revert to Islam to conceptualize the world and the truth, and to reject western values and efforts to create an alternative paradigm.

In this polarized world of civilizations the theme of inter-cultural dialogue has become fashionable at about the same time as the infamous September 11 events. The United Nations General Assembly proclaimed 2001 as the United Nations Year of Dialogue among Civilizations.

According to Boehle, an inter-religious dialogue, should be institutionalized by the creation of "a multi-centered, permanent World Network, Forum, and Council[9]. In a world which is becoming increasingly polarized and where gaps among different regions and cultures breed violence, the necessity of dialogue appears to be a priority. The leading countries of the world should be more responsive to the plight of the Third World while developing countries should work more to attain global standards and not to fall out of tune with contemporary developments.

Dialogue implies two parties willing to listen to each other; i.e. a speaker and a respondent, and a relation between the two. The use of language, in any form of speech or writing, may constitute a dialogue, Language is laden with cultural preconceptions, and ideological views. In the same vein, a dialogue between cultures, say, between the Western or European and the Middle Eastern ones, risks to be laden with prejudice, historical artifacts and symbolic references. Nevertheless, a continuing dialogue will uncover and disclose such preconceptions as may also be the root cause of antagonisms. A dialogue that may contribute to the dismantling of cultural prejudice will open the door to mutual understanding and empathy.

Of course the necessity of dialogue is not as hotly debated as are the possibilities for effective dialogue[10]. Viewed against the background of growing inequality and imbalance continued calls for dialogue on the part of the western world appear to be part of a grand strategy of imperialistic intent. As such intrinsic mistrust undermines the prospect of setting up a successful communications process. Just as in the case of two persons that do not speak the same language, the use of a translator can help. A third party may act as a liaison, a mediator, bonding element, a transmitter, a facilitator of the communication between otherwise disparate parties. It is in this context that the metaphor of the 'bridge' is sometimes used, referring more in particular to the position of Turkey and its relationship to both East and West, Here it is possible to ask several questions: Is the notion of 'bridge' still a useful concept in today's world? Is globalization creating a convergence in cultural values or are there unbridgeable gaps that could lead ultimately to a clash of civilizations? What is it exactly that separates the places the bridge is supposed to cross? , As Huntington puts it,: "the idea of a 'bridge' implies that there is something separating them...the issue is whether this is a 'bridge' over a chasm, a wide ocean, a changing stream or

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what"[11]. And what about the bridge itself? Orhan Pamuk with his sense of observation of a Turkish novelist reminds us that "a bridge doesn't belong to any continent, doesn't belong to any civilization, and a bridge has the unique opportunity to see both civilizations and be outside of it"[12]. Following this line of thinking, Turkey, with a foot in both continents is at the same time both in and out of the neighbouring civilizations. It has peculiar characteristics that make it a unique country which does not fit any established categorical classifications.

Thus the 'bridge' metaphor is being used to denote a specific international role for Turkey. This country occupying a geography that can be described as a land bridge between Europe and the Middle East, or for that matter between the Black Sea region and the Mediterranean, between the Balkans and the Caucasus, constitutes the hub of an interaction between its surrounding regions. In practical terms this includes a unique position in the intersection of international trade and commerce, tourism and energy networks. Interaction with different cultures, disparate value systems, distinct worlds of meaning coincides with the day-to-day exchanges and international transactions between the regions surrounding Turkey. This unique status may be both a strength that may contribute to Turkey's assertiveness in the international arena. At the same time, it may also be a weakness due to giving rise to a marginal position in the surrounding regions.

TURKEY'S PREDICAMENT / TURKEY'S OPPORTUNITY: TURKEY AS A 'BRIDGE'

Turkey lies at the intersection of two continents and various sub-regions. Its unique geographical position gives the country the opportunity of acting as a land bridge between different cultural and political systems. It has borders with eight quite disparate countries Greece, an EU Member, Bulgaria, a candidate for EU membership; Iraq, an unstable, war-torn country, Syria, ruled by a semi-authoritarian regime,; Iran, a revolutionary theocracy; Georgia and Armenia, poor and unstable countries struggling to sustain democracy in the midst of power rivalry and Azerbaijan with which Turkey has cultural links. Turkey's international relations need to be flexible and accommodating due to its unique position that brings about the need to deal with these diverse regions and sub-systems surrounding it.

Turkey's international relations have been based on a regional perspective. It is concerned by the regions surrounding it and is involved in regional initiatives and problems such as distribution of water resources and energy pipelines, trade and other economic activities as well as political issues like the Israel-Palestine dispute and the status of Iraq. With this objective in mind Turkey is a member of many regional organizations with quite disparate membership. While a member of NATO, Council of Europe, OECD, and OSCE, it also collaborates in the Organization of Islamic Countries, the Black Sea Economic Co-operation Initiative, and the Economic Cooperation Organization. In this sense the country has many disparate foreign policy considerations and has to pursue a complex, dense and multi-faceted course in the external arena.

From the viewpoint of the constructivist school of thought, international relations are not only determined by geopolitical conditions or foreign policy interests of states, but also by norms, values and institutions. In that sense, Turkey, while operating in a European forum is under the constraints of a particular normative and institutional system However, this system no longer applies when Turkey approaches its Eastern neighbors for whom a different set of norms, values, behavior patterns and perceptions prevails. Therefore, Turkey does not apply a single normative approach to its international relations but has to accommodate different outlooks. This necessity has caused hardship for Turkey in the past. In particular, Turkey has had a hard time trying to adapt to EU norms and standards while at the same time having to deal with internal disorder and separatist activities affecting some of its Southern neighbors. The pitfalls of Turkey's foreign policy requirements have at times sat in the way of Turkey's efforts to become part of the European system and has also caused it to be criticized and isolated by its Eastern neighbors. While Turkey has been reproached for its past policies on Cyprus[13], its Kurdish problem, or such issues as the impending crisis with Syria over the Ocalan issue in 1998[14], there were usually good reasons whenever Turkey could not conform to the mentality, norms and values its Western partners expected when dealing with its Eastern relations.

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TURKEY'S UNIQUE STATUS IN RELATION TO ADJACENT REGIONS

This paper wants to focus on an evaluation of Turkey's role as a bridge' between Europe and the Middle East. Although geography is important here, specific issues such as the relations between the Balkans and the Caucasus, between the Mediterranean and the Black Sea region or between the Turkic Republics and Europe need not detain us, as we focus on the relations between West and the East, i.e. between Europe and the Middle East In this context one has to give centre stage to Turkey's unique status as a secular and democratic country that is at the same time predominantly Muslim. Its political and cultural structure separated it from other countries in adjacent regions. . In the following, the developments of Turkey's relations with Europe and the Middle East will be described before focusing on the changing situation after the end of the Cold War.

Turkey and Europe

Turkey's relations with Europe go back to the Ottoman Empire. The Empire ruled over much of the Balkans and Eastern Europe for over 500 years. In that sense it was a European power and it was counted as a European state for the purpose of the 1856 Paris Peace Conference. However its long standing rivalry with European powers for the possession of land and trade routes and its different culture and religion also earned the Empire the title of the 'other' of Europe[15]. The Ottomans symbolized an unfriendly, hostile power, ruled by 'Oriental despotism', a European label for an alien system of government and state-society relations and social organization based upon a particular cultural inheritance that were quite uncharacteristic for Europe[16]. The relationship with Europe changed over time and in accordance with the circumstances of the period. The retreat of the Ottomans at the behest of European forces became evident with the first losses of territory after the 1699 Karlowitz Treaty. In fact this retreat was not only military. Europe was experiencing ground-breaking advances in the conception of the universe, world, state and individual through the gradual secularization of political and intellectual life, scientific inventions, geographical discoveries and the start of industrialization, and the Empire simply could not keep up with the scientific, technical, and intellectual advances in the West. The start of European modernization not only placed Europe in front of other civilizations but the Ottomans were also

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"infiltrated" by these advances. In their search for a return to the past grandeur, they decided to try to imitate or adapt to European culture and civilization. This led to changes, at first within the military establishment and later, affecting other aspects of the Empire's makeup, including the judicial system, education, lifestyles and cultural patterns.

The Turkish Republic, the successor of the Ottoman Empire, was based on the model of a European-style nation state. In that sense, although it was in many respects the inheritor of the Empire, the doctrine of the new state was based on a rejection of the Empire. The Turkish Republic accepted western culture, nationalism, secularism and republicanism. By implication, the Ottoman Empire symbolized everything that the new Republican elite led by Ataturk wanted to annihilate, backwardness, corruption, and religious bigotry. What the Ottoman Empire stood for, can be equated with what the East represented in the understanding of the westernizing intellectuals of the time. The modernization of the state was embodied in the westernization project that was mainly to be carried out under the vanguard role of the elite.

The relatively autonomous foreign policy of the new Republic was shaped around the desire to preserve the status quo of the time and isolation to the extent necessary to be able to devote the state's resources and energy to modernization and advancement[17]. Turkey was neutral during the Second World War and subsequently allied itself with the US and Western Europe within the framework of the Atlantic alliance. The international position of Turkey during the Cold War was mostly shaped by these conditions while being a frontline country of NATO. The relations with the West were mostly based on security and strategic considerations. Turkey's standing vis-à-vis Europe was the "distant outpost of NATO on the European periphery"[18], a country geographically close but politically, socially and culturally rather distant. The borders to the East and South further determined the limits of Turkey's international engagements. Turkey's relations with its Southern neighbours including Iraq and Syria were quite restricted due to the conflicting roles of the US and SU in the region. In that sense Turkey's status in its region was rather rigid and static, characterized by a strong anti-communism and a wish to protect the status quo. In this period, relations with Greece, i.e. the Aegean and Cyprus problems, dominated Turkey's foreign policy. Turkey's sense of 'being encircled by enemies' was quite powerful, and dominated official as well as popular

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thinking[19]. Turkish foreign policy was aimed at protecting only high-level interests while the country struggled with internal problems.

The Cold War ended with the demise of the Soviet Union and Warsaw Pact which resulted in a geopolitical change for Turkey, since it gave rise to a major realignment and the international environment that Turkey was situated in effectively changed. The ending of the Cold War rid the country of the straitjacket that encapsulated its relations with surrounding regions. Turkey now found itself in an environment that was undergoing the effects of a systemic change in word politics. Various ethnic and religious movements, and inter and intra-state conflicts re-emerged or became more acute, including the Arab-Israeli conflict. This geopolitical change gradually influenced the conceptions and perceptions of the foreign policy elite in Turkey which in time affected the international relations of the country. Turkey became more aware of the area to the East and the South of its borders and began to see this area not just as a source of threat and trouble but also as a source of opportunities. Turkish foreign policy began to shift from the old pattern of static isolation to active and innovatory policies.

Apart from bilateral relations with European countries, Turkey's relations with Europe are to a large extent defined by the relations with the EU. Until the 1980s, Turkey's relations with the EC were mostly regulated on an economic basis. The 1963 Ankara agreement foresaw a customs union between the EC and Turkey. The internal disturbances, economic deficiencies and political instability in Turkey forestalled major developments in the relations. The 1980 military coup in Turkey caused the suspension of relations until the return to democracy. Relations were rekindled in 1986 with a meeting of the Association Council. During that time there were other important developments affecting the status quo taking place in Turkey's vicinity, including the Iranian Revolution, the straining and subsequent thaw in US-SU relations, and anti-regime movements in Eastern Europe. Turkey's foreign policy orientation was affected by these changes as well as internal developments. Moreover, Turkey's closed and statist economic model was being transformed into a liberal export-oriented economy[20].

The export-oriented economic model propagated by the Ozal government that came to power after the transition to competitive politics exerted an influence on the international relations of the country. Turkey,

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being integrated into the global economy needed to increase its exports and depended on foreign borrowing and capital flows to sustain its growing economy. This situation, while increasing the susceptibility of the country to international economic cycles and shocks, also meant that Turkey should take into consideration the economic dimension of international politics and implement more diversified and open policies towards other countries[21]. Foreign relations were no longer based predominantly on security considerations but also took into account the economic dimension.

The globalization of human rights norms constituted an other major development that had an effect on Turkey's internal and external affairs. As evidenced by the suspension of relations between Turkey and the EC in the wake of the 1980 military coup, closer relations with Europe depended on democratization and implementation of human rights and fundamental freedoms. Turkey increasingly came under scrutiny by the international community for human rights violations and deficiencies in its democratic credentials. This acted as a forceful external stimulus for Turkey and led to major internal (divisions and) realignments.

Turkey's application for EC membership in 1987 was a defining moment in Turkey-Europe relations. Although Turkey received a negative response to its application it was important since it showed that Turkey's main priority was integration into the European system by adapting to its norms, values and by taking part in its institutions. This also meant that Turkey was intent on following the route of democratization and applying universal human rights norms after the military coup[22]. Turkey's pursuit of closer relations with the EC continued with the finalization of the customs union in 1996 and the seeking of candidate status that was finally conceded by the EU in 1999. Each step was made dependent on Turkey's improvement of its human rights record and democratic credentials on the basis of the Copenhagen criteria. Turkey accelerated the pace of reform in an effort to fulfill the Copenhagen criteria after the start of the pre-accession strategy and passed a series of constitutional and legal reforms, including the abolition of the death penalty, the freedom to broadcast in and to teach languages other than Turkish, abolition of state security courts, changes in the composition of the National Security Council that led to civilianization and in general improvements in fundamental rights and freedoms.

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The recent development of Turkey's relations with the EU imply that Turkey is set to become part of Europe not just strategically, but also institutionally, politically, economically, and socially. This process necessitates the adoption of European norms like democracy, liberal economy and social protection, to the extent that they are part of European culture, meaning a space inhabited by shared ideas and knowledge 'Europeanization' is a complex and thorough process that concerns the whole society. Turkey's being judged on the basis of European norms and values, has had bad effects on Turkey's international standing. Turkey has had a bad image in Western public opinion, as an authoritarian country where human rights violations are widespread. However, the long-term effects are positive. Turkey's Europeanization process improved Turkey's international standing as a democratic actor adjacent to regions with strongly authoritarian tendencies. Moreover, the changes that took place in Turkey's foreign policy, such as that regarding Cyprus, and the shift in its relations with the United States and Israel, testify to the alterations that Turkey is undergoing as a result of integration into the EU.

Turkey and the Middle East

Turkey was historically as much involved in the Middle East as it was in Europe. The Ottoman Empire ruled over much of this region until World War I when areas to the South were placed under the League of Nations mandate. After the establishment of the Turkish Republic and the formation of nation-states in the area, the relations between those countries were mostly directed on a bilateral basis. During the Cold War the Middle East was an area where the super powers engaged in a delicate balancing act. The conditions of the Cold War together with bilateral problems among Middle Eastern countries precluded close and friendly relations. Turkey's being a NATO member country on the USSR boundary and neigbouring Middle Eastern countries that were themselves adjacent to the SU also placed it in a precarious position.

Turkey's relations with the Middle East were however influenced by several other factors. To the historical and strategic rivalries and clashing interests among the countries in the region, should be added the factor of the Ottoman legacy and the nature of the Turkish Republic. These were aspects that shaped the perceptions of all the actors in the Middle East. For countries such as Syria or Egypt, Turkey was the successor to the Ottoman Empire and was thus associated with the unpleasant memories of Ottoman

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hegemony. Turkish involvement in the region was perceived as an unwelcome intrusion and this perception still has a determining influence on the relations between Turkey and countries in the region today.

Added to historical legacies, the principles of the Turkish Republic have also influenced Turkey's role in the region. The Turkish Republic set out to become a modern secular nation-state. The aim of "catching up with contemporary civilization" meant forming the institutions, norms and values of the Republic in accordance with European precedents. The republican elite that dominated the foreign policy establishment adopted the values and patterns of thought of Western culture and shaped the foreign policy orientation of the country accordingly. Rather than applying a foreign policy geared towards adjacent regions, Turkey adopted more and more a Western-oriented policy, especially in the post-WWII era. Apart from the effects of the international system this was also in line with the internal politics of the Republic and its modernist course based on the Western model. Within this model the notion of secularism occupied a central place. It was seen by the Republican elite as the only way to control religious movements and sentiments in the society. Close relations with Moslem countries that were less advanced and more influenced by religion was not in line with the modernist paradigm that shaped the perceptions and belief systems of the elite.

The environment in which Turkey found itself after the Cold War era was free of the constraints of that era but fraught with new and unforeseen threats. The first Gulf War, the break up of the Yugoslav federation, and the upheavals in the Caucasus such as the Nagorno-Karabakh dispute occurring in Turkey's vicinity showed the need for Turkey to adapt its international relations to these changes. In spite of these new threats and challenges the ending of the Cold War also created new opportunities such as increasing trade and economic relations and regional activism. Prime Minister Özal showed an interest in greater involvement by Turkey into regional affairs as displayed in the 1991 Gulf War. The opening up of borders to the East also opened up a new horizon of close relations with the Turkic world and wishful thinking of an impending Turkish century[23]. While traditional segments of the Turkish elite advocated a cautious foreign policy some activist groups advocated increased regional involvement and the forging of closer relations with countries in its vicinity. Although the main principles of Turkish foreign policy remained largely intact, Turkey's

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"cool aloofness"[24] towards the region began to change in favor of the pursuit of closer ties.

Turkey's international standing and foreign policy is closely related to the identity perceptions of the country's elite. Conversely, the internal changes that were experienced in Turkey were closely connected to the perceptions about and approach to international issues. The changing patterns of the elite in Turkey can be assessed from the varying electoral successes. The groups that held political power underwent a transformation after the transition to multiparty politics which was exacerbated and accelerated by the high rate of modernization and socio-economic transformation in Turkish society especially since the 1970s. Greater political participation led to the recruitment of formerly excluded parts of the population into politics. Throughout this period a gradual erosion of hard-line Republican values and principles took place. From being the first and foremost party of the Republic, the Republican People's Party faced competition at first only from the populist Democrat Party of the 1950s, whose politics drew their strength from traditional segments of the society, especially small manufacturers, tradesmen and artisans in Anatolia as well as farmers. In a bid for this electorate several center-right parties including later the Justice Party and Motherland Party, started to use religion and populism as important ingredients of their political rhetoric. With the formation of new parties in the 1960s and 70s, nationalist, Islamist and Marxist parties entered politics, thus widening the political spectrum. The 1980 military coup disbanded political parties in Turkey and opened the way to the formation of new parties that continued the course of the main cleavages in society.

The socio-economic and political transformation in Turkey resulted in a greater visibility of religion and religious values in society, and their permeation into public space as may be discerned in the headscarf issue, and the Islamist parties that were created increasingly won electoral successes[25]. The 1990's were years when Turkey experienced a divergence of views between various groups on the issue of Turkey's identity, its status in the world, and its future direction. The main groups were firstly the establishment who wanted to maintain Turkey's traditional policies with slight modifications and who otherwise resisted most attempts at change, the liberals who sought democratization, liberalization, and greater integration with the world and the EU, the nationalists that focused on the

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unity of the state and special relations with the Turkic world, the social democrats who tried to emulate the 'Third Way' in Turkish politics, as well as other more radical groups on the Left that supported statism and autarky, and Islamist groups wanting to shape the country on religious principles. Among the latter were moderate as well as hard-line Islamist groups those supporting an Islamization within democratic politics and those that were intent on transformation to an Islamic state

Turkish society experienced many ebbs and flows between these divergent views during the 1990's. The rise of the Islamist Welfare Party, starting in the 1994 Elections and culminating in its sharing power with a center-right party in a coalition government, was an alarming situation for many secular segments of the population, and for civil and military bureaucracy. The conflict of views and interests between the secular establishment and the Islamist groups culminated in the February 28, 1997 memorandum of the National Security Council against the Islamist-center right coalition government. The growing appeal of Islamist groups was linked to a socio-economic basis in the society that created alternative institutions like political parties, finance and media institutions, and private sector establishments. In that sense they were creating an alternative route to power within an Islamist and anti-western ideology. The February 28 event resulted in the formation of a new more moderate party –the Justice and Development Party- that came to government with a considerable majority of the votes in the 2001 elections. In other words the clash between the secular establishment and the Islamists was instrumental in purging more radical, anti-modernist elements of the Islamic movement and opening the way to moderate and progressive groups.

The 2001 elections marked a decisive point in the Turkish political system. The three parties that formed a coalition government before the elections could not win parliamentary representation since they could not surpass the 10% threshold needed to gain seats in the parliament. The elections were described as an "electoral earthquake" since it left the mainstream parties out of the parliament while only two parties that were formerly outside the parliament could gain parliamentary seats. The fact that one of these parties, the Justice and Development Party (JDP) was established only recently manifested the dissatisfaction felt by the majority of the population regarding the record of the conventional parties in dealing with the main problems of governance in the country, such as the running of

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the economy, foreign policy and dealing with structural issues such as internal migration, urban settlements, and such persevering problems as corruption and nepotism. In this connection the JDP promised a dynamic and innovative approach to politics. Its political discourse of moderate Islam and adherence to conservative values increased the appeal of the party to large segments of the electorate. The JDP which also aimed to fill in the gap in the center right of the political spectrum seemed to assume the political legacy of former center right parties such as the Democrat Party and the Motherland Party. In contrast to the quite formalistic and ideological approach of the main opposition, the Republican People's Party, the JDP adopted a more pragmatic and populist attitude.

Immediately upon coming to power, the JDP seized the flag of the prospect of EU membership. It should be emphasized that the former coalition government initiated significant reforms in an effort to fulfill the political Copenhagen criteria. However, the three parties forming the coalition could not arrive at a joint approach regarding relations with the EU. In this regard the full-hearted support to the EU cause shown by the JDP was an important turning point. At first sight this seemed as a contradiction in terms coming from a conservative party with clearly Islamic roots. Although explanations may vary, support for EU membership may be seen as a strategic policy option for the JDP rather than an ideational conviction about the course of westernization. On the one hand, it was used as a political strategy to gain the sympathy of larger segments of the population. On the other hand, the JDP viewed the reform process generated by the Copenhagen criteria favorably since it would lead to greater democratization and liberalization. Such a process would be beneficial for Islamic groups that frequently faced checks and constraints by the establishment, especially the military, judiciary and bureaucracy. Thus between 2001 and 2004 the parliament passed two constitutional amendments and equivalent harmonization packages to meet the membership criteria and qualify for the opening of accession negotiations.

Over time, it is possible to observe a change in the relation between the ideal citizen of the Republic and his/her religion. Turkish society has been quite successful in integrating religious identity and secularism in daily life. This explains why the tension between the secular establishment and the moderate Islamic government is not experienced to the same degree at the level of the society. This is not to say that secularist groups in society do

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not resent the taking of power by a predominantly Islamist party. However the struggle between Republican forces and the Islamic groups for political power is not repeated at lower levels of society with the same ideological flavor. The Justice and Development Party is supported by lower middle and lower classes of the society in search of a more equitable sharing of resources. Underlying the struggle between the Islamists and the establishment, there is a deeper struggle between the holders of power i.e. the educated, westernized, secular elite and the more traditional, less educated, poorer segments of the society, that in fact constitute a majority of the population. These groups who are mostly based in Anatolia and the outskirts of large cities have been away from power so far. As they have gained economic wealth they also aimed at rising to higher positions in the society and challenging the old taboos of the system. In their struggle with the establishment, they have been rebuffed many times and each time this happened, they have also internalized some values and norms of the system, like Turkey's European vocation. They have become more integrated into the system by toning down their extreme positions and accepting the red lines of the Republic.

These fluxes in Turkish society are reflected in its political outlook. The Islamist groups that appealed to less educated and less well-off segments of the population have acquired power. However, in doing so, ironically, coming from an anti-modernist and anti-western background, they have adopted the quest for EU membership as one of the most important aims of their government and worked for that aim. A party with an Islamist ideology that wants to integrate Turkey into the EU sums up the current identity of Turkey. In that sense the identity crisis that Turkey has experienced especially after the ending of the Cold War is taking on a less problematic course. The country is more comfortable with its cultural and historical heritage, and not finding it incompatible with its secular and western orientation. While the relations with Europe are contributing to the democratization of the country, Turkey is readjusting its identity perceptions. It is coming to terms with the fact that while it is a country on the southeastern periphery of Europe it is also adjacent to many other regions with which it has historical and cultural ties. In this connection, rather than focusing its international relations on a single or few options, it is giving importance to multiple venues and multiple actors with which it wants to conduct closer relations.

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A COUNTRY BETWEEN CIVILIZATIONS

How, given these dynamics, can Turkey function as a bridge? Turkish international stance is rapidly evolving in line with international transformations. Traditionally, Turkey's foreign policy since the founding of the Republic was based on preserving the status quo in the region and avoiding any foreign entanglement as far as possible. One of the few instances when Turkey did not observe this maxim was the Cyprus intervention of 1973. The reason may be said to lie in the perception of the foreign policy elite and the military regarding Cyprus as a high security and strategic concern that cannot be forsaken and that should be protected at heavy cost. The disturbances that took place within Turkey's vicinity in the post-Cold War era like those in Bosnia, Kosovo, Iraq, Nagorno-Karabakh, Chechnya, Abkhazia were in one way or an other of interest to Turkey. In this highly volatile environment, Turkey engaged in a delicate balancing act. On the one hand, there was the need to implement a more active foreign policy, to increase its role and standing in international affairs and to achieve "a higher profile in the Middle East and Central Asia[26]. On the other hand, Turkey had to take the utmost care that any of its initiatives or moves should not antagonize the actors in the region especially in quarters that are apprehensive about neo-Ottomanist or pan-Turkist intentions.

Since 1984 the Turkish military has been engaged in an armed struggle against the Kurdish insurgents in the South-East of Turkey. Causing some 20,000 deaths this insurgence was a factor that preoccupied Turkey and shaped its foreign policy outlook. Turkey has taken care to limit military involvement outside its borders except for incursions into Northern Iraq since the social and political trauma of the Kurdish insurgence was fresh in most people's memories. Turkey's staying out of the Iraqi intervention led by the United States and the Turkish Parliament's refusal to allow the use of Turkish territory as a base for the operation of the US army, and the change in Cyprus policy denote a trend that Turkey's foreign policies will steer away from an adventurous and ambitious course.

While an important regional actor, sometimes against its own will[27], Turkey has usually been quite reluctant to be involved in Middle Eastern politics. The clear priority given to relations with the United States and Western Europe also corresponded with internal policy choices of the country such as the protection of secularism and modernization. In this

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connection the West represented the future of Turkey and the Middle East was perceived as dangerous and fraught with rivalries, the oil issue, the Arab-Israeli conflict, and strengthening fundamentalist movements.

In its policies towards the Middle East Turkey is held back by several factors other than a self-restraint on its part. These lie in historical memories related to Ottoman hegemony and the resentment of the countries of the region to those, in Turkey's internal divisions and problems such as the secularist-Islamist divide, in the need to control the penetration by radical fundamentalist groups such as the Al-Qaeda network, in the Kurdish problem, in a shortages of capital related to internal economic problems, and in the need to take into consideration other regional actors such as Iran and Russia the United States and the EU. Turkish moves in the Middle East may be perceived as imperialism by countries such as Egypt. Turkey struggles with the remnants of the past in the sense of reassuring its Arab neighbours just as much as in the sense of having to counteract the preconceptions within Turkey about several neighbouring countries.

As explained above the new government has displayed a friendlier attitude towards the Moslem world due to its ideology and worldview. Not being part of Turkey's traditionally westernized elite, they lack the prejudices against the Moslem world and do not view closer relations with the East as contradicting the ideal of catching up with contemporary civilization. They are freer and uninhibited towards the Moslem world. This can be observed in the recent developments in the relations with Syria, Iran and in the hardening tone towards Israel. What would make Turkey a more agreeable partner in the eyes of the Arab world would be a bolder stance against Israel. In that sense Turkey's policies towards the region are improving.

On the other side of the equation, it should also be noted that Turkey's quest for EU membership is also a major determinant for Turkey's international policies. While approaching the East, Turkey has not forsaken its quest for EU membership. The European connection is an important factor both for the internal development of the country and for its international standing. Despite discussions about Turkey's European credentials, Turkey's eventual membership is more probable than ever. Its effects on Turkey's Europeanization are very important since a Turkey that is strongly anchored in the EU is also a more important regional actor.

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Turkey's refusal to permit the use of Turkish territory for the Iraqi intervention and recent initiatives in the Middle East are evidence of the Europeanization of Turkish foreign policy, meaning a distancing from its strategic partner the United States. How far Turkey can implement an autonomous policy from the United States remains a question. In addition any overly close relations with the Western world may compromise its credibility as go-between and 'bridge,' since a Moslem world that is becoming more and more skeptical of Western policies may view Turkey with suspicion not as a future model to follow but rather as an agent, spy or or a pawn of the West.

In the final analysis, Turkey's unique status as a democratic and secular and also a predominantly Moslem country with European vocation is fit to make it a 'bridge' between these two worlds. The legacy of the Ottoman Empire bequeaths the country with a historical and cultural knowledge of the regions surrounding modern-day Turkey that may be instrumental in the 'bridge' role of the country. Secondly, the changes that have been taking place in the identity perceptions of the Turkish people may also be a facilitating factor. Until recently, the project of westernization was quite strong in the country. This even went so far as to lead to the rejection by the country of its own culture[28]. Over the years, a more diversified approach has developed in relation to Turkey's historical and cultural heritage. Both the West and the East now meet in Turkish identity. During the Cold War the perception that Turkey was surrounded by enemies was quite strong. Under these conditions Turkey could only be a 'bridge' with the two gates of the bridge closed. Relations with the East were quite lukewarm for the most part while relations with the West were static and based on strategic concerns. In the new era Turkey is aware of the options that are available in its international relations and is awakening to its regional role. Moreover, the openness of the elite towards the Moslem world and adjacent regions is a factor that will enhance Turkey's role as a 'bridge' between different cultures. Changes in foreign policy discourse are evident. The former foreign minister İsmail Cem sums up as follows the new understanding that is emerging[29]:

> Turkey's traditional foreign policy was one, which may be best described as being bereft of a historical dimension. It lacked 'depth' with respect to time, and 'breadth' with respect to space. What we had was a foreign policy that was alienated from its own roots, cut off from its own assets,

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> indeed divorced from the very elements that could nourish and sustain it... It was as if the historical experiences of centuries as well as their civilizational assets and relationships had never existed; or, if they did, they belonged not to Turkey but to some alien society.. The fact of having lived together with many different peoples and societies for centuries; the fact of having shared equally in and contributed to a common state; the fact that the great majority of those involved shared the same belief in Islam....; the fact of sharing a language that has common roots and features with that spoken by more than a hundred million people in Asia; were all ignored in our traditional foreign policy"..

In addition Turkey's steps in the direction of democratization including initiatives to give more rights to ethnic and cultural groups such as the Kurds, and the emphasis on secularism despite the coming to power of an Islamic-oriented party are good signs that Turkey may set a precedent of a country that can keep its particularities and yet adopt universal values.

However there are some restraining factors. As important as the above-mentioned factors are regarding Turkey' role in its region, the question of how Turkey is viewed from the East and the West, remains. Depending on their conception Turkey's strengths may turn into weaknesses. For Europe, Turkey's Islamic origins, problems with democracy, and underdevelopment may be reasons to exclude it from the Europe of the future. On the other hand, Turkey's secularism and pro-Western orientation may be a reason for the Moslem world to approach the country with caution and hesitation. Such attitudes coupled with bilateral problems between Turkey and countries of the region, for instance regarding water, or energy may restrict Turkey's outlook on an effective regional policy. In addition, Turkey's internal economic and political problems may prevent it from applying autonomous policies towards its partners.

In today's world the need of different cultures and cultural conglomerations to understand each other is more acute than ever. In this framework Turkey is a country that could merge the East and the West within its own identity. Turkey is rediscovering its historical and cultural heritage, adapting it to changing times and amalgamating it with western ideas and values. In this sense Turkey proves that it is possible for a country to be democratic as well as Moslem, secular as well as religious, and global and local at the same time. Of course Turkey is far from an ideal model. It has many problems and unresolved issues but its anchoring into

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the more developed West and its being more genuinely interested in what goes on beyond its Eastern and Southern borders are good signs that it may live up to its potential as a country at the intersection of cultures and regions, with a rich historical heritage and an experience of being with the west. While taking part in Western institutions, it has attained a vast diplomatic and political experience of Western values, norms and behavior. It has much to offer the Moslem world due its experiences in the West, and to the West because it comes from the East culturally and religiously. But a bridge is by definition static and passive; it is merely instrumental to those who pass over it. Turkey can be more than a bridge if it acts like a vessel, visiting different ports and understanding the language of the people in each port but carrying its own cultural baggage with it.

Endnotes

[1] One writer opposes this thesis in the following way: "As regards the clash of civilizations, our conclusion is that such a clash does not appear imminent for, among other things, states rather than civilizations continue to provide individuals with a badge of identity." Seifudein Adem Hussien, "On the End of History and the Clash of Civilization: A Dissenter's View", *Journal of Muslim Minority Affairs*, Vol.21, No:1, 2001, 25-38, p.36. Similarly Fouad Ajami criticizes Huntington's thesis and contends that civilizations do not control states; states control civilizations. Fouad Ajami, "The Summoning", *Foreign Affairs*, Sept/Oct 1993, 2-9, p.9

[2] Translated by the author from the Turkish translation of Fernand Braudel, *Uygarlıkların Grameri (The Grammar of Civilizations*, (Ankara:İmge, 1995), p.21.

[3] Braudel, 1995: 33-46.

[4] Clifford Geertz, *The Interpretation of Cultures*, (London: Fontana Press, 1993), p.4.

[5] Geertz, 1993: 11.

[6] Braudel, 1996:29.

[7] Braudel, 1996:32.

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[8] World Economic Forum, 2002 annual meeting, "Defining What We Share: Bridging Cultures and Civilizations", http://www.weforum.org/site/knowledgenavigator.nsf/Content/_S5963?open&country_id=, retrieved on 8 February,2004.

[9] Boehle, Joseph. "Inter-religious Cooperation and Global Change: From a Clash of Civilizations to a Dialogue of Civilizations", *Pacifica Review*, Vol.14, No:3, October 2002, 227-234, p.232.

[10] For example in a seminar held at the Institute of Islamic Understanding, Malaysia (IKIM) on the theme of "Europe and Islam" from March 24-25, 1998, Prof. Udo Steinbach and Prof Chandra Muzaffar exchanged some comments that brought into light the underlying deeper preconceptions of the speakers. Reflecting on Prof. Steinbach's comment on Europe doing "its part" for the Bosnians by letting in 350,000 Muslim refugees despite the fundamentalist threat, and asking the question why the Bosnians chose Germany rather than a Muslim country as their destination, Chandra said that Iran was the country that accepted more refugees than any other country, and that the reason why the Bosnians chose Germany and other European countries "has nothing to do with their being Muslims; it was because they are Europeans." He then commented "This is the sort of subtle racism which gets in the way of civilisational dialogue and bridge-building…". He later added ""It's good to have meetings like this, but if the intention is just to gloss over issues that are so central and just to meet and shake hands, and smile at one another, I hope I don't get invited to the next dialogue. I am not interested in this sort of process. I think you should deal with the real issues if you want to build bridges." Ahmed Faiz bin Abdül Rahman, , "Obstacles to Bridge Building: Europe and Islam", *BIC Website*, 3 April 1998, retrieved on 04.08.2004 (www.iol.ie/nafifi/BICNews/Afaiz/Afaiz23.htm)

[11] World Economic Forum, 2002 annual meeting, "Defining What We Share: Bridging Cultures and Civilizations",see note 8.

[12] Elizabeth Farnsworth, "Bridging Two Worlds", Interview with Orhan Pamuk, November 20,2002, Pbs Online Newshour, www.pbs.org/newshour/conversation/july-dec02/pamuk_11-20.html, retrieved on 17 March, 2004.

[13] This may be true for Turkey's continuing to deploy troops in the island after the 1973 intervention, and supporting the Turkish Republic of Northern Cyprus despite various UN Resolutions that forestall countries from recognizing that Republic.

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However, it should be noted here that this criticism is no longer justifiable after the April 2004 referendum over the Annan plan and the EU membership of the island since the Turkish government supported a resolution of the Cyprus problem by the implementation of the Annan plan. This denoted a significant change in the Cyprus policy of Turkey. Since then, it may be said that the liability for the continuation of the division of the island has shifted to the Greek Cypriot government.

[14] While some commentators justify Turkey's threat to use force against Syria to compel that country to expel Abdullah Ocalan, the leader of the PKK, others may note that Turkey could achieve that aim by negotiation and compromise such as a gesture of friendship on the water question. This would portray Turkey as a country that applies European norms in its relations with the Middle East. On the other hand, the prevalence of a different normative sytem in the Middle East may contradict this approach and deem it as inappropriate and of little value. In that sense, there would be little else than the threat to use force as a tool of foreign policy and other considerations would be naive.

[15] According to Thomas Naff, "...for half a millenium, from the 14th century until the 19th, the Ottoman Empire occupied, controlled and administered one-quarter to one-third of the European continent... The logical conclusion ought to be that the Ottoman Empire was, empirically, a European state. The paradox is that it was not. Even though a significant portion of the Empire was based in Europe, it cannot be said to have been of Europe". Naff, 1984: 143; cited in Nuri Yurdusev,. "Perceptions and Images in Turkish (Ottoman)-European Relations", in T. Y. Ismael, M. Aydın eds. *Turkey's Foreign Policy in the 21st Century: A Changing Role in World Politics*, (Aldershot: Ashgate, 2003), 77-99.

[16] This culture may be said to be constituted by Islam, the Anatolian civilizations that came before it, the original nomadic culture of the Central Asian Turkic tribes, inheritance of the Byzantine Empire, and the encounter and interaction with adjacent groups and peoples in and around the Anatolian peninsula.

[17] Duygu Bazoğlu Sezer, "Turkey in the New Security Environment in the Balkan and Black Sea Region", in V. Mastny, R. C. Nation eds. *Turkey Between East and West: New Challenges for a Rising Regional Power*, (Boulder, Colorado and Oxford: Westview Press, 1996), 71-95, p.73.

[18] Mustafa Aydın, "Twenty Years Before, Twenty Years After: Turkish Foreign Policy at the Threshold of the 21st Century" in T. Y. Ismael, M. Aydın eds. *Turkey's*

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Foreign Policy in the 21st Century: A Changing Role in World Politics, (Aldershot: Ashgate, 2003), 3-24, p.3.

[19] Dietrich Jung, W. Piccoli. *Turkey at the Crossroads: Ottoman legacies and a Greater Middle East*, (London and New York: Zed Books, 2001, p.132.

[20] A set of economic austerity measures were adopted on January 24 1980 before the military coup. The authoritarian rule during the aftermath of the military coup provided suitable conditions for the implementation of this economic liberalization program.

[21] Aydın, 2003: 5.

[22] It should aslo be noted as a member of the Council of Europe since 1949 Turkey recognized the right of individual application to the European Court of Human Rights in 1987.

[23] As a former prime minister and president of Turkey, Süleyman Demirel expressed it, the dismemberment of the Soviet Union was initially seen as a ground-breaking development that would change the Turks' self-perception and consequently the remit of Turkish foreign policy significantly: "...we share a common history, a common language, a common religion and a common culture. We are cousins cut off from each other for over a hundred years..." Aydın, 2003, 23..

[24] Dan Tschirgi, "Turkey and the Arab world in the New Millennium" in T. Y. Ismael, M. Aydın eds. *Turkey's Foreign Policy in the 21st Century: A Changing Role in World Politics*, (Aldershot: Ashgate, 2003), 103-119, p.104.

[25] It is beyond the confines of this paper to discuss the rise to power of such parties. However it should be added that this was a proces that was linked not only to internal but also to international developments such as the demise of communism and its loss of appeal as a popular ideology, and the rise of fundamentalism in the world especially in the Middle East. In addititon large-scale corruption and nepotism experienced in turkisg political system in the 1980s and 90s and the difficulties of trainstion to a liberal economy in accordance with IMF prescriptions discredited mainstream political parties and actors in Turkish politics as may be observed in the electoral earthquake in the November 2001 elections that left the three coalition parties outside the parliament.

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[26] Aydin, 2003: 18.

[27] Graham E. Fuller, Turkey Faces East: New Orientations toward the Middle East and the Old Soviet Union, (Santa Monica: Rand, 1992), p.67.

[28] In a book by a famous novelist, Ahmet Hamdi Tanpınar, the leading character Mümtaz Bey comments on Turkish culture and renowned Turkish composers, and literary figures: "We do not like ourselves. Our heads are full of comparisons. We don't admire Dede because he is not Wagner, Yunus because he is not Verlaine, Baki because we cannot turn him into Goethe and Gide." (Tanpınar, 1999:241)

[29] İsmail Cem. Turkey in the New Century, (Nicosia: Rustem Publishing, 2001), pp.2-3.

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LA RÉFORME DU SYSTÈME PÉNAL TURC EN VUE DE LA FACILITATION D'UNE ADHÉSION FUTURE A L'UNION EUROPÉENNE

Selahaddin Murat SESEN *

Abstract

La réforme du système pénal turc était toujours le sujet principal discuté par les milieux académiques turcs depuis une quarantaine d'année. En réalité, la nécessité de changer le code pénal est apparue dès le milieu du 20ème siècle. Depuis 1999, la Turquie a entamé un nombre important de réformes visant à faciliter son adhésion future à l'Union Européenne et à réaliser son harmonisation avec les critères de Copenhague. Pour atteindre ce but, une série de réformes constitutionnelles et législatives a été adoptée. Le rôle de l'Union Européenne dans le processus de l'adoption de ces nouveaux codes est indéniablement important. La Turquie a réalisé d'importantes réformes législatives dans de nombreux domaines[1], grâce à l'adoption de nouveaux "paquets" de réformes, aux modifications apportées à la constitution et, surtout à l'adoption des nouveaux codes pénal et de procédure pénale, et en particulier dans les domaines recensés comme prioritaires dans le rapport de la Commission européenne de l'année dernière et dans le Partenariat pour l'adhésion.

INTRODUCTION

Depuis 1999, la Turquie a entamé un nombre important de réformes visant à faciliter son adhésion future à l'Union Européenne et à réaliser son harmonisation avec les critères de Copenhague. Pour atteindre ce but, une série de réformes constitutionnelles et législatives a été adoptée. Celle-ci

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comprend la suppression des dispositions concernant la peine de la mort, le renforcement de l'égalité entre les sexes, l'affirmation de la liberté d'expression, le rapprochement du système judiciaire aux normes européennes, l'établissement de la primauté des traités internationaux sur les lois dans le domaine des droits de l'homme et particulièrement, la promulgation du nouveau code pénal et du nouveau code de procédure pénale. Plus précisément, l'année 2004 a été très fructueuse concernant les réformes d'harmonisation du droit turc aux critères de Copenhague. Des amendements constitutionnels et la réforme du système pénal ont été réalisés en vue d'éliminer les critiques européens sur l'état du droit turc face aux droits de l'homme tels qu'ils sont compris et appliqués dans la plupart des pays européens.

En fait, la réforme du système pénal turc était toujours le sujet principal discuté par les milieux académiques turcs depuis une quarantaine d'année. En réalité, la nécessité de changer le code pénal est apparue dès le milieu du 20ème siècle. La première commission en charge de réforme n'a pourtant été formée au sein du Ministère de la justice, sous la présidence du fameux pénaliste turc Ord. Prof. Dr. Sulhi Dönmezer, seulement en 1987 et les reformes n'ont démarré que lentement au début Trois autres commissions ont succédé à la première et deux grands avant-projets[2] du code pénal ont été préparés. Pourtant, face à l'absence d'une réelle volonté politique, ces projets sont tous devenus caducs. Tout cela a changé avec le nouveau gouvernement du parti de la justice et du développement (AKP). Un des soucis principaux du nouveau gouvernement était de changer le système pénal turc afin qu'il puisse être en conformité avec les normes et valeurs européens, comme par exemple l'établissement du principe des droits de l'homme comme valeur suprême en droit turc. Les projets de lois ont été vite adoptés par le parlement turc grâce à une majorité stable. Il faut, pourtant, noter que, à peu près, ni les académiciens et ni les juges ont été consultés[3], et que ce fut en dedans d'une période de huit mois que les projets de code pénal et des procédures pénales ont été préparés par la commission de la justice de la Grande Assemblée Turque.

Le rôle de l'Union Européenne dans le processus de l'adoption de ces nouveaux codes est indéniablement important. Jusque 2004 toutes les tentatives de réforme du système pénal se sont ont échouées. L'année 2004 étaitimportante pour la Turquie en vue de son chemin vers l'adhésion à l'Union Européenne. En fait, la Commission européenne devait présenter le

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6 octobre un rapport sur les progrès réalisés par la Turquie sur la voie de la démocratie et présenter une recommandation aux dirigeants européens, dont le sommet était prévu pour le 17 décembre, avec pour but de décider si les conditions étaient réunies pour entamer les négociations d'adhésion. Mais ces pourparlers ne pourraient commencer que si la Turquie avait adopté un nouveau code pénal et un nouveau code de procédure pénale[4]. Suite à l'adoption de ces codes par le parlement turc, la Commission européenne a publié son rapport le 6 octobre, recommandant l'ouverture de pourparlers d'adhésion avec la Turquie, officiellement candidate depuis 1999. C'est en se fondant sur ce rapport que les dirigeants des 25 États membres de l'Union Européenne se sont prononcés favorables à l'ouverture de pourparlers d'adhésion.

On peut donc voir l'importance du rôle que l'Union Européenne a joué dans le processus d'adoption de la réforme du système pénal, d'autant plus que que la plupart des dispositions de ces nouveaux codes sont inspirées par les codes des États-membres de l'Union elle-même. Pourtant, les pressions de l'Union ont aussi des effets négatifs sur l'adoption de ces nouveaux codes. Comme mentionné auparavant, les académiciens et les juges n'ont guère été consultés et les codes ont été adoptés dans une période de 8 mois, ce qui est relativement court pour des législations de première importance pour un pays.

Dans ce chapitre , on traitera de cette nouvelle réforme du système pénal, qui est composée de trois volets importants, in détachables l'un des autres. Mais il faut noter que face à l' absence d'une pratique bien établie, une analyse exhaustive du nouveau système pénal est t impossible. Il faut attendre au moins 2 ans pour que la pratique juridique soit établie et les problèmes éventuels plus clairs. Dans la partie qui suit, on traitera premièrement les réformes constitutionnelles qui forment la base de la réforme du système pénal. La deuxième partie consistera de l'étude du nouveau code pénal, qui est le principal pilier de la réforme du système pénal. Et la troisième partie consistera en l'étude du nouveau code de procédure pénale, dont les nouvelles dispositions ont moins un caractère de réforme que le code pénal, puisque les amendements en faveur des droits de l'homme ont été adoptés quand l'ancien code de procédure pénale était encore en vigueur.

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LES AMENDEMENTS CONSTITUTIONNELS

La suppression des Cours de sûreté de l'État

Au mois de mai 2004, dans le contexte de l'ensemble des modifications constitutionnelles adoptées lors de la première moitié de l'année, les Cours de sûreté de l'État ont été supprimées en mai[5]. La compétence pour juger de la plupart des infractions qui, jusqu'à présent, relevait des Cours de sûreté de l'État, a été transférée aux cours d'assisses régionales[6] récemment créées, et chargées des infractions majeures.

Certaines infractions dont les Cours de sûreté de l'État avaient auparavant à connaître en vertu notamment de l'article 312 de l'ancien code pénal, relèvent désormais de la compétence des cours chargées des infractions majeures déjà existantes. Les règles de procédure appliquées par les cours d'assises régionales chargées des infractions majeures sont semblables à celles appliquées par les autres cours d'assises ordinaires. Mais il y a deux différences: les premières exercent leur compétence sur une zone géographique plus étendue et la période maximale de garde à vue est de quarante-huit heures et non de vingt quatre heures (ce qui est le cas pour les cours ordinaires). La fonction de Procureur général des Cours de sûreté de l'État a, elle aussi, été supprimée, les poursuites devant les cours régionales chargées des infractions majeures sont engagées par le Parquet général. Les suspects devant les deux types de cours chargées des infractions majeures bénéficient des mêmes droits, en particulier celui de consulter un avocat dès l'arrestation..

L'affirmation de la suprématie des Traités Internationaux

Une autre modification constitutionnelle adoptée en mai 2004 introduisait un amendement à l'article 90 de la Constitution turque. Cette réforme est importante parce qu'elle porte sur la hiérarchie des normes en droit turc. Par cet amendement, la hiérarchie des normes a été changée au profit du principe de la primauté des traités internationaux concernant les droits de l'homme sur la législation nationale (surtout les lois) et on a visé particulièrement à donner un effet direct et une suprématie à la Convention Européenne des Droits de l'homme en le droit interne.

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LE NOUVEAU CODE PÉNAL

En général

D'une manière générale, le nouveau code adopte des normes européennes modernes conformes à l'évolution récente du droit pénal dans de nombreux pays européens. Les sanctions contre certaines violations des droits de l'homme ont été renforcées et l'évolution récente en matière de droit pénal international, telles que celui concernant le génocide et les crimes contre l'humanité, a été obtenue. Par ailleurs, le nouveau code pénal criminalise la discrimination pour des raisons de sexe, origine ethnique, race, la situation familiale, opinion politique, les croyances philosophiques et l'appartenance à un syndicat. En outre, le nouveau crime de l'utilisation abusive des données à caractère personnel a été créé.

La liberté d'expression

En ce qui concerne la liberté d'expression, les dispositions 216, 301 et 305 sont importantes. L'article 216 du nouveau code pénal s'inspire largement de l'article 312 de l'ancien code pénal. Il consiste dans le crime d'incitation à la haine raciale, ethnique ou religieuse au sein du peuple. Cet article stipule que nul ne peut être condamné en vertu de cet article que si leur incitation à l'hostilité et à la haine constitue un danger évident et immédiat pour l'ordre public. Il y a pourtant une différence importante entre l'article 312 de l'actuel code et l'article 216 du nouveau code. Alors que le code actuel prévoit la possibilité d'un danger évident et proche, dans le nouveau code le crime est considéré commis si le danger est réellement apparu. On peut donc voir, en théorie, une amélioration de la liberté d'expression dans le nouveau code grâce aux changements d'éléments matériels de ce crime en faveur des libertés individuelles, mais il faut attendre jusqu'à la deuxième moitié de l'année 2006 pour que l'application du nouveau code dans ce sujet se consolide.

L'article 301 du nouveau code pénal correspond à l'article 159 de l'ancien code pénal. L'article 159 de l'ancien code se référait à l'offense contre l'État et les institutions étariques, ce qui avait attiré beaucoup de critiques en Europe, car avec l'article 312, il constituait l'un des fondements pour la condamne des intellectuels turcs qui critiquaient fortement l'État et ses institutions fondamentales (telles que le parlement, le gouvernement et

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même l'armée turque). Mais il y a quand même, des différences entre le nouvel article 301 et son prédécesseur. Premièrement, la nouvelle disposition réglemente expressément la commission du crime de l'offense contre la République turque et le Parlement. Auparavant, la Cour de Cassation admettait la possibilité de la commission de ce crime contre ces institutions par voie de jurisprudence. Deuxièmement, l'offense contre ces institutions consiste dans le type aggravé du crime. Et troisièmement, le terme "offense contre la personnalité morale du pouvoir judiciaire" devient "offense contre les organes judiciaires"[7]. On peut donc voir une expansion du domaine du crime. Car, auparavant, par la voie de jurisprudence, on admettait que le crime était considéré commis si l'offense avait eu lieu contre tout le système judiciaire (la personnalité morale du pouvoir judiciaire) et non pas contre un tribunal individuel. De surcroît, même l'offense contre un tribunal peut entrer dans le champ de ce crime car un tribunal est un organe judiciaire.

L'article 305 prévoit la punition des nationaux qui perçoivent des avantages pécuniaires de l'étranger pour des activités contraires aux intérêts nationaux fondamentaux, mais à une portée plus limitée par rapport à l'article 127 de l'ancien code pénal. Ce dernier réprime les supposées "menaces à l'encontre des intérêts nationaux fondamentaux". L'exposé des motifs de cet article cible explicitement la liberté d'expression, notamment au sujet de Chypre ou de l'Arménie.

Le Parlement européen a voté, mercredi le 15 décembre 2004, une résolution dans laquelle les députés demandent l'abrogation immédiate de cet article, qu'ils jugent incompatible avec la Convention de sauvegarde des droits de l'homme et des libertés fondamentales de 1950. L'origine de ce problème réside dans la différence entre le projet du nouveau code pénal et le texte définitif adopté. Le dernier aliéna de l'article 305 du projet du nouveau code pénal définissait beaucoup plus largement *"les intérêts nationaux fondamentaux"*; les concepts vagues tels que "le bien-être du peuple turc" étaient considérés parmi *"les intérêts nationaux fondamentaux"*. Dans le texte définitif du nouveau code pénal adopté par le Parlement turc, le domaine des intérêts nationaux fondamentaux est largement limité et couvre l'indépendance, l'intégrité territoriale, la sécurité nationale et les principes fondamentaux de la République énumérés dans la Constitution. Le législateur avait pourtant oublié de faire des changements nécessaires dans l'exposé des motifs de l'article 305 du code pénal[8]. A mon

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avis, compte tenu du nouveau texte adopté, la critique de la position du gouvernement vis-à-vis des questions chypriotes ou arméniennes n'est pas susceptible d'être réprimée parce que les intérêts fondamentaux ont été définis en *numerus clausus* dans le dernier aliéna de l'article 305. Selon ce dernier aliéna, "les intérêts nationaux fondamentaux consistent en: l'indépendance, l'intégrité territoriale, la sécurité nationale et les principes fondamentaux de la république énumérés dans la Constitution". Cela devrait limiter l'éventuelle expansion du domaine de l'application de l'article[9] par les juridictions pénales turques parce les questions arméniennes ou chypriotes ne concernent ni l'indépendance, ni l'intégrité territoriale, ni la sécurité nationale et ni les principes fondamentaux de la République.

L'égalité des sexes dans le nouveau Code Pénal

En matière de renforcement des droits des femmes, malgré le fait que la Constitution établit à l'article 10 l'égalité des hommes et des femmes en droit, le respect de ce principe n'est pas toujours veillé par l'État. Néanmoins, le nouveau code est progressiste dans ce domaine. Par exemple, l'homicide commis par le mobile de tradition ou coutume, les agressions conjugales et le test de virginité sont traités par le nouveau code. Le nouveau code pénal criminalise expressément l'agression conjugale, alors que dans le cadre du code ancien, la Cour de cassation, par voie de jurisprudence, ne punissait pas les relations sexuelles forcées au sein de la famille sauf si les actes dépassaient une certaine gravité. Et si les actes dépassaient une certaine gravité, la personne qui les avait commis pourrait être punie seulement du crime des lésions corporelles volontairement commis. En ce qui concerne les homicides commis par le mobile de la tradition et la coutume, le nouveau code prévoit la sanction de la prison à perpétuité. Les agressions sexuelles dans le mariage peuvent être poursuivies si la victime porte plainte. Le test de virginité sans qu'il y ait une décision judiciaire est passible d'une peine de prison.

En outre, le nouveau Code Pénal turc considère la polygamie comme un crime contre l'ordre familial. Selon l'article 230, plusieurs mariages, mariage dolosif et mariage religieux avant le mariage civil sont interdits. Il y avait une disposition presque identique dans l'ancien code pénal turc à l'article 237. Cependant la criminalisation de la polygamie n'empêche pas certains à avoir plusieurs femmes. Même si la grande majorité des Turcs est monogame, dans l'Anatolie d'est et de sud-est, il y a de centaines de milliers

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d'hommes qui ont plusieurs femmes par mariages religieux. Dans ces régions où les lois de la République ne sont pas reconnues par une partie du peuple, soit par conservatisme religieux soit pour des raisons politiques, la polygamie n'est pas rare et elle n'est pas contestée par la société. Surtout à partir de 1980, il y eut de grandes vagues d'immigration depuis l'Anatolie de l'est et du sud-est vers Istanbul et autres grandes villes de l'ouest. Ces immigrés majoritairement campagnards ont apporté leurs traditions et leur mode de vie dans les villes. C'est ainsi que la polygamie est apparue aussi dans les bidonvilles des grandes cités.

Les sanctions pénales dans le nouveau Code Pénal

En matière de sanctions pénales, le nouveau code pénal ne prévoit dans aucune de ses dispositions la peine de mort. Au lieu de cette sanction, comme on peut remarquer dans les dispositions concernant le génocide, les crimes contre l'humanité, l'homicide, la torture résultant dans le décès de la victime, la peine encourue est généralement la prison à perpétuité. On peut aussi remarquer un alourdissement des peines de prison prévues pour les mêmes crimes dans le nouveau code pénal. Par exemple, l'homicide volontaire ne connaît que la prison à perpétuité ou encore la prison à perpétuité aggravée pour certaines modalités de commission de ce crime[10]. Quant aux peines pécuniaires, le nouveau code introduit pour la première fois le système de jour-amende[11] dans la législation turque. Le nouveau code pénal prévoit un plafond de 730 jours pour le jour-amende, sauf exception. En droit comparé, les plafonds du jour-amende sont très variables[12]. Au Danemark, par exemple, le plafond est de 60 jours, pour la Finlande 120 et pour l'Allemagne 360. Or, dans la plupart des dispositions du nouveau code pénal turc le plafond de 730 jours a été dépassé allant jusqu'à 1000 jours, voire 10000 jours-amendes, ce qui pourrait s'avérer trop lourd pour le patrimoine de l'accusé. Dans ce contexte, l'exécution de la peine de jour-amende peut devenir, pour l'accusé, une sorte de confiscation générale prohibée par l'article 38 de la Constitution turque.

LE NOUVEAU CODE DE PROCÉDURES PÉNALES

En général

Le nouveau Code de procédure pénale turc, entré en vigueur le 1er juin 2005, ne comporte pas beaucoup de changements en comparaison avec son

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prédécesseur. Parce que, les amendements nécessaires concernant la garde à vue et la détention provisoire ont été réalisés dèjà dans l'ancien code de procédure pénale. Le nouveau code s'est contenté daffirmer ces amendements en faveur des droits de l'homme.

Les dispositions destinées à protéger les Droits de l'homme des suspects et des accusés

Le nouveau code de procédure pénale prévoit l'enregistrement rapide des gardes à vues ainsi que leur notification aux familles[13]. En vertu du nouveau code la durée de la garde à vue dans les locaux de la police ou de la gendarmerie ne doit pas excéder vingt-quatre heures à partir du moment de l'arrestation. Cette période peut être prolongée de vingt-quatre heures à trois jours, au maximum, sur un mandat écrit du procureur dans le cas d'infractions imputées à un groupe de personnes. En outre, le droit des détenus à consulter un avocat a été maintenu dans le nouveau code[14 15].

Selon le nouveau code, les fouilles de corps sont séparées dans deux catégories, la fouille interne et la fouille externe. La première peut seulement être faite avec l'ordre du juge[16].S'il y a un grand risque de perte des preuves, le procureur de la République peut aussi ordonner, par un ordre écrit, la fouille interne[17]. Pour protéger la vie intime de la personne qui a subi la fouille interne, le nouveau code de procédures pénales prévoit n'importe quelle évidence résultant d'une recherche de corps peut seulement être employée en tant qu'élément d'une recherche et est accessible seulement à ceux qui doivent la voir. Si l'accusé est acquitté, toutes ces preuves obtenues par la fouille seront détruites en présence du procureur de le République.

Selon le nouveau code, seul le juge compétent peut ordonner, par écrit, les perquisitions. Si un juge n'est pas disponible et s'il y a un cas d'urgence[18], le procureur de la République peut substituer le juge[19]. Et s'il est impossible d'entrer en contact avec le procureur de la République, les chefs de police peuvent aussi ordonner la perquisition. Cependant, si la perquisition doit être effectuée dans le domicile ou les locaux d'affaire d'un suspect, les juges ou les procureurs de la République devront approuver la décision du chef de police.

Le nouveau code de procédure pénale prévoit la possibilité de l'enregistrement des communications[20] de toutes sortes sur un mandat émis

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par un juge compétent et, dans des situations d'urgence, par l'ordre écrit d'un procureur de la République[21]. Si le crime commis implique le crime organisé, l'écoute téléphonique et les autres types d'enregistrement de la communication peuvent être prolongés sur une base mensuelle par ordre du juge.

Quant aux droits de la défense des accusés et des suspects, l'article 151 du nouveau code de procédure pénale stipule que des avocats qui défendent les suspects ou des condamnés du terrorisme ou des crimes organisés peuvent être écartés de la défense de ces personnes s'ils sont aussi des suspects ou s'ils sont accusés, comme complice ou auteur, des crimes cités ci-dessus[22]. Cette procédure nécessite une décision[23] du juge qui est compétent pour l'enquête de l'avocat accusé de la commission des crimes énumérés dans l'article 151 du nouveau code.

Cette nouvelle disposition introduite dans le texte original du nouveau code de procédure pénale est susceptible de créer des problèmes pour les avocats de défenses. En fait, par le moyen de cette nouvelle disposition un avocat peut être interdit de la défense d'un suspect ou d'un accusé sur la seule base de l'accusation de la commission des crimes cités dans l'article 151 du nouveau code. A mon avis, cette disposition est susceptible de créer des problèmes au plan international, surtout devant la Cour Européenne des Droits de l'homme. Car selon l'article 6/3-c de la Convention de sauvegarde des Droits de l'Homme et des Libertés fondamentales, tout accusé a le droitde *« se défendre lui-même ou avoir l'assistance d'un défenseur de son choix...»*[24]. Cependant, cette disposition ne donne aucun point de repère pour un motif de l'interdiction d'un avocat de l'exercice de son métier devant un tribunal. Le fait d'être accusé comme un auteur ou un complice des crimes énumérés dans l'article 151, empêchera un avocat de représenter son client. Pourtant, l'article 6 de la Convention de sauvegarde des Droits de l'Homme et des Libertés fondamentales ne prévoit aucune dérogation pour le droit à un procès équitable. En plus, le besoin des moyens de défense appropriés -comme l'assistance d'un avocat- des personnes accusées des crimes graves comme le terrorisme, est un besoin absolu parce que les peines encourues pour ces crimes sont beaucoup plus lourdes que celles prévues pour un crime ordinaire.

REMARQUES FINALES

La Turquie a réalisé d'importantes réformes législatives dans de nombreux domaines[25], grâce à l'adoption de nouveaux "paquets" de réformes, aux modifications apportées à la constitution et, surtout à l'adoption des nouveaux codes pénal et de procédure pénale, et en particulier dans les domaines recensés comme prioritaires dans le rapport de la Commission européenne de l'année dernière et dans le Partenariat pour l'adhésion. Malgré les progrès considérables accomplis dans la mise en œuvre des réformes juridiques en vue de l'harmonisation du système juridique aux critères de Copenhague, celles-ci doivent encore être consolidées et étendues. Dans le domaine pénal, deux grandes réformes importantes ont été accomplies: d'une part, l'adoption du nouveau code pénal, d'autre part le code de la procédure pénale. Les critiques initiales sur ces codes sont très diverses. Les dispositions adoptées sont généralement bonnes. Il faut pourtant ne pas oublier que ce sera surtout la pratique des ces réformes qui nous montrera si la vraie réforme a été totalement accomplie: "*La promotion des libertés individuelles comme un principe de base*". Mais à vrai dire, c'est la réforme la plus difficile à accomplir et celle qui prendra beaucoup de temps pour se consolider. Il est encore trop tôt pour examiner les conséquences de ces réformes parce que le nouveau système pénal composé du code pénal, du code de la procédure pénale qui sont en vigueur depuis le 1er Juin 2005. Mais compte tenu des réformes adoptées et le développement vite et décisive du droit turc depuis 1999 vers un droit prenant comme base la protection des libertés fondamentales, je suis assuré que cette difficile réforme soit réalisé dans un futur proche.

Références

[1] Voir "Rapport régulier 2004 sur les progrès réalisés par la Turquie sur la voie de l'adhésion",Commission des Communautés Européennes, Bruxelles, 06.10.2004, Sec (2004) 1201, Com (2004) 656 final.

[2] Selon la Constitution turque (art.88 et 155), le terme du "*projet de la loi*" se réfère aux projets des lois qui sont envoyés par le gouvernement au Parlement. J'ai donc préféré de nommer "l'avant-projet" les projets adoptés par ces commissions.

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[3] Cette manière d'agir a été critiquée fortement par les milieux académiques en Turquie ; voir, Emin Artuk Ali Rıza Çınar, "Yeni Bir Ceza Kanunu Arayışları ve Adalet Alt Komisyonu Tasarısı Üzerine Düsünceler", in *"Türk Ceza Kanunu Reformu, Ikinci Kitap"*, Ankara, Septembre 2004, p.67 et suivant. Pour voir une très forte critique à cette attitude du gouvernement; Köksal Bayraktar, "Türk Ceza Kanunu Tasarısı'na Iliskin Genel Bir Degerlendirme ve Genel Hükümler Üzerine Birkaç Elestiri", in *"Türk Ceza Kanunu Reformu, Ikinci Kitap"*, Ankara, Septembre 2004, p.21 et suiv.

[4] La date d'entré en vigueur a été prévue pour ces deux codes était le 1er Avril 2005. Mais les codes sont entrés en vigueur le 1er Juin 2005 par un amendement légiféré par le parlement turc.

[5] Les différences qui existaient entre les règles procédurales appliquées par les Cours de sûreté de l'État et les cours d'assises ordinaires ont été abolies par une loi adoptée le 30 juillet 2003. Par conséquent, l'abolition des Cours de sûreté de l'État et l'introduction des nouvelles cours d'assises régionales ne consistent que dans de changements inutiles, parce que les compétences des Cours de sûreté de l'État et des nouvelles cours régionales sont identiques. Donc cette réforme consiste dans un changement de nom d'une institution déjà existante.

[6] Principalement la criminalité organisée, le trafic de drogue et les actes terroristes relèvent désormais de la compétence de ces nouvelles cours.

[7] Eylem Aksoy, "Millete ve Devlete Karsı Suçlar", in *Türk Ceza Kanunu Tasarısı Türk Ceza Hukuku Dernegi Toplantısı- Istanbul Barosu-Türk Ceza Hukuku Dernegi Toplantısı*, Istanbul Barosu- Galatasaray Üniversitesi- Türk Ceza Hukuku Dernegi Ortak Yayını, Istanbul, 2004, p.66.

[8] Il faut noter que selon le droit turc, l'exposé des motifs ne fait pas partie du texte législatif et est donc dépourvu de toute force juridique.

[9] Le dernier aliéna du 3ème article du nouveau code pénal prohibe l'analogie et l'interprétation excessive des normes pénales.

[10] Ex. l'homicide commis par le mobile de la tradition ou de la coutume.

[11] En matière du jour-amende, le juge procède à deux opérations intellectuelles. Dans un premier temps il doit arrêter le nombre de jour-amende dont le plafond est limité par la loi; et dans un deuxième temps, le juge détermine le montant de chaque

jour-amende dont le plafond est aussi fixé par la loi et en tenant compte des ressources et des charges de l'accusé.

[12] Jean Pradel, Traité de Droit Pénal, Tôme 1, 12ème édition, éditions Cujas, Paris, 1999, p.587.

[13] L'article 95 du nouveau code de procédure pénale stipule que le procureur de la République doit notifier l'arrestation du prévenu, aussitôt que possible, à un parent du prévenu ou à une personne qu'il a choisi.

[14] Voir L'article 74 parag. 2 du nouveau code de procédure pénale.

[15] Pour renforcer la position de l'avocat dans la procédure pénale, le nouveau code de procédure pénale, dans l'article 120, concernant les personnes qui ont le droit d'être assisté la saisie, stipule que personne ne peut empêcher le droit de l'avocat d'assister à la saisie.

[16] Juge de paix, si la fouille doit être faite avant le procès.

[17] Selon l'article 75 du nouveau code de procédure pénale, la fouille interne est prohibée si la peine maximale encourue pour le crime en question est moins de deux ans de prison.

[18] Par exemple un grand risque de perte des éléments de preuve.

[19] Pourtant, le nouveau code ne prévoit aucun contrôle pour la décision du Procureur de la République. Donc, un abus de pouvoir de discrétion-la violation des droits de l'homme du prévenu- du procureur de la République n'aura aucune sanction.

[20] Comme un moyen ultime et seulement pour les crimes cités (comme, l'homicide volontaire, faux- monnayage, espionnage...etc.) dans l'article 135 du nouveau code de procédure pénale.

[21] Toutefois, selon l'article 135 du nouveau code de procédure pénale, l'ordre du procureur de la République doit être approuvé par le juge dans un délai de 24 heures, sinon la mesure prise devient illégale.

[22] Le texte original du nouveau code de procédure pénal ne prévoyait pas une telle mesure pour les avocats de la défense. Cette nouvelle mesure a été introduite dans

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le nouveau code par l'article 22 de la loi 5353 qui est en vigueur depuis le 1er juin 2005.

[23] Cette décision est toutefois attaquable devant un tribunal supérieur.

[24] Selon le texte en français à la page web : http://www.echr.coe.int/NR/rdonlyres/086519A8-B57A-40F4 9E22-3E27564DBF86/0/FrenchFrançais.pdf.

[25] Voir "Rapport régulier 2004 sur les progrès réalisés par la Turquie sur la voie de l'adhésion",Commission des Communautés Européennes, Bruxelles, 06.10.2004, Sec (2004) 1201, Com (2004) 656 final.

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UNITED IN DIVERSITY? TURKEY, EUROPEAN UNION, AND POLITICAL COMMUNITY

Lynn DOBSON *

Abstract

In the debates around Turkey's application for membership of the European Union, the idea of different cultural or religious values is sometimes referred to. But should political institutions promote cultural, social, ideological, or religious values? The EU is already a multinational and multicultural political association. How then should the EU deal with diversity and pluralism? And what does its stance on these matters suggest about its own constitutional values, and its response to Turkey's aspirations to accede to the Union? Using recent work in political philosophy, this chapter discusses competing views on the question of whether political institutions should favour particular values. It introduces and proposes for the EU 'impartial perfectionism', whose three criteria compose a generic ethos affirming a variety of ways of life. It thus provides the possibility of a public political philosophy at EU level that is compatible with different national (and other) identities, traditions, and values. Impartial perfectionism appeals to those values claimed as the EU's own by its Constitutional Treaty, and if adopted would render the EU hospitable to Turkish membership on the condition that Turkey met the same criteria.

Introduction

Within the European Union some welcome the prospect of full EU membership being granted to Turkey, while others do not. Those who oppose Turkey's accession give a number of reasons[1] for their opposition. Such reasons may or may not be well-founded – but whatever their merits, there is just one set of reasons that this chapter will focus on, and that is the

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alleged differences in cultural values and deeply-held principles between 'Turks' and 'Europeans'. (I put these in inverted commas to emphasise we are talking here about constructed categories.) And what are the bases of these differences, in this view? The EU is 'occidental' while Turkey is 'oriental'; the EU is 'Christian' while Turkey is 'Islamic'. As Valéry Giscard D'Estaing recently wrote, 'No "European patriotism" can exist until European citizens realize that they belong to a single entity ... the foundations of our identity, so vital to the cohesion of the European Union today, are different' – that is, different to those of Turkey.[2]

At the same time as it is considering Turkey's eligibility for membership, the EU is in the midst of a constitutional process. Article I-18 of the Constitutional Treaty establishes an official motto for the Union: "United in diversity". Article I-1, indent 2, states the criteria for membership: "The Union shall be open to all European States which respect its values and are committed to promoting them together." What are those values? They are enumerated in Article I-2: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."[3]

This chapter focuses on this issue of values from a philosophical standpoint. It does not take a view on whether these charges of cultural incompatibility between 'Turkey' and 'Europe' are well founded. Instead, it discusses an underlying and more general question. That question is this: what role ought social values, including ideological or religious principles, play in a polity? More especially, what role ought they to play – if any - in a multinational confederal political system such as the European Union? These matters are important to clarify within the European Union whether or not Turkey joins, but of course they are of central relevance to Turkey both as a prospective and as an eventual member. If values ought to play no role at all in political association (such as the EU), then it is hard to see why its holding different values, even if true, should disqualify a prospective entrant (such as Turkey). Alternatively, if values do have a role, and amongst the values endorsed by a political association are commitments to diversity and to non-discrimination and to tolerance, it is again hard to see

why cultural difference, even if it exists, should harm an applicant's chances of acceptance.

Since the EU is itself internally heterogeneous historically, institutionally, socially, and culturally, the way it deals with different groups living by different principles and beliefs (both nationally and trans-nationally) is absolutely central to its standing. A variety of answers to these questions about the appropriate relationship between values and principles on the one hand, and political institutions, workings, and polices, on the other, can be given, and each answer posits a model of the kind of polity the EU could become. Of these models some are hospitable to Turkish membership, some are indifferent, and some are hostile. In order to address this field of values and the EU with critical rigour we will need a basic conceptual toolkit. The next section accordingly introduces some terms familiar to many political philosophers but perhaps not yet encountered by other kinds of political scientists.

VALUES AND THE POLITY: THE RIGHT AND THE GOOD, MORALITY AND ETHICS, NEUTRALITY AND PERFECTIONISM

There are three interlinked distinctions relevant to values to note here, albeit schematically and briefly.[4] For over two thousand years now philosophers in the tradition stemming from the eastern Mediterranean have made a distinction between 'the right' (the realm of justice) and 'the good' (the realm of worth).[5] In modern analytical philosophy these are often connected with, respectively, the domain of morality and the domain of ethics. Morality is usually thought of as being about 'rightness' and justice, it is intrinsically interpersonal (having to do with relations between persons), and is theoretically universalistic and global in scope – founded on propositions holding of all persons universally and binding on all persons globally. The idea of universal human rights (for example, freedom from torture or enslavement), which each of us holds purely by dint of being a member of humanity, flows from universalistic morality. Ethics, by contrast, is about what is 'good', especially in terms of the 'good life' or the 'good society'. Ethics may be personal or collective (having to do with one's own personal commitments and aspirations, or those of one's family, community, or other group) and are particularistic rather than global. We often encounter ethics in the form of social norms about such things as dietary customs, dress codes, appropriate behaviour inside and outside the

family and other groups, rites of passage (birth, marriage, death), sexual relationships, how to treat neighbours or guests, participation in local activities and institutions, etc. Morality tells us what we owe to others and what others owe to us, but ethics tells us what kind of person or group we want to be, or to be seen as, or indeed to become. Morality guides 'what to do' in order to treat others justly, whereas ethics guides 'how to be' in order that we may live a good life.[6]

A third distinction bears on the question of how values should enter politics, especially in circumstances where rival values are in dispute. This has been one of the central normative issues of western political thought and of European politics since the religious wars[7] that racked western Europe through the 16th and 17th centuries, but has become more important in recent decades with the realisation that societies for a variety of reasons are becoming more internally pluralistic, and this is likely to be a permanent feature that cannot (and probably ought not) be eradicated. An early part-solution to these sorts of problems helped to end the long religious strife in Europe. That was the principle of the separation of church and state: that is, the carving out of separate spheres for politics and religion, a strategy which arguably helps to maintain some continuing integrity for both. Politics, which is the art of the possible, cannot survive when its protagonists claim exclusive access to infallible and inflexible truth; religion, the realm of transcendental virtue, becomes self-defeating once its protagonists have begun grabbing at power. However, this is not the response to values I intend to discuss here. Though more embattled today in some parts of the world than it has been for a long while, secularism still reigns as a principle of constitutional decency among states that do have in fact have some claim to decency. So what is the exact nature of today's problem?

For a number of reasons, not least increasing levels of freedom, prosperity, and education, societies are becoming more diverse and pluralistic. For a society to be more internally pluralistic means that it will contain a variety of ways of seeing the world, of different ways of life, and a variety of views about what makes for 'the good'; different individuals, and different groups, will have different and perhaps competing or even conflicting ideas about how society ought to be arranged, what policies the political institutions should pursue, etc. In many areas of public interest, for the state to decide on a measure or policy is therefore to favour the position taken by one set of people over the positions taken by other sets of people.

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But if the citizens are to be treated as equal, on what principled basis could, or should, the political institutions of the state decide in ways that promote the values of just one section of society over those held by others? And if the citizens are to be treated as free, on what principled basis could, or should, state institutions impose policies that lead people to live their lives one way – the way the state favours - rather than some other way that the individuals or groups may themselves favour? Two broad, and competing, responses to the problem of values and the polity are neutrality and perfectionism.

The first of these stipulates that the state should restrict itself to upholding basic morality and justice, and remain neutral between the different conceptions of the good held by its various citizens.[8] Neutral, that is, in the sense that the state's laws and policies should not set out to promote specific values that may be important to some groups in society but not to others, since were it to do so the state would be privileging some of its citizens' values over those of others. If the state were to support one of the many conceptions of the good held by its citizens, this would amount to an authoritarian imposition of values upon people who had not chosen them for themselves. Such privileging would violate the freedom and the formal equality of citizens that are fundamental criteria of political legitimacy in liberal democracies and also could threaten social stability. (It could of course be argued that this position itself rests on the supposition that the values of freedom, equality, and stability are normatively ultimate.) *Neutrality* exploits the distinction between morality and ethics. Since morality is always universal and ethics is more often particularistic, the persons in any society can agree on the requirements of justice even where they disagree amongst themselves on what makes for a good life. Therefore the state should uphold a framework of moral relations between persons, but leave them free to decide for themselves how to live their lives. So, for example, the state should uphold the laws of contract and property, and criminal law, but should not give tax incentives to encourage marriage or subsidise public theatres.

Perfectionists, on the other hand, believe that political institutions ought not to be neutral but to have an active orientation to ethics in their laws and their policies. It would be irresponsible for the state not to adopt a view on what is to be encouraged and discouraged within the society, and to design and implement policies in order to promote certain outcomes. Perfectionists

therefore have to have in mind a conception of the good that the state should be acting to achieve. Between perfectionists there are not only different accounts of the good, but different ways of arguing to it. They may uphold a subjectivist theory, and claim that the particular society has a characteristic set of its own values, national or religious perhaps, that ought to be promoted by its political institutions. (This in effect rejects either or both of the neutralists' claims that (a) societies are not homogeneous and (b) the state should treat all its citizens' conceptions of the good equally.) Objectivist theories of the good by contrast hold that there are excellences or values that can be shown by rational argument to be objectively good, whether or not they are those traditionally associated with the society in question. There are very many candidates for these excellences, and theorists disagree themselves about which of them can survive reasoned scrutiny, but some examples that have been argued for are: civic responsibility, professional expertise, loving relationships, intellectual or physical activity, economic self-reliance, autonomy.[9] Since their status as objectively good things means they are not arbitrary preferences the state may (or must) promote. (This rejects the neutralists' scepticism that we can identify, or having identified come to agree on, an ultimate order of values.)

To sum up, neutralists and perfectionists differ on two points: (1) the type of values the state should aim to secure (for neutralists moral only, for perfectionists moral and ethical), and (2) the state's reasons for doing so (to uphold justice, or alternatively to promote what is good). Neutralists believe the perfectionist position imposes sectional values and is thus authoritarian, while perfectionists believe neutrality to be indifference allowing political irresponsibility. Despite these gulfs, there seems to be a range of values on which both positions could converge, even if for different reasons. That is, there may be some values such that neutralists could support state action toward them on the ground that they are needed for the basic conditions of morality to be in place, while perfectionists could support them as components contributing to a certain complexion of ethical life. Some neutralists, for instance support welfare policies because it is argued that unless individuals have minimal levels of well-being (clean water, food, shelter, basic healthcare) the conditions of justice are not in place (and indeed it is often thought that justice consists in large part in the right distribution of such goods) while perfectionists could support the same policies out of a commitment to ideals of solidarity, physical excellence, or the pursuit of happiness. On the other hand, some perfectionists argue the

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state should promote values such as rational autonomy, which then leave people free to reflect on and order their other values themselves, and this is consistent with the neutralists' sociological assumptions of modern value pluralism.

TOWARDS A NEW ETHOS: IMPARTIAL PERFECTIONISM

There seems to be therefore the possibility of arriving at a set of goods that are underdetermining of individuals' substantive commitments to particular religious or ideological or social values, but are instead capacities that might underpin all such commitments. In other words, we might be able to find a public philosophy we can all in a pluralistic EU subscribe to, because it actively promotes public mutual recognition of ourselves as culturally situated holders of universal rights and differing ethical attachments. I shall now propose a short list of these goods. They are presented not as arbitrary preferences, but as the minimal set required for coherence and consistency if we want to construe a position avoiding the Scylla of value authoritarianism and the Charybdis of value irresponsibility. Taken together, these goods comprise a generic ethos. It is an ethos advocated as the suitable public ethos for a very diverse political association because it is able to co-exist alongside and support a wide variety of ways of life, though not all possible ways of life. Those that breach the basic moral requirements of equal individual freedom and well-being will be found unacceptable: ways of life founded on notions of cultural or racial or sexual superiority, for example, will conflict with it. But once these are ruled out, this generic ethos upholds and welcomes a great diversity of conceptions of the good with their associated traditions and customs and aims. This ethical stance may be able to attract support from both neutralists and perfectionists for two reasons: first, the component goods may be seen as either conditions of morality, or instead as excellences or virtues to be prized - or indeed both together. Secondly, they can be seen as goods/values for individual citizens that the state is merely permitted to actively promote (weak version) or alternatively ought to actively promote (strong version).

So what are these values? They are:

(1) a portfolio of minimal goods needed to meet the fundamental rights of individuals and enable their functioning within modern liberal egalitarian political orders, specifically (a) basic levels of physical and

psychological integrity and well-being, (b) freedoms of thought, speech, movement, conscience, association, political participation, and access to justice, (c) education, (d) effective opportunities to gain and exchange income, wealth and property;

(2) the social bases of self-esteem and self-respect, including equality of consideration and mutual recognition;

(3) and meaningful ranges of cultural, social, and economic options allowing individuals to make worthwhile choices about how to live their lives.[10]

Of these values, (1) is relatively uncontroversial in contemporary political philosophy, with the exception of (d) which might be challenged in whole or part by critics of free markets or capitalism. That leaves (2) and (3), about which more should be said.

The orientation to the social bases of self-respect and esteem connects with concerns highlighted in the 'politics of identity' or 'politics of difference' or 'mutual recognition' – the idea that harms or inequalities, and also benefits, can spring from the symbolic as well as the material treatment of individuals. A person's self-esteem and self-respect are senses of their personal worth as a human being, and also the worth of the kind of human being they are, including their attributes such as colour and gender, their social and cultural affiliations, and the worth of their talents and abilities, purposes, plans, and projects. Robust feelings of self-esteem (including but surpassing self-respect) are important conditions for the self-confidence that individuals need to embark on life and fulfil their goals and aspirations.[11] Without them persons are handicapped in leading normal lives, even perhaps to the extent of finding life unbearable. However our self-esteem is easily damaged by others' treatment of us. Denigration and disparagement diminish it. This is true of our social or collective 'selves' as it is of our individual or personal selves. Socially, it has often been the case that people have systematically demeaned others on account of their skin colour, or economic class, or caste, or gender, or age, or ethnic origin, or nationality, or religious beliefs. It is known that this is likely to be detrimental to the well-being of those so degraded, and may impede their opportunities for education and employment and consequently the further goods those capacities may secure.

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The proper role of the political institutions is therefore twofold: to outlaw such denigration, so as to protect the social bases of self-esteem and self-respect, but also to positively affirm the worth of each individual as the holder of aspirations and purposes (insofar as those are not immoral). Because such goals and projects are very diverse and interwoven with collective selves, group definitions, and other cultural contexts, the polity must also value the diverse cultures that provide context and meaning to people's ongoing lives and endeavours, and should also promote mutual recognition between different groups within its territorial jurisdiction.

The requirement for a range of meaningful options in (3) stems from (2) and (1(b)). The conditions for active freedom need to be in place. Where people's choices could not be otherwise than they are – for lack of an effective range of sufficiently different options from which to choose – then people are not able to act autonomously. It also stems from self-esteem, since the courses we follow in life seem less worthwhile if they have been foisted on us through lack of alternatives rather than being consciously chosen or endorsed by us out of a number of alternatives that we could, in principle, have opted for. This even applies to cultures and ways of life, too. We may not initially have chosen them (perhaps having been born into them) but so long as we understand there are alternatives we could in reality move to, but don't, then we have actively chosen to remain. And knowing we have chosen to stay in our town, stay with our family, stay with our nationality, etc, we can continue to respect our town, our family, our nationality etc, and ourselves. On the other hand we may have chosen to distance ourselves, or change the nature of these ties, or supplement them with very different allegiances, or reject them altogether, and doing so knowing that we made our choices autonomously from a number of possibilities also enhances self-esteem and self-respect. Furthermore because there ought to be a plurality of these different ways of life, social and occupational roles, and group-based identities, the polity must positively affirm – not merely tolerate – such cultural pluralism and also promote the affirmative recognition of social and cultural formations by other such formations.

These three central goods or capacities are valuable because they allow individuals and groups the maximum freedom to follow their own customs and conceptions of the good that is compatible with a like freedom for others. In that way, this short list strikes the optimal balance between

autonomy of action, social integration and stability, and diversity of being and experience. Those favouring neutrality should find it acceptable in that it alights on the same goods as they are inclined to favour, and for much the same reasons: it preserves the possibility of cultural pluralism, conforms to requirements for equality and freedom, and contributes to the stability needed for the maintenance of justice. Liberal perfectionists should endorse it for similar reasons, but also because for them the autonomy and pluralism it mandates are not only necessary conditions for a flourishing and satisfying life but are constitutive of it. Further, since this list mandates pluralism, it positively affirms more extensive or substantial perfectionisms, so long as they are not inconsistent with its basic tenets. It is I think most accurately seen as a weak form of perfectionism. In effect it preserves what neutralists find valuable about neutrality – its impartiality – while discarding what perfectionists find disagreeable about neutrality – its indifference. For these reasons I will refer to it as *'impartial perfectionism'*.

MULTINATIONAL CONFEDERATION

So far, the discussion has proceeded as if we were considering the role of values within a standard nation-state, with a unitary and hierarchical political order. Writers on neutrality and perfectionism, and morality and ethics in political life, do tend to assume that the polity they are philosophising about is the nation-state. But here we have reached an impasse, because the European Union is not a state, and does not have a unitary political hierarchy. So it is not obvious that the thinking about normative theoretical issues in the nation-state can be transferred and applied to a different kind of setting, such as the EU. On the other hand the EU does allocate, adjudicate between, and promote values, as its laws, its policies, and most recently its Constitutional Treaty, demonstrate. [12] So we cannot escape the need to reason methodically about the way values are dealt with at EU level. The problem we are left with is how we might apply this discussion about how to treat values politically to a polity with the structural and social features of the EU, which I take to be increasingly best characterised as a multinational confederation.

One obvious approach would be just to collapse together the supranational institutions and the member states and treat the EU as one very large state. That would provide two models of the EU in terms of the way it might treat values – a neutral superstate, or a perfectionist superstate.

Or we could continue to suppose a disaggregated EU, and generate models differentiated according to (a) whether the EU level is perfectionist or neutral, (b) whether the member states are all neutral, all perfectionist, or a mixture of the two, (c) whether the perfectionist states are all perfectionist in the same way or in different ways to each other, (d) whether a subset or subsets of states is (are) perfectionist in the same ways, (e) whether all, some, or none of the perfectionist states are perfectionist in the same way as the perfectionist EU level. Doing this produces a number of permutations of models of a future EU (I gave up at 14), although assessing the different models against the criteria of theoretical coherence, pragmatic plausibility, and normative desirability supplies a method of winnowing some out and ranking the rest. For example, a perfectionist superstate EU is plainly not at all plausible as a practical reality and for most people inside and outside the EU is not a normatively attractive option, while a perfectionist EU level superimposed on only neutral member states is not, I think, theoretically coherent.

Given present time and space constraints the task of explicating and evaluating all the possible models must be set aside. The rest of this essay will advocate the favouring of one specific answer to the question of how values and political authority might be treated within the EU. It is a perspective that is defensible theoretically, pragmatically, and normatively. Moreover the Union it depicts is one into which Turkey might be welcomed and inside which Turkey could play a valuable part.

A PUBLIC PHILOSOPHY FOR THE EUROPEAN UNION

Put simply, my suggestion is that the EU level should actively promote the three goods outlined above. To recapitulate, they are in summary: (1) basic rights, (2) conditions of esteem and recognition, (3) meaningful ranges of options. Because of the third, core, requirement, the case for neutrality at EU level of the kind frequently advocated for states, does not carry over (regardless of how persuasive one finds that case to be for the state). The argument for state neutrality rests on the unitary, hierarchical, and encompassing nature of the state and the value-authoritarianism that would be the consequence, under these conditions, of adopting any particular variety of perfectionism. Given different conditions however, such as a supranational level of policies and institutions obliged to positively promote the continuing cultural and institutional diversity of its multiple members,

value authoritarianism of the kind neutralists reject is not a threat. The conception of the good implicit here is an affirmation of value-diversity itself, and this is arguably a conception of the good that is presupposed by all theories of neutrality as well.

If impartial perfectionism were indeed to become the guidingphilosophical perspective of the EU, what would that imply for its member states and its citizens? First, the member states and sub-national regions would retain their cultural autonomy, just so long as their national and sub-national traditions and ways of life did not conflict with the EU institutions' requirements to uphold the three classes of goods (rights, esteem, options). Indeed, the states would not merely be able to retain cultural autonomy but would be obliged to do so, since otherwise it could be objected that the EU level would not be upholding a range of valuable cultural options for its citizens. (Those ways of life that are oppressive or exploitative or brutal will of course already have been ruled impermissible because they violate one or more of the basic goods of (1).)

The requirement for the EU to promote meaningful ranges of options means that its citizens must be free but also able to move around and to settle in geographical, socio-economic, and cultural spaces of the EU as prompted by their own tastes, choices, affiliations, and aspirations. Just as the EU already offers its citizens large states or small states, forests or plains, cities or villages, sunshine or snow, so it should ensure citizens can effectively shape their lives by choosing where and with whom to live and work according to non-physical criteria: traditional or progressive, right-wing or left-wing, religious or secular, etc. The perfectionist element and the EU's need to uphold self-esteem (both of individual and of collective 'selves') means the EU must treat forms of life and association as valuable, and the impartiality criterion means the EU must treat them all as valuable, without suggesting some have higher value than others.

Second, the member states would have to act in ways that did not undermine the EU's promotion of the basic goods (conditions of well-being, freedom, education, opportunities for productiveness). This would not necessarily mean in each case that the member state had also to promote the good in question over and above merely securing it; but it would mean that it would be permissible for it to do so, and not permissible for it to prevent the EU's active promotion. A critical question here is what the notion of

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'active promotion' by supranational institutions implies in terms of their relationship with member states' institutions, especially where the states' institutions in question are upholding rather than positively promoting a particular good. It seems to me this can be given neither a general nor an *a priori* answer but will depend very much on the specific details of each case. It need not entail constant EU-level pressure on states to conform to a uniform pan-European policy, and nor need it lead to a usurpation of national parliaments' legislative privilege. For example, most of the EU's function of actively promoting its citizens' physical well-being may be sufficiently performed in normal circumstances by its background monitoring and support of the relevant laws and policies of member states (ranging from constitutional protections of the person to policies of public health). However, from time to time there may be good reason to suspect that is no longer sufficient - as in the BSE crisis - and then the EU must intervene actively to positively promote well-being, but in constructive partnership with all the relevant parties.

Third, in respect of the self-esteem of individuals and groups and mutual recognition, again the member states in their internal affairs must uphold this but need not positively affirm it, though if they wish to do so, it is permissible. What they are not permitted to do is to allow the denigration of persons or groups. Again, there may sometimes be good reason for finding such a 'hands-off' approach insufficient, and then the EU-level institutions are entitled to and indeed required to intervene cooperatively to put matters right. Again, the supranational institutions will have to judge whether the promotion of a specific value in a particular context would be best secured by institutional restraint or institutional assertion.

In short, impartial perfectionism at EU level leaves member states a wide degree of latitude within a set of moral constraints. There are certain things states may not do – fail to uphold basic values, or turn a blind eye to systematic cultural denigration, for example – but once these fundamental moral requirements have been met, member states have three options available to them. They may tend towards neutrality, mirror the impartial perfectionism of the supranational institutions, or (most likely) develop their own brand of perfectionism based on the values of their own historical and cultural traditions. So long as a state's version of perfectionism is compatible with impartial perfectionism, then it is a welcome addition to the cultural pluralism the EU is bound to promote. Even where states adopt

impartial perfectionism there is room for diversity among states in their interpretations of the goods (for instance, between maximal and minimal understandings of what is required), in the varied emphases between goods, and in the specific details of their implementation, since their policy implications will be developed within the contexts of prior traditions, norms, and needs.

As a model of what the EU ought to be, the account sketched above (I contend) supplies a *prima facie* case for its theoretical coherence and normative desirability. But is it at all realistic? Well, let us return to Title 1 of the EU's Constitutional Treaty. There the EU declares its adoption and promotion of a number of values, including non-discrimination, and lauds the importance of diversity and respect for member state traditions. The constitutional text is not an exercise in political theory and the EU's selected values are therefore not presented as parts of a reasoned argument, nor constrained by the demands of coherence and critical rigour. But in broad spirit and content they are not dissonant with the account I have given here; at least, I would like to think that this work supplies the theoretical and conceptual arguments that support and make sense of the chief (and the best) values and aspirations of the EU's Constitution.

AND TURKEY?

What does an impartially perfectionist EU imply for Turkish membership? The first result seems abundantly clear: the EU would not be warranted in turning down Turkey's application for membership merely on the grounds that Turkey is culturally dissimilar or has non-European values, unless it could show that Turkey's values made it unable to comply with the EU's requirements to promote basic goods, esteem and recognition, and a range of experiential options.

For a start, the EU would have to recognise that all the members are rather different from each other, and this is not a regrettable fact that time or policies of assimilation could and should solve but on the contrary a state of affairs the EU is formally expected to celebrate and maintain. The fiction that the existing EU member states are all very like each other but very different to Turkey will have to be abandoned. On the other hand, because the EU is formally committed to promoting difference, whatever Turkish

cultural and religious dissimilarity there actually is should help its application to join. If Turkey were to join the EU, the range of options for living available to EU citizens would be expanded, and since the EU must promote a range of meaningful options it ought to welcome Turkey for the unique contribution it can make to the diversity of European life. A demilitarised, secular, and democratic Turkey with a successful, modern, well-educated and prosperous Muslim population could be a significant asset to the EU. A Union as open to difference as it proclaims itself to be and prepared to live by its stated ideals of non-discrimination would be a significant asset to its existing citizens, a large proportion of whom even before Turkish entry do not fit the stereotype that some of its political elites appear to hold.[13]

Further, since the EU must promote self-esteem and mutual recognition it must affirm the worth of all (morally permissible) purposes whose meaning derives from within particular cultural contexts, and this means it ought not to give preferential treatment to any particular culture or religion, nor discriminate against any particular culture or religion. So the EU Constitution must be resolutely secular, although individual member states may continue ways of life historically rooted in particular religions so long as individuals' basic goods (well-being, freedom, education, opportunities for productiveness) do not suffer thereby.

On the other hand, the commitment and reforms impartial perfectionism might require of Turkey are not negligible. Membership of the Union would mean having to comply with this guiding supranational philosophy by upholding (1) basic goods, (2) self-esteem and mutual recognition, and (3) ranges of options. The third of these would be met by EU membership itself, as Turkish citizens would become EU citizens and would be able to move about the EU and take advantage of all its cultures and opportunities. In order to join an impartially perfectionist EU, however, Turkey would have to demonstrate compliance with the first two: the human rights norms involved in the EU's promotion of basic physical and psychological well-being; political, social and legal freedoms; and economic and educational opportunities. Not only that, but it would have to be clear to all that these are upheld on the grounds of equality between women and men, and equality between members of the dominant religious or ethnic majority and members of religious or ethnic minorities. Moreover the commitment to

these values by its elites would have to be widespread and serious and implementation of the necessary reforms demonstrable.

To summarise, the EU's task is to treat Turkey's application and its eventual membership in conformity with the three requirements of the impartially perfectionist polity, and to develop a more expansive understanding of what it is to be European - an understanding reflecting current realities a little more and a mythologized past a little less. The task for Turkey is to continue to find ways of reforming attitudes and policies so that they respect the most important EU values at the same time as respecting Turkish values, and to steadily build elite and popular consensus around the vision of a European Turkey that such reform promises.

Endnotes

[1] Some of the reasons given are these: the insufficient separation of political authority and military power; human rights abuses, particularly of political dissidents and Kurdish separatists; the social and institutional subordination of women; inadequate economic structures and development; discrimination against religious and other minorities; the uneven political will amongst Turkish elites to alter any of this; Turkey's comparatively poorer economic standing; and Turkish demographic trends and their likely effect on voting weights and balances of power within EU institutions.

[2] Valéry Giscard D'Estaing, 'A better European bridge to Turkey', *Financial Times*, 24 November 2004, full version at www.ft.com/giscard, last accessed 25 November 2004.

[3] Taken from Part I of the 'Treaty Establishing a Constitution for Europe', Conference of the Representatives of the Governments of the Member States', CIG 87/2/04, Rev 2, Brussels 29 October 2004 (OR.fr).

[4] What follows is a severely simplified version of what are rich, subtle, and complex debates among political philosophers. My assumption is that most readers are less interested in the theory than in the substantive discussion of the EU and/or Turkey and will excuse the minimalist presentation of the theoretical elements. I first introduced these theories to EU debates in my online working papers "Constituting which Good and whose Rights? Remarks after Jo Shaw's A Strong Europe is a Social Europe and Catherine Hoskyns' Comment on Gender Equality" (2003) and "We have the stars, let's add the moon: Turkey, the EU, and the

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constitutional values of free citizens", (2004). Both are available in .pdf at http://www.fedtrust.co.uk/constitutionalpapers. This discussion is continued in my *Supranational Citizenship* (forthcoming, Manchester University Press).

[5] For a recent discussion see Gerasimos Santas, *Goodness and Justice: Plato, Aristotle, and the Moderns* (Oxford: Blackwell), 2001.

[6] Of course these distinctions are contestable and contested – as philosophical scholarship will attest. But they are sufficiently established and sound for the purposes of this paper's argument.

[7] Between Catholics and Protestants, adherents of two rival branches of (western) Christianity.

[8] For a now classic statement of this position, see John Rawls, *A Theory of Justice* (Oxford: Oxford University Press), 1972.

[9] George Sher, *Beyond Neutrality: Perfectionism and Politics* (Cambridge: Cambridge University Press), 1997.

[10] This shortlist has drawn inspiration from the work of philosophers John Rawls, Joseph Raz, and especially Alan Gewirth. Goods listed in (1) are largely the same as the 'primary goods' whose fair distribution must be the business of the constitutional state according to Rawls, who is generally associated with neutrality. They are also specified by Gewirth, who goes further than Rawls in arguing that the state should not merely oversee their just distribution but should positively promote them. The social bases of self-respect in (2) is also a primary good for both Rawls and Gewirth, but Gewirth adds self-esteem (defined to incorporate self-respect but going beyond it to include elements such as confidence in the worth of one's purposes) and, again, believes the state has positive duties to uphold them. Both Rawls and Gewirth also uphold the value of equality, though neither ties it to the social bases of self-respect in the way I have done here. Although seen here as a necessary part of self-esteem and recognition, it bears on all the goods in (1) so, for example, all persons should enjoy equality of access to justice. (3) is associated with the thought of Raz, usually seen as a liberal perfectionist. He holds that the state ought to guarantee a range of (objectivist) autonomy-enhancing options. Gewirth's work also supports such a view. I have relaxed the proposition somewhat here to make it more amenable to neutralists too. See Rawls, *A Theory of Justice*; Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press) 1986; Alan Gewirth, *Self-Fulfillment* (Princeton, NJ: Princeton University Press) 1998.

[11] Gewirth, *Self-Fulfillment*.

[12] Lynn Dobson and Andreas Follesdal, eds, *Political Theory and the European Constitution* (London and New York: Routledge), 2004.

[14] A more 'Turkish' 'Europe' and a more 'European' 'Turkey' would also help to rebut the claims and the appeal of both Christian and Islamic fundamentalism, though I do not believe either of these to be prevalent in EU member states or in Turkey. It might be worth emphasising that the three goods I have set out as the parts of a public philosophy suitable for a free and peaceful pluralistic political association are precisely those that a fundamentalist of any religious persuasion would be unable to accept - and unable to accept for the same sorts of reasons, fundamentalists being much more like fundamentalists from other religions than they are like everybody else.

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IT'S ALL ABOUT CULTURE
WHY THE GERMAN BUNDESTAG CANNOT IMAGINE TURKEY BECOMING A MEMBER OF THE EU

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Abstract

Should Turkey become a member of the EU? This is one of the most controversial issues in German European politics. While the Social Democrats and the Green Party seem to be in favour of Turkey's integration into the EU, the Christian Democrats strongly oppose it. This paper, however, demonstrates that both sides – their contrary political preferences notwithstanding– share one central belief: Turkey does not fit into the EU for cultural reasons. As far as SPD and Greens are concerned, this belief is not made explicit, but hides between the lines. Through a close reading of two parliamentary debates on EU-enlargement the paper reconstructs how Turkey is represented as "Europe's other". Turkey is constructed as a country where culture determines politics and policies, but that this very mechanism also makes for a good description of German enlargement politics.

In the run-up to the last federal elections in Germany in 2002 the Christian Democratic Union (CDU) and their Bavarian sister party, the Christian Social Union (CSU), had a hard time agreeing upon a common challenger to Federal Chancellor Gerhard Schröder. Their fierce dispute about who should become their *Kanzlerkandidat* came to be known as the *K-question* in the German media. In fact now, two years away from the next elections, this very question has popped up again, and it is causing at least as much turmoil as the last time.

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Why I am recounting this issue to an audience interested in the relationship between the EU and Turkey? I do not want to speak here about the internal quarrels of two parties that – curiously enough – carry religion in their name. This would certainly make for an interesting topic in the context of a debate about the alleged Christian foundations of the EU and how this causes a problem for Turkey's membership aspirations. But it would probably be too easy a target. I have brought up the K-question because it bears some resemblance with the question that I want to introduce here. Like the K-question it pops up time and again and it always causes heated discussions in parliament as well as in the press. I therefore want to call it the *T-question*: Should Turkey become a member of the EU?

Though the T-question seems to stir up controversial debate at first glance, I argue that in fact it is not that controversial after all. While it is true that government and opposition express rather opposed preferences, they do – as will be demonstrated in this contribution – share the belief that Turkey does not really fit into the EU for cultural reasons.

But let me pin down both sides' political preferences first: At the bottom-line, the CDU and CSU, at present in the opposition, are against an integration of Turkey into the EU, at least as far as the near future is concerned. The Social Democratic Party (SPD) and the Green Party (Greens), which currently form the government, are basically in favour of Turkey becoming an EU-member[1]. Accordingly the change of government in the autumn of 1998 did yield a policy-change with respect to the T-question[2]: The former coalition government of CDU/CSU and FDP had worked towards the EU denying the status of a candidate country to Turkey at the Copenhagen-summit in December 1997[3]. And reportedly it is due not least to the new German government of SPD and Greens, that the EU-summit in Helsinki two years later accorded this status to Turkey[4]. Moreover Germany is said to have played a crucial role at Helsinki in December 2002, when the Council agreed on the following procedure with respect to Turkey[5]: At the end of 2004 it would be decided, whether or not Turkey complied with the accession-criteria. If it did, the EU would enter into membership-negotiations "without delay".

In contrast to conventional readings I claim that there is not much of a gap between CDU/CSU and SPD/Greens as far as the T-question is concerned. In fact, they are much closer to each other than it appears from

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their explicit political positions. But this is not because the CDU/CSU shares the view of the SPD and the Greens and has tacitly accepted that Turkey will be an EU-member, while not admitting it openly for strategic reasons. Quite the opposite: the SPD and Greens share the conservatives' cultural reservations about Turkish membership. If one takes a closer look at parliamentary speeches by deputies from the SPD and the Greens, one will find not only evidence of a cultural understanding of European, but also of an image of Turkey as inherently different from Europe. On the one hand the governing parties SPD and Greens stress the importance of giving Turkey a concrete membership-perspective – or so it seems when one only looks at the surface of their texts. But on the other hand – in the subtext of their speeches – they construct Turkey in a manner that sheds doubt on its cultural fit with the rest of Europe. And more than that: By imputing this difference to be highly problematic they construct Turkey as "Europe's other."

Various strands of theory – such as semiotics, psychoanalysis, post-structuralism and hermeneutics – share the assumption of there being two layers of meaning: One is the obvious meaning, what we normally take to be true. The other layer is hidden and cannot be discovered by a hasty observer. And even the speakers themselves may only partially or not at all be aware of the meaning they create on this second layer. I may say something, but I cannot control what meanings others may infer from my statement – as we are reminded by misunderstandings almost every day. To some extent meaning is being constituted behind our backs[6]. If we accept this basic distinction between manifest and latent meaning, it becomes clear that analyses of discourse which do not try to uncover the hidden layer of meaning hardly understand the entire story. And with respect to the T-question the whole story certainly looks very different from the one about manifest preferences.

All the theories mentioned above are marginal within the discipline of political science. Hence it comes as no surprise that students of politics have not yet developed much interest in those hidden, at first glance invisible parts of social reality. At the same time, however, this indicates that the discipline is quite far removed from common-sense: The distinction between text and subtext can hardly be dismissed as yet another phantasm of postmodernism, because it describes fairly well how we deal with texts in

our every-day lives. We constantly and quite automatically engage in the practice of reading between the lines, trying to find out more than there is on the surface of text. Accordingly my paper tries to make use of an every-day-technique of understanding texts for the purposes of scientific interpretation. To this end it distinguishes between content and argumentation on the one hand, and style and rhetoric on the other hand. For the former I use the term text, indicating *what* is being said. For the latter I reserve the term subtext, which means *how* something is said.

In the following I will in some detail analyse two debates from the German Bundestag, in which the T-question figured very prominently. These are the sessions of December 4, 2002 and December 19, 2002, that took place immediately before and after the Helsinki-summit. The analysis will first focus on content and argumentation, hence on texts. I will then move on to the centrepiece of this paper, an analysis of subtexts and interpret the party-spanning consensus with respect to the T-question as an expression of widely shared beliefs about Turkey's otherness. From this I come to a rather sceptical conclusion as to Turkey's perspectives of becoming a member of the EU.

TEXT

CDU/CSU

The T-question received full attention by the German Bundestag on December 4, 2002, following a written proposal by the CDU/CSU entitled „For a credible EU-offer to Turkey." It calls upon the government to prevent the European Council from giving a precise date for the beginning of membership-negotiations with Turkey. The CDU/CSU justifies this by arguing that it is questionable, whether a Turkish EU-membership would be compatible with the identity of Europe:

> Irrespective of the question of compliance with the Copenhagen Criteria, the question of Turkey's accession to the EU needs to be seen in the context of the notions of Europe's political identity (...) As an entity capable of action, the European Union has to develop a clear view about her borders and about the question of whether countries that only partially belong to Europe can become unconstrained members. Therefore (...) further commitments regarding the accession of Turkey should be avoided.[7]

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Hence the proposal links the question of membership to the question of identity. Despite first specifying European identity as political, a geographic dimension is added in the very next sentence. Apparently the contours of Europe are sufficiently clear for the authors being able to state that there are some countries, which only in part belong to Europe – such as Turkey[8].

But Europe and Turkey are different not only in terms of geography but also in terms of culture. Take the following speaker from the CDU/CSU who argues that:

> We are firmly convinced that Europe is based on a common cultural and also religious heritage. Turkey does not belong to the European cultural area (...) A European Union that is unbounded geographically would destroy the European project (...) forever.[9]

Here, the boundary between Europe and Turkey is defined as a cultural and religious one. Crossing it would be fatal, because it would lead to the destruction of the European project. Hence, not only attempts to make Turkey's membership perspective more tangible, but also membership as such is rejected. Two weeks later, in the parliamentary debate shortly after the European Council, a rather revealing description of the difference between Europe and Turkey had been given:

> As far as its *Weltanschauung* is concerned, the European Union is neutral. But as to its values the EU is clearly determined by the European idea of man – the latter being shaped by the Enlightenment on the one hand and Christian anthropology on the other. From this developed the understanding of an inviolable human dignity, human rights, equality of woman and man, constitutional democracy, freedom of press and finally social market economy (...) If you look around in Islamic states and in formerly Christian-formed states, you will notice that attitudes are very different: with regards to democracy, to human rights, to freedom of press and to religious freedom. So far there is no larger Islamic country that practices our order of values.[10]

Hence the dividing line runs between Christianity and Islam. What is particularly remarkable about this statement is the direct link between Christianity on the one hand and the central political values of the EU on the other. While the political values of the EU derive straight from Christianity, no larger Islamic state possesses features like human rights or democracy. Hence the underlying assumption and argument is that, first, the political

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values of the EU result from culture (or, more precisely: from the Christian religion) and, second, that Turkey does not fulfil the accession-criteria, exactly because of her cultural characteristics that do not match with those of Europe. In this way the speaker establishes a link which is reminiscent of Theodore Lowi's famous phrase, according to which „policy determines politics"[11]. Only that in our case Lowi would have to be re-phrased as: „culture determines policy." For our purposes this coupling of politics and culture is important, since it will reappear in statements from the governing parties. The SPD and the Green Party, however, link culture to politics not on the surface of texts, but in a somewhat hidden manner, in the subtext. Before trying to discover these hidden meanings, I will first turn to the governing parties' texts.

SPD/Greens

The Bundestag – with votes from the SPD and the Greens – rejects the request by the CDU/CSU[12]. Speakers from the governing parties campaign for making the Turkish membership-perspective more substantial: This – they argue – would not only be in the interest of Germany,[13] but would also be an obligation given the fact that membership had already been announced to Turkey in 1963 anyway[14] and that this announcement had been confirmed at several EU-summits since.[15] Therefore the EU could not possibly back down on its offer.[16] Moreover, German politics should keep its "continuity".[17]

The CDU/CSU had so frequently put forward the question of whether a Turkish EU-membership would be compatible with the identity of Europe, that the governing parties could no longer ignore it. In their response they claimed that Turkey does belong to Europe and that its membership would therefore be consistent with Europe's identity. Three different reasons were given in favour of this position. The first was to declare cultural diversity a core characteristic of European identity and to define Islam as one of the roots of the EU:

> The European Union just is not a religious denomination, but a community of values which rests upon plurality and cultural diversity: It has Christian roots, Judaic roots, but it just has Islamic roots as well.[18]

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The second argument in favour of Turkey's Europeanness was to point to a decision by the European Council from the late 1980s, when it turned down Morocco's membership application by flatly stating that Morocco was not a European country. At the same time, however, the European Council did examine Turkey's application in a normal manner. For Markus Meckel (SPD) this is clear proof of "Turkey being a European country."[19]

The third and most frequently applied argument, however, is to define Europe as a historical and political rather than a geographic entity:

> Europe – a great European historian once said – had never in its history been defined solely in geographic terms, but always primarily politically. You don't learn about the boundaries of Europe in geography class, but mainly in history and simply in politics.[20]

And with a view to Turkey:

> That Turkey will find its place in Europe is – because of the historical experiences und the political reality of the 21st century – possible and certainly also necessary.[21]

According to this speaker, Turkey belongs to Europe both historically and politically and these are the two main criteria for determining what Europe is. The particular argument for why a EU-accession of Turkey is compatible with European identity will now be focused on: For once because it had obviously been the government's central line of argument, but also because it is the clearest delineation from the CDU/CSU's point of view. Instead of the CDU/CSU's cultural-geographic definition of Europe the case is made for a historical-political definition. European identity is de-essentialized. Contrary to the CDU/CSU's view, European identity is not considered a natural, pre-social fact, but a political decision. Instead of arguing with the CDU/CSU about cultural characteristics of Europe and Turkey's compatibility with them, SPD and Greens do not engage in such an understanding of identity. This may be a clever debating-strategy and it certainly conforms to the current scholarly understanding of identity, where identity is widely believed to be a social construction. However, MPs from the SPD and the Greens have not succeeded in keeping up this line of argument. Time and again cultural and geographic conceptions of Europe shine through when they speak. And more than once they do mark Turkey

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as culturally different. This becomes clear when taking a closer look at their speeches, i.e. by taking account of subtexts.

SUBTEXT

The current section is intended to provide a critical reading of the governing parties' line of argument. However, this will not be accomplished as may be expected, by discussing whether it is at all possible to talk about European identity without talking about geography and culture; nor by asking whether it is correct to conceive of Islam as one of Europe's roots.[22] Instead, I will analyse whether speakers from the SPD and the Greens actually manage to exclude culture and geography when addressing the topic of Turkey's EU-membership. Do they succeed in conceiving of Europe without referring to culture and geography? As one can easily guess: They don't! In the following I will analyse statements by MPs from the SPD and the Greens and show, first, how and where geography sneaks in, when they speak about Turkey's application. I will, second, demonstrate that culture and religion play an important role in their arguments and, third, that the speakers at times even establish a direct link between culture and religion.

Geography

The CDU/CSU-request cited above asserts that Turkey does, only in part, belong to Europe. Speakers from the SPD and the Greens, in contrast, avoid explicit geographical boundary demarcations. However, they use metaphors which indicate that the SPD and Greens in fact are fairly close to the CDU/CSU. Turkey is variously described as a bridge, a joint or a hinge. Let us take a look at the following example:

> Turkey can become (...) an important, maybe the most important bridge between continental Europe on the one side and the Eastern Mediterranean on the other side.[23]

Only a few minutes after chancellor Schröder had argued against a geographic definition of Europe, he is now doing exactly that when he talks about a "continental Europe." He delineates this continent from the "Eastern Mediterranean" with Turkey being the bridge between the two. As a bridge Turkey assures the connection between the two sides. But at the same time Turkey is not part of either side, sharing with the two banks little more than

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the limited space where the bridge touches the ground. Not really belonging to either side it is stuck in between. A similar 'liminal position"[24] is attributed to Turkey by metaphors such as "hinge" and "joint."[25] Hence the governing parties' ideas about Europe, supposedly purely political, turn out to be quite geographical in nature when examined more closely.

Culture

Focussing on cultural aspects it becomes clear that the SPD and Greens see Turkey as leaning towards the Non-European side. As a "joint to the Islamic world" Turkey is in an in-between role. As an „enlightened Islamic hinge"[26]Turkey is in a liminal position, but at the same time it is characterised as an Islamic country. The Islamic aspect about Turkey gets essentialised when a speaker warns "that Turkey (...) is pushed back into the Islamic region."[27] Actually and originally – according to the subtext of this statement – Turkey belongs to the Islamic region, everything else being but a temporary state. The very last doubts about its cultural belongings are disposed of by calling Turkey a "large Islamic country."[28] In all of these statements a cultural attribute – religion – is used to characterise Turkey. According to these constructions Islam is the defining trait of Turkish culture. Islam is the key difference between Turkey and Europe. Hence European identity results from the difference to Islamic Turkey. Thus Turkey is made into Europe's Other.

This construction of cultural identity/difference contradicts the statement by Chancellor Schröder quoted above, where he pleads for a political definition of Europe. Apparently it is rather difficult to determine Europe without resorting to geographical or cultural characteristics. Every description of Turkey as an Islamic country undermines a political conceptualisation of Europe, according to which religion would be of no importance whatsoever. If, however, Turkey is called Islamic, there must be a meaning to it. If culture and religion really did not matter in ideas about Europe, Islam would not be a topic at all in the debate about Turkey's EU-membership. Since it is a big issue, however, we may assume that the perceived cultural difference of Turkey does impact the assessment of Turkey's membership application.

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Culture and Politics

Alleged cultural differences turn into an almost insurmountable obstacle for EU-accession, when Islam is said to be inherently incompatible with for democracy. According to this point of view it is virtually impossible for Turkey to fulfil the Copenhagen criteria, simply because Turkey is Islamic. Its culture, notably the religion exercised by the majority of its population, is insinuated to have a direct impact on Turkey's politics. It all comes down to an understanding of Turkey as a country where culture determines politics. The problem then is not so much Islam itself, but its political implications. The CDU/CSU regularly makes this kind of link between religion and politics, but it can be found in statements by the SPD and Greens as well – though in a less explicit way. Take Chancellor Schröder, for example:

> There should be unity about us having a great, a common – I say: a national – interest in supporting those forces in Turkey, that want a secular Turkey in the sense of its state-founder Atatürk, and who also account for Turkey not drifting towards Islamic fundamentalism.[29]

Two developments are found to be possible here: Either the advocates of a secularised Turkey will prevail or Turkey will drift towards fundamentalism. A viable intermediate, third way, e.g. a moderate Islamic form of rule, is considered impossible. If Turkey does not succeed in keeping its politics completely free from anything religious, fundamentalism could take over. Here a simple equation is being made: Islam = fundamentalism. The metaphor of drifting is particularly telling in this respect: Turkey is imagined to be a boat that has been taken into a dangerous (Islamic) current. It has to countersteer (to enforce secularisation), if it wants to prevent being carried away by the current. Hence Turkey does not need to actively pursue Islamic fundamentalism, since the latter will come quite automatically, if Turkey does not actively resist. This constructs Islamic fundamentalism as Turkey's natural path of development. Inversely, secularisation, which could prevent such a development, is presumed to be rather unnatural, very much a stranger to Turkey. Under the bottom-line then, Turkey is made into a potential theocracy.

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While Schröder ascribes Turkey a natural tendency towards Islamic fundamentalism, his foreign minister constructs Turkey as a potential terrorist state:

> Is there any large Islamic country which can follow the path towards successful modernization in accordance with the rule of law and under conditions of market-economy, yes or no? If Turkey were to manage that, it would be the most important success in the fight against international terrorism.[30]

From this point of view, Islam is the source of international terrorism and due to that, Turkey's modernization would be an important factor in the fight against terrorism. If, in contrast, Turkey's modernization were to fail, terrorism might continue. The links made in that line of thinking come down to the following system of equations: 1) Islam = potential terrorism; 2) Turkey = Islamic; 1) and 2) leads to: 3) Turkey = potential terrorism.

This provides us with the following overall picture: On the one hand side MPs from the SPD and Greens argue for a political concept of European identity and promote the beginning of accession-negotiations with Turkey. But on the other hand they, too, define Europe in geographic as well as in cultural terms and Turkey as different in both respects: geographically outside Europe (or at its margins at best), equipped with a natural tendency towards Islamic fundamentalism and serving as a potential base for Islamic terrorism. All this sums up to Turkey being the antithesis to Europe.

As far as subtext is concerned then, one can hardly expect Turkey to be accepted into the EU. Therefore the meaning that hides between the lines runs counter to the text-superficial campaign for letting Turkey into the EU. In the subtexts a reality is constructed that stands in clear contradiction to the arguments in the texts. How is this to be explained?

COMMON BELIEFS

One possible explanation for this contradiction could be that it is but a rhetorical trick: Deputies from the SPD and Greens are actually in favour of Turkey becoming a member of the EU – just as they claim on the texts' surface. But in order to make their position more convincing, they have

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developed a scenario in their subtexts, where they describe what might happen if the EU denies membership to Turkey. It is a really horrifying scenario consisting of destabilization, fundamentalism, and terrorism. This describes the alternative to EU-enlargement in such a negative way that integrating Turkey appears to be a comparatively advantageous option.

However, instead of interpreting this contradiction between text and subtext as a rhetorical strategy one could also read it as the result of contradictory, conscious and unconscious beliefs. According to this second explanation the speakers are able to communicate intentionally only on the level of text. They can control what they say, but hardly how they say it. Rather than being the result of intentional design, the horrifying scenario described above would thus be the expression of the speakers' unconscious beliefs. In principle, deputies from the SPD and Greens, too, are convinced that Turkey does not fit into the EU for cultural reasons. On a latent level they share the manifest objections of their CDU/CSU-colleagues. Consequently, there is consensus among the parties that Turkey is different from Europe, particularly with regards to culture. Exactly because this view is shared consciously (CDU/CSU) or unconsciously (SPD/Greens) by all speakers, one may conclude that we are not dealing with individual but with collective beliefs. What has been discovered in the subtexts of the enlargement discourse are widely shared beliefs about Turkey, an image of Turkey that is firmly rooted in Germany's collective memory. From this perspective then, subtext is a mirror of our common beliefs. At the same time subtext activates these very beliefs, since it calls them into memory and thus contributes to their reproduction.

This hypothesis of subtext being the mirror (and producer) of our common beliefs can be maintained even if one does not agree with my reading of subtext as something that is beyond the reach of our intentions. If one takes subtext to be something a speaker can actively use and control, a horrifying scenario will fulfil its rhetorical purpose only, if those who listen can imagine it becoming reality. Such a scenario can only be a successful rhetorical strategy if it resonates with the recipients' beliefs. Hence, the very fact that speakers regularly link Turkey's membership aspirations to a fundamentalist threat, provides evidence of the existence of corresponding beliefs – if not the speakers' beliefs, then at least those of their audience. If the notion of Turkey being culturally different was not commonly accepted, nobody in the Bundestag would ever allude to it.

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CONCLUSION

While much of the current debate regarding Turkey's EU-membership is about the question of whether or not Turkey fits into the EU, my paper definitely is not a part of this debate. It does not discuss Turkey's Europeanness. In fact, I would argue that it does not matter, if 'in reality' Turkey is European, non-European, semi-European or whatever else. What is important with respect to Turkey's EU-perspectives is not what the world might 'objectively' be like, but only how the EU sees it. With respect to one EU-member state, namely Germany, this paper has shown that Turkey is found to be not 'really' European, at least not European enough for EU-membership. And since this perception of Turkey forms part of the Germans' collective belief system – we are used to seeing and hence automatically perceive Turkey as half-European at best – it is highly unlikely that this construction of Turkey will change in the near future. Even if Turkey fulfils the Copenhagen criteria, this will not necessarily make a great impression on our beliefs. Common beliefs are quite stable and persistent, they lag behind political developments. And certainly they cannot be replaced as easily as governments can be. Our beliefs about Turkey have outlived the government of Helmut Kohl and they most likely will outlive the government of Gerhard Schröder, too. This is because they are deeply inscribed into our language and into the discourse about Turkey.[31] Therefore it is not surprising at all that deputies from the SPD and the Greens speak about Turkey in a way that stands in sharp contrast to their own policy. Even Chancellor Schröder and Foreign Minister Fischer, both eager proponents of giving Turkey a concrete membership-perspective, construct Turkey as hardly European. Like us all, they are prisoners of their (our) common beliefs. To escape such beliefs is difficult, and to replace them with new ideas and interpretations is not completely impossible, but it will certainly take a very long time. Much longer in any case than Turkey is willing to wait.

Though political scientists are usually very cautious when it comes to making predictions about the future, I would in this case dare to make one nonetheless: Turkey's full membership in the EU is not to be expected in the short- or even in the medium-term. Even if Turkey fulfils every requirement the EU makes or not, even if the German government resolutely demands

the beginning of membership-negotiations, and even if – as widely expected – the EU actually initiates negotiations with Turkey; I would nevertheless claim that it will still take a long time before Turkey is actually allowed into the EU. Turkey will not become a full EU-member until she is commonly believed to be a European country in all – or at least in all large – EU-member states.

If this prediction is correct, my hypothesis that culture determines policy would not only describe the situation in Turkey as seen by the German Bundestag: Turkey is a country, where policies are determined by culture and religion. The hypothesis would be just as true for Germany's policy: The Bundestag does construct a cultural difference between Turkey and Europe and it is exactly this perception of a cultural difference which determines its policy with respect to the T-question.

Endnotes

[1] The positions of the two other – comparatively minor – parties represented in the Bundestag, FDP and PDS, cannot be identified as easily. However, they will not be analysed in this contribution anyway.

[2] von Kjaw, Dietrich (2003) "Grenzen der Erweiterung. Die Türkei ist ein Teil des ‚Projektes Europa'", in: *Internationale Politik* 58: 3, 47-54, p.51; Öniş, Ziya (2000) "Luxembourg, Helsinki and Beyond: Towards an Interpretation of Recent Turkey-EU Relations", in: *Government and Opposition* 35: 4, 463-483, pp.470-72.

[3] Baun, Michael J. (2000) *A Wider Europe: the Process and Politics of European Union Enlargement*, Lanham, p.93; Wood, Pia Christina (1999), "Europe and Turkey: A Relationship under Fire", in: *Mediterranean Quarterly* 10: 1, 95-115, p.110f.

[4] Baun, ibid., p.130; Kramer, Heinz (2000) *A Changing Turkey: the Challenge to Europe and the United States*, Washington, p.200; Park, William (2000) "Turkey's European Union Candidacy: From Luxembourg to Helsinki - to Ankara?", in: *Mediterranean Politics* 5: 3, 31-53, p.36

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[30] *Parliamentary minutes*, 15/13, p. 922 (Fischer).

[31] The most telling example for this is the German expression 'etwas türken' (to turk something), a synonym for 'manipulating.'

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ISLAM IN EUROPE AND TURKEY'S INTEGRATION TO THE EU

Sara SILVESTRI *

Abstract

A secular state, with a party in government that is said to have moderate Islamist roots, Turkey is a significant EU candidate country at the crossroads between Europe and the Middle Eastern Muslim world. Turkey has always been a keen observer and participant in the ongoing debate on European identity and values. Such debate has often questioned the position of Islam and the future of relations with peoples of this religion in 21st century Europe. Hence, the way Islam is represented and dealt with institutionally within the European Union (EU) is of particular relevance at a time when a date has been set for Turkey to start negotiations for entry into the EU. Starting by introducing the two central themes of my research – the treatment of Islam within the EU and Muslim mobilisation within EU institutions and member states – this paper then moves on to analyse whether there is a specifically 'European approach' to Islam and, if so, how it is articulated.

INTRODUCTION

The way Islam is represented and dealt with institutionally within the European Union (EU) is of particular relevance at a time when Europe is reflecting upon its own identity and cultural roots and when a date has been set for Turkey to start negotiations for membership of the EU (3 October

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2005). Within the space of this paper I cannot deal with EU-Turkey relations in general or with any state's relations with religious groups in Turkey. Rather, I will illustrate EU relations with Islam and with Muslims within the current borders of the Union.. On the one hand, the treatment of Islam within the EU is studied (by looking at laws and policies towards religious and ethnic minorities and at freedom of religion) and, on the other hand, I analyse Muslim mobilisation within and interaction with EU institutions and member states.

Since the majority of the Turkish population is Muslim[1] and since at the moment of writing the country is governed by a political party with Islamist origins, the Justice and Development Party (AKP), this topic should be relevant to the future of relations between Turkey and the EU. Whilst trying to meet the requirements set by the EU so as to encourage an early start of EU entry negotiations, Turkey has always been very attentive to the ongoing debate on European identity and European values. Scholars agree that although Islam is not 'formally' relevant under the Turkish Republic, 'many citizens continue to think of themselves as Muslim first, and Turks afterwards: for most people, Turk is equated with Muslim'.[2] Hence, if the country is to become part of the EU, Turkish people are most likely to be interested in knowing whether there is an official 'European approach' to Islam and, if so, what this is and how it is articulated.

Before approaching these issues, is it is necessary to look at the broader picture of global and EU politics, to understand the gradually growing importance of religion – especially Islam – to politics at the turn of the 21st century. We will thus be able to observe and understand the meaning of specific initiatives and policy developments concerning Islam within the EU.

After decades of militant secularism, a new trend seems to have been affecting relations between religion and politics since the 1990s. Social scientists have noticed a renewed attention for religious issues in world politics and also the determination of religious leaders to become involved into politics, by translating their spiritual principles into effective action for justice in the social sphere.[3] Alongside this 'deprivatisation' of religion, another process of 'individualization' has started, namely, that of 'believing without belonging'.[4]

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LEGAL ASPECTS AND THE CONSTITUTION OF EUROPE

Changes in European Community (EC) law and practices throughout the 1990s show a growing attention for the issue of religious freedom, deriving from an increasing commitment of the EC/EU towards respect of Human Rights and Fundamental Freedoms. Article 6 paragraph 2 of the Treaty on the European Union (1992) states that the Union 'shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms singed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member Sates, as general principles of Community law'.

A few years later, the Treaty of Amsterdam strengthened this proposition by adding that the Union is 'founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the fundamental freedoms, principles that are common to the Member States'.

In December 2000, the European Council in Nice adopted the European Charter of Fundamental Rights which has now been incorporated, as Part Two, into the Treaty establishing a constitution for Europe.[5] The Preamble of that Charter shows the EU's sensitivity towards the cultural and religious identity of its citizens and inhabitants. In fact paragraph two states:

> Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice.[6]

The Preamble of the Treaty establishing a Constitution for Europe,[7] which insists on the importance of 'unity in diversity' for the present identity and future progress of the EU, also includes a reference to the religious aspects of Europe as it declares that the EU draws

> inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law.

The genesis of the two Preambles was intricate. Paradoxically, the proposal to introduce a reference to the religious and spiritual roots of Europe in two texts that had pre-eminently a political and juridical meaning met with fierce opposition from secularist circles. At the same time several political groups and civil society associations mobilised to reassert the religious – and more specifically Christian – heritage of the old Continent. It is interesting to note the flourishing of faith-based lobbying groups around the issue of the reference to God and to religion in the Constitution emanating from the works of the European Convention between 2002 and 2003.[5] It is also worth observing that, despite the general atmosphere of suspicion in Europe in those years, (about the 'threat' an Islamic presence would pose to European society, culture and values), de facto no European Muslim group – except for a small French association of Muslim Youth – participated openly in the consultations of the Convention on the future of Europe. In theory the platform was there for a free and open debate between the citizens of the EU (be they Christian, Atheist, Muslim, Jew or else) but remarkably, it was not used.

The issue of the Preambles aside, I will now analyse the EU Constitution in order to show that several passages include explicit reference to religion, not because Europe is recognising the prominence of one particular religion, but to foster tolerance and the respect of Human Rights and Fundamental Freedoms.

Article I-2 (on the Union's values), for instance, refers to these principles together with the rights of minority groups:

> The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

Article I-9 covers in more detail the theme of Fundamental Rights:

> 1. The Union shall recognise the rights, freedoms and principles set out in the Charter of Fundamental Rights which constitutes Part II.

> 2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Constitution.
> 3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

Article II-70.1 of the Charter of Fundamental Rights, specifically guarantees the freedom of thought, conscience and religion in the EU (Italics are mine):

> Everyone has the right to freedom of thought, conscience and *religion*. This right includes freedom to change *religion* or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.

Other parts of the Charter also refer to the protection of religious freedom: Article II-72, on the right to education, II-81, on the principle of non-discrimination, and II-82, on cultural, religious and linguistic diversity. These are the relevant paragraphs (the emphasis is added):

> Article II-74.3
> The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their *religious*, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right.

> Article II-81.1
> Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, *religion* or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.[9]

> Article II-82
> The Union shall respect cultural, *religious* and linguistic diversity.

AN EU POLICY TOWARDS ISLAM OR SIMPLY CHANNELS OF DIALOGUE?

Despite this recurring attention to the protection of religious freedom and of specific identities, the EU currently treaties do not contemplate the creation of a European policy towards religions. According to Declaration Nr 11 of the Amsterdam Treaty (1997), recently incorporated into Article I-52 of the EU Constitutional Treaty, all relations with churches and other belief groups fall under the competence of the sovereign member states: 'The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States'[10]. Yet, if we read attentively the various paragraphs of article I-52 of the EU Constitution (on the Status of Churches and non-Confessional Organisations), we find that it includes an opening for informal, but still institutional, relations between the EU and faith groups[11]. In fact, paragraph three states that: 'Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations'. This statement, which was not part of Declaration 11 but inserted at the instigation of the European Commission White Paper on Governance, July 2001. With the view of facilitating the participation of civil society organizations to EU policy making, this paper furthermore proposed that the EU undertake 'consultations' with religious and belief groups as well.[12]

It can be deduced from such statements that the EU has not been as indifferent to religious issues as we might otherwise have assumed. There is enough evidence to suggest that it has been conceiving ways (in particular shared 'practices', but not clearly defined policies) to establish semi-official relations with religious groups that exist within its borders. In fact, if we look at the past ten years of EU history, we may note that religious factors have increasingly been taken into consideration by EU institutions and policies (cf. paragraphs below). Certain units and personalities within the European Commission, in particular, appear to have been the motor of such a process.

During the 1990s and in the early years of the 21st century, individuals such as European Commission presidents Jacques Delors, Jacques Santer and Romano Prodi gave an impetus to the reflection on the spiritual

dimension of Europe, by promoting conferences and advisory groups on dialogue with and between religions and beliefs. Informal consultations between EU officials and various churches, religions and schools of thought have been taking place around the European Commission since the 1980s. These meetings were first held at the initiative of then European Commission President Jacques Delors. During his mandate, he also set up a 'Forward Studies Unit' (FSU) followed, in 1994, by the 'A Soul for Europe' programme, to reflect upon the spiritual, moral and cultural roots of the EU. Whereas the 'Soul for Europe' project developed into an independent association, which is still active in Brussels as a sort of 'spiritual pressure group', the Forward Studies Unit was transformed into a standing EU body - after functioning initially as a team under the direction of the President's cabinet. Its objective was to investigate future areas of policy and of interest for the Union. The preoccupation with the integration of Muslims in Europe seemed to be a central one for the FSU. Thus, in the late 1990s it commissioned a substantial report on various aspects of the life, attitudes and practices of Muslims living in Europe, from a team of expert sociologists and political scientists.[13]

Successive Presidents supported the initiatives started by the FSU and the Soul for Europe association. Romano Prodi (in office 1999-2004) in particular encouraged the role of the FSU, by detaching it from the President's Cabinet and transforming it into a proper autonomous 'service' of the Commission, the Group of Policy Advisers (GOPA). Thus, within the GOPA, a unit for 'Dialogue with Religions, Churches and Humanisms' was created. Since its inception, the GOPA has strongly promoted intercultural and interfaith encounters. In November 2001, for example, in a joint venture with the Soul for Europe association, it convened a conference about 'Legal aspects of the relation between the European Union of the future and the communities of faith and conviction,' with the view of understanding the sort and extent of the contribution these communities could make.[14]

Between the end of 2002 and the beginning of 2003, President Prodi and the GOPA promoted three High Level Advisory Groups to reflect on the values and cultural and religious heritage of Europe.[15] The role of the High Level Advisory Groups is to 'identify and rethink the fundamental principles that form a basis for societal life in a society which is shared by all the inhabitants of the EU and with due attention to our neighbours'[16]. The two groups that are more relevant to our discourse on the dialogue

between the EU and its religious, intellectual and cultural components are: the Reflection Group on the Spiritual and Cultural Dimension of Europe, and the 'Gruppo dei Saggi' (group of wise men), specialising in Intercultural Dialogue in the Mediterranean Area.[17] Since the societies and cultures of the southern shore of the Mediterranean tend to be Muslim,[18] it is obvious that such an advisory group is destined to discuss the future of relations between Europe and Islam.

All these initiatives of the European Commission became more and more pressing as the Eastern enlargement of the EU approached. EU officials, politicians and ordinary people were becoming aware that this relatively new geo-political entity which the EU is would comprise a growing multiplicity of states, cultures and spiritual and intellectual traditions. Differences needed not only to be understood and respected but also placed in harmonious relations with each other. Almost certainly, global events such as the terrorist attacks of 9/11 and the second Palestinian *Intifadah* (uprising), combined with the EU decision to respond to violence in a way different from the USA, urged the EU to engage in dialogue with religions, especially with Muslims.

On a more critical note we could say that all these initiatives to promote 'civilisational' dialogue (including those that are mentioned in the paragraph below on the Euro-Mediterranean partnership) so far did not produce any real 'added value' to the EU. They did not offer any particular new 'vision' on how to improve relations with and within religious and ethnic communities, nor did they provide illuminating solutions to domestic or international problems affecting the EU. Still, these efforts do retain a certain importance and appeal. They certainly work as a powerful statement of purpose of the EU in the face of the world and they send a message concerning Europe's determination and its new attitude, centred on dialogue, to achieve democracy and social justice.

As Ziya Önis and E. Fuat Keyman (2003: 106) have put it, '[w]hile the nations of Europe endorse the expansion of religious freedom, they also dislike anything that smacks of "religious fundamentalism"' and are suspicious of Islamist factions. The combination of these two concerns might well have been the reason for the EU to seek to define its relations with religious groups and with Islam in particular.

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In addition to what is asserted about consultations with religious communities in the Charter of Fundamental Rights and in Article I-52 of the EU Constitution, we find that the EU has been repeatedly seeking – though indirectly and informally – to deal with Islam and with Muslim people using different approaches according to different priorities. For instance, we can identify at least three EU policy areas that are related, in various degrees and forms, to the issue of Islam. These areas are:

1- *Justice and Home Affairs* – This area includes a range of activities, from immigration control to the development of security and anti-terrorism measures. Since the majority of the Muslim inhabitants of the EU tend to be – or descend from – immigrants, controlling or restricting immigration into the EU could be seen as an attempt to create a cultural barrier between what is seen 'European' and what is perceived as 'other'. Increasing immigration controls and security measures could also be interpreted as a way to check on Muslims, that is, to identify and separate the so-called 'moderates' from the 'extremists'. In fact, especially after 9/11, the fear of violent actions by terrorist groups claiming to be inspired by Islam (Al-Quaeda and Salafist-inspired[19] events) has induced the European governments to pay special attention to the typology of Islamic groups that are present on its territory or in neighbouring zones. They have been seeking to differentiate dangerous Islamist cells from ordinary, blameless, people simply practising the religion of Islam. This task, however, has not been a simple one. It has met the opposition of many Muslim and citizens associations, who have denounced discriminatory practices and the violation of civil rights and fundamental freedoms allegedly carried out by state authorities across Europe.

1. *Non-Discrimination principle* – Although Article 13 of the Treaty establishing the European Community states the principle of non discrimination, it was only recently that the European Union addressed the specific problem of religious discrimination by making, in 2000, a directive against discrimination on religious grounds in a work place.[20] This directive is meant to protect religious minorities, including Muslims, in the EU. The theme of Islam visibly emerged in 2001 when, soon after 9/11, the Commission commissioned a report on Islamophobia to the

European Monitoring Centre against Racism and Xenophobia and later convened a series of three workshops (between 2002 and 2003) on the same subject.

2. *Euro-Mediterranean relations and the 'neighbourhood policy'* – As from 1995 priority was given to improving relations between the EU and specific non-member states of the Mediterranean (from North Africa to the Middle East, including Turkey). The so-called Barcelona process (after the name of the Spanish city where the ministerial meeting was held), or Euro-Mediterranean Partnership, was initiated to create an area of peace and stability across the two shores of the Mediterranean. This project was meant to enhance cooperation between the EU and those Mediterranean countries by following three lines of action: a) through economic exchanges, b) with political contacts and cooperation in security matters (for instance including the control of migration), c) and through intercultural dialogue and efforts to improve social cohesion in Europe and the Mediterranean area.[21] Once again, given the cultural (mainly Muslim) background of the North African and Middle Eastern countries, the planned 'intercultural' dialogue pillar of this strategy clearly suggests that it is about improving contacts between Europe and the Muslim context in a broad sense (including as it does not only religious aspects but also cultural and social traditions).

The examples mentioned so far may show how the EU has been pursuing certain practices that take into account the religious factor in a consistent way. More importantly, it appears that the EU has sought to define strategies to tackle the 'problem' of Islam. Furthermore, the EU seems to have increasingly created opportunities for encounters between EU policy-makers and religious leaders to explore the potential of intercultural and interfaith dialogue. Several of these meetings have taken place behind closed doors. In the following paragraphs I will illustrate some of these initiatives.

In the Autumn of 2001, whilst the USA was launching its 'War on Terror', the EU relentlessly stuck to its position of conciliator. Faced with the fear of falling into the trap of the announced 'clash of civilisations'[22], the Union, and especially the European Commission, adopted a discourse

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focused on the notion of 'dialogue'. Increasingly, this term appeared in the speeches of the European Commissioners – especially of President Romano Prodi, Commissioner Anna Diamantopoulou (responsible for social affairs), and Commissioner Viviane Reding (in charge of culture).. Transversal conferences involving Ministers of the Interior, as well as religious leaders, intellectuals, and Ministers for Social Affairs were and continue to be organised by various institutions and offices of the EU around the theme of 'intercultural and interfaith dialogue'. In December 2001, the European Commission supported and hosted a conference, entitled 'The Peace of God in the World', which had been promoted by the Ecumenical Patriarch of Constantinople, Bartholomew. The conference was attended by EU officials and (admittedly somewhat unequally) by a large number of European representatives of world religions who then produced a declaration of mutual respect and faith in God. The Commission also organised a more academically-oriented conference, in March 2002, where world experts and academics discussed the modalities of intercultural dialogue.

Between 2001 and 2002, a few initiatives were undertaken by the European Commission to address specifically the issue of Islam and to reach out directly to the Muslims of Europe and the broader world. Romano Prodi visited Brussels' central mosque in October 2001 to restate, in a symbolic way, his solidarity with and respect for the Muslim communities of Europe. Commissioner Anna Diamantopoulou held two important meetings, in the Autumn 2001. One was with European representatives of Muslim and Jewish women's associations, to explore and stimulate their contribution to peace and social cohesion between religious and ethnic groups within the EU. The other meeting was with Afghan women to discuss their role in the reconstruction of the country after the defeat of the Taliban regime. The European Commission (or, more precisely, the Presidency together with the directorates and cabinets in charge of external relations and culture) also became involved in the organisation of a conference on intercultural dialogue, in Lebanon, in September 2002, with the participation of representatives of the Arab Mediterranean countries.

It is worth highlighting that two of the conferences on interfaith and intercultural dialogue in which the EU became involved in Winter 2001-2002 had to do specifically with Turkey. The conference mentioned above on 'The Peace of God in the World' was coordinated in Brussels by the Ecumenical Patriarchate of Constantinople. It is easy to understand the

political significance of such a move. The other event which had to do with Turkey and interfaith dialogue was the EU-Islam Forum organised jointly by the Organization of the Islamic Conference and the Turkish government, in Istanbul, in February 2002, to assert their political engagement to promote harmony amongst cultures. Several EU officials and politicians participated in this, and the political importance of this conference for Turkey becomes evident as we consider the delicate position of the country in that particular moment in time. As a Muslim country candidating for EU admission, in the aftermath of 9/11, in the midst of an economic crisis, Turkey felt under some pressure to prove its distance from extreme versions of Islam and to reaffirm its commitment to the EU.

In October 2002, the GOPA unit for relations with churches, faiths and convictions coordinated a workshop to study the role of religions in the consolidation of a socially cohesive Europe. Each religion was represented with one or two persons per EU country attending. Apparently, these prominent intellectuals and religious people had been invited in a personal capacity. Although some of them were indeed members of national bodies – as in the case of the German Muslims – they did not represent national unions or associations of religious groups.

The same theme – social cohesion through interfaith dialogue – was resumed and further explored by the Italian Minister of the Interior Giuseppe Pisano during the Italian Presidency of the EU the subsequent year. In conjunction with the Italian Presidency, Mr. Pisano convened in Rome the conference 'Interfaith dialogue: factor of social cohesion in Europe and peace instrument in the Mediterranean area', on 30 and 31 October 2003. On that occasion, for the first time, 15 responsible ministers of the EU met to talk about religion as a way to guarantee a stable and secure society, not only in Europe but extended to the neighbouring Mediterranean area. The meeting was essentially advertised and perceived by the general public as an interfaith event where Islam was a prominent subject.

The title of the conference is a reference to the crucial, inherently problematic link between Islam in Europe and Islam in the Mediterranean countries outside the EU. Most of the Muslims currently residing in Europe were born in such countries. Even those that are now full European citizens tend to suffer from "split" or multiple identities, because they live in a

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modern Western world trying to remain faithful to a religion and to traditions that they inherited from their parents or grandparents who immigrated to Europe from North Africa, the Middle East or Asia. Beside this generational and identity problem experienced by Muslims living in Europe, there is also the issue of prejudice and fear about Islam. This was the second obstacle the Italian presidency conference intended to trace down.

There also seems to be another, less apparent, objective behind the Italian initiative of October 2003. Without "defending" Islam, Mr Pisano and the other European ministers participating in the meeting were intent on presenting to the wider public only a specific – say, 'domesticated' – type of Islam, as exemplified in the person and the words of Dalil Boubaker, rector of the Paris central mosque and chair of the *Conseil Français du Culte Musulman* (French Muslim Council).[23] Let me expand on this point.

Ever since Winter 2002/2003, the Italian Interior Minister had been vigorously expressing his intention to create an Italian council of 'moderate Muslims' that would convey the position of Italian Muslims to the government. This project is in line with the experiences of the *Conseil Français du Culte Musulman* (French Council of the Muslim Religion and Worship) and of the Belgian *Executif des Musulmans* (Muslims' executive body)[24]. Both experiences have met with substantial criticism. On the one hand, the state is accused of attempting to create a 'civil religion'. On the other hand, the criticism concerns the possible interference of the governments of the countries of origin of the Muslims involved. In addition, there is scepticism amongst some European Muslims about the role of Interior Ministries of EU countries whilst setting up national Muslim consultative bodies. The presence of the Home Affairs ministry – normally in charge of maintaining order and security – is questioned as it is seen as an attempt at putting Muslims and Muslim activities under surveillance - as if these people were criminals. However, there are also Muslims who welcome the creation of Muslim councils to represent their interests to European governments and who gratefully accept the assistance of government officials in coping with bureaucracy. They consider these initiatives as precious opportunities to bring across the Muslim point of view in politics and society at large.[25]

Various reasons have moved European governments to undertake specific initiatives towards their Muslims. The success of Muslim councils depends to a great extent on psychological and emotional elements as well as on the management of power. We can also observe the existence of contrasting views amongst Muslim groups as far as the creation of Muslim Councils is concerned. Some welcome the initiative on the grounds that this is the way to have a voice in politics and in society at large. Sceptical Muslims, instead, question the various attempts to 'domesticate' and to 'institutionalise' Islam in Europe. They are critical of the 'self-appointed' Muslim leadership and they are also suspicious of the official and predominant influence that Interior Ministers of certain EU member states are having on the whole process of setting up national Muslim consultative bodies meant to interact with European governments.[26]

Having depicted the European panorama and the rising incidence of religious factors in EU politics, we believe that in the future of Turkey-EU relations, the attitudes of the Turkish state towards institutional and non institutional forms of Islam will more and more become of relevance. The way Turkey deals with Islam and with its own Muslim citizens within and outside the country has many implications that are important for Europe. It clearly affects the life of the Turkish population at home (where a French-styled law separates state and religious affairs) and abroad (paradoxically, despite the secular ideals which animate Turkey, the state attempts to control and to direct the religious practice of Turkish emigrants by 'exporting' a specific model of 'domesticated' Islam through the *Dyanet*, the Ministry for Religious Affairs).

A secular state, with a moderate Islamist party in government, Turkey is a significant EU candidate country at the crossroads between Europe and the Middle Eastern Muslim world (Iran, Iraq and Syria count amongst Turkey's powerful Muslim neighbours). Its potential role as 'mediator' between Europe and the Muslim world is often invoked to support its position as candidate country and to defuse fears that it might be opening the door to the re-Islamisation of Europe. However, in the light of the reflections that have been articulated so far, it might be useful to gain a deeper understanding of what Turkish relations with Islam 'within' the country are 'now' and of how they are likely to evolve in the short term, as this may currently be more directly determining than the influence that

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Turkey 'might have' in the future on EU foreign relations with other Muslim countries.

CONCLUSION

Although no generalisations or hypotheses can be made about the future development of EU relations with the churches, faith communities and philosophic convictions, three crucial issues can be highlighted. First, the fact that the EU has broken its silence about the place of the religious; secondly, the fact that religions, and Islam in particular, have gained some space in the European – and also world-wide – political context; third, that the EU has been developing, some informal policy, or should one say a structured pragmatic approach, towards Islam. However subtle these changes are, one has to acknowledge their enormous symbolic implication for the future identity of the EU and for EU relations with the Muslim world.

Endnotes

[1] 98 per cent of Turks are Muslim, according to Jeff Haynes, *Religion and Global Politics* (London and New York: Longman, 1998), p. 142.

[2] Richard Tapper summarising İlter Turan's points. Cf. Richard Tapper, *Islam in Modern Turkey. Religion, Politics and Literature in a Secular State* (London and New York: I.B. Tauris, 1994), p.12.

[3] Cf. Haynes, *Religion and Global Politics*.

[4] Cf. Haynes, *Religion and Global Politics* and Grace Davie, *Religion in Modern Europe* (Oxford: Oxford University Press, 2000).

[5] The Treaty establishing a Constitution for Europe (hereafter abbreviated as either 'EU Constitutional Treaty' or 'EU Constitution') was solemnly signed in Rome on 29 October 2004 on behalf of all the member states. It was produced in order to amend and consolidate the body of treaties upon which the Union is founded. The Constitution will only enter into force once it has been ratified by all the Member States in accordance with their respective constitutional provisions (parliamentary approval and/or referendum).

[6] 'The Charter of Fundamental Rights of the Union', in 'Treaty establishing a constitution for Europe'. Part II. *Official Journal of the European Union*, C 310, Vol.24, 16 December 2004.

[7] Cf. above endnote no.5.

[8] For a summary of the debate see: European Commission, Secretariat General, 'Note à l'attention des membres de la Commission. Objet: La Dimension Religieuse et Spirituelle dans le Futur Traité Constitutionnel', SEC(2003) 257, Brussels, 25 February 2003.

[9] Until the coming into force of the EU Constitution, the principle of non discrimination is embodied only in Article 13 of the Treaty establishing the European Community.

[10] 'Treaty establishing a Constitution for Europe', *Official Journal of the European Union*, C 310, Vol.24, 16 December 2004.

[11] Although the general title of Article I-52 only mentions 'churches' and 'non-confessional organisations', in the first paragraph it is clarified that the article refers to 'religious associations or communities' as well.

[12] European Commission, *European Governance. A White Paper*, COM (2001) 428 final, 25 July 2001.

[13] The report, which was several hundreds pages long, has been published over a span of 3 years, in two separate volumes: *Convergences musulmanes*, edited by Felice Dassetto, Brigitte Maréchal and Jørgen Nielsen (Louvain la Neuve: Academia Bruylant-L'Harmattan, 2001) and *Muslim networks and transnational communities in and across Europe* edited by Stefano Allievi and Jørgen Nielsen (Leiden, Boston : Brill, 2003).

[14] European Commission, Group of Policy Advisers, 'Legal aspects of the relation between the European Union of the future and the communities of faith and conviction. The role of the communities and co-operation for a common European future'. Symposium Report (edited by Wim Burton and Michael Weninger), *GOPA Working Paper*, 2002.

[15] Further information on the work done by these groups can be found in the final report. See 'Report by the High Level Advisory Group Established at the Initiative

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of the President of the European Commission', *Euromed Report*, no. 68, 2 December 2003.

[16] Romano Prodi, *Speaking Notes*, First meeting of the Group on the spiritual and cultural dimensions of the enlarged European Union, Brussels, 29 January 2003.

[17] All the relevant information was found at the following webpage: <http://www.europa.eu.int/comm/commissioners/prodi/group/michalski_en.htm> (28 August 2003).

[18] With the expression 'Muslim countries' the author does not wish to imply any predetermined relationship between Islam and politics, but rather to define the countries where Islam is the majority religion and/or has strongly influenced the local culture and history.

[19] Salafism is a sort of 'puritanical' interpretation of Islam which has been ideologically inspiring political action in the Muslim (originally the Arab) world since the 1920s and 1930s. Salafist groups are driven by the desire to revive the authentic and true principles of Islam by renewing and purging society from injustice, corruption and infidels' beliefs. Although Salafist thought did not originally consider violence as an appropriate method to achieve its aim – the re-Islamisation of society – recent developments and contacts with terrorist groups claiming to be inspired by Islam (the so-called *Jihadis*) have brought Salafism to justify of the use of violence too. The combination of the two ideologies has proved a deadly cocktail. Cf. Gilles Kepel, *The Trail of Political Islam*, London and New York: I.B. Tauris, 2002.

[20] Council Directive prohibiting discrimination in employment on grounds of religion and belief, disability age and sexual orientation [2000/78/EC], 27 November 2000. Also see F. Margiotta-Broglio, 'La questione religiosa nella "Costituzione" dell'Unione Europea', in *Diritti, nuove tecnologie, trasformazioni sociali. Scritti in memoria di Paolo Barile* (Padova: Casa Editrice Dott.Antonio Milani, 2003).

[21] See: Euro-Mediterranean Conference, *Barcelona Declaration*, Barcelona, 27-28 November 1995. At the start of the new century it became evident that the Euro-Mediterranean Partnership needed further impetus. Attention to the Mediterranean areas was thus slightly redefined and included in the *New Framework for Relations with our Eastern and Southern Neighbours*. Cf. European Commission, *Communication from the Commission to the Council and the European Parliament.*

Wider Europe — Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours [COM(2003) 104 final], 11 March 2003.

[22] Samuel Huntington, *The Clash of Civilizations and the Remaking of World Order* (London: Simon & Schuster, 1997).

[23] The French *Conseil du Culte Musulman* finally came to life in May 2003, after over a decade of consultations with and within the various French governments.

[24] A *Comité des sages musulmans* existed in Belgium already in 1990. It became executive around 1994. None of the bodies seems to have been functioning particularly well because of interference from the governments of the countries of origin of the Muslim representatives.

[25] Opinions expressed by various representatives of the Conseil du Culte Musulman during an open debate at the *conference Le Nouveau Conseil Français du Culte Musulman: Quel rôle pour l'état et pour la société civile?*, Institut d'Etudes Politiques, Paris, 24 November 2003.

[26] For more information on the importance and formation of Muslim councils across Europe see: Sara Silvestri, 'The situation of Muslim immigrants in Europe in the XXI century: the creation of national Muslim councils', in Holger Henke (ed), *Crossing Over: Comparing Recent Migration in Europe and the United States* (Lanham, MD: Lexington, forthcoming 2005).

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TURKEY AND POLAND – TWO DIFFERENT COUNTRIES IN THE PROCESS OF EUROPEAN INTEGRATION?

Adam SZYMAŃSKI*

Abstract

The Turkish Republic and the Republic of Poland are different countries. Turks and Poles have different cultures, languages or religions. The historical relations of these countries with the West after the Second World War as well as the process of their integration with the European Community/Union seem to confirm this thesis. However, when you look at these two countries in the context of European integration more carefully, you can see that Turkey and Poland do share a lot of problems. This paper is an analysis of the political dilemmas that are emphasised by the European Union as well as by political scientists. Moreover, it comments on the economic and cultural problems of both countries as well as on the challenge connected with their perceived "bridging role". Needless to say, any of these dilemmas are characteristic for other former or remaining European Union candidate countries as well.

INTRODUCTION

Each candidate for membership in the European Union has a lot of work to accomplish before it reaches the cherished goal, i.e. accession. Each country may have its own specific problems with regard to fulfilling the Copenhagen criteria, but there are a lot of common challenges as well. It must be admitted that the Turkish Republic and the Republic of Poland are different countries. Turks and Poles have different cultures, languages or

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religions. The historical relations of these countries with the West after the Second World War as well as the process of their integration with the European Community/Union seem to confirm this thesis, however obvious at first sight.

Turkey became a member of the Western security system, joining NATO already in February 1952. It has been a member of the Council of Europe since even earlier, namely since August 1949. The Turkish Republic signed an Association Agreement with the EEC in September 1963 (Additional Protocol – 23 September 1970). In April 1987 it submitted an application for full membership in the EC. The Customs Union, in force since the beginning of 1996, can be seen as the next step on the way to the EU. At Helsinki in December 1999, Turkey became an official candidate to join the EU, but it has not started accession negotiations until now. In December 2004 in Copenhagen the European Council decided that Turkey fulfilled the Copenhagen criteria and the EU Commission should start negotiations with this country as soon as possible.

Poland was under the Soviet sphere of influence for a number of years. The Association Agreement with the EC was signed much later than the case of Turkey, i.e. in December 1991 (it entered into force only in February 1994). The application for EU entry was submitted in April 1994 and in December 1997 at Luxemburg, Poland became an official candidate to join the EU. It started its accession negotiations in March 1998. These were successfully completed (although not according to all Polish political parties) in December 2002. Poland joined the European Union on 1 May 2004.

If one looks at these two countries' paths in the context of the European integration more carefully, one will find that Turkey and Poland do share a lot of problems and challenges. In this chapter I am addressing some of these similarities, starting with the political dilemmas. Then I will present the main economic and cultural problems these countries have in common. The last part will concern the „bridge role" of both states.

POLITICAL PROBLEMS WITH DEMOCRATIZATION

Turkey experienced a number of democracy and human rights related problems. The most important were: the excessive role of the army in the

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Turkish political system, the lack of rights and liberties for ethnic and religious minorities, the problem of torture and force used by security officers, the situation in prisons or violation of freedom of speech. Unlike Poland and some other Central and East European countries, Turkey was vehemently criticized by the EU on several accounts related to the aforementioned issues. But there are some problems which are common to Turkey and Poland – as well as other former and current EU candidate countries as well.

The European Commission in its "Regular Reports on Progress towards Accession"[1] emphasises three important issues related to administration, the judiciary and the problem of corruption. As far as *administration* is concerned, both Poland and Turkey find it difficult to adjust their laws and procedures to the European standards. It is well recognised that it is important to build a modern civil service, whose members will have the required knowledge as well as practical skills. The problem of Polish and Turkish administrations consists in their bureaucratic structures. These have existed for many years. They are ineffective and resistant to change. The almost dogmatic and aloof stance of Turkish bureaucracy was the subject of a book by Metin Heper almost 20 years ago[2]. In Poland it is very difficult to change the mentality of an administration built in the time of socialism. Polish officials are not used to the working methods applied by their Brussels counterparts. Although there have been many changes, even today clerks often treat customers as intruders.

When it comes to *the judiciary*, it is sometimes pointed to e the inefficiency of both Turkish and Polish courts – cases can drag on on for ages irrespective of their importance or otherwise. Even in Poland there are still problems relating to the lack of competence and/or independence of judges. It is necessary to build a cadre judges I trained in all sorts of aspects of Community law. Moreover, judges need to be independent of political or ideological influence. In case of the two analysed countries this is sometimes not true. In Turkey old cadres can still be dogmatic and rigid towards change and rights and freedoms necessary for a strong civil society. That problem of course concerned especially State Security Courts, which have now been abolished. But the influence of the military is another problem. In Poland judges can be under the political pressure as well as under undue the pressure from the media which are qualified by political

scientists a s "the fourth power". (An example is the famous case of FOZ conducted by judge Barbara Piwnik.).

Corruption is a world-wide problem. In Turkey and Poland it results in the lack of confidence in politicians. As a result many political parties have lost elections – in Turkey, e.g., the Motherland Party and the True Path Party in the 90's, in Poland the Democratic Left Alliance during European Elections in 2004, mainly due to the so called "Rywin Gate". The results of the survey conducted by Transparency International in 2003 show that in both countries corruption is a very serious problem – in the world corruption ranking Poland in 64th place with a mark of 3.6 (equalling that of Mexico), Turkey got 3.1 and is in the 77th place. The degree of corruption was measured on a 0-10 scale with 0 meaning a highly corrupted and 10 a highly "clean" country[3].

Moreover, there are two other problems connected with the functioning of some aspects of the Turkish and Polish political systems, namely the activities of political parties and interest groups. They are not explicitly mentioned in the Commission's Reports, but their mentioning is befitting in the context of the main problems in the process of democratization. Heinz Kramer says in his article in "Südosteuropa Mitteilungen"[4] that a *party system* is a weak point in the Turkish democratic order. The situation in Poland decidedly does not look any better. Party systems are unstable, fragmented and polarised. Frequently new parties appear on the political scene, which consist of members who previously belonged to other parties which no longer exist or have lost their popularity altogether. In the case of Poland this originally happened mostly to right-oriented parties, but now the left side is also fragmenting. Polarisation leads to the appearance and great popularity of parties with strong religious or nationalist orientation as well as populist parties. In Turkey the ruling party is Justice and Development Party (*Adalet ve Kalkınma Partisi*) with Islamic roots. In the last national election in November 2002 Nationalist Action Party (*Milliyetçi Hareket Partisi*) received 8.35% of votes and populist Youth Party (*Genç Partisi*) got 7.25% of votes[5]. In Poland populist Self-defence (*Samoobrona*) is very popular and so is right-oriented League of Polish Families (*Liga Polskich Rodzin*). In the European election in June 2004 the former got 10.8% of votes, the latter 15.9% (fourth and second place)[6]. In both countries many political organisations are leader parties (which has an influence on their democratic character) – in Turkey e.g. AKP with Recep

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Tayyip Erdoğan, in Poland e.g. Self-defence with Andrzej Lepper or Law and Justice (*Prawo i Sprawiedliwość*) with Jarosław Kaczyński.

As far as *the anti- EU* lobby is concerned in both countries there are radical Eurosceptical parties. In Poland it is first of all the League of Polish Families, in Turkey the Nationalist Action Party. Politicians of these parties use the same emotional, (not rational) language to manipulate electorates. They focus on the loss of national sovereignty (a difficult issue both in Poland and Turkey, because of historic events, a role of nation state and strong national feelings), repartition of the land (in Turkey as a result of recognition of minorities, in Poland because of the sale of the Polish land to Germans). The lobby against the EU can be dangerous to the stability of the democratic order. The parties mentioned above spoil the functioning of democratic mechanism, sometimes even interfering with the rational public discussion as well as the work of parliament (the latter can be seen especially clearly in Poland).

ECONOMIC PROBLEMS

When it comes to the Turkish and Polish economy there are two sets of problems. The first one is connected with the huge territory and population of both countries. The second group concerns difficulties of economic system of Turkey and Poland.

The total area of Turkey is 769.604 km ², the Polish territory is almost half that size, 312,685 km ². Both countries have large populations – Turkey more than 69.5 m, Poland – more than 38.5 m. This has an impact on the process of integration of these countries with the EU. There are two problems which appeared in this context and which are very often emphasised by a very important economic and political partner of Turkey and Poland, i.e. Germany. The first dilemma is connected with the *free movement of workers*, which belongs to the fundamental freedoms in the Community law. German citizens are afraid of the huge migration of cheap labour from both countries, which can lead to an increase in unemployment inside their country. Because of this the German government proposed a transition period of 7 years in case of new member states, first of all Poland. It is worth mentioning that in both Poland and Turkey the unemployment rate is currently estimated at about 20%. This is a serious problem especially for young people, including university graduates. Admittedly, for

Turkey this it is a bigger problem than for Poland. German politicians who are against the Turkish accession talk about the natural population growth rate in Turkey – more than 1,5%, in Poland this is much lower, i.e. – 0,03%. The history of migration of guestworkers (*Gastarbeiter*) plays an important role in both countries as well[7].

The second problem is connected with the *financial issues*. Once again it is Germany who raises this issue. This country is a main "net payer" (Germans sometimes refer to themselves as "*Superzahlmeister Europas*"). They do not want to pay more when new countries are admitted into the EU and they dislike the possibility of having to transferring of milliards of euros to Turkey before or after accession. A few years ago the same applied to Poland, where the issue was the reform of the Common Agricultural Policy as well as structural funds. In relation to the first of these funds it is important to recall that in Turkey the employment in agriculture is high - about 33%, even more than in Poland with about 20% of the population engaged in agricultural work. I in the EU as a whole it is now about 4%). As far as the structural funds are concerned, the main criterion is *GDP per capita*. Regions with the GDP *per capita* lower than 75% of the EU average qualify for support. This includes all Polish and Turkish regions.

The second group of dilemmas are problems related to the economic system. The European Commission in its Reports points out that both in Poland and in Turkey there is excessive *state interventionism* as a result of the strong influence of ideologies on the Turkish and Polish economies in the past. In Turkey "etatism" was one of the Kemalist principles. In Poland in the time of socialism there existed a centrally planned economy. Still today there are many sectors of economy where the state is still playing an important role. In case of Turkey it is the banking sector, in Poland heavy industry. Moreover, the introduction of neo-liberal models of privatisation (in Turkey earlier than in Poland) had some side effects in the banking sector in both countries.

The second problem is a *disproportionate economic development* of individual regions in Turkey and Poland. In Marmara region, in the West part of Turkey, the income *per capita* is $14,000 a year, but in the East about $800 (in South East even $600). The problem may not be so serious in case of Poland, but it does exist. There is for example a big difference between Mazowsze and Warmia/Mazury, the area where the big state

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collective farms used to be located. The unemployment rate differences in those regions is comparable. In Mazowsze it is from 15.1 to 17.6%, in Warmia/Mazury from 24.7% to 29.4%. The difference is significant[8].

RELIGIOUS PROBLEMS

The third group of problems in the process of integration of Turkey and Poland with the EU is connected with religious issues. There is considerable debate on the question whether Turkey, as the Muslim country can really belong to the EU (which is sometimes referred to as a "Christian club"). Because of the negative views of many European politicians (first of all Christian Democrats[9]) the religious aspect can be seen as an unofficial criterion of the EU membership. Poland as a Catholic country, and in history the Christian *Antemurale*, do not quite have such problems.

The debate about the *invocatio Dei* in the preamble of the Treaty establishing a Constitution for Europe shows that preservation of the secular order in Europe is a very important issue, especially for France. Turkey and Poland therefore do have a problem connected with the prominent role of religion in these countries. Chris Hann in his article in "Daedalus"[10] observes that religion unified both the Turkish as well the Polish nation. In both countries there is a formal division between state and religion. Turkish and Polish politicians do not want to introduce the religious order in the EU but they do suggest that religion could make a positive contribution to the cultural identity of Europe. Polish politicians and the Church often recall the role of Catholic moral values in society. The Turkish government clearly wants Turkey to enrich the European identity with the Islamic component. Many European politicians dislike these ideas.

Moreover, there is a concern, not only among politicians, about the development of religious fundamentalism. Of course, the problem of this phenomenon in its " Islamic version" is nowadays most alarming. I Turkey joins the EU, one may think, the development of the Islamic fundamentalism in the EU area is a distinct possibility, no matter how marginal radical fundamentalists. The bomb attacks in Istanbul and Ankara made headline news. Polish religious fundamentalists could create difficulties on the European level (as illustrated by the debate in the

European Convention), but they are of a somewhat different nature. And they have not endangered the accession of this country.

ROLE OF THE BRIDGE AS CHALLENGE

Apart from political, economic and cultural problems there are also real challenges concerning their role as mediator between the EU and its outer periphery, that is, the EU's new neighbours – both countries are said to fulfill a „bridge role"[11] in relation to its new neighbourhood. In the case of Turkey one thnks of the Middle East, Central Asia and the Balkan countries, when it comes to Poland – East European countries. These two states have a chance to develop economic relations between the EU and the mentioned regions. The latter can offer new areas to invest and have a lot of natural resources. They are certainly interesting trade partners for the EU countries.

Turkey and Poland can also serve as examples of building democratic order in its near abroad. This applied especially to Turkey, because, at least theoretically, this state could support Muslim countries in the process of democratization. Of course, each of these countries is different and it is difficult to generalize. The Turkish case shows, however, that the secularised version of Islam and democracy are compatible[12]. In this context, it is necessary to emphasise the role of the Turkish Republic as a bridge between Western and Islamic culture. Poland's situation is not quite comparable. However, countries like Ukraine or Belarus belong to the sphere of influence of the Orthodox Church which differs a little from the Catholic or Protestant Church In the eastern part of the country there is quite some influence of the Orthodox church.. Given the role of religion in society, Poland can play here the bridge role as well.

Unfortunately, the geopolitical position of Turkey and Poland can backlash. Especially in the Turkish case there is a danger connected with the situation in the neighbouring countries. There is a distinct possibility that the analysed countries will not export the democratic order to the other states, but that they will import destabilization to Europe. Middle East, Central Asia and Balkan countries (with exceptions) as well as Ukraine or Belarus have serious difficulties in building a stable democratic order. In case of the Turkish neighbours there are even much more worrisome ethnic conflicts and there is Islamic fundamentalism.. As far as Poland is

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concerned the concern is more with the import of organised crime from Eastern Europe.

CONCLUSION

The above presented arguments show that in the context of the process of European integration the Turkish Republic and the Republic of Poland are to some extent comparable. There are similar problems and challenges in the political (and geopolitical), economic and cultural areas. It must be emphasized that many of these dilemmas are characteristic of other candidate countries as well. Perhaps the lesson to draw from it is that Poland should support the European policy of Turkey because it can understand its difficulties on the way to the European Union.

Endnotes

[1] Compare: *2003 Regular Report from the Commission on Turkey's Progress towards Accession*, Internet, www.europa.eu.int/comm/enlargement/turkey/docs.htm; *2002 Regular Report from the Commission on Poland's Progress towards Accession*, Internet, www.europa.eu.int/comm/enlargement/poland/docs.htm.

[2] Compare: M. Heper, *The State Tradition in Turkey*, The EothenPress, Beverley 1985.

[3] Compare: *Transparency International Corruption Perception Index 2003*, Internet, www.transparency.org/cpi/2003/cpi2003.en.html.

[4] Compare: H. Kramer, *Demokratieverständnis und Demokratisierunsprozesse in der Türkei*, „Südosteuropa Mitteilungen", 1/2004, pp. 36-40.

[5] Turkish election results in: *Seçim 2002*, „Hurriyet" (on-line), 04.11.2002, www.hurriyetim.com.tr/secim2002.

[6] European election results in: *Die Ergebnisse der sechsten Direktwahl zum Europäischen Parlament*, "Frankfurter Allgemeine Zeitung", 15.06.2004, p. 8.

[7] All data come from *Regular Reports* mentioned in the footnote 1, with one exception – the unofficial unemployment rate in Turkey comes from: F. Şen, *Die*

Türkei zu Beginn der EU-Beitrittspartnerschaft. Politik, Wirtschaft und Gesellschaft im Wandel, "Aus Politik und Zeitgeschichte" (on-line), 13-14(2001), www.das-parlament.de/2001/13_14/beilage/index.html.

[8] Data: F. Şen, *op.cit.*,loc.cit.; Główny Urząd Statystyczny (Main Statistical Office), Internet, www.stat.gov.pl, data from the beginning of 2004.

[9] The opinions of politicians of German CDU/CSU are a clear example. See more e.g.: *Plenarprotokoll, Deutscher Bundestag Stenographischer Bericht, 16.Sitzung, Berlin, den 19.Dezember 2002*, Internet, www.bundestag.de/pp/16/index.html.

[10] Compare: Ch. Hann, *The Nation-State, Religion, and Uncivil Society: Two Perspectives from the Periphery*, "Daedalus", 2(1997), pp. 27-45.

[11] Compare e.g.: *Ataturk's long shadow. A Survey of Turkey*, „The Economist", 10.06.2000, pp. 4-5.

[12] This argument is very often mentioned by supporters of the Turkish accession. Compare: I. Cem, *Turkey and Europe: Looking to the Future from a Historical Perspective*, „Perceptions. Journal of International Affairs" (on-line), Vol.V, 2(2000), www.mfa.gov.tr/grupa/ percept/V2/default.htm.

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THE CONSTITUTION OF EUROPE: ASSESSING EUROPEAN CONSTITUTIONALISM IN THE LIGHT OF TURKISH ACCESSION

Antje WIENER *

Abstract

This paper distinguishes between three phases in the construction of the European Union including integration, Europeanisation and politicisation. The model demonstrates significant changes of dominant theoretical standpoints and research questions in European integration. As such, it allows for a more systematic understanding of the particular interrelation between constitutionalisation as an ongoing process over the past five decades and its culmination in controversial normative debate over treaty models during the current phase of politicisation. In the third phase we can observe a shift from explaining institution building and adaptation as phenomena that dominated European integration research during the first two phases, on the one hand, towards normative questions regarding the type and constitution of the European polity, on the other. This normative debate highlights two alternative approaches which are likely to dominate the constitutional debate. The universalist approach seeks to overcome diversity and accommodate shared 'European' values within a constitutional treaty; the multiversalist approach seeks to maintain diversity within an appropriate constitutional framework.

INTRODUCTION*

A considerable period of time has gone by since the signing the 1963 Association Agreement between the European Economic Communities (EEC) and Turkey, i.e. the Ankara Agreement, on the one hand, and the evaluation and decisions on Turkish progress regarding candidate status to the European Union (EU) offered by the European Commission in October

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2004 (i.e. recommendation based on Copenhagen political criteria) and by the European Council in December 2004 (i.e. the decision about Turkish progress). Whilst the debate has been and remains controversial, three distinct perspectives regarding Turkish accession prevail in the *discourse* taken from the academic literature and in the media.

1) *Turkey as a threat to the EU*[1]
   Main issues:
   - Religion, financial balance
   - Institutions, polity; general sense of an over-burdening EU
   - ► Emotional argument, potentially populist political implications
   - ► Implications for political decision making: IN or OUT

2) *Turkey as not ready yet*[2]
   Main issues:
   - 1993 Copenhagen political criteria
   - Facts regarding institutional change
   - ► Rational argument, exclusion of normative criteria
   - ► Implications: accession is a question of TIME

3) *Turkey is good for the EU/the EU is good for Turkey*"[3]
   Main issues:
   - Constitutional debate
   - Modernization, cultural diversity
   - ► Normative argument: fairness, legitimacy
   - ► Implication: accession is about DIALOGUE

This paper will not linger too long on the *first argument* – even though this might be of particular interest given the German centre-right leader's most recent bid to offer Turkey a 'privileged partnership' rather than full membership in the EU. It will not elaborate on the details of the *second argument*, either, as there is relatively broad agreement that in order to achieve a positive decision regarding its membership status, Turkey must deliver in reforming the four problem areas including first, national security and the military; second, human rights; third, minority rights; and fourth, the judicial system[4]. Suffice to say that the Copenhagen criteria cannot be taken as facts; they often either lack in substance and/or are not scrutinized within the EU member states themselves[5]. The politics of conditionality which

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emerged from Copenhagen were often found to entail 'double standards'[6]. The best example is the highly contested concept of 'minority rights' e.g. is this an individual right, or a group rights? Based on nationality and hence citizenship or based on individual human rights?[7]

Instead, the paper will focus in some detail on the possibilities and foundations of the *third argument* which has been developed by Aydin and Keyman who observe that the implementation of the Copenhagen criteria has implications for both the candidate (Turkey) and the community (of EU member states). Turkey has to prove its will to achieve full modernization; the EU stands to maintain its credibility beyond the boundaries of its current polity (e.g. in light of future enlargements). Overall, both will need to refer to the principle of fairness. Throughout the previous round of enlargement, it had become quite clear that "political discretion still plays a certain role in the EU in determining when and whether political conditions are met in a given country. " This is, as Aydin and Keyman add "accentuated by the vagueness of the conditions". And, as these authors correctly point out "when blatant violations go unpunished or benefits are not granted despite the fulfilment of obligations, the EU's credibility can be seriously damaged."[8] I suggest extending this observation about fairness towards 'establishing a shared interpretation of the meaning of major principles and norms' of governance. The question then turns into one of how is fairness best preserved and practiced in a society that is defined by *political pluralism* and *cultural diversity*? This question is not restricted to the issue of Turkish enlargement, to be sure; it has relevance for the entire EU as well as for other societies which have to deal with what James Tully calls a "strange multiplicity" of cultural roots.[9] For elaborations of on this question, I turn to the debates over the evolving norms of a constitutionalism in Europe. The remainder of the paper offers a review of the three phases of constitutionalisation (*section 1*); it then identifies conflicting interpretations in the current public debate in Europe (*section 2*), and finally, it discusses two alternative approaches towards addressing constitutional diversity within an appropriate constitutional framework (*section 3*).

THREE PHASES OF CONSTITUTIONALISM IN EUROPE[10]

The paper presents the process of constitutionalisation in Europe based on a model that distinguishes a sequence of three phases. Distinguishing

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between the three phases of integration, Europeanisation and politicisation, the model works as a reference for the systematic assessment of *motivation* and *impact* of institution building thoughout the process of European integration. It demonstrates significant changes of dominant theoretical standpoints and research questions in European integration. As such, it allows for a more systematic understanding of the particular interrelation between constitutionalisation as an ongoing process over the past five decades and its culmination in controversial normative debate over treaty models during the current phase of politicisation. It is argued that during the current third phase of politicisation we can observe a shift from explaining institution building and adaptation as phenomena that dominated European integration research during the first two phases, on the one hand, towards normative questions regarding the type and constitution of the European polity, on the other. This normative debate brings two alternative approaches to constitutional options to the fore. They are likely to dominate the constitutional debate. The first – universalist – approach seeks to overcome diversity and accommodate shared 'European' values within a constitutional treaty; the second – multiversalist – approach seeks to accommodate and maintain diversity within an appropriate constitutional framework.

Before turning to selected examples and subsequently focusing in more detail on the current constitutional debate, a distinction between different phases of constitutionalisation offers a systematic framework for explaining the role of institutions in the process of European integration. It reflects attempts by various political science approaches to systematically assess massive institutional change beyond the State in an area which is traditionally assumed to be governed by the principle of anarchy in the absence of global government.[31] The following distinct research goals emerged during different phases of integration thus reflecting significant changes of research questions, often shifting emphasis of integration research from one sub-discipline to another. For example, during the first 'integration' phase institutional changes on the supranational level, ie the establishment of 'hard' institutions such as the European political organs and treaties, mattered most to researchers. In turn, during the second 'Europeanisation' phase institutional change in domestic contexts such as adaptation, harmonisation and regulation mattered most. Finally the current phase of 'late politicisation' has triggered an enhanced constitutional debate in relation with the impending massive enlargement process. It brings the

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issues of finality, enlargement, fundamental rights and democracy to the fore, thus raising questions about the robustness of theoretical assumptions generated to study institutional change during the first two phases, especially regarding post cold war changes and the massive nature of eastern enlargement.

According to **table 1,** the integration process is assessed as entailing three phases in which different research questions dominate the field. The phases are distinguished with reference to significant changes in *type*, *place* and *dynamics* of integration that caused institutional change within the European multi-level governance system. (see table 1).

The *first phase* is characterised by bottom-up institutional building, the central research interest being about more or less integration; the core theories involved the debate over 'grand theory' among neo-functionalist and intergovernmentalist approaches in international relations theories. The *second phase* is distinguished by a top-down research perspective on institutional adaptation. Here research interest focused on the question of more or less Europeanisation. Theoretical reference for this perspective is provided by the potpourri of the descriptive and increasingly all-encompassing multi-level governance approach, organisation theory, the various neo-institutionalisms, and regime theory as well as constructivist research; theoretically, this phase brought a shift from international relations towards comparative governance and public administration. The *third phase* is characterised by the increasingly complex challenge of reintegrating bottom-up institution building, ie the changing institutional basis of the European political organs, as well as the parallel and interrelated process of top-down Europeanisation of formal institutions in politics, the market, and the legal and administrative structures in the respective candidate countries. Furthermore, in the face of massive enlargement this third phase also involves the necessity to reconsider, evaluate and define the role and meaning of values and norms that lie at the core of European governance and – most importantly – the possibilities of their eventual expression within a distinctly defined constitutional framework.

Phase	Type	Place	Dynamic	Institution
I	*Integration* (moreless)	Supranational Level	*bottom-up*	hard
II	*Europeanisation* (moreless)	Domestic, regional level in member and candidate countries	*top-down*	hard
III	*Politicisation* (moreless)	Euro-polity, transnational spaces	*trickle-across, bottom-up, top-down*	hard/soft

Source: Wiener, 2005[1]

[1] Wiener 2005 op. cit. FN 10.

The characterisation of "late politicization" stresses the often conflictive and controversial processes and the lack of shared instruments or values to guide conflict solution and set shared standards of behaviour. During this phase, interdisciplinary theoretical work bringing together law, political science and sociology and, though still much less established, cultural studies has

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begun to tackle the more substantial normative, functional, legal and political questions of European integration as a process that might have surpassed its dynamics of institution-building and expansive potential as a process of consolidation both in domestic and world political matters. According to historical institutionalist analysis, among the expected outcomes of this phase are feed-back loops which result from lacking norm resonance between different sociocultural contexts, and unintended consequences of institution-building. Such feed-back loops follow strategic norm setting expressed by the accession *acquis*. Thus, it has been demonstrated that e.g. the protection of minority rights which had been added exclusively to the accession *acquis* for security reasons, are expected to develop contested meanings that will loop back into the previously western normative structure of the EU. Such strategic norm setting is likely to produce a boomerang effect of delayed political conflict.[12] According to these three phases and taking into account the push and pull factors of institution building, it is possible to distinguish between patterns of motivation for the actors involved. While push factors are constituted by structures or path-dependency such as decisions about institutional change made in the past which evolve towards exerting influence on present and future decision-making processes, pull factors develop through interest constellations of dominant actors with influence on the direction and development of the integration process. Controversies among political science approaches, in particular among the North American variety, have focused on the role and impact of these different factors early on as the ongoing debate among neo-functionalists and intergovernmentalists about interest formation and decision-making in the process of integration demonstrates.[13] While the empirical focus of theoretical debates among political scientists has been adapted over time according to the phases of integration, the central controversy regarding the difference in analytical perception of the structure/agency relation prevails. While neo-functionalist, constructivist and historical approaches understand actors as socially embedded,[14] intergovernmentalists and rational choice institutionalists work with the assumption that actors are in principle socially isolated, and accordingly operate based on individual rationally perceived interests which may or may not involve the choice of reference to institutions as monitoring or, in any case, information providing elements in the decision-making process.[15] The following elaboration on the three phases of integration is intended to summarise research interests which cumulated at particular times. It is not meant to work as an exclusive pattern. Instead it seeks to

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offer a frame of reference for assessing the key questions raised about the integration process and which coined the respective phase. The distinction according to phases does not necessarily preclude overlapping research issues and *foci*. The overlap is particularly relevant with a view to the sequence of the second and third phases of Europeanisation and late politicisation, respectively.

Integration (1960-1985)

During the first two decades, the integration process raised questions about the motivation for building supranational institutions in a Hobbesian world, i.e. about European integration as such. The motives and the rationale behind the process were identified on the level of national governments based on security and economic interests, i.e. on establishing institutions which would stabilise peace based on integrated coal and steel industries and the Euratom Treaty.[16] Yet, neo-functionalists such as *Ernst Haas, Karl Deutsch, Leon Lindberg* and *Philippe Schmitter* stressed transnational and supranational interest formation by elites and their impact on the integration process.[17] While, as *Andrew Moravcsik* pointed out later on, State interests were informed by societal preference formation, e.g. by domestic interest groups, the key decisions were nonetheless always taken on the level of intergovernmental negotiations, ie at the State level.[18] The question about more or less integration is hence ultimately pinned down on State interests according to the traditional neorealist perception of States as the only influential political actors in world politics. These interests were informed by interstate relations and bargaining, yet, institutions were considered as enabling rather than constraining behaviour (actor oriented approach). Contrary to this rather clear cut perception of interest formation, role and input, neo-functionalists took the theoretical challenge of regional complexity on board, understanding the integration process as pushed and informed by elites, yet as a process which was not exclusively subject to change according to strategic interests. Instead, integration was pushed by the dynamic of spillovers between policy areas that complicated parsimonious theorising considerably. Integration is understood as pushed by the interests of societal and business elites which are able to strategically use the new supranational institutions and, in doing so, at times unintendedly cause further integration due to the spillover effect that linked different policy areas with one another.

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Europeanisation (since 1985)

While during the integration phase the influence of international relations theory was particularly salient, especially in the context of US-American work, the re-launch of the integration process and the 'common market 1992' initiative during the commission presidencies of Jacques Delors (1985-95)[19] contributed to a shift of emphasis in academic research as well. With the increasing density of regulations and decision-making procedures that followed from the Single European Act in 1986, the sub-disciplines of comparative government, public policy and public administration gained influence in integration research.[20] This administrative turn led to a closer focus on "Europeanisation" understood as the capacity for institutional adaptation with European conditions of regulation within the various EU Member States. In the beginning this research was primarily interested in identifying the conditions and the question of whether or not domestic institutions were "fit" to implement European directives within the common market initiative.[21] Building on the growing volume and density of regulations of domestic politics through European policy initiatives, questions of political participation, co-determination, transparency, and political organisation gained importance in political science integration research.[22] Overall, this phase of integration research demonstrates a significant change of focus from international relations theories towards comparative politics. However, it is important to note that this phase has not necessarily produced a convincing or generally accepted systematisation in theoretical approach. After all, different from the integration phase which was clearly structured by the opposing theoretical positions of two camps and strongly influenced by the US-American sub-discipline of international relations, the second phase of integration is more clearly characterised by an absence of analytical clarity. Due to the enormous empirical breadth and diversity in research issues, research programs stand to be further consolidated. In addition, the frequently used term of "good governance" and/or "multi-level governance"[23] which is all too often applied as a catch-all approach that inevitably raises more questions than offering convincing theoretical answers. An important change in analytical perspective is the growing interest in the EU as a political system and not, as in the previous phase, as an international organisation.

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It was not until recently that this phase generated more systematic approaches which offer a more succinct analytical focus on the question of Europeanisation as a consequence of integration politics. Thus, it has been convincingly demonstrated that situations of institutional or structural "mis/fit"caused institutional adaptation, hence justifying the term Europeanisation understood as institutional adaptation due to pressure which has been generated by European rules and norms, ie directives and regulations of the expanding *acquis*.[24] Consequently, pressure for Europeanisation is likely to be higher in those Member States with policy sectors that entail institutions (norms, rules procedures) which are not readily compatible with European institutions. However, the Europeanisation effect was found to differ in the area of identity politics. For example, research on variation in the impact of national identity options in the process of Europeanisation demonstrated that the Europeanisation of national "identity-options" was higher in Member States with a higher (rather than a lower) compatibility of socio-cultural tradition with European integration. In the end, Europeanisation research has produced a plethora of Europeanisation approaches.[25] While each offers sufficiently systematic elaboration on the issue, the numerous and often descriptive and empirically rich policy studies in the 1980s and 1990s still remain considerably fragmented.

Late Politicization (since 1993)

With the constitutional turn which had been triggered by the impending eastern enlargement process and which was manifested by the Amsterdam Treaty, a new phase which I call late politicisation has, if gradually, taken shape in the process of European integration.[26] Enhanced, and possibly triggered, by German Foreign Minister Joschka Fischer's Humboldt Speech in Berlin in 2000, a pluralist debate about political finality and its constitutional frame has been brought to the fore of academic and public discourse. The Convention on the Future of Europe which met in Brussels was one institutional expression of this process. Questions raised by the constitutional debate are above all directed to the forthcoming decision about either simplifying the treaties without changing their status, or revising them with the goal of creating a constitutional text. In general, the constitutional debate is mostly interested in the judicial and political form and less in the substance, ie contents and meanings of the final text. As a member of the European Parliament notes, "despite being agreed as

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international treaties, the treaties are something akin to the Constitution of the European Union. Therefore they accomplish the role of a constitution. For me the question is not, whether Europe has a constitution, but whether Europe has the constitution it needs. That is precisely the question. That's what this is all about. And [...] the answer is clear: the European Union does not have the constitution it needs."[27]

In light of the first and second phases which made little reference to political processes and the respective societal contexts in which they were generated,[28] the constitutional debate was characterized by the added time pressure to produce a successful outcome; i.e. drafting a constitutional document that is acceptable to the 2004 IGC, within a relatively short period of time, appears as a puzzle. The old and often repeated issues of the role of the public sphere and public opinion, legitimacy and democracy as well as the appropriate means for establishing and safe-guarding these principles politically are reposed in a hurry. The answers, which were, e.g. offered by the European commission's White Paper on Governance[29] as well as numerous proposals regarding the reorganisation of European political organs, demonstrate the scarcity of conceptually convincing and politically feasible approaches to constitutional change. To lawyers, projects which aim to achieve the "constitutionalization of the treaties"[30] after years of integration through law and a prospering practice of law in Europe, come as a surprise. After all, constitutionalisation has been an ongoing process for decades. The following elaborates on the late politicisation phase, focusing on the role of institutions.

After the shift in the analytical area from the *politics* of integration to *policies* of institutional adaptation, i.e. Europeanisation, including constitutionally important changes brought about by the Maastricht and Amsterdam treaties and the pressure to enlarge the EU at the end of the cold war, students of European integration are eventually pushed to face the *polity* dimension. Questions of identity, democracy and security among others have been brought to the fore with the introduction of Union citizenship and the communitarisation of the Schengen agreement to abolish internal border controls. Foreign policy changes such as the Kosovo crisis, the attack on the World Trade Centre and the political crisis in the Middle East have increased the challenges confronting the EU on the world stage. In addition, the process of enlargement with the new accession criteria settled in Copenhagen in 1993 has increased the pressure for institutional

adaptation in the candidate countries, the European political organs and the Member States as well. The current phase of late politicisation presents a context of complex institutional change characterised by multiple processes of institutional adaptation. In addition to the familiar bottom-up and top-down perspectives on institutional change (compare **table 1**), the future-oriented debate over fundamental issues of political responsibility and a revised constitutional framework has gained precedence over day-to-day policy issues.[31]

As a consequence, the EU is now approached as a political system. According to Joschka Fischer in his Humboldt speech, "the whole is at stake", and hence the pressure to face finality both in constitutional and political terms is on the rise. The underlying security and financial interests that informed the choice and definition of the Copenhagen accession criteria (e.g. in the areas of minority policy, agricultural policy, visa policy, and fundamental freedoms) raised questions about the political constitution, the leading principles and the value system within the EU as a polity. In this phase, legal work on European integration acquires importance for political science approaches and *vice versa*. The largely hidden link between 'integration through law'[32] as an approach that offered explanatory guidance for lawyers during the first phase of integration, on the one hand, and 'integration through policy' which had substantiated political science research during the second Europeanisation phase, on the other, stands to be scrutinised with a new focus on 'integration through politics' in academic research during the late politicisation phase.

CORE ISSUES OF THE EUROPEAN CONSTITUTIONAL DEBATE[33]

Comparative government research suggests that the framework of political parties, national government and domestic media provides an unwavering context of stable political cultures within the larger EU context. The assumption of stable "national-identity options" and "polity ideas" over time[34] leads to the expectation of the British against and the Germans in favour of deepening. The main research issue both in academic research and in European Commission opinion polls seeks to establish whether or not a particular 'European'[35] impact on political behaviour can be discerned. In turn, international relations research on supranational institutions suggests that elite learning in supranational institutional contexts such as the EU and

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the subsequent mediation of norms, values and beliefs enhances their domestic adaptation.[36] While socialisation into a supranational community and adopting its guiding norms, values and principles depends on the particularities of the respective adaptation process in each domestic context,[37] this research would expect the eventual development of and compliance with shared 'European' norms. As the following series of qualitative interview excerpts demonstrates in more detail, a variation in interpreting the meaning of the DCT when comparing elite perceptions in three different political arenas including London, Berlin and Brussels with the latter being divided into German and British 'Brusselites'.[38]

According to qualitative interviews, the majority of German and British interviewees consider the constitutional treaty less as the step towards forming a 'single group' than as an opportunity to either simplify the currently existing treaties or, indeed, attach some symbolic meaning to the Treaties. None of the interviewees raised the issue of creating a political community or single group.[39] Instead, the interviewees were more concerned about aspects of 'repackaging,' 'simplicity,' and 'public understanding' and/or 'symbolic meaning.'[40]

Londoners: Simplicity and Clarity

> "We need radical, far reaching reform in Brussels. [...] it has failed miserably over the years in explaining itself. Being a sort of club, an exclusive club, institutionally aloof from the electorate, it has ever felt this need to explain itself because [...] *it's Byzantine, a monolith and incomprehensible to most people.* [...] *Who needs a faraway place*? It's bureaucratic, it's sort of international or supra-national [...] it's an alien institution that is not identified as British or national."[41]

> "*I think we should have a written constitution.* I think there should be more attempts to make the whole thing open up and make it more democratic. But I don't think it is easy."[42]

> According to "opinion polls in Britain it [...] turned out that it was *quite popular this idea of a new constitution.* [...] it was something like 60 or 70 percent in favour of this idea [...], it has some potential *advantages for Britain* in term of saying this is what the EU does,

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this is what it doesn't do [...]. You know this is *an institution with a series of rules*. [...] Here it is: we have *no more such creeping humiliation of powers*. [...] this creeping [...] is finished, and we have such rules and what we do is so clear, it is not a question of ever closer integration."[43]

"I don't think the British would be up there shouting, saying 'we need a constitution.' But we do think there are *advantages* to it and they are *to do with accessibility and clarity; and simplicity; and efficiency*."[44]

"[*c*]*onstitutions are [...] very inflexible things* – so that would be part of our reservation, I'm sure that we think constitutions are more permanent."[45]

"[*t*]*he idea of a constitution is*, I think, *a good one* because I think *it is impotent* for people to be able to see in a way that is *a lot clearer than the existing Treaties*, you know, *where some of the boundaries are and broadly what the European Union stands for and what it stands on. [...]* And *you really do need something like a Constitution to do that* I think."[46]

Berliners: Symbolic Function

"[w]hat I would wish and what should be the plan is the consolidation of the treaties into one and not two instruments, a text that would *resemble a little more what is considered as a constitution*."[47]

"[a]n *impressive deal must be put on its way* – since previous constitution making (Verfassunggebung) based on intergovernmental conferences has failed, and so far, agreement has always been based on the smallest common denominator."[48]

"[i]f we recall particular declarations such as the human rights declaration and so forth, then these are identity creating signifiers and, I think, one should consider these, so that Europe is not exclusively based on the understanding of being an economic community but first and foremost, we are, of course in everyway a

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community of values. *And that must be demonstrated more strongly to the outside.* A short and poignant paper supports such a step, to be sure. Whether we call it basic treaty, constitutional treaty, constitution or whatever, is not the main issue."[49]

"I think the *Charter of Fundamental Rights is fundamental.* It is first and foremost *a moment of identity for the European citizens*, perhaps sometime in the future there will be the opportunity for individual fundamental rights cases brought to the ECJ. *A system of values for the EU*, which has now been agreed upon as binding and what differs clearly from US models of values and which therefore *creates a factor of recognition* is surely equipped to be the first part of what we will hopefully be able to call the *European constitution.*"[50]

"[*t*]*he simplification of the treaties as well as the limitation of competences, both must be included*, and that indicates a kind of constitutional process after all. Basic rights, the simplification of the treaties, the inclusion of the Charter of Rights and the role of national parliaments, these are the four Nice points, all with a view to creating more democracy and transparency. *That is, in the end, what you could call a constitution.* [...] These elements do exist there."[51]

"You cannot change an anti-democratic structure with a civil society icing on the cake, can you? You can paper over the cracks somewhat, but not change it. And the question is whether or not our energy lasts, isn't it? *In this entire debate about the finality of the European constitution and the European institutions, well, to establish democratic control or not.* And it is not decided yet, that is an open process. I consider this entirely open, whether that will be successful or not."[52]

British Brusselites: A Simple Basic Text with Symbolic Meaning

"[h]aving a very *simple basic text* and then more powers delegated to the institutions, [...] I think that is a strong idea behind the push in Germany for the constitution. [...] you ought *to see what this is*. And

you certainly get this in the *candidate countries*, I mean; *people have a right to know what they are joining*."[53]

"It [the Convention, AW] has achieved already quite a lot relative to the rather low standards of Nice and Amsterdam: single legal personality, single treaty structure, get rid of the pillars, *Charta or Rights, simplification of laws*. [...] all this is terribly important."[54]

"[t]he one advantage of the *Constitution* of course is to suggest something *permanent*. A *treaty* is something *temporary*, which may be a subject to change [...]. On the other hand, *constitutional is a holy word*, I know, it has got an *emotional context* ..."[55]

"My constituents will probably not ask very much about the constitution, yet *it is very important to have a constitution, but a trimmed down one* which focuses on the major issues of the European Union specifying on a few areas of the *acquis communautaire*. [...] I would love to *use a hatchet to change the acquis communautaire*, to cut it down, to revise it towards its necessity today."[56]

German Brusselites: Simplicity and Symbolic Meaning

"Yes, *I deem a constitution important*. It has, of course, *an enormous symbolic meaning*, but I consider that as *positive, by all means*."[57]

"I prefer to call what we now have framework treaties. That is not a constitution yet. For that you would need something like the convention. That symbolic meaning is crucially important indeed. I myself have written an article in which I call it our new basic law for Europe."[58]

"How you call it afterwards constitutional treaty, or treaty constitution, or somehow structure and constitution, right, that does not matter to me at all. *What matters in the end, is, how the power questions are addressed*. And the power question, that is a bit more complicated than commonly viewed, since this relates very very centrally to the question of which goal we have as Europeans. And

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that is, which goals do we leave within national frameworks. [...] *who does what*, [....] that is part of the power question, *and who is entitled to do what*, that is the second part of the power question, *and how both questions then, are going to be answered, that is, according to all the political texts one has come across during the past 2000 years, a factual constitution*. How you label that thing afterwards does not matter at all."[59]

"Well, I mean, we do not need to reinvent the wheel. That must be said. *We do have, if you wish, a constitution with the treaties*."[60]

"By now we do have something akin to a [constitution, AW], surely, even if it has the form of an international treaty. Of course, whether you need a constitution in Europe is an open question, in the light of the fact that there is one member state and not even a small one, that has been coping pretty well without a written constitution of this type; and it is even considered as a prime example for democracy, still [...] Well, the treaty does, of course, have the character of a basic law. And therefore we do have a written [...] stipulation of basic principles and goals of the community which has been ratified by all. [...] Things are in flux, whether you want to stretch the term 'constitution' or not, *de facto, there is something like it, isn't there? That is, a stipulation of basic rules*."[61]

The most influential elite group in the UK domestic political arena, represented by the London sample understands the DCT as a text with a mission to provide simplicity and clarity and put an end to further deepening. In turn, the interviewed elites from the German domestic political arena in Berlin expect the DCT to bring together an identifiable community of values and see it as the beginning of a process of further deepening; finally, according to interviews with elites in the Brussels transnational political arena suggest that both the German and the British Brusselites see the DCT as a text with a mission to provide a simple framework however not without symbolic meaning. While the research sample is not representative, it is interesting to compare the differences amongst the four elite groups questioned. This sample's findings suggest an ongoing divergence among the UK and the German domestic political arenas (London and Berlin samples), on the one hand, while, at the same

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time identifying convergent perceptions of norms in the transnational political arena in Brussels (British and German Brusselites, respectively).

I argue that associative connotations about the form and substance of the DCT do matter and that for political scientists, the issue is pressing, as misunderstanding triggers conflict and facilitates manipulation of public opinion. If conflict is defined as "the incompatibility of subject positions",[62] and if a conflictive situation can escalate from conflict episodes over issue conflicts and identity conflicts towards conflicts of subordination,[63] then the variation in interpreting the meaning of the DCT can potentially turn into situations of more substantive political conflict at a later stage. It follows that what appear to be trivial differences over expectations of the constitutional function as having neutral and rule generating (simplicity) or community creating (symbolic) meaning, may potentially trigger political conflict in the long run. The argument is based on the observation of a considerable variation in the meaning of core constitutional norms – not least, the term 'constitution' itself pending on the cultural context the interpreting individual is situated in at the time. The variation in the interpretation of meaning is not immediately obvious, however. Thus, it has been stated that "[M]any will see the shift from 'treaty' to 'constitution' as the will of their national representative institutions to form a *single* group among European peoples."[64] In turn, polls as well as a series of qualitative interviews conducted with elites in London, Berlin and Brussels between 2001 and 2003 suggest otherwise. The perceptions differ across the boundaries of political arenas. According to an opinion poll conducted after the failed agreement about a constitution in December 2003 in Brussels 71% of the people in the United Kingdom feel "badly informed about what an EU constitution involves" yet 51% think the constitution – designed to streamline EU decision-making and clarify who does what – is vital to the future smooth running of the enlarged Europe of 25 countries."[65] In turn, Germany shows a rather high acceptance rate of 83% support for the European constitution.[66]

Like a decade earlier, when the concept of citizenship was formally included in the *acquis communautaire* in 1993[67] and questions about "citizenship in a non-state" were raised, now bringing the term 'constitution' into the *acquis* raises similar questions. Both innovations reflect the strategic move of European policy makers to establish or strengthen EU identity. Whether or not this move also contributes to

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enhancing the legitimacy of the EU polity are questions which remain to be established empirically. In the media, both 'citizenship' and the 'constitution' have been promoted as practical ('tidying up') or substantial ('more democratic' and 'legitimate') improvements to the public. Yet, paradoxically, we can contend with the benefit of hindsight e.g. on the citizenship case, that symbolic politics borrowed from modern nation-state experience are more likely to trigger conflict over the interpretation of central constitutional norms rather than achieve any papering over the cracks of contested meanings. Here, the lacking convergence in experience and, subsequently, expectations of symbolic meaning among culturally different communities offers a key access point to understand conflict.[68] The paper demonstrates that while, like citizenship, constitution building appears as a desirable policy tool to bring the EU closer to its citizens, as an institution it is likely to create unintended consequences. I argue that the transfer of norms that have been central to nation-state building from national towards transnational or supranational contexts creates a breach between national and supranational structures of "meaning-in-use".[69] Based on past *experience* in modern constitutional settings such as in each of the 25 EU member states, the *expectations* towards a supranational constitution vary. Thus, while it could be argued, that the branding of the document as either 'treaty' or 'constitution' is of relatively minor influence compared to the type of core constitutional norms in the actual text, it is held here that constitutional experience in different EU contexts creates potentially divergent expectations. These divergent expectations are prone to trigger back-lash. To demonstrate the point, the paper's primary intention is to engage with analytically descriptive dimension work more than with critical justification of particular constitutional norms, rules and procedures that are to guide European governance.[70] This said the consecutive and related point does however involve the discussion about the logical link between empirical findings and the normative discussion about the constitutional capacity to accommodate and maintain diversity.[71] In a nutshell, the twofold argument of the paper therefore runs as follows, if empirical research establishes the perseverance of pluralist constitutional expectations across political arenas, then as an "academic artefact" European constitutionalism[72] needs to address the normative question of how to accommodate diversity. In the light of pluralist positions premature constitutional closure would forego the opportunity to build institutions that are equipped to incorporate diversity.

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CONSTITUTIONAL DIVERSITY AND EUROPEAN CONSTITUTIONALISM

For a political organisation to succeed, constitutions need to be accepted and understood by those to whom its rules, norms and principles apply. That is, the core norms must be considered as valid by the designated norm followers *i.e.* the member state governments, societal groups, and the individual citizens to whom the DCT refers directly. Empirically, the degree of validity depends on basic assumptions about how to define legitimacy. To assess the validity of a constitution, it is helpful to compare three distinctive approaches from the social science literature. They include first, the Weberian concept of "domination by virtue of legality,"[73] second and in critical reference to the first, the Habermasian understanding of legitimacy as resulting from the interplay between culturally and universally derived value perceptions,[74] and third, with critical reference to the second, James Tully's concept of cultural validity based on the institutions that facilitate ongoing dialogue.[75] The detachment from modern stateness is most clearly expressed by Tully's statement that

> "[C]onstitutions are not fixed and unchangeable agreements reached at some foundational moment, but chains of continual intercultural negotiations and agreements in accord with, and violation of the conventions of mutual recognition, continuity and consent."[76]

The major distinction between the first two conceptions of legitimacy as opposed to the latter one lies in the appreciation of universality. Thus, different from Weber and Habermas, Tully strongly contests a universalistic approach to constitutionalism, arguing that

> "[U]niversality is a misleading representation of the aims of constitutional dialogue because, as we have repeatedly seen, the world of constitutionalism is not a universe, but a multiverse: it cannot be represented in universal principles or its citizens in universal institutions."[77]

Crucially, the shared reference frame for all three approaches is the bounded community of the modern state. They differ, substantially and profoundly, however, in the role they assign to the organisation of the state and the elements which influence the legitimacy of the rules and norms that organise governance in this conflict. While to Weber, the modern state's

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"*monopoly of the legitimate use of physical force* within a given territory"[78] is the centre point of legitimate governance, both Habermas and Tully bring in an interactive dimension, focusing on "communicative action" and "dialogue", respectively. While Habermas and Weber work with modern nation-states as their community of reference, Tully criticises the *modern* influence on constitutionalism and proposes to replace it with a contemporary version of constitutionalism. To this end, he activates insights from *ancient* constitutionalism to reconstruct the emergence of cultural diversity as a process of becoming. The following section then discusses ways of adapting Tully's approach to a non-state policy.

Tully points out that the social dimension that expressed the 'customary' in ancient constitutions has been eliminated with arguable success from modern constitutions.[79] "[T]he Greek term for constitutional law, *nomos*, means both what is agreed to by the people and what is customary." It comprises "the fundamental laws that are established or laid down by the mythical lawgiver and the fitting or appropriate arrangement in accord with the preceding customary ways of the people." [80] Constitutional law, then, entails two sets of practices. The first type of practice entails the process of reaching an agreement about the definition of the core principles, norms and procedures which guide and regulate behaviour in the public realm of a polity. The second type of practice refers to day-to-day interaction in multiple spaces of a community, or, in the absence of boundaries of that community, cultural fields. Both types of practices are interactive and by definition social, as such they are constitutive for the "fundamental laws, institutions and customs" recognized by a community.[81] While the concept of ancient constitutionalism entailed the social constitution of the *nomos*, modern constitutionalism with its focus on the core concept of the state has increasingly detached the constitution from its socio-cultural environment. In an effort to recover the 'contemporary' dimension of constitutionalism, Tully reconstructs constitutional discourses over time. He therefore proposes to reconstruct multicultural dialogues by "looking back to an already constituted order under one aspect and looking forward to an imposed order under the other".[82] In other words, to understand diversity the customary dimension needs to be brought back in. With a view to highlighting the impact of the societal underpinning of evolving constitutional law beyond the state, the paper builds Tully's insights and, indeed, shares the now increasingly familiar view that "the problems of the European Constitution are simply reflections of the limits of national constitutionalism."[83] It differs, however, from Tully's focus on

accommodating cultural diversity within the constitutional framework of *one state* (Canada), by addressing recognition in a constitutional framework *beyond the state* (European Union). While Tully employed a *retrospective* method of analysis beginning with some particular historical condition (inequality before the constitution according to cultural identity) and searching back for its causes; I propose to work with *prospective* analysis beginning with a particular historical condition (conflictive interpretations of constitutional meanings) and searching forward to the alternative outcomes of that condition with a specification of the paths leading to each of the outcomes.[84] That is, in addition to Tully's reconstruction of constitutional dialogues working with the perception of two sets of practices that contributed to construct the meaning of constitutional norms over time (ancient type of constitution), a dimension of comparing various arenas is required to take account of diversity among communities (see **Table 2**).

Table 2: Diversity and Communit/ies

Constitutionalism: Diversity and Community/ies

International One civilized community	**Beyond-the-State** Diversity among communities
Domestic One homogenous state community	**Contemporary** Diversity within one state

To summarize, once constitutional norms are dealt with outside their sociocultural context of origin, a potentially conflictive situation emerges. The conflict is based on de-linking the two sets of social practices that form the agreed political and the evolving customary aspect of a constitution. The potential for conflict caused by moving constitutional norms *outside the bounded territory of states* (*i.e.* outside the domestic polity and away from the

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inevitable link with methodological nationalism) lies in the decoupling of the customary from the organizational. It is through this transfer between contexts, that the meaning of norms becomes contested as differently socialized actors e.g. politicians, civil servants, parliamentarians or lawyers trained in different legal traditions seek to interpret them. In other words, while in supranational contexts actors might well agree on the importance of a particular norm, say e.g. human rights matter, the agreement about a type of norm (facticity) does not allow for conclusions about the meaning of norms. As in different domestic contexts that meaning is likely to differ according to experience with "norm-use," it is important to recover the crucial interrelation between the social practices that generate meaning, on the one hand, and public performance that interprets the norm for political and legal use, on the other.[85] Both aspects of norms – organizational and customary – contribute to the interpretation of meanings that are entailed in constitutional norms.

The main analytical challenge for constitutionalism beyond the state lies in both theorizing the contested meanings of constitutional norms, on the one hand, and offering methodological tools to assess their potentially conflictive interpretations in different domestic arenas, and their often overlooked influence on political negotiations among actors who come from different socio-cultural backgrounds, on the other. To scrutinize the assumption that the mere fact of signing up to common constitutional principles (language) on a supranational level causes common constitutional practices (discourse) within the domestic national context, case studies would need to verify the diversity and commonality of meaning of core constitutional norms both horizontally e.g. comparing member states and vertically e.g. comparing domestic and supranational arenas. Such a comparative perspective develops from a reflexive approach to constitutionalism that cautions against assuming a causal relation between norms and state behaviour. It suggests, instead, that the interpretation of a norm's meaning depends not only on social facticity (agreed reference to one particular norm) and legal validity (implementation of that norm in domestic legal systems) but also on cultural validity (associative connotations with a norm). The central argument advanced by the reflexive approach to constitutionalism expects that in the absence of a constitutional compromise on the supranational level which can build on and mobilize 'thick' constitutional norms, shared norm validation and shared norm meanings, the projective force of norms undermines the degree of acceptance and political success of the constitutional process in the EU. In a nutshell, cultural experience and expectation will contribute to diversifying the

interpretation of types of norms. In other words, cultural diversity matters.

If the EU constitution is to accommodate diversity, two options are available according to the literature. The first option involves a Habermasian approach to deliberation based on agreement according to ultimately universal values. The policy relevant action is to warrant access to participation in contestation of the norms and procedures which govern politics, *i.e.* the core constitutional norms. The second option focuses on establishing an agreement about institutions which allow a peaceful coexistence according to the three conventions of mutual recognition, continuity and consent as promoted by Tully. While both approaches stress interaction as a core element of legitimate constitutional rule, they differ significantly in their perception of constitutionalism as either universal or multiversal. The universal approach works with the assumption of general values which are to be identified through communicative interaction (Habermas 1981). Appropriate institutions towards this end are procedures which facilitate space for deliberation, and – access to participation to this process. In turn, the particularistic approach seeks to accommodate institutions which allow for dialogical establishment of mutual recognition so as to accommodate and maintain diversity. The goal of the latter approach is therefore the accommodation of diversity *and* its maintenance; in turn, the goal of the former is to overcome it.

CONCLUSION: MAPPING CULTURAL DIVERSITY

It could be argued from the constitutional lawyer's perspective, that constitutional norms will take precedence over the procedures and rules that are applied to controlling and regulating politics. As long as the core role of a constitution is respected then, it could be argued that, the meaning is always subordinate to the type of a constitutional norm. From political scientists' work on the impact of rules and norms in world politics, we know that there is a strong social dimension to rule following. Socialization into a community, it has been argued, enhances the diffusion of norms, values and rules of that community towards all members.[86] However, as Tully has pointed out, "[*A*] *constitution* can seek to impose one cultural practice, one way of rule following, or it can recognise a diversity of cultural ways of being a citizen, but *it cannot eliminate, overcome or transcend this cultural dimension of politics.*"[87] Culture is hence a dimension in constitutional politics that does have an impact on constitutional politics in one way or

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another. The challenge lies in the question of how to bring culture into constitutionalism; where to locate the cultural dimension analytically and how to study it empirically. It is crucial for constitutional analysis to identify indicators for diversity and commonality of meaning of constitutional norms at a level of desegregation that allows for the empirical assessment of meaning. Approaches which focus on *types* of norms rather than on their respective *meanings*, cannot account for information regarding potential conflict and its resolution, nor can this offer an assessment of changes in the normative structure which guides politics at all times, be it within or beyond state boundaries. Jim Tully's work looks at precisely this issue regarding cultural diversity within one state community (Canada). I argue that his argument comes closest to offering an access point for developing an approach to constitutionalism beyond the state as well. Empirically, this approach advances a methodological focus on the *relation* between the 'customary' *i.e.* socio-cultural contexts and the 'agreed' aspect of the *nomos*, *i.e.* constitutional norms. Accordingly, resonance of constitutional norms is not exclusively assessed with reference to the substantial core of norms, but also with reference to the meaning of norms in context.

This paper pointed out two opposing options of either excluding diversity by overcoming it following the Habermasian approach, or the option of maintaining diversity by establishing access to participation in ongoing constitutional debates following the approach suggested by Tully. At issue are approaches to constitutionalism and their respective awareness of diversity and commonality in the meaning of core constitutional norms. From a political science background it is held that focussing on the issue of diversity (and commonality) helps tackling two major political problems. The first is addressed by the descriptive analytical approach of historical institutionalism. Drawing on previous experiences with supranational institution building in the European supranational context e.g. in the cases of Union citizenship and minority rights policies, unintended consequences of institution building which result in political back-lash and unintended feedback loops are predictable results of rushed constitutional closure.[88] The second problem is addressed by a normative assessment of different approaches to constitutionalism and their respective capacity to address cultural diversity in the constitution. In conclusion it can be summarized that constitutionalism in Europe is confronted not only with the "problem of translation" of constitutional norms from statist to non-state contexts[89], in

addition, it is to address the issue of diverging interpretation of supranational constitutional treaty norms in domestic contexts. Analysing constitutional politics requires an analytical link between different constitutional *arenas*. A major analytical challenge for students of constitutionalism beyond the state lies in assessing the potential for converging interpretation of the meaning of norms in transnational contexts. It is here, where a lack of commonality in the interpretation of core constitutional norms is likely to lead to misunderstandings with potentially wide ranging political consequences, especially in the areas of foreign and defence policy and justice and home affairs policy. While Tully examines speech acts as the text material produced by dialogue in constitutional negotiations; this paper focused on ways of mapping cultural differences in the particular case of the EU to demonstrate the need for such dialogical approaches to constitutionalism. By mapping cultural differences, this paper made the case for constitutional dialogue in order to avoid political conflict triggered by unintended consequences of institution building. I argued that as long as cultural differences remain invisible to the analytical eye of the academic community, cultural differences will function as a spanner in the works thus causing conflict. To address cultural differences as a source of conflict and, subsequently, allow for an assessment of potential solutions to such conflicts, future research will need to identify and compare associative connotations with reference to core constitutional norms in all EU member states, and, as it were, in Brussels itself. It is here where the third option i.e. *dialogue* with Turkey and within the EU stands out as the most fruitful approach to Turkish accession, and indeed European integration.

Endnotes

[1] Angela Merkel Leader of the German conservative party CDU/CSU. Top German Conservative rallies centre-right opposition to Turkey, *euobserver.com* 17 Sept 2004, by Richard Carter; at http://euobserver.com/?aid=17312&rk=1 .

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[3] Aydin, S and E F Keyman (2004) European Integration and the Transformation of Turkish Democracy, *CEPS EU-Turkey Working Papers* 2, August, Brussels.

[4] Aydin and Keyman 2004; Emerson 2004; Öniş, Z (2003) Domestic Politics, International Norms and Challenges to the State: Turkey-EU Relations in the Post-Helsinki Era, in *Turkey and the European Union*, eds [tba], 9-34.

[5] A Wiener and G Schwellnus (2004) Contested Norms of European Enlargement, in G. Bermann and K. Pistor (eds.) *Law and Governance in an Enlarged Europe*, Oxford: Hart Publishing, 455-488; Schwellnus, Guido (2001) 'Much ado about nothing? - Minority Protection and the EU Charter of Fundamental Rights' *Constitutionalism Web-Papers (ConWEB), No. 5/2001*, *http://www.les1.man.ac.uk/conweb/papers/conweb5-2001.pdf*.

[6] Witte, Bruno de (1998) *Ethnic Minorities, the European Union and its Enlargement*. European University Institute, Florence; Williamson, Andrew (2000) 'Enlargement of the Union and human rights conditionality: a policy of distinction?' *European Law Review* 25(601-617; Grabbe, Heather (2001) 'How does Europeanization affect CEE governance? Conditionality, diffusion and diversity' *Journal of European Public Policy* 8(6): 1013 - 1031.

[7] Schwellnus op. cit. FN 5; Wiener and Schwellnus op. cit. FN 5.

[8] Aydin and Keyman op cit FN 3 at 17.

[9] Tully, James (1995) *Strange multiplicity : constitutionalism in an age of diversity*. Cambridge, New York: Cambridge University Press.

[10] Section 1 draws on Wiener, Antje (2005) Soft Institutions, in: A. v. Bogdandy (ed) European Constitutional Law, Oxford: Hart Publ. (in press).

[11] K Waltz, *Theory of International Politics* (1979); H Bull, *The Anarchical Society* (1977); J Rosenau and EO Czempiel (eds), *Governance without Government* (1992).

[12] Wiener and Schwellnus op. cit FN 5.

[13] For most recent contributions to this ongoing debate, see EB Haas, Does Constructivism Subsume Neofunctionalism?, in: T Christiansen, KE Jørgensen and A Wiener (eds), *The Social Construction of Europe* (2001); PC Schmitter, Neo-Neo Functionalism, in: Wiener and Diez, see n 11; F Schimmelfennig, Liberal Intergovernmentalism, in: Wiener and Diez, see n 11. On the analysis of "push" and "pull" factors in the implementation of European legal norms in domestic contexts,

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see in particular A Sbragia, Environmental Policy: The "Push-Pull" of Policy-making, in: H Wallace and W Wallace (eds), *Policy-Making in the European Union* (1996) 235, as well as A Lenschow, Variation in EC environmental policy integration: agency push within complex institutional structures, 4 *Journal of European Public Policy* (1997) 109.

[14] EB Haas, The Study of Regional Integration, 24 *International Organization* (1970) 607; A Sbragia (ed), *Euro-politics: Institutions and Policymaking in the "New" European Community* (1992); J A Caporaso, Changes in the Westphalian Order, in: JA Caporaso (ed), *International Studies Review: Continuity and Change in the Westphalian Order* (2000) 1; Pierson, see n 10; J Peterson, Decision-Making in the European Union, 2 *Journal of European Public Policy* (1995) 69; SJ Bulmer, New Institutionalism, The Single Market and EU Governance, 25 *Working Paper ARENA* (1997); S Bulmer and M Burch, The "Europeanisation" of central government: the UK and Germany in historical institutionalist perspective, in: Aspinwall and Schneider, see n 10; T Christiansen, KE Jørgensen and A Wiener, The Social Construction of Europe, 6 *Journal of European Public Policy* (1999) 528; M Jachtenfuchs, Theoretical Perspectives on European Governance, 1 *European Law Journal* (1995) 115; B Koch and M Jachtenfuchs (eds), *Regieren in der Europäischen Union* (1996); C Joerges and J Neyer, From Intergovernmental Bargaining to Deliberative Political Processes: The Constitutionalisation of Comitology, 3 *European Law Journal* (1997) 273.

[15] S Hoffmann, Reflections on the Nation-State in Western Europe Today, 21 *Journal of Common Market Studies* (1982-83) 21; A Moravcsik, Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community, 45 *International Organization* (1991) 19; Garrett, see n 20; Garrett and Tsebelis, see n 20; Pollack, see n 10; Schimmelfennig, see n 55.

[16] See eg the intergovernmentalists that followed and expanded on the seminal work by Hofmann, see n 57.

[17] Haas, see n 55; L Lindberg and S Scheingold (eds), *Europe's Would-Be Polity: Patterns of Change in the European Community* (1970).

[18] Moravcsik, see n 57; A Moravcsik, Preferences and Power in the European Community, 31 *Journal of Common Market Studies* (1993) 473; A Moravcsik, *The Choice for Europe* (1998).

[19] W Sandholtz and J Zysman, Recasting the European Bargain, 41 *World Politics* (1989) 95; G Ross, *Jacques Delors and European Integration* (1995).

[20] RM Czada and A Windhoff-Heritier, *Political choice: institutions, rules, and the limits of rationality* (1991); G Majone, The Rise of the Regulatory State in Europe, 17 *West European Politics* (1994) 77; Scharpf, see n 21; Wallace and Wallace, see n 55.

[21] Sandholtz and Zysman, see n 61; Wallace and Wallace, see n 55; K Armstrong and S Bulmer, *The Governance of the Single European Market* (1998); W Wessels, *Die Öffnung des Staates: Modelle und Wirklichkeit grenzüberschreitender Verwaltungspraxis 1960-1995* (2000); Richardson, see n 17.

[22] E Grande, Demokratische Legitimation und europäische Integration, *Leviathan* (1996) 339; PC Schmitter, *How To Democratize the EU ... And Why Bother?* (2000); B Kohler-Koch (ed), Regieren in entgrenzten Räumen, *Politische Vierteljahresschrift Sonderheft* (1998).

[23] Kohler-Koch, see n 64; L Hooghe and G Marks, The Making of a Polity: The Struggle over European Integration, 1 *EIoP* (1997), <http://eiop.or.at/eiop/texte/1997-004a.htm> (06 July 2004) respectively.

[24] T Börzel, Non-compliance in the European Union: Pathology or Statistical Artifact?, 8 *Journal of European Public Policy* (2001) 803; Börzel and Risse, see n 24.

[25] M Marcussen, T Risse, D Engelmann-Martin, H-J Knopf and K Roscher, Constructing Europe? The Evolution of French, British and German Nation-State Identities, 6 *Journal of European Public Policy* (1999) 614. On a general assessment of research on Europeanisation, see JP Olsen, The Many Faces of Europeanization, 20 *Journal of Common Market Studies* (2002) 581.

[26] See for example the overview over legal, regulative and political thrust of these phases of integration offered by Joerges, see C Joerges, The Law in the Process of Constitutionalising Europe, Arena Annual Conference, *ARENA* Oslo (2002), <http://www.arena.uio.no/events/Conference2002/Papers.html> (06 July 2004).

[27] Interview with a member of the European Parliament, Brussels, 29 August 2001. This interview and the following are cited anonymously; they are on file with the author.

[28] With the exception of neo-functionalists' interest in social interaction; yet this work received little attention during the 1970s and 1980s; see PC Schmitter, Three neo-functional hypotheses about international integration, 23 *International Organization* (1969) 162; Lindberg and Scheingold, see n 59; EB Haas, Turbulent fields and the theory of regional integration, 30 *International Organization* (1976) 173; Haas, see n 38.

[29] For a detailed view, see European Commission, *European Governance: A White Paper*, COM (2001) 428 final, <http://europa.eu.int/eur-lex/en/com/cnc/2001/com2001_0428en01.pdf> (06 July 2004); for critical assessments see the contributions in C Joerges, Y Meny and JHH Weiler (eds), *Mountain or Molehill? A Critical Appraisal of the Commission White Paper on Governance* (2001), in particular the contributions by FW Scharpf, European Governance: Common Concerns vs. The Challenge of Diversity, and J Shaw, European Union governance and the question of gender: a critical comment.

[30] See for example the report by the European Parliament's Committee of Institutional Affairs, 2000. European Parliament, *Report on the Constitutionalisation of the Treaties*, Final A5-0289/2000, PE 286.949.

[31] See also J Habermas, Warum braucht Europa eine Verfassung?, *DIE ZEIT* (29 June 2001); later published in J Habermas, *Zeit der Übergänge* (2001) 104.

[32] M Capelletti, M Seccombe and JHH Weiler (eds), *Integration Through Law* (1985).

[33] The following sections draw on Wiener, Antje (2004) Conflictive Meanings: Constitutional Norms in Three Political Arenas For publication in: Falke, Josef, Ulrike Liebert and Andreas Maurer (eds) *Postnational Constitutionalisation in the Enlarged Europe*, Baden-Baden: NOMOS, ZERP-Series (in press).

[34] Jachtenfuchs M., T. Diez and S. Jung (1998) Which Europe? Conflicting Models of a Legitimate European Political Order. *European Journal of International Relations* 4:409-445. MARCUSSEN, M. et al. (1999) Constructing Europe? The Evolution of French, British and German Nation-State Identities. *Journal of European Public Policy* **6**:614-633. DIEZ, T. (1999) *Die EU Lesen*. Leske & Budrich. JACHTENFUCHS, M. (2002) *Die Konstruktion Europas. Verfassungsideen und institutionellen Entwicklung*. Nomos.

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[35] The use of inverted commas for the term 'European' is applied when the term is used to refer exclusively to EU matters rather than to the wider Europe.

[36] Checkel, J. T. (2001) Why Comply? Social Norms Learning and European Identity Change. *International Organization* **55**:553-588. SCHIMMELFENNIG, F. (2000) International Socialization in the New Europe: Rational Action in an Institutional Environment. *European Journal of International Relations* **6**:109-139.

[37] See Checkel's findings on the role of political institutional structures in four differently structured domestic political contexts, Checkel FN 6.

[38] The interviews are part of a larger research project which studies the commonality and diversity of core constitutional norms of supranational treaties and their change. The interviewees were selected according to their role as full members of a political community, i.e. enjoying full access to and participation in public discourse. The project compares German and British interpretations of the meaning of core constitutional norms. The political arenas studied involve London, Berlin and Brussels. See Wiener, Antje: *The Invisible Constitution*, Ms Belfast (in preparation).

[39] See, however, Bogdandy's claim that "a majority of Union citizens will consider the use of the term 'constitution' as symbolic that there is a political community to which they belong." Bogdandy, FN 20.

[40] All interviews are anonymous with full names and references on file with the author; they have been carried out in London, Berlin and Brussels by the author and Uwe Puetter; translations from German original interview transcriptions into English by the author.

[41] Interviewee UK D, 26 November 2002; emphasis added.

[42] Interviewee UK A, 8 May 2001; emphasis added.

[43] Interviewee Brux/UK B, 27 February 2003; emphases added.

[44] Interviewee UK C, 19 December 2002; emphasis added.

[45] Interviewee UK D, 26 November 2002; emphasis added.

[46] Interviewee UK E, 26 November 2002; emphasis added.

[47] Interviewee D L, 1 June 01; emphasis added.

[48] Interviewee D J, 24 June 02; emphasis added.

[49] Interviewee D J, 24 June 02; emphasis added.

[50] Interviewee D S, 10 July 01; emphasis added.

[51] Interviewee D A, 17 July 2001; emphasis added.

[52] Interviewee D B, 31 August 01; emphasis added.

[53] Interviewee Brux/UK A, 22 May 2001; emphases added.

[54] Interviewee Brux/UK B, 27 February 2003; emphases added.

[55] Interviewee Brux/UK C, 26 February 2002; emphases added.

[56] Interviewee Brux/UK D, 28 August 2001; emphases added.

[57] Interviewee Brux/D A, 26 February 2003; emphases added.

[58] Interviewee Brux/D A, 26 February 2003; emphasis added.

[59] Interviewee Brux/D B, [date tba; 2003]; emphasis added.

[60] Interviewee Brux/D C, 30 July 02; emphasis added.

[61] Interviewee Brux/D D, 29 August 01; emphasis added.

[62] Efinger, M. et al. (1988) *Internationale Regime in den Ost-West-Beziehungen: Ein Beitrag zur Erforschung der friedlichen Behandlung internationaler Konflikte*, Frankfurt/M; Galtung, J (1975) 'Peace Thinking', in J Galtung, *Essays in Peace Research, Vol. 1: Peace: Research, Education, Action*, Copenhagen, 76-108, 78 C.f. Stetter, S., T. Diez and M. Albert (2003) "The European Union and the Transformation of Border Conflicts: Theorising the Impact of Integration and Association." *CEEISA/ISA Convention, Central European University, Budapest, 26-28 June 2003*, 4.

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[63] Messmer has suggested a process model of social conflicts, in which he proposes four different stages of a conflict. See MESSMER, H. (2003) 'Konflikt und Konfliktepisode: Prozesse, Strukturen und Funktionen einer sozialen Form', *Zeitschrift für Soziologie*, 32, 2, pp. 98-122, c.f. Stetter et al. 2003.

[64] See Bogdandy, A. v. (2004) The European Constitution and European Identity: Potentials and Dangers of the Draft Treaty Establishing a Constitution for Europe, *Altneuland*, at 9. [emphasis in text]

[65] By comparison, in Germany 83% of the people support a constitution. The survey was conducted between January 14 and 23 2004, it covered more than 25.000 people in 25 countries. *The Guardian*, 17 February 2004, http://politics.guardian.co.uk/print/0,3858,4860768-107988,00.html <assessed: 01/03/2004>

[66] Ibid.

[67] Article 8e-f TEC (Maastricht); then Articles 17-22 TEC (Amsterdam); on the distinction between the formal and informal resources of the *acquis*, see WIENER, A. (1998) The Embedded Acquis Communautaire. Transmission Belt and Prism of New Governance. *European Law Journal* **4**:294-315.

[68] For a comparative study Brubaker, W. R. (1992) *Citizenship and Nationhood in France and Germany*. Cambridge MA: Harvard University Press; for reference to EU citizenship: WIENER, A. (2001) Zur Verfassungspolitik jenseits des Staates: Die Vermittlung von Bedeutung am Beispiel der Unionsbürgerschaft. *Zeitschrift für internationale Beziehungen* **8**:73-104.

[69]Milliken, J. (1999) The Study of Discourse in International Relations: A Critique of Research and Methods. *European Journal of International Relations* **5**:225-254, 132.

[70] For such an enterprise see Bogdandy, A. v. (ed) (2003) *Europaeisches Verfassungsrecht. Theoretische und dogmatische Grundzuege*, Heidelberg et al. for a German perspective on European constitutional law; as well as De Burca, G. and J. Scott (2000) *Constitutional Change in the EU: From Uniformity to Flexibility?* Oxford: Hart Publ.

[71] In accordance with Walker's definition of constitutionalism, it engages the issue of "the normative discourse through which constitutions are justified, defended,

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criticised, denounced or otherwise engaged with." See Walker, N. (2002) The Idea of Constitutional Pluralism, *The Modern Law Review* 65, 3, 317-359, 318.

[72] As Weiler defines, e.g. "constitutionalism is, [...] but a prism through which one can observe a landscape in a certain way, an academic artefact with which one can organize the milestones and landmarks within the landscape [...], an intellectual construct by which one can assign meaning to, or even constitute, that which is observed." See Weiler, J. H. H. (1999) *The Constitution of Europe. 'Do the new clothes have an emperor?' and other essays on European integration*. Cambridge and New York: Cambridge University Press, 223.

[73] According to Weber "there is a general obedience by 'virtue of "legality", by virtue of belief in the validity of legal statute and functional "competence" based on rationally created rules'" See Weber, M. (1972; [1946]) Politics as a vocation, In H.H. Gerth and C.W. Mills (eds) From *Max Weber*, New York: OUP, at 79.

[74] As Habermas notes "Weber hat nicht hinreichend zwischen den partikularen Wertinhalten kultureller Ueberlieferungen und jenen universellen Wertmasstaeben unterschieden, unter denen sich die kognitiven, normativen und expressiven Bestandteile der Kultur zu Wertsphaeren verselbstaendigen und eigensinnige Rationalitaetskomplexe bilden." Habermas, J. (1988) *Theorie des kommunikativen Handelns* (Band 1), Frankfurt/M.: Suhrkamp, at 340.

[75] Tully FN 16, especially Ch 4.

[76] Tully FN 16, 183-4.

[77] Tully FN 16, 131.

[78] Weber, FN 46, 78; emphasis in text.

[79] See C.H. McIlwain, *Constitutionalism: ancient and modern*, 1947, 3 c.f. Tully FN 16, 59.

[80] Tully, FN 16, 60.

[81] Tully, FN 16, ibid.

[82] Tully FN 16, 60-61.

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[83] Poiares Maduro, M. (2003) Europe and the constitution: what if this is as good as it gets? in: Weiler, J.H.H. and Wind, M (eds) European Constitutionalism Beyond the State, Cambridge: CUP, at 75.

[84] For the distinction between retrospective and prospective methods of analysis see Tilly, Ch. 1975. On the History of European State-Making, in: Tilly, Ch. (ed) 1975. *The Formation of National States in Western Europe*. Princeton N.J.: Princeton UP, at 14.

[85] Kratochwill, F. (1989) *Rules, Norms, and Decisions. On the conditions of practical and legal reasoning in international relations and domestic affairs*, 18; see also DWORKIN, R (2002 [1977]) *Taking Rights Seriously*, London: Duckworth.

[86] Schimmefennig, FN 6

[87] Tully, FN 16, 6; emphasis added.

[88] On institutional approaches to path-dependency see North, D. C. (1990) "The path of institutional change." In *Institutions, Institutional Change and Economic Performance*, in North, D. C., 92-104. Cambridge: CUP; with reference to European integration, see Pierson, P. (1996) The Path to European Integration: A Historical Institutionalist Analysis. *Comparative Political Studies* **29**:123 – 163; on unintended consequences of citizenship policy, see Wiener, A. (2001) Zur Verfassungspolitik jenseits des Staates: Die Vermittlung von Bedeutung am Beispiel der Unionsbürgerschaft. *Zeitschrift für internationale Beziehungen* **8**:73-104; on unintended consequences of minority rights policy during the recently completed enlargement round; see Wiener and Schwellnus op. cit. at FN 5.

[89] Weiler op. cit., FN 73; Walker op. cit. FN 72 at 322.

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THE IMPACT OF EU ACCESSION ON FOREIGN DIRECT INVESTMENT IN TURKEY

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Abstract

The fact that Turkey is a country that displays problems in attracting foreign capital compared to similar countries in its vicinity despite its favorable image among investors constitutes a paradoxical situation. The explanation usually offered for this paradox is the absence of an "enabling environment" for foreign direct investment (FDI) in Turkey. The author explores Turkey's deficiencies in this regard such as an opaque and corrupt bureaucracy, excessive administrative burdens, hostility to FDI in some business and governmental agencies, political instability and foreign policy problems. FDI began to increase significantly after 1998 in the first wave of privatization, but it has remained below the levels that would be justified by Turkey's size, needs, investment climate, and potential. Since Turkey's entrance into the EU has become better defined, some observers have thought that future FDI flows will be favorably affected by this development. The objective of this paper is to review the development of the Turkish investment climate for FDI, the nature of FDI flows, and to comment on future FDI inflows into Turkey.

INTRODUCTION

Turkey today has more than 71 million people, and a vibrant economy with gross national income in excess of $300 billion.[1] Yet, its stock of

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foreign direct investment (FDI) is only around $20 billion, and a third of that arrived only in the last four years.[2] By way of comparison, this amount is far less than the FDI that has flowed into small East European countries such as Hungary, the Czech Republic, and Romania in just the last 10 years.[3] This is a highly paradoxical situation, and it has puzzled experts and observers for decades. The paradox lays in the relative scarcity of FDI in Turkey, in spite of Turkey's favorable image among investors, its relatively high ranking in the international country attractiveness surveys, its size as a market, etc. Countries with considerably worse attributes and greater historical instability have attracted more FDI, in absolute amounts, let alone on a per capita, or percentage of GDP basis.

Although Turkey has been a member of NATO since 1952, and has had excellent relations with both the United States, and Western Europe, it received hardly any foreign direct investment after World War II. While the emergence and rapid growth of the Eurodollar market was accompanied by massive FDI flows to Europe in the 1960's and 1970's, foreign investments in Turkey remained at a remarkably low level. Even as late as 1979, its total stock of FDI was only $228 million.[4] Although Turkey was well regarded by the international financial and capital markets in this period of "easy money," Turkey used this opportunity to borrow billions of dollars in syndicated loans, instead of (or as well as) attracting FDI.

The borrowing boom came to an abrupt end when Turkey became unable to service its debts. Indeed, Turkey was the first of the defaulting states after the First Oil Shock in 1973. To its credit, Turkey recovered from this period honorably, and without the acrimony and double-dealing that was the hallmark of most of the rescheduling negotiations with Latin American states in the 1980's. The excesses of the 1970's, however, caused significant damage, and this was reflected in both subsequent FDI flows, as well as in the spreads[5] Turkey was obliged to pay later on its foreign currency bonds.[6]

In the 1980's, tensions over Cyprus abated and Turkey returned to parliamentary government. Economic life quickened, and Turkey's economic and commercial links with the First World strengthened. Turkey also benefited politically and economically from the new wealth[7] of the Arab states of the Middle East. This was reflected in the increasing number

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of companies that established a presence in Turkey, as well as in a slow but steady growth in FDI.

However, the 1990's brought a great deal of political conflict, coupled with high inflation and much tension in Turkey's banking sector.[8] The uncertainty inherent in this situation served to deter larger FDI flows through the end of the century. Since 2000, annual FDI flows began to exceed a billion dollars per year, but expert opinion has remained critical of the Turkish business environment. This criticism has increased in intensity due to the international financial institutions' recommended reforms; because of the inability and/or unwillingness of the Turkish Government to execute previously agreed reforms and privatization transactions, and the evidence from Eastern Europe, that even relatively limited structural reforms can create highly attractive and successful business environments, and with that, increasing modernization and prosperity for the implementing country. Furthermore, the arrival of more FDI, and the privatization transactions that progressed beyond the bidding stage, revealed previously unexpected, and unfavorable, complexities in Turkish administration, law and jurisprudence.

The significant growth in FDI flows into Turkey in the last two years has been widely welcomed both in Turkey and abroad. However, the fact remains that even the greater flows are less than the amounts received by much smaller transitional countries. For example, by the end of 2003, Turkey was able to attract FDI totaling $17 billion. This is a considerable achievement in view of the almost complete absence of FDI in 1979. However, and by way of contrast, Poland received $70 billion of FDI in 13 years.[9] Looking at the future, some observers feel that Turkey's forthcoming entrance in the EU will suffice to attract more FDI, while others believe that much more needs to change in Turkey, before significant FDI will arrive for "green-field",[10] and infrastructural investments, as opposed to the large amounts now paid for companies and financial institutions privatized by the Government.

THE NATURE AND SCOPE OF FDI

Before turning to the future, it may be useful to briefly examine the dynamics of FDI flows from both the supply and demand perspective. In terms of supply, global investment flows have increased sharply from $25 billion in 1973[11], to an average of $93 billion per year in 1983-88[12] to $209

billion in 1990, and peaked at $1.388 billion in 2000.[13] The volatility of FDI, however, was again demonstrated, when FDI flows fell sharply due to the political and economic events of 2001, to $679 billion in 2002, and $560 billion in 2003.[14] FDI flows increased in 2004, but it remains to be seen whether they will again grow at the blistering pace of 1990's. Historically, about 80% of FDI inflows went to North America and Western Europe, and 11% to Asia.[15]

More than 80% of all FDI flows have been between highly developed countries, and this ratio has remained quite steady through the past decades. The concentration is even greater if we include among the developed countries industrialized, but otherwise developing or transitional countries, such as China and Taiwan, and countries that are highly developed but not members of the OECD[16], such as Singapore, Slovenia, and the Baltic States. In practice, this means that only about 10% of the FDI flows are attracted to the rest of the world, and even within this group, the majority of the investments are made in the most attractive countries, such as South Africa, Russia, and Brazil.

Meanwhile, demand for capital remains almost insatiable. Developed countries need investment not only for their normal commercial needs, but also to finance infrastructural and social investments that previously were in the public sector. This is a relatively new trend driven by the current or expected financial breakdowns of the welfare states. This breakdown is not so much a matter of political and/or ideological considerations, but a function of today's welfare states being based on the actuarial tables, and social mores of the pre-1940 world. Due to political reasons, the terms and conditions for benefits have not changed in line with the developments since World War II,[17] and, indeed, many benefits have been increased or created.

For decades, the additional costs could be financed by higher taxes and economic growth, but in recent years it has become increasingly clear that no further tax increases are either possible or desirable, and the economies of many welfare states have languished. This has led to the present trend towards privatization, the outsourcing of governmental functions, and for the commercial financing of governmental capital expenditures, such as the construction of hospitals, jails, military housing, and even military equipment.[18] These transactions of course do not change the total amount of money required by the public sector, but they do reduce the annual cash

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flow burden on governments, and serve to disguise total governmental expenditures, something always dear to the heart of politicians. Arguably, it is better for governments to lease and/or to borrow than to tax, but whichever approach is chosen, the effect is to increase the demand for capital.

This is a relatively new element in FDI flows, and it serves to attract more capital into the developed countries. The capital and financial markets of the developed world are highly interlinked, and their inclination to respond to PPP-type[19] opportunities is dependent on a risk/return calculation, as sovereign risk is not a significant factor in decisions involving investments in most developed countries. Furthermore, because PPP-type transactions are very complex and are often not 100% formally guaranteed against all risks, they provide a higher rate of return than governmental borrowings, even though their risk, in absolute terms, is not significantly higher. Consequently, such financing opportunities are attractive to lenders/investors who want a safe, long-term, but higher than sovereign risk return[20], and this serves to increase borrowing costs and/or the cost capital for all borrowers deemed riskier than the PPP projects of developed countries.[21]

Developing countries need external financing for both their public and privates sectors. Although Japan, Taiwan and South Korea became successful largely through the mobilization of domestic savings, theirs was an exceptional achievement[22] that has not been duplicated elsewhere. Instead, developing countries have been obliged to compensate for the limitations of their domestic resources/savings with external funds: foreign aid, foreign remittances, and/or commercial financing/investment.

All of today's developing countries (and many developed ones) have been the recipients of foreign aid since World War II. Quite a few have graduated and have become donors and investors themselves, but there are still well over 120 states that are recipients of foreign aid. Global foreign aid flows have been in the annual $50-60 billion range for several years now, and are on an upward curve. Developing countries are also the beneficiaries of up to $70 billion annually from the homeward remittances of their citizens or their descendants abroad. Impressive as these amounts may appear, they are far below the needs of the developing countries, and are

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likely to remain so, even if the United Nations Millennium Goals[23] become a reality someday.

As a practical matter, most developing countries are simply unable to obtain foreign loans or investments, because their prevailing business and political conditions are such that they cannot attract foreign capital at any price. In theory, foreign aid and advice is meant to enable these countries to undertake the structural reforms that would enable them to reach the lowest rungs of the ladder to the international capital markets. In reality, some countries have been successful, but in the rest, the foreign aid is at best[24] spent on current consumption, used by the political leadership to stave off much-needed reforms.

Thus, FDI for developing countries is limited to approximately 50 states, and these fall into several distinct groups, depending on their prospects, and even more so, on their economic and political climates. Experts and politicians may dispute the actual standing of each country, but from a business/investment perspective, this is determined by a country's bond/debt rating, and by its position within the many rankings of country attractiveness on the basis of objective criteria.

As so much of FDI and international lending is between developed countries, the developing nations must compete fiercely for the rest, especially if they are not among the "star" countries in their region, or risk class. This competition is a reality, and it takes place often in the form of investment incentives, such as tax holidays. More recently and beneficially, the competition has increasingly involved structural and regulatory reforms, decreasing bureaucratic burdens, more dialogue with the business community, increased transparency – all measures that serve not only to attract FDI, but also to improve the country's business climate for all participants.

THE IMPLICATIONS FOR TURKEY

In spite of its NATO and OECD memberships, and its European orientation, Turkey's credit standing and attractiveness to foreign investors, has been closer to that of the developing countries than to any other group. For example, the margin paid by Turkey on its sovereign external obligations has ranged from 220 basis points (bp) in June 1993[25] to a high of

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790 bp in December 1998.[26] In the subsequent years, spreads fluctuated in the 350-500 bp range, before declining to 224 bp in February this year.[27] These numbers are quite similar to the margins paid by developing countries during this period, as may be seen in the following table of the spreads paid by several developing and transitional countries:

Country	Range	Latest (spread, date)[28]
Argentina	220 – 655	No borrowings since 2000, defaulted
Brazil	230 – 648	398 (December 2004)
Croatia	112.5 – 375	112.5 (February 2004)
Cyprus	37 – 99	66 (February 2002)
Greece	9 –100	9 (March 2004)
Hungary	12 – 235	57 (January 2005)
Kazakhstan	353 – 465	No recent sovereign borrowings
Lebanon	218 – 446	385 (September 2004)
Lithuania	22 – 475	22 (February 2005)
Mexico	145 – 549	145 (January 2005)
Poland	39 – 185	39 (January 2005)
Russia	175 – 783	175 (July 2005)[29]
South Africa	140 –370	195 (May 2004)
Ukraine	325 – 433	337 (July 2004)

It is evident from these numbers that while Turkey's has risen out of the rescheduling/developing country bracket, it has not been as successful as the East European countries that are now beginning to receive better terms for their borrowings than some older members of the EU.

The situation has been worse with regards to FDI. As noted earlier in this paper, FDI flows into Turkey began to increase significantly after 1988,[30] but exceeded a billion dollars only from 2000, and according to Turkish sources, as late as November 2002, cumulative inflows were only $15729 million.[31] Although the IIF reports total foreign equity investments of $1415 million in 2003, and $2920 million in 2004,[32] the total is still only $20064 million. This is significantly less than the $26.4 billion of FDI that flowed to Central and Eastern Europe in just 2001, or the $31.2 billion inflow there in 2002.[33] It may be also worth noting here, that by the end of 2003, Romania had total FDI of $12.7 billion, while Croatia had amassed

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$11.3 billion,[34] even though both countries had experienced major turmoil in the 1990's, and are still seen by many investors as "difficult," generally due to the numerous deficiencies of their administrative and judicial systems.

The reasons for the discrepancy

The low level of FDI in Turkey has several causes. According to Mustafa Alper, the secretary-general of the Foreign Investors Association of Turkey, "Turkish people are suspicious of foreigners, dating back to Ottoman times...the word *yabanci* (foreign/foreigner) is not a good word."[35] After the First World War, Turkey developed an *etatist* economic structure, including a high level of protectionism. Foreign investment was limited in many ways, national treatment was absent, and to this day foreign investment is licensed. On the positive side, it may be argued that this approach served Turkey well, in that it was able to develop through the 1970's, with its own resources, a modern industrialized state with good infrastructure, and including a number of powerful local companies capable of competing on the global stage.

Superficially, this appears to be an approach similar to the one taken by Korea and Japan, but even so, there are important differences. Although both those countries have a language and alphabet far more daunting to foreigners than Turkey's, both have maintained relatively efficient and predictable administrative and judicial systems. Both have also chosen to hasten their development through exports,[36] and recognized promptly the importance of creating/switching production capacity for light industrial and electronic goods, in addition to textiles and heavy industry: the traditional first stage exports of successful developing countries. Korea and Japan also recognized the importance and benefits of FDI, and in spite of their strong nationalistic predilections, both become major recipients and exporters of capital. Although both countries started virtually at the subsistence level at the end of World War II, Japan is now an economic superpower, while Korea's GDP exceeds that of Russia.

Turkey was slow to recognize the advantages inherent in FDI and was almost entirely bypassed by the first waves of post-war international investment. Until 1988, the largest annual FDI flow into Turkey was a mere $125 million in 1986.[37] The changes instituted by Prime Minister Turgut

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Özal's regime led to the first appearance of FDI in appreciable quantities. Recent years have seen multi-billion dollar investment inflows, and hence Turkey's present stock of $20 billion. The question, however, remains, what has been deterring investors from investing more, and what can Turkey do to attract more foreign investment.

The major impediments for FDI flows into Turkey may be summarized as follows:

-*Perception:* Although the Turkish economy has been growing rapidly since 2002 it has suffered for many years from "...policy and economic instability and resulting effects such as chronic inflation."[38] The resultant negative perception cannot be dispelled instantly, but the continuation of the present macro-economic trends, and an improving business climate will gradually improve Turkey's image.
- *Legal environment:* According to a recent report of the Turkish Industrialists' and Businessmen's Association (TÜSIAD) : "A stable legal framework for investment decisions cannot be established."[39] Other participants and observers are less categorical, but are unanimous in their complaints about the length of time required to try cases, the lack of judicial enforcement, seemingly capricious decisions, discrimination against foreigners, etc.[40]
- *Administrative impediments:* this is a broad category, and the problems, espoused by TÜSIAD include excessive and inefficient regulations, bureaucracy, work permit problems, lack of transparency in the application of rules and regulations.[41]
- *Other problems:* Corruption, high tax rates coupled to a volatile tax regime, insufficiently developed infrastructure, overlapping authorities, etc. etc., as in so many developing countries.

These problems are not unique to Turkey, and they have not prevented Turkey from maintaining a high growth rate, or from attracting $20 billion of foreign investment. Moreover, the problem is recognized not only by the business associations, but by the government as well. The enactment of the Foreign Direct Investment Law in 2003 has already served to eliminate many of the most glaring and important shortcomings of Turkey's FDI regime by guaranteeing the freedom of investment, the freedom to repatriate profits, accepting international arbitration of commercial disputes, and allowing foreign companies to acquire real estate at least for their own

operations.[42] Many other business related laws have also been passed since 2003, and if properly implemented they should improve Turkey's business climate for foreign and domestic investors alike.

EU accession and the prospects for FDI in Turkey

TÜSIAD expects EU accession to have a highly positive impact on FDI flows into Turkey, citing the experiences of Spain and Portugal, and noting that even the accession process will serve to eliminate much of the political and economic uncertainty that has been plaguing Turkey's image. Shrewdly, TÜSIAD also notes that as the new member countries (the EC10) lose some of their competitiveness due to having had to adopt the *aquis communitaire*, and as their standard of living increases, Turkey will become more competitive vis-à-vis countries such as Poland.[43] The prestigious weekly *Economist* also sees EU accession as the possible "...long awaited catalyst for foreign direct investment,"[44] when commenting on the news that a European bank bought a Turkish bank for $1.3 billion, "...more than all the FDI in Turkey in 2003 (sic)."[45]

The reality may be more complex, however. Turkey will start negotiations for EU accession in October 2005, with a target date of 2014 or 2015 for accession. This is ten years from now, and ten years is a very long time, in international relations, politics or in business. We need only to look at any decade since 1900 to appreciate this. Although many bonds have maturities in excess of ten years, this time frame is simply too long for most commercial and financial decisions.[46] Most companies have a threshold rate of return of at least 10% on their equity, and many insist on at least 15% or more. In the case of foreign investment decisions, the threshold is adjusted upwards as compensation for greater risk in developing countries, and for any higher perceived business risk in all countries. This implies that a ten-year horizon is simply irrelevant; the investors expect to see a full return on their entire investment in 5-10 years at the most, and even sooner when they invest in the riskier of the developing countries.

Moreover, as in the case of Eastern Europe, much of the expected economic impact of EU accession on Turkey has already been realized through earlier treaty obligations, such as membership in the OECD, and/or by a customs union with the EU. In Turkey's case, this took place in 1996, albeit without the inclusion of agriculture and services. Although the

customs union has had these, and other deficiencies from the Turkish perspective, it has nevertheless served to provide for free trade in most goods between the EU and Turkey. Membership has also obliged Turkey to dismantle most of its protectionist measures[47] and this led to another round of economic modernization, albeit insufficient, in Turkey.

Since the 1980's, Turkey has created a liberal and advanced legal framework for FDI, but this has been largely negated by the problems in administration and implementation noted in this paper. Given the laws passed since 2003, and given Turkey's apparently genuine desire to draw in more foreign investment and to complete its privatization process, it is quite likely that by 2015, EU accession will serve only to settle the usual pesky issues: immigration, trade in iextiles, some agricultural products, agricultural land ownership by foreigners, and possibly, steel production.[48] By then, and probably years sooner, *ceteris paribus*, Turkey's economy, trade, and banking will have been fully integrated with the EU, as was the case for the EU's ten most recent members.

Consequently, the most important aspect of EU accession is the process itself, including - the requirement that new members harmonize their laws, and meet most EU criteria in a wide range of fields, **before** becoming members. As we have seen in Eastern Europe, this process forces candidate countries to review their entire codes of law, governmental structure and its practices, and even their internal organization. The result has been beneficial on the whole, although anomalies have also abounded, due to the EU's propensity towards excess regulation, that is to act , in areas that many feel could be left to national jurisdiction.

In Turkey's case, as in Eastern Europe, the prospect of accession has already served to speed up reforms, and this process will continue. Turkey's commitment to improving its business climate has been demonstrated by the establishment of the *Improvement of the Investment Environment Coordinating Council*, and by the enactment in 2003 of 18 new laws aimed at modernizing and improving the country's business environment.[49] This process has continued since then, and as in Eastern Europe, the prospect of accession will serve to oblige any government of the day to continue with the reforms the Turkish business community considers essential.[50] This will be made easier by thepoliticians' new-found ability to

now point to the EU for passing bills that might be otherwise too sensitive or unpopular, again following the East European practice.

The only real danger to this process is the possibility that accession talks break down at some point, or that the EU decides against further new members, apart from Bulgaria and Romania. In view of the apparent demise of the proposed EU Constitution, and recent political developments in several EU-member countries, neither prospect can be ignored. For example, Nicholas Sarkozy, France's Interior Minister stated on 27 June 2005 that "Enlargement must be suspended at least as long as the institutions have not been renovated. Europe must have borders. What I am saying does not cover Romania and Bulgaria where the process is too far advanced to be stopped. But [it covers] all the others...not all countries have a vocation to be in Europe."[51] Earlier, President Jacques Chirac has promised to put the issue of Turkish membership in the EU to a referendum, date unspecified. The CDU in Germany is also at least moderately hostile to any further expansion of the EU, and is inclined to think of relations with Turkey in terms of a "privileged partnership" with very close security and trade links, but without full membership.[52]

The news since then has not been very encouraging. Turkey was essentially double crossed on the Northern Cyprus issue, and at the end of August, France's Foreign Minister launched a trial balloon for linking the start of accession talks to Turkish recognition of Cyprus. Although the EU Commission promptly shot down the balloon,[53] it is an indication of France's continued hostility to Turkey's future membership in the EU. Many other EU members are openly less hostile, but they are not comfortable with a new member of Turkey's size and nature, and their silence is partly a matter of good international manners, and partly a function of the distant date of the proposed membership.

Given the sheer length of the negotiations about Turkey's entry into the EU, it is pointless to speculate about their progress and outcome. What is clear, however, is that the stakes are high for both sides, and, *ceteris paribus*, a failure to agree will have more serious consequences than any problems accession might bring. As we know from history, reasoned calculation in itself does not guarantee a reasonable outcome, but it is reasonable to expect that modern, secular Turkey will be as much at home in Europe by 2015, as Romania and Bulgaria in 2007.

CONCLUSION

Turkey has made a great deal of progress in recent years in modernization, and in stabilizing its economy in the aftermath of its major crisis in 2001. A national consensus has apparently emerged in favor of further reforms to improve the country's business and investment climate, and of continued structural reforms. The measures taken so far have met with appreciation and success, as evidenced by Turkey's macro-economic indicators and by the increasing flow of FDI. The privatization of banks, and remaining major state-owned companies are expected to lead to massive FDI inflows; the IIF has forecast $11.5 billion for 2005, and $11.6 billion for 2006,[54] while economic growth is expected to continue at 5-6% through 2007.[55]

The prospect of EU accession has been undoubtedly useful in encouraging and sustaining Turkey to start and continue with extensive structural reforms. However, the expectations of EU foreign aid and dramatic increases of FDI after accession may be excessively optimistic, and are in any case unpredictable today, as they involve actions ten years or more from now. The experience of the ten new members of the EU are now receiving only about a third of the EU agricultural and regional assistance funds that they expected on the basis of rules in effect before they joined the EU.[56] Meanwhile, FDI flows to the new member states have remained fairly constant. Although there have been some notable swings in the amounts invested in some countries, these have been due to changes in local conditions and business opportunities, and not to a sudden recognition by investors of the countries' EU membership.

Furthermore, in Turkey's case, there is more doubt about the ultimate success of the accession talks, than there was with that of the East European countries. It may be reasonably expected that negotiations in the coming decade will have their share of *contretemps*, and these periods of crisis may create new political realities. The EU has not yet felt the full impact of its ten new members, and will not, until negotiations over post 2007 budgetary issues are concluded. This will determine the extent the new balance of power within the EU, and it is possible that the new balance will not be to the taste of several old members. This is all somewhat speculative, but the

good news for Turkey is that the the ups and downs of negotiations will affect politicians far more than the business community, as long as Turkey remains in a customs union with the EU, and as long as Turkish politicians abjure Islamic fundamentalism.

In this scenario, the business and government/political communities may be expected to continue with their parallel lives, as was the case in the UK until 1976, Italy until the 1990's, and as it is still the case in many East European countries. In all cases, the public sector stagnated, while the private sector prospered and modernized. Eventually, in the UK and Italy at least, the newly prosperous voters found the performance of the public sector unacceptable and elected politicians who were willing to make at least a start on fundamental structural reforms. This was a long process everywhere, and probably will be such in Turkey as well.

FDI has certainly played a major role in the development of East European countries. This role went beyond the obvious economic benefits of job creation, the multiplication of export volumes, and the introduction of customer-oriented operations. At least equally important were the introduction of meritocracy, discipline, and the creation of a middle class that was not dependent on the government or on family connections for its existence. There are potential parallels here for Turkey's future. If FDI inflow reaches an annual level of $4-5 billion, and once the country's utilities and banks are privatized, the pressures for further economic and political modernization will increase, right along with Turkey's prosperity and economic importance.

Thus, EU accession may be expected to be not so much a catalyst for FDI inflow, but for internal reforms that will improve the business environment for all participants, in a process that will be all but irreversible. This in turn, will make Turkey more competitive in terms of its ability to attract the FDI required for maintaining a high growth rate and further increasing its exports – a virtuous circle, indeed.

Turkey has recognized that regardless of the outcome of accession talks, it must have more FDI in order to grow and prosper. There is also a clear appreciation of what must be done to enable Turkey to attract more FDI. This may be perhaps best illustrated by the following strategy recently proposed by TÜSIAD:

A Clear Strategy

In order to make a breakthrough Turkey has to clearly define its FDI strategy and improve its reform management process.

- *An investment environment* - FDI incentives hardly offer to be a substitute of an enabling investment environment. Creating an enabling investment environment is often less costly when compared with generous incentive schemes for FDI the effectiveness of which is not for sure. Henceforth the priority for Turkey should be to improve the business environment.

Some of the significant steps to be rapidly taken are as follows:

- Sustain political and economic stability.

- Change the vicious circle of bureaucratic envy and struggle for power to a virtuous circle of mutual understanding and cooperation.

- Make the importance of the private sector in Turkey's development well understood by state officials.

- Give the reform process to the care of those who have faith in market economy.

- Simplify the currently complicated tax system, decrease the taxes on various transactions and eliminate volatility of the tax environment.

- Simplify and streamline the bureaucratic processes.

- Safeguard public sector transparency, including an impartial system of courts and law enforcement.

- Establish an appropriate regulatory framework in order to introduce fair competition in all sectors and especially in the infrastructure sectors.

- Foster privatization.

- Fight corruption[57].

In order to transform Turkey into an attractive place for foreign investors, result oriented works have to be carried out rapidly at IIECC and the required regulation amendments should rapidly be realized. Besides the realization of regulation amendments the most important criteria here is to score progress in the implementation as well....Although there is political will to resolve the issues that investors face, the same understanding should also be adopted by bureaucrats who are in charge of regulation and implementation.[58]

TÜSIAD's recommendations recognize all of the variables that impact on Turkey's competitive position as attractive location for FDI. All of the points described are essential for Turkey's future prosperity, and developing countries have become developed ones by implementing just such recommendations, regardless of their prospects for EU accession. Turkey has made a start on implementing the recommendations of the Turkish Industrialists' and Businessmen's Association, and one can only hope that more and more of them will be implemented in the coming years. This, much more so than EU accession, is the key to Turkey's future success and development.

Endnotes

[1] "Turkey Data Profile," World Bank Group, 2005. Full details may be found http://devdata.worldbank.org. Also, according to the Institute of International Finance's country report on Turkey, dated 22 July 2005, GDP in 2004 was $302MM after discounting inflationary effects, and the IIF forecasts a GDP of $353.9 billion for 2005.

[2]Henry Loewendal and Ebru-Ertugal-Loewendal, *Turkey's Performance in Attracting Foreign Direct Investment: Implications of EU Enlargement*, (European Network of Economic Policy Research Institutes: Brussels, November 2001), p. 3. (hereafter *Lowendal*), and "IIF Database: Turkey," (International Institute of Finance: Washington, July 2005), p. 2.

[3] *Loewendal*, p. 10. shows annual FDI inflows through 1999.

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[4] Fuat Erdal and Ekrem Tatoglu, "Locational Determinants of Foreign Direct Investment in an Emerging Market Economy: Evidence from Turkey," *Multinational Business Review*, Vol. 10, Nr. 1, 2002) p.1. However, according to Loewendal (op cit), Turkey already had $300 Million of FDI in 1971 (p. 2.). The difference may be due to disinvestments in the 1970's, but either number is almost negligible in comparison with the FDI flows of the period.

[5] Spreads are the difference in the interest rate between the best rate for the currency of issue, and the rate paid by the borrower. For example, if a borrower is paying 10% per annum for a five year period for a loan or bond issue denominated in US Dollars at a time when the US Government is paying 5% on its five-year obligations, then the spread is 5%, i.e. 500 basis points.

[6] Syndicated loans (i.e. loans from banks) to developing countries virtually disappeared after the outbreak of the LDC Debt Crisis in 1983. After the crisis was settled in 1989-90 with major losses for the banks, lending to sovereign borrowers was almost entirely in the form of bonds.

[7] In 1973, the Arab states raised the price of oil from the $2-3 per barrel range to at least $12, and this amount quadrupled again in the wake of the fall of the Shah and the Iraq-Iran War in 1978-79.

[8] This was the genesis of the Turkish financial crisis of 2001.

[9] In fact, in about 10 years, as in the early 1990's conditions for FDI were highly unattractive for investors and this was reflected in the almost total absence of FDI.

[10] Investments made to establish new factories or service operations are defined as "green field" investments, as opposed to privatization, or the purchase of already operating companies (this is done through "private equity" or M&A (mergers and acquisitions) transactions.

[11] Mehmet Oguteu, "Investing in Turkey's Future: Competing for, 'seducing,' 'winning,' and 'enduring' the benefits of foreign direct investment," *Stradigma*, September 2003, p. 2. (Hereafter, Oguteu).
www.stradigma.com/english/september2003/articles

[12] UNCTAD, *Foreign Direct Investment and Development*, (United Nations: New York, Geneva, 1999), p. 61

[13] UNCTAD, *World Investment Report 2003 FDI Policies for Development: National and International Perspectives Overview*, (United Nations: New York, Geneva, 2003), p. 1.
[14] Ibid.

[15] Ibid.

[16] The reasons for their exclusion are due to the internal politics of the OECD, and not with the state of the countries' development. The OECD was formed as an organization of countries with free and developed economies, defined by a fairly specific and objective set of standards. These standards were stretched to include Turkey and Greece, and more recently Mexico. Meanwhile, however, countries that can meet much stricter standards have remained excluded due to the inability of the OECD member countries to form a unanimous agreement on the admission of new members.

[17] For example, retirement age and eligibility for pensions still starts at age 60-65. This was fine when the average length of life was 70 years, but it has created an enormous burden once life expectancy reached 80 years; with 90 years already well over the horizon. The problem is similar with medical care, but with the further burden of a rapidly advancing medical technology that is much more capital and cost intensive than the health systems of the 1930's or 1950's.

[18] The last may appear strange, but the armed forces of the UK and the USA have been leasing vehicles and training and transport aircraft for years, and recent proposals for the new tanker acquisition programs involve tens of billions of dollars.

[19] PPP (Private Public Partnership), or PFP (Private Finance for Public-sector) are the abbreviations most commonly used for the use of commercial finance for governmental capital expenditures such as building a sports stadium and then leasing it back, or otherwise compensating the builders. There are other terms and abbreviations as well, and there are differences between their meanings, but on the whole, in the private sector all of them would be classified as "off balance sheet financing," a perfectly respectable mode of operation, as long as it is clearly reported in the company's Annual Report. Governments, of course, are not obliged to prepare such detailed reports for the public and have no balance sheets.

[20] This is particularly true of insurance companies and pension funds, the latter a rapidly growing and increasingly important source of investments and loans.

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[21] This does not mean that spreads and borrowing costs will be always higher, since there are other factors, such as global liquidity, market psyche, etc., involved. Nevertheless, the current tendency of governments to seek commercial solutions for their traditional investment needs, will continue to draw in capital, both foreign and domestic, and this is likely to remain a significant and growing element in the overall FDI supply and demand equation.

[22] All three received a great deal of US economic and military aid, but this was more important in its timing and international implications, than in its economic effects.

[23] This document calls on developed countries to increase their foreign aid expenditures to 0.7% of their GDP in five years. Although a few countries are already at this level, significant increases in the others are not likely in view of their financial problems (the crisis of the Welfare State), the political unpopularity of foreign aid, and the absence of conditionality in the Millennium Goals.

[24] At worst, much of it has been simply stolen or wasted.

[25] *Financial Times*, 29 June 1993, Business Section.

[26] *Financial Times*, 11 December 1998, Business Section.

[27] *Financial Times*, 9 February 2005, Business Section. Importantly, however, this was for a 12-year bond, the first such long maturity in five years. Earlier bond issues were limited to 10 years or less, with the exception of a 30-year US Dollar issue in 2000, but that paid 525 basis points over the then current yield on 30-year US Treasury bonds.

[28] All data from *Financial Times*. Spreads refer to yields on issue and these usually vary from the yield on the face amount of the bonds.

[29] On commercial debt; secured by receivables in Russia.

[30] They were below $200 million p.a. until then.

[31] *Foreign Investment in Turkey*, (General Directorate of Foreign Investment: Ankara, February 2003), p. 43, citing Central Bank of Turkey figures.

[32] "IIF Database: Turkey," (International Institute of Finance: Washington, July 2005), p. 2. The numbers of include portfolio investments (also useful for the receiving country), and this implies that not all FDI has been spent on buying Turkish companies, or for establishing new factories and/or service operations.

[33] UNCTAD, *World Investment Report 2003 Statistical Index*, (United Nations: CD-ROM, 2003), p. 7. According to this report, the Czech Republic alone received $5.6 billion FDI in 2001, and $9.3 billion in 2002. Inflows to CEE declined to "only" $21 billion in 2003, partly due to the absence of major privatization transactions.

[34] Charles Kovacs, Marko Stanovic, Nazha Benabbes Taarji, *Investment Promotion Strategy for Bosnia and Herzegovina*, (UNCTAD and Foreign Investment Promotion Agency of Bosnia and Herzegovina: Geneva, Sarajevo, November 2004), p. 21.

[35] Quoted by Vincent Boland, "Why Turks are changing tack on foreign ownership," *Financial Times*, 28 June 2005, p. 1. This writer would add, however, that whatever anti-foreigner feeling the Turkish people may have, this has not kept them from being seen as friendly and hospitable, and 17.5 million tourists from visiting Turkey in 2004.

[36] This was unavoidable for Japan, since it cannot be self-sufficient in food and fuel production.

[37] *Foreign Investment in Turkey*, (General Directorate of Foreign Investment: Ankara, February 2003), p. 43, citing Central Bank of Turkey figures.

[38] "Report of the Subcommittee on Turkey" (Advisory Committee on International Economic Policy: Washington, November 2003), p. 2.

[39] TUSIAD, "Investment Environment and Foreign Direct Investments in Turkey," (TUSIAD: Istanbul, March 2004), p. iv. (Hereafter, TÜSIAD).

[40] Loewendal, p. 27. The TÜSIAD paper also cites these issues (p. 9). Repucci describes in detail the structural problems of the judiciary system (pp. 624-625).

[41] TUSIAD, p. 21. Also, comments by the spokesman for the Netherlands Ministry of Economy at the symposium on *Turkey and the European Union: potential and prospects*," www.ez.nl/content.jsp?objectid=13362

[42] Ibid. p. 29.
[43] TÜSIAD, pp. 6-7. See also Ogutcu's views on EU accession prospects "acting as a trigger" for large FDI inflows, p. 2.

[44] "Investing in Turkey," *The Economist*, 14 April 2005

[45] Ibid.

[46] Utilities and companies in the extractive industries may be an exception, due to the time it takes a power plant, and the importance available proven reserves sufficient for long term production.

[47] However, the EU has often complained, that the formal dismantling of barriers was not always implemented, or was mitigated by other, administrative barriers.

[48] This was very much the case for the 10 new members of the EU. Negotiations on agriculture and immigration required far more time than would have been justified by their intrinsic importance, but all were sensitive for various political reasons.

[49] TÜSIAD, Annex 5.

[50] Vincent Boland, "Is the glittering prize still within reach?" *Financial Times*, 28 June 2005, p. II.

[51] AFP, "EU enlargement must be put on hold: French minister," 27 June 2005, 3:24 PM ET

[52] Quentin Peel, "New leaders do not guarantee a new Europe," *Financial Times*, 21 July 2005.

[53] AFP, "France seeks to avoid crisis over Turkey-Cyprus issue," 31 August 2005.

[54] "IIF Database: Turkey," (International Institute of Finance: Washington, July 2005), p. 2. The numbers include portfolio investments $2 billion in 2005, and $1.6 billion in 2006.

[55] Vincent Boland, "The road back to economic health," *Financial Times*, 28 June 2005, p. III.

[56] The final number was an essential compromise, as the EU failed to reform its criteria for the receipt of CAP and RAP funds, and consequently the 10 new members, paid at the full rate, would have created an unacceptable financial burden for the existing members. The new members went along on the principle of "a half loaf is better than no bread," and because of the other benefits of EU membership, including meeting their psychological need to be formally accepted as part of Europe.

[57] TÜSIAD, pp. 33-35.

[58] Ibid, p. 36.

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TURKISH CYPRIOTS AND THE EUROPEAN UNION

Sülen KARABACAK*

Abstract

Keen observers of the Cyprus problem often ask, what kind of legal structure could provide a working, functional system for Turkish Cypriots and Greek Cypriots to coexist within the European Union? In light of the current state of affairs, which system is most likely to ensure not only Greek Cypriot's but also Turkish Cypriots' participation in the European Union?In this paper, after an introduction giving a historical background of the Cyprus Problem, I will analyze how Greek Cypriot-European Union relations have proceeded, largely without the involvement of Turkish Cypriots. I will also refer to the Annan Plan to establish how this internationally supported Plan addressed the European Union relations of what would have been a United Cyprus Republic. Finally I will turn to the current state of affairs as well as the pitfalls which the Cyprus problem entails for European governance and I will suggest ways out of the current impasse.

BRIEF BACKGROUND

Cyprus, located at the junction of the land and sea routes connecting the three Continents of Europe, Asia and Africa, has been ruled by various ancient civilizations, including the Phoenicians, Persian, Roman and Byzantine Empires, and the Frankish Kingdom. The Ottomans conquered

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the Island from the Venetians in 1571 and retained effective control over it until 1878 when the British Government leased it through a bilateral Treaty. Following the First World War, the United Kingdom effectively annexed the Island, despite Turkish opposition. Turkey officially recognized Great Britain's title only in the Treaty of Lausanne of 1923.[1]

Since 1571 the population of the Island consisted of two distinct peoples, namely the Turkish Cypriots and Greek Cypriots. The two peoples have always retained their separate national identities, language, customs, cultural and historical heritage and religion.Muslim Turkish Cypriots descend from the immigrants who had come from southern Anatolia after the Turkish conquest in 1571.[2] Greek Orthodox Christians in Cyprus can claim to descend from the early Aegean colonists. Ancient Greeks set up separate city kingdoms on the Island as far back as the 5th century BC but they have never been in control of the whole Island.

The rise of nationalism and Greek independence from the Ottoman Empire led to agitation among the Greek Cypriots, with the Greek Cypriot Orthodox Church supporting and encouraging *Enosis*, i.e., union of the Island with Greece. A Greek Cypriot rebellion was put down by the Ottoman Empire as early as 1821.[3]

The British have always recognized the distinct cultural, social and religious characteristics prevailing among the two Cypriot civilizations, as is illustrated, for example, by the establishment during British rule of Evcaf, an Islamic religious organization which provided educational, social, and cultural collaboration as well as water supplies and amenities.Moreover, the British Parliament stated in 1956[4] and 1958[5] that the two communities of Cyprus are separately and equally entitled to the right of self-determination. Rights were therefore associated with the distinct characteristics of the two peoples on the Island.

In 1955, the Greek Cypriot objective of unification with Greece turned into organized terrorist activity after the establishment of EOKA. The first step of this action plan consisted in toppling the British colonial administration, followed by the elimination of any Turkish Cypriot resistance. Of course, the plan presented a threat to Turkish Cypriots as well as Turkey. Turkey saw this as Greek expansion into the Eastern Mediterranean and the undermining of the bi-national character of Cyprus.

Cyprus is approximately 600 miles southeast of Greece and only 42 miles south of Turkey. Turkish Cypriots saw it as subordination to Greek Cypriot rule.

Violence between Communities on the Island spiraled. To prevent war between the two NATO allies, Turkey and Greece, Western powers sought to foster negotiations in the late 1950s between the Turkish and Greek Governments, in consultation with the leaders of the Turkish Cypriot and Greek Cypriot peoples. The outcome was the establishment in 1960 of the bi-national partnership Republic of Cyprus, whose independence and sovereignty were conditioned by the international agreements creating it.

The 1960 system purported to safeguard the rights of the two peoples on Cyprus. According to the 1959 Zurich and London Agreements, the *sui generis* Republic of Cyprus set up a system in which the Turkish Cypriot people and the Greek Cypriot people entrusted power in the partnership government and where legitimacy ensued from the joint will of both parties (who each retained powers of veto). Neither party in the partnership could claim exclusive sovereignty and independence to the exclusion of the other.

On the international level, the Republic undertook not to participate, in whole or in part, in any political and economic union with any State whatsoever, and not to permit any activity likely to promote, directly or indirectly, either union with any other State or partition of the Island. This state of affairs was guaranteed by UK, Turkey and Greece under the 1960 Treaties of Guarantee and of Alliance, which provided that in case the state of affairs was jeopardized these Guarantors could act together or individually to re-establish it.

A newspaper in Patris of 24 April 1966, confirmed by Lt. Gen. George Karayiannis, the Greek Army Officer then in command of the Cyprus Army, describes how, immediately after the establishment of the partnership Republic the Greek Cypriot side under Archbishop Makarios, the then President of the Republic of Cyprus, put together the Akritas Plan to destroy the partnership and to bring about *Enosis*. Even before the brutal destruction of the partnership by the Greek Cypriot partner in December 1963, Makarios admitted in a statement to The Times on 9 April 1963 that "Union of Cyprus with Greece is an aspiration always cherished within the hearts of all Greek Cypriots. It is impossible to put an end to this aspiration by

establishing a Republic." He repeated on several occasions that the 1960 agreements had created a state, but not a nation.

> The Akritas Plan contemplated forcefully monopolizing political power, relegating the status of the Turkish Cypriots to the status of a "protected minority", and replacing the partnership State with a Greek Cypriot state through the usurpation of the title of "Government of Cyprus."[6]

This was seen as the unavoidable first step towards *Enosis*.

Turkish Cypriots resisted the take-over, but their resistance met with an increase in the use of force, until in fact Turkish Cypriots were relegated to some 3% of the territory, what with forced evacuations and/or the destruction of no less than 103 villages.[7] The supposedly unchangeable provisions of the 1960 Constitution were unilaterally amended by the Greek Cypriot party, who abolished the requirement for separate majorities in the House of Representatives and effectively relegated the Turkish Cypriots to the status of a minority in a Greek Cypriot Republic, despite Article 182 of the 1960 Constitution which states:

> 1. The Articles or parts of Articles of this Constitution set out in Annex III hereto which have been incorporated from the Zurich Agreement dated 11th February, 1959, are the basic Articles of the Constitution and cannot, in any way, be amended, whether by way of variation, addition or repeal.[8]

International efforts to mediate in the dispute met with Greek Cypriot disapproval. On 4 March 1964, the UN Security Council passed Resolution 186 that created the UN Peace-keeping Force In Cyprus "to contribute to the maintenance of law and order and a return to normal conditions."[9] The reference to the "Government of Cyprus" in this Resolution should be taken to mean the partnership Government established by both Turkish Cypriots and Greek Cypriots. In fact, in a confidential *aide memoire* submitted to the UN Secretary-General on the same day this Resolution was taken, the UK Mission to the UN confirmed that "... (the British) Government's view is that until such time as the Constitution of Cyprus and the Agreements are amended through negotiation and with the consent of all the parties, the Government of the Republic of Cyprus, the Guarantor Powers and the United Nations as a whole have no alternative but to conduct their activities in accordance with the Constitution and with the Agreements."[10] This legal

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necessity was brushed aside over relatively soon afterwards as the Major Powers started to treat the Greek Cypriot Government as if it were the Government of Cyprus.

An attempt by Turkish Cypriot Members of Parliament to assert their rights and to return to the House of Representatives on 22 July 1965 was rebuffed by the Greek Cypriot Speaker of the House, Mr. Glafcos Clerides, who told the Turkish Cypriot Parliamentarians that they could not enter the House unless they accepted all the constitutional changes unilaterally made by Greek Cypriot Parliamentarians.[11]

The Turkish Cypriots were thus prevented from returning to the 1960 constitutional order. The then UN Secretary-General stated in his report of 10 September 1964 to the Security Council that maintenance of law and order and a return to normal conditions did not mean the restoration of the constitutional order.[12] This marked the point when the Greek Cypriots began to be treated as the legitimate Government of the Island by the UN. It also marked the turning point when the balance of political power on the Island was destroyed; when Greek Cypriots celebrated their illegal status as sole interlocutor/representative of the whole Island; and when the chance for the restoration of the 1960 partnership Republic and for peaceful resolution was destroyed, seemingly, forever.

Having thus isolated and marginalized the Turkish Cypriots, under what the Secretary-General called a "veritable siege",[13] Greeks and Greek Cypriots then staged a second violent coup on 15 July 1974, aimed at finally annexing the Island to Greece. Following consultations with Guarantor Power Britain, the Republic of Turkey, after nearly eleven years of Greek Cypriot violence and hostility, intervened in this coup to comply with her obligations under international law, imposed on her by the Treaty of Guarantee to protect the existence and rights of the Turkish Cypriot people and of itself. Turkish Cypriots throughout the Island who had been at the mercy of Greek Cypriots and Greeks for eleven years started to flow to the area under the control of the Turkish Cypriot Administration, secured by the Turkish army.

In 1975, the two sides accepted the Population Exchange Agreement in order to prevent further atrocities from being committed against Turkish Cypriots who were moving to the Turkish Cypriot administered northern

part of the Island.[14] It was agreed that both parties should be given the chance to go to their respective sides, if they wished, through the assistance of UNFICYP. The expectation was the creation of conditions that would facilitate peaceful co-existence and a new partnership agreement between the two parties.

The Turkish Cypriot administration, which had grown into a fully-fledged government since the breakdown of the partnership government in 1963, went on to form the Turkish Federated State of Cyprus in 1975, calling upon the Greek Cypriots to establish with them a federation – this time based on the principle of territorial separation through the exchange of properties between the two equal federated states.[15] When Greek Cypriots rejected, they declared the Turkish Republic of Northern Cyprus (TRNC) in 1983. The Constitution of the TRNC was put to a referendum on 5 May 1985 and was approved by 70.18% of those voting. Professor Christopher Brewin points out that in asserting their right to self-determination as a sovereign micro-Republic, Turkish Cypriots have a strong moral case, reinforcing the legal arguments on which Turkish Cypriots often rely. Brewin states that:

> Morally, their case is [...] analogous to the creation of Bangladesh. The Bengalis, a separate community oppressed by the Pakistani majority, were willing to risk their lives to create a new state with the help of the Indian army.[16]

Nevertheless, the Turkish Cypriot people persevered in proposing a new partnership with the Greek Cypriot side. With this in mind, two high level agreements were signed, one in 1977[17] between the Turkish Cypriot leader Rauf R. Denktash and Archbishop Makarios, and the second one in 1979 again between Mr. Rauf R. Denktash and the new Greek Cypriot leader Spyros Kyprianou.[18] The agreements foresaw a bi-communal and bi-zonal federal settlement for Cyprus with restrictions on the freedom of settlement and property ownership. However, years of negotiations with Greek Cypriot leaders came to nothing because, in spite of the 1974 imbroglio, Greek Cypriots were not convinced they needed a new partnership, especially since the Greek Cypriot Government was being treated by most of the international community as the sole legitimate Government of the whole Island.

After his election as Greek Cypriot President in 1993, Mr. Glafcos Clerides rejected the UN proposed Set of Ideas, which again foresaw a bi-communal, bi-zonal federal settlement guaranteed by the 1960 Treaties of Guarantee and of Alliance.[19] The Set of Ideas contained provisions for the global exchange of properties between North and South Cyprus, as well as restrictions on the exercise of the freedom of ownership, right to property, freedom of movement and freedom of settlement. The Ideas also contemplated EU membership. The proposed stages were the achievement of a settlement to be followed by EU membership based on the results of separate referenda in the North and in the South. The Turkish Cypriot side accepted 91 paragraphs of the Set of Ideas and said it would discuss the remaining 9 paragraphs. Mr. Clerides rejected the Ideas outright and instead focused on unilateral EU membership and increased military cooperation with Greece. He calculated that he could gain enough political, economic and even military leverage to impose his type of solution (unitary Greek Cypriot state with a Turkish Cypriot minority) on the Turkish Cypriots. On 1 May 2001, Mr. Clerides even characterized Cyprus as nothing but an outpost of Hellenism guarding the Thermophylae of the South.[20]

The EU's acceptance in the 1990s of the unilateral –but unlawful- Greek Cypriot application as a valid application for the whole of Cyprus was enough to finally relieve the Greek Cypriot side of any sense of urgency or indeed need to settle the Cyprus question and to take up joint membership of the EU. Turkish Cypriot and Turkish rights and interests, as well as the UN Secretary-General's good offices mission aiming at the establishment of a new partnership between the two equal parties have, subsequently, fallen victim to the EU process.

RELATIONS WITH THE EU

First of all, a historical background to the intervention of the EU reveals the opportunities that were missed throughout the process. The partnership Republic of Cyprus applied for associate membership of the then EEC in 1962. It was in 1972, after the partnership Republic of Cyprus was destroyed, that the Greek Cypriot side signed the Agreement of 19 December 1972 establishing an Association Between the European Community and the Republic of Cyprus and the Protocols thereto, with the EEC, under the usurped title of the government of Republic of Cyprus, to which the Turkish Cypriot party strongly objected. The Turkish Cypriot

party remained a persistent objector to all Greek Cypriot initiatives under this usurped title.

On 3 July 1990, the Greek Cypriot Administration applied for accession to the European Community in accordance with Article 237 of the EEC Treaty, Article 205 of the Euratom Treaty and Article 98 of the ECSC Treaty on behalf of the so-called "Republic of Cyprus". Tragically, the application of the Greek Cypriot side, ostensibly representing also the Turkish Cypriots, was processed, despite the contrary provisions of the 1959 Zurich and London Agreements, the 1960 Treaty of Guarantee and the 1960 Constitution, and the protests of the Turkish Cypriot side. A comprehensive Memorandum, containing the position of the Turkish Cypriot side was presented to the Council of Ministers of the European Community on 12 July 1990 - 9 days after the Greek Cypriot application.[21]

In this memorandum it was stressed that an essential, inalienable ingredient of the 1960 Republic of Cyprus was the concept of effective and guaranteed participation of both Turkish Cypriots and Greek Cypriots, in every aspect of Government. For instance, under Article 1 of the Zurich Agreement of 11 February 1959, the President was to be a Greek Cypriot and the Vice-President a Turkish Cypriot, both of whom were elected separately by their respective constituent communities, and both, under Article 5, enjoyed equal power of veto.

The London and Zurich Agreements of 1959 formed the basis of the 1960 Cyprus Constitution. Under the internationally protected 1960 Constitution, the Turkish Cypriot Vice-President had the right to veto any law or decision concerning "foreign affairs", which also included the right to enter into international treaties, conventions and agreements. Article 50 of the Constitution states:

> "The President and the Vice-President of the Republic, separately or conjointly shall have the right of final veto on any law or decision of the House of Representatives or any part thereof concerning foreign affairs, except the participation of the Republic in international organizations and pacts of alliance in which the Kingdom of Greece and the Republic of Turkey both participate..."[22]

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The right of veto, among other things, was also a mechanism by which the Turkish Cypriots were assured that the Republic would not unilaterally be able to join an organization of which Greece (and not Turkey) is a member. Article 50 of the Constitution gave the President and/or the Vice-President the right to veto the Republic of Cyprus' application to an international organization if Greece and Turkey were not both members of that organization.

By virtue of Article I of the Treaty of Guarantee, the Republic of Cyprus was bound, *inter alia*, to refrain from participating, in whole or in part, in any political or economic union with any State whatsoever and to declare any activity which was likely to promote either union with any other State or partition of the Island. The then Greek Foreign Minister, Mr. M. Averoff, explained that the wording of the second paragraph of Article I of the Treaty of Guarantee "was specifically designed to exclude possible Greek devices in the direction of Enosis, such as a personal union of Cyprus and Greece under the Greek crown."[23]

Although the EU is not a state, its aim, as is evident from its current studies for a Constitution, is a close union between Member States. Entry of the so-called Republic of Cyprus into the EU consequently amounts to economic and political union with other members, including Greece. Greek Cypriot Minister of Defense Sokratis Hasikos recently admitted, accession is not so much for the economic benefits that the EU will provide but more so for the political advantages.[24] Nikos Anastasiades, the Head of the ruling DISI Party, has opined that EU membership would amount to indirect *Enosis* with Greece.[25] This view was shared by the then Greek Minister of Foreign Affairs Georgios Papandreou. In a similar vein, the chief negotiator of the Greek Cypriot side with the EU, Mr. George Vassiliou, has characterized EU membership of Cyprus as the "... only way to secure the future of Hellenism."[26]

On 30 June 1993, immediately after Mr. Glafcos Clerides was elected President of the Greek Cypriots and as the UN Set of Ideas and Confidence Building Measures were still under consideration, the European Commission paid attention to this in its opinion regarding the application of "Cyprus" for membership. In this opinion, it is stated that:

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> ...the Government of the Republic of Cyprus, recognized by the European Community and its Member States as the only legitimate government representing the Cypriot people, addressed the Community on behalf of the whole of the Island. The application was strongly challenged by the de facto authorities of the northern part of the island. While acknowledging that it would be in the interests of the Turkish Cypriot community to form part of the European Community, these authorities rejected the right of the Government of the Republic of Cyprus to speak for the whole of Cyprus in such an approach. They based their position on the Guarantee Treaty and the wording of the 1960 Constitution, which grants the president and vice president (a Turkish Cypriot) a veto over any foreign policy decision, particularly any decision on joining an international organization or allegiance that does not count both Greece and Turkey among its members. They consider, accordingly, that in the prevailing circumstances the Community should not take any action on the application.

Although the Commission took note of the valid objections contained in the Turkish Cypriots opinion submitted to them, it nevertheless concluded that:

> The Community, however, following the logic of its established position, which is consistent with that of the United Nations where the legitimacy of the Government of the Republic of Cyprus and non-recognition of the "Turkish Republic of Northern Cyprus" are concerned, felt that the application was admissible and initiated the procedures laid down by the Treaties in order to examine it.

It was through this Opinion that an alternative outlet emerged for the Greek Cypriot perspective, this time, unlike the UN Secretary-General's mission of good offices, clearly treating the Turkish Cypriot side as subordinate to the Greek Cypriot side in the process. Seizing the current of public opinion, Mr. Glafcos Clerides was succeeded by Mr. Tassos Papadopolous who shifted focus, away from the UN process, toward the EU process in an attempt to further strengthening the Greek Cypriot position as the sole authority for the whole Island.

Although paragraph 48 of the Opinion stated that "the Community considers Cyprus is eligible for membership ... as soon as the prospect of settlement is surer...", Greek diplomatic pressure portrayed the Turkish Cypriot side as obstructing the EU progress. The EU was led to believe that the Greek-Cypriot initiative of accession talks was meant as a catalyst in the

settlement of the Cyprus issue. Hence, "Cyprus" was included in the next round of EU enlargement in the 1994 Councils of Corfu and Essen. The implicit decision to drop the settlement condition was decided on March 6, 1995, by the EC General Affairs Council. That day it was agreed that it was proper to start accession negotiations with the Greek Cypriot "Government of Cyprus" six months after the termination of the Inter-governmental Conference.

The Greek Cypriot position was also reinforced by the Resolution of the EU – 'Cyprus' Association Council dated 12 June 1995 which stated, among others, that:

> ... the Council hereby renews the invitation made to the Commission to establish the necessary contacts with the Turkish Cypriot community, in consultations with the Government of Cyprus, which will remain the European Union's sole interlocutor in the conduct of the structured dialogue.

The invitation to establish contacts with the Turkish Cypriot side "in consultation with the government of Cyprus", which they saw as "the sole interlocutor in the conduct of the structured dialogue", indicated that the Turkish Cypriot people were seen by the EU as a recalcitrant minority, whereas the agreed principles of the UN process acknowledged that the relationship of the two communities of the Island is much more than just a relation between majority and minority.[27]

It shall be clear that the lopsided empowerment of the Greek Cypriot side by the EU has encouraged the Greek Cypriot side to pursue zero-sum strategies instead of a problem solving approach. On 5 June 1994, for example, a British Court, upon a Greek Cypriot-backed application, made a request for a preliminary ruling of the European Court of Justice under Article 177 EC (now Article 234 EC) on the interpretation of the Plant Health Directive. The judgment to the effect that Turkish Cypriot goods traded on European markets would be treated as goods from a country not associated with the European Community, had a devastating impact for many traders as it exposed them to tariffs ranging from 3 per cent to 32 percent.

More specifically, *R. v. MAFF, ex parte SP Anastasiou (Pissouri) Ltd and Others* in the Court of Appeal, 2 April 1997, and in the House of Lords,

20 May 1998 (1999) 3 CMLR 469; (1999) *European Law Reports* 167 addressed the question whether the UK could allow citrus fruit or potatoes produced in Northern Cyprus to enter into the UK when it was not accompanied by certificates from the competent authorities of the 'Republic of Cyprus'. Anastasiou and Others had previously applied to the UK High Court and then to the Court of Appeals for an order restraining the Minster of Agriculture, Fisheries and Food (MAFF) from accepting such exports without certificates produced by the "Republic of Cyprus." Both courts had refused the order for citrus fruits, but had granted it for potatoes. The appeal was heard by the House of Lords who referred to the Court of Justice of the European Communities a question for the interpretation of the provisions of the EU-Cyprus Association Agreement relating to 'customs authorities of the exporting State' to the Association Agreement and of the expression 'authorities empowered for this purpose ... on the basis of law or regulations of the (exporting) country' contained in the Plant Health Directive.

By reasoning that the cooperation necessary to achieve the Directive's objective could not be established with authorities 'not recognized either by the Community or by its member states', read, TRNC, the Court of Justice held that the Origin Protocol and the Plant Health Directive had to be interpreted as precluding acceptance by Member States authorities when citrus fruit and potatoes were directly imported from Northern Cyprus. The UK High Court accordingly declared that the UK may not accept movement and phytosanitary certificates other than those issued by the competent authorities of the 'Republic of Cyprus', thus canceling out the preferential tariff arrangements of the EC-Cyprus Association Agreement.

The difficulties encountered induced the Turkish Cypriots to reroute the export of citrus fruit and potatoes via Turkey. They would ask Turkish authorities to carry out the phytosanitary inspections and to issue the required certificates, after which the ships continued on their journey to the eventual ports of destination in the European Community. Once this became known, the same plaintiffs who had applied to the UK High Court did so once again for a restraining order, this time to prevent MAFF from allowing goods produced in northern Cyprus that were not accompanied by certificates from the competent authorities of the 'Republic of Cyprus'. Once again the order was granted, in first instance and on appeal, only in respect to imports of potatoes. The House of Lords who had referred the

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matter to the Court of Justice of the European Communities gave a detailed opinion stating that according to the Lordships the Plant Health Directive permitted a Member State to allow into its territory plants originating in a non-member country, to which certain special requirements applied, where the required phytosanitary certificate that accompanied them is issued by non-member authorities of a non-member country from which the plants were transported to the Community and not by the authorities empowered for that purpose in the plants' country of origin only provided that the plants (i) had been imported into the territory of the country where the checks had taken place before being exported from there to the Community, (ii) had remained in that country for such time and under such conditions as to enable the proper checks to be completed, and (iii) were not subject to special requirements that could only be satisfied in their place of origin. In addition, the House of Lords, upon an application of a Greek Cypriot-backed company referred to the Court of Justice of the European Communities the question of whether certificates of origin could be authorized by another country when the originating State was not recognized. The Court held that this was not acceptable for lack of the ability to cooperate with a non-recognized state.

The substance of the matter is clarified by Stefan Talmon's article, 'The Cyprus Question Before the European Court of Justice', where he stresses that '... international non-recognition does not necessarily preclude cooperation between the authorities of the non-recognizing state and those of the unrecognized state.'[28] State practice confirms this, as can be seen from the example of Manchukuo, the north-eastern provinces of China which were occupied by Japan. On a question relating to the application of the International Opium Convention of 19 February 1925, which provided that each contracting party should require a separate export authorization to be obtained for each exporting of these drugs, export authorization was allowed although obtained from the unrecognized Government.

The Republic of China (Taiwan), not recognized by either the European Community or by its Member States, happily issues import certificates that are uncontroversial. It is interesting to note that on 15 May 1995, i.e. about 10 months after the European Court's decision in *Anastasiou I*, the European Community adopted Regulation (EC) No. 1084/95 which effectively abolished the protective measures applicable to imports of garlic originating in Taiwan and replacing it with a certificate of origin which

provided in Article 2(1)(a) that garlic originating in Taiwan must be accompanied upon importation into the Community by a 'certificate of origin issued by the competent national authorities of the country of origin, in accordance with Articles 55 to 65 of Regulation (EEC) No. 2454/93'. "Competent national authority" is interpreted to mean 'national *governmental* authority' of the country of origin. The fact that this system was set up to accommodate trade relations with the (unrecognized) Republic of China after the *Anastasiou I* ruling shows at least that the European Commission and the Member States do not necessarily share the view of the European Court on the legal effects of non-recognition.

The Court's ruling which had no perceptible impact on the Greek Cypriot side, were a blow to the traditional trade ties the Turkish Cypriot people had with Europe and virtually wiped out the primary livelihood for the 200,000 citizens of the TRNC and deprived the Community of its main source of foreign exchange.

The December 1997 Luxembourg Council then concluded that the accession of Cyprus would help to unite the two sides on the Island and decided to begin accession negotiations. Negotiations commenced a few months later, in March 1998. The conditionality with respect to conflict settlement in Cyprus was finally and explicitly abandoned at the Helsinki Summit of December 1999. Paragraph 9b of the Helsinki Declaration reads:

> The European Council underlines that a political settlement will facilitate the accession of Cyprus to the European Union. If no settlement is reached by the completion of the accession negotiations, the Council's decision on accession will be made without the above being a precondition. In this the Council will take into account all of the relevant factors.

Finally, following the Thessaloniki Summit the Act of Accession was signed between the Member States and ten candidate countries. It entered into force on 1 May 2004 after the Greek Cypriot Republic of Cyprus rejected a solution of the Cyprus Problem on the basis of the UN plans. The abnormal situation in Cyprus was addressed in Protocol No. 10 and the British protected their Sovereign Base Areas under Protocol No. 3 excluding the bases from European Union.

Protocol No. 10 primarily deals with the situation arising out of the absence of a solution on the Island before the entry into force of the Act of Accession. It stated that the North was territory that the Government of the Republic of Cyprus did not exercise control over, and that therefore the application of the *acquis communautaire* in the North was suspended.[29] This suspension was only going to be ended only by unanimous decision of the Council of the European Union, not by way of an automatic application of the *acquis* in the North after a settlement. Article 4 of the Protocol furthermore provided that in the event of a settlement, the Council, acting unanimously on the basis of a proposal from the Commission, would have decided on the adaptations to the terms concerning the accession of Cyprus to the European Union with regard to the Turkish Cypriots.

With or without a settlement, it has been proclaimed a goal of the European Union to foster economic development of the North.[30] Such development was envisaged regardless of the application or suspension of the *acquis*. A special regime was contemplated in Article 2 of the Protocol regarding the boundary between the North and the South as well as the border between the North and the Eastern British Sovereign Base Area. In fact, a Council Regulation was issued for this purpose.[31] A more detailed analysis of the Regulation will be given further below later in the paper.

THOUGHTS ON THE PROCESS WITH THE EUROPEAN UNION

In terms of its political implications, the commencement of accession negotiations with the Greek Cypriot "Government of Cyprus" on behalf of the whole of Cyprus, worked out to the detriment of the previous painstaking efforts to solve the Cyprus problem.

The "sole interlocutor" status of the Greek Cypriot Government in their relations with the EU had bolstered the Greek Cypriot negotiating position, reducing their willingness to envisage a new win-win partnership with the Turkish Cypriots. This enhanced status and the lifting, by the EU, of conditionality of accession on conflict settlement have increased the perceived power asymmetry and the hierarchy problem between the two parties, and it has made Turkish Cypriots more than ever the hostage of the Greek Cypriot side.

Conflict resolution experts point out that when the power of one party increases relative to that of the other, and further rises are expected, the former power will bid for time while the latter will be reluctant to submit to an unfavorable agreement.[32] Nathalie Tocci, Research Fellow at the Centre for European Policy Studies (Brussels), specializing in Cyprus and Turkey, has published a paper entitled 'Cyprus and the European Union: Catalyzing Crisis or Settlement',[33] in which she concludes that the entry of the Greek Cypriot Republic of Cyprus into the EU would further strengthen the Greek Cypriots' position and facilitate the realization of many of the political and security benefits currently sought by them. She points out that Greek Cypriots are convinced that these benefits cannot be realized through negotiation and agreement with the Turkish Cypriots, hence, the reduced Greek Cypriot interest and incentive to settle the conflict prior to membership.

Tocci's overall conclusion is that the EU's expected catalytic effect seems to have failed because of the interaction between the interests of conflicting parties in the accession process, as well as the EU's policies within the framework of enlargement. The failure is caused by a fundamentally misconceived policy of conditionality and the EU is more likely, under the circumstances, to catalyze crisis rather than bring about settlement in Cyprus.

Thomas Diez, Research Fellow at the Copenhagen Peace Research Institute (COPRI), Denmark, has reached the same conclusion and writes that "....conceptualization of the effect of EU membership negotiations as a positive catalyst on the Cyprus conflict is misguided because of a series of flawed assumptions on which such a catalytic effect may rest."[34] Similarly, Philip H. Gordon, former Editor of Survival and Director for European Affairs of the National Security Council during the Clinton Administration, has warned in an article that appeared in *The World Today* that membership negotiations with the Greek Cypriot Government of Cyprus will serve as a catalyst, but as one towards permanent division.[35] The recent results appear to prove him right.

F. Stephen Larrabee, Senior Staff Member of RAND, Washington DC, also stressed that "... the EU's decision to open accession negotiations with the Greek part of Cyprus prior to an overall political settlement threatens to lead to a hardening of the status quo and *de facto* partition of the island.

Moreover, the decision could have serious consequences for the EU itself, resulting in the importation of an explosive dispute into the Union, which could paralyze its internal decision-making processes."[36] Larrabee added that "... the EU should make clear that a Cyprus settlement is a precondition for Cypriot membership. Otherwise, it could find its cohesion and effectiveness severely jeopardized. The EU has made the settlement of territorial and ethnic disputes a precondition for membership of the new democracies in Eastern Europe. Why did the same rules not apply in the case of Cyprus?"[37]

The European Union could have played a catalytic role for the settlement of the Cyprus issue by maintaining equally strong conditionality on both parties in the Island. Professor William Zartman, a prominent negotiation and conflict resolution specialist, insists that conflict transformation from confrontation to cooperation will not happen unless there is a "mutually hurting stalemate."[38] By enhancing the status of the Greek Cypriot party and by removing the conditionality on them (while increasing the conditionality on the Turkish Cypriot side and Turkey), the European Union destroyed the conditions of a "mutually hurting stalemate" and undermined the chances of success of the United Nations Secretary-General's good offices mission.

THE ANNAN PLAN

The European Union has played a pivotal role in the resolution of the Cyprus issue. Especially, since the initiation of the talks with Turkish Cypriot President Rauf R. Denktas in November 2001, the United Nations proposed solution entitled Comprehensive Settlement of the Cyprus Problem[38], also known as the "Annan Plan", and its numerous amendments all were scheduled to coincide with strategic deadlines of the European Union. Most prominently, the submission of the Plan to referenda on 24 April 2004 and the need for subsequent approval of the Guarantors no later than 29 April – were scheduled to take place in time for the unconditional accession of the Island to the European Union. The question put to the Turkish Cypriots and Greek Cypriots in the simultaneous referenda was whether or not they approved of the Foundation Agreement that was going to bring into being a new state of affairs in which Cyprus would join the European Union united.[39]

What was the Annan Plan about and especially what kind of regulations did it foresee for the conduct of European Union Relations of what was going to be the United Cyprus Republic? The Annan Plan foresaw a federal setup of a United Cyprus Republic with certain confederal features. Based on the "virgin birth" approach, the issue of the origins of sovereignty would remain blurred yet there was going to be a constitutional distribution of power. Accordingly, the competences and functions vested in the federal government were enumerated.[40] To strengthen the virgin birth approach, the federal government as well as the constituent states exercising legislative and executive competences in the residual powers would have exercised these competences "sovereignly".[41] A number of competences, including tourism, environment, fisheries and agriculture, industry and commerce, would have been subjected to cooperation and coordination between the constituent states mainly through cooperation agreements.[42]

Another important aspect of the virgin birth approach was the vagueness in whether the Republic of Cyprus continued in existence or whether the new state of affairs would have been a polity resulting from the fusion of the Turkish Republic of Northern Cyprus and the Greek Cypriot-controlled Republic of Cyprus. Although membership in international organizations, especially the United Nations and Council of Europe, gave the impression that it was a (newly structured) Republic of Cyprus that would continue in existence, the fact that 61 international treaties involving the Turkish Republic of Northern Cyprus would also be renewed, several not having the nature of servitudes, and the procedures adopted for apportioning of debt could suggest that the creation of a new state was contemplated. The fact that the Annan Plan would have entered into force prior to the accession of the Greek Cypriot Republic of Cyprus into the European Union also substantially relieved the Turkish Cypriots that the bi-national character of Cyprus would have been recorded with a promised separate Protocol to the 2003 Treaty of Accession.

In the federal institutions, political equality was achieved to a certain degree. The Senate leg of the bi-cameral legislature promoted equality and bi-communality, as previously set out in the 1960 Constitution, where Turkish Cypriots would vote for Turkish Cypriot Senators and the Greek Cypriots for Greek Cypriot Senators.[43] The Chamber of Deputies, which was indispensable in shaping legislation, allocated a minimum of one quarter of all seats to each constituent state.[44] The executive power would

have been exercised by the Presidential Council of six voting and normally three non-voting members, at least one third of voting and non-voting members to hail from each constituent state.[45] Unlike the 1960 setup, the President and Vice-President did not have the power of veto and would have rotated between a Greek Cypriot and Turkish Cypriot President reflecting political equality. The federal Administration would have at least one-third of the public servants hailing from each constituent state.[46]

Law and order would have been secured by constituent state police and federal police had limited powers. There would have been cooperation between the federal police and constituent state police as well as Joint Investigation Agency with powers in crimes including drug trafficking and money laundering. Joint Investigation Agency would have 50% participation from both constituent state police forces.[47] Also, active interaction with EUROPOL and INTERPOL would have been guaranteed.[48]

The 1960 Treaties of Guarantee and Alliance would have continued with certain amendments, while the Treaty of Guarantee would have ensured the independence, territorial integrity, security and constitutional order of the constituent states. Hence, next to the federal government, the Turkish and Greek troops would have also provided for the Cypriot security needs. The Plan, however, contemplated a reduction of the armed Turkish forces to 650 and Greek forces to 950 in phases with a three-yearly revision with the ultimate aim of total withdrawal of all forces.[49] Moreover, mainly to contain Greek Cypriot demands, the United Nations Peacekeeping Operation in Cyprus would have had a much greater role and would "monitor the implementation of the Foundation Agreement and use its best efforts to promote compliance with it and contribute to the maintenance of a secure environment".[50] The impact of this on the guarantee system was the main source of concern for the Turkish side.

A Supreme Court and a Court of First Instance, initially consisting of equal number of judges, would have been created: The two Chambers would have separate jurisdictions in dealing with the following matters, determining the constitutionality of laws, acting as appeals courts on federal matters, resolving disputes among institutions of the Republic and having primary jurisdiction in many federal laws.[51] Other independent officers included the Central Bank, federal Attorney-General and Auditor-General.

The Plan foresaw the reduction of the Turkish Cypriot territory by about 28.5% and the displacement of around 110,000-120,000 Turkish Cypriots. The intricate property arrangements would have resulted in a revision of the property regime and, where appropriate, people who had been possessing a property for thirty years (most of whom are Turkish Cypriots) would have to pay for substantial compensation based on current market value or had to leave their homes.

Also, the Plan called for a substantial number of Turkish Republic of Northern Cyprus citizens who were of Turkish origin to be expelled, resulting in the separation of families and the deprivation of Turkish nationals of the residence permits that would otherwise have been reserved for Turkish nationals over and beyond the 5% quota guaranteed to United Cyprus Republic citizens who lived in Turkish Cypriot State with Turkish origin.[52] This was not a problem for Greek nationals who were subject to the same quota since due to the larger population of Greek Cypriot side, 5% of citizens of Greek Cypriot State could go up to 40,000 Greek nationals whereas for Turkish nationals due to the smaller population in the Turkish Cypriot State it would mean approximately 10,000 Turkish nationals.

EUROPEAN UNION RELATIONS OF THE CYPRUS REPUBLIC

The Annan Plan contemplated a United Cyprus Republic that was going to be a Member State of the European Union.[53] Though the aim was the resolution of the Cyprus problem, European Union membership was the determining variable. The comprehensive settlement of the Cyprus problem proposed in the Plan would have had significant economic, as well as political, social and cultural implications for Turkish Cypriots. By the rejection of the Plan, the Greek Cypriots, encouraged by their Administration, prevented their fellow islanders in the North from enjoying the rights they were hoping to get recognized in return for the concessions, which needless to say, would be substantial too. Without paying any perceptible price for it, the Greek Cypriot side was able to deny the Turkish Cypriots their choice, their aspiration to exercise rights within a peaceful, constitutionally acceptable internal structure.

How did the Annan Plan regulate relations of the Member State United Cyprus Republic within the European Union? The position of the United

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Cyprus Republic with its constituent states with the European Union proposed was essentially governed by a set of temporary derogations from the European Union *acquis as* laid down in a document called "Act of Adaptation" and a set of rules regarding the conduct of relations within the European Union.[54]

The EU legal framework of the relations with the Republic of Cyprus was built upon Protocol No. 10 of the 2003 Act of Accession. One of the perceived problems with the Act of Accession was that the Greek Cypriot Republic of Cyprus was to represent Turkish Cypriots. In order to enhance the effectiveness of the settlement it proposed the Annan Plan sought to ensure its invocability before the European Union Courts. The Turkish Cypriots, who had asked for this entrenchment, had obtained reassurance that an "Act of Adaptation" would be adopted by the Council of the European Union on the basis of Article 4 of the Protocol No. 10 to the 2003 Act of Accession, which would have meant that the settlement would become part of EU primary law. The European Commission for its part gave assurances that an additional Protocol for the amendment of the existing Protocol No. 10 would ensure the primacy of the temporary derogations from the *acquis*.

The question of the legal force of the Act of Adaptation is compounded by the fact that the Act of Accession that would have provided the legal basis for the decision would not have entered into force prior to the adoption of the relevant rules of the Act of Adaptation. This was important, *inter alia* because the Plan incorporated derogations to the four freedoms (of goods, services, persons and capital). One of these restrictions involved property regulations; for economic reasons, the Turkish Cypriot State was given the right to apply its restrictive laws on the purchase of real estate by natural persons who had not been permanent residents for at least three years and legal persons.[55] This Turkish Cypriot legislation, if applied without discrimination, would have been a licit derogation from the EU fundamental freedoms for a period of fifteen years or for as long as gross domestic product, per capita, in the Turkish Cypriot Constituent State was less than 85% of the level of gross domestic product per capita in the Greek Cypriot Constituent State.[56] An additional safeguard existed in case the Turkish Cypriot State faced a serious deterioration of its economic situation.[57]

For economic and social considerations, the residence of Turkish Cypriots in the Greek Cypriot State and Greek Cypriots in the Turkish Cypriot State was determined on the basis of internal constituent state laws regarding citizenship status. Within a period of five years subject to exceptions, limits were set for each municipality or village and a constituent state could limit residence with a view to protect its identity and to take safeguard measures ensuring that no less than two-thirds of its permanent residents spoke its official language as their mother tongue.[58] Limitations on the number of residents of Turkish nationality in the Turkish Cypriot Constituent State and of Greek nationality in the Greek Cypriot Constituent State were also introduced: they could not exceed 5% of the number of resident citizens holding constituent state citizenship.[59]

Other important regulations included in the Act of Adaptation were measures ensuring the participation of the United Cyprus Republic in the European Security and Defense Policy, representation of the Turkish Cypriots in the European Parliament with at least one third of the seats, (totaling two today), and an important provision for the adoption of Turkish as an official and working language of the institutions of the European Union.[60]

Another important set of regulation in the Annan Plan concerned the conduct of relations with the European Union, on the basis of the instruments such as the Foundation Agreement embodying the Constitution, a federal law entitled Federal Law on Conduct of European Union Relations, and the Cooperation Agreement on External Relations. The conduct of European Union relations of the United Cyprus Republic was modeled after the case of Belgium. In fact, this was expressly provided for in the Foundation Agreement where it stated that "...the constituent states shall participate in the formulation and implementation of policy in external relations and European Union relations on matters within their sphere of competence, in accordance with Cooperation Agreements modeled on the Belgium case."[61]

The Belgium model is one where two main cultural communities live under a political system designed to pacify inter-ethnic tensions and conflict. The Reform of the Belgian State in four successive constitutional revisions in 1970, 1980, 1988 and 1993 resulted in the delicate constitutional system of today. A brief analysis of the Belgian Constitution

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is appropriate. The 1993 revision redefined Belgium as a federal state. The resulting institutional structure comprises the federal level (House of Representatives, Senate, King), the communal level (Flemish, French, and German Community Council, Joint Commission), the state-region level (Flemish and Walloon Region, Brussels-Capital), and finally the language-region level (Dutch-speaking, French-speaking, German-speaking and Bilingual Brussels Region).

Because Communities or Regions do not have international legal personality, they may assign their powers, even in matters falling within their exclusive jurisdiction, to the Federal State, which has a distinct legal personality, especially when a matter is at issue before a supranational or international court. Communities and Regions have executive powers and responsibilities for implementing those rules within their own sphere of competence. The Belgian State can act in place of the defaulting Community or Region only in limited circumstances, such as after an adverse judgment against the Community or Region.

The Belgian State can be represented at EU Council meetings by a member of the Federal Government, or a representative of a Community or Regional Government. This is determined by the topic under discussion. In exclusively federal issues, such as foreign policy in general, macro-economic policy, budget (EU), development aid, telecommunications, Justice and Home Affairs, Federal authorities will represent Belgium. In areas which mainly fall within federal jurisdiction, and only partly relate to sub-national issues, such as the internal market, public health, energy, environment and transport, the Belgian federal representative is assisted by an assessor whose main duty is to assist the head of delegation, to take the floor on the issues falling within his area of competence, and to contact his backbench once the session is over. Conversely, if the topic is mainly sub-national with partly federal effects, such as industry, research, Belgium is represented by a sub-national representative assisted this time by a federal assessor. Exclusively sub-national issues such as culture, education, tourism, and land use planning are discussed by a (rotating) sub-national representative. If the topic is agriculture, Belgium is invariably represented by a federal minister, assisted by a Flemish and Walloon minister. In case of fisheries, Belgium will always be represented by a Flemish minister.

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Coming back to Cyprus, the Annan plan endorsed by the European Union regulated decision-making processes of the United Cyprus Republic in matters concerning the European Union in a comparable way. The Turkish Cypriots in their constituent state had effective participation in decision-making on issues within their exclusive competence or predominantly affecting their interests. Also, at the federal level, decisions on federal issues called for an active participation of Turkish Cypriots in shaping the European Union policies of the United Cyprus Republic. In federal matters, the Member of the Presidential Council responsible for External Relations would, in consultation with the competent federal authorities or public bodies as well as the constituent states, have decided on the European Union policy of the United Cyprus Republic.[62]

The decision-making in federal matters was not vested in the Member of Presidential Council responsible for European Union Relations but in fact included active participation of other stakeholders. The Member of the Presidential Council responsible for European Union Affairs could, or if requested by another Member of the Presidential Council, had to refer the matter to a Ministerial Committee of European Relations - consisting of a Turkish Cypriot Member, a Greek Cypriot Member, one of whom would be responsible for External Relations, the other for European Union Relations, and one or two more Members.[63] In addition to the participants in decision-making the method itself was inclusive of the interests of the two constituting peoples in that the Committee would try to reach its decisions by consensus. Regardless of whether consensus was achieved, the case would then be refereed to the Presidential Council with a dissenting opinion, if applicable.[64] At all times, the Presidential Council could have delegated the decision-making power to the Committee.[65]

In the interest of efficiency and smooth functioning of governance in the European Union organs, the Representative of the United Cyprus Republic in the European Union could abstain or refer the matter to the Members responsible for External Relations and for European Union Relations, a Turkish Cypriot and a Greek Cypriot, for a faster decision and implement the decision taken in this way. In the same vein, Presidential Council and the Committee could decide to empower the Representative in European Union to determine the official position.[66].

In matters wholly or predominantly within the competence of the constituent states a more effective participation of the Turkish Cypriots in decision-making was provided for. The Cooperation Agreement on European Union Relations, while explicitly referring to the Belgian model, established a Coordination Group consisting of an equal number of Turkish Cypriots and Greek Cypriots. This Group was intended to try and resolve deadlocks whenever the constituent states could not agree on the way forward with respect to a policy in the European Union.[67]

If the Coordination Group could not resolve the issue, similar to the Belgian case, it would then transfer the matter to a higher level, in this case the Inter-Ministerial Committee on European Union Relations, again consisting of equal number of Turkish Cypriot and Greek Cypriot representatives.[68] If consensus could not be achieved in this Committee either, a special majority would apply according to which at least one Turkish Cypriot or Greek Cypriot participation could decide on policy. The said decisions could only be altered for imperative reasons of foreign affairs or if the two Members responsible for External Relations and European Union, one from each constituent state, so agreed.[69] Flexibility could also be achieved upon proper decision with the said methods in the Group or the Committee or upon empowerment of the Representative.[70]

The Plan ensured, for the most part, a single international legal personality. This much appeared from the capacity the United Cyprus Republic to litigate. However, the constituent states as well as the federal government could bring actions against an illegal act or decision on behalf of, or misuse of power or failure to act by an institution of the European Union or another Member State concerning matters in their areas of the competence.[71]

The modalities of an application of the constituent states to European Courts mirrored the Belgian model and involved a Working Group in the context of the Inter-Ministerial Conference on European Union Relations. Federal and constituent state Attorneys-General and representatives as well as representatives of the Group would assist in the preparation of the application. In case of a disagreement, the Inter-Ministerial Conference on European Union Relations would be involved.[72] The Turkish Cypriot approval by 65% of the Annan Plan is an indication of their acceptance of being represented in the proposed way in the European Union organs.

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As far as the allotment of posts of Turkish Cypriots in the European Union institutions is concerned; for the two or more seats in the European Parliament each of the constituent states was regarded as a separate constituency[73]; representation in the Council occurred on the basis of appointment by either the Presidential Council (in federal matters) or upon the suggestion of the Inter-Ministerial Conference on European Union Relations (if the matter was one falling exclusively or predominantly within the competence of the constituent states).[74] Moreover, nominations of European Commissioners would have included two Greek Cypriots and one Turkish Cypriot initially, subsequently ensuring that the second nomination hailed from the other constituent state.[75] Thereafter, a ratio of 2:1 Greek Cypriot and Turkish Cypriot nominations had to be respected.[76] In the same ratio, representatives in the Economic and Social Committee would include Turkish Cypriots,[77] whereas in the Committee of Regions Turkish and Greek Cypriots would be equally represented .[78]

Of course the implementing bodies, and in fact the actual shapers of the policy of United Cyprus Republic, namely the Department of European Union Relations as well as the Permanent Representation of United Cyprus Republic to the European Union, would have included Turkish Cypriots.[79] Each one of these governmental bodies would have had at least one-third Turkish Cypriots and would have been headed by Turkish Cypriots; not to mention the filling of the public service of the European Union institutions, proportionally, by Turkish Cypriots. The registration of Turkish as one of the official languages of the Union also sent positive messages to the Turkish nation.[80] One out of three Cypriot Judges and Advocates-General on the Court of Justice of the European Communities, the Court of First Instance of the European Communities and the Court of Auditors of the European Communities would be a Turkish Cypriot.[81]

In addition to the above-stated political rights, distinct economic advantages would have resulted from acceding to the European Union. The integration into the European market and an expansion in the services industry in the Turkish Cypriot side would have boosted economic development on the Island. Furthermore, the North was going to benefit from the regional and structural funds of the European Union either directly or via the United Cyprus Republic.

According to Protocol No. 10, in the event of a settlement, the Council, acting unanimously on the basis of a proposal from the Commission, would have decided on the adaptations to the terms of accession of Cyprus to the European Union with regard to the Turkish Cypriots.[82] This *sui generis* harmonization process would come with financial assistance. The social and cultural benefits that Turkish Cypriots could have taken advantage of should not be underestimated either. Turkish Cypriots would have had free, direct contact with Europeans in the institutions of the European Union and through the free movement of people.

Such advantages do not come freely and without obligations. The Plan required that the bi-national constitutional system complied with the rigorous requirements of the European Union. Also, the constitution lays down obligations that are further elaborated in the Cooperation Agreement on European Union Relations. Article 19.4 of the Constitution as well as Article 7.1 of the Cooperation Agreement addressed respectively the federal government and the constituent states with obligations arising from European Union membership. Who had to take action depended on their legislative competence on the subject matter. For instance, when the *acquis* called for the creation of a single administrative structure, it would have been a federal body created by Cooperation Agreement.

In cases where a constituent state failed to fulfill its obligations vis-à-vis the European Union within its area of competence, the federal government could act, upon the expiration of a specified period, to fulfill the State's obligations.[83] If the failure of a constituent state resulted in a judgment against the United Cyprus Republic, that judgment would have to be enforced by the constituent state.[84] This was once again similar to the Belgian case where Belgium would be condemned and ask the responsible Community or Region to enforce the judgment. In case of failure to implement the judgment, the Presidential Council would take over until the constituent state acted.[85] The expenses related to this course of events would have to be borne by the responsible constituent state or federal government, as appropriate.[86]

As part of the deal, the 65% of Turkish Cypriots who voted in favour of this Plan, also accepted a substantial loss of territory, a partial surrender of autonomy, and a perceived decrease of physical and economic security. The 75% of Greek Cypriots who rejected the deal had much to win by doing so

and little to lose. Today, Greek Cypriots are filling all of the above-mentioned posts and influencing the direction of European Union policy in blissful contempt of the international community promoting and favoring the Plan. While doing this, they claim to represent the Turkish Cypriots. For the legal and political reasons I will set out below, the international community already has the tools at its disposal for ensuring that what it had endorsed and what Turkish Cypriots supported is upheld.

LEGAL DEVELOPMENTS AFTER THE REFERENDA

What has happened in and after the April 24 referenda that can help open up new avenues for contact between Turkish Cyprus and the European Union? First of all, the Greek Cypriots and their Administration have clearly expressed their intention to proceed on their own. Their attitude may have been motivated by economic and political reasons and they might have their cultural reasons as well. However, the legal dimension of their stance cannot be underestimated. The Greek Cypriot Administration has frequently expressed its wish to unite with Turkish Cypriots. Being the only side with international standing, Greek Cypriots have not missed an occasion to portray the Turkish Cypriot party as the intransigent one that prevented it from having it all its way. The one thing that has become clear on 24 April is that this is not the case. Paradoxically the contempt of Greek Cypriots for a negotiated settlement deprives them of the argument that they legitimately can represent the Turkish Cypriots.

Now their claim to the status of legitimate representative is in part based on legal argumentation. The Greek Cypriots have long relied on the doctrine of necessity to legitimize their position as the Government of the Republic of Cyprus. The all-Greek Cypriot Supreme Court of the 1960 Republic, after the exclusion of Turkish Cypriot and non-Cypriot Judges who were required to be present to be constitutional according to Article 179 of the Constitution, decided in *The Case of Attorney-General of the Republic v. Mustafa Ibrahim and Others* that:

> 1. [The] Doctrine of necessity is a well-established principle in the decisions of domestic courts in USA, United Kingdom, Italy, France and Greece.[81]
> ....

> 3. Despite the continuing emergency and constitutional deadlock in Cyprus, there is no question about the existence of the Republic of Cyprus as a state and about its government. Because existence of a state does not depend on the operation of its constitution, instead it is a matter determined by the rules of international law and particularly related with the principle of recognition by other states. As long as a state and its government continue to exist, "the responsibility for the maintenance and restoration of law and order remains within the competence of that government. This responsibility was confirmed by the Resolution of the UN Security Council of the 4th March 1964.[88]

It should be observed that the Greek Cypriot Supreme Court recently appeared to hold a somewhat different view, when it held that the all-Greek Cypriot Supreme Court did not have the power to declare state of necessity. In the Admissibility Decision of *Ibrahim Aziz against Cyprus, Greece, Turkey and the UK* the application of necessity is treated as follows:[89]

> The ideal of democracy, one person one vote in the person's place of residence, does not provide any grounds for the Court to assume the power to reform the Constitution. Such competence is not vested upon us, nor can the judicial authorities claim such power. This would be against the principle of the separation of powers on which the Constitution is based...
>
> The ascertainment of the law of necessity invoked by the applicant and the establishment of measures to deal with it ... is a duty that falls upon the legislator. *The competence of the judiciary is limited, provided the matter is submitted before or arises in a case brought before it, to ascertain the constitutionality of the law ... It is not for the judiciary to ascertain the need to fill in gaps in the function of the constitutional statutes nor to establish measures to tackle them, which is basically what the applicant pursues with his application.*

Kudret Ozersay in his article *"The Doctrine of State Necessity and the Republic of Cyprus"* points out that if a government contributes to the (continuation of the) state of necessity it cannot invoke it to legitimize its actions.[90] The Greek Cypriots, with the support and encouragement of their Administration, effectively chose not to terminate the abnormal situation but to continue this situation and to unilaterally take advantage of the benefits of controlling the bi-national Republic on their own.

Modern-day state practice has to be distinguished from that prevalent in colonial times. Today it is no longer legitimate to treat internal matters as

sacrosanct and ignore the destruction of constitutional order of a State. In Cyprus in the 1960s the international community turned a blind eye to the persecution of Turkish Cypriots, continuing to treat Greek Cypriots as the legitimate Government, ignoring the destruction of constitutional order or at any rate taking the view that it did not have any relevance under international law. The fact that the constitutional setup was in fact based on international treaties was conveniently forgotten.

It should be recalled that the set of guidelines applied for the recognition of new states and disintegrating partnerships in Eastern Europe and the Soviet Union show that today, if a state cannot continue its constitutional order it may be deemed dissolved. On 4 July 1992, the EC Arbitration Commission found that because the federal institution of the Socialist Federal Republic of Yugoslavia were incapable of functioning as originally designed in the Yugoslav Constitution, the Socialist Federal Republic of Yugoslavia should be regarded as dissolved. It ceased to exist. Today, the European Union has a chance to make a similar analysis in light of the new state of affairs created by the Greek Cypriot Administration which continues to use the defunct 1960 constitutional setup.

In its "Declaration on Guidelines on Recognition of New States in Eastern Europe and the Soviet Union", the European Community's Council of Ministers declared on 16 December 1991 that the Community would "recognize, subject to normal standards of international practice and political realities in each case, those new states which, following the historic changes in the region have constituted themselves on a democratic basis". This argument alone should put the international community on alert and encourage the United Nations Security Council to revise its resolutions and align them with the current status quo in Cyprus. The Greek Cypriot-controlled Republic of Cyprus ceased to be the legitimate Government for Turkish Cypriots and any state in the world should feel free to recognize the Turkish Cypriot State. This would put an end to the denial of the right of Turkish Cypriots to be true world citizens, enjoying economic, social, cultural and political rights recognized by the international community.

The Annan Plan, in recognition of the modern principle of international law that in the end "everyone represents himself and no-one else",[91] ensured that Turkish Cypriots and Greek Cypriots were the two constitutive peoples of the Island with inherent powers.[92] On another level, Annex V of the

Annan Plan suggests that the TRNC has legal personality as it is capable of concluding treaties.[93]

SUGGESTIONS FOR THE IMPROVEMENT OF TURKISH CYPRIOT-EUROPEAN UNION RELATIONS

The current status of the Greek Cypriot Republic of Cyprus is put in jeopardy. In addition to creating problems internally, the Cyprus Problem poses a challenge to governance in the European Union. The draft Treaty establishing a Constitution for Europe sets out ways and means to improve the governance of Europe. The formulation of this ideal and its attainment required and require the full participation of Member States. On the international level, the Treaty establishing a Constitution for Europe has expressly provided for the need to "... promote an international system based on stronger multilateral cooperation and good global governance."[94]

On the local level, the Treaty enshrines the principle of representative democracy,[95] for the first time introducing the principle of participatory democracy.[96] Representative democracy entails that citizens have the right to participate in the democratic life of the Union and political parties express the will of the Union citizens. Participatory democracy ensures the exchange of views.

In addition to encouraging administrative cooperation among the Member States to ensure implementation of the Union law, a Protocol to the Constitutional Treaty focuses on the principle of subsidiarity and the duty to take into account the regional and local dimension of the action envisaged. The Protocol adds that for each European framework law, there should be a "subsidiarity statement" in which the Commission controls the regulatory and financial implications of the framework law for local and regional authorities. This shows that better governance within the European Union pivots on more democracy and more transparency, on decision-making more inclusive of local needs and more effective governance. Can it be that the Turkish Cypriots who are concerned by such decisions are excluded from these processes?

If there is a political will, legal arguments can be found to refocus the Cyprus problem. The European Union has all the reasons and legal arguments for putting an end to the illegitimacy of the Greek Cypriot

Government. The European Union has taken a first careful step in that direction with Protocol No. 10 of the Act of Accession by declaring that the North is an area the Government of the Republic of Cyprus does not exercise control over. The North used to be Republic of Cyprus territory when the 1960 Republic was established, but today the Turkish Cypriot side exercises sovereignty over it. An acknowledgment that it is in fact the Turkish Cypriots and their democratically elected government that exercise this control will suffice, at any rate, to allow the European Union to have direct contacts with the Turkish Cypriot side and to agree with it on the modalities thereof. In addition to increasing the Turkish Cypriot faith in European Union, Turkish Cypriot participation contributes to mutual understanding and diversity in Europe and provides a basis for participatory governance.

At this juncture, the provisions relating to the European Union in the Annan Plan could be implemented by the Turkish Cypriot side vis-à-vis European Union. Upon the recognition of the rights of Turkish Cypriots the Turkish Cypriot side will assume the corresponding obligations as set out in the Annan Plan. This could be facilitated by the withdrawal of the suspension of the *acquis*, through a Council decision under Article 1.2 of Protocol No. 10 or by special agreements. The first proposal will entail direct contacts with the Union ensuring harmonization with the *acquis*. The withdrawal of the suspension of the *acquis* requires the unanimous decision of all Member States, including Greece and the Greek Cypriot Administration, which currently appears unattainable.

The recent Council Regulations relating to a special regime under Article 2 of Protocol No. 10 have revealed that special conditions could govern the relations between the European Union and the North. In this approach access to the European Union will be immediate. Parallel with the process of harmonization to ensure that the Turkish Cypriot side is at par with the necessary standards, regulations and measures, the Turkish Cypriots could have immediate access to the benefits and obligations of European Union membership through the Annan Plan.

As discussed above, under the Annan Plan Turkish Cypriots would have had the chance to effectively engage in shaping the policy of the United Cyprus Republic and be represented in law in their mother tongue. The issues relating to Turkish Cypriots should not be left to the Greek Cypriot

Administration. Instead, through direct relations, Turkish Cypriots should have a voice in the European Union.

Once the European Union declares that Turkish Cypriot side exercises control over the North, the rest can follow. Turkish Cypriots should be represented in the institutions of the European Union, including the Council, Commission, Parliament, the Courts, Economic and Social Committee as well as Committee of Regions in the proportions set out in the Annan Plan. Until the modalities are concluded, however, the Greek Cypriots should be prevented from usurping those positions. An accredited Permanent Turkish Cypriot Representation in Brussels could facilitate the implementation of these measures and in turn, the Turkish Cypriot side would substantially benefit from a European Union Delegation in the North to facilitate relations with the European Union.

On the economic front, Article 3.1 of Protocol 10 encourages measures with a view to promoting economic development in the North. This aim was strengthened by the recent statements attributed to the European Council that they intended to put an end to the isolation of Turkish Cypriots and to facilitate the economic development of Turkish Cypriots and invited the Commission to draft comprehensive proposals to this end, with a particular emphasis on the economic integration of the island and on improving contact between the two communities and with the EU".[97] Such economic development with the aim of full integration into the internal market will also foster social progress. This process will require close collaboration.

Other modalities aimed at economic development could include the free movement of goods that are accompanied by documents issued by Turkish Cypriot authorities with the authorization of the Commission. Technical assistance of the Commission in upgrading Gazimagosa Port and certification of the refurbished Ercan Airport could also facilitate the direct movement of goods and people to and from the North. It is foreseen that this opening will be in full compliance with the *acquis* and will not be used in any other way than for the economic development of the North.

It would help all parties if the 259 million Euro that had been earmarked for the economic development of Turkish Cypriots should be immediately disbursed, together with additional funds, for physical and social infra-structural projects, benefiting, for instance, the energy sector

and skill development programmes for workers in the tourism industry. Technical aid from the EU to assist in project preparation, undertaking, feasibility studies and applications to the European Union structural and regional funds could also assist economic development.

The Council Regulation on a special regime contemplated under Article 2 of Protocol 10, though addressing certain Turkish Cypriot concerns, should be complemented by further regulation. Typical Turkish Cypriot concerns are, among others, Article 3 of Title II of the Regulation which allows Greek Cypriot Republic of Cyprus to "discourage" freedom of movement of Turkish Cypriots, while Title III introduces new restrictions on the border- crossing of goods which will cause economic loss and financial damage to many producers and traders.

In Article 4.12 of the Council Regulation, it is stipulated that the European Commission will adopt a "screwdriver" decision, relating to the treatment of goods introduced into to the South after having undergone their last substantial, economically justified processing in an undertaking equipped for that purpose in the North. It is crucial that the modalities for this important initiative be discussed with the Turkish Cypriot Authorities..Moreover, the Turkish Cypriot Authorities should be able to issue proper travel documents in order to ensure that free movement of people is maintained. Also, the related rights connected to the free movement of people should materialize. The assistance of the European Union to open up direct mail, telephone and electronic links between North Cyprus and Member States as well as the rest of the World will constitute a major step towards the lifting of the embargoes. In other words, the European Union can act as a catalyst for bringing an end to the currently existing embargoes including those on travel by air and sea.

CONCLUSION

The outcome of the referendum in the South which disproved the Annan Plan did not prevent the Greek Cypriot Republic of Cyprus' accession into the Union on 1 May 2004. It was the Turkish Cypriot side that was excluded. None of this should prevent the Turkish Cypriot nation, who has expressed its support for the European Union and the internationally-backed Plan, from engaging in contact with the European Union. The referendum

results should encourage a fresh look at the Cyprus issue and its legal implications.

Most importantly, the overwhelming Greek Cypriot rejection was one that cannot be undone by negotiations any time soon. Hence, rather than focusing on further negotiations that will only keep Turkish Cypriots in suspense for years on end, the empowerment of Turkish Cypriots seems to be the best move ahead. The European Union could act as a catalyst for revindicating and substantiating the inalienable rights of Turkish Cypriots. Many chances to bring about a change for the better may have been missed in the past, but the best is looming large. Surely the European Union, seriously intent on improving international governance, will not allow one of its Member States to put a spoke between the wheels of its striving to safeguard the fundamental rights and values of us all.

Endnotes

[1] Art. 64 of the Treaty of Lausanne, signed by Turkey, United Kingdom, France, Italy, Japan, Greece, Romania and Yugoslavia on 24 July, 1923, entered into force on 6 June 1924.

[2] See Zaim Necatigil, *The Cyprus Question and the Turkish Cypriot position in International Law* (2nd rev. edn., Oxford, 1998) pp. 1-2.

[3] See Necatigil, pp. 1-2.

[4] Alan Lennox-Boyd, *then British Colonial Secretary*, Address before the House of Commons (19 December 1956).

[5] Harold Macmillan, *then British Prime Minister*, Address before the House of Commons (during the debate on the Macmillan Plan), (26 June 1958).

[6] See John Reddaway, *Burdened with Cyprus: The British Connection*, (London,1986), p.134.

[7] See Michael Moran, *The Cyprus Question*, (Nicosia, CYREP, April 1997), pp. 18-19.

[8] Article 182 of the 1960 Cyprus Constitution.

[9] S.C. Res. 186, U.N. SCOR, U.N. Doc. S/5575, (1964).

[10] Submitted to the UN Secretary-General, on 4 March 1964, by the UK Mission to the UN.

[11] UN Secretary-General's Report S/6569 of 29 July 1965, paras. 7-11.

[12] UN Secretary-General's Report S/5950 of 10 Sept. 1-964, para. 218.

[13] *Ibid.* para. 222.

[14] S.C. Res. 370, U.N. SCOR, U.N. Doc. S/11789 (5 August 1975). UN Secretary-General's Report S/11789/Add. 1 (10 September 1975) deals with the implementation of this accord.

[15] Annex to the UN Secretary-General's Report S/11624 of 18 February 1975.

[16] Christopher Brewin, *The European Union and Cyprus*, (Eothen Press, Huntingdon Cambridgeshire, 2000), ISBN 0906719240, p. 180.

[17] UN Secretary-General's Report S/12323 of 30 April 1977.

[18] S.C. Res. 458, U.N. SCOR, U.N. Doc. S/13672, (1979).

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[20] *Filelefitheros newspaper*, 1 May 2001.

[21] Necati Münür Ertekün, M. Ergün Olgun, "Turkish Cypriot Memorandum Addressed to The Council of Ministers of The European Community In Respect of An "Application" For Membership By "The Republic of Cyprus", *Cyprus and the European Union: The Turkish Cypriot View and Some Selected Articles*, (United Nations Association of Northern Cyprus, Nicosia, May 1996), pp. 1-14.

[22] Art. 50 of the 1960 Const.

[23] "The Republic of Cyprus undertakes to ensure the maintenance of its independence, territorial integrity and security, as well as respect for its

Constitution. It undertakes not to participate, in whole or in part, in any political or economic union with any State whatsoever. It accordingly declares prohibited any activity likely to promote, directly or indirectly, either union with any other State or partition of the Island."

[24] Fileleftheros newspaper 28 January 2001.

[25] *Haravgi newspaper* 24 March 2001.

[26] *Athens News Agency*, 13 March 1999.

[27] UN Secretary-General's Report S/21183 of 8 March 1990, para.5.

[28] Stefan Talmon, *The Cyprus Question Before the European Court of Justice*, EJIL (2001), Vol. 12 No.4, p.743.

[29] 2003 Act of Accession, Protocol 10 on Cyprus, Art. 1.

[30] 2003 Act of Accession, Protocol 10 on Cyprus, Art. 2.

[31] Council Reg. 8983/04.

[32] William I. Zartman, 'Resolving regional conflicts: International perspectives', *The Annals of the American Academy of Political and Social Science, 518* (1991).

[33] Nathalie Tocci, *'Cyprus and the European Union: Catalyzing Crisis or Settlement'*.

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[35] Philip H. Gordon, 'Storms in the Med Blow towards Europe', The World Today, (February 1998), pp. 42-44.

[36] F. Stephen Larrabee, 'The EU Needs to Rethink its Cyprus Policy', *Survival*, (Autumn 1998), ISBN 00-39-6338, p.26.

[37] See Larrabee, p. 28.

[38] UN Secretary-General (2004) Comprehensive Settlement of the Cyprus Problem, 31 March 2004.

[39] Comprehensive Settlement of the Cyprus Problem, Annex IX, Art. 1.

[40] The Comprehensive Settlement of the Cyprus Problem, Annex 1, Art. 14 listed these briefly as: (a) external relations, including the conclusion of international treaties and defense policy, relations with the European Union, Central bank functions, federal finances, natural resources, meteorology, aviation, international navigation and the continental shelf and territorial waters of the United Cyprus Republic, communications, Cypriot citizenship, combating of terrorism, drug trafficking, money laundering and organized crime, pardons and amnesties, intellectual property and weights and measures and antiquities.

[41] The Comprehensive Settlement of the Cyprus Problem, Draft Constitution, Art. 14.1, 15.1.

[42] The Comprehensive Settlement of the Cyprus Problem, Draft Constitution, Art. 16.

[43] The Comprehensive Settlement of the Cyprus Problem, Draft Constitution, Art. 22.3.

[44] The Comprehensive Settlement of the Cyprus Problem, Draft Constitution, Art. 22.4.

[45] The Comprehensive Settlement of the Cyprus Problem, Draft Constitution, Art. 26.1.

[46] The Comprehensive Settlement of the Cyprus Problem, Draft Constitution, Art. 46.

[47] See the Comprehensive Settlement of the Cyprus Problem, Annex III, Attch. 24

[48] See the Comprehensive Settlement of the Cyprus Problem, Annex III, Attch. 24

[49] The Comprehensive Settlement of the Cyprus Problem, A. Foundation Agreement, Art.8.1.b.

[50] The Comprehensive Settlement of the Cyprus Problem, E, Matters to be submitted to the United Nations Security Council For Decision, Art. 3.

[51] The Comprehensive Settlement of the Cyprus Problem, Draft Constitution, Art. 36.

[52] See The Comprehensive Settlement of the Cyprus Problem, Annex 3, Attch. 5

[53] The Comprehensive Settlement of the Cyprus Problem, Main Art., Art. 1.4.

[54] The Comprehensive Settlement of the Cyprus Problem, D. Draft Act of Adaptation to the terms of accession of the Untied Cyprus Republic to the European Union, Art. 1.

[55] The Comprehensive Settlement of the Cyprus Problem, D. Draft Act of Adaptation to the terms of accession of the Untied Cyprus Republic to the European Union, Art. 1.

[56] The Comprehensive Settlement of the Cyprus Problem, D. Draft Act of Adaptation to the terms of accession of the Untied Cyprus Republic to the European Union, Art. 1.

[57] The Comprehensive Settlement of the Cyprus Problem, D. Draft Act of Adaptation to the terms of accession of the Untied Cyprus Republic to the European Union, Article 4.

[58] The Comprehensive Settlement of the Cyprus Problem, D. Draft Act of Adaptation to the terms of accession of the Untied Cyprus Republic to the European Union, Article 2.

[59] The Comprehensive Settlement of the Cyprus Problem, D. Draft Act of Adaptation to the terms of accession of the Untied Cyprus Republic to the European Union, Article 3.

[60] The Comprehensive Settlement of the Cyprus Problem, D. Draft Act of Adaptation to the terms of accession of the Untied Cyprus Republic to the European Union, Art. 5.

[61] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Art. 2.2.

[62] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex III, Attach. 3, section 9.1.

[63] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex III, Attach.3, section 9.2-9.3.

[64] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex III, Attach. 3, section 10.

[65] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex III, Attach. 3, section 12.

[66] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex III, Attach. 3, section 15.

[67] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex IV, Attach. 2, Art. 3.3, 5.6.

[68] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex IV, Attach. 2, Art. 5.10.

[69] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex IV, Attach. 2, Art. 5.12.

[70] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex IV, Attach. 2, Art. 17.

[71] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex IV, Attach. 2, Art. 8-9.

[72] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex IV, Attach. 2, Art. 9.

[73] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex III, Attach. 3, section 3.1.

[74] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex III, Attach. 3, section 16.

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[75] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex III, Attach. 3, section 17.

[76] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex III, Attach. 3, section 17.

[77] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex IV, Attach. 2, Article 6.9.

[78] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex IV, Attach. 2, Article 6.10.

[79] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex III, Attachment 3, section 21.

[80] The Comprehensive Settlement of the Cyprus Problem, D. Draft Act of Adaptation to the terms of accession of the Untied Cyprus Republic to the European Union, Art. 5-8.

[81] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex III, Attachment 3, section 18.

[82] 2003 Act of Accession, Protocol 10 on Cyprus, Art. 4.

[83] The Comprehensive Settlement of the Cyprus Problem, Draft Constitution, Art. 19.7.

[84] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex IV, Attachment 2, Art. 7.2.

[85] The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Annex IV, Attachment 2, Art. 7.4.

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[92] The Comprehensive Settlement of the Cyprus Problem, Main Art., Preamble.

[93] The Comprehensive Settlement of the Cyprus Problem, Annex V.

[94] Draft Treaty establishing a Constitution for Europe, Art. III-193(2)(h).

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[96] Draft Treaty establishing a Constitution for Europe, Art. I-46.

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THE POTENTIAL ROLE OF THE EUROPEAN UNION IN THE RESOLUTION OF DEEP-ROOTED AND IDENTITY-RELATED CONFLICTS IN ITS PERIPHERY: ITS PERFORMANCE IN CYPRUS

Ergun OLGUN*

Abstract

As a center of gravity in Europe, the EU has the potential to play a catalytic role in the settlement of deep-rooted, identity-related conflicts in its periphery by linking the final outcome of a conflict with the degree of integration or association of the conflicting parties with European structures. The paper argues that the EU failed to play such a role effectively in Cyprus and explores the underlying reasons. The author contends that the EU did not implement a balanced strategy to the two sides of the conflict mainly due to the acceptance of the Greek Cypriot Government of Cyprus as the sole interlocutor for EU membership and the isolation of the Turkish Cypriots. The post-referenda circumstances and realities of Cyprus can frustrate or act as a catalyst for the development of new strategies/remedies to help resolve the Cyprus issue. The international community, especially the United Nations and leading nations, can capitalize on this new opportunity.

INTRODUCTION

At the Helsinki Summit of 10-11 December 1999, the European Council officially adopted the strategy that the European Union (EU) membership of "Cyprus" could play an important "catalytic" role in the settlement of the Cyprus question. The Summit also paradoxically concluded that "If no settlement has been reached by the completion of the accession

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negotiations, the Council's decision on accession will be made without the above being a precondition"[1].

The United Nations (UN) Secretary-General stated on 29th March 2004 in his opening statement at meeting with the Greek Cypriot and Turkish Cypriot leaderships and the Foreign Ministers of Greece and Turkey in Bürgenstock, Switzerland, that the UN partnership Plan[2] at the disposal of the parties was the culmination of many years of negotiation and that it was the most comprehensive peacemaking effort of the UN, unprecedented in its history. The then EU Enlargement Commissioner Günter Verheugen, who also attended this rare four - party summit on behalf of the EU, strongly supported the UN Plan.

The Plan, which in its final stages of development benefited from the services of more than 400 Turkish Cypriot and Greek Cypriot technical experts, run into 9000 pages of text including 131 laws, the Constitution of the United Cyprus Republic, the Constitutions of the Turkish Cypriot and Greek Cypriot Constituent States, as well as the selected list of 1134 treaties (concluded by both parties) that would bind the United Cyprus Republic. The UN Secretary-General, who had invested very heavily in this last ditch effort to resolve the Cyprus issue, repeated in Bürgenstock that there was no alternative to the UN Plan and that it would be null and void if any one side rejected it in the upcoming separate simultaneous referenda.

After returning from Bürgenstock, the Greek Cypriot government organized a "no" campaign against the Plan and even obstructed the free flow of objective information regarding its content. To this end, it denied, for example, airtime on state television to international officials like the Special Adviser of the UN Secretary-General on Cyprus Alvaro de Soto and the EU Commissioner Günter Verheugen. The Orthodox Church also led the "no" campaign and some notable Bishops and clerics went as far as saying that those who voted "yes" in the Greek Cypriot referendum would go to hell and would be banished from the Church. The result of the Greek Cypriot referendum, which was heavily biased by the official "no" campaign, was subsequently presented as the choice of the Greek Cypriot people.

Justice, fairness and good governance require respect for the rule of law and principles of democracy. In Cyprus, there are two equal ethnically

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distinct parties, former equal partners of the 1960 partnership Republic by virtue of the relevant international Treaties and the 1960 Constitution, each capable of exercising its inherent constitutive power and free will, as they recently did in the separate simultaneous referenda of 24 April 2004.

Yet, on 12 July 1995, the European Parliament adopted a resolution, endorsing the Commission's opinion and the Council's conclusions, empowering the Greek Cypriot Government of Cyprus as the sole interlocutor for the structured dialogue between "Cyprus" and the EU. The Turkish Cypriot side and Turkey immediately and vehemently objected to this resolution on both legal and political grounds. Article I of the 1960 Treaty of Guarantee provides that the Cyprus Republic "...undertakes not to participate, in whole or in part, in any political or economic union with any state whatsoever." Article II of the same Treaty provides that Greece, Turkey and the United Kingdom "...undertake to prohibit, so far as concerns them, any activity aimed at promoting, directly or indirectly, either union of Cyprus with any other State or partition of the island." It would therefore be illegal, as prominent international jurist Professor Maurice Mendelson stated:

> Specifically, I am accordingly of the opinion (1) that to apply to join, or to join, the EU would be a breach of Cyprus' international legal obligations, and in particular of Article I of the Treaty of Guarantee, as well as of its internationally guaranteed Constitution; (2) that any of the Guarantors to assist that application would be a breach of their international legal obligations towards each other and towards the inhabitants of Cyprus as a whole; (3) that Greece and the UK are in fact under an obligation, under Article II of the Treaty of Guarantee in particular, to use the legal power that they have, and in particular the veto over accession, in order to impede such attempts; and (4) that, if Cyprus were to be admitted to the EU without the political problems having been resolved, the practical effect is likely to be that the entity admitted will be unable to fulfill all of its obligations towards the other members, and probably that the other members will be unable fully to carry out their obligations towards the whole of Cyprus and its inhabitants.[3]

The acceptance of the UN Plan by both sides would have compensated the legal, political and practical problems outlined by Professor Mendelson, by providing for the accession of a united island to the EU and the steady transformation of the Cyprus conflict. As such, endorsement of the Plan

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would have provided for a new partnership relationship between the two peoples of Cyprus, would have helped in the reframing of this 42-year stubborn and intractable conflict, and would have increased security and stability in the Eastern Mediterranean. Furthermore, a partnership to be based on the political equality of the two sides would have created a new partnership role-model between the Turkish/Muslim and Greek/Christian peoples of the Island, thus proving that the deterministic clash of civilizations theory is in fact a fallacy.

No doubt, both the problem and the opportunity in Cyprus are very much linked to Turkey, Greece and the EU. Turkey, a rapidly developing democratic and secular county with a predominantly Muslim population, is the linking-pin between Europe and the East and a role-model for many of the countries of the region. Turkey, which has long applied for EU membership and is due to start accession negotiations in October 2005, can add new vitality and diversity to the economy and demography of the EU and contribute to its security. Its membership can also help correct the existing image of the EU, perceived by many as an exclusive Christian Club. For its part a united Cyprus, having risen above zero-sum ethno nationalism and having moved towards equal partnership, could have become a global center for resolving identity related and deep-rooted disputes.

In spite of all these, and the fact that the Cyprus issue appeared at the nearest point to settlement in 2004 (without any serious violence since 1974), because of the continuing effects of zero-sum ethno-nationalism, especially in the Greek Cypriot camp; the accompanying short-sightedness; and most of all, shortcomings in the combined UN-EU strategy in the negotiations process, the referenda of 24 April 2004 resulted in a strong "yes" from the Turkish Cypriot side and a resounding "no" from the Greek Cypriot side.

On 1 May 2004 a divided Cyprus, under the claim and arrangements that the Greek Cypriot Government of Cyprus represents the whole island, joined the EU with all its accompanying political, legal, practical and security anomalies and complications.

The questions that I will attempt to answer in this paper are:

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1. Why did the combined UN-EU effort fail in Cyprus in spite of the potentially strong catalytic capacity of the EU?

2. What lessons can we draw from the failure of the combined UN-EU effort? And,

3. What is the way forward in Cyprus?

In developing my answers and conclusions regarding these questions, I will first explore, in very brief terms, the theoretical background regarding the dynamics of deep-rooted and identity-related conflict. Within this category of conflict my discussion and observations will only apply to conflict between equal constituent peoples or partners of what may be called federal or partnership states. I will then briefly discuss the potential role that the EU could play in the resolution of deep-rooted and identity-related conflict between partner/constituent polities in its periphery. This will be followed by a section on the EU's handling of the Cyprus case. Finally, I will discuss the way forward in Cyprus following the emergence of the new state of affairs after the referenda of 24th April 2004.

THEORETICAL BACKGROUND

A conflict that threatens the sense of identity and security of a distinct community, compounded with perceptions of economic and social injustice and discrimination, is called *"a deep-rooted and identity-related conflict"*.[4] Such conflicts are far more complex and intractable than conflicts between states over resources, political power, ideology, etc because they are less amenable to compromise and more emotionally charged. Many of the conflicts around the world today are identity-based. Identity-based conflict may occur in unitary states as regards ethnic minorities, or between equal constituent communities/polities of federal/partnership states. The focus of this paper is the latter category.

Any attempt to get a negotiated agreement that will deliver a sustainable and peaceful settlement to deep-rooted and identity-related conflicts has to address the important issues of process and outcome.

Process involves the way parties get to an outcome. A good process not only prepares the ground for meaningful negotiation and an efficient

working practice, it also strengthens the outcome and its legitimacy. Some key elements that need to be taken into account in the design and timing of a good process are: (a) the existence of a mutually perceived notion of deadlock (what is called a *"mutually hurting stalemate"*[5]); (b) the existence of, or possibility for a mutual window of opportunity (i.e. EU membership following agreement, the election of a new progressive government); (c) the existence of a minimum amount of trust and cooperation between the parties; (d) the existence of a degree of flexibility; and (e) the need for a level playing field.

Outcome focuses on the substance of the solution itself. The design of the outcome has to address the particular needs of the situation. For example, if the conflicting parties are of equal political status and legitimacy, as in the case of Cyprus, this has to be respected and translated into practical terms in both the process and the outcome. The constitutional choices made during the negotiating process will have significant bearing on the sustainability of the outcome and its legitimacy.

It would be naive, however, to initiate a negotiation process and design lasting outcomes without first analyzing, understanding and addressing the underlying causes of a conflict. Cause is very much related to "cure" and to responsibility. The outcome, therefore, has to address the root causes of the conflict, provide for the basic concerns and legitimate needs (both individual and collective) of all the parties (what is called a "win-win" settlement) and include arrangements for reconciliation.

To sum up, to initiate a process that will yield a sustainable outcome would require the reframing[6] and transformation of a conflict so that the parties start moving away from a confrontational frame of mind towards an integrative[7]/cooperative frame of mind. Such a transformation may come about as a result of a mutually hurting stalemate and/or a window of opportunity, which provides the parties with a sufficiently credible and front-loaded opportunity containing real and tangible advantages that would lure them to move away from zero-sum negotiation.

A shift in focus beyond the immediate to the longer-term and a reorientation from the surface symptoms to their underlying causes is therefore vital for both the short-term process and the long-term future.[8] All

these require good planning and an in-depth understanding of the positions and motives of the parties.

THE POTENTIAL ROLE OF THE EU IN THE RESOLUTION OF DEEP-ROOTED, IDENTITY-RELATED CONFLICTS

As a center of gravity in Europe, the EU has the potential to play a catalytic role in the settlement of deep-rooted, identity-related conflicts in its periphery by linking the final outcome of a conflict with the degree of integration or association of the conflicting parties with European structures.[9] Such a link could be made operational by means of specific conditionality mechanisms, which would be built into the process.[10] Among such conflicts in the periphery of Europe could be listed the Georgia-Abkhazia, Moldova-Transnistria, Serbia-Montenegro-Kosovo and Cyprus conflicts.

The catalytic role of the EU in such conflicts could be dual: (a) *Process-linked:* influence the political behavior of actors on the ground by offering rewards and punishments that can change the conflict dynamic in the direction of reaching a negotiated settlement; and (b) *Outcome-linked:* offer alternative solutions for conflict settlement through multi-tier governance and divisible sovereignty models[11] that are successfully functioning in the EU (i.e. the case of Belgium).

Although many would argue that such a top-down approach on the part of the EU would generate questions of legitimacy, it is unfortunately not very often that deep-rooted, identity-related conflicts are resolved without positive, imperial and win-win oriented third party assistance/intervention.

The success and effectiveness of such assistance/interventions, however, will also depend on the completeness and accuracy of the data on which policy decisions are shaped and on whether, based on such data, EU foreign policy instruments and conditionality is designed and applied in a way that will *motivate all the parties to work towards a negotiated settlement with equal and parallel determination.* Unless, in full knowledge of the relevant data, circumstances are created where all the parties are equally induced, the party which feels less bound, or even not bound at all by the conditionality, would pursue delaying tactics with the hope and

expectation that the party which is more threatened would eventually give in to their demands.

THE CASE OF CYPRUS

Root Causes of the Conflict

The root causes of the tragic events of 1963 and 1974 in the recent history of Cyprus were well reported at the time by the international press. A study of these press reports, together with the relevant reports of the UN Secretary-General, would reveal that on 21 December 1963 Greek Cypriots implemented their now notorious Akritas Plan, the purpose of which was to drive Turkish Cypriots from their homes and lands, and ultimately to hi-jack the bi-communal partnership Republic that was created under the terms of Cyprus' independence treaties, with the objective of uniting the island with Greece (Enosis). Over the following 11 years Turkish Cypriots lost nearly 90% of their land, most were made destitute and were forced either into refugee camps or made to flee abroad. The loss of population and resources was enormous.

Archbishop Makarios, the first Greek Cypriot President of the Republic, himself confessed in a statement to *The Times* on 9 April 1963, eight months before the hi-jacking of the partnership State, that:

> *The union of Cyprus with Greece is an aspiration always cherished within the hearts of all Greek Cypriots. It is impossible to put an end to this aspiration by establishing a Republic.*

When Greek Cypriot initiated violence started and the Security Council resolved to send peacekeeping troops (UNFICYP) to the Island, the mandate of these troops as stipulated in resolution 186 (1964) was to prevent a recurrence of the fighting and to contribute to the maintenance and restoration of law and order and a return to normal conditions.

Immediately after the endorsement of this resolution, the Turkish Cypriot side applied to the UN Secretary-General to use his best efforts to restore law and order and help return to normal conditions by upholding the 1960 constitutional order. The then Secretary-General turned this request down and replied to the Turkish Cypriot side that this was not the intention

of the Security Council in adopting resolution 186 (paragraphs 218 and 219 of the UN Secretary-General's report of 10 September 1964).

The admittance in resolution 186 that normal conditions did not exist and the refusal of the UN Secretary-General to restore the constitutional order are proof that partnership institutions were no more capable of functioning as set out in the 1960 Constitution, thus, in effect, making the 1960 Republic legally void as of December 1963.[12]

In yet another attempt, the Turkish Cypriot Parliamentarians who requested the help of UNFICYP to return to the partnership Parliament in July 1965 were told by the then Greek Cypriot President of the House of Representatives, Glafkos Clerides, that they could only do so provided they recognized the Greek Cypriot Government as the Cyprus Government, that they accepted all the laws enacted by the House of Representatives in their absence, and agreed to abolish Article 78 of the Constitution concerning separate majorities.[13] When the Turkish Cypriot Parliamentarians refused to accept these humiliating conditions, they were instantly blamed by the Greek Cypriot side with withdrawing from the legitimate government. Turkish Cypriot political leaders of the time say that it was this final betrayal that triggered the political chain of events which led to the division of the Island and the emergence of two separate Governments.

On 15 July 1974, Greece, with the support of sympathetic Greek Cypriots, attempted to invade Cyprus and to annex it, by force, to Greece. When Britain refused to act with Turkey under its Treaty of Guarantee obligation to prevent the union of the island with Greece and to protect the lives and political rights of innocent Turkish Cypriots, Turkey had to unilaterally intervene in Cyprus on 20 July 1974. The Turkish intervention was widely welcomed, at the time, as it brought to an end not only the military dictatorships of Greece, but also the years of gross oppression which had been suffered by the Turkish Cypriots since 1963. That intervention has been universally recognised as a wholly lawful intervention, and a humanitarian necessity, even by the courts of Greece.

Reasons Why the EU Failed in Cyprus

I would argue that the main reason why the combined UN-EU effort failed in Cyprus can be traced back to the 6 March 1995 policy framework

decision of the General Affairs Council of the European Union and the 16 June 1995 decision of the Association Council, where Greece was allowed to blackmail other EU member countries (particularly Germany) that there would be no enlargement unless Cyprus (with or without a settlement) was to be admitted to the EU.

Many argue that this shift in policy was made possible because some key members of the European Union, like France and Germany, wanted to keep Turkey's EU ambitions at bay through Cyprus. There are also those who argue that Christian solidarity played a role.

The decision was probably influenced by all of these factors, but from the Greek/Greek Cypriot perspective this was a tremendous achievement since the accession of "Cyprus" to the EU before a settlement would provide enhanced leverage to the Greek Cypriot side and would consequently help shape outcome in their favor.

The European Parliament's decision of 12 July 1995 and the subsequent strategy and one-sided conditionality of the European Union was built around this blackmail which influenced the crucial Helsinki (December 1999) and Copenhagen (December 2004) Conclusions and which eventually brought about the referenda results we saw on 24 April 2004.

The actual design and development of this strategy can be traced to Glafkos Clerides who was elected the Greek Cypriot President on 14 February 1993 on a ticket that refused the UN Set of Ideas of 1992[14]. These Ideas, half heartedly supported by the outgoing Greek Cypriot President George Vassiliou, foresaw that EU membership should follow a settlement in order for it to provide an incentive to both sides. Glafkos Clerides, working with the then Greek Government, initiated the process of shifting membership forward based on the calculation that if the Greek Cypriot side could secure membership under the claim that they represent the whole island before a settlement, this would further consolidate their legal and political position as the Government of the whole island, while, at the same time, giving further leverage to them as an EU member to pressurize Turkey and the Turkish Cypriot side to accept their terms for settlement.

In his book titled *"Zones of Conflict"*, Vassilis K. Fouskas of Kingston University (UK) explains that the Republic of Cyprus and Greece played the

EU card to reach their objectives as they counted on Germany's pivotal role in Western Eurasia and on France's position in the Mediterranean and the Middle East. Fouskas says Greece's EU membership has enabled Cyprus in the late 1990's and early 2000 to place the Republic of Cyprus' EU membership on a secure footing. In the final stages, when the real intention of the Greek Cypriot side and Greece became obvious, the EU could not back down with regard to Cyprus' accession and the US could not put pressure especially on Germany to do otherwise, except for asking them to qualify their position in favor of Turkey as much as possible.[15]

EU member states and institutions therefore knowingly allowed themselves to be blackmailed by Greece and, following this, conveniently subordinated the requirements of the 1960 international Agreements to their politics, resulting in the European Council adopting the paradoxical policy in 1999 in Helsinki that:

> The European Council underlines that a political settlement will facilitate the accession of Cyprus to the European Union. If no settlement has been reached by the completion of the accession negotiations, the Council's decision on accession will be made without the above being a precondition. In this, the Council will take into account all the relevant factors.[16]

Because Turkey was granted candidate status at the same Summit there are those who argue that the Helsinki decision provided for the prospect of accession of "Cyprus" to the European Union while at the same time opening Turkey's path towards the same goal, thus providing a context of balanced interests that if the Turkish Cypriot side and Turkey had handled carefully could have led to a settlement in Cyprus.

My point, however, is that the Helsinki decision clearly divorced settlement in Cyprus from European Union membership, thus nullifying the conditionality muscle of the European Union on the Greek Cypriot side. Furthermore, the Helsinki conclusion allowed for the unilateral Greek Cypriot EU membership process to proceed under the claim that the application is on behalf of the whole island, thus further undermining the already un-level playing field in the UN negotiations.

Furthermore, under the influence of the push of Greece within the EU, and without regard to the rule of law and the root causes of the Cyprus conflict, the Turkish side was effectively treated by the EU as the villain seeking secession from the legitimate Greek Cypriot Government of Cyprus, while the Greek Cypriots were treated as the victims. All of these immunized the Greek Cypriot side from suffering any consequences for their fanaticism and intransigence. If the pursuance of a zero-sum strategy entails no consequences there is naturally no incentive to settle for less. This point was confirmed in the emotional pre-referenda address of the Greek Cypriot Leader Tassos Papadopoulos in which he went as far as saying that he had been entrusted an internationally recognized Republic and that he was not going to reduce it to the status of a community in a partnership.

I therefore argue that, irrespective of other considerations, it was (and still is) unlikely for the resultant unfair negotiating environment and process since 6 March 1995 to yield a sustainable result that would safeguard the political equality of the Turkish Cypriot side.

Without at all hinting that the handling of the Cyprus issue by the Turkish and Turkish Cypriot sides has been flawless, it must also be borne in mind that the Greek Cypriot intention in adopting the strategy of "EU membership before a settlement" was not aimed at securing a partnership settlement, but rather targeted the upgrading and political armoring of the Greek Cypriot Republic of Cyprus and the enhancement of their negotiating power *vis-à-vis* Turkey and the Turkish Cypriot side. By departing from its "settlement first" strategy, the European Union allowed itself to be used by the Greek Cypriot side for its "all or nothing" preoccupation, thus critically undermining the chances of securing a fair and sustainable partnership outcome.

It must also be remembered that together with the Helsinki Conclusions Turkey was told that the giving to it of a date to start accession negotiations would depend on progress in Cyprus. Similarly, Turkish Cypriots were told that the lifting of the restrictions on them and the translation of their political equality into practical terms would follow the settlement of the Cyprus issue. No matching conditions were put on the Greek Cypriot side, however, that would equally induce them to settle the Cyprus issue before accession to the European Union.

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Consequently, the shift in the EU strategy completely changed the negotiation game plan of the Greek Cypriot side, which, from this point on, engaged in the talks simply with the objective of "pretending" to be negotiating in order to gain time for their accession process to be complete. Former Greek Cypriot President Glafkos Clerides played this game well. In fact, he admitted in a statement to the Greek Cypriot daily *Mahi* on 30 November 2003 that:

> It was necessary for us to pursue an attitude in the talks that would, without accepting anything, without making any concessions, show that the responsibility for the failure is on the shoulders of the Turkish Cypriots. In order for the Helen side to have this excuse, we had to show that the reason for the lack of progress in the talks was the intransigence of the Turks.

But when Tassos Papadopoulos was elected Greek Cypriot President in early 2003, the "pretence" started to crumble. Prominent Greek Cypriot journalist Loucas G. Charalambous wrote on 20 July 2003 in his opinion column in the English language daily *Cyprus Mail* that:

> Last April Papadopoulos went to The Hague and stated before the UN Secretary-General that he accepted his plan, and that he would not raise any issue concerning its basic provisions... But now Papadopoulos has gone completely overboard. The Annan Plan, the same plan he supposedly accepted in The Hague, constitutes an "acceptance of the fait accompli of the invasion and occupation", he said on Tuesday...If Papadopoulos thinks the Annan Plan legalized the invasion then he should have made this clear from the beginning. What was he doing at The Hague? Acting in a play?... As much as we do not like Rauf Denktas, we have to admit that his political demeanour is more decent than that of Tassos Papadopoulos. At least the Turkish Cypriot leader showed political courage and boldness from the onset.

In spite of the opposition of the then President of the Turkish Republic of Northern Cyprus (TRNC) Rauf R. Denktas, the new Turkish Cypriot coalition government led by the then Prime Minister Mehmet Ali Talat and the Deputy Prime Minister and Foreign Minister Serdar Denktas, and the government of Turkey led by Prime Minister Recep Tayyip Erdoğan, supported the compromise UN Plan for settlement in the separate simultaneous referenda of 24 April 2004 while the Greek Cypriot side felt

no such obligation since their membership of the EU, on behalf of the whole of the Island, was already guaranteed. It was no surprise therefore that in the 24 April 2004 referenda 65% of Turkish Cypriots opted for the establishment of a new bi-zonal partnership and joint EU membership, while 75% of Greek Cypriots refused the partnership option again and rejected to share political and economic power with Turkish Cypriots, whom they had been keeping (and could continue to keep) hostage under international isolation since 1963.

This result was not in any way due to the absence of significant gains for the Greek Cypriot side. In fact the Plan met many of their demands including the return of 22% of the territory under the control of Turkish Cypriots to the Greek Cypriot Constituent State; the return of about 100,000 Greek Cypriots to the Turkish Cypriot Constituent State (in spite of the agreed principle of bi-zonality); the withdrawal of Turkish troops except for 650 permitted by the Treaty of Alliance; the demilitarization of the Island; the restriction of Turkish immigration (even for human resource needs); the deprival of the Turkish Cypriot side from exercising veto powers and "separate majorities"[17] on vital issues; and the slashing of transitional arrangements and periods foreseen in the previous plans to facilitate a smooth and phased transition to the bi-zonal partnership.

The following paragraph, which vividly demonstrates the real reasons why the Greek Cypriot side refused the UN Plan and the consequences of the failure strategy of the European Union, is from Tassos Papadopoulos' pre-referenda emotional address of 7 April 2004, calling upon the Greek Cypriot people to give a resounding "no" reply to the UN Plan:

> What will be the consequences if the people vote no at the referendum? If the sovereign people with their vote reject the Plan, within a week the Republic of Cyprus will become a full and equal EU member. We will achieve a strategic goal that we have jointly set to upgrade and politically armor the Republic of Cyprus...The view that this will be the last initiative for a Cyprus solution constitutes dogmatism and indicates ignorance of the rule of international policy...On the contrary, I am saying that the pressure for a solution will be bigger...Turkey's accession course will also continue, thus Ankara will be under continuous evaluation for the adoption and implementation of the acquis communautaire, and Cyprus will be one of the evaluators.

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In the post-referenda period, and in Turkey's accession course, Tassos Papadopoulos is doing exactly what he threatened to do in his 7 April 2004 speech. He is also doing his best to get Greece to pursue the same strategy.

Putting aside the mishandling of the Cyprus opportunity by the EU in terms of negotiation dynamics, the EU has also allowed itself to be misled regarding the real intentions of the Greek Cypriot majority (and their leaders) and the underlying causes of the Cyprus question.

Addressing the European Parliament on 21st April 2004, EU Enlargement Commissioner Günter Verheugen recalled that in 1999 the then Greek Cypriot government had promised to do everything possible to secure a settlement in return for which the EU would not make a Cyprus solution a prerequisite for accession. An angry and disappointed Mr. Verheugen stated to the European Parliament that:

> What Mr. Papadopoulos said after the negotiations in Switzerland is the rejection of that notion and I must draw the conclusion from his words that the government of the Republic of Cyprus opposes the international settlement and proposes the rejection of the Plan...I am going to be very undiplomatic now. I feel cheated by the Greek Cypriot government.

I must point out again that Turkish Cypriots accepted the UN Plan as a *compromise package* despite their serious reservations regarding, *inter alia*, issues of governance and the translation of their political equality into practical terms (especially decision making and representation arrangements); citizenship (limitations imposed on the number of TRNC citizens acquiring United Cyprus Republic citizenship), and property arrangements (especially because of the dilution of the agreed principle of bi-zonality from the perspectives of demographics, security and political/economic/ cultural survival). In addition to the pain that would be caused by the relocation of more than one third of the Turkish Cypriots under the Plan, the Turkish Cypriot side also had very serious concerns about the uncertainty of the status of the compromise Plan *vis-à-vis* Community or EU law, as well as international law.

To conclude, the 24 April 2004 referenda results were virtually a foregone conclusion in view of the failure of the strategy pursued by the EU and the resultant circumstances surrounding the negotiation process. With

the acceptance of the Greek Cypriot Government of Cyprus as the sole interlocutor for EU membership and the removal of the condition that EU membership would follow a settlement between the two sides, there was no mutually perceived notion of deadlock since the Greek Cypriot side could unilaterally pursue and consolidate its goal of a Hellenic State in the name of the hi-jacked Republic of Cyprus, while the hands of the Turkish Cypriot side were tied under embargoes and political isolation.

The failure of the United Nations to prepare the ground for meaningful and fair negotiations and to level the playing field in a way that would respect the equal political rights and legitimacies of the two sides also contributed to this result.

Consequently, in the period leading to the referenda, there was no perceived need and readiness on the Greek Cypriot side for partnership with Turkish Cypriots. It has to be borne in mind that partnerships require a "glue" factor to bring and hold the partners together. Professor Tozun Bahceli of King's University College, Canada, pointed out at a conference at the Eastern Mediterranean University, the Turkish Republic of Northern Cyprus, on 29 April, 2004 that the partnership option was attractive to the Greek Cypriot side so long as a two state solution was a real possibility.

The New State of Affairs of the Post-Referenda Period

New circumstances and a new state of affairs have emerged in Cyprus following the referenda results of 24 April 2004 and the unilateral EU membership of South Cyprus on 1 May 2004, before the political settlement of the Cyprus issue.

Throughout its history Cyprus has always been at the cross-roads of civilizations. For sustainable settlement in the special circumstances of Cyprus, and for this settlement to be a model for reconciliation and partnership between distinct peoples and civilizations at this critical and opportune time, all interested parties need to revisit the Cyprus question and pay heed to the changing facts, needs and paradigms, which call for the development of new policies and strategies.

Among the elements of the changing facts, needs and paradigms (new state of affairs) could be listed the following:

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- The two peoples of the Island are qualified to, and are capable of, exercising their separate will and inherent constitutive powers as they ably did in the separate simultaneous referenda of 24 April 2004.

- By agreeing to take part in the separate simultaneous referenda, organized and administered independently by each side, the Greek Cypriot side has in fact accepted the separate will, inherent constitutive power and independent administrative capacity of the Turkish Cypriot side.

- By refusing the UN partnership plan, the Greek Cypriot side has confirmed yet again that their vision of a Greek Cypriot-dominated Cyprus has not changed and that it is not the Turkish Cypriot side that is the intransigent party in Cyprus. In addition to the referendum result, the emotional pre-referenda address of the Greek Cypriot President is undisputable proof of the rejection of bi-zonality, political equality and the "virgin birth" approach – all key pillars of possible settlement in Cyprus and of the UN partnership Plan.

- The Greek Cypriot "necessity" excuse used in "possessing" the Republic of Cyprus since 1963 has lost even the unfounded ground on which it was based since it has become clear that it was, and is, the Greek Cypriot side that has created and has been contributing to the continuation of the abnormal situation in Cyprus.

- It became clear that what was once the bi-communal partnership "Republic of Cyprus" has since 1963 turned into a purely Greek Cypriot Republic in which the Turkish Cypriot people, as an equal corporate body, have no place.

- Many now recognize that the one-sided conditionality applied by the European Union, coupled with the absence of a level-playing field in the UN negotiating process, have contributed to the intransigence of the Greek Cypriot side and have prevented the reaching of a balanced negotiated settlement.

- The EU Commission, by proposing the Direct Trade (with North Cyprus) Regulation, and the UN Secretary-General, by stating in his 28 May 2004 report that the unnecessary restrictions and barriers that

have the effect of isolating the Turkish Cypriots and impeding their development need to be eliminated, have acknowledged that the Greek Cypriot authorities have unjustly been pursuing a policy aimed at the political, economic and social isolation of the Turkish Cypriot people..

- The failure of the EU Commission to get the Direct Trade Regulation approved through the Council and the failure of the UN Secretary-General to get his report endorsed by the Security Council is resulting in the continuation of the acknowledged inhuman restrictions on the Turkish Cypriot people. A new international initiative is required to end this recognized injustice.

- The disillusionment and frustration of the Turkish Cypriot people with the international community (particularly the EU) is mounting especially because of its failure to keep its promise to end the isolation of North Cyprus and because of the continuing inability of the international community to deal with violations against the human and political rights of Turkish Cypriots.

- It is becoming increasingly evident that it is in fact the Turkish Cypriot people that are faced with real security and political threats and that it is them who need further safeguards against the oppressionist vision of Greek Cypriots.

- Turkey's EU preoccupation is giving a unique chance to EU member Greek Cyprus to pressurize Turkey to, in turn, pressurize the Turkish Cypriot side. One such pressure is aimed at forcing Turkey to recognize the Greek Cypriot government as the sole representative and authority of the whole Island - if it is to start accession negotiations on 4 October 2005. This, in turn, is giving a chance to Turkey-skeptic countries like France to vanguard such a precondition, based on domestic considerations, without due regard to the objective realities and needs of Cyprus. This course, which ultimately aims at subordinating the Turkish Cypriot people to Greek Cypriot authority, cannot lead to a sustainable win-win settlement in Cyprus.

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- As a full EU Member, the Greek Cypriot side sees invaluable advantages in making the Cyprus conflict an EU problem, which they can discreetly take-up and shape-up in the back-rooms of the EU, before imposing it on the Turkish Cypriot people and on Turkey. While in line with Greek Cypriot tradition, this zero-sum strategy cannot bring peace and stability to Cyprus and to its region.

- Turkish Cypriots have started loosing faith in the partnership option. In the face of the Greek Cypriot rejection of partnership based on real political equality, the preferred option of an increasing majority of Turkish Cypriots is moving towards a two state solution that will keep the equal partnership door open at an opportune time.

THE WAY FORWARD

The post-referenda circumstances and realities of Cyprus can frustrate or act as a catalyst for the development of new strategies/remedies to help sustainably resolve the Cyprus issue. The international community, especially the United Nations and leading nations, can capitalize on this new opportunity. No doubt this will require leadership and bold steps, among which could be listed the following:

- *The international community* to level the playing field by empowering the equal status and legitimacy of the Turkish Cypriot polity.

-*The international community* to fulfill its post-referenda commitment to end the international isolation of the Turkish Cypriot people by making sure that all economic, social and political embargoes that have been unjustly applied on them since 1963 are ended. Some of the remarks made by international personalities and organizations to this effect were:

> I applaud the Turkish Cypriots who approved the plan notwithstanding the significant sacrifices that it entailed for many of them...(I) hope that ways will be found to ease the plight in which the people find themselves through no fault of their own. (UN Secretary-General Kofi Annan, 24 April 2004.)

> The Turkish Government displayed great courage. The Turkish Cypriots did, as well, on voting for it (Secretary-General's Plan). And so, I think

there should be some benefits to the Turkish Cypriots for having voted "yes" for this Plan. (US Secretary of State Colin Powell, interview with the press, 26 April 2004.)

Turkish Cypriots must not be punished because of this result... Now we have to end the isolation on the North. The (EU) Commission is ready to take various measures for that aim. (Gunther Verheugen, EU Enlargement Commissioner, 26 April 2004.)

I think it is important, as I indicated to the Prime Minister, that we end the isolation of Northern Cyprus... We made it clear we must act now to end the isolation of Northern Cyprus. That means lifting the embargoes in respect to trade, in respect to air travel... (Tony Blair, Prime Minister of the UK, during his visit to Turkey, 18 May 2004.)

The international community and in particular the Council of Europe and the European Union cannot ignore or betray the expressed desire of the majority of Turkish Cypriots for greater openness and should take rapid and appropriate steps to encourage it. The Turkish Cypriots' international isolation must cease. (The European Parliamentary Assembly Resolution no. 1376 (2004).

I would hope that the members of the Council can give a strong lead to all States to cooperate both bilaterally and in international bodies, to eliminate unnecessary restrictions and barriers that have the effect of isolating the Turkish Cypriots and impeding their development... (The Secretary-General's Report on his Mission of Good Offices in Cyprus to the Security Council, 28 May 2004, S/2004/437, p.2).

- *Particularly European Union* member countries to take all necessary steps to put an end to the unjustified embargoes and give effect to measures to connect the Turkish Cypriot people with the rest of the World in a way that will not amount to the extension of Greek Cypriot authority or jurisdiction over North Cyprus. Among such measure must be included the opening up of Turkish Cypriot ports and airports to international trade. It must be remembered that part of the restrictions on Turkish Cypriots were dictated in the decisions of the European Court of Justice in the *Anastasiou* cases where the rationale stemmed from the lack of ability to cooperate with the Authorities in North Cyprus.

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- *The United Nations*, in view of the new circumstances and its own resolutions that neither side in Cyprus can claim authority or jurisdiction over the other, to ensure in the most appropriate way that the Turkish Cypriots are not subordinate to Greek Cypriots or their political authority.

- *European Institutions* to look for ways to check the fanatically nationalistic and oppressionist policies and practices of Greek Cyprus and to empower the Turkish Cypriot Government as the authority that exercises effective control over North Cyprus. Protocol No. 10 of the 2003 Act of Accession stipulated that the Greek Cypriot Government does not exercise effective control over North Cyprus. Basically, the 1960 Constitution of the Republic of Cyprus, and the state of affairs created thereof, does not allow either the Greek Cypriot community/partner or the Turkish Cypriot community/partner to exercise control or authority over the other, or to represent the whole island. This is why each community/partner is entitled to elect its own representatives.

- *The European Union and the Member States* to establish direct contacts with North Cyprus. The Greek Cypriot side does not have the right to be the government of the Turkish Cypriots in North Cyprus and therefore, a formula has to be found to allow for direct contacts with, and equal opportunities to, the Turkish Cypriot polity, without subordinating it in any way to the Greek Cypriot polity. The non-recognition of the Turkish Republic of Northern Cyprus should not therefore prevent direct contacts with the Turkish Cypriot side. In fact, in the case of Taiwan, the European Union had developed modalities through contacts at the 'administrative level' to facilitate trade. Furthermore, the authenticity of North Cyprus documents could be checked by European Commission authorities and not by the Greek Cypriot Administration. The Council Regulation defining the terms under which the provisions of EU law will apply to the green line between the two sides in Cyprus is far from meeting the legitimate interests of the Turkish Cypriot side and the new realities on the island following the referenda on 24 April 2004. It is important that the direct trade and financial aid Regulations prepared by the EU Commission go through as proposed by the Commission.

- The financial aid regulation should facilitate financial and technical assistance for the development of the physical and social infra-structure of North Cyprus, as identified by Turkish Cypriot Authorities. The EU should

also provide technical assistance to the Turkish Cypriot side in project preparation, undertaking, feasibility studies and application for aid from EU structural and regional funds. Turkish Cypriot citizens and Turkish Cypriot companies registered in North Cyprus should be able to tender for EU funded projects. Any assistance coming from the EU or from international funds should not be linked, directly or indirectly, to the outstanding property issue.

- The international community to accept Turkish Cypriot certification to facilitate free movement of peoples and goods. Direct mail, telephone and electronic links between North Cyprus and the rest of the World will provide a major step towards the ending of the isolation of the Turkish Cypriot people who have proven their readiness to be part of the EU and the World.

The Turkish Cypriot side could itself contribute to efforts to bring stability and resolution by doing, among other things, the following:

- Initiate a process, together with the European Union Commission, to harmonize the Turkish Cypriot legal, economic and political system with the European Union *acquis*.

- Reorganize its administrative and legal infrastructure in order to improve efficiency and compatibility with EU and international norms.

- Assist in combating illegal immigration, terrorism, drug trafficking and money laundering as well as other threats to public order and public/international security.

- Create effective domestic remedies in North Cyprus especially as regards issues relating to property and public order.

- Look forward to a new cooperative relationship with the Greek Cypriot side on all issues as two neighbors and as the two co-owners of the Island.

- Make sure that the territory under its control continues not to be used for any subversive or terrorist activity against the Greek Cypriot side or any other neighboring country.

- Work towards a customs union agreement with the Greek Cypriot side and with Turkey in parallel with its harmonization process with the European Union.

- Remain committed to settling the outstanding property issue on the basis of the bi-zonality principle and in a way that would satisfactorily compensate legitimate property rights.

CONCLUSION

As also stated by the United Nations Secretary-General on several occasions, a balanced comprehensive settlement plan for Cyprus requires visionary and bold political leadership on both sides of the island, as well as in Turkey and Greece, all of which have to be in place at the same time and to actively engage in the resolution process with determination in order to secure the needed balanced compromises for settlement.

While the political leadership in Turkey, the Turkish Cypriot side and to some extent Greece demonstrated that they were ready to grasp the opportunity in Cyprus, the political leadership on the Greek Cypriot side remained in the grip of selfish ethno-nationalism in spite of a concentrated effort by the international community, including some heavy weights like the USA, the EU and Britain. With his track record as a leading nationalist, I do not think that the Greek Cypriot President Tassos Papadopoulos can now change his vision for a Greek Cypriot dominated Hellenic Cyprus and look upon the Turkish Cypriot people as co-owners of the island and their equal partners in partnership.

The sheer size of the Greek Cypriot "no" vote raises fundamental questions regarding the feasibility and viability of a bi-communal and bi-zonal partnership settlement. The referenda results have shown without doubt that the outstanding majority of Greek Cypriots are calling into question many fundamental aspects of the Secretary-General's Plan, a culmination of decades of negotiation, including those provisions which translated the political equality of the Turkish Cypriot people into practical terms, bi-zonality, security arrangements and the virgin birth approach.

The "virgin birth" design of the Plan was of vital significance because it allowed each side to maintain its position on how the new state of affairs

would come into being since both sides rejected the sole continuity of the other. In his broadcast speech on 7 April 2004 before the referenda, Tassos Papadopoulos was very clear in his challenge to the complete philosophy and fundamental aspects of the Plan when he said:

> ...We are asked to dissolve the Republic of Cyprus, the only security of our people, the only shield and guarantee of our historic physiognomy - to dissolve our internationally recognized state entity exactly at the very moment this is reinforced through our accession to the European Union...I have received a state that was internationally recognized. I will not hand it over as a community, without the right to speak internationally....

This statement alone reveals the true intentions of Mr. Papadopoulos and his supporters who have commanded the 76% majority. This fact alone entitles Turkish Cypriots to reconsider their position about entrusting their fate in Greek Cypriots, even in the context of a new bi-zonal partnership settlement. It is therefore time for both Turkish Cypriot authorities and the international community to start considering and promoting the "next best alternative" (BATNA)[18] for the Turkish Cypriot people, bearing in mind that the Turkish Cypriots cannot give up their distinct identity, right to determine their own future, political equality, the security and political guarantee provided by Turkey, and the needed bi-zonality which, together, are essential for their physical, political and economic survival and security. The existence of a strong Turkish Cypriot BATNA could also deter the Greek Cypriot side, as also pointed out by Prof. Tözün Bahçeli, from pursuing zero-sum strategies and could re-generate mutual interest in partnership based on real political equality. Strictly speaking, under the circumstances described in this paper, the emergence of the Turkish Republic of Northern Cyprus has been the result of necessity and, as such, recognition is the right of the state that emerged, resting on the free and democratic choice of the Turkish Cypriot people in exercise of their separate right to determine their own future.

I would argue that the main reason for the failure of the repeated peacemaking initiatives in Cyprus could be traced to deficiencies in process design. The burden of this shortcoming cannot wholly be placed on the shoulder of the UN Secretary-General or his staff. Major international players, including the EU, have contributed to this failure and to the biased circumstances that conditioned the relations of the international community

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with the two sides. The ignoring of the rule of law regarding Cyprus also contributed to the deficiencies in the process design. For its part, the EU blatantly failed in benefiting from its catalytic capacity in Cyprus and accession was realized without a settlement and under the "time-bomb" claim that the Greek Cypriot administration represents the whole island.

Overall, processes were initiated at times that did not match with the existence of a mutually perceived notion of deadlock (mutually hurting stalemate); enough attention was not paid to the need for a level playing field (Turkish Cypriots had to negotiate under embargoes and the claim that the Greek Cypriot authorities represented the whole of Cyprus); windows of opportunity (like the EU membership of Cyprus) that could have equally induced the parties to settlement were mishandled; the root causes of the Cyprus issue were not adequately analyzed and addressed; and so-called "confidence building measures" were put into practice that amounted to the dependence, and even subordination of the Turkish Cypriot side on the Greek Cypriot side (like the EU asking Turkish Cypriots to export their goods through Greek Cypriot ports) rather than promoting confidence-building through interdependence – an essential requirement of partnership.

To re-open the door for settlement, I would therefore suggest that the shortcomings that have undermined the negotiation processes so far be remedied – starting with the lifting of all embargoes on North Cyprus, the leveling of the playing field and the political empowerment of the Turkish Cypriot side as an equal party in Cyprus.

As the UN Secretary-General has pointed out in his 28 May 2004 Report, the Greek Cypriot leadership is challenging the fundamental aspects of his bi-communal, bi-zonal partnership plan and there is no justification under these circumstances for isolating the Turkish Cypriots and impeding their development. The Greek Cypriots must be stopped from holding the Turkish Cypriot people their political and economic hostage.

Finally, I would argue that we cannot develop policies and strategies regarding Cyprus in isolation of Turkey and Greece and the region as a whole. It will not suffice to contain or seemingly solve the problem of Cyprus without taking into account the realities of the island and of the volatile region Cyprus finds itself in - between Europe and the Middle East. The partnership option of the two equal peoples still seems the best

opportunity for Cyprus, but for this opportunity to be realized and for it to be sustainable, the benefits and virtues of partnership must be realized by all. This necessitates an appreciation of the island-wide, regional and global benefits that partnership between the two peoples and cultures of the island would bring. For the island, this would mean peace, security, stability, prosperity and synergy; at the regional and global level, it would mean the cooperation and partnership of two civilizations that some have unfortunately chosen to condemn to "perpetual confrontation" through the dogma called "clash of civilizations".

Only an international community acting in unison has the political force to achieve this vision. But, in the meantime, the Turkish Cypriot people must be freed from being the hostages of the Greek Cypriot side and must be treated, as a polity, at par with the Greek Cypriot polity. Put differently, the Greek Cypriot side must be prevented from using its unjustly and illegitimately acquired weight in Brussels to further hurt its ex-equal partner, the Turkish Cypriot people, and to settle scores, in alliance with some Turkey-skeptic EU Member countries, with its neighbor, Turkey. If allowed, such an eventuality will surely de-rail the reconciliation and settlement process in Cyprus and significantly undermine Turkish Cypriot and Turkish confidence in Europe.

To avoid this, it is important that Turkey's membership process is separated from being directly linked to the Cyprus issue. While the settlement of the Cyprus problem was not made a condition for the Greek Cypriot membership process, a linkage now would allow the Greek Cypriot side to exploit its EU membership status to achieve its selfish oppressionist and unsustainable objectives in the Island. It has to be remembered that it was the Greek Cypriot side that refused the UN partnership Plan for settlement. In this regard Turkey should not be pressurised or even expected, directly or indirectly, to recognise the Greek Cypriot Government of Cyprus as the sole legitimate authority or representative of the whole island. To do so would, among other things, amount to:

- Turkey denying its obligations under the 1960 Treaty of Guarantee; denying its strong stance against the use of force by the Greek Cypriot side in 1963 to destroy the constitutional order; legitimising Makarios' illegal regime; overlooking its obligations towards the Turkish Cypriot people; and

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legitimising the actions of the Makarios regime in exercising unchecked domination over the Turkish Cypriots.

- The destruction of the foundations of a possible cooperative or partnership settlement in Cyprus by undermining all of the parameters that have emerged so far through the UN led negotiation processes like the principle of political equality, bi-zonality, the need that there has to be elements of continuity for both sides in the new state of affairs to be created (the virgin birth approach), that neither side can claim authority or jurisdiction over the other, and that the partnership state is based on a multi-tier governance model with elements of divisible sovereignty.

- The ultimate rewarding of Tassos Papadopoulos for misleading the international community and for refusing the UN partnership Plan in the referenda of 2004. Such an eventuality would also make Tassos Papadopoulos a national hero for eventually realising the complete Hellenization of the island and would guarantee his re-election at the next Greek Cypriot presidential elections.

Cyprus happens to be the only failed partnership where the option of establishing a new equality-based partnership is still possible. All interested parties and international organizations should seize this global opportunity for an equitable and just settlement of the Cyprus question.

Endnotes

[1] See *Presidency Conclusions*, Helsinki European Council of 10-11 December 1999, http://www.foreign.gov.mt/Malta-EU/Avis/Helsinki99/conclusions.htm

[2] For a good analysis of the UN Plan, see Clement Dodd, *Disaccord on Cyprus – The UN Plan and After*, second edition, Eothen Press, Huntingdon, 2004, ISBN 0 906719 41 0.

[3] Mendelson, H. Maurice, *Why Cyprus Entry Into The European Union Would Be Illegal?*, London, October 2001, pp.31-32.

[4] Harris, Peter and Ben Reilly (eds.), *Democracy and Deep-Rooted Conflict: Options for Negotiators* (International Institute for Democracy and Electoral Assistance, 1998), pp. 9-10.

[5] Zartman, I. William, ed., *Resolving regional conflicts: International perspectives* (Special issue, The Annals of the American Academy of Political and Social Science, 1991).

[6] For a full discussion on this, see Rothman, Jay, *From Confrontation to Cooperation, Resolving Ethnic and Regional Conflict* (Sage Publications, 1992), pp.58-64.

[7] For further details, see Lewicki, Roy J., David M. Saunders, John W. Minton, *Negotiation* (McGraw-Hill Higher Education, 1999), p.22.

[8] Harris and Reilly, Op.cit., p.21.

[9] Noutcheva, Gergana, Nathalie Tocci and Tamara Kovziridze, *Europeanisation and Conflict Resolution: Theories and Paradigms* (paper, Seminar on Europeanisation and Conflict Resolution at Center for European Policy Studies, Brussels, 23-24 January 2004), p.9.

[10] Ibid.

[11] Bildt, Carl, *A Second Chance in the Balkans* (Foreign Affairs, January/February 2001).

[12] On 4th July 1992, the EC Arbitration Commission found that the federal institutions of the Socialist Federal Republic of Yugoslavia (SFRY) were incapable of functioning as originally designed in the Yugoslav Constitution and that the SFRY should therefore be considered to have dissolved and ceased to exist. The Arbitration Commission also found that the Federal Republic of Yugoslavia (FRY) could not be considered to be the continuity of the SFRY.

[13] UN Secretary-General's report to the Security Council dated 29 July 1965, paragraphs 7-11.

[14] Paragraph 92 of the UN "Set of Ideas on an Overall Framework Agreement on Cyprus" (Annex to the Report of the Secretary-General on his mission of good offices in Cyprus, 21 August 1992, S/24472) set out that "*Matters related to the*

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membership of the federal republic in the European Economic Community will be discussed and agreed to, and will be submitted for the approval of the two communities in separate referendums."

[15] Fouskas, Vassilis K. *Zones of Conflict, US Foreign Policy in the Balkans and the Greater Middle East* (Pluto Press, 2003), pp. 106, 114, 115.

[16] See *Presidency Conclusions*, Helsinki European Council of 10-11 December 1999, p 2, http://www.foreign.gov.mt/Malta-EU/Avis/Helsinki99/conclusions.htm

[17] For further details see the 1960 Cyprus Constitution.

[18] Fisher, Roger & William Ury, *Getting to Yes, Negotiating an agreement without giving in* (Arrow Business Books, 1996), pp. 104-111.

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ISBN 975-400-286-X