

TURKEY AND EUROPE: THE DECISIVE YEAR AHEAD

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TURKEY AND EUROPE: THE DECISIVE YEAR AHEAD

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Turkey is entering a critical year, in which its prospects for European Union (EU) membership are at make or break stage. Domestic crises over the past two years have slowed national reform, betrayed the promise of a new constitution and undermined the political will needed to pursue accession negotiations. Its leaders show scant sign of changing course, at least before the March 2009 local elections, and EU states are applying little pressure to reinvigorate reform. Both sides need to recall how much they have to gain from each other and move quickly on several fronts to break out of this downward spiral before one or the other breaks off the negotiations, which could then well prove impossible to start again.

The dangers to Turkey of this loss of EU-bound momentum are already evident: weak reform performance, new tensions between Turks and Kurds, polarisation in politics and the potential loss of the principal anchor of this decade's economic miracle. For Europe, the cost would be longer term: less easy access to one of the biggest and fastest-growing nearby markets, likely new tensions over Cyprus and loss of leverage that real partnership with Turkey offers in helping to stabilise the Middle East, strengthen EU energy security and reach out to the Muslim world.

Paradoxically, the reform program went off course in 2005 concurrently with the launch of EU membership negotiations. A first reason was bitterness that the Republic of Cyprus was allowed to enter in 2004, even though it was Turkish Cypriots, with Ankara's support, who voted for the reunification deal (the Annan Plan) backed by the UN, the U.S. and the EU itself, while the Greek Cypriots voted it down. Then the AKP (Adalet ve Kalkınma Partisi – Justice and Development Party) government lost motivation as France and Germany worked to block Turkey's EU ambitions. It was disappointed by the failure of the European Court of Human Rights to overturn the Constitutional Court's rejection of a hard-fought amendment to allow women university students to wear headscarves. It was also distracted by need to concentrate on other Constitutional Court cases brought by the secularist establishment that narrowly failed to block the AKP's choice of president

and to ban the party but deepened the polarisation of domestic politics and institutions. Simultaneously an upsurge in attacks by the Kurdistan Workers' Party (PKK) focused attention increasingly on security issues.

Turkey now pledges to relaunch reforms with a new National Program for Adopting the EU Body of Law (the *acquis communautaire*). The draft text focuses on anti-corruption measures through regulation of state tenders and state incentives, judicial reform and more democratic laws governing political parties and elections. In particular, AKP officials mention lowering the 10 per cent national electoral threshold for a party to enter parliament; allowing 100 of that body's 550 seats to be determined by nationwide proportional voting; and lengthening the short daily broadcasts in Kurdish and liberalising their content.

However, such plans are years late and fall short of EU expectations expressed in a 2007 Accession Partnership document and the European Commission's annual progress reports. While the EU seeks many changes within a one- or two-year timeframe, Turkey envisages longer horizons. Instead of showing determined political commitment to the EU process, some top Turkish leaders have preferred to adopt an injured tone of complaint about Brussels' demands and criticism. Above all, implementation has lagged: despite brave talk that it would replace the Copenhagen Criteria the EU has used since the early 1990s to assess a candidate's status with its own "Ankara Criteria", Turkey has passed only one sixth of a self-developed list of 119 legal reform measures announced in April 2007. Most disappointingly, the AKP has also dropped its prime promise in that year's election campaign of a new, truly democratic constitution.

This slowdown comes just as Turkey's initiatives to encourage openness and calm tensions in the region are showing how much it can do to advance EU foreign policy goals. Ankara has helped de-escalate crises over Iran's nuclear policy and Lebanon; mediated proximity talks between Syria and Israel; and opened a new process of contacts with Armenia and cooperation with Iraqi Kurds. It is also supporting promising new talks

on the reunification of Cyprus, where a settlement could provide a critical breakthrough for its relationship with the EU over the next year. Such initiatives helped win Turkey a two-year seat on the UN Security Council from January 2009. Conversely, however, a failure to live up to the commitment made in 2005 to open sea-ports and airports to Greek Cypriot traffic in 2009 would risk anti-membership EU states seeking to suspend Turkey's accession negotiations.

EU member states should seize the chance to fix past mistakes over Cyprus by prioritising success in the new negotiations on the island and do more to encourage Turkey to revitalise its reform effort. EU politicians must stop pushing the qualifying bar ever higher for Turkey and restate that they stand by their promise of full membership once all criteria are fulfilled. For its part, Turkey should be less sensitive to slights and stop treating the EU as a monolithic bloc. It should take care to avoid the trap of self-exclusion, keep its foot in the still open door and, like the UK and Spain before it, refuse to take "no" for an answer.

RECOMMENDATIONS

To the Government of Turkey:

1. Recommit to EU-compliant reforms at the highest executive level; immediately approve and begin implementation of the draft National Program for Adopting the EU Body of Law; and re-establish trust between parliamentary parties and cooperation on the EU membership goal.
2. Sustain full support for the current round of talks on a Cyprus settlement and avoid navy intervention against oil exploration in waters claimed by Greece or the Republic of Cyprus.
3. Broaden the policy of inclusion towards the Turkish Kurds by both sustaining economic development plans in Kurdish-majority areas and developing wider cultural and language rights.
4. Extend freedoms and equal rights for members of all faiths in choice of religious instruction at school, access to seminaries and status of places of worship.
5. Sponsor and encourage an inclusive process of national discussion leading to the adoption of a new, less authoritarian civilian constitution and reform political party and electoral legislation to increase transparency and representation.

To the EU and Governments of EU Member States:

6. Reassert firmly and often that Turkey can achieve full membership of the EU when it has fulfilled all criteria; lift unofficial blocks on the screening and opening of negotiating chapters; and familiarise Turkish companies with the requirements, benefits and costs of complying with the EU body of law.
7. Take a greater, even-handed interest in Cyprus settlement talks; send senior officials to visit both community leaders in their offices on the island; underline willingness to give financial support for a solution; and consider delaying oil exploration in contested territorial waters while talks are under way.
8. Support and coordinate with recent Turkish foreign policy initiatives to de-escalate crises in the Caucasus and the Middle East.
9. Crack down more firmly on financing from Europe of the Kurdish militant group the PKK (Kurdistan Workers' Party); ensure that requests in relation to the arrest and extradition of suspects accused of terrorist attacks in Turkey are fairly dealt with.
10. Encourage Turkey to ensure that steps in support of more freedom of religion are taken not just for non-Muslim minorities but also involve a commitment to the rights of Muslims, including non-mainstream faiths like the Alevites.

Istanbul/Brussels, 15 December 2008

TURKEY AND EUROPE: THE DECISIVE YEAR AHEAD

I. INTRODUCTION

After an extraordinary period of Turkish convergence with the EU in 2000-2004,¹ the process of national reform has slowed to a crawl. Significant opposition to Turkish membership in some key states has been expressed in an unprecedented way by important EU political leaders.² There are also growing doubts as to whether Prime Minister Recep Tayyip Erdoğan, the ruling AKP³ and main opposition parties are currently able or willing to implement EU-related reforms.⁴

Global rankings show that Turkey is seriously underperforming in terms of development, rights, transparency and democracy. It stands 59th in the World Bank's 2009 Doing Business report,⁵ 64th in Transparency International's 2007 Corruption Perceptions Index,⁶ 74th in the Heritage Foundation's 2008 Economic Freedom Index,⁷ 84th in the UN Human Development Index,⁸ 101st in the Reporters Without Borders 2007

Press Freedom Index⁹ and 123rd in the World Economic Forum's Gender Gap Index.¹⁰ It is listed as only "partially free" in Freedom House's 2008 Freedom in the World report,¹¹ and as a "hybrid regime", ranking 88th, in the Economist Intelligence Unit's 2006 survey of democracies.¹²

Ups and downs have always marked the path towards pluralism and greater democracy, from the Ottoman Empire's first steps to modernise in the nineteenth century, to the dismissal of the last sultan and caliph and creation of a secular new republic in 1923. This is also the story of a long struggle to dismantle absolute rule, a continuing process that is still diluting the political role of the Turkish Armed Forces, the main authoritarian actor in recent decades. Turkey's path is similar to that which Spain trod.¹³ But Turkey is slower, due partly to the strict, centralising, nation-building legacy of the republican founders,¹⁴ and partly to a persistent ambiguity in its commitment to reform.¹⁵

¹ See Crisis Group Europe Report N°184, *Turkey and Europe: The Way Ahead*, 17 August 2007.

² The "Eurobarometer" survey in July 2006 found that even if Turkey fulfilled all criteria, 48 per cent of Europeans opposed it joining, as opposed to 39 per cent in favour. "Attitudes towards European Union Enlargement", European Commission, July 2006. Opposition to Turkey's EU membership was a key plank in the election campaigns of German Chancellor Angela Merkel in 2005 and French President Nicolas Sarkozy in 2007.

³ Adalet ve Kalkınma Partisi (Justice and Development Party). In October 2008, the AKP held 338 of the 550 seats in parliament.

⁴ "The problem is not Cyprus, it's not France. It's us. We are going slow, very slow. There is a lack of political will". Crisis Group interview, senior Turkish official, Ankara, 10 September 2008.

⁵ "Doing Business 2009", World Bank report, at www.doingbusiness.org.

⁶ "Corruption Perceptions Index 2007", Transparency International, at www.transparency.org.

⁷ "2008 Index of Economic Freedom", Heritage Foundation, at www.heritage.org.

⁸ "2007/2008 UN Human Development Report, UN Development Programme report, at <http://hdr.undp.org>.

⁹ "Press Freedom Index 2007", Reporters Without Borders, at www.rsf.org.

¹⁰ "Global Gender Gap Index 2007", The World Economic Forum, at www.weforum.org.

¹¹ "Freedom in the World 2008", Freedom House, at www.freedomhouse.org.

¹² "2007 Index of Democracy", the Economist Intelligence Unit, at www.economist.com.

¹³ Both Turkey and Spain are on the periphery of Europe, in geography and, until quite recently, in relative slowness of modernisation; both lost empires abruptly in the 19th and early centuries; both have struggled over the line between religion and the secular and between civil and military power; both have substantial regional differences in wealth, language and cultural traditions, and in both countries europeanisation and modernisation have been used interchangeably. However, there are also key differences: Spain tends towards civic identities, rather than Turkey's more ethnic-based approach; Europe had more faith in the potential transformation and European identity of Spain; and Spain did not have Turkey's degree of ambivalence towards Europe. Crisis Group telephone interview, Eduard Soler i Lecha, Centre for International Relations and Development Studies (Fundació CIDOB), Barcelona, 4 November 2008.

¹⁴ "Turkey is a land of vast ethnic, linguistic and religious diversity... But instead of celebrating this diversity, the history of the Republic of Turkey is one of severe and some-

But Turkey has also been frustrated by low EU support since its first acceptance as a potential member in 1963.¹⁶ It financed its transition to Customs Union membership in the 1990s from its own resources; if it had done this as a member state, it would have qualified for tens of billions of euros in aid.¹⁷ Along the way, the word “reform” has become double-edged in Turkish, representing progress towards European standards but also threatening concessions to more powerful European interests.

For EU Enlargement Commissioner Olli Rehn, however, reform has clearly meant “wider constitutional reform”.¹⁸ The controversial 1982 constitution figures front and centre in the legacy of the 1980-1983 military takeover that still challenges the country’s reformers. To protect a unitarian state and “secularism” after the political chaos and economic crises of the 1970s,¹⁹ the constitution refocused power on a security-heavy regime, disbanded the upper house of parliament (Senate) and gave its veto powers to the formerly symbolic presidency.²⁰ This illiberal document was approved in a referendum when voters were not fully free. The army (particularly the generals who led the coup) was granted wide privileges and a dominant policy role through a powerful National Security Council. State protection of individual rights was subordinated to individual duties

times violent repression of minorities in the name of nationalism”. “A Quest for Equality: Minorities in Turkey”, Minority Rights Group International, September 2007.

¹⁵ For example, “EU membership would be good for Turkey, but we are not obsessed by it”. Comment by State Minister Mehmet Şimşek, cited by ntvmsnbc.com, London, 22 October 2008.

¹⁶ Much aid was blocked by Greek and other vetoes during the 1980s and 1990s, chiefly over Cyprus-related disputes. The EU earmarked €540 million for Turkey from the Instrument for Pre-accession Assistance (IPA) in 2008, including substantial support for the legal changes in any national program of reforms.

¹⁷ Crisis Group email communication, Asaf Savaş Akat, Turkish economist, 4 November 2008.

¹⁸ Olli Rehn, speech to the Bosphorus Conference of the British Council and the Turkish Economic and Social Studies Foundation (TESEV), Istanbul, 10 October 2008.

¹⁹ In Turkey, “secularism” refers to an ideology that bans religion in legislation and politics, at the same time as giving a state-financed and state-managed monopoly to a Sunni Muslim orthodoxy of the Hanefi school. This is most evident in mosques and religious courses in schools, obligatory for all but 0.2 per cent of the population who belong to Armenian, Greek Orthodox and Jewish communities, the only officially recognised minorities.

²⁰ The constitution was partly designed for General Kenan Evren, the leader of the 1980 coup and president from 1982 to 1989.

to the state, a situation that is in direct contradiction with today’s EU norms.²¹

The 1982 constitution made it possible to concentrate power in the double-headed executive, the prime ministership and the presidency, thus reducing institutional checks and balances.²² After its landslide electoral victory in July 2007 and the election of its number two, Abdullah Gül, to the presidency in August 2007, this is what the AKP has achieved, and what the Constitutional Court, the Republican People’s Party (CHP)²³ and the Kemalist establishment are seeking to undermine.²⁴

EU pressure and popular demand have often proved stronger than the resistance of the country’s authoritarian actors to changes of the 1982 constitution. In 1993, parliament lifted the state monopoly on broadcasting. In 1995, fifteen articles were amended to help win entry into a Customs Union with the EU. In 1999, the EU’s conferral of candidate status catalysed a broad, non-partisan coalition to promote reforms. In 2001, parliament changed 34 articles. Backed by seven packages of harmonisation laws, these had a far-reaching impact on fundamental rights and liberties. After another round of reforms in 2003, about one third of the constitution had been changed.

Although much remained to be done to implement these changes, Turkey seemed “to have liquidated a very large part of the semi-authoritarian legacy” of the 1980-1983 coup.²⁵ In 2004, it was judged to have “sufficiently” met

²¹ “The underlying philosophy of the 1982 Constitution was to protect the state from the actions of its citizens, rather than protecting the fundamental rights and liberties of the citizens from the state’s encroachment”. Ergun Özbudun and Serap Yazıcı, “Democratisation Reforms in Turkey”, Turkish Economic and Social Studies Foundation Publications, September 2004, p. 13.

²² “The basic question can be formulated as follows: if we put aside the judiciary, how can checks and balances be secured if one party captures the majority in the legislature and determines the [cabinet] executive and the President?” Emin Dedeoğlu, “Yeni Anayasa – Yeni bir Fren ve Denge Sistemi”, *Anayasa Platformu Çalışma Metinleri*, Economic Policy Research Foundation of Turkey (TEPAV), 2008.

²³ Cumhuriyet Halk Partisi. The CHP has 98 seats in the 550-seat parliament.

²⁴ In the words of a constitutional law professor, “the Court [now] regards itself as the guardian of the political regime”. Crisis Group email communication, Zühtü Arslan, 4 November 2008. The Constitutional Court was set up in the aftermath of the 1960 military coup.

²⁵ Ergun Özbudun and Serap Yazıcı, “Democratisation Reforms in Turkey”, Turkish Economic and Social Studies Foundation (TESEV) Publications, September 2004, p. 42.

the EU's Copenhagen Criteria.²⁶ In October 2005, after apparently promising to open its airports and seaports to Greek Cypriot traffic,²⁷ Turkey started negotiations on full EU membership.

The AKP has repeatedly stated that it will return to the path of reform²⁸ but has done little about it.²⁹ Consequently, it has lost credibility domestically and internationally and will have to earn back the sobriquet "pro-reform", and even "pro-EU".³⁰ Some Turkish officials believe that introducing a whole new consti-

tution would be the best way forward but admit it is impossible in current circumstances.³¹ Others think it would be counter-productive at present and that the focus should be on changing key laws like those on trade unions and political parties to keep the EU process alive.³²

²⁶ Meeting in Copenhagen in 1993, the European Council set three broad criteria for EU membership: the political stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union; and acceptance of the EU body of law (*acquis communautaire*) and ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

²⁷ The EU considers that in preliminary talks to the opening of formal negotiations with the EU on 3 October 2005, Turkey pledged to open its ports as part of its recognition of all EU member states. The European Commission's "Turkey 2005 Annual Progress Report" says, "Turkey was expected to sign the Adaptation Protocol extending its existing Association Agreement with the EU to all new member states, including the Republic of Cyprus". However, Turkey says the EU failed to deliver on its promises to "end the isolation" of Turkish Cypriots. Turkey presently proposes that all embargoes be lifted by both sides at once; see its "Action Plan on Lifting of Restrictions on Cyprus", presented to the UN on 25 January 2006. Crisis Group telephone interview, Turkish official, 31 October 2008.

²⁸ "The EU accession process is [at] the top of the most important issues to concentrate on in the coming period". Prime Minister Recep Tayyip Erdoğan, "Address to the Nation", 30 August 2008. However, the EU and Cyprus occupied only thirteen lines of his four-page speech. A Turkish academic lists several underlying reasons for pushing ahead with hope: the possibility a Cyprus settlement could fast-forward the process; that no formally recognised EU candidate country has ever failed to complete the accession process; the gradual change in EU inter-state relationships towards a pattern of flexible integration more suitable for Turkey; and the possibility that in a few years' time, the EU will have recovered from the strains of the 2004 enlargement and become ambitious to expand eastward again. Ziya Öniş, "Turkey-EU Relations: Beyond the Current Stalemate", *Insight Turkey*, vol. 10, no. 4, 2008, pp. 46-48.

²⁹ "Despite its strong political mandate, the government did not put forward a consistent and comprehensive program of political reforms". "Turkey 2008 Progress Report", European Commission, 5 November 2008.

³⁰ "For much of the past three years I've been vigorously promoting the AKP as a pro-reform party. I can't do that any more". Crisis Group interview, diplomat from large EU state, Istanbul, 13 September 2008.

³¹ A senior AKP minister said that the Constitutional Court's recent decisions to annul parliamentary amendments on issues of substance and not procedure made a new constitution impossible. "We, as the government, would like to change every single article of the constitution except for the four unchangeable articles. And we are the only party that is prepared to change it. However, desire is one thing and reality another...changing the constitution has now become as difficult as moving a mountain". Cemil Çiçek, deputy prime minister, interview with *Today's Zaman*, 17 November 2008.

³² "To change the constitution is very complicated. Everyone will concentrate on that, and it will delay many other things. It should be done in the light of the needed reforms". Crisis Group interview, senior Turkish official, Ankara, 10 September 2008.

II. REFORMS SUSPENDED

A. FRICTION WITH EUROPE

Paradoxically, the slowdown in reforms coincided with the opening of EU membership negotiations. This was partially caused by a growing sense of disappointment and frustration with Europe³³ as senior leaders began to raise their voices against membership. In her 2005 election campaign, German Chancellor Angela Merkel called for the goal of negotiations to be downgraded to privileged partnership.³⁴ French President Nicolas Sarkozy made opposition to membership a major plank of his 2007 campaign and tried to remove references to Turkey's "accession" from any EU statements. Turkish public support for membership dropped from 65 per cent in 2002 to 49 per cent in 2008.³⁵ One poll saw a low of 27 per cent in 2007.³⁶ Nationalist sentiment rose,³⁷ and anti-European attitudes became mainstream.³⁸

³³ "There is a psychological atmosphere that makes us feel that no matter what we do, we can never be a member. This creates disappointment, and what we are doing is a reaction to that. Even in the cabinet, ministers say 'what's the point?'" Ibid.

³⁴ Once in power in a grand coalition with the pro-Turkish membership Social Democrats, Merkel accepted the membership perspective granted in 1963. "As the leader of the Christian Democratic Union [CDU], I feel closer to the concept of privileged partnership [for Turkey]. But we are devoted to the principle of *pacta sunt servanda* (agreements must be kept). So we will be loyal to all commitments under agreements". Quoted by the Anatolian Agency during Merkel's visit to Istanbul, 6 October 2006.

³⁵ Eurobarometer survey, 2002 and spring 2008.

³⁶ See "Turkey and Its (Many) Discontents", Pew Research, 25 October 2007, at <http://pewresearch.org/pubs/623/turkey>.

³⁷ Some 33.8 per cent of respondents in one survey, a plurality, said the top reason that nationalism was rising was EU "behavior that ostracises and angers Turkey"; 27.5 per cent ranked that reason second. Associated Press from a poll in *Milliyet*, 12 March 2007.

³⁸ Only about 31 per cent of Turks trust the EU, compared to a 50 per cent average in Europe; however only about 24 per cent could provide correct answers to basic questions about the EU. "Eurobarometer", spring 2008. Nationalist columnist Erdal Şafak said: "Compared to three years ago when Turkey began accession talks with the EU, we can say that two facts have become more relevant: first, Europe is fluttering in the claws of a heavy depression triggered by many psychological diseases (isolationism, anxiety, enmity towards foreigners, racism, suspicion of identity, fear of future); second, Europe has become so corrupted, that it has forgotten all its moral values (ill will, prejudice, hypocrisy, a hundred years' grudge, indifference to breaking its promises)". *Sabah*, 3 October 2008 (in Turkish).

At the same time, Turkey felt bitter about the lack of response to its efforts in 2004 to resolve the Cyprus problem.³⁹ That year, turning its back on decades in which the country had backed nationalist Turkish Cypriot hardliner Rauf Denktaş, the AKP government decided it would keep "one step ahead" of the Greek Cypriots and helped encourage the Turkish Cypriots to accept the UN-mediated Annan Plan for reunification of the island by a margin of 65 per cent. However 76 per cent of the Greek Cypriots rejected it, and, as they had already been promised, were nevertheless admitted into the EU as the sole representatives of Cyprus in May 2004.⁴⁰ The EU pledged it would reduce the isolation of the Turkish Cypriots, mainly through financial aid and direct trade, but little of this has materialised, mainly due to Greek Cypriot opposition.

Turkey's technical accession talks are going slowly and risk halting altogether in fall 2009, when there will be no new negotiations chapters left to open. While eight of the 33 chapters have been opened since 2005, more than half are currently blocked. The EU in December 2006 froze the opening of eight and said none of the 33 could be officially closed until Turkey opens its seaports and airports to Greek Cypriot traffic.⁴¹ In June 2007 France blocked five chapters at the core of the Turkey-EU relationship, saying that proceeding with

³⁹ Turkey does not recognise the Republic of Cyprus as the representative of the state founded by international treaties in 1960, arguing that Greek Cypriots usurped full power in 1963. This, it says, upset the balances put in place at independence in 1960 between the 80 per cent Greek Cypriot majority and the 18 per cent Turkish Cypriot community. It says its military intervention in 1974 and occupation since then of 37 per cent of the island were done in the name of restoring the 1960 status quo. While supporting a settlement between the two communities, the UN, EU and international community all call for a Turkish military withdrawal. The UN and EU recognise the Greek Cypriot-run Republic of Cyprus as the legitimate government, leading to many EU demands on Turkey relating to what is now a full member state. See Crisis Group Europe Report N°190, *Cyprus: Reversing the Drift to Partition*, 10 January 2008, and Crisis Group Europe Report N°194, *Reunifying Cyprus: The Best Chance Yet*, 23 June 2008.

⁴⁰ Most EU member states believed that if the EU had suddenly blocked the entry of Cyprus, which in other respects had been a satisfactory candidate, Greece would have vetoed the ten other members (mainly Central European) of the 2004 enlargement class, though Athens had never said outright that it would do this. Crisis Group interview, EU member state ambassador, Ankara, September 2007.

⁴¹ These included the chapter on Common Foreign and Security Policy, one of the most important areas in which the two sides have common interests, thus shocking Turkish policymakers. Crisis Group interview, senior Turkish official, Istanbul, 11 October 2008.

them would prejudice the outcome of the negotiations.⁴² By October 2008, informal Greek Cypriot objections were holding up six other chapters.⁴³ At the same time, the EU screening reports for nine chapters, detailing what Turkey must do to comply, are being held up at the working group level in the European Council, apparently due to informal action by Turkey-sceptical countries.⁴⁴

This ill will has set in motion a vicious circle in which European slights are interpreted by Turkey as reasons to do nothing, and Turkish inaction is interpreted as disinterest in the EU. A Turkish academic sees a “grand coalition” between Turkish Euro-sceptics and European Turkey-sceptics aiming for different reasons to defeat the full membership goal.⁴⁵ The Turkish government’s mild reaction to the gentle phrasing that cloaks the criticisms in the European Commission’s “Turkey 2008 Progress Report” suggests a similar complicity to some.⁴⁶ As a Turkey-sceptical European politician put it:

I cannot accept that in six consecutive years nothing is happening....Impatience in the European Parliament is growing....Looking back at the developments in Turkey in the last year, I wonder whether the Turkish Government is still willing to continue with the reform process.⁴⁷

⁴² In June 2007 France specifically blocked the opening of the chapter on economic and monetary policy; another of the five chapters that France says it will block, the chapter on agriculture, is also one of the eight the EU blocked over Cyprus in December 2006.

⁴³ Crisis Group interview, EU Commission official, Istanbul, 12 October 2008.

⁴⁴ Crisis Group email communication, European official, 4 November 2008. “After three years, the screening is still not complete. I openly blame the EU. Turkey is criticised for being slow, but we should see the other side [of the problem] too”. Crisis Group interview, senior Turkish official, Istanbul, 11 October 2008.

⁴⁵ In both cases, “the politics of fear, specifically the fear of fragmentation, appears to be a central factor”, with some Europeans fearing massive immigration, Islam and the loss of cultural homogeneity; some Turks fearing EU freedoms will destroy the unity and secularism of their state; and some on both sides sharing a fear of losses from globalisation. Ziya Öniş, *op. cit.*, p. 36.

⁴⁶ “The fact that Turkey is using the world ‘balanced’ so much in regard to the Progress Report shows that we are not progressing, but standing still....making political problems into technical issues may be understandable from an AKP point of view but will not help Turkey”. Ferai Tınç, “Why the Progress Report is Pleasing”, *Hürriyet*, 10 November 2008 (in Turkish).

⁴⁷ Ria Oomen-Ruitjen, the European Parliament’s rapporteur on Turkey, reacting to the European Commission’s “Turkey 2008 Progress Report”, www.euractiv.com and *Turkish Daily News*, 5 November 2008.

B. DOMESTIC TURBULENCE

In the post-2004 period, the ruling AKP has been distracted from reform by domestic political challenges and emergencies in the struggle against the Kurdistan Workers’ Party (PKK).⁴⁸ It has had to fight to assert its identity as a new, ad hoc centre-right coalition organised since 2001 around the charismatic leadership of Prime Minister Erdoğan and which includes religious-minded Muslims, conservatives, nationalists, liberals and Kurds.⁴⁹ In many ways the AKP represents the social ascent of the rural migrants from Anatolia who moved to the big cities between the 1960s and 1980s and constitute the country’s natural majority.⁵⁰

Its principal challenge has come from an older establishment, often called the Kemalists, an informal coalition of factions who identify with secularism, Turkish nationalism, state-led development and a strong role for the military. This “secularist” establishment accuses the AKP of being “Islamist”, which it denies, noting it would hardly be pursuing EU membership if that were the case. In turn, the AKP accuses the establishment of trying to keep privileges that it lost at the ballot box.

1. The row over the presidency

The Kemalist campaign against the AKP started in earnest in April 2007. As the AKP-dominated parliament prepared to elect a new president, the Turkish

⁴⁸ Partiya Karkêren-e Kurdistan (Kurdistan Workers’ Party), banned in Turkey and listed as a terrorist organisation by the U.S., the EU and others. The PKK has 3,000-5,000 militants active in northern Iraq and south-eastern Turkey.

⁴⁹ For instance, members of the AKP delegation to the Council of Europe belong to three different pan-European blocs.

⁵⁰ Eminent civil society activist and former businessman Can Paker believes that fears about secularism are actually a proxy for class conflict between two Turkish middle classes. He considers that the first middle class, more secular and rational, is based on the urban military-civilian bureaucracy that founded the republic in 1923, and that members of the second, more religious and pragmatic, are the heirs of the country’s villagers. He says about 30 per cent of the population tends towards the secular/rational approach and 70 per cent towards the religious/pragmatic, with ten per cent being extreme secularist nationalists, and ten per cent supporting Sharia (Islamic law). He believes that few of the conservative Islamists are part of the AKP. Interview with Can Paker, *Today’s Zaman*, 10 September 2007. Broadly in line with this analysis, the Pew Research Center reported that 51 per cent of Turkish Muslims surveyed in 2006 thought of themselves first as Muslim rather than Turkish, while 19 per cent identified primarily with their nationality. Another 30 per cent thought of themselves as both equally. See “Turkey and Its (Many) Discontents”, Pew Research, *op.cit.*

Armed Forces published a memorandum threatening to “openly display its reaction” if it sensed a danger to secularism. This was seen as a warning against, for instance, a president whose wife wore a headscarf. That same month, the main secularist opposition party, the CHP, charged that the AKP’s attempt to elect as president its foreign minister, Abdullah Gül, was unconstitutional. According to its disputed reading of a bylaw, a simple majority in the third round of the parliamentary election was not enough; it asserted that the participation of a quorum of 367 deputies was needed to make that majority effective, and the Constitutional Court concurred. Liberal jurists contended that its decision was political, intended to block a perceived threat to secularism.⁵¹

The AKP took the issue to the people with an early general election in July 2007. Voters renewed the AKP’s mandate with 46.7 per cent support. The AKP regarded this as a vote of confidence, and Gül resumed his presidential candidacy. The opposition CHP stayed out of the parliament chamber and denounced him as an “enemy of the republic”, but this time he secured the 367-seat quorum, with the help of the right-wing MHP⁵² and Kurdish nationalist DTP.⁵³ The Turkish Armed Forces vowed they would remain vigilant, and no generals attended their new commander-in-chief’s inaugural ceremony.

2. Constitutional reform put aside

Following the election, Prime Minister Erdoğan promised a new reform package⁵⁴ and began to review a draft constitution he had asked a committee of respected liberal constitutional experts to prepare.⁵⁵ Ethnic Kurdish grievances were to be addressed by reverting the legal meaning of the word “Turk” to its original republican meaning of a “citizen living in Turkey”, thus removing the ethnic overtones of recent decades. Turkish would become the official rather than only language, widening possibilities for private Kurdish-language education and broadcasting. To fight corruption, parliamentary immunity would be lifted. Religious free-

doms would be widened by removing compulsory religion classes at school, and perhaps even lifting a ban on headscarves in universities.

The Armed Forces’ privileges would be further curtailed, with the Supreme Court empowered to try the chief of general staff. There would be new reductions in the role of the military-dominated National Security Council. In other changes, university senates would be able to choose their own rectors, eliminating the role of a central oversight body. It would become harder to ban political parties. Rights to demonstrate, privacy and information would be widened and bans on torture and extra-judicial killings toughened.

Erdoğan received the draft constitution in August 2008, worked on it for a day and asked for some refinements; when it was resubmitted to him late in the month, he was, by all accounts, personally delighted.⁵⁶ But as the weeks wore on, there was no attempt to bring the text before parliament. Government ministers also frequently promised reforms of Penal Code Article 301, especially to international audiences, but this took months and huge international pressure to occur.⁵⁷ Given the AKP’s strong parliamentary majority, and popular support for a new constitution, these omissions and delays suggested that the leadership had decided not to pursue reforms.

The AKP probably put constitutional reform aside because it worried that it could attract new legal moves to ban the party. Constitutional changes also need a two-thirds majority, both to pass in parliament and win full legitimacy.⁵⁸ Since the secularist-nationalist CHP ruled out any cooperation,⁵⁹ they would have required support from the nationalist MHP, which had helped in Gül’s election.⁶⁰ But the bruising outcome of the headscarf

⁵¹ Crisis Group email communication, Zühtü Arslan, professor of constitutional law, 4 November 2008.

⁵² The Milliyetçi Hareket Partisi (MHP, Nationalist Movement Party) has 70 seats in parliament.

⁵³ The Demokratik Toplum Partisi (DTP, Democratic Society Party) has 21 seats in parliament.

⁵⁴ “Pledging more reforms, PM denies lassitude in EU process”, *Today’s Zaman*, 22 November 2007.

⁵⁵ This text was drafted by a commission of six constitutional experts headed by Ergun Özbudun and is available at www.cnnturk.com/2008/turkiye/11/13/t.c.sivil.anayasa.taslagi/500560.0/index.html.

⁵⁶ “We all met for eight-nine hours to go over the articles. Erdoğan told us it was ‘very good work’. It was obvious he liked it”. Crisis Group interview, Zühtü Arslan, a constitutional lawyer who worked on the draft, Ankara, 11 September 2008.

⁵⁷ For instance, Foreign Minister Ali Babacan, speech to the Bosphorus Conference, op. cit. For more on Article 301, see Section III C 1 below.

⁵⁸ If a proposed constitutional amendment receives more than three-fifths but less than two-thirds of the absolute number of deputies, it is put to a referendum.

⁵⁹ “We don’t think there is any need to change the constitution’s basic philosophy. We say ‘no’ to changing the constitution just to suit the AKP. Let the AKP adapt itself to the constitution”. CHP leader Deniz Baykal, speech to party caucus, Anadolu Ajansı, 31 August 2009.

⁶⁰ The MHP believes that polarisation in politics is blocking any possible compromise. “The cockfight between the CHP and the AKP is damaging everything”. Crisis Group interview, Oktay Vural, senior MHP official, Ankara, 10 September 2008.

constitutional amendment earlier in the year (see below) had seriously damaged MHP-AKP relations. Despite its support for reforms in 1999-2002, and theoretical continued backing for many changes required by the EU process, the MHP has given little sign of late that it would be willing to work closely with the AKP on a new constitution or other fundamental legal changes.⁶¹

3. The closure case against the AKP

Even while it was still apparently considering comprehensive constitutional reform, the AKP had switched its focus to a single major issue for its constituency: formal permission for women to wear headscarves in university.⁶² This required a constitutional amendment, which passed with a two-thirds majority including the MHP and the DTP.⁶³ But the opposition CHP quickly filed a case against it in the Constitutional Court, and on 14 March, the Court of Appeals' Chief Prosecutor called for the closure of the AKP for acting as a "focal point for anti-secular activities" and the banning from politics for five years of 71 of its leading figures, including President Gül and Prime Minister Erdoğan. The evidence introduced in a 162-page indictment mainly consisted of media reports and the AKP's headscarf move.

The rulings were not long in coming. On 5 June 2008, the Constitutional Court struck down the headscarf amendment. On 30 July, ten of its eleven judges found the AKP guilty of being a "focal point of anti-secular activities". The court cut the AKP's treasury subsidy by half, but decided not to close the party.⁶⁴ It was likely that it did not want to be responsible for the political chaos

that would result from the banning of a governing party supported by half the population.⁶⁵ The EU had also said this would put Turkey in flagrant breach of the Copenhagen Criteria and might lead to a suspension of membership negotiations.⁶⁶

All the AKP's energy was diverted to this fight for political survival.⁶⁷ Even after the July ruling, the political battleground remained outside parliament in the pro-establishment Constitutional Court. Polarisation spread through parliament and the political system,⁶⁸ and legislation and reform dried up. In the 2007/08 parliamentary year, only 29 new laws were passed, half what had been expected.⁶⁹

At the same time, the AKP began to back-pedal. A law making government tenders more transparent was suspended repeatedly to allow major privatisations of state property to go ahead. A law that expanded foreign individuals' right to buy rural property in Turkey in June 2003 was blocked by the CHP. A new law passed in January 2006 allows foreigners to buy in metropolitan areas once again, subject to upper price limits,⁷⁰ but the Constitutional Court in March 2008 imposed new restrictions on foreign companies' right to purchase land.⁷¹ Turkey has tight restrictions on foreign work permits for a country aspiring to EU-wide free movement of labour and capital – less than 0.1 per cent of workers with official papers are foreign-born, compared to around 10 per cent in major economies.⁷² Police pow-

⁶¹ "They are promising change, but doing nothing ... we'll take it on a case-by-case basis". Ibid.

⁶² The issue jumped onto the national agenda after Erdoğan called headscarves a "political symbol" in an informal press conference while abroad. The nationalist opposition MHP, also competing for the religious vote, then forced the issue to parliament, and the AKP could not avoid joining it to pass the bill." The headscarf legislation wasn't planned. The MHP got us into it". Crisis Group interview, Ihsan Arslan, AKP deputy, 14 February 2008.

⁶³ The amendment received 411 votes. The right for female students to wear headscarves at university is supported by 52 per cent of Turks who say they do not pray and 80 per cent of those who say they pray five times a day. "Transatlantic Trends", German Marshall Fund, 10 September 2008. Another poll found 68 per cent of Turks backed the active political participation of women in headscarves. MetroPOLL, 1 December 2008. See <http://medya.todayszaman.com/todayszaman/2008/12/01/metropoll-survey-08.pdf>.

⁶⁴ The vote of seven judges is needed to close down a party. The decision was by the narrowest margin possible, six judges for closure and five against.

⁶⁵ "They didn't want to be responsible for a crisis". Crisis Group interview, Zühtü Arslan, constitutional lawyer, 11 September 2008.

⁶⁶ The UK and European Commissioner for Enlargement Olli Rehn were outspoken in their criticism. Paul Taylor, "Turkey Political Strife Puts EU in a dilemma", Reuters, 7 July 2008.

⁶⁷ "The problem is that EU reforms became too associated with the AKP. It changed the attitude of the opposition parties. They thought this is not a good strategy. They have started to oppose EU-related reforms". Crisis Group interview, senior government official, Istanbul, 10 October 2008.

⁶⁸ "I don't know how we are going to get out of this. We can't talk to each other any more. When we say black, they say it's white. And if they say it's white, we say it's black". Crisis Group interview, senior AKP parliamentarian, Ankara, July 2008.

⁶⁹ Crisis Group interview, senior Turkish official, Ankara, 10 September 2008.

⁷⁰ In all about 63,000 properties have been sold to foreigners, mostly from the EU. See also Yerleşik Yabancıların Türk Toplumuna Entegrasyonu, Uluslararası Stratejik Araştırmalar Kurumu (USAK), September 2008.

⁷¹ *Today's Zaman*, 18 March 2008.

⁷² Turkey has issued about 17,000 such work permits; by comparison, 1.8 million foreigners work legally in Germany, including 478,000 Turkish citizens. Robert Johnson, "Driving Towards the EU Using Its Rear-View Mirror: Turkey's

ers of detention were widened once more, reports of torture and deaths in custody began to rise, and the AKP government employed excessive force to suppress May Day rallies in Istanbul (see below).

4. The PKK resurgence

A major gain from the AKP's victories in the parliamentary and presidential elections of 2007 was a new sense of a common project between Turks and Kurds.⁷³ The AKP won 54 per cent of the votes in the thirteen Kurdish-majority provinces in the south east, compared to 24 per cent for the Kurdish nationalist Democratic Society Party (DTP).⁷⁴ But at a point when action on the AKP's reform manifesto might have restarted, the domestic agenda was hijacked from a familiar quarter: an upsurge in the PKK insurgency.

Clashes between the PKK and Turkish security forces had fallen off after 2000. This was due partly to a unilateral PKK ceasefire declared following the capture in 1999 of its leader, Abdullah Öcalan, and partly to a general improvement in the atmosphere thanks to the expansion of ethnic Kurdish rights in 2000-2004. The PKK ended its unilateral ceasefire in 2004, saying that Turkey had never responded and it wanted to force negotiations.⁷⁵ Turkish Kurd and international activists close to the PKK said the organisation also wanted to attract attention to the cause of Öcalan's release and gain domestic legitimacy.⁷⁶

Tactically, the PKK sought to draw Turkey into a major invasion of northern Iraq, which could lead to clashes

with U.S. forces and international criticism.⁷⁷ Casualties from the conflict rose steadily, including killings by Iraq-style roadside bombs. On 7 October 2007, PKK militants hit a remote Turkish military base on the Iraqi border, killing thirteen soldiers; on 21 October, they struck another, killing twelve soldiers and capturing eight.

The change in national atmosphere was dramatic, stimulated by war rhetoric on television and encouraged by angry statements from the Turkish Armed Forces.⁷⁸ Tensions between Turks and Kurds broke out on the streets of western cities, a hitherto rare occurrence.⁷⁹ The progressive approach of the AKP's 2007 election manifesto towards the Kurdish question⁸⁰ had already been forgotten in effect, reduced to a half-line reference to infrastructure development in "eastern and south-eastern provinces" in the government program presented to the new parliament in August 2007. Similarly, an important initiative was lost when the AKP stopped work on its draft constitution, which was to have removed a sense of ethnic privilege from the concept of Turkishness.

Pressure built to close the Kurdish nationalist DTP, as Turkish and European liberals alike stopped believing that it could become a political vehicle to represent

'Foreigner' Policy", *Turkish Policy Quarterly*, vol. 7, no. 1, spring 2008.

⁷³ Ethnic Kurds, who speak non-Turkic Kurdish dialects, make up about 15 per cent of Turkey's 72 million people. About half live as a majority in the south east of the country, the other half in big western cities, often in poor suburbs. While they share all rights within a Turkish national identity, specifically Kurdish rights have been discriminated against since the 1920s, sometimes severely. See Crisis Group Report, *Turkey and Europe*, op. cit.

⁷⁴ DTP candidates ran as independents to overcome the national 10 per cent threshold. The national 5.2 vote for independents, up from 1 per cent the year before, indicated the party's country-wide support was about 4 per cent; in 2002 the DTP's predecessor party, DHP, had won 6.23 per cent of the national vote. This decline is because many moderate Kurdish nationalists now vote AKP. Crisis Group interview, AKP provincial official, Diyarbakır, 24 October 2008.

⁷⁵ See "Kurdish rebels ask for cease-fire and talks with Turkey, which continues shelling", *The New York Times*, 23 October 2007.

⁷⁶ Crisis Group interviews, Brussels, March 2008.

⁷⁷ While most Turkish commentators called for an invasion of Iraq to stamp out the PKK, some warned of danger. "The PKK has set up a multi-dimensional trap through violence and terrorism. On the one hand, it wants to reclaim the game and the region it is about to lose. On the other, it seeks to push Turkey into the Iraqi quagmire so as to turn it inward". Ali Bayramoğlu in *Yeni Şafak*, 11 October 2007 (in Turkish).

⁷⁸ "We will inflict unimaginable pain on those who have caused us pain". Repeated in speeches by General Yaşar Büyükanıt, Turkish chief of general staff, 28 October 2007 and 28 August 2008. Available in Turkish on www.tsk.mil.tr.

⁷⁹ One newspaper counted at least twenty violent incidents across the country in the week after the 21 October 2007 attack. Windows were broken in a number of Kurdish party offices, and one was burned. At least one shop owned by a Kurdish family was looted in the western city of Bursa. Anti-PKK demonstrators took to the streets in dozens of Turkish towns and cities, including both organised groups and spontaneous actions by neighbourhood committees shouting slogans like "Blood for blood, we want revenge". Eyewitnesses and *Radikal* newspaper, 28 October 2007. In similar vein, after the Turkish incursion into northern Iraq in February 2008, young men from a nearby Kurdish-majority quarter of Istanbul ran riot through İstiklal Street, in the heart of the city, breaking scores of shop fronts. Witnessed by Crisis Group, 2 March 2008.

⁸⁰ The manifesto supports non-Turkish-language broadcasting, cultural richness and an emphasis on citizenship of the Republic of Turkey, rather than ethnic Turkishness. See www.akp.org.tr.

Kurdish demands legitimately and without violence.⁸¹ When three DTP deputies travelled to northern Iraq to accept the 4 November 2007 release of eight soldiers whom the PKK had captured in the 21 October raid, state prosecutors initiated legal proceedings to remove the parliamentary immunity of all twenty DTP parliamentarians. On 16 November, the chief prosecutor of the Supreme Court of Appeals lodged a case with the Constitutional Court, seeking the party's closure as "a focal point of activities against the sovereignty of the state and the indivisible unity of the country and the nation". The indictment noted the DTP's praise of Öcalan as a "Kurdish leader", its demands for Kurdish regional autonomy to replace Turkey's unitary constitutional status and the close links of some its members to the banned PKK.⁸²

Civilian efforts to find a way forward were overwhelmed by military tensions and terrorist attacks. On 16 December 2007, Turkish warplanes began raids on PKK bases in northern Iraq that continue today.⁸³ An apparent PKK bomb in Diyarbakir on 3 January 2008 killed seven civilians, five of them schoolchildren.⁸⁴ The PKK kidnapped three Germans and held them for thirteen days in July 2008. Turkey launched an eight-day ground offensive into northern Iraq on 21 February, the largest of about 30 such operations in the year to October.⁸⁵ Yet another major PKK attack on an outpost near the Iraqi border on 3 October, however, killed seventeen soldiers and underlined that a resolution of the conflict is no closer.

III. THE REFORM PROCESS AHEAD

There is little doubt or disagreement about what reforms Turkey needs to do.⁸⁶ The EU formally stated its minimum expectations in its 2007 Accession Partnership document, published in February 2008.⁸⁷ Most of the legal changes were listed as "short-term priorities ... expected to be accomplished in the next one-two years".⁸⁸ In August 2008, the government first discussed its response: a draft "Turkey National Program for Adopting the EU Body of Law" (the *acquis communautaire*),⁸⁹ which clearly states that Turkey sees its future in the EU and offers a road map whose three key areas – anti-corruption, judicial reform and political party and electoral reform – all enjoy broad public support.⁹⁰ The EU welcomed the draft.⁹¹ But many of the draft's timescales do not match the EU list of short-term priorities, some of the wording is vague and the document, which highlights the achievements of 2001-2004 reforms, is more defensive about the past than confident about the future.⁹²

In political terms, the draft National Program calls for further civilian control of government and internal security; implementation of an ombudsman law; new laws

⁸¹ "Europe calls on DTP to distance itself from terrorism", *Today's Zaman*, 28 July 2007.

⁸² "Prosecutor opens DTP closure case", *Today's Zaman*, 17 November 2007.

⁸³ See Crisis Group Middle East Report N°81, *Turkey and Iraqi Kurds: Conflict or Cooperation?*, 13 November 2008.

⁸⁴ The PKK apologised, saying the attack was carried out by "independent, local units", who missed their target of a military vehicle. *Turkish Daily News*, 10 January 2008.

⁸⁵ Ercan Yavuz, "Government not satisfied with defence by generals on Aktütün", *Today's Zaman*, 29 October 2008.

⁸⁶ "All these points [in the draft National Program] are not controversial. Turkey needs them to improve the quality of its economy and politics. There is broad public support for this". Crisis Group interview, senior Turkish official, 10 September 2008.

⁸⁷ The EU produces such documents roughly every two years for all candidate countries to determine the priority areas and timetables for reform and assistance. In response, candidate countries then produce a National Program for Adopting the EU Body of Law (the *acquis communautaire*).

⁸⁸ "Turkey 2007 Accession Partnership", adopted by the General Affairs and External Relations Council on 18 February 2008.

⁸⁹ The draft was prepared by Turkey's European Union General Secretariat, and presented to the cabinet by Ali Babacan, the foreign minister and chief negotiator with the EU. Text available in Turkish on www.abgs.gov.tr.

⁹⁰ Turkish popular support for reforms has fallen from a high of 74 per cent in 2004, but 55 per cent are still supportive, AKP polls show. Crisis Group interview, senior government official, Istanbul, 10 October 2008.

⁹¹ "The government's intention to adopt the third national EU reform program is vitally important". Olli Rehn, speech to the Bosphorus Conference, op. cit.

⁹² "There's no talk of lifting parliamentary immunities. The language on children's and women's rights is vague. And their talk of 'concrete progress' is black humour. It's all just general remarks, showing that they are not ready for major reforms that will make Turkey a real European society". Crisis Group interview, Onur Öymen, senior CHP official, Ankara, 11 September 2008.

to curb corruption; new transparency and professionalism in the Turkish Armed Forces; a thorough long-term reform of the judiciary; wider cultural rights for minorities; better official treatment of women; and more freedom of assembly, expression and religion, including more freedom with respect to the education of clergy.

On the economic side, which is far less controversial, there is broad agreement with EU goals. Brussels regards Turkey as a functioning market economy,⁹³ but the Accession Partnership calls for stronger and more independent regulatory boards. Three quarters of Turkish businesses back EU membership in theory, believing it can increase transparency and competitiveness, as well as access to credit and EU markets. However, 24 per cent believe that Turkey will never get into the Union; many lack knowledge about the EU, its funds, programs and the accession process; the large majority have made no preparations for implementation of the EU body of law and believe reform will be expensive.⁹⁴

The government's commitment to its own draft National Program was put into doubt by reports that on 18 August 2008 Prime Minister Erdoğan initiated a revolt in the cabinet against its heavy legislative load when it was first presented by Foreign Minister Babacan. Other ministers followed him in voicing their own concerns that there had not been tough enough negotiation with Brussels over the commitments in it.⁹⁵ This account, although disputed,⁹⁶ goes to the heart of a broader ambivalence: if Turkey really wishes to join

the EU, it cannot negotiate the fundamental terms, only the speed with which it will adopt them.⁹⁷

After the National Program stalled in the cabinet, the government sent it out to opposition parties and more than 80 non-government organisations for comments, but partisan grandstanding limited dialogue between the AKP and the opposition on the issue.⁹⁸ More than half the civil society groups responded, but this resulted in few changes to the text.⁹⁹ Even though the government originally pledged to finalise it before publication of the EU's "Turkey 2008 Progress Report" on 5 November, it has not yet done so.

A. CIVILIAN-MILITARY RELATIONS

The political struggle between the AKP and the Kemalist establishment has put new focus on a key EU requirement for the clear primacy of civilian rule. Yet, on 27 April 2007, the Turkish Armed Forces published a statement on their website declaring that the military was "the determined defender of secularism ... and would if necessary clearly show its reaction" to the AKP government.¹⁰⁰ Nobody in Turkey needed reminding of the seriousness of this threat after the 1960, 1971, 1980 and 1997 military coups and interventions.

The EU has long criticised the military predominance apparent in statements on foreign and domestic policy; the lack of civilian control of the gendarmerie;¹⁰¹ special army laws backing military claims to a political role; and shortcomings in civilian oversight of military assets and budgets.¹⁰² The 2007 Accession Partnership asks that Turkey "ensure that the military does not intervene in political issues and that civilian authorities fully exercise supervisory functions on security matters", including the formulation and implementation of

⁹³ "Turkey can be regarded as a functioning market economy. It should be able to cope with competitive pressure and market forces within the Union in the medium term, provided that it implements its comprehensive reform program to address structural weaknesses". "Turkey Annual Progress Report", European Commission, 6 November 2007.

⁹⁴ Of 2,878 mostly small and medium-sized Turkish companies in a 2008 survey, twelve years after entry into force of the extensive Customs Union with the EU, 72 per cent had made no preparations for EU compliance, and 95 per cent had not prepared any budget for compliance. See "Corporate Preparations in Turkey for EU Membership: The View of the Turkish Private Sector 2008", EU-Turkey Chambers Forum, 2008, at www.tobb.org.

⁹⁵ *Referans* quoted Erdoğan as saying to Babacan: "Some of this is not in our program; it's not possible to do so much in such a short time, how did you negotiate this?", 2 September 2008 (in Turkish). The newspaper account was largely confirmed by a senior Turkish official. Crisis Group interview, Ankara, 10 September 2008.

⁹⁶ A government minister said, "the ministers are competing for priority in getting their laws into parliament". Crisis Group interview, Istanbul, 10 October 2008.

⁹⁷ "There's a basic problem that Turkey doesn't yet understand: this is not a state-to-state negotiation, it's a question of adopting the *acquis [communautaire]*". Crisis Group interview, European diplomat, Istanbul, 13 September 2008.

⁹⁸ Crisis Group interviews, CHP and MHP officials, September 2008.

⁹⁹ The revised text submitted to the cabinet was "not substantially different. Almost the same". Email communication, Turkish official, 18 November 2008.

¹⁰⁰ See press statement of 27 April 2007 (in Turkish) at www.tsk.mil.tr.

¹⁰¹ The gendarmerie has overseen security in rural areas, which means most of Turkey, since the mid-nineteenth century; the police operate mainly in metropolitan areas. The gendarmerie's command and officer corps are drawn from the Turkish Armed Forces, with only a reporting line to the interior ministry.

¹⁰² "Turkey 2008 Progress Report", European Commission, 5 November 2008.

national security strategy. It also wants Turkey to “take steps towards bringing about greater accountability and transparency in the conduct of security affairs”, as well as to “establish full parliamentary oversight of military and defence policy and all related expenditure, including by external audit”.¹⁰³

Turkey’s initial response in the draft National Program was vague, however. For instance, with regard to the EU’s clear injunction to “limit the jurisdiction of military courts to military duties of military personnel”, that document says “the duties and responsibility of military courts will continue to be described in the framework of the measures expected of democratic states of law”. The draft National Program sets out to put internal security under the control of professional forces, governed by the supremacy of law, human rights and freedoms and “policies set by civilian will”. This might mean allowing civilians in the interior ministry a role in coordinating the fight against the PKK, but the gendarmerie responsible for this has registered an objection to change.¹⁰⁴ And the new chief of general staff, General Ilker Başbuğ, has made it clear that the army still wants to play a political role.¹⁰⁵

The EU convergence process since 2001 has, however, facilitated a move away from military authoritarianism. The role of the once all-powerful National Security Council has diminished: since 2003 it is headed by a civilian secretary general, what were formerly decisions have become recommendations to the cabinet, and it now debates national security strategy once every two months instead of monthly. Military spending is scrutinised by the civilian court of accounts. In 2004, parliament abolished State Security Courts and also removed the military member of the Higher Education Board.¹⁰⁶

¹⁰³“Turkey 2007 Accession Partnership”, op. cit., p. 6.

¹⁰⁴The objection – that “the current regulations are valued as being sufficient” – surfaced in a secret letter to the interior ministry from the gendarmerie command leaked to the Turkish newspaper *Taraf*, 26 October 2008.

¹⁰⁵In a speech taking over command, he set political and diplomatic red lines for Turkey. These included limits to individual cultural rights (“the right to discuss everything does not include subjects that risk a state’s survival”), an assertion of “national interests” in respect to any Cyprus settlement and, after describing the importance of the unitary state and secularism, that the “Turkish Armed Forces will always be a party to securing and protecting the Turkish Republic’s founding philosophy”. Ilker Başbuğ, speech, available on www.tsk.mil.tr, 28 August 2008.

¹⁰⁶According to two reforming jurists, “major external and domestic political decisions are now taken by civilians to a large extent in accordance with democratic patterns”. Öz-

While the military remains Turkey’s most trusted institution, the public delivered a strong rebuff when, following the April 2007 memorandum, it re-elected the AKP. The general staff kept publicly out of the March-July 2008 struggle between the AKP and the Constitutional Court and also allowed, for the first time, civilian police to arrest military suspects in a coup plot against the regime. The resulting investigation and the opening of the trial phase in October 2008 of what is known as the Ergenekon case (see below) showed that senior former generals and other personnel linked to the security forces can be held accountable.

The new atmosphere allowed unusual public criticism of military performance after the PKK attack on 4 October 2008. The media reported criticism by the families of dead soldiers; hounded the commander of the air force;¹⁰⁷ and criticised the chief of general staff for raising his voice in anger in a news conference.¹⁰⁸ Subsequently, the chief of general staff, who normally accepts only the president and prime minister as his counterparts, briefed the cabinet on the insurgency, a step suggesting that the armed forces are now closer to acceptance of civilian oversight.

B. JUDICIAL REFORM

While large notice boards on an Istanbul ring road boast that Turkey is building Europe’s biggest courthouse, it is widely acknowledged that the judicial system has problems delivering basic justice.¹⁰⁹ Cases drag on for years, courts give widely different judgements on similar cases, and corruption is rife. On average, enforcing a commercial contract takes 36 procedures and 420 days.¹¹⁰

The requirements set out in the EU’s 2007 Accession Partnership seek to ensure “the judiciary is independent of other state institutions, in particular as regards the High Council of Judges and Prosecutors and the

budun and Yazıcı, “Democratisation Reforms in Turkey”, op. cit., p. 32

¹⁰⁷He reportedly failed to interrupt a game of golf after it was widely reported that the soldiers died.

¹⁰⁸A Turkish newspaper even challenged the general staff’s competence and veracity. “You can’t hide it, General Staff!”, *Taraf*, 27 October 2009.

¹⁰⁹A third of Turks have personal experience of courts, and half of these view their experience as negative; the better the education of a respondent, the more negative the evaluation. “Adalet Barometresi” (“Justice Barometer”), Bilgi University, February 2008.

¹¹⁰“Turkey 2008 Progress Report”, European Commission, 5 November 2008.

inspection system” in less than two years.¹¹¹ Diplomats point out that the judiciary cannot be considered fully independent as long as the High Council, presided over by the justice minister, appoints judges and prosecutors.

The government’s draft National Program provides that the justice ministry is working on a “Judicial Reform Strategy” to strengthen the independence of the judiciary and improve delivery of justice. It confirms the EU goals: neutrality, better managerial systems and professional capacity, more trust in the law, education in European Court of Human Rights (ECtHR) interpretation and case law, broader representation of the judiciary in the High Council of Judges and Prosecutors and the introduction of conflict-resolution methods such as mediation. There is Turkish consensus on the need for these reforms.¹¹² The document foresees full implementation in 2010-2014, but officials say Turkey can meet the EU’s one- or two-year time-frame for the overall strategy.

In theory the main opposition is also in favour of judicial independence,¹¹³ but courts are often used as political battlegrounds. Political parties line up in a partisan manner on what should be non-partisan issues of national importance before the Constitutional Court, and in the “Ergenekon” trial of a suspected coup plot by 86 senior retired military personnel, journalists, academics, lawyers, civil society activists and known criminals. The confusion that surrounded the opening of that trial on 20 October also underlined the urgency of judicial reform.¹¹⁴

Any real judicial reform will likewise need to address the Constitutional Court, whose decisions have become increasingly controversial, even among its members.¹¹⁵ While, for example, justices of the U.S. Supreme Court

are nominated by the chief executive and confirmed or rejected by the Senate, the Turkish president can in most instances only select a new justice for the Constitutional Court from among three candidates nominated by bureaucratic and military institutions.¹¹⁶ This means that candidates are intrinsically linked to the country’s often conservative bureaucracy. However, the real problem is not just the judges but also the current constitution and the existing practice of its interpretation.¹¹⁷

C. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

The political criteria of the EU’s 2007 Accession Partnership focus strongly on improving basic democratic rights and freedoms, including those of non-Muslim groups. For the EU, democracy in its broadest sense is a litmus test for the Turkish candidacy. The Dutch European parliamentarian Joost Lagendijk, an advocate of Turkey’s membership, noted:

Some think they can depoliticise this process, make it technical, fly it in under the European radar. That won’t work. European citizens want to see the political issues dealt with. Democracy is what makes the difference between an EU member and those states that we have privileged partnerships with.¹¹⁸

Turkey accepted implementation of ECtHR case law as a constitutional obligation during the 2000-2004 reform period. Yet, due to implementing difficulties, the 2007

¹¹¹ Turkey 2007 Accession Partnership, p. 6.

¹¹²“There is a convergence of views among institutions; the draft is being prepared by the ministry of justice. It will make the judiciary more independent, more transparent, less burdened with administration, and [with] better paid, better educated judges”. Crisis Group interview, senior Turkish official, Ankara, 10 September 2008.

¹¹³ Crisis Group interview, Oktay Vural, senior MHP official, Ankara, 10 September 2008.

¹¹⁴ Even indicted suspects had to physically fight to get into a court room that was too small. The trial began with the reading of a 2,455-page indictment. Crisis Group interview, Emma Sinclair-Webb, Human Rights Watch, 28 October 2008.

¹¹⁵ Two of the eleven judges dissented from the Constitutional Court’s June 2008 decision rejecting the constitutional amendments passed by parliament allowing women to wear headscarves on campus. They argued that the court was properly entitled to address only the form of parliamentary decisions, not their substance.

¹¹⁶ Two each of the eleven regular and four substitute members of the Constitutional Court are chosen from justices of the High Court of Appeals (Yargıtay); two regular and one substitute member are chosen from justices of the Council of State (Danıştay); one full member each is chosen from justices of the Military High Court of Appeals (Askeri Yargıtay), the High Military Administrative Court (Askeri Yüksek İdare Mahkemesi) and the Audit Court (Sayıştay); one full member is chosen by the Higher Board of Education (Yükseköğretim Kurulu). The president has full discretion only over three full members and one substitute member. Justices must retire at the age of 65. See the Turkish Constitution, www.anayasa.gov.tr.

¹¹⁷“A new constitution may help to resolve the deeply embedded constitutional problems of Turkey including the unlimited judicial activism of the Constitutional Court. To this end, the new constitution must limit the powers of the Court to a certain extent. But in the long run we need to develop a liberal and democratic political culture in which judges interpret the constitution in a more democratic way”. Crisis Group email communication, Zühtü Arslan, professor of constitutional law, Ankara, 29 November 2008.

¹¹⁸ Crisis Group interview, Joost Lagendijk, Istanbul, 11 October 2008.

Accession Partnership still asked it to “comply with the ECtHR, and ensure full execution of the judgments of the ECtHR” and to amend the criminal procedure code “to enforce the right to retrial in line with the relevant judgments of the ECtHR”. It further requested Ankara to “establish an independent, adequately resourced national human rights institution in accordance with relevant UN principles”¹¹⁹ and to establish independent monitoring of detention facilities.

1. Freedom of expression and assembly

In 2007-2008 EU pressure focused on persuading Turkey to change Penal Code Article 301, which was being used by nationalist lawyers and others to harass prominent intellectuals for “denigrating Turkishness”. A 30 April 2008 amendment changed the language to “denigrating the Turkish nation” and required the state prosecutor to obtain permission of the justice minister to open a case. Of 163 cases subsequently reviewed by the ministry, 126 were rejected and 37 approved for prosecution.¹²⁰

Freedom of expression is by no means secured, however. The 2007 Accession Partnership demands that Turkey “revise and implement legislation on freedom of expression, including freedom of the press ... [and] remedy the situation of those persons prosecuted or sentenced for non-violent expression of opinion”. Government demands for disclosure from internet search engine operators are more intrusive than those made by China.¹²¹ Turkey is one of few countries, along with China, Pakistan and Thailand, to ban the YouTube site routinely.¹²² Promises for more extensive Kurdish-language radio and television have been only marginally fulfilled. An extraordinary row pitted Prime Minister Erdoğan against the country’s main media group, which reported on a German embezzlement case linked to Turks, including two close to the AKP: at its peak, Erdoğan called on Turks not to buy the group’s papers.¹²³

The Accession Partnership also wants Turkey to “implement measures to prevent the excessive use of force by security forces”. This follows an AKP threat to use

“proportionate force” against any worker who celebrated May Day 2008 in Istanbul’s Taksim Square. According to the EU, “Turkish police used disproportionate force”.¹²⁴ The city centre was closed, and police preemptively attacked union buildings, exploded pepper gas canisters inside them and badly beat two journalists and a number of unionists, some of whom had to be hospitalised.¹²⁵

To improve freedom of organisation, the EU is encouraging passage of a new trade union law, which would be a benchmark for the social policy and employment chapter of the accession negotiations that is scheduled to be opened in 2009. Here the resistance comes not so much from the government as from employers.¹²⁶

2. Religious freedoms

Individual freedom of worship is generally guaranteed in Turkey.¹²⁷ The AKP has taken tentative steps towards improving the rights of heterodox Alevis but lacks support from its own constituency and faces vigorous opposition in the establishment. Legal complications continue to plague the organisation and rights of non-Muslim religions, traditional Muslim brotherhoods and Muslim faiths outside the mainstream Sunni-Hanefi school of Islam. There has also been controversy over the possible foreknowledge of security forces and their role in the investigation into the murders of Armenian editor Hrant Dink in Istanbul in January 2007 and three Christians at a publishing house in Malatya in April 2007.¹²⁸

¹²⁴“Turkey 2008 Progress Report”, European Commission, 5 November 2008.

¹²⁵ Human Rights Watch described the incidents as examples of “violent policing”, superficial investigation of complaints and “disgraceful” protection of security forces from being held accountable for the legal consequences of their actions. “Closing Ranks Against Accountability: barriers to tackling police violence in Turkey”, Human Rights Watch, 5 December 2008.

¹²⁶ Referring to the two biggest groups of Turkish businesspeople and employers, a senior Turkish official said, “they are pro-EU, but not when it comes to trade unions”. Crisis Group interview, Ankara, 10 September 2008.

¹²⁷“Turkey 2008 Progress Report”, European Commission, 5 November 2008.

¹²⁸“Even though the security forces knew that Hrant Dink would be killed and even the details of the plan ... no effective investigation was undertaken ... not even to the point of checking if there was negligence...Permission was not even given to investigate those policemen who had [congratulatory] photos taken of themselves with the gunman ... the only ones tried were those who leaked the photos, and they were acquitted”. Crisis Group email communication from Fethiye Çetin, lawyer for Hrant Dink, 6 November 2008.

¹¹⁹ Turkey 2007 Accession Partnership, p. 7.

¹²⁰“Turkey 2008 Progress Report”, European Commission, 5 November 2008. “The process people have to go through is still a form of judicial harassment”. Crisis Group interview, international human rights activist, 3 November 2008.

¹²¹ Crisis Group interview, Western ambassador, Ankara, 13 May 2008.

¹²² The restrictions have all related to items deemed to insult republican founder Kemal Atatürk.

¹²³“They defend press freedom, but in reality they are threatening media owners”. Crisis Group interview, Onur Öymen, senior official of opposition CHP, 11 September 2008.

The EU's 2007 Accession Partnership calls for more freedom for non-Muslim communities to educate their adherents and train clergy. It asks Turkey to "take the necessary measures to establish an atmosphere of tolerance conducive to the full respect of freedom of religion in practice"; for revision and implementation of the Law on Foundations; and equal treatment of Turkish and foreign nationals in "the right to freedom of religion through participation in the life of organised religious communities".

Non-Muslim congregations meet with relative freedom in rented spaces or private houses, but although a 2003 law provided that they can own their own places of worship, very few have managed to do this.¹²⁹ The first work permit for a foreign priest under the new Associations Law was issued in 2007; others still work under the umbrella of consulates or embassies.

In February 2008, the parliament passed a Law on Foundations, referring to charitable foundations belonging to the non-Muslim minorities that make up less than 0.2 per cent of the population. This law has given little satisfaction to the EU,¹³⁰ to minorities who feel it to be too restrictive,¹³¹ or to nationalists in the opposition CHP, who seek its reversal in the Constitutional Court.¹³² Democratisation activists believe that even if

the law survives domestic challenges, it will fail at the ECtHR.¹³³

The reform process has brought little change for Muslim communities that contest the doctrines of the Religious Affairs Directorate,¹³⁴ a state-run and financed bureaucracy that pays 80,000 imams and other employees and oversees a Sunni-Hanefi national orthodoxy. Chief among these Muslim dissidents are the Alevi, a disparate community of 10-15 million whose faith is significantly different from the Sunni-Hanefi school. The ECtHR ruled in October 2007 that Turkey's educational system was not treating Alevi properly, a decision now forcing changes in the mandatory religion classes.¹³⁵

The AKP has taken some steps to help Alevi, a policy that has public support.¹³⁶ The Religious Affairs Directorate published some books (less than ten) by traditional Alevi authors, and the education ministry included several pages on the Alevi in a recent text for religion classes (which it is considering making non-obligatory).¹³⁷ Alevi activists are still dissatisfied, however, believing that these books and religious classes maintain the idea that Alevism is simply a tradition, while most Alevi see themselves as a distinct,

¹²⁹ A Protestant congregation in Antalya tried unsuccessfully for six years to buy and reconsecrate an old chapel. Crisis Group telephone interview, congregation member, 30 October 2008. One church was legally built by a Protestant group in the Istanbul suburb of Altintepe, although a pastor called this a "fluke". See also Burcu Gültekin-Punsmann, Cengiz Günay, Riva Kastoryano, Kıvanç Ulusoy, "Religious Freedom in Turkey: Situation of Religious Minorities", European Parliament briefing paper, February 2008.

¹³⁰ The new Law on Foundations is only a "step in the right direction". Crisis Group interview, senior European Commission official, Istanbul, 11 September 2008. The 2008 Progress Report says areas for improvement are an end to bureaucratic harassment, including inspections, burdensome reporting of funds from abroad and filming by security forces of some NGO activities.

¹³¹ This is mainly because it legitimises the state's continuing confiscations of properties held by non-Muslim foundations; does not return all properties already confiscated; and does not envision compensation for properties confiscated and sold to third parties. Crisis Group interview, Dilek Kurban, Democratisation Program, Turkish Economic and Social Studies Foundation (TESEV), 4 November 2008.

¹³² The Kemalist establishment disapproves of privileges it gives non-Muslims to cooperate with foreign foundations, and believes it conflicts with the Treaty of Lausanne, a founding document of the Republic of Turkey.

¹³³ Crisis Group interview, Dilek Kurban, Democratisation Program, Turkish Economic and Social Studies Foundation (TESEV), 4 November 2008.

¹³⁴ Diyanet İşleri Başkanlığı.

¹³⁵ Gareth Jenkins, "ECHR ruling highlights discrimination suffered by Turkey's Alevi minority", *Jamestown Eurasia Daily Monitor*, 12 October 2007.

¹³⁶ An AKP minister said the party was ready to consider giving free water and electricity to Alevi *cemevis*, but that he worried this would lead to the same demand from all manner of other religious sects, dervish lodges, communities and brotherhoods. He feared this would contravene the "revolutionary laws" that closed down such religious groups in 1925 and confiscated their assets, and so would also contravene the 1982 Constitution. Sait Yazıcıoğlu, state minister in charge of the Religious Affairs Directorate, interview with *Sabah*, 15 November 2008 (in Turkish). Officially, only the *mevlevi* (whirling dervishes), were allowed to continue as a group after 1925, and then without their property. In practice, many such communities and brotherhoods meet and benefit informally from foundations. In one poll, 49 per cent of Turks backed equal rights for Alevi. MetroPOLL, 1 December 2008.

¹³⁷ These lessons are an obligatory part of the school syllabus under Article 24 of the constitution. "The AKP will be reluctant to change this unless they get something else as well, probably on the headscarf issue, in order to be able to sell the change to its constituency". Crisis Group telephone interview, Ali Köse, Marmara University professor of theology, Istanbul, 27 November 2008.

but still Muslim faith.¹³⁸ Prime Minister Erdoğan made a prominent Alevi, Reha Çamuroğlu, his consultant for Alevi affairs and had a fast-breaking dinner during Ramadan with Alevi leaders. However, Çamuroğlu resigned within a year, saying promises for greater Alevi rights had not been kept.¹³⁹

The EU speaks about equal religious rights for Alevis and non-Muslims,¹⁴⁰ but it should be underlining the need for religious freedoms for everybody. It is asking Turkey to permit institutional training of Catholic priests and legal registration of non-Muslim religious organisations, but it does not do the same with respect to heterodox Muslims. This is particularly problematic, since the Kemalist establishment is convinced that freedom for Muslim organisations would undermine the secular system and encourage the rise of bodies seeking Sharia (Islamic law).¹⁴¹ Large traditional brotherhoods and newer Muslim sects have suffered discrimination, notably the big movement led by Fethullah Gülen, who has lived in exile since being put on trial in 2000 for plotting to create a Sharia-based state.¹⁴²

Another problem is the ideological complication raised by women's headscarves. The AKP argues that adult, religious-minded Muslim women's desire to wear headscarves in universities should be granted as a human right; the Kemalists, backed by the Constitutional Court ruling, argue that there should be no use of religious symbols in state institutions, and this is in fact an example of the AKP's secret Islamist agenda. A leading democratisation activist is critical of Europe as a

whole for implicitly backing the restrictive Kemalist ideology of secularism in this regard:

The European Court of Human Rights, which is ultimately a group of European judges, upheld the Constitutional Court's ban on headscarves, saying that this was done in conformity with Turkish law, deferring to the unique circumstances of Turkey. But it's supposed to be a human rights court! Then the EU doesn't mention the headscarf ban in its Progress Reports, saying there is no minimum EU standard. But there is: it's not the case [for adult women] anywhere else in Europe! You can't afford exceptionalism.¹⁴³

3. Police and prisons

Rising numbers of deaths in state custody, reports of torture by security forces and backsliding in official commitments to better treatment in police stations and jails have cast a shadow over notable past improvements.¹⁴⁴ The latter included significant changes to the Criminal Procedure Code giving detainees immediate access to a lawyer; reduction of the period of detention before being charged; and the rights to legal aid, to medical examination without the presence of the security forces and to renounce any statement made without the presence of a defence lawyer. The 2005 Penal Code also redefined regulations and increased the punishment for torture and ill-treatment.¹⁴⁵

Subsequent deterioration has mainly been a reaction to the Kurdish insurgency (see above), which tilted concerns back toward tighter security. In 2006, some articles of the Anti-Terrorism Law were amended. New regulations allowed a delay of 24 hours in a detainee's right to legal counsel, a major setback amid concerns about torture and ill-treatment in police custody.¹⁴⁶ More importantly, amendments to the Law on Power and Duties of Police gave police greater leeway to use excessive force. This has led to an increase in the number of cases of torture and other ill-treatment, especially

¹³⁸ "Their aim is to bring Alevis closer to the Sunni mainstream, to win time. I am Muslim, but I am different. Why are they pressing me to go to a mosque?" Crisis Group telephone interview, Ali Yalman, Alevi community leader, 4 November 2008.

¹³⁹ Çamuroğlu was seeking, but the AKP had never publicly promised, the same treatment for *cemevis* (Alevi places of worship) as mosques, which receive free water and electricity; an Alevi Affairs Board attached to the prime minister's office; an Alevi Institute; a state salary for Alevi *dedes* (priests), like that which Sunni Muslim imams receive; and an end to obligatory religious education at school. *BIANET* website news, 14 June 2008.

¹⁴⁰ "Turkey Annual Progress Report", European Commission, 5 November 2008.

¹⁴¹ "If you give these rights to the Alevis, the big Sunni movements like the Nakshibandis and Qaderis will demand the same. The establishment fears that this will overturn the secular order". Crisis Group telephone interview, Ali Köse, Marmara University professor of theology, Istanbul, 27 November 2008.

¹⁴² Gülen was cleared of all charges in 2008. *Today's Zaman*, 24 June 2008. He moved to the U.S. for health reasons in 1998, where he remains, although his movement and network of schools and university dormitories has spread around the world.

¹⁴³ Crisis Group interview, Dilek Kurban, Democratisation Program, Turkish Economic and Social Studies Foundation (TESEV), Istanbul, 4 November 2008.

¹⁴⁴ See "Human Rights Report 2007", Human Rights Foundation of Turkey; "Turkey", Amnesty International Reports, 2007 and 2008; "Human Rights Violations Report 2007", Human Rights Association.

¹⁴⁵ See "Türkiye'de İşkence, Kötü Muamele ve Diğer Zalimane, Gayri İnsani veya Küçültücü Muamele veya Ceza Sorunu ve Çözüm Önerileri", Helsinki Citizens' Assembly, 19 April 2008.

¹⁴⁶ "Turkey: Briefing on the Wide-Ranging, Arbitrary and Restrictive Revisions to the Law to Fight Terrorism", Amnesty International, 12 June 2006.

outside official places of detention at demonstrations, in prisons and during prisoner transfer.¹⁴⁷ There has been a lack of independent and effective investigation of alleged abuses and too few prosecutions of those responsible.¹⁴⁸ In prisons, harsh and arbitrary punishment and solitary confinement are still widespread, and there is also criticism of small-group isolation in newer facilities.¹⁴⁹

Responding to the 2007 Accession Partnership, the draft National Program promises ratification of the Optional Protocol of the UN Convention Against Torture. It does not mention independent monitoring of detention facilities but does pledge more “training of forensic personnel, judges and public prosecutors in effective application of medical techniques” and reaffirms “zero tolerance” of torture.¹⁵⁰ However, human rights organisations consider its references to torture and ill-treatment abstract and vague, reflecting the official perception that torture is no longer systematic or widespread.¹⁵¹

Statistics paint a bleaker picture. Reportedly, the number of people subjected to torture or ill-treatment rose from 2,895 in 2006 to 3,339 in 2007,¹⁵² and deaths in detention were up from ten in 2007 to 29 so far in 2008.¹⁵³ Human Rights Watch has criticised a “culture of impunity” that it believes is at the core of continued police violence and a recent rise in overall complaints.¹⁵⁴ A left-wing activist, Engin Ceber, died after being badly beaten in custody on 28 September. The government suspended nineteen police and prison

guards involved within two weeks. Justice Minister Mehmet Ali Şahin made an unprecedented, unconditional apology to the family on behalf of the state.¹⁵⁵

D. THE KURDS AND A MULTI-ETHNIC TURKEY

The AKP has struggled to define and implement a coherent Kurdish strategy since the 2007-2008 tensions and domestic crises. The PKK’s renewed high-profile attacks and bombings of civilian targets polarised Turkish-Kurdish sentiment and put the government on the defensive.¹⁵⁶ Ankara rightly wants EU states to do more to crack down on PKK activities. In some, despite its official EU designation as a terrorist group, it is involved in fundraising and media outreach.¹⁵⁷ Given the difficulties in proving suspects’ direct links to the group and widespread European perceptions that Kurds are oppressed at home and the PKK may have some justification for waging a war of national liberation, getting convictions from European courts and judges is a challenge.¹⁵⁸

President Gül, who in February 2008 accepted a petition from 100 Turkish intellectuals for more Kurdish cultural rights, has hinted at a need for more Kurdish broadcasting, work on an amnesty for PKK fighters and dialogue with the DTP in parliament.¹⁵⁹ Prime Minister Erdoğan has reaffirmed a commitment to socio-economic development in the mainly Kurdish south east.¹⁶⁰ However, he has backed away from his 2005

¹⁴⁷ “Human Rights Report 2007”, Human Rights Foundation of Turkey.

¹⁴⁸ “Human Rights Violations Report 2007”, Human Rights Association.

¹⁴⁹ These prisons are known as “F-type”. “Turkey”, Amnesty International Reports, 2007 and 2008.

¹⁵⁰ “Turkey National Program for Adopting the EU Body of Law”, 2008, at www.abgs.gov.tr. “Comprehensive legislative and administrative measures against torture and ill-treatment have been put into force and ‘zero tolerance’ policy has been put into practice” (p. 3, para. 8); “Circulars have been issued to raise the awareness of civil servants on the prevention of torture and ill-treatment”; “Including all public officers, the implementation of the measures adopted in the context of ‘zero tolerance policy’ against torture and ill-treatment in line with the European Convention on Human Rights, the provisions of the Turkish Penal Code and the recommendations of the European Committee for the Prevention of Torture and the prevention of impunity will continue” (pp. 3, 7).

¹⁵¹ See “Üçüncü Ulusal Program’ın Taslak Metnine İlişkin Değerlendirme Raporu”, Human Rights Foundation of Turkey, 18 September 2008.

¹⁵² Ibid.

¹⁵³ See “Special Report on Right to Life in Turkey”, Human Rights Foundation of Turkey, 21 October 2008.

¹⁵⁴ “Closing Ranks Against Accountability”, op. cit.

¹⁵⁵ *Today’s Zaman*, 15 October 2008.

¹⁵⁶ For a detailed assessment of the AKP’s Kurdish approaches, see Ekrem Eddy Güzeldere, “Was there, is there, will there be a Kurdish Plan?”, *Turkish Policy Quarterly*, vol.7, no.1, spring 2008.

¹⁵⁷ The PKK probably transfers millions of euros annually, mostly collected through cultural and folklore associations. Crisis Group interview, European judicial official, Paris, 7 March 2008.

¹⁵⁸ Restrictions on European actions against the PKK are also due to difficulty in proving links between terrorist actions in Turkey and money collected in Europe; involvement of some European intelligence services with PKK informers; lack of judicial cooperation and differing levels within the EU of political will to confront the PKK; and the PKK’s own secrecy. Crisis Group interview, European judicial official, Paris, 7 March 2008.

¹⁵⁹ Şahin Alp, “Kara Operasyon Nereye Götürür”, *Zaman*, 26 February 2008 (in Turkish).

¹⁶⁰ For instance, he recommitted the government to spending \$12 billion to complete the vast dam and irrigation network of the South East Anatolia Project (GAP), a 22-dam, \$32 billion project under way since the 1970s. He formulated this as a “GAP Action Plan” in a 27 May 2008 speech in Diyarbakır. A similar formulation was referred to as a “new plan” in Sa-

concept of a “higher identity” of citizenship and a “subsidiary identity” of ethnicity. In speeches in November 2008,¹⁶¹ he referred not only to a uniting concept of “citizenship of Turkey”, broadly accepted by Kurds, but also to a concept of “one nation”, a phrase that has overtones in Kurdish ears of a Turkish ethnic monopoly.¹⁶² There is concern that ethnic frictions could lead to clashes in western Turkish cities. An independent Kurdish activist gave the following account:

We’re at the breaking point. Over the past years, there are three million young [Turkish] men who’ve done their military service in the region. They have hostile feelings not just to the PKK but to Kurds. It’s getting into society. You can’t get peace out of this. I set out what we need to Mr Erdoğan in Ankara in January: language rights, broadcasting rights, and so on. He told me: “It’s easy for a bachelor to get divorced”. In April, he came to Diyarbakır, only talking about economic measures. I told him we needed cultural rights. He said: “I only see this as an economic problem. This is not political”, and slammed the table with his hand. I told him: “This is not the way they do it in Europe”. He said: “Liar”. I left the room.¹⁶³

Proposals in the draft National Program do not meet the Accession Partnership recommendations that Turkey “ensure cultural diversity” by removing discriminatory textbook language; lifting legal restrictions on non-Turkish media; supporting teaching of languages other than Turkish; and abolishing the “village guards”, a 57,000-strong pro-government Kurd militia. Kurdish is not an elective in schools, and a combination of bureaucratic harassment and lack of Kurdish interest means almost all private Kurdish language schools have closed.¹⁶⁴ Broadcasts started in the language in 2004,

brina Tavernese, “Turkey set to invest in better relations with Kurds”, *The New York Times*, 12 March 2008.

¹⁶¹ “A Kurd can say ‘I am Kurdish’. A Zaza can say, ‘I am Zaza’. But there is an upper bond, the bond of citizenship of Turkey... We said, ‘one nation’ [*tek millet*], we said, ‘one flag’, we said, ‘one country’ [*tek vatan*], we said, ‘one state’. Who can be against this? Anyone who goes against this has no place in this country. Let them go anywhere else they like”. Prime Minister Erdoğan, speech quoted by the semi-official Anatolian Agency, 2 November 2008.

¹⁶² “To me, this signals that the AKP has adopted the one-identity ideology that the state has used since declaration of the republic”. Crisis Group interview, Kurdish nationalist activist, Istanbul, 5 November 2008.

¹⁶³ Crisis Group interview, Sezgin Tanrikulu, president of the Diyarbakır Bar, Diyarbakır, 24 October 2008.

¹⁶⁴ “A Kurd has to spend money to be able to learn his or her mother tongue in his or her motherland. This is like opening private schools in Berlin for German kids to learn their

after years of foot-dragging, but with patriotic content and limited hours.¹⁶⁵ This has little chance of providing a popular alternative to Roj TV, which broadcasts a pro-PKK message in Kurdish by satellite from Denmark.¹⁶⁶ The AKP has said it would dismiss the village guards, but it passed a Village Law in June 2007 foreseeing the possible hiring of an additional 60,000 members.¹⁶⁷

The AKP did, however, ensure that Kurdish nationalist DTP deputies have so far stayed in parliament, in the face of nationalist pressure.¹⁶⁸ The new attention it gave to the south east in fall 2008 also showed its intention to make up lost ground ahead of March 2009 local elections. The government’s strategy has also been to reconfigure its Iraq policy to include real cooperation with the Iraqi Kurdish leadership, including a formal meeting with Kurdistan Regional Government President Masoud Barzani on 14 October 2008. This was achieved over Turkish nationalist opposition¹⁶⁹ and was appreciated by Turkish Kurds.¹⁷⁰ Nevertheless,

mother tongue”. Speech by Selahettin Demirtaş, DTP deputy, at a conference organised by the Heinrich Böll Foundation and the Diyarbakır Bar, Diyarbakır, 29 September 2007.

¹⁶⁵ Laws changed in August 2002 and reinforced in June 2008 in effect allowed broadcasting in Kurdish and other dialects. State television started broadcasts of less than an hour in Kirmanci and Zaza, the two principal Kurdish dialects spoken in Turkey, on weekday mornings in June 2004. In March 2006, the state authorised two private television stations to broadcast four hours and one radio station to broadcast five hours of Kurdish language shows weekly. “Educational programs teaching the Kurdish language are not allowed. All broadcasts, except songs, must be subtitled or translated into Turkish. These restrictions make broadcasting in languages other than Turkish cumbersome and non-viable commercially”. “Turkey 2008 Progress Report”, European Commission, 5 November 2008.

¹⁶⁶ Turkey’s efforts to have these broadcasts banned have failed due to Danish freedom of speech protections. However, other pro-PKK media have come under pressure in Belgium and Germany.

¹⁶⁷ “Kurds in Turkey: Main requirements for a peace process”, speech by Dilek Kurban at a conference organised by the Heinrich Böll Foundation and the Diyarbakır Bar, Diyarbakır, 29 September 2007.

¹⁶⁸ “Democratic means should be used. If they are not represented in Parliament, you send them to the mountains”. Prime Minister Recep Tayyip Erdoğan, quoted in *Today’s Zaman*, 16 November 2007.

¹⁶⁹ “The U.S. wants to corner the Turkish Armed Forces domestically by using the AKP. And from abroad, it uses [Iraqi Kurdish leaders] Talabani, Barzani and the PKK. Besides, it tries to undermine the Turkish Armed Forces through the EU process” Erol Manisalı, *Cumhuriyet*, 17 October 2008 (in Turkish).

¹⁷⁰ This was, however, not primarily a gesture for domestic Kurdish consumption, but rather to win allies in Turkey’s fight

the AKP has so far failed to make good on promises which could secure its place as a natural party of choice for the moderate new Turkish Kurd middle class:

Right now, 70 to 80 per cent [of Turkish Kurds] are in the middle. The EU process was very good. When the government was on track, the radicals on both sides had nothing to say. When the EU reforms stopped, the radicals came out again. On the Kurdish side, they said, “you see, they were never sincere; we’re right”. On the Turkish side, they said, “see, we were right all along. The Kurds want an independent state; they have to be crushed”. The prejudices are so high. They have to be broken.¹⁷¹

Domestic support for a Kurdish reform strategy is growing. Liberal commentators have lost faith in a military solution and are increasingly critical of the army’s performance.¹⁷² Public use of Kurdish is more widely tolerated, even if a recent court case targeted (and acquitted) a Turkish Kurd mayor for using Kurdish in municipal greeting cards.¹⁷³ Officials debate the banning of the letters w, q, or x – part of the Kurdish alphabet but not the official Turkish one – even while they are broadly used in mainstream advertising. Wide freedoms for Kurdish intellectuals in Istanbul coexist with harsh official harassment in the south east. The discourse of an AKP politician from the Kurdish region can differ little from that of a DTP politician.¹⁷⁴

against the PKK, encourage potential Iraqi natural gas and oil exports to and through Turkey and secure Turkey’s position, particularly against Iran, in the case of a break-up of Iraq. See Crisis Group Report, *Turkey and Iraqi Kurds*, op. cit.

¹⁷¹ Crisis Group interview, Hüseyin Haşimi Güneş, Turkish Kurd professor, Mardin, 23 October 2008.

¹⁷² “Despite all attempts at ‘transparency’, the general atmosphere reflected by the Turkish Armed Forces following the [3 October] Aktütün attack is anything but transparent. Their view is that a military solution may exist for the Kurdish issue. However, today there is no ‘military solution’ for the Kurdish issue, apart from crushing the heads of the PKK as much as possible. No state of emergency, no martial law or security precautions can or will tackle the roots of the problem”. Hadi Uluengin, *Hürriyet*, 8 October 2008 (in Turkish).

¹⁷³ A DTP deputy was investigated after he merely asked for a glass of water in Kurdish during a campaign speech. Crisis Group interview, Sırrı Sakık, DTP member of parliament, 14 February 2008.

¹⁷⁴ About 75 members of the 330-strong AKP parliamentary group are Kurds, as are five cabinet ministers. “The Kurdish problem is a political problem. If you try to solve it through economic development alone, as people get more prosperous, their demands for recognition of their identity will be made more violently... there was a problem and the PKK lit it up. New policies are needed if Turkey wants to keep a unitary state”. Crisis Group interview, Kurdish member of parliament from the AKP, Ankara, 14 February 2008.

As one analyst put it, “the Kurdish question is more than economic underdevelopment and separatist terror. It is about the difficult question of how to politically organise a multi-ethnic state without endangering the unity of the state”.¹⁷⁵

Prime Minister Erdoğan braved tension and pro-PKK demonstrations to visit Kurdish-majority towns in October-November 2008. Kurdish nationalist deputies of the DTP, meanwhile, have become strident in their support for jailed PKK leader Öcalan and civil disobedience.¹⁷⁶ In DTP-run municipalities, Erdoğan was greeted by town centres closed for business and uncollected rubbish overflowing in the streets. A bomb badly damaged the AKP provincial office in Hakkari. A frustrated senior local AKP official said his fellow Kurds should give the AKP more credit, noting that it has been the first to dare to bring to account those responsible for the apparent “deep state” death squads that killed hundreds of Kurdish nationalists in the dirty war of the 1990s:

People should be giving him [Erdoğan] flowers for bringing to court the people who were involved in the murders “by an unknown hand”. We are also the party that brought police detention down to two days. Our EU project is about getting better health, standards, and freedoms. There are people who are unhappy with growing democracy, who want new measures [against the Kurds], but the prime minister stood against it. [The Kurds] are impatient, they want everything straight away. But this country isn’t just the south east. You can’t necessarily do what you want as leader of this country. Look at the way they [the Kemalists] stopped the headscarves.¹⁷⁷

The AKP says it has done its best despite the military emergency, visibly improving roads and water supplies, building thousands of class rooms and giving away coal and schoolbooks.¹⁷⁸ A state television channel with

¹⁷⁵ Ekrem Eddy Güzeldere, op. cit.

¹⁷⁶ “DTP’li Buldan: Öcalan’a dokunmak yürek ister,” *Milliyet*, 26 October 2008 (in Turkish).

¹⁷⁷ Crisis Group interview, AKP provincial chairman Ahmet Fikret Öcal, Diyarbakır, 24 October 2008.

¹⁷⁸ South of Diyarbakır, scores of heavy machines are busy building a dual carriageway highway where a decade ago burned-out villages lined roads that emptied at nightfall for fear of PKK attack. The number of villages with roads and water has risen from 250 to 1,250, 5,000 schoolrooms have become 8,000, 1,200 apartments are being allocated to low-income families, 32,000 disadvantaged people receive coal for the winter, all schoolbooks are free, and the families of 40,000 pupils receive aid given directly to the mother. Crisis Group interview, Ahmet Fikret Öcal, AKP provincial chairman, Diyarbakır, 24 October 2008.

twelve hours of broadcasting a day in Kurdish may start in January 2009, and a Kurdish Institute may be opened.¹⁷⁹ The AKP's Kurdish officials are also advocates of moderate, baseline demands that could reasonably be achieved: the removal of ethnic overtones from the constitution; Kurdish broadcasting rights; Kurdish electives in schools; university institutes to study Kurdish history and literature;¹⁸⁰ permission to use the language in religious ceremonies, including in mosques, and the restoration of the names of Kurdish villages, rivers and mountains.¹⁸¹

Turkey has managed to put the PKK on the defensive in both its rear bases in northern Iraq and in the EU.¹⁸² But the organisation remains a force to be reckoned with inside the country. Its insurgency has survived over 24 years, in which 30,000 people have died, 4,000 Kurdish villages have been emptied, thousands of Kurds have been jailed, and hundreds of thousands have been displaced to the cities. Ethnic tensions remain dangerous. Erdoğan himself poured oil on the flames, suggesting, for instance, that a shopkeeper who fired a shotgun to defend his business from violent pro-PKK demonstrators was justified.¹⁸³ As an independent Kurdish civil society activist said:

We have to stop the fighting, we have to have a policy....The PKK became part of everyone's life. It attracts sympathy, interest....the AKP did good things despite the chauvinists. Maybe it can be a credible force for a solution. But the AKP have lost their excitement. They are paying the price for not being able to pursue harmonisation with Europe.... Turkey's internal dynamics are very weak in this respect. But the EU can give us a big push; it's a great pro-

ject of modern civilization. The Kurds have to be part of this.¹⁸⁴

E. POLITICAL PARTIES AND THE ELECTION LAW

While parliamentary elections in 2007 were free and democratic, the internal structure of the political parties and the 10 per cent barrier to enter parliament undermine a full, representative, multi-party system. The 1982 Constitution is part of the problem, as is the highly restrictive Political Parties Law. Much of this legislation stems from the concerns of the generals in charge of the 1980 coup, who set high barriers to democratic inclusion and bolstered the authority of party leaders to prevent a repeat of the violent chaos of the 1970s.

Problems of representation, corruption and party financing and authoritarian leadership are undermining faith in democracy. Some argue that this problem is at the core of the failure to reform.¹⁸⁵ Supporters of smaller parties feel their votes will be wasted. Among the more privileged urban youth and in the middle classes, involvement in party politics is frowned upon.¹⁸⁶ There is widespread disappointment in the authoritarian, nationalist style of the main secularist opposition CHP. This has led to a democratic deficit, especially in the more progressive western cities. A significant portion of the urban population with secular democratic sympathies has no party to vote for, one reason for the huge turnout during the pro-secular demonstrations in major cities in early 2007.¹⁸⁷

The leaderships of a small number of parties spend large discretionary funds with little sense of accountability,¹⁸⁸ further reinforcing the centralising and authoritarian side of political culture. Intra-party democracy is limited. Leaders nominate the heads of their parties' provincial organisations and all their parliamentary candidates,

¹⁷⁹ Ibid.

¹⁸⁰ The AKP has founded several universities in the south east since coming to power in 2002, but Kurdish is banned from education except for private language courses. This leads to paradoxes like the fact that the Faculty for Eastern Languages of Dicle University in Diyarbakır, a largely Kurdish-speaking town, can offer courses in Persian and Arabic but not Kurdish.

¹⁸¹ Crisis Group interview, AKP party officials, Diyarbakır, 24 October 2008.

¹⁸² In Germany, which banned the PKK in 1993, the authorities have increasingly prosecuted PKK activists; in June 2008 the country banned Roj TV, calling it a mouthpiece for the PKK. Philipp Wittrock, "PKK Activities in Europe", *Spiegel Online*, 13 July 2008.

¹⁸³ "I recommend patience to my citizens, but I'm worried how far patience can stretch". Prime Minister Tayyip Erdoğan, cited in Turkish by www.haberler.com, 4 November 2008.

¹⁸⁴ Crisis Group interview, Ali Öncü, Kurdish union leader, Diyarbakır, 24 October 2008.

¹⁸⁵ For a survey of the problem from the perspective of a small liberal party leader, see Cem Toker, "Why is Turkey Bogged Down?", *Turkish Policy Quarterly*, vol. 7, no. 1, spring 2008.

¹⁸⁶ "Our parents told us not to get involved in politics [and] the government." Crisis Group interview, Erhan Akdemir, Turkish academic, 12 September 2008.

¹⁸⁷ Crisis Group interview, General (ret.) Haldun Solmaztürk, Istanbul, 28 May 2008.

¹⁸⁸ Treasury financing only flows to political parties that pass a threshold of 7 per cent of the national vote. Between 2002 and 2007, some \$600 million went to the five qualifying parties. If the parliament elected in 2007 lasts its four-year term, a total of \$1 billion will be shared between just three parties. Figures from Toker, *op. cit.*

and laws permit them to easily cancel the results of any provincial caucus that elects a dissident as a representative. Political connections are often critical to winning commercial contracts at both national and local level, making politics more a business than a profession. This is symbolised by the large, opulent headquarters of the major parties.

The EU asks Turkey in the 2007 Accession Partnership to “align with best practices in EU Member States as regards legislation on political parties” and to make party financing fully transparent within one or two years. Enlargement Commissioner Olli Rehn has called for “urgent revision of the rules governing political parties”.¹⁸⁹ The draft National Program responds with only two vague sentences and no timeline, one expressing a desire to “continue work to create a parallel in political parties statutes and political party financing and do the required legal changes”, the other pledging that such statutes will be aligned with the European Convention on Human Rights.

Enforced closures have plagued Turkish democracy for decades, preventing parties from putting down deep institutional roots and contributing to the high factionalisation of politics. There has been some progress since 1995, as parliament, under EU pressure, has steadily made it harder for the Constitutional Court to put parties out of business. The case to close the AKP in March 2008 threatened the country with political chaos, and when joined with the closure case against the DTP in November 2007 would have deprived most Kurds in the south east of all political representation.¹⁹⁰

Furthermore, nearly half of all votes cast can be disregarded because a political party needs to win 10 per cent of the national vote to enter parliament.¹⁹¹ The height of this hurdle has often been criticised by the Council of Europe.¹⁹² One solution debated in Turkey is setting aside 100 of the 550 seats in the legislature

for allocation nationwide by proportional representation according to party lists.¹⁹³

To participate in national or local elections, a party theoretically has to be organised in at least half the 81 provinces, one third of the nearly 1,000 towns and half the nearly 2,500 townships. If fully enforced, this would require huge resources in a situation in which the collection of normal political contributions is over-regulated and complicated.¹⁹⁴ In practice, fourteen parties managed to contest the July 2008 elections. According to Liberal Democrat Party Chairman Cem Toker, “party financing laws, if fully enforced, make it virtually impossible for parties to raise sufficient funds to become viable opponents to those collecting tremendously high amounts of public financing”.¹⁹⁵

To address these issues, political parties could reach out for guidance and recommendations from the Council of Europe, especially its Venice Commission, which has deep expertise on constitutions and electoral and party law.

F. THE FIGHT AGAINST CORRUPTION

Ordinary citizens hope that EU convergence will bring a reduction in corruption. Turkish officials say the draft National Program focuses on this problem because it is an EU priority and corruption plagues judicial reform, party finances and ethics, public tenders and state aid alike.¹⁹⁶

The problem is deep-seated, linked to attitudes which view the state as a father, not a public service, and its money as “government”, not “taxpayer” money. Estimates of the informal, untaxed economy range up to half of gross national product, partly due to widespread tax cheating.¹⁹⁷ At the same time, there is a “virtual

¹⁸⁹ Olli Rehn, speech to the Bosphorus Conference, op. cit.

¹⁹⁰ In Diyarbakır, the main city of the south east, 88 per cent of the vote went to these two parties.

¹⁹¹ In the 2002 parliamentary election, 45.3 per cent of the votes went to parties that won no seats in parliament; in 2007, however, this figure fell to about 13 per cent.

¹⁹² See Resolution 1622, Parliamentary Assembly of the Council of Europe, 26 June 2008. However, the Grand Chamber of the European Court of Human Rights decided on 8 July 2008 that while high, and double that in Germany, Poland or Russia, Turkey’s 10 per cent threshold did not in itself violate European norms.

¹⁹³ Prime Minister Erdoğan said he favors both this proposal and lowering the 10 per cent national threshold. Speech to the Brookings Institution, Washington, 14 November 2008. These ideas also have some support from the opposition. Crisis Group interview, Oktay Vural, senior MHP official, Ankara, 10 September 2008.

¹⁹⁴ “The financing of political parties is a mystery”. Crisis Group interview, senior Turkish official, Ankara, 10 September 2008.

¹⁹⁵ Toker, op. cit. On public financing of political parties, see fn. 188 above.

¹⁹⁶ Crisis Group interview, senior Turkish official, Ankara, 10 September 2008.

¹⁹⁷ “Until we solve the unregistered economy, we can’t get quality democracy. He who cannot give account of his own actions cannot demand the same of others. When the [income tax department] demands you to bring your account books

unwritten agreement ... successive governments have agreed to overlook infringements committed by the citizens ... [and] in return the public disregards alleged corruption of public figures".¹⁹⁸ One survey calculates that politicians, bureaucrats and local officials share some \$20 billion in bribes and kickbacks yearly.¹⁹⁹ Parliamentary immunity from prosecution protects many politicians. Another area of controversy has been the procurement law, to which the AKP has made several changes, reversing reforms that were undertaken earlier in the decade to bring Turkey in line with EU norms.²⁰⁰

The so-called Lighthouse case is often cited in relation to alleged corruption. On 17 September 2008, a German court convicted three Turks for embezzling €16 million supposedly raised for charity. The German court indicated that individuals in Turkey holding high-level positions in the media industry and oversight were involved in the fraud. Close associates of Prime Minister Erdogan have been implicated.²⁰¹ Turkish press coverage of the case ignited a furious polemic between Erdogan and the owner of the main media group; the justice ministry requested information from Germany about the case, and the country's chief prosecutor is investigating possible AKP wrongdoing in connection with it.

The EU's 2007 Accession Partnership expects Turkey to lay out within two years "a comprehensive anti-corruption strategy, including the fight against high-level corruption, and a central body to oversee and monitor its implementation, including through establishing statistical data". It also wants it to "limit the immunities granted to politicians and public officials" and establish an ombudsman.²⁰²

over, is there anyone who can comfortably do so with their head held high? No. My legs would shake if I got such a demand, too". Speech in Turkish by Rifat Hisarcıklıoğlu, President of Turkey's Union of Chambers of Commerce, Anadolu Ajansı, 24 September 2008.

¹⁹⁸ Toker, op. cit.

¹⁹⁹ Toker, *ibid*, bases his figures on a UN report that government purchases amount to 16-18 per cent of Turkey's GNP and an Ankara Chamber of Commerce finding that bribes and kickbacks account for 15 per cent of the cost of winning and executing a government tender.

²⁰⁰ "The public procurement law is simply not effective. They changed it totally". Crisis Group interview, Oktay Vural, senior MHP official, Ankara, 10 September 2008.

²⁰¹ "Three convicted in Deniz Feneri case," *Today's Zaman*, 18 September 2008.

²⁰² The EU criticised parliamentary immunities again in the "Turkey 2008 Progress Report", European Commission, 5 November 2008.

The draft National Program says that an ombudsman's office will be founded in 2009, and the long-existing prime minister's Board of Inspectors will coordinate all the work required by the EU; a Political Ethics Commission will be formed by law to improve the transparency and accountability of politics and politicians; and a newly-founded Board of Civil Servants' Ethics will be further empowered. Officials acknowledge, however, that with 100 different bodies mandated to tackle it, there is as yet no coordinated approach to corruption.²⁰³

²⁰³ Crisis Group interview, senior Turkish official, Ankara, 10 September 2008.

IV. MOBILISING FOR REFORM

Lack of progress in reform has shown that Prime Minister Erdoğan's invention of home-grown "Ankara Criteria" cannot substitute for the EU's Copenhagen Criteria and a true EU convergence process.²⁰⁴ Turkish leaders are aware of the value of the goal of EU membership to mobilise change against vested interests.²⁰⁵ Indeed, Erdoğan says that his bitter criticism of the EU during the recent years of divergence is partly because he feels that Brussels has undermined his ability to reform by making it seem as though the membership goal is unrealistic.²⁰⁶

Not everyone believes EU membership is worth the price of wholesale change.²⁰⁷ Nationalist politicians accuse Brussels of demanding more from Turkey than it did from other candidates and demand "membership with honour".²⁰⁸ But others argue that if the goal of membership disappears, the ideological underpinnings of modern Turkey could collapse. According to democratisation activist Dilek Kurban:

There's no such thing as "Ankara Criteria". It's rhetoric ... historically, change has only come from the outside. The EU process is absolutely critical. For the people, Europe means a prosperous future. It is the only thing to inspire hope, to motivate people for change. This process is the only thing that holds the country together, Turks and Kurds, Muslims and others. If you lose it, what you'll see is a disintegrating country.²⁰⁹

²⁰⁴ "We say we need this for ourselves [but Prime Minister Erdoğan] is disillusioned". Crisis Group interview, senior Turkish official, Ankara, 10 September 2008. "The EU works like a lighthouse ... we are unable to generate reforms that would safeguard our democracy". Crisis Group interview, Soli Özel, Turkish political scientist, Istanbul, 17 September 2008.

²⁰⁵ "When the EU target is not there, other forces come into play, energy is dissipated". Crisis Group interview, senior Turkish official, Istanbul, 11 September 2008.

²⁰⁶ Speech to the diplomatic corps, Ankara, 16 September 2008, available in Turkish at www.akp.org.tr.

²⁰⁷ "We are in favour of being in the EU – but we have sensitivities about the unity of the state, our national identity, Cyprus, the creation of new minorities". Crisis Group interview, Oktay Vural, senior official of right-wing MHP, Ankara,

²⁰⁸ "If our honour is impugned we can say 'take your Copenhagen Criteria and leave!'", MHP leader Devlet Bahçeli, speech to his party's Eighth National Congress, 19 November 2006.

²⁰⁹ Crisis Group interview, Dilek Kurban, Democratisation Program, Turkish Economic and Social Studies Foundation (TESEV), 4 November 2008.

The EU has called on Turkey to "facilitate and encourage open communication and cooperation between all sectors of Turkish civil society and European partners"²¹⁰ – implying a perception of Turkish reluctance to engage. A Turkish official acknowledged the difficulties, noting that "nobody reads the programs; they just argue through them. There's also a lack of intellectual capacity in the press....[It's up to the Europeans] to give assurances about the finality of the negotiations, a clear commitment to the final end goal".²¹¹

President Gül, who has shifted from being an opponent of EU membership to an outspoken supporter of liberalisation and pro-EU reforms,²¹² announced – optimistically as events have shown – in January that 2008 would be the year of the EU. On 1 October, when opening parliament, he dwelt extensively on the need to agree and implement the draft National Program. The main opposition party the CHP says that it is against the AKP but "at least 90 per cent in agreement with the EU"²¹³ and in favour of lifting the immunity of politicians.²¹⁴ The opposition MHP insists it is in favour of "completely transparent financing of political parties", more accountability of leadership to political parties, an independent judiciary and a new constitution²¹⁵ but is sceptical of the AKP's commitment to reform.²¹⁶ Given the critical year ahead for Tur-

²¹⁰ Turkey 2007 Accession Partnership, op. cit., p. 8.

²¹¹ Crisis Group interview, senior Turkish official, Ankara, 10 September 2008.

²¹² As a member of parliament for the Islamist Refah Party in 1994, he was in favour of good relations with the EU but opposed Turkey's membership in such a "Christian club". He told one interviewer about "different cultures and different understandings....Look at a European city, and then look at Istanbul. It's not a Christian city". Martin Woollacott, "Is it in Turkey's interests to join this Christian club?", *The Guardian*, 13 December 2002.

²¹³ The AKP "gives the impression it's for the EU. We'll see who's for the EU, and who's against. They're ready to do anything to get support from the EU and Americans. But they have a clear preference to make Turkey a Muslim society, an Islamic society. They talk of an alliance of civilisations. But we are in the same civilisation [as Europe]". Crisis Group interview, Onur Öymen, senior official of opposition CHP, Ankara, 11 September 2008.

²¹⁴ "If you talk of legal reform and don't accept the lifting of legal immunities for politicians, then it's not a legal reform". Crisis Group interview, Onur Öymen, senior official of the opposition CHP, Ankara, 11 September 2008.

²¹⁵ Crisis Group interview, Oktay Vural, senior MHP official, Ankara, 10 September 2008.

²¹⁶ "They are promising to change but doing nothing. They are hypocrites". Crisis Group interview, Oktay Vural, senior MHP official, Ankara, 10 September 2008. "They have good words, but ... only move in areas where there is precise in-

key, all political parties should set aside their political differences in other areas to consolidate the country's real common ground on the EU reform program.

A. THE AKP RESPONSIBILITY

Cabinet resistance to the National Program in August 2008 (see above) was a clear indicator of the new Euro-scepticism in the AKP. EU ambassadors were surprised when Prime Minister Erdoğan attacked the EU frontally at a dinner he hosted for the diplomatic corps. "Forget about drawing water from this well. [The EU has] got the bucket so stuck in the bottom of the well, it'll be a miracle to get it out at all", he said.²¹⁷ Even Turkey's close supporters abroad worry that Erdoğan and the AKP have lost interest in EU reforms.²¹⁸ At home, former sympathisers complain that he has moved from being an outsider advocating change to a more demanding member of the establishment.²¹⁹

Foreign minister and chief negotiator on the EU Ali Babacan recognised still in October 2008 that "a lot remains to be done. We have to continue reforms vigorously – freedom of expression, fundamental rights and freedoms, serious changes in the constitution, many many laws". But, he added, "the EU accession process has difficulties stemming from Turkey, but also the EU. This has to be taken into account".²²⁰ However, from an EU perspective, it is a sign of Turkey's lack of seriousness that the talented and energetic but very busy foreign minister is not given the kind of technical, much less political support that he needs.²²¹

terest from foreign governments". Crisis Group interview, Onur Öymen, senior CHP official, 11 September 2008.

²¹⁷"It was aggressive". Crisis Group interview, EU ambassador who attended, Istanbul, 9 October 2008. For the full text (in Turkish) of Erdoğan's 16 September speech, follow links at www.akp.org.tr to the September archive.

²¹⁸"The foreign minister tells us a nice story, but I don't believe he can get the reform process through the government". Crisis Group interview, pro-Turkish member of European Parliament, Istanbul, 11 October 2008.

²¹⁹"There was a [Barack] Obama-like approach in 2002 in Turkey, but in 2008 the approach to government reminds me more of [George W.] Bush". Fehmi Koru, interview with Turkey's NTV television, 7 November 2008.

²²⁰Ali Babacan, speech to the Bosphorus Conference, op. cit., 11 October 2008.

²²¹Crisis Group interviews, EU diplomats and ambassadors, September-October 2008. "The pace of reform has declined drastically...we're looking for a renewed confirmation in deeds and words, high on the agenda of the present Turkish government". Crisis Group interview, senior European Commission official, Istanbul, 11 September 2008.

Officials in relevant ministries can be deeply engaged,²²² but by some counts, Turkey is committing less than half the staff and resources to membership negotiations as Croatia, a smaller country that quickly overtook it on the accession road.²²³

The AKP's main reformers are also leaving the party. The political drift was underlined by the 8 November 2008 resignation of the number two, Dengir Mir Mehmet Fırat, a proponent of full constitutional and Kurdish reform. All the main co-founders with Erdoğan in 2001 are now out of the party mainstream.²²⁴ The prime minister has likewise lost much of his once substantial support from liberal commentators.²²⁵

Fears that Turkey will once again change too little, too late are supported by past performance.²²⁶ The government waited six months after the February 2008 publication of the Accession Partnership to put the draft National Program before the cabinet. In some ways it was already two years late, since no official National Program was issued after the previous Accession Partnership in January 2006.²²⁷ Only nineteen of the 114 laws Turkey pledged to pass in an unofficial EU alignment program introduced in April 2007 were actually adopted,²²⁸ and the Erdoğan government has

²²²"Turkish officials in the line ministries are excellent, interested, engaged, desperately keen on EU projects ... they want to learn". Crisis Group interview, European Commission official, 19 September 2008.

²²³"Staff and resources ... remain weak". "Turkey 2008 Progress Report", European Commission, 5 November 2008.

²²⁴The others are Abdullah Gül, now president, Bülent Arınç and Abdüllatif Şener.

²²⁵"The lonelier he [Erdoğan] gets, the more secretive and complex his policies may become. The 'going it alone' approach is also alienating the liberals and 'democrats', highly influential in the media domain. There are almost no pundits left who have been uncritical of where Erdoğan has taken his changing policies". Yavuz Baydar, "Resignation", *Today's Zaman*, 10 November 2008.

²²⁶"The AKP keeps looking like its going to do something, but it doesn't do it, saying it can't...either the AKP is not very European, or the EU in the AKP's head is not very realistic. If the AKP wants to get to the EU like this, it just won't get there". Crisis Group interview, Erhan Akdemir, Turkish academic specialist on the EU, Ankara, 12 September 2008.

²²⁷It was prepared but not published, partly because it would have come out during an election period. Crisis Group interview, senior Turkish official, Ankara, 10 September 2008. According to constitutional reform expert Emin Dedeoğlu, perhaps only 40 per cent of the previous (2003) National Program has been implemented. Crisis Group interview, Ankara, 12 September 2008.

²²⁸For a full list see *Radikal*, 18 April 2008 (in Turkish). The government announced another unofficial program to imple-

warned European officials that not much will happen before the March 2009 local elections.²²⁹ EU Enlargement Commissioner Rehn has clearly spelled out the dangers:

I'd like to see Turkey make faster progress now in the reforms that form the foundation of the accession process....The recent cycle of a political crisis every year has not served Turkey well. Such crises absorb time and energy....The government's intention to adopt the third national EU reform program is vitally important.²³⁰

Dutch Foreign Minister Maxime Verhagen warned opinion-makers in Turkey of the risks in misinterpreting the signals from Europe:

Turkey is welcome in the EU. But only when all requirements have been met. The Netherlands will honour its commitment. But Turkey holds the key to the accession....the Copenhagen Criteria demand a stable democracy ... these values go to the very heart of the EU and cannot be watered down....we need to see implementation. The ball is in Turkey's court. Accession should not be turned down for the wrong reasons.²³¹

Another compelling reason for the AKP to return to a more explicit EU-bound path is the global financial crisis, which by October 2008 had already halved the value of the Istanbul Stock Exchange index over the past year, slashed the lira's value by one third and shaved 5.5 per cent off industrial production.²³² The country is greatly reliant on short-term borrowing and exports and faces rough going after six years of strong, practically uninterrupted growth. The AKP was not fully responsible for engineering this strong economic record – much of the credit must go to a first round of EU-related reforms led in 2001-2002 by Kemal Derviş, the economics minister of the previous coalition government. But the real foreign investment boom was launched in 2005, concurrent with full EU negotiations; investment began to fall during the domestic political upheavals and slowdown in EU reforms in 2007-2008.²³³

ment the *acquis communautaire* in January 2006. It also left little trace.

²²⁹ Crisis Group interview, EU official, Istanbul, 12 October 2008.

²³⁰ Olli Rehn, speech to Bosphorus Conference, op. cit.

²³¹ Maxime Verhagen, speech to Bosphorus Conference, op. cit.

²³² www.haberler.com, 10 November 2008. The figures for industrial production compare September 2007 and September 2008.

²³³ Portfolio investments have been negative since March 2008. Foreign direct investment, which finances about 40 per cent of Turkey's current account deficit, declined to 2 per cent of GDP

B. THE FOREIGN POLICY DIMENSION

Despite the domestic upheavals of the past two years, Turkey's reputation in the EU has improved thanks to the high-profile, positive role it is playing in its region. Often this is the fruit of years of effort. It has hosted Israeli-Syrian proximity talks. Prime Minister Erdoğan helped nudge Lebanese factions towards a compromise and was rewarded with a place of honour in the Lebanese parliament during the 25 May 2008 inauguration of new President Michel Suleiman.²³⁴ Ankara has also organised three-way meetings with Kabul and Islamabad and offered to add more military trainers to its 800-person contingent in Afghanistan. With proven influence in reconciling Sunni Muslim Iraqis to the new order in their country, it has in the past year moved towards a policy of cooperation with Iraqi Kurds.²³⁵ Turkish leaders are aligned with EU policy on Iran's nuclear ambitions and have proved uniquely well placed to push this personally with the Iranian leadership.²³⁶

Turkey's role in the Caucasus was particularly evident during the Russia-Georgia crisis in August, when top leaders travelled within a month to all regional capitals to help contain the fighting. Ankara also promoted the Caucasus Stability and Cooperation Pact, a new regional initiative to increase stability and dialogue. On 6 September President Gül became the first Turkish president to visit Yerevan, where he watched a football match with his Armenian counterpart, President Sarkissian. The two reinvigorated efforts to address bilateral divisions which, among other things, have led to the closure of the border between them since 1993.

All this has helped some European actors rediscover Turkey's importance as a regional ally,²³⁷ especially as

in the first half of 2008 from 3 per cent in 2007. "Turkey 2008 Progress Report", European Commission, 5 November 2008.

²³⁴ "Since the U.S. refuses to talk to some parties, Turkey, which coordinates closely with the U.S., was often the only interested and influential party able to meet and talk to everybody". Crisis Group interview, Turkish official, Istanbul, 1 November 2008.

²³⁵ "We need a zone of stability around us. Our vision of order is [no longer to] make pro-Turkish groups. Our principle is security for all, solving questions through dialogue and interdependency". Crisis Group interview, senior Turkish policymaker, 11 October 2008. See also See Crisis Group Report, *Turkey and Iraqi Kurds*, op. cit.

²³⁶ "Turkey supports the EU position on Iran's nuclear program". "Turkey 2008 Progress Report", European Commission, 5 November 2008.

²³⁷ "The Georgia crisis this summer highlighted the strategic importance of Turkish-EU cooperation to ensure stability and security in our common neighbourhood. One of the most effective ways to stabilise the Caucasus region and spread Euro-

they seek to lessen dependence on Russia for energy. Several EU member states are backing the Nabucco gas pipeline project, which could link supplies in the Caspian, Iran and Iraq through Turkey and the Balkans to an Austrian hub. Despite EU calls for it to be operational by 2013, however,²³⁸ Nabucco has still not identified a guaranteed source of supply or nailed down a transit agreement with Turkey.²³⁹

After four years of friction over Iraq, Turkey has also put its relationship with the U.S. on a more even keel.²⁴⁰ In a clear sign of new international respect, it won a non-permanent seat at the UN Security Council for 2009-2010 with the votes of 151 countries. It also consistently supports EU foreign policy.²⁴¹ However, geostrategic importance has never translated into popular support for membership in Europe, where nobody believes that a constructive foreign policy can substitute for more democracy and reform.²⁴² European officials sympathise with Turkish complaints that they are being forced to meet higher standards than any other candidate and with less financial and political support from Brussels but say that this is the inevitable product

pean values there is to keep Turkey and the EU moving together. Turkey has the potential to play a vital role in advancing regional cooperation in the Caucasus, and I was glad to see the Turkish government proposing initiatives to achieve this in the summer". Speech by Olli Rehn, Bosphorus Conference, op. cit. Turkey was also an ally of Western Europe against Moscow in the time of the Ottoman Empire and particularly during the Cold War.

²³⁸ Ibid.

²³⁹ Azerbaijan has too little gas to offer, a pipeline from Turkmenistan to Azerbaijan is fraught with difficulties, Iranian supplies are considered politically problematic and Iraq is too unstable. Turkey wants to be the marketing hub for the gas, not just a transit country.

²⁴⁰ But the U.S. was frustrated that its NATO ally applied the letter of the 1936 Montreux Convention to limit the access of U.S. warships to the Black Sea during the Russia-Georgia crisis in August 2008.

²⁴¹ In 2008, Turkey aligned itself with 109 of the EU's 124 Common Foreign and Security Policy declarations. "Turkey 2008 Progress Report", European Commission, 5 November 2008.

²⁴² "Nabucco, Russia, Armenia, Cyprus, Israel-Syria, you can't say it's nothing. It makes the argument for Turkey. EU membership is right in foreign policy terms. But it is unsellable to public opinion. It's an issue for statesmen, but European politicians just work in political marketing". Crisis Group interview, European official, Ankara, 10 September 2008. "It's good for Turkey that it is doing these things; we see that Turkey can have a stabilising effect. But if they believe that this can be a substitute for doing the chapters, they are wrong". Crisis Group interview, European diplomat, Istanbul, 24 September 2008.

of Turkey's size, as well as the EU's unhappy experiences with Bulgaria and Romania.²⁴³

Turkey, despite discussions of alternatives,²⁴⁴ needs an EU membership perspective to sustain its foreign policy role. Much of its new prosperity and regional influence dates from when it committed to full EU membership negotiations,²⁴⁵ the only modern Muslim country ever to have achieved such a level of equivalence with the Christian West. The democratic dominance of the AKP is also admired in the region. But AKP leaders sometimes seem to dismiss the extent to which domestic popularity is linked to a public perception that they are most likely to bring Turkey closest to the EU. Public support and regional interest are probably not sustainable if the reform programs, and with them the EU relationship, fall by the wayside.

C. EUROPEAN AMBIVALENCE

The daunting political reality, however, is that after the big enlargement of 2004, key governments are against any further expansion until the Lisbon Treaty, intended to update and streamline internal EU governance, is settled.²⁴⁶ European populations are currently cool towards enlargement in general and are particularly sceptical about integrating Turkey's large and relatively poor population.²⁴⁷ Popular sentiment may be exploited

²⁴³ "The Turks keep saying that no other country has been treated the way we are; yes, we have new benchmarks; this is based on our experience with Romania and Bulgaria. Nobody wants to repeat this way of closing negotiations". Crisis Group interview, European diplomat, Istanbul, 24 September 2008.

²⁴⁴ Polls can be contradictory, but Turks express a preference for EU membership. Although 48 per cent of Turks think that their country should "act alone" on international matters, 36 per cent of this 48 per cent think EU membership would be a good thing. Only 20 per cent of Turks' first choice of partner is the EU, but that is more than for the next other possible partner (the Middle East, with 11 per cent). See "Transatlantic Trends", German Marshall Fund, 10 September 2008. In another poll, 56.9 per cent said they considered that the AKP had slowed down the EU convergence process; 59 per cent believed the AKP should speed up that process; and 45.9 per cent preferred "old" [pro-reform] Erdoğan to the "new" [pro-status quo] Erdoğan. MetroPOLL, 1 December 2008.

²⁴⁵ Ziya Öniş, "Turkey-EU Relations: Beyond the Current Stalemate", *Insight Turkey*, vol. 10, no. 4, 2008, pp. 36-37. He argues that the EU anchor was more important for investor confidence than a parallel anchor of a stand-by agreement with the International Monetary Fund.

²⁴⁶ Crisis Group interviews, German officials, Berlin, 3-4 November 2008.

²⁴⁷ According to the spring 2008 "Eurobarometer", only 31 per cent of Europeans favour Turkish membership; this fig-

again in the 2009 German and European Parliament elections. As one French politician put it:

The case for Turkey has never been so strong in geo-strategic terms. But this does not penetrate public opinion. There the basic characteristic is ignorance, tragic ignorance, and fear tactics, used daily. It's Turks equals Muslims equals Arabs equals terrorists. If the Turks wait for us to show that we love them, they will wait for a long time.²⁴⁸

Some EU leaders acknowledge that Europe has a real interest to make enlargement with Turkey work.²⁴⁹ It would win a major partner in the Middle East, more stability and prosperity in a populous neighbour, support on Russia's southern flank, an effective window on the Caucasus, access to one of Europe's fastest growing markets and a link to a young population ready to work where aging populations will need labour in the coming decades. Turkey's effective and active contribution to peace-keeping missions would also benefit the EU, and if Greek Cypriots could drop their veto on its participation in the European Defence Agency (EDA), NATO-EU cooperation would improve significantly.²⁵⁰ An EU-Turkey breakdown, on the other hand, would reverse all these prospects and likely result in continuing friction over Cyprus, an inability to make EU-NATO relations function properly and a wider gap between the Christian and Muslim worlds.²⁵¹

EU states tend to be complacent about the long-standing calm of the frozen Cyprus conflict and find it hard to act even-handedly since the Republic of Cyprus has

ure rises to 45 per cent when the respondent is reminded that membership is dependent on fulfilling all criteria. Another recent indicator is that 57 per cent of Europeans say Turkey has such different values that it is not really part of the West; disillusionment with the EU is so high in Turkey that 55 per cent of Turkish respondents agreed with that statement. "Transatlantic Trends", German Marshall Fund, 10 September 2008.

²⁴⁸ Crisis Group interview, French politician, Istanbul, 11 October 2008.

²⁴⁹ "Every enlargement has made the EU more difficult to manage, but ultimately more relevant. Every accession has been controversial, but afterwards they've always been successful". Swedish Foreign Minister Carl Bildt, speech to the Bosphorus Conference, op. cit., 11 October 2008.

²⁵⁰ The EDA fosters cooperation between EU defence agencies; Turkey is seeking associate membership until such time as it becomes a full EU member. "We cannot allow this participation issue to hold us back any longer with our soldiers and policemen out on so many dangerous missions and with the need for close NATO-EU coordination growing all the time". Jaap de Hoop Scheffer, NATO Secretary General, speech to EU-NATO seminar, Paris, 7 July 2008.

²⁵¹ See Crisis Group Report, *Turkey and Europe*, op. cit.

become a full EU member.²⁵² Some appear willing to offer vital financial support to implement an agreement but are hesitant to engage now to help ensure that such an agreement is actually signed. The trouble is that even though there has been steady progress in negotiations following the election of a new Greek Cypriot president in February 2008,²⁵³ lack of EU engagement beyond token support to the UN mediation effort has contributed to a loss of momentum in the direct talks between the Greek and Turkish Cypriot leaders that started in September. EU support and guidance can be crucial, especially when the leaders return in early 2009 to issues they were unable to agree upon in the first rounds. Locally, the window of opportunity for a settlement looks likely to close in late 2009, when campaigning for elections to the Turkish Cypriot presidency and parliament will start.

In a sign of the tensions that could be provoked by failure to reach a deal on Cyprus, the Turkish navy on 14 and 24 November 2008 challenged two oil survey ships under contract to the Greek Cypriots in international waters off Cyprus that the Greek Cypriots claim as an exclusive economic zone.²⁵⁴ Also on 14 November, Turkish and Greek gunboats faced off over a Turkish attempt to prospect in waters claimed by Greece. Athens and Ankara nearly went to war in 1987 and 1996 over rival claims to parts of each other's territorial water and airspace – claims that they still maintain.

The EU will also have to decide in 2009 how to deal with Turkey if there is no Cyprus settlement, or, more specifically, if there is no Turkish implementation of the Additional Protocol to the 1963 Association Agreement that would open Turkish seaports and airports to Greek Cypriot traffic. When freezing eight of Turkey's negotiating chapters over this issue in 2006, the European Council asked "the Commission to report on this in its forthcoming annual reports, in particular in 2007, 2008 and 2009, as appropriate".²⁵⁵ The wording leaves unclear whether negotiations will be suspended in 2009 if there is no breakthrough on Cyprus or the

²⁵² For instance, Greek Cypriots discourage visitors from seeing the Turkish Cypriot community leader in his office. An exception is made for visitors from the five countries that are permanent members of the UN Security Council.

²⁵³ See Crisis Group Report, *Reunifying Cyprus*, op. cit.

²⁵⁴ Turkey on 24 November called the original Greek Cypriot exploration "adventurous ... at a time negotiations continue". *Today's Zaman*, 26 November 2008. Turkey opposes both the extent of the Greek Cypriot delineation of territorial waters, as well as the right of the Republic of Cyprus, which includes only Greek Cypriots, to represent the whole island in the matter. The EU supported the Republic of Cyprus's claims when it opened up oil prospecting in 2007.

²⁵⁵ European Council, 14-15 December 2006.

ports question. Adding new pressure, the EU on 8 December 2008 warned Turkey that “progress in that issue was “urgent”²⁵⁶.

Some senior EU officials have hinted that there is no absolute deadline.²⁵⁷ There are diplomats who believe that there is a general wish to blur the issue, given the perceived value of Turkey’s recent positive foreign policy moves.²⁵⁸ However, other senior EU officials and diplomats see a real danger that one or more member states could seize on the issue if they wished to suspend the membership negotiations.²⁵⁹ Once suspended, it could well prove impossible to find the unanimity that would be needed to restart them.²⁶⁰

Certainly, Turkey would be ill-advised to wait until the last moment to see which way the EU will go. Past periods of denial followed by brinkmanship produced major setbacks for Turkey, both in the run-up to Cyprus’s EU membership in 2004 and in the process that led to the freezing of the eight negotiating chapters in 2006. Another danger would be if a dispirited AKP government continued with the current “loose Europeanisation agenda”, with few reforms, since this would in effect end up being “perfectly consistent with the vision of a privileged partnership”.²⁶¹

V. CONCLUSION

The reform slowdown of 2005-2008 and the heated domestic political frictions of 2007-2008 have damaged efforts to bring Turkey’s laws, administrative practices and constitution closer to European norms. Blame for this lies chiefly with Ankara and increasingly with the AKP, but also with EU failures over Cyprus in 2004 and opposition to Turkey’s EU membership by some EU leaders.

Rekindling the enthusiasm and trust of the 2000-2004 period will require much effort from both sides. This should include real and substantial commitment to the new National Program by the AKP’s top leadership, including the dedication of more resources and personnel for those government officials working on the process. EU leaders, particularly in France and Germany, should go out of their way to encourage Turkish reforms, including visits to and joint work programs with Turkey. EU states could most usefully pay greater attention to the promising peace process in Cyprus and do more to bring Turkey into or closer to EU councils and security mechanisms wherever and whenever possible.

Turkey rejects the option offered by some EU states of becoming merely a “privileged partner”, but its half-heartedness on further crucial reform strengthens the likelihood of such an outcome. Only more complete democracy at home, not its constructive foreign policy initiatives, can convince Europeans that Turkey is sincerely pursuing full EU membership. Above all, the opposition should join forces with the ruling party in support of their shared vision of the EU ambition, instead of pursuing spoiling actions that are putting this goal at risk.

Policymakers in Ankara meanwhile should rid themselves of the illusion that there is an equally good alternative. The EU anchor is a critical advantage for the economy, the quality of Turkish democracy, and, once membership is achieved, support from EU funds and programs. Turkey is now a major regional player, Istanbul is a regional hub, relative economic dependence on the EU is decreasing and neighboring states are attracted by the success story. But most neighbouring states have more important main partners. In a globalised world, Turkey’s future cannot be as a one-state bloc.

The closest possible association with the 495 million citizens of the EU is Turkey’s most powerful asset, both enhancing its profile to regional states and a powerful source of reforming standards. It should be less sensitive to European slights and snubs and follow the example of the UK and Spain, both of which

²⁵⁶ Conclusion of the General Affairs and External Relations Council, 8 December 2008.

²⁵⁷ Crisis Group interview, senior EU official, Istanbul, 10 October 2008.

²⁵⁸ Crisis Group interviews, Ankara and Istanbul, October 2008.

²⁵⁹ “It is a crossroads next autumn. This is the third and final time for the Additional Protocol. We can’t just go on. Already there are too many exceptions, and the Commission is going to say this is not good enough”. Crisis Group interview, diplomat from a pro-Turkey European state, Istanbul, 19 October 2008. “Real sustained work on internal reforms might change EU minds. Otherwise it will be a negative decision [in 2009]”. Crisis Group interview, EU member state ambassador, Istanbul, 10 October 2008. German officials believe that as things stand, failure to open up to Greek Cypriot traffic will result in a suspension of talks and that both the main German political parties will demand it. Crisis Group interviews, Berlin, 4 November 2008.

²⁶⁰ Crisis Group interview, European Commission official, Istanbul, 12 September 2008.

²⁶¹ Ziya Öniş, *op. cit.*, p. 46.

overcame French vetos to insist successfully on full membership. There is a real possibility that a combination of lack of reforms and a failure to open up to Greek Cypriot traffic could trigger suspension of EU negotiations in 2009. Turkey should not risk such a fundamental change of direction as the economy stumbles after the great expansion of 2002-2008 and Russia becomes a more difficult partner to the north.

The goal should not just be tinkering with minimum to-do lists of reform. In the long term, Turkey needs a new, civilian, rights-based constitution. This will require a national debate and depolarisation of factional politics. Political parties, professional groups and NGOs have already started important work on constitutional change and should now move forward together to build a broad-based consensus. This can prove that Turkey truly wishes to be part of the EU family and convince doubters in Europe to allow it to take its rightful place there.

Istanbul/Brussels, 15 December 2008

APPENDIX A

MAP OF TURKEY



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