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## TURKEY: BEYOND THE CUSTOMS UNION?

The 1995 Barcelona Declaration reshaped the context of the relations between the EU and the Mediterranean countries by introducing the concept of « Euro-Mediterranean Partnership » and by envisaging the creation of a zone of peace, stability and free trade in the Mediterranean by the year 2010. The increasing importance of the Euro-Mediterranean Partnership was also reiterated at the Third Euro-Mediterranean Conference of Foreign Ministers that was held in Stuttgart on April 15-16, 1999. Because of its key position in the Mediterranean area, Turkey has also been included in the Barcelona Process together with the Maghreb and Mashreq countries, as well as Malta and Cyprus. Yet, Turkey's unique position and status vis-a-vis the EU makes it necessary to assess its relationship with the latter more from the perspective of bilateral relations rather than in the Euro-Med context. The main reason is the peculiar position of Turkey, who developed its relations with the Union more on a bilateral basis even before the launching of the Euro-Mediterranean Process. Turkey had signed an Association Agreement with the EU in 1963, completed the Customs Union with the EU in 1995 and the EU recognised its candidacy for full membership at the Helsinki European Council in 1999. Thus even though the period 1995-1999 was marked with a gradual deterioration of relations between Turkey and the EU, with Helsinki, Turkey has moved one step beyond the Customs Union. It is important to understand the dynamics behind the deterioration and the following rapprochement between Turkey and the EU that developed on a bilateral basis since the experience of Turkey might be considered a role model for the other Mediterranean partners who seek to become EU members in the future.

### *Overview of EU-Turkey Relations until the Customs Union*

In the aftermath of the Second World War, the international setting laid a fertile ground for realizing the Western orientations of Turkey that

dated back to the late nineteenth century (1). Since the demise of the Ottoman Empire and the inception of the Turkish Republic the West has always constituted the role model for Turkey's political, social and economic development. Therefore, in addition to NATO that would provide the security umbrella against the Soviet threat, the European Economic Community (EEC) was regarded by Turkey as a great opportunity to be economically and socially integrated with the Western Europe.

The request of Turkey for full membership in the EEC in 1959 was followed by the Ankara Agreement that was signed between Turkey and the EEC on September 12, 1963. This was a major event in Turkey at the time. The headlines of the leading newspapers reflected the Turkish enthusiasm as « Bear the difficulties for the next 22 years, then you will be able to go shopping in Europe », « Now we are Europeans » (2). This agreement was called « Association Agreement » and in formal terms, it still continues to govern the EC's relationship with Turkey (3). The stated objectives of the Association Agreement were the progressive establishment of a Customs Union and the alignment of the economic and social policies of the two entities in three stages (preparatory (4), transitional (5) and final). It would also include the progressive achievement of freedom of movement for workers and financial cooperation to help Turkey speed up its economic development.

All throughout the sixties and the seventies, due to internal problems, the Turks were not well aware of the developments in Europe especially regarding its Mediterranean enlargement, and its broader implications for the future. Therefore, the Turkish government did not file an

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(1) For a detailed analysis of the Turkish modernization and Western orientations, see Serif Mardin, (1991) and Feroz Ahmad (1993).

(2) *Milliyet* (Istanbul daily), September 12, 1963 and *Hürriyet* (Istanbul daily), September 12, 1963, quoted in Mehmet Ali Birand, *Türkiye'nin Ortak Pazar Macerası* (Istanbul: n.d.), 44.

(3) Michael Cendrowicz, *The European Community's Relationship with Turkey: Looking Backwards, Looking Forwards*, Paper submitted to the Conference of the Commission of the European Communities, Brussels, July 4, 1991, 1.

(4) The preparatory stage that started in 1964 lasted for seven years and was concluded on November 23, 1970 when the Association Agreement was modified by the Additional Protocol that was signed between the EC members and Turkey and that marked the beginning of the transitional stage.

(5) The Additional Protocol that was signed in 1971 was aiming at the Customs Union as a final stage. It would cover industrial products, the achievement of free movement of labor between the parties, a gradual expanding of preferential trade regime for agricultural products, approximation of legislation and policies in areas determined by the Additional Protocol, and the initiation, to the extent possible, of a process of liberalization of trade in services.

official application during the second enlargement of the Community in 1977. This neglect of Turkey was also in the interest of the Community who knew that a possible future Turkish application for full membership would have to be evaluated in accordance with the Article 28 of the Association Agreement. The Article stated that « as soon as the operation of the Agreement had 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 accession of Turkey to the Community » (6).

The military rule during 1980-1983 in Turkey led to a suspension of EC-Turkey relations until the political situation and respect for human rights were improved. The resumption of the Association Agreement came only after the 1987 referendum that lifted all political restrictions in the 1987 elections. The second phase of the Association was marked by an important turning point when the Turkish government decided to file an application for full membership in the Community on April 14, 1987, yet the Commission made an official opinion in December 1989 and rejected Turkish application (7).

The rejection was not the end of the road for Turkey. It took further steps in preparing for the completion of the Customs Union that was considered as the most crucial step towards full membership. On March 6, 1995, the EC-Turkey Association Council Decision 1/95 launched the methods for the completion of a Customs Union covering industrial products and resumed financial cooperation (8). The Council also decided to step up cooperation in several sectors, to strengthen institutional cooperation and to intensify political dialogue by setting up a consultation body called the Customs Union Joint Committee. On December 13, 1995 the Turkish Parliament gave its approval to the Customs Union, thus the

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(6) See the Agreement Establishing an Association between the European Economic Community and Turkey (12 September 1963).

(7) The Community was mainly concerned with deepening rather than widening. Therefore, the reasons for rejection were not especially for Turkey, since the Community stated that « unless exceptional circumstances intervened, it could not recommend starting accession negotiations with *any* country before 1993 at the earliest. The Matutes Report made a specific reference to the rejection of Turkish application and stated that expansion of political pluralism, improving human rights, persistence of disputes with Greece and non-solution to the Cyprus problem were the main factors underlying this rejection. For a detailed explanation for the rejection, see Allan Williams, « Türkiye: Akdeniz Bağlamı », in Canan Balkir and Allan Williams ed. *Türkiye ve Avrupa Birliği* (Istanbul: Sarmal, 1996), 84.

(8) Republic of Turkey, Ministry of Affairs, Information Department, Decision No: 1/95 (Customs Union) of the Association Council.

final stage of the Customs Union was reached with the Decision which came into force on December 31, 1995. Even though both sides perceived the Customs Union to be mainly an instrument of economic integration, it carried wider implications for Turkey, since it would have a positive impact on the socio-political structure as well (Müftüler-Bac, 1999).

*The Aftermath of the Customs Union: The End or the Beginning of the Problems?*

Even though the completion of the Customs Union was achieved as a final stage of the Association Agreement, this did not really mean that the EU-Turkey relations became problem-free. For Turkey this was only a step on the way of full membership and thus it hoped that the natural outcome of the completion of the Customs Union would be the recognition of Turkey for full membership into the Union. Yet, in the period following the completion of the Customs Union, EU-Turkey relations entered a phase of gradual deterioration due to a number of reasons: Global changes, changing priorities of the EU, the ambiguous status of Turkey within the Euro-Mediterranean Partnership and the non-implementation of provisions as the Financial Protocol and the free movement of workers.

The fall of the Berlin Wall in 1989 was a major breakthrough in shaping the priorities of the EU regarding its enlargement and had also repercussions for EU-Turkey relations. The termination of the Cold War, the collapse of communism in Central and Eastern Europe, and the reunification of Germany added new dimensions to the process of European integration, necessitating the re-drawing of the Union's Eastern boundaries. This border had to protect the security interests of Europe as well, so the next enlargement had to encompass the East and Central European countries which were seeking to join the EU. Therefore, the enlargement priorities of the EU changed excluding Turkey (Berksoy, 1998).

While the Northern members of the EU pushed for enlargement towards East and Central Europe, the Southern members were emphasizing the importance of establishing closer relations with the Mediterranean countries with whom the EU had a wide range of interdependencies in the commercial and economic sense as well as from a historical perspective. Thus the idea of « Euro-Mediterranean Partnership » took its final shape with the signature of the Barcelona Declaration in November 1995 by 27 Ministers of Foreign Affairs of the EU and the Mediterranean partners.

Even though Turkey was excluded from the enlargement strategy of the Union, it was invited to participate in the Barcelona Conference,

where it was represented by the then Deputy Prime Minister Deniz Baykal. At the official level, the Barcelona Process was perceived by Turkey as an important step that would bring stability in the region. The main expectations of Turkey from this process stated at the inaugural conference in Barcelona were the economic and financial aspects of the « partnership » and anti-terrorism. In Turkey's view, even though the issues concerning political and security matters were of great importance in the Mediterranean, the great regional differences between Partners could make progress in political and security partnership difficult. Yet, at the beginning some other avenues for partnership may prove to be more fruitful such as joint action in drug trafficking, terrorism and international crime, which must be accompanied by measures for combating racism, xenophobia and discrimination. To this end, since the beginning of the Barcelona Process, Turkey has made clear that the main driving force should be trade and investment which would enable a partnership between the EU and the Mediterranean partners as well as among the latter (9).

The inclusion of Turkey in the Barcelona Process was welcomed in Turkey at the beginning since it was regarded as an opportunity that would enable the development of trade which would eventually open new fields for employment, reduce economic and social pressures and increase welfare in the Mediterranean countries. The critics, on the other hand, were basically arguing that through this process Turkey's status was lowered to the Maghreb and Mashreq countries who were at the stage of signing only free trade agreements with the EU, whereas Turkey was about to complete the final stage of the Association, i. e. the customs union within a month. Thus the invitation of Turkey to Barcelona was perceived as if the EU did not really want to treat Turkey on the basis of its 1963 Association Agreement, but rather wants to include it into the Barcelona Process (Altunisik, 1997). Thus the initial enthusiasm of Turkey for being included in the Process was soon replaced by a debate about the aftermath of the completion of the Customs Union which would be effective from January 1, 1996.

In this respect, the bilateral relations with the EU were deemed more important and the Euro-Mediterranean Partnership was only a side issue in Turkey's foreign policy agenda. In the meantime, the Process started to lose its meaning for Turkey for several reasons. First, it was

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(9) *The Euromediterranean Process and Turkey*, Ministry of Foreign Affairs, August 1999.

perceived that during the Italian Presidency, there were several concrete initiatives in various fields that aimed at realizing the objectives stated in the Barcelona Declaration and this was realized through a number of high level meetings. However, the successive EU Presidencies did not continue this policy and the Process began to lose its momentum (10).

Secondly, the Euro-Mediterranean Partnership caused frustration on the part of Turkey also because of the bureaucratic obstacles that Turkey faced even after Turkish projects for MEDA funds were accepted. The Commission put forward new bureaucratic developments that restricted any possible progress regarding the implementation of these funds. The Commission informed Turkey that a so-called Framework Agreement was necessary for any project to move forward. However, Turkey was the last country to be notified about this information. Thus this put on hold those projects that had been approved before this new situation arose and a year had to pass before the Framework Agreement was signed. The recent creation of a new unit to handle all projects is also expected to create some other difficulties and decrease the pace of implementation of these funds for the relevant projects in Turkey (11).

Thirdly, Turkey thought that the Barcelona Process began to be entangled with the Middle East Peace Process. Instead of concentrating on economic and cultural matters as stated in the Barcelona Declaration, the EU went ahead with political issues such as establishing a Euro-Mediterranean Charter (12). However, as it was seen at the Malta Ministerial Conference in 1997, the Foreign Ministers could not agree on a Final Communique because of the Arab-Israeli dispute (13). For the above-mentioned reasons, Turkey participated in the informal Ministerial meeting in Palermo in 1998 and the Formal Meeting of Foreign Ministers in Stuttgart in 1999 with a lower level of representation (Deputy Under-Secretary of the Ministry of Foreign Affairs). This was an indirect protest

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(10) *The Euromediterranean Process and Turkey*, Ministry of Foreign Affairs, August 1999, 2.

(11) Moreover, Turkey was concerned at the time that since MEDA funds were not forthcoming and as MEDA I would end by the year 2000, the New MEDA II funds would be lower than envisaged due to the Kosovo Crisis and the newly established Stability Pact.

(12) Third Euro-Mediterranean Conference of Foreign Ministers, Chairman's Formal Conclusions, Stuttgart, April 15-16, 1999.

(13) *The Euromediterranean Process and Turkey*, Ministry of Foreign Affairs, August 1999, 3.

for Turkey has seen the Barcelona Process turn into a Euro-Arab dialogue and was move away from the initial premises (14).

The Euro-Mediterranean Process did not mean much for Turkey for all these reasons. Above all, it was clear that Turkey did not want to be treated in the same basket with the other Mediterranean partners because of its perceived special status, i. e. being the only associate member that has a customs union agreement with the EU and emphasized the importance of its bilateral relations with the EU. Therefore, for Turkey the Barcelona Process always became second in importance and was doomed to be overshadowed by other developments concerning Turkey's bilateral relations with the EU. Those issues comprised its membership status, the non-implemented provisions such as the Fourth Financial Protocol, the free movement of workers despite the completion of the Customs Union, and the increasing importance of the political criteria for membership into the EU.

*The Fourth Financial Protocol and Free Movement of Workers: The Non-Implemented Provisions*

The first and foremost problem that arose in the EU-Turkish relations in the aftermath of the completion of the Customs Union has been the non-implementation of the Fourth Financial Protocol due to the Greek veto. The Declaration on Financial Cooperation adopted by the EU Council of Ministers on March 6, 1995 had envisaged the resumption of financial cooperation between Turkey and the EU in parallel with the completion of the Customs Union. The aim was to help Turkey adapt its industrial sector to the new competitive situation created by the Customs Union, improve infrastructure linkages with the EU, as well as to reduce the difference between the Turkish economy and that of the Community (15). Despite the fact that the Declaration has been entered into the Minutes of the Association Council and has thus acquired legal status, and the solidarity obligation arising out of the Association relationship, the Declaration has not been implemented as envisaged.

According to this Declaration, financial cooperation between Turkey and the EU was to be composed of the following elements (16):

- substantial budgetary resources which would take the form of grants.

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(14) Ibid.

(15) Republic of Turkey, Ministry of Foreign Affairs, *A Strategy for Developing Relations between Turkey and the European Union: Proposals of Turkey*, 13.

(16) Ibid., 14.

The amount of this facility was expected to reach 375 MECUs over a five-year period starting in 1996;

— continued access to European Investment Bank loans for 300-400 MECU available under the 1992-1996 new Mediterranean policy for the financing of infrastructure projects in the fields of environment, energy, transport and telecommunications;

— additional EIB loans for 750 MECU over a five-year period starting in 1996, in order to improve the competitiveness of the Turkish economy following the completion of the Customs Union;

— grants amounting to 375 MECU and EIB loans worth 700 MECU as part of the MEDA program during the period 1996-1999;

— in cases of special need, and in coordination with international financial institutions, macro-economic financial assistance linked to the execution of IMF-approved programs (200 MECU).

However, this package of 2.8 MMECU has largely failed to materialize for mainly political reasons. The only part of the package that was related to the European Investment Bank loans were provided in the framework of the EU's MEDA program for 12 Mediterranean countries, including Turkey that was adopted on March 6, 1995 by the General Affairs Council. A total of 339.5 MECU was made available in the period 1992-1996, and projects worth around 100 MECU have been approved since then as part of the MEDA program (17).

The number of projects and amount of MEDA funds were as follows (18):

Year	Number of Projects	Commitments (ECU)
1996	5	33.143.000
1997	36	70.246.000
1998	8	132.475.000
1999	-	140.000.000 (envisaged)

But even the last part of the MEDA program had problems, since the European Parliament adopted a Resolution on September 19, 1996 calling on the Commission to block, with immediate effect, all appropria-

(17) See *1999 Yearly Programme of the State Planning Organization*, 68 and Projects in Turkey Currently Supported by the Budgetary Means of the European Commission. Council Regulation (EC) No: 1488/96 of 23 July 1996 on Financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of Euro-Mediterranean Partnership. (O. J. No: L189' 30 luglio 1996, p. 1).

(18) *The Euromediterranean Process and Turkey*, Ministry of Foreign Affairs, August 1999.



tions set aside under the MEDA program for projects in Turkey, except those concerning the promotion of democracy, human rights and civil society (19). This resolution which tried to impose conditions on its implementation were rejected by Turkey and cast doubt upon the efficiency of the application of the Barcelona Process as well as EU's commitments in this regard. As a result, whereas Turkey was reducing its customs walls towards the Community products (20), the required Community support for the industrial restructuring in Turkey never materialized (Kabaalioglu, 1998).

A second frustrating issue for Turkey was the non-implemented provision incorporated in the Association Agreement and the Additional Protocol on the free movement of workers in accordance with the Articles 48, 49 and 50 of the Treaty of Rome that had to be achieved gradually between 1976 and 1986. The logic behind it was that while Turkey would be opening up its markets to Community industrial products over a 22-year period, it would have some structural problems. Some industries would result in unemployment yet this would be compensated by providing jobs for Turkish workers in the member states. But the non-implementation of this provision brought some negative costs to Turkey who did not perceive the completion of the Customs Union as the final target of the Ankara Agreement (Kabaalioglu, 134, 139).

The non-implementation of the provisions regarding the Fourth Financial Protocol and the free movement of workers in addition to the political conditions set forth for the approval of the MEDA funds shaped Turkey's negative perceptions of the EU to a great extent and started a deterioration in EU-Turkish relations. Turkey considered that the EU was unwilling to find a solution to these problems, and blamed the Commission who found it difficult to process the projects submitted to it by the Turkish authorities because of the limited human resources and administrative problems within the functioning of the Commission. Turkey

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(19) Following a meeting of the Conference of Presidents on November 28, 1996, a specific procedure was adopted by which Parliament gives its opinion on the projects the Commission wished to finance under the MEDA program.

(20) According to the trade figures after the completion of the Customs Union, in 1996, the imports of Turkey from the EU rose by 34.7% compared to 1995 and reached 22.7 billion dollars, while the exports amounting to 11.477 billion dollars, rose only by 3.6%. Thus the EU preserved its place as being the biggest trading partner of Turkey with a share of 52.9% in total imports and 49.5% in total exports. In 1997, Turkey's exports to the EU rose from 12.2 billion dollars to 13.4 billion dollars in 1998 and imports from the EU increased from 24 billion dollars in 1997 to 24.8 billion dollars in 1998. See *Relations between Turkey and the EU, Republic of Turkey, Ministry of Foreign Affairs*, 5.

also stated that the Commission had changed the guidelines in the selection of projects from what they were originally (21).

In spite of these developments, speaking at the meeting of the EU-Turkey Association Council on April 29, 1997, the EU representatives reaffirmed Turkey's eligibility for membership of the EU. At the same time, they stated that Turkey's application would be judged on the same criteria as the other applicant countries. In this regard, the Commission was called upon to draw up a report on the future development of relations between the EU and Turkey, in the context of the Customs Union.

*Copenhagen Summit, Agenda 2000 and the Increasing Importance of the Political Criteria for Turkey*

In the 1990s, one important issue to which Turkey did not pay due attention was the Copenhagen Summit in November 1993. Instead, Turkey focused all its energy on the completion of the Customs Union. At this summit under the presidency of Denmark, the EU was refining existing principles and criteria for being eligible for membership in the Union and also was defining its own identity through these criteria (22). Under three main headings they can be summarized as follows: to provide the stability of institutions that secure democracy, the supremacy of the rule of law, human rights and respect for minorities; to have a functioning market economy and to be able to cope with the competitive pressures and market forces in the European Union; to be able to meet the responsibilities that would stem from full membership as well as the political, economic and monetary union.

The Copenhagen criteria also laid the basis for « Agenda 2000 », the report prepared by the Commission and issued after the Amsterdam meeting. In this report, the EU outlined its enlargement strategy and while it foresaw the full membership of 12 countries including the Republic of Cyprus and several Eastern European countries, it only suggested a plan for enhancing relations with Turkey.

The report was, in a way, refining the requirements for full membership and was implying that the full membership would not be solely

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(21) *A Strategy for Developing Relations between Turkey and the European Union: Proposals of Turkey*, Ministry of Foreign Affairs, 15.

(22) Can Baydarol, *Avrupa Birliği'nin Genişlemesi*, Avrupa Komisyonu Türkiye Temsilciliği, n.d., 22. These new criteria were included because of CEEC new democracies having applied or on their way to membership. Therefore, it was not something specifically designed for Turkey, although Turkey perceived it as such. This is not the place to discuss whether such a perception is correct or not, or whether it is shared in the EU.

evaluated by the *acquis communautaire* of the European Union. The emphasis on the new political and economic targets, has made the issue of membership much more different than before. Thus in this context, it was foreseen that in addition to the Copenhagen criteria, the Common Security and Foreign Policy, Cooperation in Legislative and Internal Matters and Economic and Monetary Union would be issues that the candidate countries for membership should be taking into account (23).

Actually, although Agenda 2000 named Slovakia as the only country that did not meet the first Copenhagen criteria, when the report on Turkey is examined, Turkey, too, is considered as being one such country (24). The report expressed satisfaction with the operation of the Customs Union, yet it was highly critical of the political problems in Turkey, including its record on human rights and its failure to find a peaceful solution to the Kurdish problem. It stated that Turkey should give « a firm commitment to resolve a number of problems in the region and contribute actively to a just and lasting settlement of the Cypriot question. » The report also proposed a series of measures designed to consolidate the customs union, to extend it to new fields as services and agriculture, to step up cooperation in several sectors as energy, environment, telecommunications etc., some of which came under the second and third pillars of the Barcelona Declaration.

In the report, the human rights problem in Turkey was mentioned in detail and the Commission even proposed helping Turkey in its efforts to improve the human rights situation (25). In this connection, the Commission prepared a preliminary draft program proposing cooperation with the Turkish authorities and non-governmental organizations to support the Turkish authorities' efforts to increase respect for human rights and the rule of law.

The Agenda 2000 report deteriorated EU-Turkey relations further since its content was not received with enthusiasm by the Turkish side. Concerned that it would be left out of both the first and second waves of the EU expansion, Turkey asked that the Union officially declare that was part of the expansion process, that it would be judged by the same criteria and that a pre-accession strategy be developed. Turkey resented the repetition of the well-known political and economic arguments against itself. At the highest official level, it was stated that since no ref-

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(23) *Agenda 2000 and Turkey*, DPT, Avrupa Birliği ile İlişkiler Genel Müdürlüğü, September 1997, Ankara.

(24) Ibid.

(25) Ibid.

erences were made to Turkey's full membership in the Report, this meant that the European Council has been unable to recognize Turkey as a candidate explicitly (26).

*1997 Luxembourg European Council: EU-Turkey Relations Hit the Rock*

The deterioration of the EU-Turkey relations reached its nadir with the decisions on enlargement which were taken at the Luxembourg European Council of December 12-13, 1997. The summit confirmed at the highest level the content of Agenda 2000. In this respect, the Summit divided the enlargement countries into three main categories (27), and Turkey constituted the third category. In the Chairman's Formal Conclusions, Turkey's eligibility for accession to the European Union was reconfirmed. The Heads of State and Government also decided to draw up a strategy to prepare Turkey for accession by bringing it closer to the European Union in every field. This strategy would consist of the intensification of the Customs Union, the implementation of financial cooperation, the approximation of laws and the adoption of the Union *acquis* and participation in certain programs and certain agencies. In addition, the European Council listed a number of principles which would allow a strengthening of ties with Turkey. The European Council also indicated that Turkey would be invited to participate in the European Conference of March 12, 1998 in London on the same basis as the other applicant countries (28).

The impact of the Luxembourg shock upon Turkey resulted in a feeling of exclusion. From the Turkish point of view, Paragraph 35 of the Conclusions carried some undertones that would have a disastrous effect upon the EU-Turkey relations, since it had received discriminatory treatment compared with the other applicant countries. In Paragraph 35 it was stated that Turkey should reach human rights standards of the EU level and should respect minority rights and the protection of minorities. The problems with Greece should be resolved by also including the possibility of application to the International Court of Justice, and that Turkey

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(26) President Süleyman Demirel, « Introduction », *Insight Turkey*, January-March 1999, vol. 1, no. 1, 5.

(27) First category countries constituted Hungary, Poland, Czech Republic, Estonia, Slovenia and Cyprus. The negotiations with these countries would start in 1998. The second category countries which were accepted as candidates for full membership, yet with whom the negotiations would start at a later stage were Slovakia, Rumania, Bulgaria, Lithuania and Letonia.

(28) Presidency Conclusions, Luxembourg European Council, December 12-13, 1997.

should find a solution to the Cyprus problem in line with the United Nations' relevant Resolutions (29).

The Conclusions of the Luxembourg Summit was regarded by Turkey as a « slap in the face » (Tigrel, 1999, p. 53) and caused a major disappointment since eight months before Turkey had announced that it expected to be placed in the same basket as the other applicant countries. However, it had been leapfrogged in the queue for membership despite its Association Agreement, Customs Union and an application for membership lodged 10 years earlier. The EU policy was harshly criticized by the Turkish Minister of Foreign Affairs who labeled Turkey as a « virtual candidate » (Sen, 1999). As a protest of the discriminatory policy of the EU, the morning after the Luxembourg Summit, the then Prime Minister Mesut Yılmaz gave a live press conference in which he stated that Turkey would not participate in the coming European Conference, that it was suspending political dialogue with the Union and therefore no longer wished to discuss with it issues such as relations between Greece and Turkey, Cyprus and human rights. Turkey stated that it would not accept the conclusions of the Luxembourg European Council since they put political preconditions for the recognition of Turkey's candidacy status (30) and that the EU-Turkey relations would from then on be based on existing texts as the Association Agreement, Additional Protocol and Customs Union (31).

*The « European Strategy for Turkey »*

After a period of great tension following the Luxembourg Summit, Turkey began to question the Customs Union agreement, suggesting that it should be reviewed to resolve some injustices against Turkey, and possibly even be abandoned (32). It did not attend the European Conference despite many visits by several European leaders to try to change Turkey's mind. Turkey insisted that the conference was « void » and it would not participate in it unless it was turned into a meaningful institution and did not attend the semi-annual gatherings afterwards (33). On March 4, 1998, the Commission adopted a work program to add substance to the Customs Union, to extend it to other sectors as services and agriculture, and

(29) Ibid.

(30) Press Release, *Lüksemburg Zirvesi Sonuçları ile İlgili Hükümet Açıklaması*, 14 December 1999.

(31) *Briefing*, December 13, 1999, 12.

(32) Ibid.

(33) Ibid.

to step up cooperation in the other areas referred to in its July 1997 report regarding the future relations with Turkey. This work program was called « European Strategy for Turkey ».

The Cardiff European Council in June 1998 welcomed the Commission's work program for taking forward the European Strategy to prepare Turkey for membership, as it would eventually provide the platform for developing the relationship on a sound and evolutionary basis (34). Insisting that the EU had not yet corrected its « historic mistake » Turkey boycotted the 25 May 1998 meeting of the EU-Turkish Partnership Council (35).

Following the Cardiff European Council's positive reception of the communication on the European Strategy, on July 22, 1998 the Turkish authorities sent the Commission a document containing their reactions to the proposals contained in the European strategy. It was obvious that for Turkey, the European Strategy did not mean much, since it did not go beyond the objectives of free circulation of agricultural products and services which was set out in the Ankara Agreement for the final stage of the Association (36). Furthermore, it did not even provide for measures which would permit the Association Council to function effectively or ensure substantial financial cooperation, despite the fact that these are essential for progress to be made in the direction of the objectives of the Association (37).

In its response to the strategy, Turkey was also stating that

*...even if they were fully implemented, the proposals contained in the 'Strategy Document' would still fall far short of the possibilities made available to the other candidates and be insufficient to integrate Turkey with the EU because it continued to label Turkey « eligible » for EU membership rather than a « candidate » for full EU membership. These proposals must therefore be seen as a starting point rather than an end in themselves and must be complemented by other steps which should aim at abolishing all restrictions on the movement of goods, services and capital between the two parties (38).*

In September 1998, the first technical discussions took place between the Commission and the Turkish authorities to decide on a work sched-

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(34) Presidency Conclusions, Cardiff European Council, June 15-16, 1998.

(35) *Briefing*, December 13, 1999, 11.

(36) Ministry of Foreign Affairs, Information Department, *A Strategy for Developing Relations between Turkey and the European Union Proposals of Turkey*.

(37) *Ibid.*

(38) *Ibid.*

ule and the arrangements for implementing the European Strategy. Following that, in response to the Cardiff European Council's request, on October 21, 1998, the Commission adopted a communication on financial support for the European Strategy. This communication included a regulation regarding the implementation of measures to intensify the EU-Turkey Customs Union (ECU 15 million for 1999-2001) as well as a regulation on measures to promote economic and social development in Turkey (ECU 135 million for 1999-2001).

The Cardiff European Council of 1998 also required the Commission's confirmation that the latter will submit at the end of 1998 its first regular reports on each candidate's progress towards accession. In the case of Turkey, the European Council noted that « the report would be based on Article 28 of the Association Agreement and the conclusions of Luxembourg European Council » (39). However, the efforts of the Cardiff European Council to compensate the « historic mistake » in Luxembourg did not eradicate the perceived prejudicial treatment towards Turkey. In the following months, the EU basically tried to please Turkey, to overcome the Greek veto, and to secure the fulfillment of EU financial obligations to Turkey.

*1998 and 1999: Years of Tension between Turkey and the EU:*

The tension between Turkey and the EU got even stronger when Italy started complaining about the human rights abuses in Turkey, because it was flooded with Kurdish refugees at the beginning of 1998. It highlighted the Kurdish issue by hosting the Kurdish Parliament-in-exile, at the invitation of the leftist Italian deputies and in official government buildings. The hosting of the illegal Kurdish Parliament in Italy infuriated Turkey who accused Italy for supporting terrorism indirectly.

A second issue increasing the tension between the EU and Turkey was the launching of substantive negotiations on full membership with '(Southern) Cyprus' at the EU General Affairs Council Meeting in Brussels on 9-10 November 1998. The Turkish Ministry of Foreign Affairs issued a Press Statement that the application of the Greek Cypriot side for membership in the EU had no legal basis, that the provisions of the Zurich and London Agreements of 1959 and Treaty of Guarantee of 1960 stipulated that Cyprus cannot join international organizations, political and economic unions if both Turkey and Greece are not also members. The EU was seen as pursuing a policy dictated by Greece, yet it has been

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(39) Ibid.

observed that certain EU countries (France, Germany, the Netherlands and Italy) have started to perceive problems that might arise if the Greek Cypriot side became a member prior to a settlement in Cyprus (40).

*The 1998 First Regular Progress Report on Turkey*

The Commission also prepared a Progress Report by early November 1998 on Turkey and this was taken by most observers as a positive development in EU-Turkish relations. This report constituted the Commission's response to the request of the Cardiff European Council. It analyzed the situation of Turkey in the light of the criteria adopted for eligibility for membership in Copenhagen in 1993.

The Progress Report on Turkey in general provided a historical background of the relations between Turkey and the EU, in particular in the framework of the Association Agreement. It made an in-depth analysis of the situation in Turkey with regard to the political conditions referred to by the European Council i.e. democracy, rule of law, human rights, protection of minorities (41).

It also assessed the situation and the prospects for Turkey regarding the economic conditions referred to by the European Council, i. e. market economy and the capacity to cope with competitive pressures within the EU, examined Turkey's ability to take on the obligations of membership, i. e. the European Union *acquis* as set out in the EU treaty, secondary law and policies, and gave a general evaluation of Turkey's situation and prospects on the road to accession with particular reference to the European Strategy.

With regard to the economic criteria, the report was quite favorable. It acknowledged that Turkey had most of the hallmarks of a market economy, possessing a well-developed institutional and legislative framework, including a dynamic private sector and liberal trade rules, despite wide regional development disparities. It stressed that « the Turkish economy has considerable potential for growth and has shown great adaptability, particularly in the context of the customs union, which has contributed significantly to its modernization. These factors should in theory enable Turkey in the medium term to acquire a viable market economy able to withstand the pressure of competition. » The report con-

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(40) Ministry of Foreign Affairs, Information Department. *Press Release Regarding the Turkish Views on the EU Membership of Greek Cypriot Administration of Southern Cyprus*, November 11, 1998.

(41) 1998 Regular Report from the Commission on Progress Towards Accession.



cluded that the EU would do its best to help the backward regions, inter alia by deploying the resources of the European strategy (42).

The second part of the report was devoted to the political criteria. The report focused on the political situation in Turkey over the past few years which was deemed « relatively unstable ». It referred to the dissolution of the religiously-oriented Welfare Party by the Turkish Constitutional Court, which was the subject of a Presidency statement on behalf of the EU on January 21, 1998 noting that « this decision is in accordance with the provisions of the Turkish Constitution. However, the European Union is concerned at the implications for democratic pluralism and freedom of expression ».

Another political issue that the Progress Report touched upon was the September 23, 1998 decision of the Court of Appeals which upheld the ruling of the State Security Court against the Mayor of Istanbul, Recep Tayyip Erdoğan, a member of the banned Welfare Party. He was condemned to a ten-month prison sentence for a speech deemed to constitute racial or religious provocation. In a statement of September 25, 1998 the European Union « noted with regret the ruling of a Turkish Appeals Court » and « expresses concern at the implications for democratic pluralism and freedom of expression, which prosecution of democratically elected politicians for non-violent expression of their views is bound to have » (43).

Another important chapter regarding the political criteria was the Human Rights and the Protection of Minorities. The report stated that « the actual upholding of civil and political rights enshrined in the Turkish constitution and law remained problematic. » The report also stated that « most of the disregard for civil and political rights is connected one way or another with the way in which the government and the army react to the problems in the southeast of the country. » It provided a detailed analysis of specific problems in Turkey in this respect. Persistent cases of torture, disappearances and extra-judicial executions, the duration of police custody, freedom of expression, freedom of the press, conditions in Turkish prisons, freedom of association and freedom of assembly were regarded as the primary problematic areas.

In the later pages of the report, it was referred to the National Security Council (NSC) which is regarded as playing a key role in the formulation and implementation of national security policy and also covers a

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(42) *Ibid.*, see the section on Economic Criteria.

(43) *Ibid.*, see the section on Political Criteria.

wide range of political matters. According to the report, the « existence of this body shows that, despite a basic democratic structure, the Turkish Constitution allows the Army to play a civil role and to intervene in every area of political life » (44).

The other issues mentioned were the Kurdish problem and the Cyprus issue. Regarding the Kurdish question, the report stated that « Turkey will have to find a political and non-military solution to the problem of the southeast. A civil solution could include recognition of certain forms of Kurdish cultural identity and greater tolerance of the ways of expressing that identity, provided it does not advocate separatism or terrorism. » Regarding the Cyprus issue, the Report stated that the measures taken by Turkey, i.e. economic and financial integration and partial integration in matters of security, defense and foreign policy were incompatible with international law as expressed in the relevant UN Resolutions (45).

#### *1998 Vienna European Council and Turkey*

During the Vienna European Council in December 11-12, 1998 the Council underlined the great importance it attached to the further development of relations between Turkey and the EU, taking forward the European Strategy for Turkey for membership. In this context, it recognized the central role of further implementation of the European Strategy in line with its conclusions in Luxembourg and Cardiff.

In Vienna, the Commission's analysis with regard to Turkey was generally shared by the Council, which noted the need for particular efforts by Turkey to ensure the rule of law in a democratic society according to the Copenhagen criteria and the relevant conclusions of the European Council. The Council recalled the great importance that it attached to the treatment of minorities. The Council also underlined the need for harmonizing legislation. The transposition of requirements is not sufficient in itself, but must be followed by effective implementation and enforcement. Therefore, the development of administrative and judicial capacities is a crucial aspect of preparation for accession and the existence of credible and functioning structures and institutions an indispensable pre-condition for future membership. Yet, for Turkey the Vienna Summit was not able to improve relations, since the EU failed to put Turkey's application on a legally binding basis. Thus Turkey would continue to con-

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(44) Ibid.

(45) Ibid.

duct its relations with the EU in the framework of the Decision of the Turkish Government on December 14, 1997 (46).

#### *3-4 June 1999 Cologne European Council and Turkey*

At this meeting, the initiative was taken by the German Presidency with a view to ensuring the recognition of Turkey's candidacy status on an equal footing with the others. Compared to the previous government in Germany, the new coalition government that came to power in October 1998, seemed to have taken a more positive line regarding Turkey's quest for EU membership. However, as a result of other objections, especially from the Baltic states, the EU refrained from taking a decision to include Turkey in the accession process. This constituted another negative step in recognizing Turkey's candidate status clearly and unambiguously so Turkey's official position remained unchanged (47).

#### *Important Developments in the Year 1999:*

There were three important developments that affected the course of the EU-Turkish relations: The Öcalan Affair, the earthquake in Turkey, and the Turco-Greek rapprochement.

1. *The Öcalan Affair:* The leader of the terrorist organization-PKK, Abdullah Öcalan was a major cause in the further deterioration of relations between the EU and Turkey in 1999. First of all, after fleeing away from Syria, he was arrested upon his entrance to Italy, where he started residing in Rome in November 1999. Italy was considering giving him political asylum while it attempted to find an international forum on which to try him. Feeling rejected by Europe and seeing Öcalan being sheltered there, the Turkish public was susceptible to an increasing dosage of nationalism in political rhetoric. Europe was perceived to be using the Kurds to divide Turkey. The strong nationalist fervor was reflected at the April 18 elections, in which the MHP-the Nationalist Action Party-that had not been able to cross the threshold for parliamentary representation in the 1995 elections, came in second place (48).

Öcalan was finally captured in Kenya in February 1999 near the

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(46) Ministry of Foreign Affairs, Information Department, Statement made by the Minister of Foreign Affairs on the Conclusion of the EU Vienna Summit of 11-12 December 1998, 12 December 1998.

(47) Statement by the Deputy Spokesman of the Ministry of Foreign Affairs regarding the Conclusions of the Cologne European Council (4 June 1999).

(48) *Briefing*, September 13, 1999 13.

Greek Embassy, and was brought to Turkey. The Öcalan operation triggered violent PKK demonstrations in some EU member states. In this context the EU made a declaration at the General Affairs Council of 22 February 1999. At this meeting, the EU stated that it condemned all forms of terrorism and reaffirmed its position that the acts of violence that resulted in death, hostage-taking, intimidation and extensive destruction would not be tolerated. In addition to these statements, the EU also stated that it expects a fair and trial for Öcalan according to the rule of law before an independent court, with access to legal counsel of his choice and with international observers admitted to the trial and that it strictly opposes to the death penalty.

The EU further stated that the EU upholds the territorial integrity of Turkey, but at the same time, it expects Turkey to solve its problems through political means with full respect for human rights and the rule of law (49). The tension was further aggravated when Turkey opposed the sending of observers to the trial on the grounds that « it intervenes and influences the independent judiciary ». The trial started on May 31, 1999 before the Ankara State Security Court (SSC) in the presence of certain foreign representatives as well as the press. The passing of the death sentence against Öcalan on June 29, 1999 by the SSC was followed by EU reactions. In its declaration on the same day, the EU Presidency expressed « the hope that Turkey will not carry out the death sentence passed on Mr. Öcalan » (50). The death sentence has been appealed before the Turkish Supreme Court and has to be approved by the Turkish Parliament as well. At present the decision is suspended. Yet, the issue of the death sentence has become a major source of contention between the EU and Turkey and revived the debate about the Kurdish problem in the country and is perceived to be a major determinant of the EU-Turkish relations. The Swedish Foreign Minister, Anna Lindh, for example, stated that « for Sweden, two meaningful 'signals of intent' on the part of Turkey would be to abolish the death penalty and to remove all the restrictions on publication, broadcasting and education in the Kurdish language (51). The current suspension of the approval of the death sentence

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(49) See the 1999 Regular Report from the Commission on Turkey's Progress Towards Accession, October 13, 1999, 6.

(50) Ibid.

(51) *Briefing*, November 29, 1999, 10. The main bone of contention between the EU and Turkey on the Kurdish issue is that of « minority rights ». Turkey believes that the Kurdish population living in Turkey can not be considered as minority, since the Lausanne Treaty of 1923 does not label them as minority. Thus they should be acknowledged

caused an intense debate in Turkey, but it also produced a positive impact upon the EU.

2. *The Earthquake in Turkey*: A major breakthrough in the EU-Turkey relations came after the massive earthquake in the northwestern part of Turkey on 17 August 1999. The EU foreign ministers had discussions on relief aid to Turkey at their Meetings in Saariselka, Finland, on 4-5 September 1999. Moreover, EU Council President, Finnish Foreign Minister Tarja Halonen invited Turkish Foreign Minister Ismail Cem to attend a working lunch after the General Affairs Council Meeting on 13 September 1999 in Brussels. This provided an opportunity to express the Turkish views concerning the need for reconstruction after the earthquake as well as discussing the current Turkey-EU relations.

In addition to two emergency humanitarian aid packages of 2 million Euros each granted to Turkey, the consensus has been reached at the meeting for another humanitarian aid package of 30 million Euros for reconstruction (52). The European Investment bank has also decided to launch a loan of 500-600 million Euro to help Turkey tackle the consequences of the earthquake. The allocation to Turkey of a substantial part of the resources of the MEDA II program for 2000-2007 period has also been foreseen. However, Greece has not lifted its veto on the 375 million Euro from budgetary resource or from the 750 million Euro of the European investment bank for Turkey in 1995 when the Customs Union between Turkey and EU was realised (53).

3. *The Turco-Greek Rapprochement*: The year 1999 also marked a remarkable rapprochement between Turkey and Greece, which seemed to be inevitable if Turkey really wanted to be a full member of the EU. The tense atmosphere that was created by the capture of Öcalan near the Greek Embassy in Kenya was eradicated by the devastating earthquakes in both countries. Both countries rallied to send relief aid to each other and this gave the signal of the will for closer relations between both societies. This will was immediately carried to the official level and the Ministers of Foreign Affairs from both countries agreed on exploring possibilities of promoting cooperation between the two countries. Following

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some « cultural rights » instead of « minority rights », within the context of individual rights within the context of liberal democracy. Ibid.

(52) 150 million Euros for the 3-year period would be released. This amount which is divided into 15 and 135 million Euros has already been foreseen within the framework of the « European Strategy for Turkey ». *Relations between Turkey and the EU, Republic of Turkey*, Ministry of Foreign Affairs, 9.

(53) Ibid.

their first round of talks in July, high officials of the Foreign Ministries of Turkey and Greece met for a second round in Athens (9 and 10 September 1999) and Ankara (15 and 16 September 1999) to discuss items related to tourism, environment, economic and commercial relations, culture, cooperation in the multilateral regional field and combating organized crime, illegal immigration, drug trafficking and terrorism and eventually signed agreements on these matters (54).

*The 1999 Second Regular Progress Report on Turkey*

The Commission issued its Second Regular Report on the progress which Turkey made towards accession on 13 December 1999, in preparation for the Helsinki European Council to be held in Helsinki on 10-11 December 1999. The report took into consideration progress since the last Regular Report and looked at whether intended reforms referred to in the 1998 Regular Report have been carried out and examined new initiatives (55).

The report assessed the progress in Turkey on the basis of Copenhagen Criteria. Regarding the political criteria, the Report stated that « although basic features of a democratic system exist in Turkey, it still does not meet the Copenhagen political criteria » (56). The problematic areas were human rights and protection of minorities. Like the previous Report, it also points out the National Security Council as playing an important role in the political life of Turkey.

The Report also touched upon the areas where there have been some signs of democratisation among which were the adoption of the constitutional and legal amendments removing the military judge in the SSCs (57) and a number of proposals made by the government such as a draft of the Penal Code which particularly lifts the death penalty (58). Yet the Report suggested that these efforts should be pursued to the end and extended to all citizens, including those of Kurdish origin. The Kurdish problem still occupied an important place in the Report and it was stated

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(54) See Republic of Turkey, Ministry of Foreign Affairs, Joint Communiqué signed after the meeting of high officials of the Foreign Ministries of Turkey and Greece, Ankara, 16 September 1999.

(55) 1999 Regular Report from the Commission on Turkey's Progress Towards Accession.

(56) *Ibid.*, 15.

(57) *Ibid.*, 9.

(58) *Ibid.*, 10.

that « TV broadcasting in Kurdish, while apparently tolerated for non-political programs, is not still allowed. » (59).

Regarding the economic aspect of the Copenhagen Criteria, the Report stated that Turkey has many of the characteristics of a market economy and is able to cope with competitive pressure and market forces within the Union. The Report also stated that Turkey continued to make progress in alignment in the areas covered by the European strategy, yet it also stated that « the two Regulations adopted in October 1998 by the Commission to underpin the European Strategy, have not yet been adopted by the EU budgetary authority. It is clear that without appropriate funding, it is not feasible to implement all aspects of European Strategy (60).

#### *1999 Helsinki European Council: the Final Breakthrough!*

The Helsinki European Council held in Helsinki on 10-11 December 1999 produced a breakthrough in EU-Turkey relations. In the Presidency Conclusions of the EC, it was stated that

*Turkey is a candidate state destined to join the Union on the basis of the same criteria as applied to the other candidate States. Building on the existing European Strategy, Turkey, like other candidate states, will benefit from a pre-accession strategy to stimulate and support its reforms. This will include enhanced political dialogue, with emphasis on progressing towards fulfilling the political criteria for accession with particular reference to the issue of human rights, as well as on the issues referred to in paragraphs 4 and 9a (61).*

According to the Presidency Conclusions, Turkey will also have the opportunity to participate in Community programs, agencies and in meetings between candidate states and the Union in the context of the accession process. In addition to that, with a view to intensifying the harmonization of Turkey's legislation and practice with the *acquis*, the Commission is invited to prepare a process of analytical examination of the *acquis*. The European Council also asked the Commission to present a single framework for coordinating all sources of EU financial assistance for pre-accession (62).

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(59) Ibid., 14.

(60) Ibid., 7.

(61) Presidency Conclusions, Helsinki European Council, 10-11 December 1999, par. 12.

(62) Ibid.

### *Concluding Remarks*

Turkey's long journey to become an EU member entered a new phase with the completion of the Customs Union between Turkey and the EU in 1995, since it meant the completion of the final stage that was mentioned in the Association Agreement. However, developments that followed the Customs Union on both sides revealed that this was not really the end of the road for Turkey. This period was marked with tension and consequent deterioration in the relations between the two sides. It coincided with the launching of the project of « Euro-Mediterranean Partnership » that started with the Barcelona Declaration in 1995. However, even though the EU considered and treated Turkey as one of the Mediterranean Partners, Turkey was not really very enthusiastic about the whole process because of its general feeling of exclusion from the Union, and its perceived ambiguous status within the « Partnership ». Therefore, bilateral relations with the Union meant more for Turkey since it considered itself as being one step ahead of the other Mediterranean partners. In this regard, the recognition of Turkey's candidacy status in Helsinki marked another important turning point in EU-Turkey relations. The EU showed its good will for changing the tide and Turkey, with the series of reforms in the economic and political sphere seems to be trying hard to meet the Copenhagen criteria.

Regarding the Euro-Mediterranean context, the future of the relations depend very much on the mutual understanding. The Euro-Mediterranean Process will gain a much more solid ground for Turkey to the extent it is backed up with improvements in its bilateral relations with the Union. It seems that Turkey wants more to be on the « Euro » side of the Euro-Mediterranean Partnership than the « Mediterranean » and wants to be treated accordingly. For the EU, Turkey is an important test case for handling of future relations with the Mediterranean partners since Turkey at the present, can be considered as a bridge between the « Euro » and « Mediterranean » sides of the Partnership Process. Also, from the Partners' perspective the problems and prospects that Turkey has had with the Union provides a good opportunity to assess the future of the « Euro-Mediterranean Partnership ».

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