

TURKEY-EU RELATIONS IN THE AFTERMATH OF THE HELSINKI SUMMIT: AN ANALYSIS OF COPENHAGEN POLITICAL CRITERIA IN LIGHT OF THE ACCESSION PARTNERSHIP, NATIONAL PROGRAMME AND THE REGULAR REPORTS

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ÖZET

40 yıldan uzun bir süredir iniş çıkışlarla devam etmekte olan Türkiye-Avrupa Birliği ilişkileri 1999 yılında Helsinki Zirvesinde alınan ve Türkiye için resmi adaylık statüsünün tescilini ifade eden kararlarla yeni bir döneme girmiştir. Bu makale çerçevesinde, söz konusu ilişki, katılım öncesi stratejinin kendine özgü unsurları olan "Katılım Ortaklığı Belgesi", "Ulusal Program" ve "İlerleme Raporları" bağlamında incelenmektedir. Bu çerçevede, makalede, söz konusu hukuki belgelerin üyelik müzakerelerine başlamanın ön koşulunu oluşturması bakımından sadece Kopenhag siyasi kriterleri ile ilgili kısımları ele alınmaktadır. Bu belgelerin hukuki ve teknik açıdan incelenmesi aracılığıyla, Türkiye-Avrupa Birliği ilişkilerine, özellikle 1990'ların başından bu yana damgasını vuran tarafların anlayış, değerlendirme, siyasi irade ve niyetlerinde gözlenen farklılaşma olgusu ortaya konmaya çalışılmaktadır. Bu çerçevede, ilişkiler açısından önemli bir merhale oluşturması beklenen Aralık 2002 Kopenhag Zirvesi'nden çıkabilecek olası karara da ışık tutulmaya çalışılmaktadır.

INTRODUCTION

Turkey and Europe have been closely linked for several centuries and for more than five decades Turkey has been involved in most of the European organisations founded with a view to establish peace and security in the region after the World War II. Council of Europe, NATO and OECD are examples of these organisations where Turkey is a member.

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Turkey's relations with the European integration, on the other hand, has a history of more than 40 years. The relations formally begun with the signing of the Ankara Agreement on 1963 which established an association relationship between the EEC and Turkey with a view to prepare Turkey for closer ties with this emerging international actor and most probably for future membership.¹

The relationship between Turkey and the European integration has been characterised by continuous ups and downs over the following years.²

Especially during the 1990s and at the beginning of the 21st century, the relations have been like a pendulum swinging from heights of optimism to the depths of pessimism, as far as the Turkish public opinion is concerned, within very short periods of time, mostly due to the differences in the intention and will of the parties.³ We will try to analyse briefly, within context of this article, the reasons of this development in the light of the Accession Partnership⁴ document prepared and adopted by the European Union, which lays down the priorities and criteria for Turkey to fulfil for membership and the National

¹ Article 28 of the Ankara Agreement states that "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." **Ankara Agreement Establishing an Association Between the European Economic Community and Turkey**, signed at Ankara, 12 September 1963.

² For a general overview on Turkey-EU Relations see for example Sanem Baykal, "Katılım Ortaklığı Belgesi: Türkiye-AB İlişkilerinde Yeni Bir Dönemeç", **Mülkiye Dergisi**, Vol. XXV, No. 226, 2001, p.201-224; Mehmet Ali Birand, **Türkiye'nin Avrupa Macerası 1959-1999**, İstanbul, Doğan, 2000; Atila Eralp, "Turkey in the Enlargement Process : From Luxembourg to Helsinki", **Perceptions**, Vol. V, No: 2, 2000, pp. 17-32; Atila Eralp (Ed.), **Türkiye ve Avrupa**, Ankara, İmge, 1997; Haluk Kabaalioğlu, "Turkey and the European Union: Converging or Drifting Apart ?", **Marmara Journal of European Studies**, Vol.VII No.1-2, 1999, pp.109-166; Haluk, Kabaalioğlu, "The Customs Union: A Final Step Before Turkey's Accession to the European Union ?", **Marmara Journal of European Studies**, Vol. VI No.1, 1998, pp. 113-140; Hagen, Lichtenberg, "Turkey and the European Union", **Marmara Journal of European Studies**, Vol. VI, No.1, 1998, pp.141-147; Hagen Lichtenberg, "From Candidacy to Membership (Part I)", **Marmara Journal of European Studies**, Vol. IX, No.1, 2001, pp. 17-41; Meltem Müftüler Baç, **Türkiye ve AB: Soğuk Savaş Sonrası İlişkiler**, İstanbul, Alfa, 2001; Baskın Oran, (Ed.) **Türk Dış Politikası, Kurtuluş Savaşından Bugüne Olgular, Belgeler, Yorumlar**, Vol. I-II, İstanbul, İletişim, 2001; Çınar Özen, "Neo-Functionalism and the Change in the Dynamics of Turkey-EU Relations", **Perceptions**, Vol. III, No. 3, 1998, pp. 34-57, Paul Taylor, "Turkey-EU Relations in 2001: Structural Change and Agency Opportunity", **Marmara Journal of European Studies**, Vol. IX, No.1, 2001; pp. 93-114; İlhan Tekeli ve Selim İlkin, **Türkiye ve Avrupa Birliği**, Ankara, Ümit, 2000.

³ For a different approach to this issue on the basis of an "anchor/credibility dilemma" see Mehmet Uğur, **Avrupa Birliği ve Türkiye, Bir Dayanak/İnandırıcılık İkilemi**, İstanbul, Everest, 2001.

⁴ **Council Decision No 2001/235/EC of 8 March 2001 on the Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnership with the Republic of Turkey**, (2001/235/EC) OJ 24.3.2001 L 85/13.

Programme⁵ which constitutes Turkey's answers to this document and its undertakings towards the Union in the accession process. In this context, the findings and opinions expressed in the 2001⁶ and 2002⁷ Regular Reports for Turkey published by the European Commission will provide useful guidelines and give an insight to the expectations and reactions of the EU. By analysing those documents, on the one hand a forecast may be made on the outcome of the Copenhagen Summit which is due in December 2002, where the political decision will be taken on the accession of the candidate countries, together with the decision to or not to set a date for Turkey to start negotiations, and on the other hand, and more importantly the prospects of Turkey-EU relations can be put into context.

This article will try to explore the present situation of the relations by way of examining the developments on the basis of the legal documents adopted by Turkey and EU since the Helsinki Summit. The main aim of the article is to provide a snapshot of the relations before the historical Copenhagen Summit of December 2002. In this context, firstly, Helsinki Summit and its significance will be briefly analysed. Secondly, the Accession Partnership and National Programme will be examined and compared. Thirdly, the transformation in the legislation and legal system of Turkey as regards the fulfilment of Copenhagen Political Criteria will be explored. Lastly, the evaluation of those reforms by the Commission will be analysed on the basis of its 2001 and 2002 Regular Reports. In this framework, only the Copenhagen Political Criteria will be examined, firstly in order to limit the study and secondly, due to the fact that the fulfilment of political criteria is the precondition to start the accession negotiations with the European Union.

THE HELSINKI SUMMIT: THE HEIGHTS OF OPTIMISM

The candidate country status attained at the Helsinki Summit of 1999 has been an important step for Turkey in its efforts in becoming a member of European Union. As mentioned above, Turkey has an association agreement with the EC (then EEC) since 1963 and has completed the necessary requirements of a customs union back at 31 December 1995. Since that date

⁵ **Turkish National Programme for the Adoption of the *Acquis***, 19 March 2001, Official Gazette 24 March 2001, No : 24352.

⁶ **2001 Regular Report on Turkey's Progress Towards Accession**, Commission of the European Communities, 13.11.2001 SEC (2001) 1756.

⁷ **2002 Regular Report on Turkey's Progress Towards Accession**, Commission of the European Communities, Brussels 9.10.2002, SEC (2002) 1412.

there is a customs union between the EC and Turkey albeit with certain problems.⁸

Those factors had convinced Turkey that it would have a privileged status for membership compared to the other candidate countries. Those hopes and expectations proved to be not too well-founded. Although Turkey's application for becoming a full member dates back to 14 April 1987, it was the last country that was given the candidate status in 1999 which made her merely the 13th candidate for membership to the EU.⁹ There are several reasons for this relatively slow progress of the accession process for Turkey, however, only a few of them will be mentioned below.

Firstly, the new enlargement process of the EU has some unprecedented features both due to the number of countries involved and also due to the elements of the process being new.¹⁰ "Copenhagen Criteria", "Agenda 2000", "Pre-accession Strategy", "Accession Partnership", "National Programme", "Regular Reports", "Pre-accession Assistance", "Twinning", "Screening", "Opening of EC Programmes and Agencies" are all novel features of this new and current enlargement process. Therefore, Turkey had to start from scratch and catch up with the other candidates. Her previous close ties with the European integration thus failed to provide Turkey with a privileged status in this new enlargement process.

⁸ The problems are highlighted from the Commission's point of view in 2002 Regular Report which will be examined below. For a detailed analysis on the customs union and its effects on Turkey-EU relations see Çınar Özen, **Türkiye-Avrupa Topluluğu Gümrük Birliği ve Tam Üyelik Sürecine Etkileri**, İzmir, Ceylan Yayınevi, 2002.

⁹ Despite the fact that in Helsinki Summit Conclusions the accession process has been identified as "inclusive" in nature and it was stated that "the candidate States are participating in the accession process on an equal footing" Turkey as the only country which has not started the accession negotiations yet, is practically the 13th candidate. See paragraph 4 of the Helsinki Presidency Conclusions, **Helsinki European Council**, Bulletin of the European Communities, No. 12/1999, Luxembourg, Office for Official Publications of the European Communities, 2000.

¹⁰ For the main elements of the new enlargement strategy see **Agenda 2000, Strengthening the Union and Preparing Enlargement**, comm/agenda2000/index_en.htm, and the Luxembourg Presidency Conclusions, **Luxembourg European Council**, Bulletin of the European Communities, No. 12/1997, Luxembourg, Office for Official Publications of the European Communities, 1998. For a detailed analysis of the current enlargement process see Graham-Avery Cameron, Fraser, **The Enlargement of the European Union**, Sheffield, Sheffield Academic Press, 1999; Michael Baun, **A Wider Europe, The Process and Politics of European Union Enlargement**, Lanham-Boulder-New York-Oxford, Rowman&Littlefield, 2000; Croft, Stuart *et al.*, **The Enlargement of Europe**, Manchester, Manchester University Press, 1999; Alan Mayhew, **Recreating Europe, The European Union's Policy Towards Central and Eastern Europe**, Cambridge, Cambridge University Press, 1998; Christopher Preston, **Enlargement and Integration in the European Union**, London, Routledge, 1997.

Secondly, this enlargement process was mainly a political design and decision, with political aims and objectives.¹¹ Western Europe was determined to contribute to the democratisation and liberalisation of the former Eastern Block countries, basically because this was regarded as a moral obligation and a must for security concerns.¹² A "European Union" was being created with common European values where the issues of identity and culture became more and more significant and dominant.¹³ These developments increased the question-marks on the issues such as the "European identity" of Turkey, whether Turkey really belonged to a politically united Europe or not, and thus placed her at the back of the queue.¹⁴

Thirdly, the relative lack of progress and transformation in Turkey, particularly in areas such as human rights, supremacy of law and democratisation also played their part in her late acceptance as a candidate. These were highlighted as the foundations and common values of the European integration (Union) in the 1980s and especially in the 1990s¹⁵ and Turkey's shortcomings in those areas were evaluated as obstacles to its accession.¹⁶

¹¹ See for example **Agenda 2000**, supra no. 10; Sinem Akgül Açıkmeşe, **Avrupa Birliğinin Genişlemesi ve Orta ve Doğu Avrupa Ülkeleri**, unpublished masters thesis, Ankara, 2001, pp-85-86; Lykke-Murphy Friis, Anna, "The European Union and the Central and Eastern Europe: Governance and Boundaries", **Journal of Common Market Studies**, Vol. 37, No. 2, 1999, p.218. As regards the general factors behind EU's current enlargement and the significance of political and ethical motives see for example Michael Baun, **op.cit.**, 2000, p. 4-11.

¹² *Ibid.*, p.7.

¹³ For an overview on the creation of a new polity and an identity and "demos" see Paul Howe, "A Community of Europeans", **Journal of Common Market Studies**, Vol. 33, No. 1, 1995, p. 27-46; Brigid Laffan, "The Politics of Identity and Political Order in Europe", **Journal of Common Market Studies**, Vol. 34, No. 1, 1996, p.81-102; Joseph Weiler, **The Constitution of Europe "Do the New Clothes Have an Emperor?"**, Cambridge, Cambridge University Press, 1999.

¹⁴ For an analysis of identity issues in context of Turkey EU relations see Yurdusev, "Avrupa Kimliğinin Oluşumu ve Türk Kimliği", Eralp (Ed.), **op.cit.**, 1997, p. 17-85.

¹⁵ The Copenhagen European Council stated that "membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights, and the respect of and protection of minorities." See the Copenhagen Presidency Conclusions, **Copenhagen European Council**, Bulletin of the European Communities, Luxembourg, Office for Official Publications of the European Communities, 1994. Similarly, Article 6 of the Treaty of the European Union indicates that "The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedom and the rule of law." These principles were emphasised in the Charter of Fundamental Rights of the European Union, which was proclaimed at the Nice European Council in December 2000, see the **European Union Charter on Fundamental Rights**, ue.eu.int/df/default.asp?lang=en. Thus, the European integration had started to assume a political identity and consequently was putting stress on the fundamental principles and common values of this new polity.

¹⁶ See for an early comment by the Commission on those issues, "The Commission Opinion on Turkey's Request for Accession to the Community", SEC (89) 2290 final, 18 December 1989. For an overview on the significance of democracy and human rights in Turkey EU Relations see

Fourthly, Turkey's macro-economic instability and problems were also evaluated by the EU as impediments for a successful economic integration.¹⁷

Despite all these reasons, Turkey was given candidacy status at the Helsinki Summit of 1999 which marked a distinct change of policy and attitude towards Turkey by the EU.¹⁸ A year later, in November 2000, the Commission's proposal for an Accession Partnership with Turkey was submitted to the Council of Ministers, which is adopted by this institution on the 8th of March 2001.¹⁹ This development was followed by the adoption of the National Programme for the Adoption of the *Acquis* by the Turkish Government on 19 March 2001.²⁰ On 13 November 2001 the Commission's Regular Report of 2001 was published which contained a detailed analysis of Turkey's achievements, or the lack of it, as far as fulfilling the "Copenhagen Criteria" was concerned.²¹ Recently, the Commission's Regular Report of 2002 evaluating the progress of Turkey as regards fulfilling the Copenhagen Criteria has been published on 9 October 2002.²² Below, basic features of these documents are analysed in order to evaluate the latest developments and the future of Turkey-EU relations.

Accession Partnership : Doubts Beginning to Emerge ?

The Accession Partnership document contains priorities on which accession preparations must concentrate in the light of the political and economic criteria, together with the legal obligations of Turkey.

İhsan Dağı, "İnsan Hakları ve Demokratikleşme: Türkiye-Avrupa Birliği İlişkilerinde Siyasal Boyut", Eralp, (Ed.), *op.cit.*, 1997, p. 120-176.

¹⁷ Both the Commission's Opinion of 1989 and the subsequent Regular Reports from 1998 to 2002 contain detailed analysis of Turkey's economic situation and problems. On the other hand, religion and population have continuously been cited as obstacles for Turkey's membership by Turkish politicians, media and the general public. For the point of view of the Turkish elites on this issue see Lauren McLaren, "Turkey's Eventual Membership of the EU: Turkish Elite Perspectives on the Issue", *Journal of Common Market Studies*, Vol. 38, No. 1, 2000, p. 117-129.

¹⁸ The probable reasons and motives behind this drastic change have been dealt in detail elsewhere: Sanem Baykal, "Katılım Ortaklığı Belgesi: Türkiye-AB İlişkilerinde Yeni Bir Dönemeç", *Mülkiye Dergisi*, Vol. XXV, No. 226, 2001, p. 208-209; Sanem Baykal- Tuğrul Arat, "1990-2001 AB'yle İlişkiler" Baskın Oran (Ed.) *op.cit.*, 2001, p. 352-353. Moreover, for the offer of candidacy status as an instrument to insert influence on the candidate countries see, Karen Smith, "The Conditional Offer of Membership as an Instrument of EU Foreign Policy: Reshaping Europe in the EU's Image", *Marmara Journal of European Studies*, Vol. VIII, No.1-2, 2000, p. 33-46.

¹⁹ *Accession Partnership*, *supra* no. 4.

²⁰ *National Programme*, *supra* no. 5.

²¹ *2001 Regular Report*, *supra* no. 6.

²² *2002 Regular Report*, *supra* no. 7.

At its meeting in Luxembourg in December 1997, the European Council had decided that the Accession Partnership would be the key feature of the pre-accession strategy, mobilising all forms of assistance to the candidate countries within a single framework. This is aimed to direct EU's assistance towards the specific needs of each candidate so as to provide support for overcoming particular problems in view of accession.²³

This Accession Partnership was proposed by the Commission, after consulting Turkey and on the basis of the principles, priorities, intermediate objectives and conditions decided by the Council. It also took into account the analysis in the 2000 Regular Report²⁴ of the progress made by Turkey towards membership.

The objectives of this document were stated as follows:

“The purpose of the Accession Partnership is to set out in a single framework the priority areas for further work identified in the Commission's 2000 regular report on the progress made by Turkey towards membership of the European Union, the financial means available to help Turkey implement these priorities and the conditions which will apply to that assistance. This Accession Partnership provides the basis for a number of policy instruments, which will be used to help the candidate States in their preparations for membership.”²⁵

It was expected by the EU that Turkey, on the basis of this Accession Partnership, should adopt before the end of the year 2000 a National Programme for the Adoption of the *Acquis*. As stated in the Accession Partnership, this National Programme was not an integral part of the Accession Partnership document, but the priorities it contained should have to be compatible with it. The consequences of disparities were not stated at the document itself, however, it could easily be presumed that a National Programme not in line with the Accession Partnership would delay and even prevent the candidate's full accession, as Accession Partnership contains those conditions set out by the EU institutions to be fulfilled by the country concerned, which would be monitored and in the final analysis evaluated by those institutions as well.

According to the Accession Partnership, “The main priority areas identified for each candidate state relate to its ability to take on the obligations of meeting

²³ Luxembourg European Council, *supra* no. 10.

²⁴ 2000 Regular Report on Turkey's Progress Towards Accession, Commission of the European Communities, Brussels 8.11.2000.

²⁵ Accession Partnership, *supra* no. 4.

the Copenhagen criteria which were adopted at the Copenhagen Summit of 1993, which state that membership requires:

- that the candidate State has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities,
- the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union,
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

At its meeting in Madrid, the European Council stressed the need for the candidate States to adjust their administrative structures to ensure the harmonious operation of Community policies after accession. At Luxembourg, it stressed that incorporation of the *acquis* into legislation is necessary, but not in itself sufficient; it is necessary to ensure that it is actually applied.²⁶

Apart from those criteria, certain international disputes were also pointed out at the introduction of the Accession Partnership which were seen as possible obstacles for the accession of Turkey to the EU. In this context, the document stated that;

“The European Council also stressed the principle of peaceful settlement of disputes in accordance with the United Nations Charter and urged candidate States to make every effort to resolve any outstanding border disputes and other related issues. Failing this they should within a reasonable time bring the dispute to the International Court of Justice.

The European Council also concluded that it will review the situation relating to any outstanding disputes, in particular concerning their repercussions on the accession process and in order to promote their settlement through the International Court of Justice, at the latest by the end of 2004.

Furthermore, the European Council emphasised that Turkey will benefit from a pre-accession strategy to stimulate and support its reforms including an enhanced political dialogue, with emphasis on progressing towards fulfilling the political criteria for accession with particular reference to human rights, as well as the issues referred to in paragraphs 4 and 9(a) of the Helsinki conclusions; in

²⁶ *Ibid.* These were the accession criteria laid down respectively by the Copenhagen, Madrid and Luxembourg European Council Presidency Conclusions.

this spirit, the European Union encourages Turkey, together with all parties, to continue to support the UN Secretary General's efforts to bring the process, aiming at a comprehensive settlement of the Cyprus problem, to a successful conclusion."²⁷

Priorities and Intermediate Objectives

As stated in the Accession Partnership, the Commission's regular reports highlight the extent of the efforts which still have to be made in certain areas by the candidate states to prepare for accession and this requires the definition of intermediate stages in terms of priorities, each to be accompanied by precise objectives to be set in collaboration with the states concerned, the achievement of which will condition the degree of assistance granted and the progress of the negotiations under way with some countries and the opening of new negotiations with the others. The priorities and intermediate objectives in the Accession Partnership were divided into two groups; short and medium term. Those listed under the short term were claimed to be selected on the basis that it was realistic to expect that Turkey could complete or take them substantially forward by the end of 2001. The priorities listed under the medium term were expected to take more than one year to complete although work should, wherever possible, also begin on them during 2001.

Therefore, the Accession Partnership indicated the priority areas for Turkey's membership preparations. However, it also stressed that, Turkey would have to address all issues identified in the regular reports. Moreover, it was emphasised in the document that there was a need for credible and effective implementation and enforcement of the *acquis* in all areas as well.

The short-term objectives, priorities and criteria were those requirements that need to be fulfilled by Turkey within a year.²⁸ These involved, "enhanced political dialogue and political criteria", "economic criteria" and specific policy areas such as, "internal market", "taxation", "agriculture", "fisheries",

²⁷ *Ibid.*

²⁸ The start of this one year period was interpreted by Turkey as beginning from the official adoption of the Accession Partnership by the Council of Ministers, which took place on 8 March 2001; consequently, the National Programme for the Adoption of the *Acquis* was adopted after this date as well, on 19 March 2001. The EU side did not object to this interpretation as it was in conformity with the fact that the Accession Partnership could only become legally binding and effective from this date onwards. However, this way of timing the Turkey-EU relations presented another difficulty as regards the evaluation of Turkey's progress towards accession, as Commission's regular reports assessing such progress were to be prepared by Autumn and to be published around November. Thus, Turkey's progress towards meeting the short term conditions set forth in the Accession Partnership were not totally synchronised with the enlargement calendar in general.

“transport”, “statistics”, “employment and social affairs”, “energy”, “telecommunications”, “regional policy and co-ordination of structural instruments”, “culture and audio-visual policy”, “environment”, “justice and home affairs”, “customs”, “reinforcement of administrative and judicial capacity”.

The medium term objectives, priorities and criteria, on the other hand, were those conditions that required action starting with the adoption of the National Programme but whose fulfilment or achievement might necessitate more than a year.²⁹ These also involved, “enhanced political dialogue and political criteria”, “economic criteria” and specific policy areas such as, “internal market”, “taxation”, “agriculture”, “fisheries”, “transport”, “economic and monetary policy”, “statistics”, “employment and social affairs”, “energy”, “telecommunications”, “regional policy and co-ordination of structural instruments”, “culture and audio-visual policy”, “environment”, “justice and home affairs”, “customs”, “reinforcement of administrative and judicial capacity”.

Among short term objectives, strong support for the UN Secretary General's efforts to bring to a successful conclusion the process of finding a comprehensive settlement of the Cyprus problem, as referred to in point 9(a) of the Helsinki conclusions was mentioned within context of enhanced political dialogue.

Furthermore, certain political conditions such as strengthening legal and constitutional guarantees for the right to freedom of expression; the right to freedom of association and peaceful assembly and encouraging development of civil society; strengthening legal provisions and undertaking all necessary measures to reinforce the fight against torture practices; further aligning legal procedures concerning pre-trial detention with the provisions of the European Convention on Human Rights; strengthening opportunities for legal redress against all violations of human rights; intensifying training on human rights issues for law enforcement officials in mutual co-operation with individual countries and international organisations; improving the functioning and efficiency of the judiciary, including the State Security Courts in line with international standards and strengthening in particular training of judges and prosecutors on European Union legislation, including in the field of human rights; maintaining the de facto moratorium on capital punishment; removing any legal provisions forbidding the use by Turkish citizens of their mother tongue in TV/radio broadcasting; and, developing a comprehensive approach to reduce regional disparities, and in particular improving the situation in the

²⁹ The medium term is interpreted as around 3-4 years by both parties.

Southeast, with a view to enhancing economic, social and cultural opportunities for all citizens was set forth by the EU.

Similarly, as regards medium term objectives Turkey was required "In accordance with the Helsinki conclusions, ..., under the principle of peaceful settlement of disputes in accordance with the UN Charter, make every effort to resolve any outstanding border disputes and other related issues, as referred to in point 4 of the Helsinki conclusions."³⁰ within context of political dialogue.

As medium term objectives Turkey had to guarantee full enjoyment by all individuals without any discrimination and irrespective of their language, race, colour, sex, political opinion, philosophical belief or religion of all human rights and fundamental freedoms and further develop conditions for the enjoyment of freedom of thought, conscience and religion; review the Turkish Constitution and other relevant legislation with a view to guaranteeing rights and freedoms of all Turkish citizens as set forth in the European Convention for the Protection of Human Rights; and ensure the implementation of such legal reforms and conformity with practices in EU Member States; abolish the death penalty, sign and ratify Protocol 6 of the European Convention of Human Rights; ratify the International Covenant on Civil and Political Rights and its optional Protocol and the International Covenant on Economic, Social and Cultural Rights; adjust detention conditions in prisons to bring them into line with the UN Standard Minimum Rules for the Treatment of Prisoners and other international norms; align the constitutional role of the National Security Council as an advisory body to the government in accordance with the practice of EU Member States; lift the remaining state of emergency in the Southeast; and ensure cultural diversity and guarantee cultural rights for all citizens irrespective of their origin; and abolish the legal provisions preventing the enjoyment of these rights, including in the field of education.

The Accession Partnership which caused lengthy discussions during its drafting and adoption by the Commission and the Council both in Turkey and in EU, was criticised by Turkey mainly on the grounds that the Cyprus problem and the Turkish-Greek relations were being laid down as conditions.³¹ The problem was solved to a certain extent by adding the phrase "enhanced political dialogue" to the title of short and medium term priorities.³² Moreover, the

³⁰ Accession Partnership, *supra* no. 4.

³¹ As will be explained below, in order to put emphasis to the fact that Turkey did not regard the settlement of those international disputes as conditions for its fulfilment of the Copenhagen Political Criteria, these issues were not directly dealt with in the National Programme.

³² However, this change in discourse made little difference in practice to how this issue was regarded by the EU and the pressure for the settlement of the Cyprus problem and improving Turkish-Greek relations were mainly exerted on Turkey, or at least that was how it was perceived by her.

priorities such as the abolition of death penalty, teaching of the native language and broadcasting in native language were criticised fiercely firstly, due to the sensitive nature of those issues and secondly, due to certain misrepresentations and misunderstandings.³³

The Nice Summit in December 2000 and the Nice Treaty which was signed by the member states, disappointed Turkey once again when it did not mention her in its projections on the institutional structure of the EU till year 2010.³⁴ The explanation provided by the EU authorities for a future European institutional structure designed for 27 members was that the projection was based on the candidate countries currently involved in accession negotiations. Once again the expectations and intentions of the parties were diverging.

National Programme for the Adoption of the *Acquis* : A New Phase for the Transformation of Turkey

Turkey's National Programme, which set out her priorities and objectives for the necessary transformation of the country in order to prepare for membership to the EU was adopted by the Turkish Government on 19 March 2001.

In the introduction of the National Programme, it was stated that "The modern Turkish Republic is founded on the principles of peaceful foreign policy, secularism, the rule of law, a pluralistic and participatory democratic system, and fundamental human rights and freedoms".³⁵

Moreover, two of the short and medium term conditions (enhanced political dialogue) of the Accession Partnership were only dealt with in the introductory part of the National Programme, namely Turkey-Greece relations and the Cyprus issue, in order to emphasise the fact that Turkey did not regard those as conditions or criteria for membership. Therefore, it was stated in this document that "Turkey is a country that contributes to the enhancement and reinforcement of peace, security, stability and prosperity in international

³³ In Accession Partnership, the short term priority/condition on broadcasting in mother tongue was laid down as follows "Remove any legal provisions forbidding the use by Turkish citizens of their mother tongue in TV/radio broadcasting". Similarly another contentious issue, the medium term priority/condition as regards teaching of the mother tongue was stated as to "Ensure cultural diversity and guarantee cultural rights for all citizens irrespective of their origin. Any legal provisions preventing the enjoyment of those rights should be abolished, including in the field of education." See **Accession Partnership**, *supra* no. 4.

³⁴ See the "Protocol on the Enlargement of the European Union" and the "Declaration on the Enlargement of the European Union to be Included in the Final Act of the Conference" annexed to the Nice Treaty.

³⁵ **National Programme**, *supra* no. 5.

relations, and will continue to develop her relations with neighbouring countries on the basis of a peace-seeking foreign policy; in this context, Turkey will continue to undertake initiatives and efforts towards the settlement of bilateral problems through dialogue with Greece. Turkey will continue to support the efforts of the UN Secretary General, in the context of his good-offices mission aiming at a mutually acceptable settlement with a view to establishing a new partnership in Cyprus based on the sovereign equality of the two parties and the realities on the Island.”³⁶

As far as political criteria are concerned Turkey had undertaken in the National Programme to speed up the ongoing efforts on political, administrative and judicial reforms and to submit the legislative proposals to the Turkish Grand National Assembly.³⁷ The goal was set as to “further develop, on the basis of Turkey’s international commitments and EU standards, the provisions of the Constitution and other legislation to promote freedom; provide for a more participatory democracy with additional safeguards; reinforce the balance of powers and competencies between state organs; and enhance the rule of law. In the context of the reform process regarding democracy and human rights, the review of the Constitution will have priority. The constitutional amendments will also establish the framework for the review of other legislation.”³⁸

The Turkish Government had undertaken in the National Programme to closely monitor progress in the areas of human rights, democracy and the rule of law and to regularly evaluate the work underway for harmonisation with the EU *acquis* and to take all necessary measures to speed up ongoing work.

In this context, the issues covered in Accession Partnership had been addressed under such titles : “Freedom of Thought and Expression”, “Freedom of Association and Peaceful Assembly, and the Civil Society”, “Fight Against Torture”, “Pre-trial Detention”, “Strengthening Opportunities to Redress the Consequences of Human Rights Violations”, “Training of Law Enforcement Personnel and Other Civil Servants on Human Rights Issues”, “Improving the Functioning and Effectiveness of the Judiciary, Including the State Security Courts”, “Abolition of the Death Penalty”, “Cultural Life and Individual Freedoms”, “Alleviating Regional Disparities to Increase Economic, Social and Cultural Opportunities for All Citizens”, Full Enjoyment by All Individuals without Any Discrimination and Irrespective of Their Language, Race, Colour, Sex, Political Opinion, Philosophical Belief or Religion of All Human Rights and Fundamental Freedoms; Freedom of Thought, Conscience and Religion”,

³⁶ *Ibid.*,

³⁷ *Ibid.*,

³⁸ *Ibid.*

“Alignment of the Turkish Constitution and Other Relevant Legislation with the EU *Acquis*”, “International Covenant on Civil and Political Rights and its Optional Protocol, and International Covenant on Economic, Social and Cultural Rights”, “Detention Conditions in Prisons”, “The National Security Council” and “State Emergency”.

In the chart below, a comparison of the Accession Partnership with the National Programme as regards the political criteria has been provided.

Accession Partnership-National Programme Comparison As Regards the Political Criteria³⁹

Short Term

Accession Partnership

1. Freedom of Thought and Expression
2. Freedom of Association, Peaceful Assembly, and Strengthening the Civil Society
3. Fight Against Torture
4. Pre-trial detention
5. Strengthening opportunities to redress the consequences of human rights violations
6. Training of law enforcement personnel and other civil servants on human rights issues
7. Improving the functioning and effectiveness of the judiciary
8. Moratorium in the issue of death penalty prerogatives of the TGNA)
9. Broadcasting in native tongue
10. Alleviating regional disparities
11. Cyprus issue

National Programme

- In line (short term)
- In line (short term)
- In line (short/medium term)
- In line (medium term)
- In line (medium term)
- In line (short term)
- In line (short term)
- In line (short term)
- (on the basis of respect for the
- Not in line
- In line (medium term)
- Not in line dealt with in the introduction, not as a political criterion, without a specific deadline and with commitment on conditional support

³⁹ This chart has been adapted from Haluk Günuğur, **AB Dönem Başkanlarının Tanıtımı Çerçevesinde Düzenlenen “İsveç Günü” Paneli**, Ankara, ATAUM, 2001, p.41.

*Medium Term****Accession Partnership***

1. Full enjoyment of all individuals without any discrimination of all human rights

2. Revision of the Constitution on the basis of the ECHR

3. Abolition of death penalty

4. Ratification of certain international covenants

5. Detention conditions in prison

6. The National Security Council

Accession Partnership

7. State of Emergency

8. Teaching in native tongue

9. International relations

National Programme

In line (short/medium term)

In line (short/medium term)

In line (medium term)
(on the basis of the prerogatives of the TGNA)

In line (short/medium term)

In line (short term)

In line (medium term)

National Programme

In line (medium term)

Not in line

Not in line (dealt with in introduction and not as a political criterion; based on the solution to the disputes by way of dialogue)

The Legal Reforms Undertaken by Turkey in Line with the Accession Process**The Constitutional Amendments Undertaken by the Parliament on 3 October 2001**

As stated by the Secretariat General for European Union Affairs in their analytical evaluation, the constitutional amendments undertaken by the Parliament on 3 October 2001 constitute one of the most comprehensive packages of amendments that has been accepted to the date, with the exception of extraordinary situations and that they testify to a broad-based political will for EU membership in Turkey.⁴⁰

⁴⁰ Secretariat General for European Union Affairs, **An Analytical Note on the Constitutional Amendments, 4 October 2001**, www.abgs.gov.tr.

Some of the significant amendments introduced by the package as regards the fulfilment of Copenhagen Political Criteria are as follows⁴¹;

1. The Amendments as Regards Limiting the Restrictions Imposed on Freedom of Thought and Expression

- The phrase “no thoughts or opinions” in the fifth paragraph of the preamble of the Constitution is replaced with “no activity”.

- Article 13 under the heading “Restriction of the Fundamental Rights and Freedoms” of the Constitution has been amended in order to delete the following grounds for restrictions, “the indivisible integrity of the state with its territory and nation, national sovereignty, the Republic, national security, public order, general peace, the public interest and public morals or the protection of public health”. In the new version of the article, fundamental rights and freedoms may be restricted “only on the basis of specific reasons listed in the relevant articles of the Constitution without prejudice to the values defined therein and only by law”.

- Article 14 under the heading “Prohibition of the Abuse of Fundamental Rights and Freedoms” has been amended to limit the grounds for restricting fundamental human rights.⁴²

- Article 22 under the heading “Freedom of Communication” has been amended by adding specific grounds for the restrictions on the freedom of communication such as “national security, public order, the prevention of crime, public health, public morals, or for the protection of the rights and freedoms of others”.

⁴¹ The study of the Secretariat General for European Union Affairs referred to *supra* no. 40 provides the basis for this analysis.

⁴² The following is the amended version of Article 14:

“None of the rights and freedoms embodied in the Constitution shall be exercised with the aim of violating the indivisible integrity of the State with its territory and nation, or for activities undertaken with the aim of destroying the democratic and secular Republic based on human rights.

No provision of the Constitution shall be interpreted in a manner that grants the State or individuals the right of destroying the fundamental rights and freedoms embodied in the Constitution, and of staging an activity with the aim of restricting rights and freedoms more extensively than is stated in the Constitution.

Sanctions for persons undertaking activities in conflict with these provisions shall be defined by law”.

- The requirement for a “written” order from an authorised body before restrictions can be imposed on the exercise of this right has been added to Article 22, as an additional safeguard on the freedom of communication.

- The second paragraph of Article 31, under the heading “Right to use media owned by public corporations other than the press” has been amended as regards the specific grounds for restrictions on the right of the public to use media owned by public corporations other than the press by adding the following: “national security, public order, public morals or the protection of public health”.

2. Amendments as Regards the Freedom of Thought and Expression and Freedom of Press in Context of Cultural Rights

The following amendments are aimed at expanding the scope of the right of the freedom of thought and expression and remove restrictions on the use of different languages, dialects and tongues by citizens in their daily lives.

- Article 26 under the heading “Freedom of Expression and Dissemination of Thought” has been amended in order to involve the following restriction to the second paragraph : “national security, public order, public security, the fundamental characteristics of the Republic and the protection of the indivisible integrity of the State with its territory and nation”.

- The sentence of the third paragraph which reads “No language prohibited by law shall be used in the expression and dissemination of thought” is deleted.

- The following sentence is added as the last paragraph of Article 26: “The formalities, conditions and procedures to be applied in exercise of the right to freedom of expression and dissemination shall be prescribed by law.”

- Article 28 under the heading “Freedom of the Press” has been amended by deleting the second paragraph, which reads “Publications shall not be made in any language prohibited by law”.

3. Amendments as Regards Expanding the Scope of the Fundamental Rights and Freedoms and Enhancing the Rule of Law and Democracy

- Article 20 under the heading “The Privacy of Individual Life” has been amended in order to strengthen the safeguards on the protection of the privacy of the individual and family life by deleting the third sentence of the first

paragraph as regards “Exceptions necessitated by judicial investigation and prosecution are reserved”.

- Specific reasons for the restrictions on the right of privacy, “national security, public order, the prevention of crime, public health, public morals, or for the protection of the rights and freedoms of others”, are added to the second paragraph of Article 20.

- The requirement for a “written” order from an authorised body before restrictions can be imposed on the exercise of this right has been added to Article 20 as an additional safeguard for the right to privacy of the individual.

- Article 21 under the heading “The Inviolability of the Domicile” is amended by adding specific grounds for the restrictions on the inviolability of the domicile, such as “national security, public order, the prevention of crime, the protection of public health, public morals, or for the protection of the rights and freedoms of others.”

- The requirement for a “written” order from an authorised body before restrictions can be imposed on the exercise of this right has been added to Article 21 as an additional safeguard for the inviolability of the domicile.

- The fifth paragraph of Article 23 under the heading “Freedom of Residence and Movement” has been amended in order to delete the restriction on a citizen’s freedom to leave the country “...on account of the national economic situation”.

- Article 69 under the heading “Provisions Relating to Political Parties” has been amended by introducing criteria for determining whether the political party has become a centre for the execution of prohibited activities.⁴³ This provision introduces a series of criteria for the dissolution of a party, such as the frequency and the intensity of actions undertaken by party members, and the approval of these activities by central party organs.

- After the sixth paragraph of Article 69, a new paragraph is added which reads “The Constitutional Court may take the decision to deprive the party of

⁴³ The following sentence is added to the sixth paragraph of Article 69: “A political party will be considered to have become the centre of execution when actions of this type are undertaken intensively by the members of that party and when these actions are discreetly or openly approved by the general assembly or the chairman or the central decision-making or administrative organs or by the General Council of the Party Group at the Turkish Grand National Assembly or by the administrative board of that Group, or when these actions are directly and intentionally committed by party organs.”

State funds, either partially or in full, instead of permanently dissolving the party, according to the gravity of the actions brought before the Court”, thereby enabling the Constitutional Court to impose sanctions on political parties other than dissolution.

- The last paragraph of Article 69 now reads: “The foundation and activities of political parties, their supervision and dissolution or the denial of state funds to them partially or in full, as well as the election expenditures and procedures of the political parties and candidates, are regulated by law in accordance with the above-mentioned principles.”

- Article 67 under the heading “Right to Vote, to be Elected and to Engage in Political Activity” has been amended to add the phrase “with the exception of those sentenced for negligence” after the phrase “convicts in penal institutions” to the sentence “Privates and corporals serving in the armed services, students in military schools and convicts in penal institutions cannot vote.” Thus, persons sentenced for negligence will be allowed to vote.

- Article 149 relating to procedures of the Constitutional Court, under the heading “Functioning and Trial Procedure” has been amended in order to make it more difficult to dissolve a party and to extend the scope for the exercise of the freedom of thought and expression. Thus, the phrase “and the dissolution of political parties” has been added to the first paragraph of Article 149 and the phrase “two-thirds majority” is replaced by the phrase “three-fifths majority”.

- The last paragraph of Provisional Article 15 from the text of the Constitution has been deleted to enable laws and decree laws and other legislation enacted between 12 September 1980 and 6 December 1983 to be brought before the Constitutional Court on grounds of conflict with the Constitution, which constitutes a step forward in the process of democratisation.

4. Amendments as Regards the Freedom of Association, Peaceful Assembly and Strengthening the Civil Society

- Article 33 under the heading “Freedom of Association” has been amended by deleting the requirement to obtain permits to establish associations in the second paragraph.

- Specific grounds for the restrictions to the right to establish associations are added to this article such as “national security, public order, for the prevention of crime, public morals, public health, or for the protection of the rights and freedoms of others”.

- Article 34 under the heading “Right to hold meetings and demonstration marches” has been amended by narrowing the restrictions on the exercise of this right to “national security, public order, for the prevention of crime, public morals, public health, or for the protection of the rights and freedoms of others and by law”.

- The second paragraph of Article 34 which reads “The competent administrative authority may determine a site and route for the demonstration march in order to prevent disruption of order in urban life” and the last paragraph which reads “Associations, foundations, labour unions and public professional organisations shall not hold meetings or demonstration marches exceeding their own scope and aims” are deleted from the text.

- Article 51 under the heading “Right to Organise Labour Unions” has been amended by deleting the second paragraph which reads “In order to form unions and their higher bodies, it shall suffice to submit the information and documents prescribed by law to the competent authority designated by law. If this information and documentation is not in conformity with law, the competent authority shall apply to the appropriate court for the suspension of activities or the dissolution of the union or the higher body”.

- Specific grounds for restriction of this right such as “national security, public order, the prevention of crime, protection of public health, public morals, or for the protection of the rights and freedoms of others” are added to Article 51.

- Furthermore, the phrase “Workers and employers” in the first paragraph of Article 51 has been replaced by “Employees and employers”. This amendment is aimed at extending the safeguards in Article 51 to a larger group.

5. Amendments as Regards the Pre-Trial Detention

- Firstly, Article 19 under the heading “Personal Liberty and Security” has been amended by replacing the phrase “in the case of offences committed collectively, within fifteen days” in the fifth paragraph by the phrase “in the case of offences committed collectively, within four days.”

- Secondly, the sixth paragraph of Article 19 has been amended in order to delete the special restriction on the provision on the notification of the next of kin of the person arrested or detained without delay. Thus the paragraph now reads as “Notification of the situation of the person arrested or detained shall be made to the next of kin without delay.”

- Thirdly, the phrase “according to principles of the law on compensation” is added to the last paragraph on the right to seek compensation from the state provided for persons subjected to treatment contrary to these provisions.

6. Amendments as Regards the Right to a Fair Trial and Improving the Functioning and Effectiveness of Judiciary

- Article 36 under the heading “Freedom to Claim Rights” has been amended to add the phrase “the right to fair trial” to the first paragraph.

- Article 40 under the heading “Protection of Fundamental Rights and Freedoms” has been amended by adding the sentence “the State must determine the legal course of action and authorities that may be applied to by persons concerned” to the second paragraph in order to facilitate the citizens’ access to judicial remedies.

7. Amendments as Regards the Abolition of Death Penalty

Article 38 under the heading “Principles Relating to Offences and Penalties” has been amended to add the sentence “the death penalty may only be imposed in time of war, imminent threat of war and for crimes of terrorism” to be the seventh paragraph of the article.

8. Amendments as Regards the Fight Against Torture

A new paragraph which reads “Findings obtained in a manner not in accordance with the law may not be admitted as evidence” is added to Article 38 to enhance safeguards against the use of evidence obtained through such means as ill-treatment and torture.

9. Amendments as Regards the Prohibition of Discrimination and Improving Equality Between Men and Women

- Article 41 under the heading “Protection of the Family” has been amended by adding the phrase “and is based on the equality of spouses” to the first paragraph, following the sentence “The family is the foundation of Turkish society”.

- Article 66 under the heading “Turkish Citizenship” has been amended by deleting the sentence “The citizenship of a child of a foreign father and a Turkish mother shall be defined by law”.

- Article 74 under the heading “Right of Petition” has been amended to include “foreigners resident in Turkey in accordance with the principle to reciprocity” as well as citizens for exercising the right of petition; and the second paragraph has been amended by adding the phrase “without delay” as regards the result of the application to be made known to the petitioner in writing.

10. Amendments as Regards Alleviating Regional Disparities to Increase Economic, Social and Cultural Opportunities for All Citizens

Article 49 under the heading “Right and Duty to Work” has been amended by adding the phrase “and the unemployed”, after “workers” to the following sentence: “The State shall take the necessary measures to raise the standard of living of workers, to protect them in order to improve the general conditions of labour, to promote labour and to create suitable economic conditions for the prevention of unemployment” in order for the state to assume the obligation to protect the unemployed as well as the workers.

11. Amendments as Regards The National Security Council

Article 118 under the heading “The National Security Council” has been amended to replace the phrase “its views on taking decisions” in the third paragraph with the phrase “the advisory decisions it has taken and its views on”, in order to emphasise the advisory nature of the National Security Council decisions. Moreover, the phrase “give priority consideration to” in the third paragraph has been amended with the phrase “take into consideration”, in order to reinforce the advisory role of the National Security Council. Furthermore, its composition has been changed in order to increase the number of the civilians attending its meetings.

The Assessment of the Accession Partnership and the National Programme by the Commission in its Regular Report 2001 as Regards the Political Criteria

The European Commission published its Regular Report on Turkey on 13 November 2001 where a detailed analysis of Turkey’s progress towards fulfilling the Copenhagen Criteria and the Accession Partnership priorities were provided from the view point of the Commission.

The Regular Reports are elements of Pre-Accession Strategy as proposed by the Commission in Agenda 2000⁴⁴ and adopted by the Luxembourg Summit

⁴⁴ See *Agenda 2000*, *supra* no. 10.

in December 1997⁴⁵. Starting from 1998 onwards, the Commission published Regular Reports to give its assessment on the progress of each candidate as regards fulfilling the Copenhagen criteria and assuming the rights and obligations of membership. The conditions for membership, set out by the Copenhagen European Council in 1993 and further detailed by subsequent European Councils⁴⁶, provide the benchmarks for assessing each candidate's progress.

In its Strategy Paper for 2001, the Commission stated that "provided their efforts are sustained, it should be possible to conclude the accession negotiations by the end of 2002 with those countries which fulfil the accession criteria. On this basis these countries would be ready to become members of the EU in 2004, in accordance with the objective set out by the European Parliament and by the European Council." The Commission also stressed that in the present phase of the accession process, it was necessary to focus as much on the candidates' capacity to implement and enforce the *acquis* as on its transposition into law. Consequently, particular attention was now being given to the candidates' administrative and judicial capacity.

In its 2001 Regular Report on Turkey, the Commission, despite praising Turkey's efforts and encouraging further progress, was providing detailed criticism as regards the fulfilment of Copenhagen political criteria. Yet, Turkey was being encouraged to continue this important work, thereby taking into account the assessment made in the Regular Report.

The Turkish National Programme for the Adoption of the *Acquis* (NPAA) was also welcomed by the Commission as "a wide-ranging document, which addresses many of the priorities set out in the Accession Partnership (AP)."

It was also stated that "Turkey's NPAA is part of an evolving process under the pre-accession strategy and that a revised document to be prepared as soon as the Turkish authorities have had the opportunity to complete their initial review of the *acquis* should function more as a planning tool for future work as this would allow better prioritisation of actions including clearer timetables and deadlines, particularly as regards the priorities under the Accession Partnership." It was pointed out by the Commission that some of the initiatives foreseen in the National Programme had already been undertaken such as the

⁴⁵ See **Luxembourg European Council**, *supra* no. 10.

⁴⁶ For the accession criteria known as "Copenhagen Criteria" see **Copenhagen European Council**, *supra* no. 15. These criteria have subsequently been developed by Madrid and Luxembourg Summits. **Madrid European Council**, Bulletin of the European Communities, No. 12/95, Luxembourg, Office for Official Publications of the European Communities, 1996; **Luxembourg European Council**, *supra* no. 10.

adopted constitutional amendments. Thus, it recommended to revise the National Programme to take these and other developments into account.

One criticism directed to the National Programme was that “in a number of cases, actions to address short-term priorities have been shifted to the medium-term, or have been split between short and medium-term priorities” or in some cases not even addressed such as the requirement as regards abolishing any legal provisions preventing the enjoyment of cultural rights, including in the field of education.

The main assessments of the Commission as regards Turkey’s progress towards fulfilling the Copenhagen Political Criteria in 2001 are as follows:

1. Freedom of Thought and Expression

The constitutional amendments adopted by the Turkish Parliament on 3 October 2001 were welcomed by the Commission as a significant step towards strengthening guarantees in the field of human rights and fundamental freedoms and were regarded as capable of facilitating progress towards satisfying the Accession Partnership priorities in this field.⁴⁷ The amendments were praised as narrowing the grounds for limiting such fundamental freedoms as the freedom of expression and dissemination of thought, freedom of the press and freedom of association.

However, it was emphasised that the attention should now turn to the effective implementation of these reforms. The Turkish Government’s preparations for a package of new draft legislation which was aimed at implementing some of the constitutional amendments, in particular with respect to freedom of expression and thought was pointed out as welcome developments. The Commission emphasised the significance of effective implementation and enforcement of legislative texts in this field by stating that “the extent to which individuals in Turkey will actually enjoy an improvement in the exercise of fundamental freedoms will depend on the interpretation given to the constitutional amendments, the details of implementing legislation and the practical application of the law by the authorities.”⁴⁸

Moreover, the Commission stated that “despite these changes, a number of restrictions on the exercise of fundamental freedoms have remained” and that “despite a number of constitutional, legislative and administrative changes, the

⁴⁷ For the general evaluation of the Commission see **2001 Regular Report**, *supra* no. 6, p. 31-32.

⁴⁸ In its assessment the Commission underlined several examples and incidents which it regarded as problems in the area of freedom of expression. See **Ibid.**, p. 21-24.

actual human rights situation as it affects individuals in Turkey needs improvement.” The Commission urged Turkey to bring about substantial improvements, not only in the constitutional provisions and the laws concerning the protection of human rights, but above all in the human rights situation in practice and pointed out that this required reform of many existing structures and practices. The Commission also urged Turkey to ensure that particular attention was devoted to improving significantly the situation in Southeast Turkey.

2. Death Penalty

Despite criticising the lack of a commitment in the National Programme to sign Protocol 6 of the ECHR, the Commission welcomed the fact that the moratorium on the death penalty had continued and that constitutional reform had limited the scope of death penalty.⁴⁹

As pointed out above, the amended Article 38 of the Constitution limits the death penalty to cases of terrorist crimes and in times of war or imminent threat of war. The exception for terrorist crimes was declared by the Commission to not to be in line with Protocol 6 to the European Convention on Human Rights (ECHR) -which does not permit such a reservation-whereas the exception in the case of war is permitted under Protocol 6. Furthermore, the Commission pointed out that, legislative changes to the Criminal Code would now be required to put this amended article into effect. The Commission concluded that “this will permit an assessment of whether Turkey is in a position to sign and ratify Protocol No 6 to the ECHR” which would bring Turkey in line with the principles of the European Union.

3. Cultural Rights

The National Programme was criticised by the Commission due to the fact that it “makes it insufficiently clear how Turkey will address a number of priorities in the Accession Partnership such as those on cultural rights” and it “falls considerably short of the Accession Partnership priority of guaranteeing cultural rights for all citizens irrespective of origin.” Thus, the Commission stressed “the priority on the removal of all legal provisions forbidding the use by Turkish citizens of their mother tongue in TV/radio broadcasting” to be included in the National Programme.

As regards the actual reforms related to economic, social and cultural rights, they were praised by the Commission as containing a number of positive

⁴⁹ *Ibid.*, p.32.

elements. The fact that the provisions forbidding the use of languages prohibited by law, in Articles 26 and 28 were abolished, was regarded as an improvement which could pave the way for the use of languages other than Turkish. The Commission urged Turkey to modify existing restrictive legislation and practices in order to implement this constitutional reform and stated that this need has also been recognised by the Turkish authorities.⁵⁰

The Commission concluded this part of its report by a negative remark where it stated that "There has been no improvement in the real enjoyment of cultural rights for all Turks, irrespective of their ethnic origin."⁵¹

4. Pre-trial Detention, Torture and Ill-treatment

On pre-trial detention, the amendment of Article 19 of the Constitution which reduced the period of police custody before bringing the person detained before a judge in cases of collective offences from 15 to 4 days was assessed as a positive development within context of the prevention of ill treatment of detainees. The Commission pointed out that in order to be effective, this amendment had to be applied also for offences falling under the competence of the State Security Courts and in state of emergency provinces.⁵²

Regarding torture and mistreatment, the agreement of the Turkish Government to publish the report of the Committee on the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) of the Council of Europe on torture and mistreatment, in January 2001, was evaluated as a welcome development.⁵³

Moreover, the circular issued by the Minister of the Interior on 24 July 2001, in which the duties and obligations of law enforcement and other security officers with respect to custody, formal arrest, detention and interrogation of suspects were clarified, which is aimed at explicitly forbidding the use of torture and ill treatment were mentioned by the Commission as another welcome development. Similarly, the recently established mechanism for inspections by public prosecutors in police and gendarmerie stations with a view to investigating claims related to human rights abuses was pointed out.

Despite those improvements the Commission directed criticisms to Turkey as regards the prevention of torture. Firstly, it pointed out that there were

⁵⁰ *Ibid.*, *Idem.*

⁵¹ *Ibid.*, *Idem.*

⁵² *Ibid.*, p.22.

⁵³ For comments in the Regular Report on this issue, see *Ibid.*, p. 22-24.

several other procedures to be brought in line with ECHR standards, notably automatic judicial review and medical examination which had already been mentioned in the 2000 Regular Report.

Secondly, the Commission expressed its concern over the actual situation as regards torture and ill-treatment and pointed out to certain incidents. According to the Commission, "In practice, the situation as regards torture and mistreatment has not improved since the last Regular Report and still gives serious grounds for concern. Incidents of torture and ill treatment continue to take place during police custody". The Commission alleged that "torture is especially prevalent in the Southeast. Particularly in the case of the "incommunicado detention", which is applied in particular in the 4 provinces under the state of emergency. It is also applied in cases related to State Security Court as foreseen under the Code of Criminal Procedure and Law establishing the State Security Courts."⁵⁴

5. Cyprus

On Cyprus problem despite mentioning Turkey's expressed support for the efforts of the United Nations Secretary General to achieve a comprehensive settlement of the problem, a "disappointing" development was pointed out by the Commission as Ankara's support for the decision of Mr Denktas, to withdraw from proximity talks under UN auspices and to decline the Secretary-General's invitation to talks in New York in September 2001.⁵⁵

Moreover, in its Strategy Paper, the Commission stated that "It would be an inspiration for Europe as a whole, and for the world at large, if the whole of Cyprus was able to enter the European Union together on the basis of a settlement taking into account the interests and concerns of the respective parties. It is disappointing that the Turkish Cypriot leadership is not presently engaged in the process conducted under the auspices of the United Nations. All parties concerned should take full advantage of the window of opportunity before the completion of the accession negotiations to achieve a settlement. If, however, a settlement has not been reached by the completion of the accession negotiations, the Council will take its decision on accession, without this being a pre-condition, in accordance with the Helsinki European Council conclusions."⁵⁶

⁵⁴ *Ibid.*, p.22.

⁵⁵ *Ibid.*, p. 30-31.

⁵⁶ *Towards the Enlarged Union, 2001 Strategy Paper and Report of the European Commission on the Progress Towards Accession by Each of the Candidate Countries*, www.europa.eu.int/comm/enlargement/report2001/strategy-en.pdf, p.6.

6. Improving the Functioning and the Effectiveness of the Judiciary⁵⁷

The Commission highlighted the improvements in this area as regards a number of initiatives that were taken to strengthen the efficiency of the judiciary, such as the establishment of criminal enforcement judges as a new judicial function and the setting-up of special sections in the judiciary specialising in intellectual property rights and consumer protection as well as the numerous training courses in human rights for judges and law enforcement officials, however stressed that it was too early to evaluate their impact.

Despite stating that the reform of the judicial system had begun, the Commission pointed out to the following issues as the remaining matters of concern: the independence of the judiciary, the powers of State Security Courts and military courts and compliance with rulings of the European Court of Human Rights.

7. Prison Conditions

As a positive development the adoption of a number of substantial prison reforms was pointed out by the Commission and Turkey was encouraged to ensure that these reforms were fully implemented. However, the Commission commented on the use of force in breaking up prison protests as “disproportionate” and “regrettable”, whereas, the continuing loss of life as a result of hunger strikes was declared unacceptable from a humanitarian point of view. According to the Regular Report, “Irrespective of the political motives of those involved, efforts should be stepped up to prevent further deaths. Free debate on these issues should be allowed.”⁵⁸

8. National Security Council

The amendment adopted by the Parliament as regards Article 118 of the Constitution on the role and composition of the National Security Council was evaluated to be an improvement. The increase in the number of civilians from 5 to 9 and the phrase which puts an emphasis on the advisory role of the National Security Council were praised as significant developments. However, the Commission was cautious as regards the practical outcome of the amendments once again and stated that “the extent to which the constitutional amendment will enhance de facto civilian control over the military will need to be monitored”.⁵⁹

⁵⁷ See 2001 Regular Report, *supra* no. 6, p. 16-18.

⁵⁸ *Ibid.*, p. 32.

⁵⁹ *Ibid.*, p.19.

9. Prohibition of Discrimination

The amendments as regards gender equality were regarded as positive developments.⁶⁰ It was pointed out that a new Civil Code, which was pending before the Parliament would remove remaining discrimination and strengthen gender equality. However, it was also stressed that the question of violence against women within the family, including the so-called "honour killings", remained an issue of concern. The Commission pointed out to the fact that the legislation, which allows for the application of reduced sentences to the perpetrators of such crimes, was still applicable. Thus, the Commission was once again pointing out to significance of the practice.

As regards minority rights and the protection of minorities apart from what it had stated on cultural rights and the possible impact of the constitutional amendments, as far as the Commission was concerned, there had been no improvement in the ability of members of ethnical groups with a cultural identity and common traditions to express their linguistic and cultural identity. The fact that Turkey had not signed the Council of Europe Framework Convention for the Protection of National Minorities and had not recognised minorities other than those defined by the 1923 Lausanne Peace Treaty were referred as indicators of this situation.⁶¹

Furthermore, the Commission stated that the National Programme "should specify how Turkey intends to guarantee freedom of religion, in particular with respect to minority religions not covered by the Lausanne Treaty (Muslim and non-Muslim communities)."⁶²

10. State of Emergency

As regards the state of emergency, the Commission stated that since the 2000 Regular Report, the state of emergency in the Southeast had been extended three times for 4 months periods for the four provinces of Diyarbakır, Hakkari, Şırnak and Tunceli and that the security situation was reported to be much improved. In that context the Commission pointed out that, the constitutional amendments as regards pre-trial detention provisions should also be applied for offences falling under the competence of the State Security Courts and in state of emergency provinces.⁶³

⁶⁰ *Ibid.*, p. 28-29.

⁶¹ Certain examples as regards the Roma and Kurdish origin Turkish citizens were cited in the Regular Report by the Commission, see *Ibid.*, p. 29-31.

⁶² *Ibid.*, p.103.

⁶³ *Ibid.*, p. 29.

11. Alleviating Regional Disparities

The Commission stated that further action needed to be taken to improve the economic situation in the South East in order to reduce regional disparities and to enhance economic, social and cultural opportunities for all citizens and that the state of emergency still applied to four provinces in this part of the country.⁶⁴

Overall Assessment and Recommendations of the Regular Report 2001⁶⁵

In the Strategy Paper the Commission pointed out that the pre-accession strategy, called for Turkey in Helsinki Presidency Conclusions, was now well underway and it welcomed the political and economic reforms which have been initiated. The Commission went further to stress that, "Turkey needs to ensure that these reforms are effective, especially with respect to the protection of human rights, and to contribute actively to efforts to resolve the Cyprus problem and the differences that have arisen over the European Security and Defence Policy."

While assessing the overall situation in Turkey as regards Copenhagen Political Criteria, the Commission commented that "the basic features of a democratic system exist in Turkey, but a number of fundamental issues, such as civilian control over the military, remain to be effectively addressed.... Despite a number of constitutional, legislative and administrative changes, the actual human rights situation as it affects individuals in Turkey needs improvement.... The extent to which individuals in Turkey will enjoy real improvement in the exercise of fundamental freedoms will depend on the details of implementing legislation, and the practical application of the law." Thus, the Commission concluded that "Though it is beginning to make progress in some areas, Turkey does not yet meet the Copenhagen political criteria and is therefore encouraged to intensify and accelerate the process of reform to ensure that human rights and fundamental freedoms are fully protected in law and practice, for all citizens, throughout the country."

On the basis of those findings the Commission's conclusions and proposals may be summarised as follows⁶⁶:

⁶⁴ *Ibid.*, p. 32.

⁶⁵ 2001 Strategy Paper, *supra* no. 56, p.6.

⁶⁶ *Ibid.*, p.26-27.

- According to the Commission, a new phase in the pre-accession strategy was beginning and the attention would now turn to a more detailed preparation for EU membership requirements.

- In this new phase, Turkey was encouraged by the Commission to intensify and accelerate the process of political and economic reforms in line with the Accession Partnership priorities. As regards the Commission, this entailed further constitutional, legislative, administrative and judicial reforms aimed at bringing Turkey closer to EU standards and that the recent constitutional reform and the implementation of the new economic plan were seen as a promising start of this process.

- According to the Commission, fuller use should be made of the enhanced political dialogue to further stimulate progress on key issues which were priorities of the Accession Partnerships, such as human rights, Cyprus and the peaceful settlement of border disputes.

- On European Security and Defence policy (ESDP), Commission stated that Turkey should be forthcoming in solving the issue of the modalities for participation in decisions on EU-led operations in view of the decision to be taken by the Laeken European Council, in accordance with the Nice European Council Conclusions.

- The Commission welcomed the fact that a number of confidence building measures in the context of Greek-Turkish relations were being further developed and implemented and pointed out that this should create a climate conducive to the peaceful settlement of border disputes in line with the Helsinki European Council conclusions.

- As far as Cyprus problem was concerned, the Commission stressed that the support Turkey had expressed in the political dialogue for the UNSG's efforts to find a comprehensive solution of the Cyprus problem should now be followed by concrete steps by Turkey to facilitate a solution.

- According to the Commission, considerable further efforts were needed to meet the short term Accession Partnership priorities related to the *acquis* and that both the Accession Partnerships and the National Programmes might be revised on a regular basis to take account of progress made and to allow for new priorities to be set.⁶⁷

⁶⁷ As can be seen the first mention of a revision for the Accession Partnership and the National Programme was made in the 2001 Regular Report, which were to be repeated in the subsequent 2002 Report.

- On the basis of experience to date and of the gaps that had been identified in Turkish legislation and administrative preparations for membership, the Commission recommended that a new phase should start in the pre-accession strategy. This would involve detailed scrutiny of Turkey's legislation and its timetable for alignment with the *acquis*. In this phase, particular attention would also be given to the capacity of the Turkish administration and judiciary to implement and enforce the *acquis* effectively.⁶⁸

The Regular Report of the Commission was a technical balance sheet of Turkey's progress towards the fulfilment of the Copenhagen Criteria, which left the political decision to the European Council. It contained certain exaggerations such as the number cited for the prisoners of thought and expression⁶⁹ which were severely criticised by Turkish politicians and media.

Despite widely shared expectations on Turkey's part, the Commission fell short of proposing the start of the screening process, claiming that this exercise was closely linked with the negotiations and the start of negotiations required the complete fulfilment of the Copenhagen Political Criteria. Instead, the Commission recommended that the pre-accession strategy for Turkey should mark a new stage in analysing its preparedness for alignment on the *acquis*, a recommendation which was adopted by the Laeken European Council.

The Regular Report and the reactions it received in Turkey demonstrated once again the different expectations, understandings and wills of Turkey and the EU as far as the enlargement process was concerned.

Laeken and Seville Summits

According to the Laeken Summit Presidency Conclusions of December 2001 "Turkey has made progress towards complying with the political criteria established for accession, in particular through the recent amendment of its constitution. This has brought forward the prospect of the opening of accession negotiations with Turkey. Turkey is encouraged to continue its progress towards complying with both economic and political criteria, notably with regard to human rights. The pre-accession strategy for Turkey should mark a new stage in analysing its preparedness for alignment on the *acquis*."⁷⁰

⁶⁸ However, no screening process was proposed by the Commission as was widely and eagerly expected by Turkey.

⁶⁹ This number was cited as 9000 in 2001 Regular Report.

⁷⁰ **Laeken European Council**, www.europa.eu.int/council/off/conclu.index.htm.

Similarly, the Seville European Council in June 2002 stated that it “welcomes the reforms adopted in Turkey. It encourages and fully supports the efforts made by Turkey to fulfil the priorities in the Accession Partnership. The implementation of the required political and economic reforms will bring forward Turkey’s prospects of accession in accordance with the same principles and criteria as are applied to the other candidate countries. New decisions could be taken in Copenhagen on the next stage of Turkey’s candidature in the light of the developments in the situation between Seville and Copenhagen European Councils, on the basis of the regular report to be submitted by the Commission in October 2002 and in accordance with the Helsinki and Laeken conclusions.”⁷¹

Thus, despite Turkey’s expectations, the political leaders of the EU, like the Commission, while stressing the need for effective implementation of the reforms, were keen on encouraging Turkey, yet reluctant in engaging themselves with a definite commitment and preferred to wait and see.

The EU Harmonisation Laws Adopted By The Parliament On August 3, 2002: A Significant Step Towards Fulfilment of Copenhagen Political Criteria

On August 3rd 2002, the Turkish Parliament has adopted a package of EU harmonisation laws on highly sensitive issues such as the abolition of death penalty and broadcasting and education in native language together with amendments in other laws concerning the civil society and freedom of thought and expression and other related issues.⁷² Despite growing political tension and amid early election talks, the fact that a package involving such sensitive issues could be adopted by the Parliament was generally seen as a sign of the strong

⁷¹ **Seville European Council**, www.europa.eu.int/council/off/conclu.index.htm.

⁷² Before this extensive package of reform there has been two previous packages which were modest compared to August 3rd amendments. According to those reform packages amendments to Articles 159 and 312 of the Turkish Criminal Code and to Articles 7 and 8 of the Anti-Terror Law were made. Here, the description of the offence under Article 312, which was being used frequently for prosecuting expressions of thought was amended. The new version of the article states that for “incitement to hatred on the basis of differences of social class, race, religion, sect or religion” to consist a criminal offence, such incitement must be “in a way that may be dangerous for public order”. Thus the amendment narrows the scope of article 312. Moreover, a new paragraph has been introduced to the article which laid down a new criminal offence, as insulting “part of the people degradingly and in a way that hurts human dignity”.

As regards articles 7 and 8 of the Anti-Terror Law, prison sentences were reduced and the bans on broadcasting were shortened. Thus, the maximum closure period for radio or TV channels for propaganda against the unity of the state became 7 days.

Moreover, with the amendments to Articles 107 and 128 of the Code of Criminal Procedure, the relatives of the detainee would be informed of the arrest or custody extension “without delay” and “by decision of the prosecutor.” Similarly, following the amendments to Article 16 of the Law on the Establishment and Prosecution Methods of the State Security Courts, detainees who fall under the scope of these courts have the right of access to a lawyer after 48 hours in detention.

political will on the part of Turkey for accession to EU and increased the expectations and hopes on the Commission's Regular Report's proposing a date for the start of accession negotiations.

The main features of reform package of August 3rd, 2002 is examined below⁷³:

1. Death Penalty

The amendment in various provisions of the Turkish Criminal Code and other laws where death penalty was laid down for certain crimes abolishes the capital punishment in Turkish legal system except in times of war and imminent threat of war, as such exceptions are in line with the Protocol No. 6 to the European Convention on the Protection of Human Rights and Fundamental Freedoms.

2. Freedom of Thought and Expression

Turkish Penal Code, Article 159 is amended in order to bring the limits of the freedom of expression and thought in alignment with the norms of the European Convention and to make the provisions of the article clearer the article for the law enforcers.⁷⁴

Freedom of Association and Strengthening the Civil Society

- Law on Associations

Articles 11 and 12 of the Law on Associations are amended in order to facilitate the activities undertaken abroad by associations established in Turkey and the opportunity for the activities of associations founded abroad in Turkey is provided.

There has been other improvements as regards the freedom of association such as the new Article 15, which provides that the associations' registry and related procedures are to be conducted within the Ministry of Interior. Furthermore, Article 39 of the Law on Associations is repealed to remove the

⁷³ A study of the Secretariat General for European Union Affairs serves as the basis of this analysis. See Secretariat General for European Union Affairs, **An Analysis of the EU Harmonisation Laws Adopted by the TGNA on August 3rd, 2002**, www.abgs.gov.tr.

⁷⁴ According to the amendment to Article 159 of the Turkish Criminal Code, "Written, oral or visual expressions of thought made only for criticism, without the intention to insult or deride the bodies or institutions listed in the first paragraph, do not require a penalty."

restriction on civil servants founding associations. Moreover, with the repeal of the Article 56 of the Law on Associations, the restrictions on students are lifted.

With the amendments to Articles 45 and 47, the procedure of the "on-site inspection" for the inspection of associations is replaced with the "written declaration" procedures and the submission of the declaration to the highest-ranking authority of the local administration. Moreover, with the amendments to Article 62, procedures relating to associations are simplified.

With the amendments to Articles 46 and 73, matters regarding associations are transferred from the supervision of the Directorate General for Public Security to the Department of Associations established within the Ministry of Interior.

- Law on Foundations

Firstly, with the amendment to the Article 1 of the Law on Foundations, the problem of ownership of the immovable property for the community foundations belonging to the minorities in Turkey is dealt with.⁷⁵

⁷⁵ The following paragraphs have been added to the end of Article 1 of Law on Foundations:

"In order to meet their religious, charitable, social, educational, health and cultural needs, community foundations, regardless of whether or not they have charter of foundation, can acquire and dispose of real property with the permission of the Council of Ministers.

The real property used by these foundations to meet their religious, charitable, social, educational, health and cultural needs and whose temporary or permanent ownership by these foundations can be substantiated by tax records, rental agreements and other documentation shall be registered in the name of the foundation if an application is filed within six months of this Law entering into force. Real property donated or bequeathed to community foundations are also subject to the provisions of this article."

The following Additional Article 3 is added to Decree number 227 dated 8.6.1984 on the Organisation and Duties of the Directorate General of Foundations:

"In cases where international cooperation is deemed to be useful, foundations established in Turkey can become members of foundations or organisations established abroad with the permission of the Council of Ministers on the recommendation of the Ministry to which the Directorate General of Foundations is attached to, in consultation with the Ministries of Interior and Foreign Affairs.

The holding of international activities by foundations established in Turkey to realise the objectives specified in their foundation charters, the opening of branches abroad and the cooperation with similar foundations or organisations abroad are contingent on a permission to be granted by the Council of Ministers to be based on the recommendation of the Ministry in charge of the Directorate General of Foundations in consultation with the Ministries of Interior and Foreign Affairs.

In cases where international cooperation is deemed to be useful and reciprocal, foundations established abroad can be permitted to undertake activities, establish branches, establish supra-establishments, join existing supra-establishments or cooperate with foundations extant in Turkey through a decision of the Council of Ministers upon the proposal of the Ministry in charge of the

Secondly, with the amendment on Decree number 227 dated 8.6.1984 on the Organisation and Duties of the Directorate General of Foundations, Supplementary Article 3, the activities of foundations established abroad that may wish to establish branches or already have established branches in Turkey, are provided with the necessary the legal basis.

- Amendments of Law on Meetings and Demonstration Marches

According to Article 3, the existing prior permission procedure for foreigners participating in meetings, demonstration marches and activities in Turkey remains, whereas a “notification” procedure is introduced for foreigners addressing meetings and crowds taking part in demonstration marches or carrying posters, placards, pictures, flags, inscriptions and equipment.

Moreover, with the change to Article 10, the time-limit for advance “notification” for the organisation of a meeting by Turkish citizens is reduced from 72 hours to 48 hours.

3. Legal Redress

With the amendments to Code of Civil Procedure, Articles 445 and 448 and Code of Penal Procedure, Articles 327 and 335, the retrial in civil and criminal law cases, in light of the decisions of the European Court of Human Rights is made possible.

4. Cultural Rights- Freedom of Thought and Expression

With the amendment of Article 4/I of the Act on the Establishment of Radio and Television Enterprises and Their Broadcasts, legal restrictions on broadcasting in different languages and dialects traditionally used by Turkish citizens in their daily lives are abrogated. The details and implementation of such broadcasts are stated to be governed through a regulation to be issued by the Supreme Council of Radio and Television.

With the amendment of 4/f and 4/v of the same Act, the provision which states that “the private lives of individuals are not to become subjects of broadcasts with the exception of cases where this is necessary for the public good” and the expressions “pessimism and desperation and encouragement of

Directorate General of Foundations in consultation with the Ministries of Interior and Foreign Affairs.

These foundations are subject to the same regulations applicable to foundations established on the basis of the provisions of the Turkish Civil Code.”

chaos and violent tendencies” are deleted, in order to expand the protection of private life and the freedom of expression.

Furthermore, with the amendment to Article 26 of the Act, the matter of re-transmission has been clarified and alignment with the European Convention on Trans-frontier Television is achieved.

- Amendments to the Law on Foreign Language Education and Teaching

The legal restrictions on the learning of different languages and dialects traditionally used by Turkish citizens in their daily lives are abolished and the Ministry of National Education is empowered to regulate the learning of these languages and dialects in private courses through a regulation to be issued.

5. Freedom of Press

Current prison sentences for offences related to the press are abolished and replaced by fines in order to expand the scope of freedom of the press. Furthermore, Article 31 and the Supplementary Article 3 are removed to expand the scope of the freedom of thought and the press and to ensure alignment with international conventions in which Turkey participates.

6. Amendments to the Law on Duties and Competencies of the Police

As is stated in the Package Analysis undertaken by the Secretariat General, the amendments introduce provisions for alignment with the most recent amendments to the Constitution on the individual freedom and security, the privacy of the private life, the inviolability of the domicile and gender equality. Especially the amendments to Articles 8, 9, 13 of Law No. 2559 on the Duties and Competencies of the Police dated 4.7.1934 as regards the procedure to be followed by the police while undertaking searches on individuals, their vehicles, personal documents and belongings and apprehension of those individuals are significant. For searches, the amendments require the police to take a decision “through appropriate procedures by the judge or the written instruction of the highest-ranking gubernatorial administrator in the locale in cases where a delay may be detrimental”⁷⁶. Moreover, “For any search to be conducted by the police in order to identify the clues, indications, circumstantial evidence or proof of a crime or to apprehend its perpetrators in accordance with the Law on Criminal Procedure and other laws, the appropriate decision of the judge or where a delay

⁷⁶ See Article 8 of Law No. 2559 on the Duties and Competencies of the Police dated 4.7.1934.

may cause harmful effects, the written order of the competent body authorised by other laws, shall be necessary.”⁷⁷

Moreover, according to the amended version of Additional Article 1 of the Law on the Duties and Competencies of the Police

“Natural persons or communities may stage plays or performances or organise various types of shows in public places, places that are open to public or on public transport, provided that they notify in writing the highest-ranking gubernatorial administrator in the locale at least forty eight hours in advance.

The highest-ranking gubernatorial administrator of the locale shall immediately lodge a complaint to the public prosecutor about those who are found to be against the indivisible integrity of the state with its territory and nation, the Constitutional order or public morality.

The notification made pursuant to paragraph one shall indicate the identity, residential address and nationality of the managers and other persons who have participated in the play or performance.”

7. Law on Free Zones, Provisional Article 1

The amendment repeals the provision on the 10-year-ban on strikes, lockouts and mediation in the free zones.

Commission’s Regular Report of 2002

The European Commission published its Regular Report on Turkey together with the other candidate countries, as well as the Strategy Paper which contains its overall conclusions and recommendations, on 9 October 2002. The Regular Report contained, as usual, a detailed analysis of Turkey’s progress towards fulfilling the Copenhagen Criteria and the Accession Partnership priorities.

According to the Commission, the report shows that Turkey has moved forward in the three major areas covered by the Accession Partnership: the political, economic and *acquis* criteria established by the Copenhagen European Council in 1993.

⁷⁷ See Article 9 of Law No. 2559 on the Duties and Competencies of the Police dated 4.7.1934.

In its report the Commission put stress on the fact that very important reforms such as the abolition of death penalty and progress on cultural rights were undertaken under difficult political and economic circumstances and were particularly significant as they were impinging upon traditionally sensitive issues. Thus, the Commission regarded these reforms as an important signal of the determination of the majority of Turkey's political leaders to move towards further alignment with the values and standards of the European Union.⁷⁸

Below some of the assessments of the Commission as regards Turkey's progress towards fulfilment of Copenhagen Political Criteria are examined:

1. Freedom of Thought and Expression

The Commission pointed out that, the change made to Article 159 of the Turkish Penal Code meant that the expression of opinion without the "intention" of "insulting" public institutions would no longer face criminal sanction and also the changes to Articles 312 of the Penal Code and to the Anti-Terror Law, the Press Law, the Law on Political Parties and the Law on Associations eased certain restrictions on freedom of expression, association, the press and broadcasting. It was also stated by the Commission that some restrictions in the law on broadcasting still applied and that the prosecution of writers, journalists and publishers had been continuing.

In that context, the Commission claimed that "In spite of the amendments to the provisions on freedom of expression (Articles 159, 312 and Article 8 of the Anti terrorist law), there has been a certain tendency by prosecutors to use other provisions of the Penal Code, which were left unchanged by the harmonisation packages, to limit freedom of expression. This is particularly the case for Article 169 (support for illegal armed organisations) that was applied to students petitioning for optional language courses at university. Day to day practice shows differences in the interpretation of the law in practical cases. As a result, there is a lack of clarity, transparency and legal certainty. There is evidence that in some cases the judge, invoking the same law provisions, decided to grant an acquittal while in other cases the opposite decision was taken. This in turn raises the question of the predictability of interpretation of the law."⁷⁹

Within context of the content of the reforms on freedom of expression undertaken by Turkey, the Commission was again critical. As regards the

⁷⁸ 2002 Regular Report, *supra* no. 7.

⁷⁹ In order to justify those criticisms, the Commission gave certain examples as regards those different interpretations of the same provisions by the courts, see *Ibid.*, p.22.

amendments to Article 159, although expressions of criticism of the state and its institutions were no longer subject to penalties unless they were intended to “insult” or “deride” those institutions, as far as the Commission was concerned, the notion of “intention” was open to interpretation and only practice would allow the assessment of the full impact of the amendment.⁸⁰

As regards the amendments to Article 312 of the Criminal Code and the Articles 7 and 8 of the Anti Terror Law, the Commission’s approach was one of precaution and indicated that it wanted to wait and see the practice. In this regard, the Commission pointed out to the fact that while there appear to be fewer cases brought under Articles 159 and 312, there was a shift towards bringing cases on other grounds, such as Article 169 (“support for illegal organisations”), involving freedom of expression.⁸¹

Lastly on this issue, the Commission stated that “The interpretation of legislation is crucial to ensuring actual freedom of expression. There are as yet no signs that the interpretation of the law by judges consistently takes into account the rights of the defendant under the ECHR.”

As regards the freedom of press, the Commission did not regard the reform packages very highly either. Despite the changes brought to the Press Act, the Commission alleged that the grounds for imposing penalties were not modified and the law continued to maintain restrictions; members of the press were subject to pressure and censorship and faced prosecutions.⁸²

2. Freedom of Association, Peaceful Assembly and Strengthening the Civil Society

According to the Commission, progress was being made in the area of freedom of association where the law on associations had been changed and some restrictions lifted. However, despite progress in this area the Commission pointed out to the remaining grounds for banning associations and described the Law on Associations as “generally restrictive” in character, especially as regards the prior authorisation system. It was also mentioned by the Commission that foreign associations in Turkey were still subject to certain limitations and strict and discretionary controls. In that context, certain restrictive provisions of the existing legislation together with certain

⁸⁰ *Ibid.*, p. 32-33.

⁸¹ *Ibid.*, p.33. The Commission claimed that court cases relating to freedom of expression were still being brought against journalists, writers and publishers and that some sources indicated that there were currently some 100 pending cases.

⁸² In that context, the Commission gave some examples from the provisions and application of RTUK Law as well., see *Ibid.*, p. 34-35.

applications in practice were being emphasised by the Commission, together with some of the positive developments in this area, such as the increasing role of the NGO's.⁸³

3. Death Penalty

The Commission in its 2002 Regular Report appreciated the fact that death penalty was lifted in peacetime by the latest reform package of the Parliament. However, the Commission still stressed that Turkey did not sign Protocol 6 or Protocol 13 of the ECHR on the abolition of death penalty.

4. Cultural Rights

As regards the cultural rights the Commission pointed out that as part of the August package, broadcasting and education in languages other than Turkish have now been authorised. However, the Commission stated that the actual practice and implementing legislation should be waited in this area.⁸⁴

5. Pre-Trial Detention, Torture and Ill-treatment⁸⁵

The Commission regarded the reduction in the length of pre-trial detention periods as a positive development in the context of the fight against torture. Similarly, the amendments to Articles 107 and 128 of the Code of Penal Procedure were regarded as positive developments as they require that the relatives of the detainee be informed of the arrest or custody extension "without delay" and "by decision of the prosecutor".

However, the Commission also stressed that, the lack of immediate access to a lawyer meant that incommunicado detention for prisoners convicted under State Security Courts continued and that longer periods of custody still applied in the areas under the state of emergency.

Moreover, the Commission referred to the recommendations of the European Committee for the Prevention of Torture (CPT) and stated that in practice access to a lawyer until the formal statement had been taken were delayed in many cases. Furthermore, the Commission stated that, "the majority of the investigations by the police and prosecutors were geared towards

⁸³ For Commission's detailed assessment of freedom of association and peaceful assembly in Turkey see *Ibid.*, p. 35-39.

⁸⁴ The negative examples given by the Commission on this issue relate to the period before the legal amendments, see *Ibid.*, p. 41-42.

⁸⁵ *Ibid.*, p. 28-30.

obtaining a confession from the suspect, often without the presence of a lawyer, and confessions were still accepted in courts without further supporting evidence.” The Commission also pointed out that court cases were prolonged, with many ending unresolved as they exceed the statute of limitations⁸⁶, sentences passed on those found guilty of torture or ill-treatment were often light, and frequently converted into fines or suspended and that administrative authorisation was required to prosecute public officials.

Whereas the Commission directed severe criticisms to Turkey in this area, it also underlined certain positive developments such as the amendment which makes civil servants found guilty of torture liable to pay the compensation stipulated by the European Court of Human Rights themselves or the translation and publication of the judgments of the Strasbourg Court in the Police Academy magazine within context of the campaign to increase awareness of human rights issues among security forces.

The amendments to the Law on the Duties and Competencies of the Police were also regarded by the Commission as providing certain safeguards against the possible abuses by the police by limiting their discretionary authority. However, the Commission pointed out that a decision of the Public Prosecutor was still required before relatives of the apprehended can be informed and that the detainees falling under the scope of the State Security Courts were still denied the right to benefit from free legal assistance and to have a lawyer present during the statement taking procedures.

As a result, according to the Commission there were continuing allegations of torture and ill-treatment and little progress was achieved in the prosecution of those accused of such abuses.

6. Cyprus

According to the assessment of the Commission, Turkey had continued to express support for direct talks between the leaders of the two communities in Cyprus to achieve a comprehensive settlement of the Cyprus problem. However, the Commission emphasised “ the need for Turkey to take further steps to encourage the Turkish Cypriot leadership to work towards reaching a settlement before the end of accession negotiations” and urged “all parties concerned and particularly, in the present context, Turkey, to lend full support to the efforts of the United Nations to achieve a comprehensive settlement of the Cyprus problem this year.”

⁸⁶ Manisa Case was cited as an example here.

7. Improving the Functioning and Effectiveness of the Judiciary

In general, the Commission stated that the reform of the judicial system had been continuing. In that context, the retrial of persons whose convictions had been found by the European Court of Human Rights to be in violation of the European Convention on Human Rights and Fundamental Freedoms provided by the reform package of August was assessed as an important development by the Commission. Yet, as the Commission points out, these new provisions would apply only to decisions taken pursuant to applications made to the European Court of Human Rights after August 2003. Moreover, as far as the Commission was concerned, "Turkey's failure to execute judgments of the Strasbourg Court remained a serious problem."⁸⁷

The training courses in human rights which have been taking place for judges and law enforcement officials were mentioned by the Commission as a welcome development.

Similarly, the Commission pointed out that the jurisdiction of the State Security Courts had been narrowed and the period of pre-trial detention reduced. However, as far as the Commission was concerned, the functioning of these Courts was still not in line with international standards and there were continued reports that the judiciary did not always act in an independent and consistent manner.

8. Prison Conditions

As regards the prison conditions in Turkey, the Commission stated that the reform of the system continued including Monitoring Boards and the new system of enforcement judges and progress was made in terms of improving the physical conditions. It was also pointed out that, a number of recommendations of the European Committee for the Prevention of Torture (CPT) were being implemented. However, as far as the Commission was concerned, despite progress, certain problems remained with conditions in F-Type prisons, mainly due to alleged isolation of the inmates.⁸⁸

The Commission evaluated the establishment and functioning of external supervision bodies called Monitoring Boards and the institution of enforcement judges as a positive development, despite reservations from civil society

⁸⁷ 2002 Regular Report, *supra* no.7, p. 26.

⁸⁸ *Ibid.*, p. 30-33. There was also mention of the hunger strikes being terminated by the inmates and 1600 gendarmerie officers, who were involved in the intervention against the hunger strikes in Bayrampaşa prison being currently under investigation for "ill-treatment" and "miscarriage of justice".

representatives regarding the composition of the Monitoring Boards. Yet, the Commission went on to point out that the actual impact of those institutions on detention conditions in prison needed monitoring.

9. National Security Council

The Commission pointed out that the constitutional amendment introducing changes to the composition and role of the National Security Council of 2001 had been put into practice, however, it stressed that those changes did not appear to have modified the way in which the National Security Council operates in practice.

In that context, the Commission also claimed that the Armed Forces enjoy a substantial degree of autonomy in establishing the defence budget.⁸⁹

10. Prohibition on Discrimination

As was the case for its 2001 Regular Report, the Commission praised the new Civil Code which includes provisions aimed at improving gender equality and strengthening guarantees regarding the protection and rights of the child. Moreover, the ratification of 1969 UN Convention on the Elimination of All Forms of Racial Discrimination was also regarded as a positive development. However, according to the Commission, trade unions remained subject to restrictions and child labour persisted and it was once again stressed that the legislation which allows for reduced sentences for crimes related to "honour killings" was still applicable.

As regards the Commission, despite the fact that the Law on Foundations had been amended, religious minorities were still faced with limitations regarding legal personality, property rights, training of clergy and education.⁹⁰ The Commission, despite welcoming the amendments in the Law on Foundations, stated that the implementation of the amendment was subject to a number of conditions.⁹¹

Pointing out to practices which constitute problems as far as it was concerned, the Commission stated that despite difficulties, there were signs of increasing *de facto* recognition of non-Muslim communities, however claimed that there had been no improvement in the status of the Alevis.⁹²

⁸⁹ *Ibid.*, p. 25.

⁹⁰ *Ibid.*, p. 38-39.

⁹¹ *Ibid.*, p. 39.

⁹² *Ibid.*, p. 40.

As regards the minority rights according to the Commission, there had been limited improvement in practice in the ability of members of ethnic groups, to express their linguistic and cultural identity. As was stated in the 2001 Regular Report the Commission stressed that Turkey had not signed the Council of Europe Framework Convention for the Protection of National Minorities and did not recognise minorities other than those mentioned in Treaty of Lausanne.⁹³

11. Improving Regional Disparities

The Commission stated that the lifting of the state of emergency in two provinces of the Southeast had led to an improvement in the conditions of daily life, however, the protection of human rights in the region still required to be strengthened.

12. State of Emergency

The fact that the state of emergency was lifted in two provinces in the South East and the decision taken to lift it in the two provinces where it still applied by the end of year 2002 were regarded as positive developments.

Overall Assessment and Recommendations of the Commission⁹⁴

In its overall assessment in the Strategy Paper the Commission declared that Turkey had made noticeable progress towards meeting the Copenhagen political criteria since the Commission issued its first report in 1998, and in particular in the course of the last year and especially the reforms adopted in August 2002 were far-reaching. Thus, according to the Commission, "taken together, these reforms provide much of the ground work for strengthening democracy and the protection of human rights in Turkey. They open the way for further changes which should enable Turkish citizens progressively to enjoy rights and freedoms commensurate with those prevailing in the European Union."

Nonetheless, the Commission still concluded that Turkey did not fully meet the political criteria and justified this finding by the arguments below:

⁹³ Yet the Commission mentioned certain "positive signs" particularly in Southeast, see *Ibid.*, p. 43-44.

⁹⁴ **Towards the Enlarged Union, 2002 Strategy Paper and Report of the European Commission on the Progress Towards Accession by Each of the Candidate Countries**, www.europa.eu.int/comm/enlargement/report2002/strategy_en.pdf, p.30-33.

- As far as the Commission was concerned, first of all the reforms contained a number of significant limitations, which were set out in 2002 Regular Report, on the full enjoyment of fundamental rights and freedoms. According to the Commission, “Important restrictions remain, notably, to freedom of expression, including in particular the written press and broadcasting, freedom of peaceful assembly, freedom of association, freedom of religion and the right to legal redress.” The Commission went on to cite its 1998 Regular Report in order to state that problem areas mentioned in that Report “such as civilian control over the military, persistent human rights violations, torture as well as lack of protection for cultural rights” continued to be mentioned in the subsequent reports, thus remained as problems.

- Secondly, the Commission pointed out that “many of the reforms require the adoption of regulations or other administrative measures, which should be in line with European standards. Some of these measures have already been introduced and others are being drawn up. To be effective, the reforms will need to be implemented in practice by executive and judicial bodies at different levels throughout the country.” Thus, the Commission puts the stress on the effective implementation of the legislative improvements and as if to emphasise its scepticism, comments on the electoral ban on the leader of AKP by stating that “The Commission considers that the decision of the High Electoral Board to prevent the leader of a major political party from participating in the November 3 General Elections does not reflect the spirit of the reforms.”

- Thirdly, the Commission put the emphasis on certain issues as regards the political criteria which as far as the Commission was concerned had yet to be adequately addressed. These included, according to the Commission “the fight against torture and ill-treatment, civilian control of the military, the situation of persons imprisoned for expressing non-violent opinions, and compliance with the decisions of the European Court of Human Rights.”

As a conclusion, “in the light of the noticeable progress made in recent years and of the remaining areas requiring further attention”, the Commission encouraged Turkey “to pursue the reform process to strengthen democracy and the protection of human rights, in law and in practice” and pointed out that this would enable Turkey to overcome the remaining obstacles to full compliance with the political criteria.⁹⁵

⁹⁵ In this context another contentious issue was highlighted by the Commission who stated that “The outstanding issues as regards the modalities for participation by Turkey in the decision making process as regards EU-led operations using NATO assets need to be resolved as a matter of priority.”

On the basis of those assessments, the Commission proposed “A New Impetus To The Enlargement Process With Turkey” and “Strengthening the Pre-Accession Strategy” set out for Turkey in Helsinki Summit of 1999. In this context, the Commission recommended that the European Union should enhance its support and should provide significant additional resources for this purpose. Thus, as regards the political criteria the Commission proposed to support Turkey’s pre-accession preparations by the following instruments⁹⁶:

- The Accession Partnership had proved to be a valuable instrument, as far as the Commission was concerned, in the pre-accession strategy. However, “It should be updated and revised to focus clearly on areas where priority action is still needed.”

- “The enhanced political dialogue between the EU and Turkey covers political reforms, human rights, the Cyprus issue and the matter of the peaceful settlement of border disputes, and will be pursued intensively. There is a need for detailed discussions on the various initiatives taken by Turkey to meet the Copenhagen political criteria. New ways will be sought to ensure improved understanding of the reforms and other issues requiring attention.”

The Commission has undertaken to take the necessary initiatives to put this strengthened pre-accession strategy into place and to “put forward a revised Accession Partnership, taking account of progress made and the areas where further efforts are needed”.

Conclusion

The Regular Report and its reception in Turkey highlighted the main problem of Turkey-EU relations once again; that the expectations, political wills and intentions of the parties continued to diverge.

By its 2002 Regular Report and Strategy Paper, the Commission recommended to the Copenhagen Summit of the European Union in December 2002 to finalise the enlargement process for 10 candidate countries⁹⁷ and renew the support and the commitment for Bulgaria and Romania.⁹⁸ Despite the

⁹⁶ Only the instruments as regards the political criteria will be mentioned.

⁹⁷ According to the Commission, the 10 candidate countries (Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia) have fulfilled the political criteria and they will have fulfilled the economic and *acquis* criteria and would be ready for membership from the beginning of 2004. Therefore, the Commission in its 2002 Strategy Paper recommends to conclude the accession negotiations with these countries by the end of this year with the aim to sign the Accession Treaty in spring 2003. See 2002 Strategy Paper, *supra* no. 94, p. 33.

⁹⁸ See the Strategy Paper’s Conclusions and Recommendations on this issue, *Ibid.*, p. 28-30.

political tension and public expectations created by certain Turkish politicians, media and interest groups, prior to the Commission's Regular Report of 2002, setting up a date for the start of the accession negotiations was not recommended for Turkey. The Commission with this attitude has sent the ball into the court of the political leaders of the EU in a manner which underlined its technical capacity and status. In such a contentious issue as Turkey's membership negotiations, the Commission was hesitant to take up the lead, whereas for the other candidate countries as the political will and intention of the EU leaders was clear and certain, the Commission found it possible to make recommendations. While preferring to keep silent on this political issue, the Commission explained this attitude by referring to the shortcomings in Turkey's fulfilment of the Copenhagen Political Criteria and its effective implementation, a justification which does not totally lack merit.

The initial reaction of Turkey was one of disappointment.⁹⁹ Certain criticisms to the Report, especially on issues such as the number of political prisoners¹⁰⁰, conditions in F-Type prisons, authorities' attitude towards allegations of torture and ill-treatment have been directed towards the Commission by Turkish authorities, politicians and the media. Similarly, the Commission's so-called generalisations without concrete examples and vague allegations have been evaluated as the negative aspects of the Report and contributed to the Turkish public view of the EU as employing double standards towards Turkey. Moreover, the phrase about adapting the Accession Partnership Document to the current requirements caused a stir and doubts emerged as regards the roadmap being changed and timetable being prolonged indefinitely. As far as the Turkish public opinion and politicians were concerned Turkey had deserved more encouragement and definitely a date for negotiations, especially when one takes into consideration the traditionally sensitive nature of the reforms undertaken recently. Those reforms demonstrated the political will on Turkey's part to overcome the existing shortcomings and effectively implement the enacted legislation. Thus, a date for negotiations was deserved and lack of it signified the lack of political will on EU's part; the door was being closed on Turkey.

The Commission's and EU's position in general, on the other hand, was that the door for membership remained open.¹⁰¹ However, as long as Turkey had

⁹⁹ Several Turkish daily newspapers published comments by the political leaders and articles by journalists on this issue. See for example Taha Akyol, "Which Europe" *Milliyet*, 10.10.2002; Sami Kohen, "Beyond the Progress Report" *Milliyet*, 9.10.2002.

¹⁰⁰ The fact that the definition of terrorism or political prisoners are not agreed upon by the parties contributes to problems as such.

¹⁰¹ For the statements of EU officials such as Prodi and Verheugen on this issue see www.europa.eu.int/comm/enlargement/press_corner/htm; www.europa.eu.int/comm/enlargement/speeches/index.htm. For instance, at his speech at the European Parliament in Brussels, 9 October 2002, Verheugen stated that "Turkey has been making major and very welcome progress towards meeting the accession criteria. Our pre-

not completely fulfilled the Copenhagen Political Criteria, a date for negotiations could not be set as this was one of the requirements of the current enlargement process. The undue and untimely insistence for a date would unnecessarily cause tension in the relations. As soon as Turkey passed all legislation necessary to fulfil Copenhagen Political Criteria and effectively implemented them, which is far more important than simply passing the laws, negotiations would start, as was the case for all other candidate countries.

Obviously, these two approaches are not in line, yet a few conclusions can be drawn from these divergent stances. On the one hand, it is still far from established that European Union is really willing to accept Turkey as a full member as it is still contemplating its own future and has doubts over whether it can accommodate Turkey in this future structure too. It is also clear that the EU does not feel the same urge and obligation towards Turkey as it did towards the former Eastern Bloc countries. On the other hand, Turkey's policies towards the EU have largely been reactive and concentrated on how EU handles Turkey or what might be its real intention, whereas there is almost no public debate on what membership to the EU entails and how Turkey would benefit from that.

On the eve of the historical Copenhagen Summit of December 2002 there are several factors which would determine whether Turkey will be given a date for the start of the negotiations -and on what terms- by the highest political leaders of the European Union¹⁰². Amongst those factors, the outcome of the elections in Turkey, the developments in Cyprus problem, the stance of the United States of America, the farsightedness of the European leaders will all play a part. However, whatever might be the outcome of the Copenhagen Summit, the Turkey-EU relations will continue to develop and evolve as it did for the last 40-odd years. The Copenhagen decisions -or lack of them- will neither be a beginning nor an end in itself and would only constitute another milestone in the saga called Turkey-EU relations.

accession strategy for Turkey is having exactly the effect we hoped for. With regard to democracy, the rule of law and the human rights, Turkey has changed more in the last eighteen months than in the last few decades. It was too much to expect Turkey to meet all the political criteria in full this soon, and the Commission clearly states what still have to be done. We want to encourage Turkey to push ahead with its bold reforms. The door stays open for Turkey. We therefore propose stepping up pre-accession assistance for Turkey from 2004 on, with the aim of strengthening the public administration, promoting the adoption of Community law and economic integration with the EU." Speech/02/462 Günther Verheugen, Member of the European Commission, Responsible for Enlargement, Strategy Paper and Progress Reports, European Parliament, Brussels, 9 October 2002.

¹⁰² One of the strong probabilities is the setting of a conditional timetable, where the Commission would monitor the developments in Turkey for a given period and on its positive assessment a decision might be taken on the start of the negotiations.