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Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy

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DRAFT REPORT

on Turkey's application for membership of the EU
(COM(2002) 700) – C5-0613/2000 – 2000/2014(COS))

Committee on Foreign Affairs, Human Rights, Common Security and Defence
Policy

Rapporteur: Arie M. Oostlander

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PROCEDURAL PAGE

By letter of 23 September 1999, the Commission forwarded to Parliament its report on Turkey's application for membership to the EU (COM(2002) 700 – 2000/2014(COS)).

At the sitting of xxxxxxxx the President of Parliament announced that he had referred the report to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy as the committee responsible (C5- 2000).

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy appointed Arie M. Oostlander rapporteur at its meeting of 11 September 2002.

The committee/It considered the Commission report and the draft report at its meeting(s) of ...

At the latter/last meeting it adopted the motion for a resolution by ... votes to ... , with ... abstention(s)/unanimously.

The following were present for the vote: ... chairman/acting chairman; ... (and ...), vice-chairman/vice-chairmen; ..., rapporteur; ..., ... (for ...), ... (for ... pursuant to Rule 153(2)), ... and... .

The report was tabled on

MOTION FOR A RESOLUTION

European Parliament resolution on Turkey's application for membership of the EU (COM(2002) 700) – C5-0613/2000 – 2000/2014(COS))

The European Parliament,

- having regard to Turkey's application for membership of the European Union, submitted on 12 April 1987 pursuant to Article 49 of the Treaty on European Union,
- having regard to the conclusions of the European Councils of Copenhagen (21-22 June 1993), Florence (21-22 June 1996), Luxembourg (12-13 December 1997), Cardiff (15-16 June 1998), Cologne (3-4 June 1999), Helsinki (10-11 December 1999), Santa Maria Da Feira (19-20 June 2000), Nice (7-9 December 2000), Göteborg (15-16 June 2001), Laeken (14-15 December 2001), Seville (21-22 June 2002), Brussels (24-25 October 2002) and Copenhagen (12-13 December 2002),
- having regard to its previous resolutions on Turkey,
- having regard to the recommendations adopted by the EU-Turkey Joint Parliamentary Committee, adopted on 5-6 June 2000,
- having regard to the Council Decision of 8 March 2001 on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership,
- having regard to Turkey's national programme for the adoption of the *acquis*, adopted by Turkey on 19 March 2001 and forwarded to the Commission on 26 March 2001,
- having regard to the report of the Council of Europe's Parliamentary Assembly of 13 June 2001 on the honouring of obligations and commitments by Turkey,
- having regard to the conclusions of the EU-Turkey Association Council meeting of 16 April 2002,
- having regard to the decisions of the European Court of Human Rights concerning Turkey,
- having regard to the resolution of the Parliamentary Assembly of the Council of Europe of 23 September 2002 on the implementation of decisions of the European Court of Human Rights by Turkey,
- having regard to the Commission report (COM(2002) 700) – C5-0613/2000¹),
- having regard to Rule 47(1) of its Rules of Procedure,
- having regard to the report of the Committee on Foreign Affairs, Human Rights,

¹ OJ C

Common Security and Defence Policy (A5-.../2000),

- A. whereas every EU citizen should have the same kind of rights and obligations in his or her Member State and whereas all citizens throughout the Union must be conscious of being protected and recognised as deserving protection against discrimination and maladministration by the authorities; whereas for that reason compliance with and respect for the Copenhagen political criteria are an essential precondition for embarking on the route to full membership,
- B. having regard to the decisions taken in Helsinki in 1999, which conferred on Turkey the status of a candidate for membership of the European Union,
- C. whereas on 3 November 2002 the AKP won the parliamentary elections, which had been brought forward, by an overwhelming majority; whereas the people have shown their dissatisfaction with the existing establishment, thus implying a new direction for government policy; whereas the AKP is now faced with the difficult task of implementing legal reforms and carrying out further reforms in order to bring about a properly functioning democratic state based on the rule of law,
- D. whereas the 10% electoral threshold, while it prevented a fragmented parliament, sacrificed to that end the representative nature of the parliament, which now represents only 55% of voters,
- E. whereas the Constitution adopted in 1982 under a military regime does not form an appropriate legal basis to guarantee the rule of law and fundamental freedoms, and whereas Turkey can express its choice of a democratic constitutional model by establishing a new Constitution based on European values; whereas the deepest structures of the State and style of government are at issue here,
- F. whereas the underlying philosophy of the Turkish state, 'Kemalism', implies an exaggerated fear of the undermining of the integrity of the Turkish state and an emphasis on the homogeneity of Turkish culture (nationalism), together with statism, an important role for the army, and a very rigid attitude to religion, which means that this underlying philosophy is itself a barrier to EU membership,
- G. whereas the changes requested must imply more than cosmetic adjustments; having regard in this connection to the signature of conventions which have not been subsequently ratified, and to legal amendments which have not been, or only inadequately, implemented,
- H. whereas the reforms and the investment made by Turkey in the democratisation process will benefit all its citizens, irrespective of relations with the EU,
- I. whereas Turkey's accession to the EU must be based on clear and unequivocal criteria, and whereas the statements and decisions of the European Council on Turkey over the past few decades have shown inconsistencies,
- J. whereas the conclusion of the accession agreement in 1963, the admission of Turkey to the Council of Europe (1949), the decisions of the Council and the resolutions of Parliament have until recently not resulted in any notable change to the behaviour of the

Turkish state, and whereas Turkey was even suspended from membership of the Council of Europe from 1981 to 1984,

- K. whereas a solution to the problem of the division of Cyprus is of vital importance to relations between the EU and Turkey,
1. Highlights the fact that political will on the part of Turkey to make radical changes to the structure of the state, its relationship to society, the application of human rights and the style of government is essential to the process towards EU membership;
 2. Realises that this is a long process of reform in which Turkey is faced with crucial choices, and that European help will be necessary in this process;
 3. Recognises that the political values of the European Union are chiefly based on the Judaeo-Christian and humanist culture of Europe, but that no-one has a monopoly on these values; believes, therefore, that these values can perfectly well be accepted and defended by a mainly Islamic society;
 4. Welcomes the reforms made since October 2001, particularly as these have been perceived by the population as a major improvement;
 5. Calls on Turkey to go ahead with the reforms it has carried out since 2001; considers that these reforms can only be judged on the basis of their implementation;
 6. Notes that the short and medium-term priorities have only been partially implemented, particularly as regards the Copenhagen political criteria, as agreed in the current (2001) partnership for Turkey's accession;

The Copenhagen political criteria

State Institutions

7. Notes that over the last 15 years the army has occupied an increasingly central position in the Turkish state and society, and that Turkish citizens credit it with greater importance even than other state institutions including the parliament; notes that the army's role slows down Turkey's development towards a democratic and pluralist system, and therefore calls for the political decision-making power to be allocated entirely to the civilian authorities, based on the confidence of citizens and democratically elected, so that the traditional power of the bureaucracy and the army (the 'deep State') can resume the forms which are normal in the Member States;
8. Considers that, in the context of state reform, it will be necessary in the long term to abolish the National Security Council in its current form and position; realises that the desired structural change will be very hard to swallow;
9. Proposes, inter alia, that the military representatives should withdraw from civilian bodies such as the high councils on education and the audiovisual media, in order to ensure that these institutions are fully independent; encourages the Turkish authorities to establish full Parliamentary control over the military budget as a part of the national budget;
10. Considers that a successful reform of the State will partly be dependent on the extent to

which the government succeeds in ridding itself of its exaggerated fear of the rise of fundamentalism and separatism, reflecting Articles 13 and 14 of the Constitution¹; calls on the government to deal in a relaxed manner with Islam and with religion in general; rejects the rigid secularism which gives rise to antidemocratic reactions such as intolerant Islamism;

11. Stresses that the changes demanded are so fundamental that they require the establishment of a new constitution, explicitly based not on Kemalist but on European democratic foundations, with the rights of the *individual* and of *minorities* balanced against *collective* rights in accordance with the customary European standards, as set out for example in the European Convention on the Protection of Human Rights and Fundamental Freedoms;
12. Considers that the major significance accorded by Turkey to nationalism, and the one-sided interpretation of secularism, are not compatible with the European integration model of tolerance and non-discrimination against non-Muslim communities and other minority groups; considers that the drafting of a new Constitution could remove these objections;
13. Calls on the government and the parliament, with the cooperation of the European Commission if wished, to stimulate public debate on the characteristics of the state in relation to the political values of the EU, partly in connection with the outcome of the Convention, in order to strengthen the democratic consciousness of citizens; calls on the Turkish authorities and the Commission to organise information campaigns to increase the awareness of Turkish citizens about the European Union and the obligations arising from membership;
14. Stresses that, in order to strengthen the democratic nature of society, some form of active social middle ground is essential; considers that legislation must be passed, based on a modern constitution, which will stimulate the flourishing of free social organisations in the economic, social and cultural fields; emphasises the value of a fully tripartite consultation between government and social partners;
15. Considers also that ordinary people can be involved more closely in decision-making, and policy be better adapted to needs, by decentralising certain government tasks to a lower level of elected authorities, with the necessary control to ensure transparency;

The rule of law and democracy

16. Encourages the Turkish authorities to recognise the principle of the primacy of international law over national law in the case of substantial differences relating to respect for human rights and the rule of law; considers that this measure is necessary in order for Turkey to be brought more closely in line with the standards prevailing in the Member States of the European Union;
17. Regrets that Turkey has delayed so long with implementing the decisions of the European Court of human rights (ECHR) as it was urged to do by the Parliamentary Assembly of the Council of Europe in a resolution of 23 September 2002 (including the Loizidou case); also notes the lack of confidence in the ECHR; calls on Turkish and European and judicial officers and judges to exchange experiences in order to harmonise the Turkish legal

¹ These articles relate to the protection of the 'indivisibility of the territory' and the 'secular nature of the state'.

system with the system current in Europe; calls on the Commission and the Council of Europe to continue with the exchange programmes initiated in late 2002 and to extend them to include other forms of training;

18. Stresses the importance of a independent and competent judiciary; calls on the Turkish authorities to adopt energetic and consistent measures to improve the quality of the court system and the qualities of judges, who have a great responsibility for creating a new legal culture at the service of the citizen, by promoting the correct interpretation and application of the laws at all levels (local, regional and national); calls on the Commission to consider the possibilities of opening up the Community's 'Grotius' judges' training programme to Turkey;
19. Considers that civilian courts should take precedence over military courts;
20. Calls on Turkey to continue its fight against corruption and to ratify without delay the relevant international conventions it has signed; stresses that, in the fight against corruption, a transparent society, including free media and independent courts, is essential, and that corruption cases in particular should be more public and should be monitored by the media and other watchdog organisations;
21. Calls for the electoral system to ensure that the composition of the parliament fully reflects the principle of representative democracy;

Human rights situation and protection of minorities

22. Recalls the commitment by the Turkish government to finally eradicate torture (zero tolerance); notes with concern that torture practices still continue and that torturers often go unpunished; calls for the most energetic and consistent measures to be taken to heal this open sore on the Turkish body politic, and for the Centre for the Treatment and Rehabilitation of torture victims in Diyarbakir, supported by the Commission, to be able to continue its work unhindered;
23. Calls on the Turkish authorities to permit all prisoners, including those arrested under the jurisdiction of the State Security courts, to be given genuine access to legal aid directly rather than only after two days;
24. Notes the very limited amendments to laws of 3 August 2002 recognising the right of Kurds to education and the right to broadcast in Kurdish; calls on Turkey, however, to act fully in the spirit of the European Charter for Regional or Minority Languages, the Framework Convention for the Protection of National Minorities and the Charter of Fundamental Rights of the European Union;
25. Respects the position of Turkish as the first national language, but considers that a place should be created for other indigenous and liturgical languages (such as Aramaic/Syriac), which is a democratic right of citizens;
26. Urges that an amnesty be granted to those imprisoned for their opinions who are serving their sentences in Turkish prisons for expressing non-violent sentiments;
27. Considers that the revised Articles 159, 169 and 312 of the Criminal Code and Article 8 of

the Anti-Terrorism Act still restrict freedom of expression¹; calls on the Turkish authorities to bring these articles, as regards their form and their application, into line with the European Convention for the Protection of Human Rights and Fundamental Freedoms, to lift the restrictions on the exercise of fundamental rights contained in other parts of the country's legislation (the RTUK law) and to interpret them in this spirit;

28. Calls on the Turkish authorities to call an immediate halt to their discriminatory activities which create difficulties for the lives of religious minorities in Turkey, including in the field of ownership of property, donations, building and maintenance of churches and freedom of action for school boards; urges that all Christian denominations in Turkey should be permitted to maintain theological colleges and seminaries to train their clergy; calls in this connection for the reversal of the decision to close the Greek Orthodox Halki Seminary;
29. Calls on the Commission to draw up a comparative study between the provisions governing religious freedom in Turkey and those in the Member States of the European Union, with reference to the definition of 'religious freedom' in the case law of the European Court of Human Rights and the Council of Europe; encourages the Turkish authorities to bring their laws in this area into line with those enshrined in international conventions;
30. Calls for equal treatment, recognition and protection of the Alevite and Baha'i communities;
31. Welcomes the ending of the state of emergency on 30 November 2002 in the last two provinces of Diyarbakir and Sirnak, but calls on Turkey to contribute to the elimination of tensions with the Kurdish people and to give support to the reconstruction of the south-east region, to facilitate the return of internally displaced persons and returning refugees from the EU, and to lift the de facto occupation of Kurdish and Syrian Orthodox villages by armed village guards;
32. Calls on the Turkish authorities to place any military activity in these regions under civilian control and to demand that the security forces (police and army) be answerable for their actions under all circumstances;

Turkish external relations

33. Calls on Greece and on Greek Cypriots, who are on the threshold of EU membership, but also on Turkish Cypriots and on Turkey, to take courageous steps so that a solution can yet be reached which suits both parties on the basis of the proposals of Secretary-General Kofi Annan;
34. Calls on the Turkish authorities to lift the embargo against Armenia in order to reduce the economic backwardness of the region affected by the ban; urges mutual recognition and the resumption of diplomatic relations as a step towards compliance with the political

¹ These articles relate to: "insulting the State institutions" (Art. 159), "support for an illegal armed organisation" (Art. 169), "incitement to class, ethnical, religious or racial hatred" (Art. 312) and "separatist propaganda" (Art. 8).

criteria;

35. Calls on Turkish and Armenian academics, social organisations and NGOs to embark on a dialogue with each other, or to continue their existing dialogue, in order to finally put the past behind them;
36. Welcomes the continuing improvement in bilateral relations between Turkey and Greece and encourages a negotiated solution to the remaining bilateral conflicts, in the spirit of the Helsinki conclusions;

EU-Turkey relations

37. Calls on the European Council to take a clear and consistent position and to take decisions in accordance with mutually recognised criteria, based on the periodic progress reports by the Commission and the resolutions of the European Parliament;
38. Considers that, as soon as Turkey feels it is ready, a joint Turkish-EU project must be launched with a view to achieving fundamental reforms of the Turkish state, so that Turkey can prove that it shares the fundamental values of the EU, which is an essential precondition if it is to have the prospect of full membership;
39. Reiterates its view that the two financial aid programmes adopted by the Commission in 2002 must be spent as a priority on compliance with the political criteria;
40. Reiterates its call on the Commission to work out proposals for a broader cooperation with Turkey in the medium and short term, including in the fields of energy policy, regional environmental protection, combatting cross-border crime, 'Culture 2000' and 'Media', and to optimise the potential of customs union;
41. Notes the willingness of Turkey to honour its commitments as a member of NATO in spite of the serious consequences it could incur as a country bordering Iraq;
42. Instructs its President to forward this resolution to the Council and the Commission and to the parliament and government of Turkey.

EXPLANATORY STATEMENT

History and background

The reactions of Turkey, as a candidate for membership of the European Union, to the criteria imposed by the Union differ widely from those of the Central and East European countries (CEECs). In both cases there was a need to take a radical approach to the structures of the state in order to be ready for accession. The CEECs showed a great deal of enthusiasm in taking leave of their old (totalitarian) structures and embarking on the road to a democratic state based on the rule of law, on the EU model. Turkey shows much less of a clear desire to go that way. And yet it has been clear from the outset that the Treaty of Rome only permits membership for democratic constitutional States. Hence the greatest obstacle to Turkey's accession lay in its slowness in fulfilling the Copenhagen political criteria. The EU must not beat about the bush in speaking of this, because to do so raises unjustified expectations and slows down the willingness to reform. At the time the Turkish democratic opposition regretted the lack of firm support from the Council and Commission, and it was the European Parliament which most clearly expressed its views of the country's shortcomings with regard to the rule of law.

The first forty years from Turkey's application for membership were wasted because there was little incentive to reform the Turkish state into a democratic state based on the rule of law. Even since Turkey's first recognition as an EU candidate in 1999, progress made by Turkey towards fulfilling the Copenhagen criteria was characterised by unequal dynamism showing different degrees of political will to achieve the reforms and implement them. The positive measures were often followed by inappropriate implementation or even contradictory actions, which question to some extent the sincerity of Turkish commitments towards reform. The country's admission to the Council of Europe in 1949 also failed to have the desired stimulating effect on the important issue of reforms towards a democratic constitutional State. It was even suspended from the Council of Europe for a number of years (between 1981 and 1984). This is not, therefore, the kind of admission policy that should be imitated by the EU. The Council should pursue a realistic and consistent policy on the basis of unequivocal criteria.

Voting for the political values of the Union

Partly because the citizens of the EU need to be persuaded that Turkey can become an ordinary Member State – in which a democratically-minded citizen can feel free, protected and at home – every possible emphasis needs to be placed on meeting the political criteria. By contrast, EU citizens had hardly any doubts on this point with regard to the CEECs due to join the EU in 2004.

Accordingly the accompanying resolution states as clearly as possible where the priorities for improvements and reforms lie. On all these points Turkey is given a clear opportunity to opt for (or against) the political values to which the Union attaches so much importance. It is recognised that these values arose in a distinctively Judaeo-Christian and humanist society. However, no one can claim a monopoly on them. It should be assumed that they can be just as well adopted and shared by an Islamic society.

The transformation of a state based on Kemalist ideas (see recital F) into an EU Member State, accepting and sharing the political values we set so much store by in the Union, will be a long drawn-out job. The enlargement strategy will thus differ from that for the other candidate countries. Turkey needs to be convinced of the priority of state reforms. This 'chapter' needs to be dealt with before the other 31.

Reform programme

The most obvious point on which reform is needed is the position of the army. In fact the army has much more power than is acceptable for a constitutional state. The National Security Council epitomises the political power of the military. The defence budget is separate from the national budget and is completely outside parliamentary control. The army has an unparalleled power over business, education and the media.

The army should of course be under civilian control. In a European democratic constitutional state, the heart of politics lies with the government and the parliament. That should also be the case in Turkey. This means that the political tasks which have hitherto been the responsibility of the army, including the think-tanks set up for this purpose, should be returned to the sphere of the government.

In the philosophy of the Turkish state, the balance between the rights of individuals and minorities on the one hand and collective rights on the other hand, has been heavily skewed in favour of collective interests and collective security. That has been an important reason for violations of human rights and the rights of minorities.

The 'division between church and state' has taken the form in Turkey of state control over Sunni Islam, which enjoys unique privileges in return. In Turkey, the emphasis is on cultural and religious homogeneity. Other cultural or religious groups have a rough deal or are even prevented from operating.

The current constitution was drawn up in 1982, and bears the clear hallmarks of the military. Accordingly it does not lend itself to radical amendment in order to comply with the above requirements. State reform is therefore best accompanied by the establishment of a new constitution, based fully on European political values, as is normal in the EU.

Of course the resolution of the Cyprus question and the normalisation of relations with Armenia also form part of the fulfilment of the Copenhagen criteria.

It would be desirable for the above-mentioned fundamental issues to be approached in a systematic manner. As long ago as the resolution of 3 December 1998 (Swoboda) on relations with Turkey, a clear and thus binding timetable was advocated for the elimination of political obstacles. Since it was clear that the short and medium term objectives in the partnership agreement (2001), particularly the political ones, could only be partly achieved, a compulsory schedule of this kind is clearly a difficult issue. And yet compliance with the political criteria in particular cannot be dragged out for yet more years to come. This would damage the credibility of the partnership. Just as in the case of the countries joining in 2004, certainty about membership will not exist until the requirements are met.

Specific steps

Recently there has been more willingness on the Turkish side to carry out reforms towards a state based on the rule of law. We may mention the constitutional reforms (Oct 2001), a new civil code (Nov 2001), three additional legal reforms (February, March and August 2002), and harmonisation packages 4 and 5 (adopted on 10 and 24 Jan 2003 respectively). The last provides for a positive development with regard to retrial. It allows for the right to retrial in cases where the European Court of Human Rights found that the decisions of national courts violated the European Convention of Human Rights. This will have a direct effect on the case of a number of former MPs from the pro-Kurdish DEP, some of whom are still in prison, such as the Sakharov Prize winner Leyla Zana. The Parliament has been calling for her release for the last 9 years, with no result so far.

In November 2002 the state of emergency in south-west Turkey was lifted in the last two provinces of Diyarbakir and Sirnak. These reforms have in some cases been very significant for ordinary people, and we welcome this. However, in relation to the distance still to be covered, these are still only small steps, and they seem to have been taken with the greatest difficulty. We should not give the impression on the EU side that these small steps have almost brought Turkey to its goal. The changing of the guard in Turkey's parliament and government, however, is a reason for optimism. The AKP will probably show more willingness to distance itself from the old state philosophy. Still, even for this government the reform process will be hard to swallow.

An immediate and radical approach

For the EU this is yet another reason not to adopt a 'wait-and-see' approach but to support the government in actively fulfilling the political criteria of Copenhagen. This approach means that work on compliance with the criteria must not be postponed to some date in the future. This task can be embarked upon immediately as soon as the Ankara government is ready. The EU should not be a passive observer but should give the necessary assistance. In order for this approach to be effective it is necessary that no problems should be swept under the carpet, particularly not the most fundamental problems: it should be stated clearly where the problems lie.

It cannot be ruled out that Turkey will ultimately regard such a thorough-going reform as unsustainable for itself, or as not in its interests. The slow rate of implementation of the reforms seems to point in this direction. However, if we assume that Turkey can in fact become a full member of the EU, we must not leave any scope in the pre-accession process for attempts to evade central political decisions. Among other things, the confidence of the citizens of the present Member States is at stake.

EU assistance

A radical approach to constitutional reforms is a priority. In this connection the Venice Committee could provide constitutional assistance. Experience gained in establishing a Constitution for the European Union by the Convention could also be exploited. Since the middle of 2002, subcommittees of the Association Committee have been carrying out detailed investigations into the reform of legislation. The Union can also offer financial and personal support in training and exchange programmes for police, judiciary, armed forces and

administrative staff, in order to promote the implementation of the necessary reforms. The budgetary decisions have already been taken by the EU.

The Commission has recently submitted to the Council a revised Accession Partnership. This is an important instrument which, to be efficient, must contain a precise 'road map' reflecting clear objectives with the prioritisation of actions, clearer timetables and deadlines as regards their fulfilment.

A sustainable reform of state and legislation can, of course, only take place if it is shared on a broad basis by politics and public opinion. To this end a debate among the general public about the political values of the EU would be very desirable. The EU can provide the necessary information for this purpose. Comparative studies can also be carried out to support the arguments in favour of particular reforms.

Once the fundamental choices have been made, given concrete form and become a self-evident basis for implementation of policy, the way through the '31 chapters' will be seen to be a feasible, even if still problematic route.