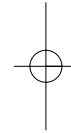
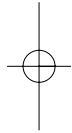


Turkey on its way to the EU



Collegium

No. 31, Spring 2005

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The editors would like to thank their predecessors **Anja Fiedler** and **Pierpaolo Settembri** for their dedication and creativity in their work for *Collegium*, as well as to **Haluk Kabaalioglu**, **John Miller** and **Gaëlle Doléans** for their useful comments.

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The Long and Winding Road of Turkish Accession to the EU

Prof. Dr. Erwan Lannon¹

While starting to write the foreword for this issue of the Collegium on Turkey - an honour and a real privilege given the quality of the various contributions - the lyrics of one of the most beautiful Beatles' song came to my mind: "the long and winding road", written by Paul McCartney in the late sixties. Let me quote the last verse:

"But still they lead me back
To the long winding road
You left me standing here
A long long time ago
Don't leave me waiting here
Lead me to your door".

How could anyone better describe the process of Turkish accession to the EU - an accession which was already explicitly foreseen in the 1963 Ankara Agreement establishing an association between the European Economic Community and its Member States on the one hand and Turkey on the other hand? Indeed, in the Preamble, the Parties already recognised that "*the support given by the European Economic Community to the efforts of the Turkish people to improve their standard of living will facilitate the accession of Turkey to the Community at a later date*" ... and furthermore, in the now well-known Article 28 they emphasised 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*

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Community". Those lines have generated so many comments that it would be impossible to refer to them all. What is sure is that afterwards the European Commission, as a negotiator of international agreements, carefully avoided reproducing similar paragraphs in subsequent association agreements!

Forty one years later, the European Commission, in its recommendation on Turkey's progress towards accession, stated "*in view of the overall progress of reforms, and provided that Turkey brings into force the outstanding legislation mentioned above, the Commission considers that Turkey sufficiently fulfils the political criteria and recommends that accession negotiations be opened*"². At the December 2004 European Council, in the Presidency Conclusions, the 25 Member States confirmed this position, invited the Commission to present to the Council a proposal for a framework for negotiations with Turkey and, last but not least, requested the Council to "agree on that framework with a view to opening negotiations on 3 October 2005"³.

This historical decision generated an intense and passionate debate in many countries of the enlarged EU. As analysed by Sylvie Goulard hereinafter, this debate is far from being over, especially in France. The confusion between the issues of the ratification of the Constitutional Treaty and the still potential accession of Turkey was certainly a major political mistake. On the other hand, it is also difficult not to consider the implications of this specific accession for the very nature of the European integration process as it was conceived by the founding fathers after the second World War.

In fact, the debate on the ultimate frontiers of the EU really started after the collapse of the Communist bloc. According to the Treaty, the limit is, at least at first sight, a geographical one: to be a "European State". But according to the "Helsinki jurisprudence" it is nevertheless now possible for a country having a limited portion of its territory in Europe to be granted the status of a European State and this in conformity with the Treaty. This is of importance for countries such as the Russian Federation but grey zones still remain in the Caucasus. The re-emergence of the relevance of the Eurasian geopolitical concept is therefore not a surprise⁴.

What is at stake here is also clearly the very ambiguous concept of identity. As mentioned by Mehmet Ögütçü, with the accession of Turkey, "*the Union will face the challenge of fundamentally re-defining itself*". Even if, in a way, a debate on the identity of the EU is a sign of a kind of maturity in this unprecedented integration process, it might also be quite a dangerous one, since it means that the European Union will also de facto define the "others", i.e. those who do not share the same identity, the same values or the same goals... those who are "different". In the present geopolitical and geo-strategic contexts such a concept must be very carefully handled.

What kind of EU do we want for the future? Paradoxically such a fundamental question is not easy to answer. After the second World War, the essential goal of the ECSC was clear: to overcome nationalism and to render any war between Germany and France not only unthinkable but materially impossible. Today, there is a clear lack of such a vision. "United in diversity" is a beautiful formula but remains as such. In this search for a new European ideal, Turkish accession brings food for thought and this is certainly one of the most interesting aspects of this new challenge. Who are we? Where are we going? And what is the EU designed for? These are very basic but unavoidable questions. According to the Article I-3(1) of the Constitutional Treaty "*The Union's aim is to promote peace, its values and the well-being of its peoples*". Therefore, the proper question should be: will Turkish accession promote this very first objective of the enlarged and constitutionalised Union?

Nanette Neuwahl argues, in her contribution, that the "*accession of Turkey is to a great extent a foreign policy decision*". This is absolutely correct. Turkey's accession will have, without any doubt, fundamental geo-strategic consequences and one of them, that is not often mentioned, is that the Bosphorus will be part of the EU, i.e. together with the Strait of Gibraltar, two of the three accesses to the Mediterranean Sea will be controlled by EU Member States and the only maritime access to the Black Sea will also be part of the enlarged EU. Moreover, the Turkish Government has, in recent months, argued that: "if the EU wants to become a global player, Turkey is an unavoidable partner as all European empires had in the past a European but also an Asian dimension". In other words, without Turkey the EU will remain a political dwarf. Whether this is true or not is again difficult to evaluate. But what is sure is that, in case of Turkey's accession, the European strategic equation will be a new one.

2 Communication from the Commission to the Council and the European Parliament Recommendation of the European Commission on Turkey's progress towards accession Brussels, COM(2004) 656 final, 6.10.2004, p. 3.
http://europa.eu.int/comm/enlargement/report_2004/pdf/tr_recommandation_en.pdf

3 European Council, Presidency Conclusions, Brussels, 16/17 December 2004, point 22.

4 See on this issue the "Eurasian Media Forum" at
<http://www.eamedia.org/voprosygeopolitici.php>.

Solving the issue of the strategic deficit of the Union is not only linked to the accession of Turkey. The central issue is the hypothesis of an independent military capability for the enlarged EU, implying in the medium/long term a proper European army. The question of whether Turkey, as a Member State, could be one of the promoters of an "atlantist" vision of the EU's security and defence policies or a defender of a new autonomous strategic European ambition, remains to be seen. Turkish accession will not only modify the EU as it is today, or as it will be in ten years time, it will also, for example, tremendously change Turkey's perspectives and priorities with regard to its Mediterranean, Middle-Eastern and Central-Asian policies. In this context, the Turkish-Israeli and the Arab-Turkish (special) relationships could evolve tremendously in the coming years.

Politically speaking, even if the European Council considered, together with the European Commission, that Turkey *sufficiently* fulfilled the political criteria for starting accession negotiations, this does not mean that the present situation is ideal or even satisfactory. Important progress has indeed been made in the fight against torture and a very impressive set of new laws adopted recently include the reform of the penal code. Nevertheless one must agree with Selahaddin Murat Sesen that the real reform is "*la réforme des mentalités*".

In the coming months, Turkish civil society will have to demonstrate its capacity to act autonomously. As mentioned by the Commission in its Communication, "*a number of fora should be created, bringing people together from Member States and Turkey, where concerns and perceptions can be discussed in a frank and open manner. This includes a dialogue on difference of cultures, religion, issues relating to migration, concerns on minority rights and terrorism. Civil society should play the most important role in this dialogue, which should be facilitated by the EU*". As stressed by Sait Akman "*a societal interest-orientation for upgrading the level of democratisation "from below" is essential to sustain the process*". Indeed, one should never forget that the EU is a Union of Peoples. It is now time to promote the bottom-up approach. Such a debate has already been initiated by the College of Europe within the framework of several conferences that were organized recently such as the one that was held in March 2005 on the theme: "Europe/Turquie: Défis politiques, culturels, identitaires". On this occasion, presentations were made by five students of the College on the following issues: "Public opinion in Turkey"; "Turkish immigrants in Germany"; and last but not least "The perceptions of the French and Italian decision-makers".

5 COM(2004) 656 final, p. 8.

Afterwards, a fruitful debate was launched under the guidance of Mr. Michael Köhler (adviser to Commissioner Joe Borg), and several well known academics (Mr. Yordan Peev, Mrs. Anna Triandafyllidou and Mr. Michel Bozdemir). No doubt such initiatives should be supported strongly by the EU in close partnership with Turkish civil society in the years to come.

Economically speaking, the accession of Turkey will also have considerable implications. An enormous market of millions of consumers are indeed very attractive assets not to mention the pan-Turkish possibilities. On the other hand, Turkey's accession will, for example, put an end to the Common Agricultural Policy as the Rome Treaty designed it and the EU's social cohesion policies will have to be revisited. These two policy areas are at the very heart of the European integration process. If today there is no proper European agricultural model there is a kind of European social model. Whether this European social model can be preserved in the years to come is far from certain given the emergence of new economic powers such as China. Again, the potential economic impact of the accession of Turkey to the EU must be considered within a wider context.

All of these questions are of fundamental importance for the future of the EU with or without Turkey. Accession negotiations are a learning process. They are a confidence building measure in themselves. The Accession Treaty is also a negotiated contract, which means that there will be compromises but also imposed conditions concerning the Community *acquis* or regarding the transitional measures and the famous safeguard clauses⁶. Of crucial importance here are not the various technical issues but the launching of a proper, constructive and fruitful dialogue, capable of leading Turkey over the threshold of the EU's doorway.

6 See K. M Inglis "The Union's Fifth Accession Treaty: New Means to Make Enlargement Possible", *Common Market Law Review* 41, 2004, pp. 937-973; E. Lannon "Le Traité d'adhésion d'Athènes: Les négociations, les conditions de l'admission et les principales adaptations des traités résultant de l'élargissement de l'UE à vingt cinq Etats membres", in les Cahiers de Droit Européen, Brussels, 2004 n° 1-2, pp. 15-94; and E. Lannon & J. Lebullenger (eds.), "Les défis de l'adhésion de la Turquie à l'Union européenne", Bruylant, Brussels, foreseen: September 2005.

Turkish EU Accession and EU Foreign Policy

Nanette Neuwahl¹

Abstract

This article deals with the Turkish accession to the EU as a foreign policy choice of the European Union. It will be divided in three parts: first (in Section II) we will consider some of the issues related to the substantive foreign policy alignment of the EU and Turkey during the accession period and after accession respectively. Thereafter (in Section III) we will be concerned with the way in which the EU uses the accession process to further its own foreign policy agenda by seeking to achieve reforms within the Turkish society. Three areas have been chosen: Turkish penal law reforms, human rights and the place of the military in Turkish society. In a third part of the article, the attention will shift to member State foreign policy. It will be set out, mainly at the example of Cyprus, how the accession process can be used as an instrument of national foreign policy (Section IV). In the concluding section (Section V), it will be asked what lessons can be drawn from the emerging "Turkish agenda": it will become clear that the accession of Turkey is to a great extent a foreign policy decision. The question is also whether the EU politics of approximation by accession comes across as a sound policy or not. This article illustrates in more than one way the complexity of European policy making in the Eastern Mediterranean in the years to come.

¹ Nanette Neuwahl is a Visiting professor at the Yeditepe University and an ordinary professor of law at the University of Montreal.

I Introduction

This article deals with the Turkish accession to the EU as a foreign policy choice of the European Union. The article does not try to be exhaustive but rather to take up some of the basic tenets of the Commission's reports and recommendations of October 2004². On 6 October 2004 the European Commission issued three documents. The first one is the 2004 Regular Report on Turkey's Progress Towards Accession, 186 pages long and the sixth in a series of annual reports of the Commission on this topic. The second one, much celebrated in Turkey, is the one entitled Recommendation of the European Commission on Turkey's Progress Towards Accession. In this 19 pages long document the Commission, after concluding that Turkey has met the political criteria formulated at the 1993 Copenhagen Summit, recommends to the European Council to open negotiations with Turkey in order to agree together on the conditions for this country's accession to the European Union. As we know, the Brussels European Council has followed this advice on 17 December 2004. The third document is entitled Issues arising from Turkey's membership perspective. This report is widely known as the Impact Report as it assesses the impact of membership of Turkey on the EU and on Turkey. Needless to say, an early assessment of the impact of EU membership will provide a necessary basis both for the information of the public and for the decision to be taken, probably ten years from now, on the actual accession of Turkey. All three documents contain valuable information regarding, among others, the foreign policy implications of the Turkish accession process. The current article takes some of the contents of the reports as a basis for a reflection on the Turkish accession policy as a foreign policy choice for the Members of the European Union. It is based on the consideration that the accession process itself (as distinct from or in addition to accession) is already a foreign policy choice.

The article will be divided into three parts: first (in Section II) we will consider some of the issues related to the substantive foreign policy alignment of the EU and Turkey during the accession period and after accession respectively. Thereafter (in Section III) we will be concerned with the way in which the EU uses the accession process to further its own foreign policy agenda by seeking to achieve reforms within in Turkish society. It goes without saying that only selected fields of policy can be dealt with in the framework of this article. We have chosen, by way of example, three areas which have in recent times frequently been singled out for comment by politicians in the European Union and in which

there have been recent reforms: of these, as previous annual Commission reports have indicated, Turkish penal law reforms and human rights are areas perceived as particularly important for the Union and the place of the military in Turkish society is an area perceived as very sensitive to Turkey. In a third part of the article the attention will shift to member State foreign policy. It will be set out, mainly at the example of Cyprus, how the accession process can be used as an instrument of national foreign policy (Section IV). In the concluding section (Section V), it will be asked what lessons can be drawn from the emerging "Turkish agenda": it will become clear that the accession of Turkey is to a great extent a foreign policy decision³. The question is also whether the EU politics of approximation by accession comes across as a sound policy or not. In the opinion of this writer, it is, provided the particularities of a candidate like Turkey are respected throughout the process. Needless to say, the article illustrates in more than one way the complexity of European policy making in the Eastern Mediterranean in the years to come.

II To What Extent Does Accession Imply a Substantive Foreign Policy Alignment?

One of the arguments used in support of (but sometimes also against) EU accession by Turkey is the enhancement of the EU's role in the world which this would entail. In the Commission's recommendations, the foreign policy implications of Turkey's accession are addressed inter alia in the following quote:

"Turkey's accession would be different from previous enlargements because of the combined impact of Turkey's population, size, geographical location, economic, security and military potential. These factors give Turkey the capacity to contribute to regional and international stability. The prospect of accession should lead to improving bilateral relations between Turkey and its neighbours in line with the principle of reconciliation on which the European Union is founded. Expectations regarding EU policies towards these regions will grow as well, taking into account Turkey's existing political and economic links to its neighbours. Much will depend on how the EU itself will take on the challenge to become a fully fledged foreign policy player in the medium term in regions traditionally characterized by instability and tension, including the Middle East and the Caucasus⁴".

3 For the view that it has important implications for internal EU policies, see the article by Mehmet Ogutcu elsewhere in this volume.

4 "European Commission, Recommendations of the European Commission on Turkey's Progress towards Accession", Brussels, 6 Oct. 2004. COM (2004) 656, p. 6.

2 All documents are available on the website of the European Commission, europa.eu.int.

This quote shows several things. First of all, it presents Turkish accession as a foreign policy choice of the European Union. Beyond the possibility of bringing about advantages for the EU and Turkey in terms of economic welfare and stability, it also has effects for the surrounding region⁵.

Secondly, however, one can read between the lines of the Commission's opinion that accession is a double-edged sword: On the one hand Turkish accession will allow the EU to have more leverage in respect to its Wider Neighbourhood (the 11 countries and territories neighbouring the EU after the accession of Bulgaria, Romania and Turkey mentioned in Romano Prodi's wider neighbourhood document). On the other hand it will become more difficult for the EU Member States to avoid being drawn into crises in troubled areas like the Caucasus, Syria, and Iraq. Currently many Europeans may not be ready to face these consequences, but then, Turkish accession is years away⁶ and in the meantime, a European Constitution, streamlining the EU foreign policy is also on the menu.

The Commission, whose passages merit to be quoted in full, addresses as follows the alignment by Turkey of its foreign policy with that of the EU:

"Political dialogue between the EU and Turkey, and cooperation on European Security and Defence Policy matters has evolved since the mid-1990s. The dialogue has led to a considerable degree of convergence between the EU and Turkish views on CFSP issues. The Turkish record of alignment with EU political declarations, Common Positions and Joint Actions, and other CFSP measures demonstrates the extent of shared views. However, despite its generally satisfactory record Turkey aligns itself with significantly fewer EU declarations than other acceding and associated countries.

Turkey's interest in ESDP and its experience with NATO and its international peacekeeping provide favourable conditions for Turkey's inclusion in CFSP/ESDP structures after accession⁷. As of 2003 Turkey has sizeable contingents in Afghanistan (ISAF), in Bosnia (SFOR II) and in Kosovo (KFOR), and it has been

5 This aspect is very much emphasized by Emerson and Tocci in a working paper for the Centre for European Policy Studies in Brussels. Michael Emerson and Nathalie Tocci, "Integrating EU and Turkish Foreign Policy" *6/3 Insight Turkey* (2004), 10-26. The authors point to the advantages for the EU in integrating Turkey as a foreign and security policy actor. They also point out that integration of EU and Turkish strategic cultures could carry a message to Washington supporting a shift back to multilateralism.

6 Mehmet Ogutcu, elsewhere in this volume, suggests that 2016 would be a realistic target. At any rate the budget of the EC has already been projected until 2013 and it does not allow for the budgetary transfers Turkish accession would currently require.

entrusted with the leadership of the multinational ISAF contingents in Afghanistan. No insurmountable problems should be expected concerning its implementation capacity and institutional capabilities. With its large military expenditure and manpower, Turkey has the capacity to contribute significantly to EU security and defense: Turkish military expenditure is among the highest of all NATO members in relative terms, accounting for 2.59 of its Gross Domestic Product in 2004, while its 793,000 military personnel constitute 27% of the forces of NATO's European members, and represent 3,9% of Turkish labour force (compared with 1.7% on average in other European NATO countries).

However, it is also clear that Turkey is hesitant to align itself to EU/[EC] positions on issues which it feels touch its vital foreign policy and security interests, in particular regarding its geographical neighbourhood (Iraq, Caucasus, etc.), human rights and developments in Muslim countries, where it insists on a distinct national position. Thus, although Turkey has the capacity to make significant contributions to CFSP and ESDP, its political ability and willingness to do so will remain in doubt as long as it is unable to offer a convincing multi-annual record of alignment with the EU's foreign policy⁸.

These remarks are somewhat disappointing. While the report refers to Turkey's foreign policy interests and importance, it nevertheless appears to require a convincing "multi-annual record of alignment". What the Commission seems to be saying here is that in the absence of such a record, Turkish willingness to contribute to CFSP or ESDP is in doubt. These statements are somewhat superficial and in need of further elaboration.

First of all, it is natural that the EU requires the alignment of the policies of an accession country with the *acquis*. This is ordinary power politics. Meanwhile, the European Commission seems to acknowledge that there may be differences in the essential foreign policy and security interests of Turkey and therefore, that the alignment picture may in general be considered satisfactory in spite of the failure of Turkey to align in a "significant number of cases". The cases at issue may include, more particularly, the Armenian border, Iraq, Syria, Cyprus and the Aegean. In the interest of both the EU and Turkey, dialogue should be pursued in the best possible conditions. Formerly, associated countries like Norway and Iceland had a privileged position as observers in the WEU. However, after the abolition of that organization and the take-over of its functions by the EU,

7 Or indeed before accession.

8 "European Commission, Recommendations of the European Commission on Turkey's Progress towards Accession", Brussels, 6 Oct. 2004. COM (2004) 656, p. 9-10.

the possibility for Turkey to sit in Council meetings is no longer given⁹ and a possibility of dialogue with is lost. The EU Council of Foreign Ministers does not normally allow non-member States to sit at the table and explain their vital interests before a decision is taken. COPS is not allowing non member States in either. Close association of Turkey with EU decision-making is vital for increasing mutual understanding.

Secondly, and this is a separate subject, there is the question of the future alignment of Turkish foreign policy, that is, after accession - and consequently, the question of the real or perceived added advantage of having Turkey inside the European Union. There are two aspects to this question: On the one hand it is natural that all Member States, thus, also Turkey, seek to pursue what they consider as vital national interests. As we shall see below, some of the new EC Member States are already trying to use their position in the EU to favour their own national foreign policy interests. This may put the EU in a very uncomfortable position, but it does happen¹⁰. Furthermore, it should be noted that the EU does not require pluri-annual alignment reports from the members of the Security Council, in particular, the United Kingdom and France. It is therefore likely that Turkey will similarly want to import its foreign policy objectives into the EU. This is another reason for restoring dialogue in the area of foreign affairs at the earliest possible opportunity.

One may wonder how well founded are the Commission's statements regarding the strategic usefulness of Turkey after accession. Of course nobody denies the troop strength and the military expenditure and power of the Turkish military, but it would appear that the EU could build up such a capacity whenever it deemed this expedient. The legal framework for this is increasingly provided, not least in the Treaty establishing a Constitution for Europe. Viewed from this angle, therefore, the real reasons for Turkish importance are to be found not in its current military expenditure but in such factors as its longstanding commitment to Europe, its extraordinary expertise in some areas of foreign policy in particular and the fact that Turkish NATO support would fall away without Turkish EU membership. The EU cannot afford to antagonize Turkey, both for reasons of its leverage on Muslim countries and in terms of the overall military persuasive capability in relation to crisis areas covered in NATO.

Some of this finds confirmation in certain passages of the so-called Solana

Report. Javier Solana, High Representative for Common Foreign and Security Policy, more than once has declared himself in favour of Turkish accession to the EU, especially on account of its possible contribution to the security and defence of the European Union. Apart from its military capabilities this is also because of its geographical position and, not in the least as energy hub of Europe.

"As a Union of 25 Members, spending a total of 160 billion euros on defence, the EU, if required, should be able to sustain several operations simultaneously. The EU needs to develop a strategic culture that fosters early, rapid, and when necessary, robust intervention... If Europe is serious about new threats and about creating more flexible mobile forces, it needs to increase defence resources... With the new threats, the first line of defence will often be abroad [...] We should be ready to act before a crisis occurs¹¹".

The Solana paper is an attempt to develop the EU as an institution which has the military capacity and capability, alongside the United States, to act effectively against dangers directly affecting Europe¹², and its objectives are reinforced by the Treaty establishing a Constitution for Europe¹³. All this would underline the importance of Turkey for the security and defence of the Union beyond a blind following by Turkey of all EU foreign policy desiderata¹⁴.

11 Solana report, Brussels 2003.

12 Armagan Koluglu and Mustafa Sahin, Contribution of Turkey to the Security and Defence of Europe. Paper given at the IPC Research Roundtable on Governance and the Military: Perspectives for Change in Turkey, Istanbul, 17-18 November 2004.

13 According to Art. I-40 par 3 "Member States shall undertake progressively to improve their military capabilities", and in accordance with Art. III-212 par 1, a European Armaments, research and Military Capability Agency is to be set up for strengthening the industrial and technological base of the defence sector. The question of enhanced cooperation under the Treaty of Nice and the Treaty establishing a Constitution for Europe is considered in Nanette Neuwahl and Martin Trybus, "Flexibility in Commerce and Defence under the EU Constitutional Treaty", *European Foreign Affairs Review*, forthcoming Winter 2004/05.

14 This article does not intend to argue the pros and cons of Turkish accession, however, these are not only of a foreign policy character. For instance, Soner Çağaptay observes: "Birthrates are so low in Europe that the EU population, currently at 455 million, will shrink by at least 25 million by 2050. What is worse, the EU will age dramatically: in 2050 nearly one third of Europeans will be dependant population over 65, siphoning off funds from European welfare states. On the other hand the Turkish population, which is at 70 million today, will jump to 97 million in 2050. More importantly, this will be a young population, with a low dependency rate of 10-15 percent." "Why Europe Needs Turkey" Bitterlemons November 04, 2004 Edition 40 Volume 2. <http://www.bitterlemons-international.org/inside.php?id=250>.

9 There is of course always the possibility to revive the WEU at a later stage.

10 See section IV.

III Accession as an Instrument of EU Foreign Policy - promotion of reforms

As we have witnessed in the 1990s, the EU accession process is in itself a foreign policy strategy of the European Union and arguably, its most successful one, not in the least because the prospect of accession is a powerful incentive for many applicant states to comply with the famous Copenhagen criteria. These criteria, named after the European Council meeting that formulated them, are a set of conditions which a country must fulfill before accession is deemed feasible at all. Democracy, the rule of law, civil liberties, a working market economy and the capacity to withstand the economic and social pressure of competition within a common market as well as alignment of policies are all part of these criteria.

Since the EU's policies are in constant evolution, complying with these requirements is somewhat like trying to hit a moving target and an applicant country cannot reach a state of absolute compliance. This is in part because accession is always an open-ended process: it cannot be guaranteed given the fact that not only the prospective member state but all existing Member States have to approve the accession in accordance with their respective constitutional requirements. Formal compliance in vital areas can be politically controversial and may be postponed until the moment of accession; and even substantive compliance in structural problem areas and consolidation of legislative changes in administrative culture can be slow in coming about. It is true to say, for example, that in spite of the Copenhagen criteria, widespread corruption still existed in several eastern European States on 1 May 2004, the day their entry into the European Union became legally effective.

All this suggests that when the European Commission requires compliance with the Copenhagen criteria, it does not exactly request the impossible from a candidate country. At the same time, however, it does not engage in mere rhetoric when it advises on a country's performance. The EU would at the very least require that a candidate country (in this case Turkey) must be seen to strive to comply one hundred percent with the criteria, even though fulfillment of them may be considered as tortuous in so far as applicant countries do not take part in the decision-making process establishing the rules. Through the Copenhagen criteria, the European Union is exporting European standards and values prior to the moment EU accession takes place. The possibility of accession is the carrot dangling in front of the accession cart.

As we shall see below, Turkey has been and is seriously at work to comply with European standards and in this she is helped by a process of dialogue with the European Commission in the framework of her accession partnership with the EU .

a) Recent developments in Turkish criminal law and human rights

One area in which EU accession is prominently used by the EU as a foreign policy instrument is that of fundamental rights. The EU quite clearly seeks to achieve the alignment of Turkey in respect to fundamental values such as human rights and protection of the individual. In the period between the 2004 regular report of the Commission on progress made by Turkey towards Accession and the 17 December decision on the opening of negotiations, one of the important issues has been the reform of Turkish criminal laws. Therefore, they form part of a separate consideration here.

The Turkish criminal law reform of September 2004 is part of a series of 8 law (constitutional and legislative) reform packages undertaken since 1999 in order to conform with the Copenhagen criteria, and they include the elimination of capital punishment, gender equality, freedom of expression, reform of the judiciary and the introduction of primacy of international human rights treaties. Turkey has ratified the European Convention on Human Rights in 1954. It has ratified Protocol 6 prohibiting the death penalty in peace time and it has signed Protocol 13 prohibiting the death penalty in any circumstance. In a series of law reforms, Turkey has abolished the death penalty in all circumstances¹⁵.

A first analysis of the reform of the 80 year-old Turkish penal code (entering into force 1 April 2005), is provided by Selahaddin Sesen, Turkish criminal law lecturer in Istanbul, who highlights the following elements¹⁶:

1. The new code introduces heavier penalties for human rights violations by public authorities.

15 The prohibition is laid down in Art. 38 of the 1982 Turkish Constitution as amended in 2003.

16 See elsewhere in this volume. See also Selahaddin Murat Sesen, *Le nouveau code penal turc dans le processus de l'adhésion de la Turquie a l'Union européenne*. Manuscript, Istanbul 2004.

2. Recent developments in international criminal law, such as regarding genocide and crimes against humanity, have also been incorporated and the new Turkish criminal code outlaws discrimination on the basis of sex, ethnic origin, race, social status, political orientation, belief and association. There is a new crime related to the misuse of personal data.
3. In relation to criminal law penalties, capital punishment was taken out of the Turkish criminal code. The penalty for genocide, crimes against humankind, murder and torture resulting in the death of the victim, is most often life long imprisonment.
4. There are several articles in the new penal code that increase the freedom of expression of individuals. Article 312 has a more restrictive definition of the crime of incitement of racial, ethnic or religious hatred than before by criminalizing it only when there is a real danger for public order. Article 305 is more lenient than before in dealing with Turkish nationals receiving payments from organizations pursuing activities deemed contrary to the fundamental national interests of the state. These interests are defined as including the independence and territorial integrity of the State, national security and the fundamental principles underlying the Republic as enumerated in the Constitution¹⁷.
5. The new Turkish criminal code is also more protective of the equality between men and women in accordance with Article 10 of the Turkish Constitution. This can be seen in relation to homicide for reasons of tradition or custom, sexual aggression inside the family and the test of virginity. In relation to homicide for reasons of tradition or custom (family honour being the principle motive for gynocide in East and South Eastern Anatolia), the new penal code now provides lifelong imprisonment. Sexual aggression in a marriage will now be prosecuted upon a complaint by the victim, not merely, as before, when there is a plea of deliberate lesion. The imposition of a virginity test without judicial authority carries a prison penalty. In this respect full equality before the law does not yet exist because the consent by the woman can be circumvented by judicial decision.

It can be seen from these examples among others that the accession partnership has had a huge impact on Turkish society. Turkey has achieved many important reforms both on the basis of the annual reports of the European Commission and in the framework of the Accession partnership and dialogue with the EU.

¹⁷ NB : Articles 299 and 300 still govern the situation of offences against the state in much the same way as the much criticized Article 159 of the current penal code.

On the whole, progress is remarkable, including not only the reform of the penal code but also of the legislation on criminal procedure and on the enforcement of criminal law sanctions which are to take effect equally on 1 April 2005.

A distinction must of course be made between the enactment of legal reforms and the enforcement "on the ground". While Turkey can rightly claim to be protecting the rule of law, in practice there may still be problems with Political Rights and Civil Liberties, and there are still complaints about treatment of Kurds and other groups, including journalists, and reports of torture and mistreatment by the police¹⁸.

Sarah Repucci¹⁹, researcher at Freedom House, a nonprofit NGO dedicated to promoting and defending democracy and freedom worldwide, has pointed out that in the case of Turkey, the decision on whether or not to open accession negotiations with Turkey should not entirely depend on Turkey's past performance with respect to freedom. What she says can also be applied to the continuation of negotiations at a steady pace. In her important article²⁰ Repucci recalls that data from the American Freedom House's "Freedom in the World" survey of political rights and civil liberties indicate Turkey's long record of uneven and fluctuating performance. However, she emphasizes that the same data, especially when comparing this unique country with the new democracies in Eastern Europe, suggest that Turkey could benefit from external incentives for improvement. The momentum of rapid unidirectional change as seen in Southern and Southeastern Europe is still missing in the case of Turkey but there is reason to

¹⁸ For example, in November 2004, the 8th Criminal Law Chamber of the Turkish Court of Cassation (Yargıtay) has confirmed two judgments rendered by the Aydin felony Court in 1993 about torture resulting in death of Baki Erdogan by six policemen on 22 August 1993 (Radikal, 23 November 2004) and by the Manisa Court of First Instance in another disturbing case about torture by the police of minors. (Milliyet 24 November 2004). In this context the Court of Cassation stressed that according to the Turkish Constitution and international treaties, torture is a heinous crime. In 2001 the Assembly of Chambers in criminal cases of the Turkish Court of Cassation has decided that torture is a crime against humankind. (Milliyet, 21 November 2001. Subsequently the Turkish Minister of the Interior issued a decree ordering that all police stations in Turkey be instructed and provided with a summary of the principles of human rights as guaranteed within the Council of Europe, as well as with the texts of the most important decisions of the European Court of Human Rights. (Milliyet 23 November 2004).

¹⁹ Sarah Repucci, "Turkey, the EU, and Freedom in the World: An Examination of EU Accession Through the Lens of Data on Political Rights and Civil Liberties", *6/3 Insight Turkey* (2004), 66-78.

²⁰ Repucci, at 77.

believe that that this country may show great results from the vote of confidence which negotiations would signal. This view is supported by the performance of Turkey's reforms just after the Customs Union was formed and when Turkey was officially recognized as a candidate country, and now again, around the time of the Commission recommendation to the European Council.

By contrast, European Parliament Rapporteur on Turkey Camiel Eurlings MEP has stated in a meeting with TOBB, the Turkish Union of Chambers of Commerce and Stockexchanges in Ankara in October 2004, that for the European Parliament to view positively accession, it is absolutely necessary to bring down the number of cases of torture, which at the time of writing were still reported to be 600 in a single year²¹. In this view no accession will be possible if the practice persists.

b) *The relationship between the military and the political system*

In Turkey the military takes traditionally a special position in Turkish society in particular as it has special tasks for the protection of the secular republic and traditionally counterbalances extremist Islamic influences in the Turkish society²². Its position is undergoing important changes and has eroded under the process of approximation with Europe. For instance, in the 2003 regular report of the Commission it was reported that it is no longer legal for military judges to try civilians, and the duties, powers and functioning of the National Security Council (NSC) have been significantly reduced, bringing the framework of civil-military relations closer to practices in EU Member States.

More improvements in civil-military relations have been introduced since then²³. Mustafa Sahin, director of the Ankara Centre for Eurasian Strategic Studies, reports, for instance that in August 2004 a civilian was appointed Secretary General of the National Security Council and the Secretariat is now essentially an

advisory body²⁴. The Secretariat General of the NSC no longer has the power to request non-classified and classified information from the ministries, public institutions and private legal persons. Turkey has also followed the recommendation in the 2003 Commission report to remove military representatives in the Turkish High Education Board and the High Audio-Visual Board. However, the Armed Forces in Turkey continue to exercise influence through a series of informal channels²⁵.

The pre-accession process of the European Union seems intent on making the Turkish military increasingly responsible to checks and balances applicable in a modern democracy. This raises the question, first of all, to what extent the interference in these matters, seemingly touching the core of the sovereignty of the State, will go. Is there a need, for instance, to restructure the central organizational structure in Turkey, in particular, by separating the defence ministry and the general military staff? The alternative, the so-called "twin-stove" model is considered outdated by many, and at any rate, there is no such thing as conformity for conformity's sake. There is a good case to be made that the historical, social and political reasons for the development of the Turkish structures are intrinsically sound. A major organizational change is not required and marginal (but still important) changes may do the trick.

So what other steps does the accession process require, beyond those already taken? It remains to be seen whether accession of Turkey means that the military can no longer retain a veto over politicians' power by intervening (in)formally, (in)directly in the politics of Turkish society. Currently a law relating to the Turkish Military provides a right of the latter to intervene to uphold the Republic as defined by the Constitution²⁶. Should that right be taken away in some or even in all circumstances? If so, at which stage? On the day of the accession of Turkey to the European Union or before the end of the negotiations? After the negotiations but before the ratification procedures have been finished?

One of the most basic considerations underlying EU-Turkey dialogue in this field as in others is undoubtedly that of acceptability. Changes in Turkey should be conditional on domestic circumstances and on acceptability by the Turkish

21 Factfinding mission of Mr. Camiel Eurlings MEP, author of the 2004 European Parliament Report on the Accession of Turkey to the EU, meeting at the invitation of the Turkish Federation of Chambers of Commerce, Ankara, 15 October 2004.

22 Gareth Jenkins, *Context and Circumstance: The Turkish Military and Politics*, Istanbul 2003. Gareth Jenkins, *Symbols and Shadow-Play: Military-JDP Relations 2002-2004*. Manuscript. Ayşe Gül Altınay, *The Myth of the Military Nation: Militarism, Gender and Education in Turkey*. Macmillan, forthcoming 2005.

23 In particular, Turkey adopted a law on the Right to information on 8 Oct. 2003, a law on the abolition of some of the articles of the law on the NSC and the NSC General Secretariat, 10 Dec. 2003.

24 Mustafa Sahin, Civil-Military Relations and Military Matters in the Last Three Documents of the European Commission and the Draft Report of the European Parliament on Turkey. Paper given at the IPC Research Roundtable on Governance and the Military: Perspectives for Change in Turkey, Istanbul, 17-18 November 2004.

25 2004 Progress Report, p. 175.

26 Art. 35 of the Armed Forces Internal Service Law.

public as a whole, otherwise, proposed changes will backfire. Meanwhile, another principle underlying the dialogue is that the development of these principles are in the interest of a liberal democracy. If Turkey concludes that military intervention must go at some stage this will not be a problem within a stable democracy. In the meantime, Turkey should be encouraged to continue on its incrementalist path towards greater freedom.

The main concern of the Commission is, to make sure that the military should, as far as possible, be accountable and subject to effective democratic control. It is an accepted rule in modern democracies that there should be civil responsibility in military matters. But what is an effective parliamentary control depends in part on cultural aspects and in part on procedures. Machinery is already in place in Turkey to ensure the transparency of military budgets. The machinery for parliamentary scrutiny of military expenses is also already in place in Turkey. A draft budget is submitted by the general staff to the Defence Ministry who then submits the matter to the Defence Committee of the Parliament. Recently, the Turkish defense budget was mitigated after parliamentary scrutiny (although not at the request of the Parliament), and once a defence minister resigned because of parliamentary criticism.

Despite the existence of transparency, parliamentary control is still underdeveloped, in part because of the customary deference of Turkish Parliamentarians towards the military and in part because the lack of expertise within the Turkish Parliament to deal with these issues. The reasons for this include a shortness of support staff and even, it is reported, on social circumstances surrounding employees of Parliament²⁷. To some extent it is also due to time pressures as the period available for discussion of this type of reports is usually short.

Turkey would benefit from improving on this front. And as parliamentary cultures change only very slowly, it is recommended that change is initiated at the earliest possible time. The Centre for European Security Studies (CESS) in Groningen²⁸, the Centre for Eurasian Strategic Studies in Ankara (ASAM)²⁹ and the Istanbul Policy Center (IPC)³⁰ are currently working on an important series of recommendations based on best practices in the EU countries³¹.

Turkey may also consider reflecting on the limits imposed to transparency of the military, and here again, best practices in European countries may provide a good reference: in fact, most countries operate preciously little of such limitations, except for, e.g., information on nuclear capacity, cryptography, the performance ranges of weapon stocks etc. The Turkish State Secrets Act is currently being reworked on the basis of examples taken from best practices in European countries³².

It should be noted, moreover, that the involvement of the European Parliament in the EU's security and defence policy is equally to be more clearly defined and developed after the entry into force of the Treaty establishing a Constitution for Europe³³. This shows that the EU is not perfect either and that the scrutiny of practices should be mutual³⁴.

IV National Policy Conditionality: the Case of Cyprus

We have seen that with its wooing of Turkey, the EU pursues more or less well defined foreign policy objectives, including not only the alignment of Turkey's foreign policy with that of the European Union but also the bringing about of changes in Turkish society to make it a more liberal democracy. The present section serves to show how the EU's foreign policy can be intersected or even endangered by individual member countries who may have their own policy agendas. Especially the new Member States increasingly seek to settle bilateral issues by using their position in the EU.

Cyprus is a clear example, as it has disrupted EU foreign policy before, in September 2004, during preparations for a high-level meeting between the EU and the Organization of the Islamic Conference in Istanbul. At these meetings, held annually since September 2001 to forge closer ties between the Christian and the Muslim world, the Turkish Republic of Northern Cyprus was always present, with the acquiescence of the Republic of Cyprus who was then still in

32 For now, the draft is mainly concerned with access to documents, not with electronic data, however, such legislation hardly exists in Europe.

33 See Arts I-40 and III-198 and 205 of the Treaty Establishing a Constitution for Europe. CIG 87/04 rev.2.

34 See also Nanette Neuwahl and Charles Kovacs, EU NATO Relations - Interoperability as a Strategic Consideration and a Legal Requirement. Research paper for the project: "European Security Law Soft or Hard Borders? Managing the Divide in an Enlarged Europe" directed by Martin Trybus and Nigel White, University of Nottingham.

27 Also, unlike the US, Turkey does not have the experience of Senators with a longstanding interest and expertise in defence issues.

28 See the webpage www.let.rug.nl/cess or contact cess@let.rug.nl.

29 See www.asam.org.

30 See www.ipc.sabanciuniv.edu.tr.

31 It shall be clear that some of these recommendations shall be useful also for consideration in other fields than the military.

accession negotiations with the European Commission and had a clear interest in not appearing overly rigid in these cultural matters. However, in September 2004, barely five months after the referendum in Cyprus on the Annan Plan on the settlement of the Cyprus issue had turned out negatively in the south of the island, the TRNC at the joint meetings proposed to call themselves the Turkish Cypriot State. This was a clear reference both to the Annan Plan and to the need of international recognition of the Turkish State in Cyprus as separate from the government that denied them any self-determination relying on the fact that the Republic of Cyprus had successfully obtained accession to the European Union. The Republic of Cyprus asked the Turkish Cypriots to remove the nameplate but the TRNC, supported by Turkey, refused to do so³⁵. The incident proved "too much" for the Dutch Presidency who, rather than risking a diplomatic row over Cyprus at the eve of the Commission recommendations on Turkish accession, cancelled the joint meeting altogether.

Three months later, in December 2004 the Republic of Cyprus could have exercised its veto power against the decision to open Turkish accession talks. Legally there was nothing to stop Cyprus from demanding recognition of its Government first³⁶. The European Union did not let it come that far. After Prime minister Tayyip Erdogan threatened to leave the meeting, the EU calmed down the Greek side.

It is certainly possible that Cyprus will impose conditions later on, when it comes to authorizing one of the negotiating mandates that will be required for each chapter in the accession negotiations. It would not be the first time that a small country sought to use their EU position as a leverage in relations with their neighbours who aspire to membership. For example, as recently as Autumn 2004, a dispute erupted between Slovenia and Croatia over the territorial whereabouts of Plovanija, a town claimed by both countries. The issue started when a group of Slovenian citizens/parliamentarians who deliberately disregarded Croatian border crossings were arrested by Croatian authorities, and Anton Rop, the outgoing prime minister of Slovenia responded by stating that his country could no longer support the entry of Croatia into the EU. Slovenia withdrew the threat only after Javier Solana issued sharp declarations saying that

Brussels should not be used to settle bilateral problems. It is possible that the same attitude will be taken by the EU in relation to attempts by Cyprus to forge recognition by Turkey of the (borders of) the Republic of Cyprus. However, there is no guarantee of this happening, as is clear from the precedent of Greece's successful "hostage taking" of the EU at the Copenhagen Summit some ten years ago: it is well known that this country successfully threatened a veto of the EU's eastern enlargement if Cyprus were not included, and with priority, among the countries negotiating accession.

Furthermore, the recognition of the Republic of Cyprus have also been demanded in the context of the Customs Union agreement and the Ankara (association) agreement. Turkey may be able to side-step this as a technical matter, but there will be no way around the recognition of the Republic of Cyprus by Turkey at the moment of Turkish accession.

Recognition of the Republic of Cyprus is out of the question without a negotiated settlement on the island. In order to prevent a small country from taking hostage the broader issue future of Europe, it is important that Turks and Europeans make very clear the need for the solution of the Cyprus problem on the basis of the Annan Plan. In order to achieve this both sides in Cyprus will need to show good will. A solution approved by the EU and Turkey as a guarantor power could even find a legal basis in the Treaty of Accession, as this is an act of primary EU law.

If Cyprus or Greece indeed makes the negotiating mandate for yet another chapter of accession negotiations with Turkey dependent on Turkish concessions in the foreign policy field, this should call for a reaction by Turkish and European leaders and diplomats. Any unjustified stalling of negotiations could have undesirable consequences. As Repucci puts it: "If the EU does not give Turkey greater assurances that its candidacy is genuine, the Turkish people and their Government may soon turn away. This may mean that reforms stall, or that Turkey might look to other, less European-friendly neighbours for partnership. This would be a loss for both the EU and Turkey³⁷".

35 Judy Dempsey, "Expansion brings EU to foreign policy void - reaching consensus becomes nightmare as scores are settled", International Herald Tribune, 6 October 2004, p. 1 and 8.

36 Indeed, at the time of writing, the Minister of Foreign Affairs of Cyprus has already started to ventilate its wishes in that direction. Vincent Boland, Andreas Hadjipappas and Kerin Hope. "Cyprus Threat to EU Membership Talks", Financial Times. 24 November 2004.

37 Repucci, at 77.

V Concluding remarks

Although it is evident from the Commission's documents that Turkey is gradually converging with EU standards in accordance with the foreign policy objectives of the EU, there are pitfalls in this process. Turkey continues to strive to comply with the Copenhagen criteria, although there are some areas of no-go, related to areas of vital national interest, and slow-go, related to mentality or culture.

It is imperative that the EU takes into account the particularities of this unique country. One of the arguments for Turkish accession is its leverage in relation to Wider Europe. Soner Cagaptay, senior fellow and director of the Turkish Research Program at the Washington Institute for Near East Policy, observes in this respect:

"For sure, many Europeans will continue to have difficulty in seeing the strategic wisdom of Turkey's membership. After all, most Europeans would rather stay away from the Middle East, but the fact is that sooner or later Europeans will need to take a closer look at their Middle Eastern neighbours³⁸".

In the meantime, the alignment of Turkey as a free democracy testifies to the success of the EU's pre-accession strategy. Although the adaptation by Turkey may be perceived as tortuous at times, it will work as long as the changes are largely in the interest of Turkish society, the proposed changes well reflected, timely and credible. Credibility includes consideration of domestic circumstances and acceptability by the public at large. It therefore includes the recognition of those aspects which make Turkey unique. If this is done it can be concluded that the constructive pursuit of accession negotiations are in the interest of all sides.

Turquie/Europe: ne commencez jamais des fiançailles par un divorce et un viol¹

Sylvie Goulard²

Résumé

Le Conseil européen du 17 décembre 2004 a pris la décision d'ouvrir, avec la Turquie, des négociations dont le but est clairement et uniquement l'adhésion de ce pays à l'Union. Cette décision est intervenue sans tenir compte des fortes réticences existant dans les populations d'un certain nombre d'Etats membres, notamment la France, l'Autriche et l'Allemagne. En France, le chef de l'Etat a bravé l'avis de sa majorité et refusé le débat parlementaire que tous les partis réclamaient et que la Constitution permettait. La démocratie est ainsi bafouée à la veille d'un referendum important. En outre, la question des frontières de l'Union n'a jamais été débattue publiquement. Or ce n'est pas une question qui dépend des efforts que les Turcs vont faire dans les dix années à venir. Elle ne dépend que de nous et de la conception de l'Europe qui est la nôtre. Ainsi, le projet d'une Europe forte, intégrée, est subrepticement remplacé par une autre ambition, moindre, à connotation stratégique, assez floue. L'attitude des Turcs durant ce Conseil a montré qu'ils étaient loin de l'esprit de compromis et de conciliation qui doit présider aux discussions entre partenaires. L'hypothèque de Chypre demeure. C'est l'Europe de la confusion.

"L'objectif commun des négociations est l'adhésion" a affirmé le Conseil européen réuni le 17 décembre 2004. On ne saurait être plus clair: les discussions qui seront ouvertes avec la Turquie en octobre 2005 ont pour but, à

1 Le titre est inspiré d'Honoré de Balzac "Physiologie du mariage".

2 Ancienne élève de l'ENA (France); Enseignante à Sciences Po (Paris) et au Collège d'Europe à Bruges; auteur d'un essai critique sur l'adhésion de la Turquie à l'UE "Le grand Turc et la République de Venise" (Fayard); a passé trois ans à la Commission européenne en qualité d'expert national détaché (Groupe des conseillers politiques et Convention Task force).

38 Soner Cagaptay "Why Europe Needs Turkey" Bitterlemons November 04, 2004 Edition 40 Volume 2. <http://www.bitterlemons-international.org/inside.php?id=250>.

terme, de faire entrer ce pays dans l'Union européenne. Une étape décisive a été franchie sans que soit mentionnée d'alternative à l'adhésion pleine et entière; de "partenariat privilégié" ou d'une autre formule, il n'est pas question. Et ce n'est pas la réserve tenant au caractère "ouvert du processus, dont l'issue de ne peut être garantie à l'avance" qui saurait en tenir lieu. Tout au plus cette réserve renvoie-t-elle à des cas extrêmes tels qu'un dérapage du régime turc, que nul ne peut souhaiter ou l'abandon, par les Turcs eux-mêmes, de l'objectif de l'adhésion. Les propositions de rédaction soutenues par la France, l'Autriche et, dans une moindre mesure, le Danemark dans les semaines qui ont précédé le Conseil, n'ont pas été retenues. Une seule concession a été faite: en cas d'échec du processus, la Turquie devra être "pleinement ancré dans les structures européennes par le lien le plus fort possible". La différence de style entre l'affirmation claire et explicite de l'objectif des négociations et cette contorsion ambiguë montre cependant qu'il s'agit d'un trompe-l'œil.

Le Président de la République française, comme le Chancelier autrichien, pour ne citer que ceux-ci mais cela vaudrait aussi pour le Chancelier allemand notamment, ont ainsi continué à faire des promesses aux Turcs contre la volonté de leurs peuples. En France, l'opposition à l'entrée de la Turquie dans l'UE était, à la veille du Conseil européen, de 67 %³; le fait qu'une proportion moindre des Français soit hostile à l'ouverture de négociations (46%), ne doit pas abuser: combien de citoyens connaissent la mécanique de négociations? Il n'est jusqu'à Nicolas Sarkozy, nouveau Président de l'UMP, le parti du Président, qui après la publication des conclusions du Conseil européen n'ait encore parlé de "partenariat privilégié" comme d'une hypothèse crédible⁴. Comment douter que les citoyens moins bien informés y perdent leur latin et croient, de bonne foi, le résultat du processus ouvert?

Une fois encore, un tournant majeur de l'intégration européenne a été pris en ignorant les interrogations, les doutes et les réticences d'une majorité de citoyens: pas de débat préalable sur la question clé des frontières; pas de discussion paneuropéenne sur ce que nous voulons faire ensemble. Une fois encore, une conception archaïque de la "diplomatie" a prévalu sur les exigences les plus élémentaires de la démocratie.

En France, le Premier Ministre s'est retranché derrière une conception extensive du "domaine réservé" du Président qui, en matière d'affaires étrangères, aurait

ainsi des pouvoirs illimités. Après la réforme constitutionnelle ayant conduit à l'introduction de l'article 88-4 donnant au Parlement un droit de regard sur les textes communautaires, cette lecture de la Constitution française est douteuse⁵. Il appartenait au Parlement, qui le demandait, de débattre d'un sujet aussi grave et aussi déterminant pour l'avenir des Européens et des Français. Si un débat parlementaire, suivi d'un vote avait eu lieu, le Président de la République serait sorti grandi de l'exercice. Il se serait rendu à Bruxelles conforté et non affaibli. Il semble avoir oublié qu'il a été élu en 2002, dans des circonstances exceptionnelles, avec 82 % des voix, parce qu'il était l'unique recours contre l'extrême droite.

Le malaise du Chancelier autrichien l'a conduit à annoncer à la sortie du Conseil européen ce que le Président Chirac a proposé dès le mois d'octobre: au terme des négociations, le traité d'adhésion sera soumis au peuple par referendum. Cette attitude revient à accélérer dans la pente en espérant, en bout de course, utiliser si nécessaire, le frein à main... Le choc risque d'être brutal. Soit cette promesse est sincère, les Européens sont libres de voter "non" mais alors le risque est grand que les Turcs aient, dix ou quinze ans durant, fait de vains efforts de rapprochement avec l'UE. Ce veto de dernière minute, émanant d'un peuple, risque infiniment plus de causer le fameux choc de civilisation que ne l'aurait fait une décision démocratique, au terme d'un débat public, aujourd'hui. Soit une pression considérable est exercée sur les citoyens européens pour les forcer à voter "oui" et c'est du côté de l'UE que la frustration sera grande. Est ainsi mise en place une véritable bombe à retardement.

Ce Conseil européen restera probablement dans l'histoire de l'UE comme celui où s'est produit un divorce des peuples et de leurs dirigeants au moment même où est censé se dérouler un processus constitutionnel européen tendant à démocratiser le fonctionnement de l'Union. Voilà qui est extravagant. Les avertissements que représentent l'abstention massive aux dernières élections européennes ou la dégradation des Eurobaromètres n'y a rien fait. Ils persistent et signent. Consultés sur les détails d'un contrat de mariage complexe, les citoyens ne peuvent choisir la fiancée... Comprenez qui pourra.

En France tout particulièrement, les conséquences de cette provocation, à quelques semaines du referendum sur le traité constitutionnel sont difficiles à prévoir. Le sentiment dominant dans l'hexagone est que, du projet des

3 Le Figaro, 13 décembre 2004.

4 Dépêche AFP du 18 décembre 2004.

5 C'est notamment l'analyse de Robert Badinter, ancien Président du Conseil Constitutionnel, Le Nouvel Observateur 23 décembre 2004.

fondateurs, doté d'une ambition politique, organisé autour d'un héritage historique et d'une géographie, il ne reste désormais plus rien. Quelques voix s'en indignent, Jean-Louis Bourlanges ou Robert Badinter, par exemple. Pour le reste, une génération entière d'Européens français a baissé les bras: certains vont jusqu'à revendiquer avec fierté leur ralliement à "l'Europe stratégique" faite de "business" derrière un faux nez de "valeurs", comme Michel Rocard⁶. Jacques Delors affiche sa résignation⁷. Chez d'autres, le virage est moins clair mais la confusion n'est pas moins grande. A entendre le Président de la République, le 15 décembre 2004, à la télévision, le projet européen français est bien brouillé: les mots des prédécesseurs sont réservés, l'ambition de la paix par exemple, mais la sauce est froide. Chacun sait qu'il n'y a pas eu, entre Européens et Turcs, de conflits comme ceux qui ont opposé Français et Allemands, avant la création de la CEE. La volonté de réconciliation ou de coopération ne se décrète pas "top down". M. Chirac a également mis en avant la recherche de "meilleures conditions de développement économique et social". Il se garde bien, toutefois, de dire en quoi l'adhésion de la Turquie va y contribuer, s'agissant notamment d'un pays où le salaire mensuel moyen est de 500 environ contre 2500 dans l'UE à 25⁸! L'angoisse des délocalisations et de la désindustrialisation appellent des réponses plus argumentées que ces généralités et approximations. Enfin, sur les solutions concrètes (institutionnelles, budgétaires) à imaginer pour inclure la Turquie dans l'Union européenne, les membres du Conseil européen sont peu disert. Les optimistes disent que c'est un pari sur l'avenir. C'est surtout du "après moi le déluge". La Commission n'a pas caché dans sa recommandation et son étude d'impact publiées le 6 octobre que des problèmes réels de transfert d'influence se posent.

Au total, on ne comprend pas bien si le projet communautaire de grand papa doit être remis au grenier ou si, au contraire, on s'inscrit dans sa fidélité. L'UE est à la fois radicalement différente, stratégique, post 11 septembre quand cela arrange ces stratèges et... gardera ses vertus stabilisatrices d'antan, sans avoir en poche les mêmes sommes que par le passé, notons le bien. Le Conseil européen n'échappe pas à cette confusion mentale: la Turquie est en théorie la bienvenue, personne n'est exclu pour sa religion, ni sa pauvreté. Il n'en demeure pas moins que les chefs d'Etat et de gouvernement envisagent froidement de refuser aux Turcs le bénéfice de la libre circulation, de la PAC et des fonds structurels... Cette Union au rabais, qui transige notamment avec la solidarité,

est une Union vide de contenu. Le paragraphe des conclusions du Conseil européen, inspiré par la recommandation de la Commission européenne entérinent ce double langage. Derrière le politiquement correct, on érige des barrages contre "le Grand Turc" qui, encore et toujours, dérange.

Notons que cette peur n'est pas entièrement infondée, à en juger par le comportement des Turcs eux-mêmes. Le Conseil européen s'est déroulé dans des conditions difficiles, voire humiliantes pour l'Union européenne. La présidence néerlandaise, malmenée par une délégation turque intransigeante, a été incapable de faire valoir les demandes des 25; il a fallu que Tony Blair et Gerhard Schröder viennent à son secours. Pourtant l'enjeu était à la fois symbolique et existentiel: la Turquie - un Etat qui cherche à entrer dans l'Union - ignore juridiquement et politiquement l'un des membres qui composent celle-ci. Pire, elle l'occupe militairement. L'exigence européenne était que les Turcs s'engagent à mettre un terme à cette aberration en reconnaissant Chypre. Est-ce si choquant? A l'issue du Conseil, nul ne sait ce à quoi les Turcs se sont engagés. Les conclusions du Conseil se bornent à indiquer que ce dernier "salue la décision de la Turquie de signer le protocole relatif à l'adaptation de l'accord d'Ankara qui tient compte de l'adhésion des dix nouveaux Etat membres". M. Erdogan a clamé haut et fort qu'il ne s'engageait pas à reconnaître Chypre. A son retour, il a été accueilli en Turquie comme le "conquérant de l'Europe".

Le manque de rigueur et de fermeté des Européens est d'autant plus regrettable que de nombreuses questions fondamentales restent en suspens. La Turquie est loin d'avoir rempli les critères de Copenhague de manière satisfaisante. A cet égard, les inexactitudes proférées par les membres du Conseil européen devraient attirer l'attention des populations. Comment passer sous silence les questions de reconnaissance du génocide arménien? Comment le Président Chirac peut-il affirmer que "la Turquie est un pays laïc qui respecte les autres religions comme nous respectons nous-mêmes les autres religions"⁹ alors même que les rapports de la Commission européenne et du Parlement européen relèvent expressément qu'on est loin de ce tableau idyllique. Ces dérives, sur des sujets aussi graves, touchant aux libertés fondamentales sont de très mauvais augure. Sans compter les incertitudes qui entourent les motivations profondes de M. Erdogan: veut-il faire entrer son pays dans la modernité ou utilise-t-il l'UE pour consolider une approche islamique de la politique¹⁰?

6 Co-auteur du rapport "La Turquie dans l'UE, plus qu'une promesse?"

7 Le Nouvel Observateur, ibid.

8 Rapport de la délégation pour l'UE de l'Assemblée nationale, n°1834, de septembre 2004.

9 Entretien avec TF1 le 15 décembre.

10 Financial Times Week end, 4 décembre 2004 "Eastern promise".

Le Conseil européen ne restera pas forcément dans l'histoire, comme nombre de commentateurs l'ont écrit un peu vite, le sommet des "fiançailles" de l'UE et de la Turquie. La fiancée a peut-être bien été violée. 25 tuteurs incapables de la défendre, ont détourné les yeux. C'est grave en soi; c'est encore plus grave quand on sait sur quoi repose l'UE: l'acceptation de la supranationalité, le sens du compromis, la recherche d'accommodements mutuels, le retour sur son propre passé. Ces règles de vie dans l'UE ne sont hélas pas au nombre des "critères de Copenhague", beaucoup trop techniques et "business oriented". Elles n'en sont pas moins décisives. On n'entre pas dans l'Union avec un "pied de biche", en forçant la porte et en violant les cœurs. Si les Turcs ne le comprennent pas, des dérives nationalistes qui certes, existent aujourd'hui dans l'UE - et la France n'y a que trop souvent cédé - ces dérives là, pathologiques, deviendront la norme. C'en sera fini du projet originel.

Ainsi, l'Europe qui était déjà bien étrange, devient peu à peu étrangère aux citoyens ordinaires. Dans le fond, à quoi bon se mobiliser pour elle ? Qu'apporte-t-elle aux petites gens? La croissance est faible. Le plein emploi n'est pas assuré; elle n'offre aucune protection contre la mondialisation perçue - à tort sans doute mais avec inquiétude - comme une menace. Diplomatiquement, elle existe à peine; malgré ses belles victoires contre Microsoft ou à l'OMC, elle demeure lointaine et abstraite. Elle ne correspond plus à rien de compréhensible; des intellectuels vantent en elle un "réseau", une "idée", un outil de stratégie. Ce sont les gagnants de l'abolition des frontières qui peuvent jouer avec ces concepts. Mais les perdants sont nombreux, qui attendent autre chose et se désespèrent.

Lors du referendum sur le traité constitutionnel, quel choix auront les Français et quelques autres peuples eux aussi consultés? Ils oscilleront vraisemblablement entre un "non" de colère et un "oui" de résignation. Le gouvernement français, comme tant d'autres, semble n'avoir pas mesuré la gravité de l'enjeu; il vit sur l'illusion que les citoyens vont dissocier la question turque de la question du traité. Il pourrait être surpris par l'ampleur du non.

Au traditionnel front souverainiste s'ajoute en effet désormais un front pro européen frustré: un sondage IFOP paru dans Le Point du 23 décembre a fait apparaître une forte remontée du non, notamment chez les sympathisants du parti centriste UDF, traditionnellement le plus pro européen (chute du oui de 20 %, de 78 % à 58 %). A l'UMP, la chute du oui est de 10 %, de 66 à 56 %. Au niveau national, le oui demeure majoritaire mais stagne désormais à 57 %.

Au PS aussi, le non gagne du terrain, à juste titre car on voit mal ce qui restera de l'Europe sociale une fois admis dans l'UE des pays (Turquie mais aussi Bulgarie et Roumanie) dont les salaires moyens sont infiniment inférieurs aux nôtres et où la protection sociale est inexistante. Sur ce point, il est extravagant que si peu de voix se fassent entendre à gauche: il est vrai qu'une partie de l'intelligentsia borne son contentement à voir "le club chrétien" mort et enterré. Sans même observer la sécularisation avancée du continent, ils rejouent les grandes querelles religieuses; ils se trompent d'enjeu. Et de siècle.

Sapée de l'intérieur par les errements de ses dirigeants, minée par l'intransigeance - et, pourquoi le nier? - s'agissant de la Turquie notamment, la fermeté et le talent des candidats, l'Union européenne est partie à la dérive. Elle est devenue le simulacre d'elle-même. Son succès l'a grisée, sa folie des grandeurs l'a perdue: ce qui, à 25 pouvait sans doute encore marcher, ne marchera pas à 28 et plus, notamment dans un tel climat de débandade politique et de confusion des élites.

Il est intéressant de souligner que ce même Conseil européen a considéré la Roumanie et la Bulgarie comme prêtes à adhérer en 2007 et lancé le processus avec la Croatie. La fuite en avant se poursuit. En raison des élargissements précédents, dont la légitimité était incontestable dans leur principe mais qui ont été menés en dépit du bon sens, sans débat et sans approfondissement préalable, en raison de l'élargissement à venir lancé à l'aveuglette, nombreux sont ceux qui, sans lire le texte du traité, voudront voter non.

La crise sera peut-être salutaire. Elle risque hélas d'emporter avec elle plus que certains ne voudraient, l'idée même d'Union européenne. La question décisive n'est donc pas celle de savoir si la France - et les autres pays - vont voter oui au traité constitutionnel. Celui-ci, fruit d'une séance de rattrapage tardive après l'élargissement aux 10, offre à peine un cadre amélioré pour les années de transition de l'UE à 25. Il est meilleur que le traité de Nice et, à ce titre, bon à prendre. Il ne répond cependant pas aux questions ouvertes de l'UE d'après le 17 décembre 2004: quelles frontières? quelle identité? comment préserver la méthode communautaire? Et pour quoi faire?

Que ce traité voie le jour ou pas, que la Turquie soit intégrée de force dans une UE devenue difforme ou que le processus échoue, cette fois-ci nous sommes au pied du mur. A notre génération de réinventer l'Europe, de poser ses frontières, de lui redonner vie et cohérence. De refonder une espérance.

Turkey and the European Union: how to achieve a forward-looking and "win-win" accession by 2015?

Mehmet Ögütçü¹

Abstract

Turkish accession to the European Union (EU) over the next decade or so is expected to change significantly both Turkey and the EU in economic, cultural and political terms. In order to make sure that this change will be for the better, both sides need to develop a common vision aimed at a win-win and forward-looking outcome from the outset. Otherwise, the accession negotiations, due to commence on 3 October 2005, are likely to encounter a serious risk of failure if they are left to the normal negotiation procedures. A key message to emerge in this paper is that the EU leaders should judge Turkey on the basis of its potential economic, cultural, demographic and geostrategic importance from today to 2023 and what the future holds for Europe by then - not on the narrow and short-term concerns and interests of today.

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Turkey's accession to the European Union (EU), a historic process which was formally launched by the 17 December 2004 decision of the European Council in Brussels, will be one of the most controversial and ambitious ones in the Union's history of enlargement. It represents the culmination of an up-and-down process of interactions between Turkey and the EU underway since 1963; yet it is still not a "done" deal - there are long years of negotiations due to commence on 3 October this year² and plenty of pitfalls ahead.

As Turkey's opponents argue, it is true that the eventual accession will considerably change the future outlook of both Turkey and the EU. Turkish accession will affect the geopolitical and economic balance of power in the region, and the EU's demographic, security, foreign policy, financial and institutional capacities. It will also bring in a rich culture and diversity. Whether Turkish accession will be for better or worse in the final analysis depends very much on how both sides will agree to interact, from the outset, towards a commonly perceived vision.

The rapidity and substance of the measures of change adopted one after another over the past few years in preparation for the accession process have impressed even the most ardent opponents of Turkey's accession. As a result of unprecedented reforms human rights, freedom of expression, women's rights, the military and the financial and banking system have all been subject to radical transformation. The power of the military has been curtailed, and the government has also implemented a subtle change of policy in Cyprus.

Undoubtedly, there is still some way to travel before meaningful progress can be achieved in other areas; yet for such efforts to be credible and bear fruit the EU accession process should not generate new "excuses" simply to delay Turkish accession as long as possible. As a matter of fact, the most severe and important critics of the situation in Turkey are the Turks themselves. Turkey has witnessed the beginnings of a civic society, an explosion of non-governmental organizations covering everything from birth control to human rights, from the arts to improving local government and environment. There is no longer denial about problems and no shortage of prescriptions to heal them, but some EU

politicians are too slow to recognize this development, and are still on "rewind instead of play³".

In this process, one should also recognise that it is not only Turkey, which must reform, but also the EU, which needs to adapt to the requirements of changing times and an enlarged EU. Surely, the EU with Turkey in as a member will look quite different from anything its founding fathers ever envisaged⁴. The Union will face the challenge of fundamentally re-defining itself, progressively changing from an entity largely concerned with economic and social redistribution via its agricultural, cohesion and structural funds into a global actor that invests more in competitiveness, infrastructure, research and development, poverty reduction, military capability, and border protection. Admittedly, this process will not be easy politically, since there will be strong opposition from adversely affected domestic sectors in nearly every country, including Turkey.

What kind of Europe shall we live in by the time Turkey joins?

The Turkish accession is often framed in terms of what's good for Europe, with little attention paid to what of Europe is good for Turkey. Would Turkey be still interested in becoming a full member in the world of 2016 and beyond? How would the EU position itself develop internally and vis-à-vis the US, China, Japan and other major regions? Will it still be a pole of attraction for a dynamic country like Turkey with diversified interests? These questions beg some fortune-telling into the next decade or so, when Turkish accession might at the earliest be possible.

It is in the interest of Turkey and the EU to hammer out a workable and flexible arrangement for the success of accession negotiations, but the end result may depend not only on their ability to manage such a complicated process. It will also depend on some other factors that can only be partially influenced and controlled by the EU or Turkey. The future development of the EU itself is equally important in view of actual European concerns about an "overstretch" of the Union through waves of enlargement. The better the EU would be in realizing its ambitious "Lisbon Goal", i.e. to become the most internationally competitive

2 The date is later than Ankara had hoped. At the 2002 Copenhagen summit, EU leaders had promised opening talks "without delay", provided Turkey was deemed to have made sufficient progress on democracy, human rights and legal reforms. But with fears, especially in France, that the coming referendums on the European constitution could be overshadowed by widespread public opposition to Turkish membership, a later date was eventually proposed.

3 The case: Win-win prospect for Turkey and EU, Michael Lake, 23 July 2004, International Herald Tribune.

4 Europe's historic new step, Chris Morris, BBC Europe correspondent, 18 December 2004, <http://news.bbc.co.uk/1/hi/world/europe/4108463.stm>.

knowledge-based economy, the less opposition could be invoked against the Turkish accession if Turkey too moves in the same direction.

Who can contest the impressive range of achievements of the EU since it came into being? It is, in many ways, an outstanding experiment in international politics and economics - not only as an enormous integrating economy, but also as an incentive for political stability and economic prosperity in a part of the world that generated two major wars within three decades in the last century. The recent wave of accession by ten new states, and more waiting to join is one measure of success⁵. All the accession countries have benefited immeasurably from EU membership in terms of better democracy, increased wealth and enhanced security. The fact that millions of Europeans use the same currency now is another measure of success as they agreed to surrender sovereignty over one of the most important tools in the hands of national central banks. Added to these are the advances made in common foreign and security policy, and other new EU competences.

The EU can be viewed as a work in progress for the foreseeable future even if its new constitution is ratified and enters into force because neither its final political character nor its ultimate borders are yet in sight. It remains an evolving entity always about to change its structure in response to internal and external dynamics or to absorb another country. To stay relevant in the globalized world of the 21st century, this is a valuable asset to have⁶. The moment there is an attempt to define its characteristics and final aims in absolute terms, there will be a risk of confrontation because no firm agreement exists yet among Europe's governments and citizens on what its future, or even its present, shape should be.

Crystal-ball gazing skills are not needed to be able to say that things are currently not going well in European construction. Institutions and member countries are at war about economic management. There is an ongoing tension in transatlantic relations. The inability to resolve the problems created by the new wave of enlargement and the polarisation between the "old" and "new" Europe, as well as the uncertainty whether the new constitution would be

endorsed by national parliaments and referenda are just a few of the challenges faced.

The demographic crisis lurking just around the corner is yet another concern - particularly for the future survival of Europe. Europeans are having fewer children, but people are living longer - populations are generally shrinking, and with them shrinks the active labour force. By 2050, Japan is expected to see its workforce-those aged between sixteen and sixty-four-shrink by an extraordinary thirty-seven percent. Italy's workforce will fall by an even greater thirty-nine percent, and Germany's by eighteen percent. France and Great Britain will experience drops of eleven and twelve percent respectively. Conversely, the United States' workforce is expected to grow by thirty-three percent⁷. In most OECD countries today, the ratio of workers to pensioners is 4:1, but by 2050 that ratio may drop to just 2:1. A halving of the workers-to-retirees ratio will then put enormous strains on societies with aging populations, and Europe will likely face some critical readjustments as a result. If Europeans hope to maintain their living standards in retirement, more younger workers will have to be found.

As for Europe's competitiveness, the picture seems to be rather gloomy, with the EU having lost its competitive edge in a number of sectors⁸. On all of the indicators of competitiveness Europe fares poorly compared with the United States and Japan. GDP per capita in the EU, measured at purchasing power parity prices, stands at 70 percent of GDP per capita in the United States and one-sixth below that of Japan⁹. The estimated growth in the euro area for 2005 is 1.9 percent this year¹⁰ - much lower than other key regions in the world.

The European governments' goal adopted at the EU Lisbon conference in March 2000 to make the EU "the world's most dynamic and competitive economy within ten years" remains an illusion, seen today as largely empty and

7 Muslim Europe and the Transatlantic Divide, Zachary Shore, AICGS Working Paper Series, <http://www.aicgs.org/Publications/PDF/shore2.pdf>

8 For a discussion of a pessimistic vision of France and its economic future, see the two economics books on the bestseller's list in France in 2003: "La France qui Tombe" (the Fall of France) (Baverez [2003]), and "Le Desarroi Français" (the French Disarray) (Duhamel [2003]).

9 Any evaluation of national competitiveness must begin with a consideration of two fundamental questions: how and in what dimensions do we measure the competitiveness of a national economy, and what standards do we use in determining adequacy?

10 ECB warns of slower growth in euro zone, 2 December 2004, Richard Carter, EUOBSERVER.

5 A Unified vision - sioivided union, dr. Jackson Janes, <http://www.aicgs.org/at-issue/ai-jj06172004.shtml>

6 Europe Could Become the First "Post-Modern" Superpower, Ulrike Guérot, in European Integration Fall 2004, http://www.europeanaffairs.org/current_issue/2004_fall/2004_fall_36.php4

unattainable. Thus, the Lisbon strategy has been considerably revised to bring it down to earth¹¹ as it became clear that most European governments are increasingly unable to engage in fundamental reforms - their citizens are less interested in being better off than other nations and more concerned with simply living well. Protests against attempts to reform labour markets and health care systems in Germany and other European countries are illustrative of this situation. How then can we expect the agenda for "growth and employment" to be effectively implemented? This is the really tricky question: most people in the old European countries would like to preserve the current level of social welfare and even to increase it. The painful truth is that in order to enjoy real welfare, at least some part of the present benefits must be sacrificed. Education, health care and social security are also key areas which Europe needs to consider carefully in its Lisbon strategy¹².

Last, but not least, the enlarged Union is facing the key challenge of ensuring strategic leadership and direction. It is clear that France and Germany alone cannot do this - but nor will strategic direction be achieved through a breakdown of the Franco-German relationship which some critics seem to wish for. Nor can leadership be provided by either a trilateral relationship including the UK or even by all six of the big countries. All the larger countries, including France and Germany, have to recognise the need for alliances that work with the medium and smaller member states. But there is little sign for now as to where such a large-small alliance providing strategic direction rather than short run deals of convenience will come from.

Finding the middle ground

Turkey represents one of the most telling examples of how the prospect of joining one of the world's largest economic clubs - with the still fledging political and security wings - can motivate a country's leadership and society to better standards, liberalize sectors, reform public administration, upgrade democratic

credentials¹³, resolve internal disputes, and improve relations with neighbours. Hence, whatever is said about its deeds and misdeeds the plain reality remains that the EU has one really effective "golden carrot": the attraction of its membership.

From the flurry of discussions prior to the 17 December decision, it appears that the real dividing line about Turkey in the EU is between those focusing on internal aspects of the EU and those giving greater priority to external issues, especially to the Union's role as a global actor. Those who want a more globally responsible EU to engage more actively in international relations, and especially in the Middle East peace process, argue in favour of Turkish membership¹⁴. Although Turkey is unlikely to join before 2016 at the earliest, supporters of Turkish entry believe that the Union would gain influence in the region once it had borders with Syria, Iraq and Iran. Turkey would dramatically increase the population of the EU, and over the longer term expand the European economy, the single market and ultimately the scope of the euro.

Turkey's case for serious consideration by the EU has often rested on broader strategic and political rather than cultural and societal factors. The real post-cold war strategic significance of Turkey to Europe lies in the problems that a less stable or more activist Turkey could create. Europe requires a stable, modernizing and democratic Turkey to (hopefully) keep radical Islam from Europe's borders. It needs a Turkey that is cautious in its regional policies towards the Caucasus, the Balkans, and the Middle East, and which seeks to avoid confrontation with Moscow and Tehran. The point is not so much what Turkey offers to Europe, as what the "loss" of it could entail. In a certain sense, what Europe needs from Turkey is that it be contained, controlled, prudent¹⁵.

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- 13 Collectively, the reform measures adopted since February 2002 have vastly liberalized the country's political system, facilitating Kurdish broadcasting and education, abolishing the death penalty, and subjecting Turkish courts to the European Court of Human Rights. The main reason why these packages passed through the Turkish parliament rather smoothly - with the public offering strong support and the military voicing only a few quiet reservations -- is that democratization has become a political avalanche in the country, driven by many powerful catalysts, including the prospect of EU accession.
 - 14 Europe Could Become the First "Post-Modern" Superpower, Ulrike Guérot, in European Integration Fall 2004, http://www.europeanaffairs.org/current_issue/2004_fall/2004_fall_36.php4
 - 15 Turkey's European Union Candidacy: From Luxembourg to Helsinki - to Ankara?, Bill Park, International Studies Association Working Paper, July 2000, <http://www.ciaonet.org/isa/pab01/>

11 See for further details: The Lisbon Review 2004: an assessment of policies and reforms in Europe, World Economic Forum, http://www.weforum.org/pdf/Gcr/LisbonReview/Lisbon_Review_2004.pdf.

12 No such thing as a free lunch, Guoda Steponaviciene, EUOBSERVER, 29 November 2004 <http://euobserver.com/?sid=19&aid=17860>

This might not be exactly where Turkey is heading, however. The opening up of Turkic-speaking Central Asia and Azerbaijan as a consequence of the break-up of the Soviet Union in early 1990s at first seemed to offer more than just new economic opportunities. It generated a vision of Turkey as the focal point of a new, dynamic, culturally integrated Turkic world. Economic and political opportunities seemed to beckon elsewhere in the former Soviet Union, not least in Russia and Ukraine, but also in a Balkan region freed from communist rule.

Another important asset Turkey offers is its strategic location with respect to Europe's future energy supplies¹⁶ from the Middle East and, more importantly, from the Caspian region. The EU, facing the gradual depletion of North Sea oil and gas resources, recognises the strong need for a long-term common energy policy¹⁷. Although the Caspian region could not substitute OPEC imports, it surely could provide an alternative. In respect of energy, the role of Turkey (linking the Union with the Middle East and Caspian regions)¹⁸, is bound to grow because of the increasing volumes of oil and gas that will transit through the country, from both Persian Gulf producers, the Caspian Sea and Russia¹⁹.

Ankara argues that Turkey's geography, history, cultural and religious links and security environment makes it both a European and a regional player, and that it can act as a bridge between the two. There is something in this argument, at

least in those areas where Turkey's local relationships are cooperative and multilateral. However, Turkey's region, and the interests Ankara has there, might differ from those of Europe. The EU seeks stability, regional friendships, a neutral role in local disputes, secure supplies of oil, trade even with awkward local states, and the like. Turkey's regional engagement is underpinned by historical legacies, cultural factors, economic interests, more immediate territorial and security concerns. It appears that this is an area where both Turkish and EU leaders should work harder to achieve a mutually beneficial convergence of interests, particularly in the initial stages of the accession negotiations.

To that end, it would be useful to institutionalise a closer and more continuous Turkish participation in the EU's Common Foreign and Security Policy (CFSP) along the lines of its former status in the Western European Union, i.e. a kind of special associated membership. Such a framework would be more feasible and justified today than it might have been some years ago when EU relations with Turkey were unclear on the question of membership. In any case, it would be a great disadvantage if the EU were to wait for another decade, i.e. until the actual entry of Turkey, in order to fully reap the expected positive results of membership.

Turkish accession is also critical to the success of another element of the EU's common foreign and security policy, namely the European Neighbourhood Policy. This policy aims to develop a ring of stability, of like-minded countries, from Belarus to Morocco, increasingly sharing its values and deeply integrated in the EU single market and Community programs. It also ties these countries to the EU through other assistance programs. The "silver carrot" would be to grant them access to European markets - including labour and agricultural markets - but with a status falling somewhat short of full membership. This extension of "soft" power - slow, long-term and by consensus - compares favourably with the exercise of "hard" power seen in the broader Middle East today. Having the largest economy, the military force and close links with the region, Turkey can play a catalyst role in implementing this policy.

For the last decade, Turkish foreign policy has sought a delicate balance between Europe and the U.S. To the extent that the U.S. and Europe drift apart in strategic terms, Turkey faces uncomfortable choices²⁰. As evidenced by its position vis-à-vis Iraq, Iran, Syria and Israeli-Palestinian dispute, the current Turkish foreign and security approach is firmly embedded in the European

16 Are we heading towards a new energy crisis?, Mehmet Ögütçü, *Dunya*, 18 August 2004, <http://www.dunya.com> Turkey is a major player on a crowded Caspian chessboard, and, whatever current inadequacies are, the long-term prospects are promising for increased bilateral co-operation and a steady expansion of Turkish influence in its region. The goal is to make Turkey a regional hub for energy interconnections, trade, transportation, finance, and investment through increased interdependencies with its neighbours.

17 The EU imports about 90 percent of its total oil consumption, and 40 percent of gas consumption. Up to 40 percent of the EU's gas imports currently come and will continue to come from Russia. The EU candidate states have an oil dependence of 90-94 percent and a gas dependence of 60-90 percent. OPEC represents 45 percent of current EU oil imports. Both the launching of the EU-Russia strategic energy partnership on November 30th 2000 in Paris, as well as the vast energy potential of CEA have refocused the EU's attention on the necessity of diversifying its energy imports.

18 Turkey's strategic location makes it a natural "energy bridge" between major oil producing areas in the Middle East and Caspian Sea regions on the one hand, and consumer markets in Europe on the other. Turkey's port of Ceyhan is an important outlet both for current Iraqi oil exports as well as for potential future Caspian oil exports. Turkey's Bosphorus Straits are a major shipping "choke point" between the Black and Mediterranean Seas. Finally, Turkey is a rapidly growing energy consumer in its own right.

19 Study on Energy Supply Security and Geopolitics, Final Report, prepared by a consultant for the European Commission, January 2004, http://europa.eu.int/comm/energy_transport/doc/2004_lv_ciep_report_en.pdf

20 Turkey, the U.S. and Europe - A Troubled Triangle, Dr. Ian O. Lesser, <http://www.aicgs.org/c/lesser.shtml>

mainstream given that, politically and economically, Turkish convergence and integration with Europe is conceived to be of high importance. The US think-tanks debate the question of "who lost Turkey".

Both Ankara and the EU governments should work harder on preparing the European public for an eventual Turkish accession. They also need to work on the Turkish public. Although there is wide consensus among Turks that political liberalization toward EU membership can only be good, some see the accession negotiations as an historic opportunity while others consider the process as a national "sell out", particularly on Cyprus and Kurdish issues.

The "It's the economy, stupid" approach?

The chances of Turkish accession will be stronger if Turkey can continue its recent economic recovery and turn it into sustainable growth over the next decade. This will reduce or eliminate concerns on the side of the EU about accession being too costly and too destabilizing in economic and social terms.

Turkey - a country of 780,576 square km - is almost the size of Germany and France put together. The enormous amounts of minerals and raw materials, the world's 10th largest area of arable land, a key position as a transit country for crude oil and natural gas, and water resources: all of these are precious assets for the resource base of a future Europe. What opponents of Turkey's accession complain most about is that its population is too poor and too big (the world's 17th most populous nation). Critics argue that Turkey is economically unstable, that it has recently emerged from a deep economic crisis, and that the EU should not import economic instability when it is economically weak itself²¹.

According to World Bank calculations, Turkey's nominal gross domestic product (GDP) per person in 2003 was \$2,790, making Turkey almost 14 times poorer than the most prosperous country in the current EU (Luxembourg's GDP per capita is \$38,830). The EU's poorest country at present is Latvia, whose GDP per capita is \$3,480, still richer than Turkey. And the average GDP per capita in the EU is \$19,775, meaning that the GDP of the average European is over seven times greater than that of the average Turk. These comparisons are misleading

21 Turkey and the long road to prosperity, Richard Carter, 17 December 2004, EUOBSERVER

and should be put in the right perspective. In terms of long term growth dynamics, various studies point out that the income gap with respect to the EU average will diminish, which means that per capita income will rise from 25 percent currently to somewhere between 40 percent - 55 percent in ten years time. Thus, the income gap around Turkey's possible accession will be similar to the income gap of the 10 new members when they joined the EU in 2004²².

If calculated in terms of purchasing power parity (PPP) Turkey is the world's 19th largest economy with a 2004 GDP of around \$430 billion. With an average 5-6 percent growth up to 2015 and 80 millions of population by then, we are talking about an economy which will have \$10,000 per capita GDP and an overall GDP of \$800 billion. These figures imply an economic power that cannot be neglected by the EU. It is believed that Turkey can do better over the longer term, judging from the performance of dynamic Asian economies, if it can pursue a "high growth" (7-8 percent per annum)²³, "investment in people" and "leap to the highest levels in technology" strategy.

The discrepancy between the GDP average of the EU and Turkey has important implications for the Union's structural policy. Until today, the EU's philosophy with respect to its prospective members has been to bring the citizens of new member states to the same standard of living, i.e. to about the same GDP average, of the existing members through financial measures (mainly structural funds and long-term credits). This may no longer be the case as before because there are 10 new members states that just joined and three more soon to join - in any case join before Turkey. They will all compete for increasingly scarce resources.

In addition to Turkey's relative low GDP per capita income, the considerable percentage of the Turkish population active in the agricultural sector, namely

22 The speech by the chairman of the Board of TUSIAD, Mr; Omer Sabanci, at TUSIAD-BIAC CEPIL Conference "Turkey in the European Economy", December 10, 2004, <http://www.tusiad.org/english.nsf>

23 Turkey's economy grew at an average annual rate of 4 percent between 1965 and 2001, with its real per capita GDP growing at just under half that rate due to rapid population growth. This long-term growth performance makes Turkey less successful than many of its competitors among the dynamic, emerging market economies located mostly in East and Southeast Asia and Latin America. Korea, Thailand and Malaysia grew two to three times more rapidly in per capita terms over the same period, and Brazil, India and Chile also outperformed Turkey, with average annual per capita GDP growth rates well above 2 percent.

45 percent, emerges as another area of potential problems. Agriculture accounts for 16 percent of its GDP (industry for 24 percent, and services for 60 percent). The EU has long been subsidizing its farmers with the notorious Common Agricultural Policy (CAP), but budgetary constraints would prevent the EU from providing the same level of CAP funding to the Turkish farmers and the new WTO deal struck in August 2004 will also have important implications in this regard.

Another worrying case is Turkey's huge foreign and domestic debt. In the new member states of the EU, gross public debt is typically about 40 percent of gross domestic product, according to the IMF. At about 80 percent of GDP, Turkey's gross debt is double that figure. Turkey's debts have largely arisen from its efforts to push through banking reform after a run on the banks in 2001 caused the country's devastating recession. Any return of Turkey's economy to the unsustainable, erratic growth of the 1990s would negatively impact the EU's perception of the feasibility of Turkish accession²⁴.

A key concern is whether Turkey's accession will trigger a flood of cheap Turkish labour, driving down labour costs or relocating European firms to Turkey to take advantage of cost advantages, resources, the domestic market and access to the EU and neighbouring markets. Such a development, if it occurs, will not only boost Turkey's competitiveness but also allow current EU states to import the qualified Turkish workers they will desperately need as their populations age. Despite declining birth rates (since 1970 these have dropped from 3.5 to 2.5 children per woman), Turkey's population is expected to reach 80 million in 2015 - with one in four Turks - or about 18 million people - aged 14 or less. Fears of a "Turkish invasion" should be tempered by the knowledge that any lifting of restrictions on Turkish workers is probably a generation away.

There are several good news stories about the health of the Turkish economy which should not go unnoticed (and be disseminated to the Turco-sceptics). Inflation has stabilised, coming down from more than 70 percent at the beginning of 2002 to less than 10 percent within a time span of about two years, thanks in part to the IMF programme, and could be as low as four

percent in 2007. The new Turkish lira was introduced as from 1 January 2005, dropping six digits. Growth in 2004 is projected to be around eight percent, according to the Economist Intelligence Unit, a level the EU - and certainly the sluggish economies of France and Germany - can only dream of. The OECD has recently described Turkish growth performance as "stunning²⁵". Even unemployment stood at 10.5 percent in 2003, a high figure, but not much higher than some of the core euro zone countries. The tourism industry is booming and revenues from visitors should more than double to \$21bn in three years. Moreover, government spending is set to be frozen and a burdensome social security deficit is being tackled.

The Customs union, which introduced free circulation of industrial goods and processed agricultural products in 1995, has demonstrated Turkey's ability to cope with Europe's competitive environment. Despite dire predictions before customs barriers were lifted, Turkish companies rose to the challenge and proved their competitiveness. The agreement also forced Turkey to harmonize its economic legislation with the EU. Hence, it would not be an exaggeration to say that a fast-growing, dynamic Turkey with a positive macroeconomic environment would be just what the EU needs to boost sluggish growth and inject dynamism into its economy.

Turkey has a lot to offer European investors and the accession process is expected to increase the foreign direct investment (FDI) inflows from EU economies to Turkey. With more than 60 percent of the population under the age of 35, its domestic market has a great potential for growth; its labour force is hard-working and cost-effective; and its unique location gives it access to Europe, Central Asia and the Middle East. More than 6,000 foreign companies have invested in Turkey. Yet, its performance is far from satisfactory²⁶ in attracting large FDI inflows²⁷. If the government manages to create a more favourable bureaucratic and legal environment, these decisions could also lead to an influx of much-needed European investment that would help take the

24 This would, in more concrete terms, imply a continuation of the present restrictive budgetary policy, further reforms of Turkey's social security system, and little room for a policy of broad income redistribution. Turkey's masses could be faced with the real situation of considerable economic growth without new jobs for some years to come.

25 The OECD report on Turkey can be accessed at www.oecd.org/eco/surveys/turkey.

26 In the past decade, the country has attracted on average only \$1 billion a year in FDI, considered well below what an emerging economy of Turkey's size should receive.

27 This is largely due to economic reasons, including high transaction costs of entry and operation for foreign investors, chronic high inflation, economic instability, lack of intellectual property rights protection, lack of internationally acceptable accounting standards, insufficient legal structure and physical infrastructure.

Turkish economy to the next level of development. The government has, among other measures, decided to cut income and corporate taxes in order to attract \$15bn of foreign investment over the next three years²⁸.

There are wildly differing estimates of what Turkish accession would cost the EU. In the initial stages of its accession, Turkey would weigh heavily on the EU budget, both in terms of regional aid and agricultural subsidies. But, none of the current members of the EU are willing to contribute more to the EU budget (particularly at these difficult economic times for several EU member states)-- or alternatively, willing to give anything up from their net receipts-- so that the integration of the Turkish economy into the EU can be financed. Hence, the EU has a keen interest in ensuring that Turkey steps up its drive for rapid economic development. Indeed, Turkey can contribute almost 6bn euros to the EU budget by 2014, according to a recent impact study by the country's State Planning Organisation²⁹.

As Turkey's GDP is set to grow by 6 percent per year on average, its contribution would rise to almost 9bn euros by 2020. This runs contrary to the popular view that Turkey is to become a burden on EU taxpayers. Turkey's assertions are confirmed by the European Commission's own "impact assessment" in October 2004, which says that "the economic impact of Turkey's accession to the EU would be positive but relatively small³⁰".

How will the negotiations be held?

Given that never before have there been accession negotiations that were so controversial among EU member states and so charged with uncertainties and serious political and economic impediments than the Turkish accession, it is absolutely essential that both sides should agree on an imaginative, constructive problem-solving approach to produce a successful conclusion to this process. The discussions in Brussels clearly indicated that accession negotiations would not be on the basis of a "business-as-usual" mandate with an emphasis on the

acquis communautaire and Turkey's ability to effectively apply it at the moment of entry into the EU. The attainment of European standards with respect to democratization and liberalization, as well as changing not only certain practices and legislation, but also the public and official mindsets would be the primary goal³¹.

It will be at least as important to ensure that the negotiations pave the ground for EU governments at the end of the process to be able to convince their publics that Turkey will not enter the Union as an "alien" but as a truly "European" society and state, while at the same time respecting its cultural and religious priorities. This should be declared a priority from the very beginning, i.e. from the formulation of the negotiating mandate for the European Commission. It goes without saying that the process begun by Europe's leaders in Brussels will have to be completed by the politicians of the future - probably during the lifetime of at least three new governments in each country. Given the high degree of domestic controversy that the Turkish dossier causes, the governments may not have any interest in keeping the Turkish accession issue visibly on the public agenda until such a time as a positive public perception of Turkey might be generated. Most EU leaders would prefer to put the issue on the backburner by "leaving the concrete task of preparing and conducting the negotiations mainly to the European Commission³²".

However, it is important that the EU governments commit a greater degree of political attention to the negotiations than they have done in past negotiations. And this attention should be constantly present throughout the accession process and not be restricted to so-called crucial dossiers or crucial moments, such as free movement of people, common agricultural policy, financial and institutional issues. If it were left to the normal negotiations procedures, there would be a serious risk of failure along the way. Therefore, accession negotiations are (and must be) aimed at full membership, avoiding the recurrence of discussions about alternatives to Turkish membership.

Considerations about the EU's ability to function effectively are likely to be a regular feature of the negotiations with Turks. This can result in adjusting the speed of negotiations - to be slowed down if the EU members fear that too early

28 Turkey as an Asset, Mensur Akgün and Sylvia Tiryaki, EUOBSERVER, 14 December 2004, <http://euobserver.com/?sid=7&aid=17979>

29 Turkey turns on the economic charm, Jorn Madslie, <http://news.bbc.co.uk/1/hi/business/4063233.stm>

30 The report can be accessed at www.deltur.cec.eu.int/english/cp-progress.html

31 Whither Turkey's EU Accession? Perspectives and Problems After December 2004, Heinz Kramer at http://www.aicgs.org/c/kramer_turkey.shtml

32 IBID. HEINZ KRAMER

a Turkish accession would overload the Union³³. It is this concern that already now can be seen behind the almost unanimous declarations by leading EU politicians that Turkish accession would at least require a period of ten years or more before it could be accomplished. Also the rules for opening and closing each of the 31 chapters ensure the possibility of putting a brake on the process.

Turkish negotiators will naturally react to what they might consider to be an unjustified special, discriminatory, treatment in comparison with other former and even future candidate countries, although they often characterise themselves as a special case in other areas. Turks are also aware that accession negotiations are not a level playing field, unlike a "classical" negotiation between two states on an equal footing. Accession does not mean the negotiated merger of the Union with the prospective candidate, but an intense and often painful process of mostly one-sided adaptation to the EU by a state accepting the Union's demands for accession. This inherent imbalance in any accession process will likely become accentuated in the case of Turkey, given the fact that the basis of the process is not an invitation by the EU but a decade-long demand and pressure by Turkey. However, it is important for the Euro-negotiators to take a hard look at Turkey's particular circumstances. In the course of the negotiations, Turks are likely to press for longer transition periods, derogations and financial/technical assistance for the necessary adjustments, as well as for a tactful approach from Brussels to win the hearts of the Turkish public at large.

The Way Ahead - no business as usual

Regardless of our views on the justification or the feasibility of its membership of the EU, we must accept that Turkey's integration into EU structures would represent a challenging task, but where there is a will, there is a way. No one is talking about Turkey becoming a member today or tomorrow. It took eight years to negotiate Spain's entry into Europe. It could take longer for Turkey, but the process is itself a catalyst that will act as a spur to improvement, not only in terms of democracy and human rights, but also in respect of the economy.

33 "Changing Parameters in U.S.-German-Turkish Relations: Future Scenarios", held on September 20, 2004 in Berlin. AICGS Advisor, September 30, 2004.

EU accession is seen as the most important, integral part of Turkey's modernisation and development vision since the founding of the Turkish Republic in 1923³⁴. The potential leverage of this process on transforming Turkey is indeed great - judging from the intensity of discussions and actions dominating the current Turkish leadership's agenda. There is a great deal of awareness among Turks that their country has to prepare for the rigours of the 21st century, irrespective of the outcome of its EU membership negotiations³⁵.

The EU's next eastward enlargement round, the fifth in its history, will see the entry of Bulgaria and Romania in 2007. But since some of the former communist countries (particularly the biggest ones, Poland and Romania) registered serious delays in honouring their commitments, the EU has decided to change its approach to accession negotiations. This was based until now largely on the candidates' promises. However, the EU decided to seek real implementation of reforms before it even opens some new areas of negotiations, let alone concludes them. So for the next candidates - Croatia, Turkey and possibly other Balkan countries - the rules are becoming tougher.

The EU has warned Turkey that negotiations could only be concluded after the bloc agrees on its next seven-year budget from 2014, because the accession of such a big country would come at a substantial cost. The EU has also made explicit for the first time that it would suspend negotiations "in the case of a serious and persistent breach in a candidate state of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law on which the Union is founded³⁶". In the end, even if the 31 chapters are concluded with mutual satisfaction, Turkish membership will still have to be ratified by all the EU member states, which will by then probably number 27 or 28, as well as by the European Parliament and by Turkey itself.

34 Turkey's 2023 vision: Dreams and realities, Mehmet Ögütçü, Turkish Daily News, 30 June 2003, http://www.turkishdailynews.com/old_editions/06_30_03/feature.htm

35 In this regard, contrary to the widespread belief, most important challenges facing Turkey today are not inflation, debt repayments, loss of competitiveness, corruption, democratic credentials, political Islam, separatist Kurdish movement or barriers to its accession. More important are how to address the following three fundamental, and intertwined, problems: (i) inability to efficiently manage its abundant resources, (ii) inadequate development of its capacity to generate workable solutions and their effective implementation, and (iii) lack of trust emanating from the erosion of basic values and ethics in almost every segment of the society.

36 <http://news.bbc.co.uk/1/hi/world/europe/4107919.stm>

The history of European integration is one of innovation in design and policy. Trans-national processes are continually being innovated - that is why the EU can take on enlargement. As a new member Turkey will bring aspects that current members will also have to adapt to. Therefore, rather than focusing on the results of individual reforms, the "accession process" should be geared towards assisting in a constructive way Turkey's transformation. The new Turkish politicians are more willing to change and more receptive to influences from the outside than in the past³⁷. It is now necessary to take advantage of this historic opportunity to influence Turkish politics and economy through the process of accession negotiation.

More importantly, EU leaders should judge Turkey on the basis of its potential economic and geostrategic importance from today to 2023 and what the future holds for Europe by then - not on the narrow and short-term interests of today. With Turkey the EU will gain not only a rich cultural diversity, but also considerable manufacturing capacity, entrepreneurship, and better foreign/security policy outreach to the key regions of the world, i.e. Russia, the Balkans, the Middle East, the Caucasus and Central Asia.

The two terms of government may suffice to fundamentally change the face of Turkey for better, while the EU will also be going through changes. One should recall that the founding father of modern Turkey, Kemal Atatürk, accomplished the bulk of his revolutionary modernising vision for the country in just 15 years (1923-1938), and he did it in the period between two destructive world wars and at a time of great deprivation. Consider what more can be achieved over the next two decades in an era of rapid globalisation. Thus, it is not a science-fiction to predict that both Turkey and the EU will be starkly different from what they are today and it is in their hands to shape the common future starting now, rather than speculating on the fears to come.

Turkey-EU Relations in the Enlargement Process: Rational Choice Approach to Interests and Participation in Turkey¹

Sait AKMAN²

Abstract

This paper argues that EU conditionality alone has not determined the pace of democratisation in Turkey. For better or worse, the EU has been a motivator for the process. Nevertheless, the effects of this motivation could only be materialised if accompanied by domestic pressure. A societal interest-orientation for upgrading the level of democratisation "from below" is essential to sustain the process, on the other hand, a state-oriented reform process under the direction of the EU "from above" has had only rudimentary effects. This article applies rational choice methodology to Turkey-EU relations by taking individual agents as the fundamental building block of analysis and by claiming that an aggregate outcome of democratisation in Turkey should be regarded as the consequence of the assumed behaviour of these individual agents.

1. Introduction

The conclusion of European Council summit in December 2004 to start accession negotiations with Turkey as of October 2005 is historic both for Turkey and the EU. This decision can be regarded as the EU's acknowledgment that

³⁷ Turkey's New Politics and the European Union, Pieter Ott, December 2003, http://www.ceps.be/Article.php?article_id=172

¹ This article is an abridged version of the paper with a same title submitted in UACES 34th Annual Conference and 9th Research Conference "The European Union: New Neighbours, New Challenges" held in Birmingham in September 2004.
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Turkey has sufficiently fulfilled its obligation to meet the political accession criteria and demonstrated concrete progress in democratisation. However, the issue of the democratisation process has provoked an intense debate that dominated political life for at least two decades in Turkey. Several constitutional changes and relevant “*laws of harmonisation*” in legislative, executive and judicial fields have been passed successfully. In practice, developments in the post-Helsinki period in which candidacy status became operational revealed an accelerated reform process of democratisation in Turkey³.

Two related but not necessarily mutually exclusive approaches can assist the explanation of the democratisation process in Turkey. These two approaches possess characteristics of liberalism in international relations. Firstly, “*neo-liberal institutionalism*” considers the process in Turkey as the result of a norm-based negotiated cooperation designed by an external factor (the 'European Union' in this case) by which domestic problems obviating the pace and will of democratisation are overcome (democracy “from above”). The second avenue explored to explain the democratisation process in Turkey is the rational choice (RC) approach which replaces the role and effect of international/external factors with a domestic interplay of factors. Accordingly, what determines the motivation behind the speed of democratisation is the interaction of domestic agents who are self-interested utility maximisers (democracy “from below”) rather than external forces which have only auxiliary functions.

In reality it is very common to argue that the reform process in Turkey is made possible because of top-down pressure from the EU and that it would have failed had “*EU conditionality*” not existed. Hence, it is a common belief that EU conditionality had been a strong incentive without which domestic forces could

have taken only minor steps due to the lack of internal dynamism in the domestic realm. This thesis is a function of an analysis based on the realist paradigm that does not consider sufficiently the true role of intra-national elements.

While neo-liberal institutionalism follows an intergovernmental approach by focusing on the systemic level of relations between Turkey and the EU, rational choice proposes that the EU's impact as an external actor on Turkey's democratisation is influential only to the extent it is “*endogenised*” in the “*rational utility*” functions of domestic agents. A democratisation process is eventually a matter of collective action which is determined in accordance with the behaviour of individual actors. Hence, the question that should be asked is: “*Are external forces, such as the European Union, effective in shaping domestic actors' interests in a democratisation process by using conditionality?*”

The first part of this paper is devoted to theoretical infrastructure. It summarises the two competing arguments of the “liberal” approach by delineating the borders and axiomatic nature of *neo-liberal institutionalist* and *rational choice* explanations of democratisation. The article then explains the democratisation process in Turkey from a rational choice perspective. It briefly describes the role of various domestic societal actors considered to be rational utility maximising agents and whose expectations and behaviour are determinants of democratisation in Turkey. The second part evaluates the validity of “rational” behaviour and its critics. The last part of the paper puts forward an approach that intends to revise and enrich rational choice by incorporating ideas and causal beliefs with self-interest maximisation. It refers to the EU as an external actor that provides norms of behaviour.

2. Explanation of Democratisation: What is the Correct Level of Analysis?

A complete analysis of the democratisation process requires grasping the interaction among several different forces that can be categorised under two different levels. These levels refer to the exact loci of the causes of action: “*external*” (that is exogenous to country's national actors and institutions); and “*domestic*” (that is endogenous to the country - its national actors and institutions). It could be argued that both levels serve as significant determinants.

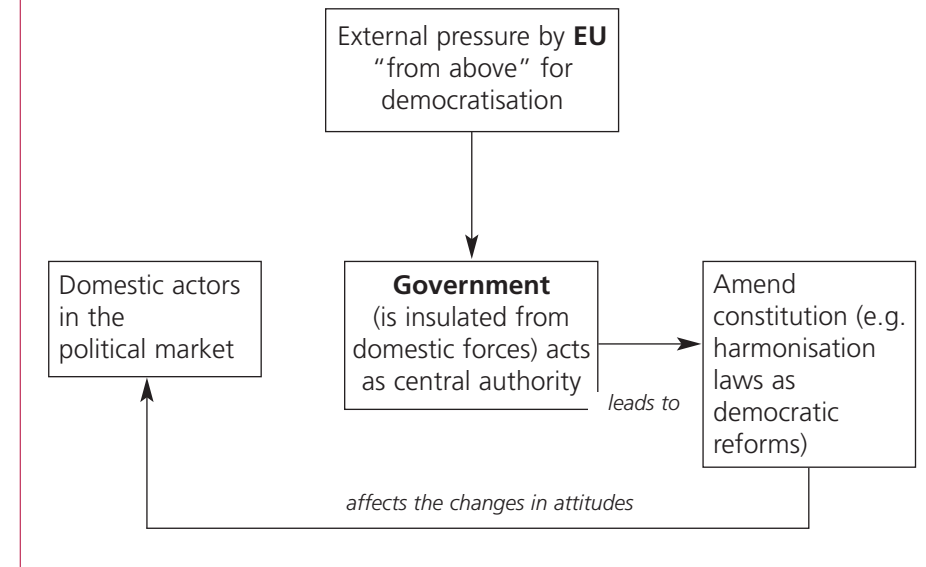
3 In political arena, Turkey took decisive steps in order to meet the Copenhagen political criteria including the adoption of Harmonisation Laws intended to transform the amendments in the Constitution into democratically concrete actions in line with European norms (a total of 8 harmonisation legislative-packages were accepted in the Turkish Parliament between August 2002 and August 2004). It seems interesting that the process of democratisation has occurred during two successive governments - the former being a weak and fragile three-party coalition government (1999-2002) where partners had diverse interests and ideological perspectives, the latter being a single-party government (2002-to date) originating from Islamic views traditionally renowned for their anti-European stance. As a good companion for the Harmonisation Laws see, *Avrupa Birliği Uyum Yasa Paketleri* (Harmonisation Laws Packages for the EU), Avrupa Birliği Genel Sekreterliği Siyasi İşler Dairesi Başkanlığı, 2004.

These arguments can be classified in terms of the degree of importance they attach to either the domestic or external factors.

For many⁴, democratisation has been possible only to the extent that EU incentives and power could influence the candidate country. Accordingly, a radical change in the structure and pace of democratisation in Turkey can be explained by the impetus provided by the EU. In other words, democratisation in Turkey has been made possible through EU conditionality where the EU has acted as a hegemonic power by means of its "carrot-and-stick" conditionality policy.

Thus, the approach shall lie within the domain of structural realist and contemporary "neorealist" political theories in explaining the patterns of democratisation process in the country. Similarly, "neo-liberal institutionalist" theories can also be placed in this context as they also share similar commitments with "neorealism" in attaching importance to the primacy and structure of the international system (systemic-level) and in paying serious credit to state power⁵.

Figure 1. Systemic-level explanation of democratisation "from above"



Neo-liberal institutionalism, while not wholly denigrating the value of a causal relationship at the domestic level, follows a "systemic level" analysis by emphasising the pervasive significance of international regimes and institutions⁶. The EU can possess such significance by imposing its norms on candidate countries under a negotiated cooperation. Whatever the case, democracy is only possible by means of an external catalyst of interstate relations that boosts the reform process "from above". As indicated in Figure 1, state institutions seek to satisfy the demands of an external force (i.e. the EU) and they may not necessarily reflect the views and expectations of domestic-level actors.

On the other hand, an alternative explanation in order to understand the democratisation process focuses on a totally different level of analysis, namely domestic actors and stakeholders. Accordingly, a country's democratisation is eventually an outcome of domestic-level interactions among political and economic factors.

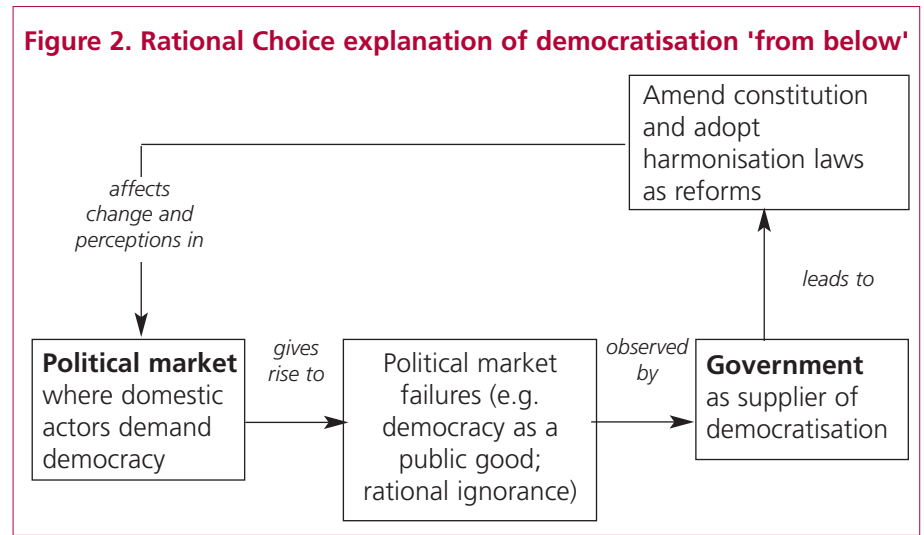
4 Thus, it may be argued that the EU conditionality depends on the external capability and influence of the EU. Hence, the authority of the EU makes itself felt on non-member/candidate countries either in cases where conditionality operates as a factor to shape institutions in candidate countries (see, for example, H. Grabbe, 'European Union Conditionality and the Acquis Communautaire', in *International Political Science Review*, Vol. 23(3), 2002); or in cases where conditionality performs the vital task of enforcement (see, for example, K. Smith, *The Making of EU Foreign Policy, The Case of Eastern Europe*, New York: St. Martin's Press, 1998.). For a more detailed analysis of the issue, see, L. Whitehead, *The International Dimensions of Democratisation: Europe and the Americas*, Oxford: Oxford University Press, 1999, and J. Hughes, G. Sasse, C. Gordon, 'Conditionality and Compliance in the EU's Eastward Enlargement', *Journal of Common Market Studies*, Vol. 42(3), 2004.

5 See, Keohane, Robert O, *After Hegemony: Cooperation and Discord in the World Political Economy*, (Princeton NJ: Princeton University Press, 1984); and Keohane, Robert O. and Nye, Joseph S., *Power and Interdependence: World Politics in Transition*, (Boston: Little, Brown Press, 1977. This is not to say that neo-liberals share the structural elements of realists. Actually they refer to non-power incentives affecting state choices under "systemic processes" such as changes in the world economic activities, technological innovations, alterations in international norms and institutions. In contrast to realism, neo-liberal institutionalist theory does not claim that "interests" are the products of international system but state interests derive from domestic agents. This signifies the "liberal" aspect of the theory. For a concise explanation of it see, Moravcsik, A., "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach", *Journal of Common Market Studies* 31(4), 1993.

6 Keohane, Robert O., *International Institutions and State Power: Essays in International Relations*, (Westview Press, 1989).

This dimension of analysis has two different but closely-related interpretations. The first interpretation approaches the problem by putting the domestic state and "its political institutions" at the center of analysis. According to this view, the state is insulated from the pressures of domestic as well as external forces. A democratisation process begins to occur only after being reviewed and processed coherently through the sensitivities of policy makers and politicians who try to maximise national interests. Several parameters including ideological perceptions, political leadership or individual values of national policymakers as predominant actors can be primary reasons for the change and pace of democratisation. In other words, Turkey's democratisation process is a result of the changed attitudes of policymakers. This dimension is not convincing unless the questions of how and why attitudes change over time are explained.

The second interpretation focuses its attention on the vitality and prominence of "social actors on the domestic level rather than the state and domestic institutions *per se*". The latter can also be influential but not as a supreme body that decides on the process alone⁷ (see, Figure 2). Rational Choice theory treats individuals and their coalitions as interest groups who are utility-maximizing agents⁸. For their part, politicians, seeking to maximize support, respond entrepreneurially to interest-group pressures by providing the desired public policies and actions.



7 This approach may have a variety of other names, "inter alia" public choice theory; social choice or positive political economy.

8 However, these actors are not abstract entities such as the state, society, and social classes. Instead, they constitute groups who share common goals and seek to promote them on different levels of state.

The axiomatic contributions of rational choice theory in comprehending democratisation processes within the context of EU enlargement are as follows. First, rational choice bases its methodology on the assumption that any individual acts as a "rational utility-maximising agent" that seeks to raise his/her self-interest⁹. Rational choice involves utility-maximisation where the rationally behaving actor prefers an option that yields the greatest welfare. Therefore, the relevant unit for study is the individual (methodological individualism). Pioneering studies¹⁰ in this field suggest that voters and their elected representatives express their self-interest in the political market in the same way that they act in economic life. In Downsian terms, each individual as a voter will vote or support for the political party that will bring to her/himself the greatest level of democratisation. Politicians (as elected representatives) who also want to maximise their interests, will respond to voters or public demands by granting democratic reforms. Bureaucrats would normally have several private interest maximising motives as opposed to the traditional view that bureaucrats follow the orders of their political superiors.

Second, individual preferences aside, like-minded people associate to form "interest groups" which express their demand for democratisation. In this way they minimise the "cost of collective action". However, the "free riding" problem remains - it is not possible to exclude people from the benefits of democratisation even though they might not invest in it¹¹. Therefore, the structure and motivations of interest groups in this process is significant.

Third, politicians and bureaucrats act as suppliers of democratic reforms where their actions are restrained by the political market. The expression of individual preferences is also limited by the "imperfections of the political market" - since actors are not always fully informed or the information on which they base their decisions is typically costly to acquire, they are often "rationally ignorant".

The role of an exogenous factor (i.e. the EU) could well be to minimise if not to

9 "Rational" describes means, not ends. It does not denote selfishness. Indeed, there is no guarantee that a selfish individual is more rational than an altruistic one. The term 'rationality' refers to an individual who can arrange the options s/he faces into a coherent order of preference (i.e. on the indifference curve) and make consistent choices among them.

10 See especially, Arrow, Kenneth J., "Social Choice and Individual Values", (New York: Wiley, 1951); Downs, Anthony, "An Economic Theory of Democracy", (New York: Harper & Row, 1957); Olson, Mancur, "The Logic of Collective Action: Public Goods and the Theory of Groups", (Cambridge, Mass.: Harvard University Press, 1965); and Buchanan, James M. and Gordon Tullock, "The Calculus of Consent: Logical Foundations of Constitutional Democracy", (Ann Arbor: University of Michigan State Press, 1967).

11 See, Olson (1965).

completely eliminate these imperfections. Therefore, the EU may become the factor which influences the assumed behaviour of domestic actors and their interplay within the domestic policy setting.

3. Political Market for Democratisation: Domestic Actors and Limitations in Turkey-EU Relations

Initially, a rational choice approach may seem to offer only a minimal contribution to the understanding of the democratisation process in Turkey. However, the existence of "EU conditionality" (democracy injected "from above" by means of an externally imposed political conditionality) does not constitute a deeper explanation alone. There are two compelling reasons for this. First, systemic-level explanations usually neglect the problem of ownership that may render EU conditionality ineffective. As Checkel argues; "conditionality... creates an ownership problem domestically. Reforms are seen to be the result of external imposition; the incentive to comply is lower given foreign domination of the reform process. Support for a policy change thus lacks a strong political base and compliance becomes problematic¹²".

Secondly, the outsider effect, no matter how influential, cannot suddenly interrupt or limit domestic social values, deeper beliefs and traditions which cause a delay in the democratic reform process. These beliefs and traditions are intrinsically embedded in the minds of the people. Even a strong reward such as the possibility of eventual membership may not guarantee compliance¹³. Similarly, historical effects can limit the efficacy of EU political conditionality. K. Smith claims that;

"External influence can never be overwhelming - third countries may be willing but unable to meet the externally-set conditions for a wide variety of reasons, including the negative influences of their past history (underdevelopment, entrenched conservative forces, and so on)¹⁴".

A return to rationality-based analysis "incorporating" the "external influence" in

the interest-based utility-maximisation functions of domestic actors offers a more convincing explanation. According to rational choice assumptions, domestic agents will demand and supply democratisation because they expect additional interest-maximisation from doing so. Hence, EU political conditionality can help several societal forces to defend their case for democratisation and the improvement of human rights, as long as the former is internalised (becomes endogenous). Arguments that praise EU conditionality (democracy from above) fail to understand that mere compliance with the EU guidelines does not guarantee the institutionalisation of democracy in Turkey "unless these guidelines are perceived by domestic actors and stakeholders as intrinsic values¹⁵".

In analysing the main actors in Turkey's recent democratisation process, we should note that there are two sides to the "market of democratisation": namely supply and demand.

3.1 Supply side analysis of democratisation in Turkey

The supply side of the market for democratisation comprises state and political institutions at executive, legislative and partly judicial levels. Their willingness to invest in democratisation is a function of the political benefit that accrues to them as suppliers. Political parties are at the centre of political institutions. They serve as the link between civil society and state institutions. Three main factors shape their willingness: the opportunity cost of such actions; the electoral consequences of the actions and their ideological preferences. The political support of parties for democratisation, liberalisation and individual freedoms goes back to the pre-Helsinki period¹⁶. Turkish political parties had different positions across the spectrum vis-à-vis democratisation and individual freedoms. Despite a general adherence by the left or right of centre mainstream parties to individual liberties, they were not passionate supporters due mainly to their embedded ideas, beliefs and perceptions about democratic developments with regard to issues traditionally conceived as core and sensitive to national unity, the secular nature of the state, nationally strategic-geopolitical postulations in Turkey and civilian-military relations.

12 Checkel, Jeffrey T., "Compliance and Conditionality", (ARENA Working Papers WP 00/18, Oslo, 2000), p.3.

13 Relevant to the compliance problem, note that Turkey was criticised for not properly implementing the democratic reforms that it legislated successfully. See for ex. Regular Report for Turkey in 2003, <http://www.europa.eu.int/comm/enlargement/report_2003/pdf/rr_tk_final.pdf>

14 Smith, Karen E., "The Conditional Offer of Membership as an Instrument of EU Foreign Policy: Reshaping Europe in the EU's Image", *Marmara Journal of European Studies*, 8(1-2), 2000, pp. 38-39.

15 Similar conclusions are available for CEECs. See, for example, A. Spendzharova, "Bringing Europe In? Impact of EU Conditionality on Bulgarian and Romanian Politics", *Southern European Politics*, 4 (2-3), 2003, and K. Topidi, 'The Limits of EU Conditionality: Minority Rights in Slovakia', <http://www.ecmi.de/jemie/download/Focus1-2003_Topidi.pdf> 2003.

16 Radical issues concerning civil and cultural rights and sensitive Kurdish issue has been a part of the agenda by left of the centre, Social Democratic Populist Party (SHP) of Erdal İnönü in early 1990's. The New Democracy Movement (Yeni Demokrasi Hareketi-YDH) was popular with its liberal manifesto urging a radical change in the regime.

The centre right, True Path Party (*Doğru Yol Partisi-DYP*) under the chairmanship of Tansu Çiller who served as Prime Minister for some time in the mid-1990s had been insistent on prioritising security issues over democratic rights and freedoms. Despite its political claim to be the follower of the traditions of Democratic Party with a civil-society oriented approach, the DYP has been an ardent supporter of national unity under a "statist-populist" argumentation that follows a Kemalist conception of nationalism and state-interventionist economic policies where the state is patriarchally considered as an essential element of social unity¹⁷. This led the DYP to follow a hypocritical policy - paying lip service to democratic values and individual freedom but stressing the primacy of the indivisibility of the country against threats emanating from democratisation and the extension of liberties.

The Motherland Party (*Anavatan Partisi-ANAP*) established by Özal had originally appeared as a new approach to Turkish political life, favouring a liberal economic policy and individual liberties. Its 'civil' character helped it to embrace different parts of society. Mesut Yılmaz, the leader of the party from 1993 to 2002, could not propose a clear vision as it continued to lose votes in elections. However, as representative of middle class urban interests, ANAP has had a more liberal attitude in defending the EU political criteria and a manifest pro-European position over core political topics¹⁸. Despite ANAP's eroding credibility, its anchoring to EU norms and values helped the government to make constitutional changes in 2001 and to pass harmonisation laws in 2002¹⁹.

The Nationalist Movement Party (*Milliyetçi Hareket Partisi-MHP*) has been the most significant among political parties to take part in an "anti-EU alliance" and acted as the opposition within the coalition government. The MHP's open criticism of the reforms was largely based on two factors. The first was related to the ideological perspective of the party, especially its sensitivity towards security issues and national unity concerns. This helped them to maximise the interests

of their supporters who seek to maintain political stability and the status quo as a safety valve against unexpected repercussions from democratic reforms. The second reason arose from fresh memories of the struggle against terrorism in the South-Eastern part of Turkey. The MHP's policy has been associated with the expectations of "families of martyrs" (*şehit aileleri*) i.e. the soldiers who died or were injured in clashes with PKK.

The Justice and Development Party (*Adalet ve Kalkınma Partisi-AKP*) came to power in November 2002 little more than a year after its establishment. Many of its members originated from the Islamist Welfare Party, including its Chairman Recep Tayyip Erdoğan²⁰. Its unexpectedly very pro-European attitude in favour of fulfilling the political criteria as suggested in Turkey's National Program and the adoption of Harmonisation Laws attracted a great deal of appreciation by Europhile groups in Turkey including the business community, human rights organisations and other NGO's and intellectuals and by the EU. As Öniş and Keyman (2004) put it rightly:

"Rather paradoxically, the AKP, in spite of its Islamic roots, emerged as the political party that appeared to display the type of commitment towards EU membership that was not visible in the case of any other political party on the right or left of the political spectrum... The new AKP government proved to be particularly vigorous in its push for EU membership in the two months leading up to the Copenhagen Summit of December 2002²¹".

In fact, it is not surprising that the AKP is in favour of EU membership. Its ideological followers have suffered from limited freedom of expression and democratic deficiencies in the past²². It is ironic that its leader, Erdoğan, was not an MP as he could not become candidate in the elections having previously been

20 The AKP government attracted great suspicion among secular circles including the military and the media. The statements by leading figures of the party in favour of liberal values and a peaceful approach to the very principles of the Republic, especially their modest tone over the secular nature of the state were approached with reservation. Therefore, it was largely alleged that AKP was hypocritical (*takkiyecî*).

21 Öniş, Ziya and Keyman, Fuat, "Helsinki, Copenhagen and Beyond: Challenges to the New Europe and the Turkish Case", in In Mehmet Uğur and Nergis Canefe, eds., "*Turkey and European Integration: Prospects and Issues in the Post-Helsinki Era*", (London: Routledge, 2004)

22 As Fuller, Graham E., "Turkey's Strategic Model: Myths and Realities", *Washington Quarterly*, 27 (3), 2004 observes politicians with Islamic orientation have for long criticised the pressure of the military on the political life by preventing their representative power, and therefore considered the EU-related reform agenda conforming their interests.

17 Erdoğan, M., "*Liberal Toplum Liberal Siyaset*" (Liberal Society Liberal Politics), (Ankara: Siyasal Kitabevi, 1998), p. 311.

18 Öniş, Z., "Domestic Politics, International Norms and Challenges to the State: Turkey-EU Relations in the Post-Helsinki Era", *Turkish Studies*, 4 (1), 2003.

19 Yılmaz statement that "the path to the EU passes from Diyarbakır" (AB Yolu Diyarbakır'dan Geçer) was meaningful as it implies that EU membership is only possible by improving human and cultural rights especially associated with the South-Eastern part of Turkey -populated mainly by citizens of Kurdish-origin -which had long suffered from violations of democratic norms. Diyarbakır is the largest city in the region.

politically banned. As Gül, The Foreign Minister once emphasised “*We now want to become a full member. We realize that without integration into Europe, democratic standards of human rights cannot be achieved in this country*”²³. Therefore, the change in attitude is understandable. Indeed, several core issues were resolved and subjects that had been taboo were handled including the status of the National Security Council and civilian-military relations, Cyprus question, broadcasting in the Kurdish language and a re-trial possibility for Leyla Zana and other Kurdish-origin politicians jailed for separatist reasons.

On the left side of the spectrum, the Democratic Party of the Left (*Democratic Sol Parti-DSP*) headed by Bülent Ecevit, had been the leading party of the coalition government. The party can be characterised by its bizarre compromise of nationalist instincts and reformist policies. Several of its MPs including İsmail Cem, the then foreign minister, and Kemal Derviş, then economy minister had a “pro-EU outlook” and were prominent supporters of the democratisation process. At the same time, many of its members had strong statist and nationalist views²⁴. Furthermore, the DSP had to maintain the delicate balance between its coalition partners, namely the ANAP (supportive of the EU-related reform agenda) and the MHP (with a Eurosceptic outlook). This fragile balance did not prevent DSP taking necessary actions for the adoption of the first two harmonisation laws including amendments of several articles of the Turkish Penal Code and Anti-terrorism Act that were severely restricting freedoms and the annulment of the provision banning the publication in “forbidden languages” in the Press Law.

The Republican People's Party (*Cumhuriyet Halk Partisi-CHP*), which considers itself to be “social-democrat”, acted as the party defending the Kemalist ideology. Its capacity to represent societal demands is reduced due to its insistence on the bureaucratic, secular and elitist nature of the state which effectively impedes civil and political liberties²⁵. The notion of modernisation under the rubric of its “civilised” and “progressive” character had differences from the

universal understanding of democracy and liberties. Therefore, the CHP's call for democratisation put it into a position of 'contingent democrat' that allows democracy only to the extent it does not distort the elitist ideological view. However, the CHP was supportive of the AKP for the Harmonisation Laws when it was the main opposition party in the Parliament.

“*The military*” as a state institution has been extensively involved in the EU debate especially within the context of the political criteria in Turkey. Its self-defined role to preserve the unity of the country vis-à-vis separatist and fundamentalist religious movements has been a commonly accepted reality with little or no opposition from mainstream political parties and civil society for a long time. On the other hand, the military had a traditionally high commitment to “westernisation” or “modernisation” as proposed by the principles of Atatürk. This places the military in a dilemma caught between protecting the national interests on the one hand and defending civil and political liberties on the other. Despite its interventionist position, the military has kept a low profile in core political and sensitive matters such as Öcalan's sentence, broadcasting in the Kurdish language, the minority foundations and the Cyprus issue. Needless to say, the sensitivity of the military concerning developments about religious freedoms such as the presence of women wearing headscarves in public buildings remained unchanged. In sum, it is evident that the military prefers not to intervene in the political arena except in cases where there is a deep contrast between them and the civilians²⁶.

3.2 Demands for democratisation in Turkey

A major part of Turkish society is currently able to express itself through civil initiatives. Nevertheless, a collective consciousness in favour of the reforms was limited among the public until the 1990's. The conditions and institutional structures created by the 1982 Constitution -which increased the marginal cost of lobbying for democratisation - have largely prevented civil society from taking part in an active struggle for democracy. Several NGOs, whilst effective, have little incentive to add this issue to their agenda. Selective issues concerning the prevention of human rights violations were generally raised by tiny human rights organisations. Civil society organisations remained silent, though not totally ignorant. The reasons for this are mainly the “*interests, ideas and values*” that are intrinsic in civil society organisations' utility functions as well as the “*difficulties*” inherent in changing the status quo unless “political market imperfections” are eliminated. The following challenges could explain these arguments.

26 See, Duner and Deverell (2001).

23 Duner, Bertil and Deverell, Edward, 'Country Cousin: Turkey, The European Union and Human Rights', *Turkish Studies*, 2 (1), 2001.

24 See, Öniş (2003).

25 It is interesting that a large number of citizens who are urbanised, better educated and at a relatively higher welfare level and who regard themselves as the modern face of Turkey, consider the CHP to be the party representing them and as the guarantor for the 'acquis' of modern Turkish Republic. On the other hand, they support the EU membership and EU-related reform agenda in practice.

First, because there are significant costs involved in lobbying and because the objective of "democratisation" has the characteristics of a "public good", individuals and NGOs received relatively limited rewards for any direct lobbying efforts²⁷. For individual citizens in particular, the marginal costs of lobbying were likely to outweigh the perceived marginal benefits over much of the relevant range of lobbying activity. For interest groupings, on the other hand, the dilemma of collective action has been a big challenge because of the free-rider problem - individuals and members of groups ultimately benefit from the rewards of lobbying without really contributing to it, hoping instead to free ride on the efforts of others who seek the improvement of civil liberties. In civil society, a limited number of small business groups and policy think-tanks with narrow incentives to free ride have managed to minimise organisational costs for collective action²⁸.

The second motive is relevant with the "keeping the status quo" approach by several interest groups whose utility functions are largely determined by their relationship with the state. The incentive to change the status quo was lower due to their symbiotic relationship with the redistributive state and its values. It is clear that Turkey's economic system allows a high degree of "dependency on the state" by domestic business groups because of generous borrowing possibilities from state banks, subsidies for industrial undertakings, state aids to prevent liquidation for companies, loans to government with high rates of return, governmental bids and export refunds and subsidies²⁹. The military has also been immune from the democratic critiques of business groups mainly because it was a giant buyer through its lucrative tendering bids. As Öniş and Türem observe:

"It is a well known fact that the military is an important economic actor in the Turkish context and that significant interlinkages exist between the activities of the military and those of a number of large private firms. Consequently... (there is a difficulty of) challenging the state and the military even for big business

which enjoys a position as a key source of capital accumulation in Turkish society³⁰".

A previous study³¹ which analysed the attitudes of Turkish interest groups with regard to the European Union observed that "security" was the major preoccupation for several leading business groups and trade unions, ranking far ahead of the guarantee of freedom of thought and expression or other civil liberties. Therefore, the interests of business groups did not encourage them to take an active role in reforms in the democratic realm.

The third motive concerns ideas. One embedded idea is that the dream of EU membership should not endanger "national unity" and the "indivisibility" of the country. This corporatist philosophy has been influential even among NGOs which were supposed to be the most ardent supporters of improving democratic standards³².

In fact, interests and ideas have been influential in the perception of democratisation. A narrower definition of democracy and a weaker degree of commitment constituted major problems on the demand side. In the domestic sphere, civil organisations including leftist professional bodies, bar associations, trade unions and others with Kemalist views who consider themselves as modernist and progressive have been indifferent to religious or ethnic claims on the basis of their commitment to Kemalist secularism and nationalism³³. On the other hand, many conservative groups perceived the democratisation process as a

30 Öniş, Ziya and Türem, Umut, "Business, Globalisation and Democracy: A Comparative Analysis of Four Turkish Business Associations", paper presented at the Conference on 'Political Parties, Civil Society and Democracy', Bilkent University, Ankara (27-28 April 2001), pp.20-21.

31 Ayberk, U. and Boduroğlu, E., "Turkish Interest Groups Facing the European Community", *Yapı Kredi Economic Review*, 3 (2), 1989, p. 137.

32 One example has been the case of Türk-İş as the widest trade union which claimed in a Declaration as late as 2001 that: "As proved by the national Independence War, democratisation shall be possible only via independence and national sovereignty. When the requirements of the EU (for example on liberties for minorities or for the Kurdish issue) harm our independence and national sovereignty, it is not possible to mention a genuine democratisation process. We face an agenda aiming to resurrect the Sevres Agreement under the name of democratisation and human rights".

33 The Turkish Bar Association prevented their women members as lawyers practicing their profession if they wear headscarves during their presence in the courts. Çağdaş Yaşamı Destekleme Derneği (Association for the Support of Modern Life) has similar views in its internet <<http://www.cydd.org.tr/?sayfa=haberac&id=149>> and claims that secularism is under attack.

27 Dunleavy, Patrick, "Democracy, Bureaucracy and Public Choice", (New York: Prentice Hall, 1992)

28 TUSIAD (Turkish Industrialists' and Businessmen's Association) has been the most eager NGO emphasising the idea of democracy and liberalisation of the economy. It published two similar reports about democratisation; "Perspectives on Democratisation in Turkey" in 1997 and "Raising Democratic Standards in Turkey: Debates and Latest developments" in 1999.

29 For an analysis of state-business relations see, Buğra A., "State and Business in Modern Turkey: A Comparative Study", (Albany: University of New York Press, 1994)

movement that relates solely to religious rights and freedoms³⁴. Therefore, most interest groups approached the issue of freedoms on a selective basis rather than having a "democracy for everybody" approach.

4. Rationalistic vs. non-rationalistic elements in preference

The rational choice perspective of democratisation can be criticised for placing too much emphasis on the Downsian interest maximising model of the government and the dominant role of domestic actors who are "rational" utility maximising agents, without really understanding the significant inference by exogenous factors under an international negotiated cooperation as argued in neo-liberal institutionalist perspective. This criticism is misplaced in two respects.

First, the rational choice perspective does not necessarily reject the notion that individuals possess internalised values or ideologies. As argued by many pioneers of the public choice approach, like Frey, the "*intrinsic motivation*" is one factor in explaining human behaviour that traditional rational actor models have difficulty in explaining³⁵. The dynamics of modern life and developments in global economic and political norms may alter the perception of agents. The global rise of values such as accountability, transparency and "good" governance, the optimal state in the economy and total quality management have been influential factors and ideas on domestic agents that are adversely affected by political instability, successive economic crises and corruption, a deficient judicial system etc. and who are looking for a new definition of the state-individual relationship³⁶. The EU process³⁷ is a part of the global phenomenon that affects the intrinsic motivation of actors and their values and ideas.

34 MUSIAD (Independent Association of Industrialists and Businessmen) representing mostly small and medium sized entrepreneurs with conservative and Islamic views, Mazlum-Der, an Islamic-oriented human rights organisation as well as the conservative media in their statements and reports usually challenge the secular understanding of the state and protest the violations of rights associated with religious beliefs such as the situation of headscarved girls that are refused admission to universities, the role of the military etc. The Mazlum-Der website usually refer to issues having such orientations (see, <http://www.mazlumder.org/english/mainpage.htm>)

35 On this point see, B. Frey, "*Not Just for Money*", (Cheltenham: Edgar Elgar), 1997.

36 Note for example that the attitude of TUSIAD towards democratisation has changed considerably as its members became more oriented towards global competition which requires the acceptance of global democratic norms. This explains how changing habits and values become intrinsic for the interests. See, Öniş and Türem (2001).

37 By the term "EU process", we mean the statehood in which the EU candidacy and membership expectations have implications on attitudes of actors in Turkey.

Secondly, the rational actor is not immune from "rational ignorance". Indeed, limited information of domestic actors about priorities of politicians may lead to a situation in which their interests diverge. This illustrates why political parties did not take necessary initiatives for a long time even though democratisation was in favour of the interests of their constituents. The EU process was important in reducing the information costs for many domestic actors because it helped to reduce the marginal cost of lobbying for democratisation.

5. Internalisation of Democratic Values in Turkey and the EU: A Change "From Below"

EU pressure "from above" by means of traditional methods of democracy promotion like intergovernmental bargaining, diplomacy, coercion, technical aids or trade (or the mere existence of the membership as carrot at the end of the process) cannot provide a sustainable democracy. According to a rational choice approach, EU conditionality shall only be effective and supportive if domestic actors "*internalise*" democratic norms and add them to their utility functions. EU involvement helped the democratisation "from below" in two different ways.

5.1 Spontaneous internalisation

In several cases the EU constitutes a role model for different domestic actors to defend their rights and democratic progress. The EU does it spontaneously without any improvisations. The mere existence of the EU process can be sufficient to activate domestic actors. "*The EU process helps to set the agenda and provides for interest linkage among the domestic actors in the market for democratisation*". It can be argued that the European Union with its exogenous character acts as an agenda setter, serving to "tie the hands" of domestic policy makers and undercut challenges from those that resist reforms. In several cases, a reference to the EU is a starting point for policy makers and various interest groups to change the status quo. The EU "*acquis*", for example, helped the passing of several domestic laws in fields ranging from banking regulations to food safety. It became a habit for many public and private institutions to refer to EU rules in their own area when they wanted to challenge issues they deemed incompatible with their interests. A reference to EU practice - in a society where the majority of people are in favour of EU accession - is an efficient and forceful weapon in bringing issues into discussion.

The EU facilitated the linking of interests within or across issue areas and groups and helped to raise the possibility of the enactment of laws and regulations which would otherwise be impossible. Democratisation packages have been conceivable with the support of different political groups that converged around a shared ideal of the promotion of democratic rights. Hence, the common umbrella of the EU process constituted a locus of interest linkage³⁸. In this context, the EU process made different interests more legitimate in the eyes of the suppliers who perceive EU membership as a good political victory.

5.2 Contrived internalisation

The EU process is in many cases not sufficient. The involvement of the "EU itself" may be necessary in stimulating the domestic dynamism for democratisation. The role of the EU shall be decisive in motivating a society to participate in the democratisation process "from below". The EU may help to reduce the political market failures such as rational ignorance and free riding by means of disseminating ideas; to stimulate the learning process; to help civil society to develop itself and to create social assertiveness. The EU herewith helps in "reducing the marginal cost of lobbying" for domestic actors. Hence, the EU creates a social awareness demand side to change the perceptions and utility functions of domestic actors. The encouragement of several NGOs, civil groups and associations through EU assistance and aids were clear signals for the increase in lobbying activities and pressures for democratisation. This not only provided an increase "in the level of awareness", but also "lowered the costs of association and coordination". The EU can also help civil society to monitor the compatibility of governmental actions and policies with the Accession Partnership document and the commitments in the National Program³⁹.

The assistance of the EU in educating people about their individual rights and freedoms via sponsored courses, seminars, projects and public activities such as

the training of school teachers and police officers on human rights contribute to increasing information and minimising rational ignorance. The involvement of the EU as an external actor in the reform process is also plausible in order to motivate various public policy institutes and think-tanks for "political issue entrepreneurship". These institutions are forceful in improving public policy and in informing the public about democratisation. They also help in generating political advocacy, educating people, advising policy makers about the needs of their constituents⁴⁰ and thereby incorporating the ideas and values as intrinsic motivation into the utility maximising functions of individuals. Think-tanks enjoying EU support have played essential roles in the EU-related reform agenda concerning democratisation⁴¹. They were also effective in "political institution building". The aim here is to secure democratic stability by making the state politically more effective and by orienting political behaviour into a stable and more predictable pattern⁴².

6. Conclusions

The aggregate outcome of democracy is related to the process where elected governments and policy makers act consistently in line with the desires of individual citizens and interest groups. EU conditionality "from above" cannot provide a sustainable democracy unless it is incorporated into the utility maximisation function of individuals who act from a departure point of self-seeking reasons. EU involvement, on the other hand, can be operative if it provides a belief

40 Cornell, Thomas F., "Ideas Into Action: Think Tanks and Democracy", Economic Reform Today, 5th anniversary issue, CIPE, 1996.

41 Most notable of these were TESEV (Turkish Economic and Social Studies Foundation), LDT (Liberal Thinking Association), the An Movement, and the Turkish Democracy Foundation to name but a few. However, we cannot claim that their activities were limited to their relationship with the EU. Most of them had been established before Turkey's candidacy status in the Helsinki Summit and even the Copenhagen criteria were established. Moreover, the EU itself is not the only external actor involved in the process. Several international actors like German political foundations and international NGOs have played substantial roles. For the role of think-tanks in general see, Johnson, E. C., "How Think Tanks Improve Public Policy", Economic Reform Today, 5th anniversary issue, CIPE, 1996.

42 For a good analysis of political institution building by the EU in Turkey see, Lundgren, A., "The European Union as a Democracy-promoter" in Özdalga, E. "Civil Society and Its Enemies", in E. Özdalga and S. Persson, eds., Civil Society, Democracy, and the Muslim World, (Istanbul: Swedish Research Institute, 1997) which also emphasises the shortcomings of the EU's policy compared to its role in Poland.

38 A common declaration by 175 civil society organisations under the name of the "Turkish Civil Society Platform" in mid-2002 for the adoption of democratisation packages urged the government to adopt harmonisation laws promptly. The Platform consisted of a wide-ranging organisations from the business sector to trade unions, professional associations including craftsmen and farmers, universities, consumer and environmental groups, women associations, think tanks and other NGO's as well as journalists. In the Declaration titled "Turkey's Place is in Europe. We Have no Time to Lose", the Platform emphasised their support for democratisation.

39 This can be referred to as moral policing.

formation and changes the motivation underlying individuals' actions guided by self-interests. The EU can also help to redress political market imperfections such as free riding, rational ignorance, the cost of coordination and collective action problem in different ways in order to activate domestic actors for democratisation "from below". Therefore, a neo-liberal institutionalist approach focusing mainly on the systemic level of international relations falls short of explaining the dynamics of domestic actors' involvement. However, the rational choice perspective provides an ample analysis of the democratisation process in Turkey in the context of its integration to the EU.

Le Nouveau Code Penal Turc dans le Processus D'adhésion de la Turquie à l'Union Europeenne

Selahaddin Murat Sesen¹

Résumé

La Turquie a réalisé beaucoup de réformes en vue de faciliter son adhésion future à l'Union Européenne et de réaliser l'harmonisation de sa législation avec les critères de Copenhague. L'une de ces réformes est l'adoption du nouveau code pénal en septembre 2004. Le nouveau code adopte des normes européennes modernes conformes à l'évolution récente du droit pénal dans de nombreux pays européens. Les sanctions contre certaines violations des droits de l'homme ont été renforcées et l'évolution récente en matière du droit pénal international, telle que le génocide et les crimes contre l'humanité, a été adoptée. Le nouveau code pénal criminalise la discrimination en motif de sexe, origine ethnique, race, situation de famille, opinions politiques, croyances philosophiques et appartenance à un syndicat. En outre le nouveau crime de l'utilisation abusive des données à caractères personnels a été codifié. L'article montre que malgré les progrès considérables accomplis dans la mise en oeuvre des réformes juridiques, celles-ci doivent encore être consolidées et étendues. En plus, il est trop tôt pour examiner les conséquences de ces réformes étant donné que le nouveau système pénal composé du code pénal, du code de la procédure pénale et de la loi sur l'exécution des peines, n'entrera en vigueur que le 1er avril 2005.

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

réformes constitutionnelles et législatives ont été adoptées. Celles-ci comprennent la suppression des dispositions concernant la peine de la mort, le renforcement de l'égalité entre les sexes, l'affirmation de la liberté d'expression, l'approchement du système judiciaire aux normes européennes, l'établissement de la primauté des traités internationaux sur les lois dans le domaine des droits de l'homme et particulièrement, la promulgation du nouveau code pénal. Plus précisément, l'année 2004, a été très fructueuse concernant les réformes d'harmonisation du droit turc aux critères de Copenhague.

La Suppression des Cours de sûreté de l'Etat

Dans le contexte de l'ensemble des modifications constitutionnelles adoptées lors de la première moitié de l'année, les Cours de sûreté de l'État ont été supprimées en mai². La compétence pour juger de la plupart des infractions qui, jusqu'à présent, relevait des Cours de sûreté de l'État³ a été transférée aux cours d'assises régionales récemment créées, chargées des infractions majeures. Certaines infractions dont les Cours de sûreté de l'État avaient auparavant à connaître en vertu notamment de l'article 312 du code pénal⁴, relèvent désormais de la compétence des cours chargées des infractions majeures déjà existantes. Les règles de procédure appliquées par les cours d'assises régionales chargées des infractions majeures sont semblables à celles appliquées par les autres cours d'assises ordinaires. Mais il y a deux différences: les premières exercent leur compétence sur une zone géographique plus étendue et la période maximale de garde à vue⁵ est de quarante-huit heures et non de vingt-quatre heures (ce qui est le cas pour les cours ordinaires). La fonction de Procureur général des Cours de sûreté de l'État a, elle aussi, été supprimée; les poursuites devant les cours régionales chargées des infractions majeures sont

engagées par le Parquet général. Les suspects devant les deux types de cours chargées des infractions majeures bénéficient des mêmes droits, en particulier celui de consulter un avocat dès le début de leur incarcération.

Une autre réforme constitutionnelle

Une autre modification constitutionnelle adoptée en mai 2004 introduit un amendement à l'article 90 de la Constitution turque. Par cet amendement, la hiérarchie des normes a été changée au profit du principe de la primauté des traités internationaux concernant les droits de l'homme sur la législation nationale (surtout les lois) et vise particulièrement à donner un effet direct à la Convention Européenne des Droits de l'homme en le droit interne.

Le Processus de l'Adoption du Nouveau Code Pénal

Si les constitutions sont des textes fondamentaux pour une nation, les lois pénales et surtout les codes pénaux, ont aussi beaucoup d'importance. En réalité, les libertés fondamentales octroyées aux personnes par les constitutions prennent leur sens si elles sont réglementées par les codes pénaux. A vrai dire, ce sont les codes pénaux qui concrétisent les libertés fondamentales; dans ce contexte, ils sont les vrais miroirs des régimes politiques des pays. C'est à cause de cette réalité que l'Union Européenne a insisté pour l'adoption d'un nouveau code pénal⁶ et a mis la pression sur la Turquie qui avait toutefois déjà réformé sa législation.

Face à cette réalité, le Parlement turc s'est réuni en séance extraordinaire, le dimanche 26 septembre 2004, pour aborder la réforme du Code pénal, dont le retard d'adoption menaçait les espoirs de la Turquie d'ouvrir les négociations d'adhésion à l'Union Européenne. Ce nouveau code, destiné à satisfaire les critères européens sur le droit pénal, entrera en vigueur le 1^{er} avril 2005, et sera destiné à abroger le Code pénal turc, vieux de 79 ans et inspiré de la législation italienne sous le régime fasciste de Benito Mussolini.

En réalité, la nécessité de changer le code pénal est apparue dès le milieu du 20^{ème} siècle. La première commission a pourtant été formée au sein du Ministère de la justice sous la présidence du fameux pénaliste turc Ord. Prof. Dr. Sulhi Dönmezer en 1987. Trois autres commissions ont succédé à celle-ci et deux

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

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

4 L'article 312 du code pénal turc se réfère au crime de l'incitation à la haine raciale, ethnique ou religieuse, qui était vue par l'Union européenne comme la base juridique de la condamnation des intellectuelles turques.

5 C'est à dire la période entre l'arrestation du suspect et la mise en examen juridique du celui-ci.

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

grands avant-projets⁷ du code pénal ont été préparés. Cependant, face à l'absence d'une réelle volonté politique, ces projets sont devenus caducs.

Les choses ont changé après la venue au pouvoir du parti de la Justice et du Développement⁸ (AKP). Le nouveau gouvernement avait signalé qu'il avait l'intention de réformer le système pénal. Le dernier avant-projet du code pénal préparé sous la présidence de Ord. Prof. Dr. Sulhi Dönmezer⁹ a été envoyé au Parlement comme le projet du gouvernement. La préparation du projet du nouveau code pénal a été confiée à "la sous-commission de la Justice" du Parlement turc qui a soumis un nouveau projet complètement différent des autres avant-projets¹⁰. Les académiciens et les juges n'ont guère été consultés¹¹, et dans une période de huit mois, le projet du code pénal a été préparé par la commission. Après avoir été adopté par la sous-commission, le texte du nouveau code a subi ses dernières retouches dans la Commission de la justice du Parlement turc.

Le code a été envoyé par cette dernière Commission à l'Assemblée Générale du Parlement au début du mois septembre. La procédure d'adoption du nouveau code n'était pas aisée. Le 16 septembre 2004, le texte du code pénal était sur le point d'être approuvé par l'Assemblée lorsque le Premier ministre, Recep Tayyip Erdoğan, l'a retiré à la surprise générale. La démarche, opérée sous la pression des éléments islamistes les plus radicaux du Parti de la justice et du développement, a déclenché une crise entre Ankara et Bruxelles. En effet, le Parti de la justice et du développement issu du mouvement islamiste avait de nouveau proposé l'amendement destiné à criminaliser l'infidélité sexuelle en punissant l'adultère de six mois à un an de prison. L'insertion de cet article dans le projet du nouveau code pénal avait été vivement critiquée par les médias, les organisations féministes turques et par Bruxelles, qui avait même déclaré que

l'adoption de cet article porterait atteinte à la perception qu'on avait dans l'Union de l'effort dans l'adoption des réformes en Turquie. Cependant, le Premier ministre Recep Tayyip Erdoğan avait aussitôt affirmé que l'Union Européenne ne pouvait s'immiscer dans les affaires intérieures turques¹². La Commission européenne devrait présenter le 6 octobre un rapport sur les progrès réalisés par la Turquie sur la voie de la démocratie et présenter une recommandation aux dirigeants européens, dont la réunion avait été prévue pour le 17 décembre pour décider si les conditions étaient réunies pour entamer les négociations d'adhésion¹³. Mais ces pourparlers ne pourraient commencer que si la Turquie renonçait à adopter un code pénal criminalisant l'adultère. Or l'examen par le Parlement turc de ce texte avait été suspendu, plongeant les Européens dans l'incertitude¹⁴. Le vendredi 24 septembre 2004, les députés ont été convoqués d'urgence après que M. Erdoğan eut accepté d'abandonner l'article controversé sur l'adultère, mettant fin des tensions avec Bruxelles. Devant la levée de boucliers des pays européens et de l'opinion publique turque, le Parlement avait renoncé à inclure l'article réprimant l'adultère dans le nouveau code et a adopté le nouveau code le 26 septembre 2004¹⁵. La Commission européenne a publié son rapport le 6 octobre, qui recommandait l'ouverture de pourparlers d'adhésion avec la Turquie¹⁶, officiellement candidate depuis 1999. C'est en se fondant sur ce rapport que les dirigeants des 25 États membres de l'UE se sont favorablement prononcés pour l'ouverture de pourparlers d'adhésion lors du sommet du 17 décembre 2004.

L'apport du Nouveau Code

D'une manière générale, le nouveau code adopte des normes européennes modernes conformes à l'évolution récente du droit pénal dans de nombreux pays européens¹⁷. Les sanctions contre certaines violations des droits de l'homme ont été renforcées et l'évolution récente en matière de droit pénal international, telles que le génocide et les crimes contre l'humanité, a été adoptée. Par ailleurs,

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

8 Adalet ve Kalkınma Partisi

9 Appelé par la doctrine turque "l'avant-projet de 2001".

10 A peu près 80% des dispositions du projet du gouvernement n'étaient pas admises par la sous-commission.

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

12 www.lalibre.be(20.09.2004).

13 L'UE comptait notamment sur le projet du nouveau code pénal, plus libéral que l'ancien pour prendre sa décision. L'ancien code pénal date de 1926 et il est basé sur le code pénal de l'Italie de Zanardelli de 1889.

14 <http://www.ledevoir.com/2004/09/22/64327.html>.

15 Selon le commissaire européen à l'Élargissement, Guenter Verheugen, il n'y avait plus d'obstacles à une recommandation favorable de la Commission pour l'adhésion de la Turquie à l'UE.

16 L'influence de l'adoption du nouveau code pénal turc sur ce rapport favorable à la Turquie n'est pas négligeable.

17 A vrai dire, le nouveau code est une mixte des codes français, espagnols, allemands, italiens et même russes; donc dépourvu d'une cohérence entre les différents articles.

le nouveau code pénal criminalise la discrimination pour des raisons de sexe, origine ethnique, race, la situation familiale, opinions politiques, croyances philosophiques et appartenance à un syndicat. En outre le nouveau crime de l'utilisation abusive des données à caractère personnel a été créé.

Les sanctions pénales dans le nouveau code pénal

En matière de sanctions pénales, le nouveau code pénal ne prévoit dans aucune de ses dispositions la peine de la mort. Au lieu de cette sanction, on peut remarquer dans les dispositions concernant le génocide, les crimes contre l'humanité, l'homicide, la torture résultant dans le décès de la victime, que la peine encourue est généralement la prison à perpétuité. On peut aussi remarquer un alourdissement des peines de prisons prévues pour les mêmes crimes dans le nouveau code pénal. Par exemple, l'homicide volontaire ne connaît que la prison à perpétuité et ou encore la prison à perpétuité aggravée¹⁸ pour certaines modalités de commission de ce crime (ex. l'homicide commis par le mobile de la tradition ou de la coutume). Quant aux peines pécuniaires, le nouveau code introduit la première fois le système de jour-amende¹⁹ dans la législation turque. Le nouveau code pénal prévoit un plafond de 730 pour le jour-amende sauf exception. En droit comparé le plafond du jour-amende sont très variables. Au Danemark, par exemple, le plafond est de 60 jours²⁰, pour la Finlande 120 et pour l'Allemagne 360²¹. Or, dans la plupart des dispositions du nouveau code pénal turc le plafond de 730 jours a été dépassé allant jusqu'à 1000 jours, voire 10000 jours-amendes, ce qui pourrait s'avérer trop lourd pour le patrimoine de l'accusé. Dans ce contexte, l'exécution de la peine de jour-amende peut devenir pour l'accusé, une sorte de confiscation générale prohibée par l'article 38 de la Constitution turque.

La liberté d'expression

En ce qui concerne la liberté d'expression les dispositions 216, 301 et 305 sont importantes. L'article 216 du nouveau code pénal s'inspire largement l'article

312 de l'actuel code pénal. Il consiste dans le crime d'incitation à la haine raciale, ethnique ou religieuse au sein du peuple. Cet article stipule que nul ne peut être condamné en vertu de cet article que si leur incitation à l'hostilité et à la haine constitue un danger évident et proche pour l'ordre public. Il y a pourtant une différence importante entre l'article 312 de l'actuel code et l'article 216 du nouveau code. Alors que le code actuel prévoit la possibilité d'un danger évident et proche, dans le nouveau code le crime est considéré commis si le danger est réellement apparu. On peut donc voir, en théorie, une amélioration de la liberté d'expression dans le nouveau code grâce aux changements d'élément matériel de ce crime en faveur des libertés individuelles, mais il faut attendre jusqu'à la deuxième moitié de l'année 2006 pour que l'application du nouveau code dans ce sujet se consolide²².

L'article 301 du nouveau code pénal correspond à l'article 159 de l'actuel code pénal. L'article 159 se réfère à l'offense contre l'État et les institutions étatiques, ce qui a attiré beaucoup de critiques en Europe, car avec l'article 312, il représentait un des fondements pour condamner des intellectuels turcs qui critiquaient fortement l'État et ses institutions fondamentales (telles que le parlement, le gouvernement et même l'armée turque). Cette disposition contre la République turque et le Parlement a été réglemantée explicitement. Auparavant la Cour de Cassation admettait la possibilité de la commission de ce crime contre ces institutions par voie de jurisprudence²³. Deuxièmement, l'offense contre ces institutions consiste dans le type aggravé du crime. Et troisièmement, le terme "l'offense contre la personnalité morale du pouvoir judiciaire" devient "l'offense contre les organes judiciaires²⁴". On peut donc voir une expansion du domaine du crime. Car, auparavant, par la voie de jurisprudence, on admettait que le crime était considéré commis si l'offense avait eu lieu contre tout le système judiciaire (la personnalité morale du pouvoir judiciaire). Mais, maintenant, même l'offense contre un tribunal peut entrer dans le champ de ce crime parce que ce tribunal est un organe judiciaire.

18 La prison à perpétuité aggravée différemment de la prison à perpétuité ordinaire prévoit un régime sécuritaire extraordinaire d'exécution de la peine dans des cellules isolées pour une période fixée par le juge (l'art. 47 du nouveau code pénal).

19 En matière du jour-amende, le juge procède à deux opérations intellectuelles. Dans un premier temps, il doit arrêter le nombre de jour-amende dont le plafond est limité par la loi; et dans un deuxième temps, le juge détermine le montant de chaque jour-amende dont le plafond est aussi fixé par la loi et en tenant compte les ressources et les charges de l'accusé.

20 Jean Pradel, *Traité de Droit Pénal*, Tome 1, 12^{ème} édition, éditions Cujas, Paris, 1999, p.587.

21 Emin Artuk-Ahmet Gökçen-Caner Yenidünya, *Ceza Hukuku Genel Hükümler II (Yaptırım Hukuku)*, Ankara, 2003, p. 126.

22 La Cour européenne des droits de l'homme, lorsqu'elle évalue les affaires concernant la liberté d'expression cherche de la part de la justice d'un pays membre de déterminer si l'expression incite à la violence, à la rébellion armée ou à l'hostilité. Elle essaye aussi d'analyser la capacité de la personne ou du groupe à influencer le public et la possibilité de réponse à la personne qui est visée par l'expression en question.

23 La Cour de Cassation avait donc élargi le champ d'application de la norme par voie d'interprétation extensive.

24 Eylem Aksoy, "Milletle ve Devlete Karşı Suçlar", in *Türk Ceza Kanunu Tasarısı Türk Ceza Hukuku Derneği Toplantısı- İstanbul Barosu-Türk Ceza Hukuku Derneği Toplantısı*, İstanbul Barosu- Galatasaray Üniversitesi- Türk Ceza Hukuku Derneği Ortak Yayını, İstanbul, 2004, p.66.

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

Le Parlement européen a voté, mercredi 15 décembre 2004, une résolution dans laquelle les eurodéputés demandent, entre autres, l'abrogation immédiate de cet article, qu'ils jugent incompatible avec la Convention de sauvegarde des droits de l'homme et des libertés fondamentales de 1950²⁵. L'origine de ce problème réside dans la différence entre le projet du nouveau code pénal et le texte définitif adopté. Le dernier aliéna de l'article 31 O²⁶ du projet du nouveau code pénal définissait beaucoup plus largement "les intérêts nationaux fondamentaux"; les concepts vagues tels que "le bien-être du peuple turc" étaient considérés parmi "les intérêts nationaux fondamentaux". Dans le texte définitif du nouveau code pénal adopté par le Parlement, le domaine des intérêts nationaux fondamentaux est largement limité et correspond à l'indépendance, l'intégrité territoriale, la sécurité nationale et aux principes fondamentaux de la République énumérés dans la Constitution. Le législateur avait pourtant oublié de faire des changements nécessaires dans l'exposé des motifs de l'article 305 du code pénal²⁷. A mon avis, compte tenu du nouveau texte adopté, la critique de la position du gouvernement vis-à-vis des questions chypriotes ou arméniennes n'est pas susceptible d'être réprimée parce que les intérêts fondamentaux ont été définis en *numerus clausus* dans le dernier aliéna de l'article 305. Selon ce dernier aliéna, "les intérêts nationaux fondamentaux consistent en: l'indépendance, l'intégrité territoriale, la sécurité nationale et les principes fondamentaux de la république énumérés dans la Constitution". Cela devrait limiter l'éventuelle expansion du domaine de l'application de l'article²⁸ par les juridictions pénales turques parce les questions arméniennes ou chypriotes ne concernent ni l'indépendance, ni l'intégrité territoriale, ni la sécurité nationale et ni les principes fondamentaux de la République.

25 RSF-AFP, 16 décembre 2004.

26 Qui correspond à l'article 305 du code pénal adopté par le Parlement turc.

27 Les exposés des motifs des lois du droit turc ne font pas partie du texte de la loi et donc ils n'ont pas un effet obligatoire sur les juges.

28 Il faut aussi noter que le dernier aliéna du 3^{ème} article du nouveau code pénal prohibe l'analogie et l'interprétation excessive des normes pénales.

L'égalité des sexes

En matière de renforcement des droits des femmes, malgré le fait que la Constitution établit à l'article 10 l'égalité des hommes et des femmes en droit, le respect de ce principe n'est pas toujours veillé par l'État. Néanmoins, le nouveau code est progressiste dans ce domaine. Par exemple, l'homicide commis par le mobile de tradition ou coutume²⁹, les agressions sexuelles au sein de la famille et le test de virginité sont traitées par le nouveau code. Le nouveau code pénal criminalise expressément l'agression sexuelle au sein de la famille, alors que dans le cadre du code ancien, la Cour de cassation, par voie de jurisprudence, ne punissait pas les relations sexuelles forcées au sein de la famille sauf si les actes ne dépassaient pas une certaine gravité. Et si les actes dépassaient une certaine gravité, la personne qui les avait commis pourrait être punie seulement d'avoir commis le crime de la "blessure volontaire".

En ce qui concerne les homicides commis par le mobile de la tradition et la coutume, le nouveau code prévoit la sanction de la prison à perpétuité. Les agressions sexuelles dans le mariage peuvent être poursuivies si la victime porte plainte. Le test de virginité sans qu'il y ait la décision judiciaire est passible d'une peine de prison³⁰.

Le nouveau Code Pénal Turc considère la polygamie comme un crime contre l'ordre familial. Selon l'article 230, plusieurs mariages, mariage dolosif et mariage religieux avant le mariage civil sont interdits³¹. Il y a une disposition

29 Dans la partie de l'est et du sud-est de l'Anatolie la plupart des victimes femmes de l'homicide volontaire sont tuées par le mobile de sauver l'honneur familial (même une discussion avec un homme hors de la famille peut causer la commission de ce crime) qui occupe une place essentielle dans la vie sociale de cette partie de la Turquie et dont les origines se trouvent dans le moyen-âge. C'est un problème important dans la vie sociologico-juridique de la Turquie.

30 Pourtant le consentement de la femme n'est pas nécessaire s'il y a une décision judiciaire. Donc l'égalité entre la femme et l'homme dans le domaine de la protection de l'intégrité corporelle n'est pas encore réalisée en droit turc.

31 " (1) Celui ou celle qui fait un mariage civil alors qu'il/elle est déjà marié(e) est puni(e) d'une peine de prison de 6 mois à 2 ans.

(2) Un/une célibataire qui fait un mariage civil avec une personne mariée sachant que cette personne est mariée est punie selon l'alinéa premier.

(3) Celui ou celle qui fait un mariage civil en cachant sa vraie identité est puni(e) d'une peine de prison de 3 mois à 1 an.

(4) La prescription pour les crimes définis dans les alinéas précédents commence à courir à partir de la date où l'arrêt d'annulation du mariage devient définitif.

(5) Les personnes qui font un mariage religieux sans faire précédemment un mariage civil sont punies d'une peine de prison de 2 à 6 mois. Le procès public et la peine prononcée tombent quand le mariage civil a lieu.

(6) Celui qui fait (dirige) une cérémonie religieuse de mariage sans avoir vu le document qui atteste que le contrat de mariage a été conclu conformément à la loi est puni par une peine de prison de 2 à 6 mois".

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presque identique dans l'actuel code pénal turc a l'article 237. Cependant la criminalisation de la polygamie n'empêche pas certains à avoir plusieurs femmes. Même si la grande majorité des Turcs est monogame, dans l'Anatolie d'est et de sud-est, il y a de centaines de milliers d'hommes qui prennent plusieurs femmes par mariages religieux. Dans ces régions où les lois de la République ne sont pas reconnues par une partie du peuple soit par conservatisme religieux soit pour des raisons politiques, la polygamie n'est pas rare et n'est pas contestée par la société. Surtout à partir de 1980, il y eut de grandes vagues d'immigration depuis l'Anatolie de l'est et du sud-est vers Istanbul et autres grandes villes de l'ouest. Ces immigrés majoritairement campagnards ont apporté leurs traditions et leur mode de vie dans les villes. C'est ainsi que la polygamie est apparue aussi dans les bidonvilles des grandes cités.

En guise de conclusion

La Turquie a réalisé d'importantes réformes législatives dans de nombreux domaines³², grâce à l'adoption de nouveaux "paquets" de réformes, aux modifications apportées à la constitution et, surtout à l'adoption d'un nouveau code pénal, et en particulier dans les domaines recensés comme prioritaires dans le rapport de l'année dernière et dans le Partenariat pour l'adhésion. Malgré les progrès considérables accomplis dans la mise en oeuvre des réformes juridiques en vue de l'harmonisation du système juridique aux critères de Copenhague, celles-ci doivent encore être consolidées et étendues. Dans le domaine pénal, deux autres grandes réformes importantes ont été accomplies: d'une part, l'adoption du nouveau code de la procédure pénale et d'une autre part la loi sur l'exécution des peines. Mais ce sera surtout la pratique des ces réformes qui nous montrera si la vraie réforme a été totalement accomplie: "*l'interprétation des textes en faveur des libertés individuelles*". Mais à vrai dire, c'est la réforme la plus difficile à accomplir et celle qui prendra beaucoup de temps pour se consolider. Il est encore trop tôt pour examiner les conséquences de ces réformes parce que le nouveau système pénal composé du code pénal, du code de la procédure pénale et de la loi sur l'exécution des peines, n'entrera en vigueur que le 1^{er} avril 2005.

Sylvie Goulard, *Le Grand Turc et la République de Venise*, Fayard, 2004, 142 pp. Avant-propos de Robert Badinter

L'essai de Sylvie Goulard analyse d'une manière argumentée et incisive les conséquences de l'entrée de la Turquie dans l'Union Européenne (UE), l'auteur se positionnant à la fois du côté de la Turquie et de celui de l'UE. Son objectif est de démontrer que l'UE n'est pas objectivement prête pour accueillir la Turquie et que les négociations ne doivent pas être ouvertes sans une consultation des citoyens et un débat réel devant les opinions publiques. Le pire des scénarios envisagés par Sylvie Goulard est le suivant:

"les négociations seraient ouvertes en décembre 2004; l'Allemagne continuerait à plaider ardemment pour une adhésion turque, tandis que la France, un temps aux côtés de l'Allemagne bloquerait in fine cette adhésion par un vote négatif du peuple français (...) Ce "non" reviendrait à faire porter à la France seule la responsabilité d'un refus européen. Une telle divergence franco-allemande, fatale à l'Union est malheureusement probable".

L'auteur présente plusieurs raisons pour s'opposer à l'ouverture des négociations d'adhésion. En mentionnant par exemple les critères de Copenhague, Sylvie Goulard affirme que la Commission Européenne a ignoré "la capacité de l'Union à assimiler de nouveaux membres tout en maintenant l'élan d'intégration" qui figure pourtant parmi ces critères. "L'entrée de la Turquie dans l'UE pose des problèmes spécifiques qui appellent un traitement différent" et pour cette raison traiter la Turquie sur la base des mêmes critères appliqués aux autres pays candidats, était une aberration. En même temps, l'auteur avance que le manque de dialogue avec les citoyens pourrait produire un divorce entre ceux-ci et l'UE,

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

prenant aussi en compte la frustration engendrée par les élargissements précédents. Il ne s'agit pas "rendre l'UE plus proche des citoyens", mais de "la rendre aux citoyens". L'auteur considère que la démocratie est "bafouée" dans un contexte où le Conseil européen souffre d'un "manque de légitimité", où l'Allemagne a ses motifs d'appuyer l'adhésion de la Turquie à l'UE. Dans cette situation, la France ne devrait pas suivre les positions allemandes sans analyser les différences fondamentales en termes de laïcité, de pratique référendaire ancienne, de courants extrémistes xénophobes.

L'essai développe aussi une argumentation généralement présentée par les opposants à l'adhésion de la Turquie, sans contester certains progrès réalisés (la charge économique et le retard social que la Turquie représenterait pour le budget européen en baisse et l'hostilité des pays comme la France et l'Allemagne de payer plus; le poids de la démographie turque dans le cadre du Conseil de l'UE ou du Parlement européen; les difficultés d'apprécier dans un laps de temps limité les progrès réels réalisés par la Turquie en matière de droits de l'homme, notamment d'égalité entre les hommes et les femmes et du statut de la femme; le refus de la Turquie de reconnaître le génocide arménien; le rôle de l'armée dans la société turque, etc.). L'auteur ne considère pas la religion comme un obstacle à l'adhésion de la Turquie, mais se demande toutefois si l'islam pourrait se moderniser et intégrer des concepts comme les religions chrétiennes et le judaïsme. La question des frontières de l'UE s'inscrit dans ces considérations générales: "Voulons nous une entité organisée, souveraine ou forte, fondée sur des affinités profondes? Ou nous contentons-nous d'un ensemble géopolitique vague, aux contours incertains, mercantile?". La fixation des limites de l'UE constitue le test grandeur nature de la maturité politique, affirme l'auteur. La consultation des citoyens apparaît vitale pour pouvoir construire une politique étrangère commune crédible et pour ne pas avoir "une Europe molle, habillée en XXL". L'auteur souligne que la procédure actuelle se concentre trop sur la Turquie et que la réflexion devrait être concentrée plutôt sur l'UE. Peut-elle intégrer la Turquie d'ici à moins de dix ans?

En conclusion, Sylvie Goulard affirme que l'adhésion de la Turquie lance un défi particulier à la France afin de susciter une prise de conscience sur trois questions: 1) la primordialité de la survie du modèle politique démocratique et de la cohésion interne sur la recherche de l'équilibre des forces et l'extension géographique pour pouvoir faire face à des puissances comme les Etats-Unis, la Chine ou l'Inde; 2) la pression des Etats-Unis suite à laquelle il faut accepter la Turquie dans l'UE, suivie par la Géorgie, le Caucase, l'Ukraine, etc. - au risque de

faire "un élargissement à la chaîne comme certains fabriquent des T-shirt taille unique"; 3) la préservation de la diversité culturelle: "précipiter l'adhésion de la Turquie [...] reviendrait, pour la France, à renier son propre combat pour la préservation de la diversité". Ce livre démontre que l'adhésion de la Turquie dans l'état actuel de l'UE, est un projet déraisonnable. Le degré d'argumentation est parfois inégal, toutefois l'argumentation est facile à suivre et les idées de l'auteur sont très bien développées dans un style incisif, clair et convaincant. Ce brillant essai dépasse d'une manière innovante les considérations générales et les polémiques faites autour de l'enjeu de l'adhésion de la Turquie à l'UE.

Florica Olteanu

Co-éditeur

Collège d'Europe

Mehmet UĞUR, Nergis CANEFE (ed.), *Turkey and European Integration: Prospects and Issues in the Post-Helsinki Era*, London: Routledge, 2004, 289 pp., £65.00.

Turkey's accession to the European Union has been often discussed from the EU perspective, highlighting bilateral relations, European public opinion and the advantages and disadvantages of Turkey's membership for the EU. However, Turkey's view of membership and Turkey's internal dynamics have remained neglected issues in the debate. In this regard, "*Turkey and European Integration*", an edited volume by Mehmet Ugur and Nergis Canefe, makes an invaluable contribution towards addressing these issues. The work consists of four parts, which address the Turkish state, society, and economy from distinct perspectives: Public opinion and EU membership, economic governance, religion, and international - domestic interactions.

The only chapter of Part I by Ali Çarkoğlu is on societal perceptions of Turkey's EU membership. He analyzes public support for EU membership in the light of a nationwide survey which was conducted before the adoption of the EU adjustment package and after the November 2002 elections. Çarkoğlu looks at nationalist, euro-sceptic, religious and anti-democratic positions on "sensitive issues" in the context of recent internal reforms (p.30). However, he does not examine the reasons that lie behind these positions, limiting his essay to a commentary on the given survey. But his essay is nonetheless important since it shows that Turkish public opinion is vulnerable to nationalistic, Euro-sceptic and religious rhetoric.

The second part offers a broad perspective on economic governance and EU membership. The first chapter of Part II by Mine Eder brings forward the question of populism in the process of Turkey's integration into the EU, particularly its relationship with Turkish democracy and Turkey's alignment with Copenhagen criteria. Eder's essay offers a rich and unprecedented analysis of populism as a barrier to Turkey's integration as she tackles both the economic and political aspects of the question from both a theoretical and an empirical perspective. The second essay of Part II by Mehmet Uğur points out the link between economic mismanagement and Turkey's troubled relations with the EU. The third essay by Serap Atan is of particular importance as she offers an in-depth analysis of the Europeanization of Turkish business organizations. What the editors have neglected in this part of the book is an outlook on the perceptions of different socio-economic groups in Turkey. There could be one more essay on "Europeanization effects" and perspectives of socio-economic groups that work in sectors such as agriculture and small and medium-sized enterprises operating in industries crucial for Turkey.

Part III consists of two essays which offer an analysis of the interaction between Islam, society, identity and politics. The first essay in this part by Burhanettin Duran focuses on the Islamist redefinitions of European and Islamic identity in Turkey. Duran is very successful in developing an analytical framework for evaluating the transformation of Islamic discourse as it coped with Kemalist discourse. He suggests that the process of February 28th has led to the internalization by the Islamists of a new discourse that promotes democratic principles, rule of law and human rights. This argument makes sense because the Islamists have since then considered Europe and its institutions a shield for their identity against the pressure of the Kemalist regime. The second essay by Effie Fokas, entitled "The Islamist movement and Turkey-EU relations", cites over 100 interviews in an effort to account for the diversity of Islamist views of the EU. Nonetheless, the essay remains quite descriptive and lacks a clear explanation of the emergence of a pro-European Islamist identity in Turkey.

The last part contains a general evaluation of the interaction between international and domestic dynamics in EU-Turkey relations. The first essay by Fuat Keyman and Ziya Öniş offers a general overview of the Turkish perspective on the post-Helsinki process. The second essay by Gamze Avcı analyzes the attitudes of the four political parties that have been in power since 1999. Avcı describes the discourses on "Europeanization". The following chapter by Nergis Canefe offers a general theoretical analysis of the ongoing debate about

European citizenship and the perceptions of post-national citizenship in Turkey. The essay on Human Rights and Turkey's EU candidacy by Jonathan Sugden, an Amnesty International researcher on Turkey for nine years, offers a retrospective view of Turkey-EU relations with respect to human rights issues. Although very informative in this respect, the essay nonetheless fails to account for recent improvements in human rights and underestimates the change in mentality in Turkey. The editors' concluding essay at the end of the last part emphasizes some interesting points such as the role of the political elite in the process of Turkey's integration.

This book is invaluable for a better understanding of the domestic dynamics in Turkey. It thus sheds light on an important dimension of the rather complex issue of the EU-Turkey relations previously neglected by scholars. The book succeeds in giving readers a clear explanation of contradictory phenomena such as the pro-European stance of religious and nationalist parties, as well as the intermittent policies and the occasional lack of political will to carry out the reforms. But the book does not offer much analysis of minority perspectives, the role of NGOs and sectorial groups or labor unions. Nevertheless, the book is unprecedented as it offers some perspectives from Turkey on EU-Turkey relations.

Ersegul UNUVAR KARA

Promotion Montesquieu
European Political and Administrative Studies
College of Europe, Bruges

Jean-Paul Burdy (eds.), *"La Turquie est-elle européenne"?*, Clamecy: Turquoise, Octobre 2004, 255 p., €19.

Is Turkey European? Has Turkey the right to become a member of the European Union?

The Union has never experienced a candidacy which has given rise to a debate of such a calibre, so animated and so public. Amidst the press declarations by various past or present politicians, in live TV discussions, and at public demonstrations, much has been said. Some have made up their minds one way or the other already, yet many remain just as confused as ever - perhaps even more so. In 2004 more books on Turkey have been published than in the past ten years... so: is Turkey European?

Burdy's contribution to this debate comes through redefining the question; it is not "Does Turkey want Europe?" he says, but "Does Europe want Turkey?". This "questioning on Turkey", he further argues, "has become a questioning of the meaning of the whole project of European construction".

The book is a collection of selected articles spanning several decades, intended, as Burdy puts it, to "contribute to the debate". In the first article of the book, Walter Hallstein, the then President of the Commission, declares that "Turkey is part of Europe". "Turkey is not a European country" replies Valéry Giscard d'Estaing in the second article, which is immediately followed by Daniel Cohn-Bendit's; "Objection Mister President".

Covering more than half of the book, the first chapter "Elements for a debate" incorporates a total of 22 articles under 5 headings that analyse the Turkish debate from many angles, historical, identity, geographical and of course religion. Of the 22 authors almost all are renowned experts on their topic, many are highly-respected academics like Yves Mény, Stéphane Yerasimos, Jean-Paul Roux and Alain Besançon. Top European politicians from Jacques Delors to Hubert Védrine have their say as well, besides renowned journalists like Henri Tincq and Alexandre Adler.

Most of the articles are there to inform the reader of the more - or sometimes less - acknowledged facts of the situation, and not to advance simply the opinions of their authors, but there are indeed those who have declared what they believe in and why they do believe in it.

The second chapter, shorter than the first, is the contribution of Jean-Paul Burdy: "Turkey, the past and the present". Burdy, a professor of European history himself, analyses each and every one of the singular subjects - "hot topics" if it can be said so - concerning Turkish history, as well as presents Turkey in as objective a manner as possible. The 8 headings include: "Human rights and freedoms: Can Turkey be a democratic State?", "Armenians: Massacre or Genocide?", and "Minority rights: The Kurdish question". A summary of the various arguments on these topics from different sides and their evaluation follows each title.

Finally, Burcu Gultekin, doctor of economic sciences gives a general view of the Turkish economy and its role in the European economic system, from Ottoman times to the present, including "Turkey, economic partner of the European Union".

The chronology of 14 pages at the end of the book, citing the history of Anatolia since 10.000 BCE, is a must see for its clarity and selection of details which only an accomplished historian could have managed.

Throughout the book a very commendable effort at objectivity is visible. From the selection of articles to their ordering, the aim is to inform the reader rather than to convince him or her of the truth of one particular point of view. Most enlightening is the consecutive presentation of different lectures on the same topic; illustrating how one fact may serve as an argument for both the pros and the cons of Turkey's accession. The book, in its composition as both a recollection of selected articles which have appeared elsewhere, and as a showcase for new and independent work being published here for the first time, has used its 250 pages to best effect. A calm, neutral and scientific review was much needed amidst the extremely heated and sometimes even unhealthy discussion on Turkey's accession.

It is often said that in political science where you stand determines what you see. Jean-Paul Burdy has composed a book for those who want to see first and then take their stance, if indeed one must be taken.

Serbulent Turan

Promotion Montesquieu

European Political and Administrative Studies

College of Europe, Bruges

News from the College of Europe

Keynote Speech

- **Mr José Manuel Barroso**
President of the European Commission
Opening Ceremony of the 55th academic year of the College of Europe, Bruges
23 November 2004, Bruges
 - **Mr Josep Borrell**
President of the European Parliament
Opening Ceremony of the 55th academic year of the College of Europe, Natolin
3 November 2004, Natolin
-

Seminars

- **Simulation of Council of Ministers Negotiations**
3-4 February 2004, Brussels
- **Diplomacy and management of EU negotiations**
Seminar for future potential trainers of diplomats of Croatia and of the Western Balkans, focusing on Negotiations with and inside the European Union.
30 August - 10 September 2004, Dubrovnik

- **Health Policies in the EU**

Compact seminar - Professor Scott Ratzan, Vice President, Government Affairs - Johnson & Johnson
11 February 2005

- **Training Council Terminology**

Course on Terminology and Terminography for terminologists of the Council. The course covers theoretical terminology principles as well as relevant Internet resources, term extraction presentation and practical sessions, where participants are requested to analyse and discuss existant terminological fiches and to create their own examples.
16-17 February 2005, Brussels

- **Mauritius - WTO Negotiations**

The project aims at providing technical Support to the Republic of Mauritius to assist negotiators in refining positions in WTO negotiations and in drawing up reform packages to facilitate implementation of WTO commitments in Mauritius. The project involves a team of 6 highly-specialised experts from the College teaching staff and international network of experts
March-June 2005

- **EU Negotiations in Practice**

Design and implementation of the course aimed at transferring practice-oriented knowledge and specific know-how on negotiation strategies and techniques; enhancement of negotiating skills; insight into specificities of the EU decision-making process and the art of drafting of the EU documents (position papers, press releases, Council Agenda, Presidency communiqués). Target audience: professionals from national administrations and those otherwise involved in the EU decision-making process.
11-15 April 2005, Bruges

- **Training Programmes for DG Trade Officials**

Within the framework of a service contract with DG Trade, experts of the College of Europe design and deliver training courses aimed at newly recruited officials of DG Trade or officials needing additional training or to refresh their body of knowledge in basics economics and international economic theory, legal aspects of trade policy, and multilateral trade negotiations.
25-29 April 2005, 23-27 May 2005, Brussels

- **Advance Community Law Training**

Designed for experienced lawyers who wish to refresh their knowledge of EC Law, the ACLT programme covers the most recent developments in key domains of European Competition Law, the Internal Market, and the institutional reform process of the European Union.
29 January - 11 June 2005, Brussels - Bruges

- **European Training Centre for Railway Staff**

Seminar with lectures and panel discussions on the subject "The Future of Rail Transport in Europe". The participants are executive staff members of railway companies in 17 European countries.
9-10 September 2004, Bruges
3-16 July 2005, Bruges

- **GWU Summer Program on Politics, Policies, and Lobbying of the European Union.**

This programme is aimed at providing American students with a deeper understanding of the EU institutional and policy framework, as well as the political and economic actors operating within it.
3-15 July 2005, Bruges

- **Intensive Seminar on the European Union**

The annual three-week training programme - a customised training through a series of basic and elective specialised sessions, case studies and workshops - aims at imparting a general perspective as well as a specific understanding of EU structures and policies. Use of an extranet site during the seminar and afterwards, as a permanent learning and networking support tool. Study and contact-building visits to the European institutions in Brussels. Target audience: civil servants, managers from the private sector, lawyers, and academics.

18 June- 16 July 2004, Bruges

3-23 July 2005, Bruges

- **Colloquium on International Humanitarian Law**

In cooperation with the delegation of the International Committee of the Red Cross in Brussels.

9-10 September 2004, Bruges

21-22 October 2005, Bruges

- **Training Seminars on the European Union**

The College of Europe provided European Space Agency's officials with a series of training sessions on the institutional framework and decision-making processes of the European Union.

10-11 March 2005, Noordwijk

25-26 April 2005, Noordwijk

- **EU Fact Finding: The EU at your fingertips**

This focused and ad hoc seminar intended to provide participants with a set of search and practical tools to quickly and effectively find relevant information on EU legislation, policies and institutions. The seminar provided participants with a range of optimal sources for searching EU-related information. It enabled participants to find targeted information relevant to their business or academic interests in an efficient and timesaving way.

29 April 2005, Brussels

24 June 2005, Brussels

Conferences

- **"Europe after the enlargement and a new Constitution: Results and Perspectives"**

Prof. Stephan Frölich

Guest Talk: Laurie Buonanno, Director of Institute for European Union Studies, State University of New York; "*European Identity*"

28th September 2004

- **The Conditions Of Human Rights In Russia And The Relations Between Russia And The European Union**

The visit of Federal Ombudsman of Russia, Ambassador Vladimir P. Lukin, and his lecture on "The Conditions Of Human Rights In Russia And The Relations Between Russia And The European Union" was scheduled within the framework of the activities of Chair of European Civilisation.

4 October 2004

- **Third European Economy Lecture on "The Lisbon Challenge: Activating Knowledge for EU Competitiveness"**

Prof. Luc Soete, Professor of Economics at the University of Maastricht and Director of Merit.

27 Oktober 2004

- **UNU-CRIS Lecture Series "Global Governance and Regional Security"**

Dr. Kennedy Graham (Senior Fellow) and Ms. Tânia Felício (Project Researcher)

"Towards an Architecture of Peace - Evolving Concepts of Security"

30 September 2004

"A Regional/Global Security Mechanism - An Instrument for the 21st Century?" 7 October 2004

"The Concept of 'Security Regions' - Dividing the World for Peace?"

28 October 2004

"Regional Security and UN Reform - Reviving the Charter?"

4 November 2004

- **A Triple-I Strategy for the Future of Europe**
Inaugural lecture of the Toyota Chair for Industry and Sustainability
18 November 2004
 - **Health Policies - major economic and social challenge for the European Union and for global cooperation**
Professor Scott Ratzan, Vice President, Government Affairs - Johnson & Johnson
Professor Panos Kanavos, Lecturer in International Health Policy in the Department of Social Policy and Merck Fellow in Pharmaceutical Economics at London School of Economics Health and Social Care
28 January 2005
 - **The regions in the European Union**
Organised as a Follow up to the Youth Debate of November 17th, 2004 in Brussels (Committee of the regions) - Professors Andres Rodriguez-Pose (ECO) and S. De Rynck (POL)
7 March 2005
 - **Europe/Turquie - Défis politiques, culturels et identitaires**
Prof Yordan Peev
Prof Michael Kohler
Prof Anna Triandafyllidou
And with the contribution of Prof. Michel Bozdemir - Institut National de Langues et Cultures Orientales, Paris
15 March 2005
-

Workshops

- **International Negotiation**
Scott Ratzan, Vice President Government Affairs, Europe, Johnson & Johnson and Angela O'Neil, Director of Communications, the College of Europe
1-2 October 2004, Bruges
 - **Communications**
R. Collins, M. Delborge, A. O'Neill, H Beutler and L Deblauwe
10 and 24 October 2004
23 January and 20 February 2005, Bruges
 - **The European New Neighbourhood Policy**
Organised in the framework of the Natolin students' visit to the Bruges campus of the College of Europe
3 March 2005, Bruges
-

Conférence "Europe/Turquie: Défis politiques, culturels, identitaires"

15 mars 2005

Programme d'Etudes Générales et Interdisciplinaires, Collège d'Europe, Bruges

La conférence a bénéficié de la présence de trois professeurs du Collège - **M. Michael Köhler**, Chef adjoint de Cabinet du Commissaire Joe Borg, **M. Yordan Peev**, Professeur au Centre des langues et cultures orientales, Université de Sofia "St. Kliment Ohridski" et **Mme. Anna Triandafyllidou**, chercheuse à la Fondation Hellénique pour la Politique Européenne et Etrangère. **M. Michel Bozdemir** de l'Institut des langues et cultures orientales de Paris, a été le modérateur du symposium. Les discussions ont suivi les présentations de cinq étudiants du Collège, notamment sur l'opinion publique en Turquie, sur la situation de l'immigration turque en Allemagne et sur les positions de la classe politique française et italienne par rapport à l'adhésion turque.

Le peuple Turc et son opinion (Meri Izrail et Serbülent Turan¹)

La population turque a toujours été majoritairement pro-européenne, soutenant les efforts des gouvernements afin de devenir membre de l'UE. Cependant aujourd'hui, le 62% soutient cette politique alors que ce chiffre était jusqu'à maintenant plus élevé. Les Turcs envisagent de recevoir des bénéfices

économiques de l'adhésion (43%) et une meilleure sécurité sociale (34%). Ils sont plus enthousiastes que les citoyens des pays membres de l'UE (67% des Turcs contre le 59% des citoyens européens souhaitent l'entrée de la Turquie). Avant le Conseil européen du 17 décembre 2004, le 45% croyait qu'aucune date sur les négociations n'aurait été donnée. Cependant, le 60% était pour la poursuite de l'adhésion. En même temps, plus que deux tiers croient qu'un refus de l'UE sera probable. Le 72% voit dans les préjugés des européens envers les turcs le premier obstacle, le 70% pense que ces sont les violations des droits de l'homme, et le 66% voit dans le mal fonctionnement des institutions démocrates une cause majeure. Enfin, le 65%, a répondu que la pauvreté des Turcs est également une faiblesse. Par rapport aux Etats-Unis, le 82% a vu la réélection de George W. Bush comme un événement négatif. Ce taux est assez proche à celui de l'Allemagne, France et Royaume-Uni (respectivement le 77%, 75% et 64%). L'influence américaine dans le monde est qualifiée comme négative par le 62%, les Turcs voyant les Etats-Unis comme un obstacle à la paix dans le monde (34%) plus que le terrorisme (20%). Le 83% était contraire à l'invasion de l'Irak et voyait la place de la Turquie plutôt avec l'UE (52%) qu'avec les Etats-Unis (6%).

L'immigration Turque et la naturalisation en Allemagne (Ute Wündisch)

Les premiers immigrants turcs en Allemagne étaient des travailleurs appelés pour remplir le déficit de main d'œuvre. L'accord de recrutement bilatéral Allemagne - Turquie signé en 1961, reposait sur un système de rotation qui encourageait à venir travailler en Allemagne, en revenant en Turquie après deux ans. Malgré le fait que le système prévenait ainsi l'établissement en Allemagne, beaucoup de ces travailleurs ont obtenu des permis de séjour à long terme ou permanents et le droit à la réunification familiale a été ensuite octroyé. En 1973, le recrutement a été arrêté à cause de la récession, mais les réunifications ont continué. A partir des années 1990, la Turquie est devenue le pays d'origine le plus important en terme de demandeurs d'asile en Allemagne à cause du problème Kurde. En 2003, les étrangers résidents en Allemagne comptaient 7,3 millions (8,9 % de la population totale du pays) dont 1,9 millions étaient des citoyens turcs (28% de la population étrangère en Allemagne). Les immigrés sont concentrés dans les centres urbains et industriels. Avant 2000, il était relativement difficile d'obtenir la citoyenneté allemande (15 années de résidence légale nécessaires et des coûts administratifs élevés). En outre, les enfants nés des immigrés en Allemagne ne recevaient pas la citoyenneté. Avec la loi du 2000, les conditions sont devenues moins strictes - 8 années de résidence légale sont requises et les

1 Pour cette recherche, trois sources principales ont été utilisées: l'Eurobaromètre nr. 62 sur la Turquie, conclu à la fin de 2004 auprès d'environ 1500 personnes, le sondage "BBC World Service Poll", conduit à la fin de 2004 et au début de 2005. La troisième source, une recherche réalisée par Pollmark auprès de plus de 1600 personnes a été publiée dans un quotidien turc (Radikal).

coûts administratifs ont diminué. Les nouveaux nés reçoivent la citoyenneté si au moins un des parents est résident légal depuis 8 ans. À l'âge de 23 ans ils doivent choisir la citoyenneté qu'ils veulent garder, mais en pratique la double citoyenneté est acceptée. Les turcs ont le taux de naturalisation le plus élevé parmi les immigrés en Allemagne (en 1996 a été le 54% de toutes les naturalisations). Puisque tous les droits économiques et sociaux sont obtenus avec le statut de résidence permanente, le seul grand privilège réservé aux "naturalisés" est le droit au vote. Une étude menée par Diehl et Blohm² a expliquée la grande demande de naturalisation de la part des turcs, avec des facteurs sociaux. Les Turcs seraient moins bien éduqués, auraient plus souvent un travail non qualifié, et se confronteraient à la discrimination plus souvent. Afin de s'intégrer formellement dans un groupe avec un statut social plus haut les Turcs désirent se naturaliser.

L'opinion de la classe politique française sur l'adhésion de la Turquie à l'UE (Violaine Fau)

La majorité de la classe politique française est pour l'instant plus en faveur d'un partenariat privilégié avec la Turquie plutôt qu'une adhésion. Cette opposition à l'intégration est partagée par des partis politiques traditionnellement s'opposant à la construction européenne, mais aussi par des partis très pro-européens, fédéraliste.

Le parti majoritaire, l'UMP (Union pour un Mouvement Populaire) considère "qu'un élargissement au-delà des PECO dénaturerait l'Europe politique et la transformerait en un vaste espace de libre-échange économique". Le "parti socialiste" souhaitant dissocier la question de l'adhésion et celle du projet de Constitution, s'est prononcé en faveur de l'ouverture des négociations, mais il considère qu'à l'heure actuelle la Turquie ne respecte pas encore les conditions d'adhésion.. L'UDF (Union pour la Démocratie Française) parti centriste et pro-européen est contre l'entrée de la Turquie au nom d'une Europe forte.

"Le *Front National*" dirigé par Jean-Marie Le Pen, s'oppose farouchement à l'entrée de la Turquie et le met à nouveau en avant dans son actuelle campagne pour le rejet du projet de constitution. "Les Verts" estiment "qu'on ne peut dénier à la Turquie", après 40 ans de coopération renforcée avec l'UE, le droit d'être candidate officielle à l'adhésion.

Le "Mouvement pour la France" a fait de son opposition à la construction européenne un de ses principaux chevaux de bataille. Il prône un partenariat au lieu d'une adhésion de la Turquie à l'UE. Le "parti communiste" français, jugeant l'UE beaucoup trop libérale, considère que le modèle qu'on prétend imposer à la Turquie se fera au détriment de son peuple. Il est donc avant tout en faveur d'un nouveau projet pour l'Europe.

L'opinion de la classe politique italienne sur l'adhésion de la Turquie à l'UE (Luca Crocco)

La classe politique italienne est amplement favorable à la possible entrée de la Turquie dans l'UE. Au sein de la coalition de centre-droit au pouvoir, le seul parti contraire à l'entrée de la Turquie est la Ligue du Nord (4% des votes aux dernières élections) qui a une présence limitée au Nord du pays. Une opinion contraire a été également exprimée par le parti de la minorité germanophone du Tyrol du Sud (1%)

Le principal parti de la coalition au pouvoir, "Forza Italia", d'inspiration libérale, figure parmi les supporters les plus convaincus de la candidature turque, en apportant des arguments à la fois "géopolitiques" et "économiques". Les mêmes raisons ont été avancées par "Alleanza Nazionale", le parti de droite dirigé par Gianfranco Fini. Le "parti chrétien-démocrate" (CDU) est favorable lui aussi à l'entrée de la Turquie, dès lors que toutes les conditions seront remplies, spécialement celles qui sont relatives à la liberté religieuse et aux droits humains. Enfin il y a la "Ligue du Nord", qui a lancé une grande campagne contre l'adhésion turque et utilise ce sujet comme une bouée de sauvetage pour sortir de son impasse politique. La Ligue a perdu le monopole des thèmes sur lesquels elle avait construit son succès, notamment: la bataille pour la réduction des impôts, pour une loi sur l'émigration (approuvée en 2002) et pour des réformes institutionnelles (en cours d'approbation). Dans la nouvelle lutte contre l'adhésion de la Turquie, la Ligue peut recycler les mots inventés ou importés en Italie, c'est-à-dire la défense des identités locales économiques contre la "globalisation" et l'UE; la peur de l'étranger et la "menace terroriste". Il sera intéressant de voir si la Ligue réussira à obtenir des concessions politiques sur la question turque.

Pour finir, quelques mots sur le "centre-gauche" qui a pris une position unitaire en faveur de l'entrée de la Turquie. Seule exception: celle du parti de la "refondation communiste" (7% des votes), qui garde des relations très étroites avec la résistance kurde.

2 Claudia Diehl and Michael Blohm, 'Rights or Identity? Naturalization Processes among "Labor Migrants" in Germany', *International Migration Review*, vol.37, no.1 (Spring 2003), pp. 133-162.

Conclusions

Le symposium s'est terminé avec les commentaires des professeurs et une discussion générale avec les étudiants présents. **Mme. Triandafyllidou**, a soulevé la question de la véracité des sondages d'opinion et a remarqué une contradiction entre les obstacles (institutions faibles et manque de respect des droits de l'homme) et les avantages de l'intégration (principalement économiques). **M. Köhler** a souligné les différences d'intégration entre les générations turques en Allemagne. **M. Bozdemir** a ajouté que ces genres d'obstacles se vérifient aussi bien dans d'autres pays européennes, particulièrement en France parmi les arabes. **M. Peev** a conclu la rencontre en citant M. Hendrik Brugmans, un visionnaire de l'Europe, qui disait qu'un jour la construction européenne embrasserait tous les peuples du bassin méditerranéen.

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