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THE EUROPEAN UNION AND TURKEYS CANDIDACY

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DEDICATION

This thesis dedicated to my supportive and caring parents Gulen Gayretli and Mustafa Gayretli.



ABBREVIATIONS

CEE Central and Eastern European Countries

ECHR European Court of Human Rights

EEC European Economic Community

EU European Union

OECD Organization Co-operation and Development Countries

Progress Report Commission of the Europran Brussels, 14.10.2009 SEC(2009) 1334Commision Staff Working Document Turkey 2009 Progress Report accompanying the Communication from the Commission to the European Parliament and the L Enlargement Strategy and Main Challenges 2009-2010.

USA United States of America

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CHAPTER I

INTRODUCTION

This thesis aims to analyze the ongoing relationships between Turkey and the European Union since Turkey's first application for membership in the early 1950's.¹ The main purpose of this study is to explore the reasons why the European Union has been still considering Turkey's quest to the community for more than 40 years.

Turkey's candidate status has been seen as awkward for the European Union membership because of Turkey's historical background, its religious character, and other political, economic and cultural reasons.

While Turkey has been waiting for formal candidate status into the European Union other candidate members accessed the European Union. The European Union has treated Turkey differently if we compare it with other applicant countries. However, they had similar problems like Turkey. In this study we will examine the reasons for this different treatment and alternative approaches.

This thesis includes five chapters: the first chapter introduces the study, gives a brief information on the thesis, asking the main discussion of the thesis and outlines the thesis. The second chapter provides a short overview of the European Union's enlargement history, different treatment of the European Union (hereinafter `EU`) towards Turkey among former member countries. The third chapter focuses

¹ See, Fernanda G. Nicola, 24 Am. U. Int'l L Rev. 739, Turkey: At The Crossroad of Secular West and Traditional East, Promises Of Accession : Reassessing the Trade Relation Between Turkey and The European Union.,2009, 740.

on Turkey's Relationships with the EU, and the 2009 Progress Reports and the World's Perspective on Turkey's Admission to the EU. The fourth chapter is the core of this study that intends to tackle the main reasons why the EU hesitates on Turkey's admission and Alternative Approaches on Turkey's membership to the EU. Finally the chapter five of this study includes a brief summary, conclusion and recommendations for this thesis.



CHAPTER II

EUROPEAN UNION, ENLARGEMENT OF EUROPEAN UNION, DIFFERANT TREATMENT OF THE EU TOWARDS TURKEY AMONG OTHER CANDIDATES.

This chapter will briefly analyze the European Union and its enlargement. In addition to this it will point out the different treatment towards Turkey among other member and candidate states. This foreknowledge will help to explore the backgrounds related to Turkey`s endless candidate membership status.

1. EUROPEAN UNION

The EU describes itself as “An economic and political partnership between 27 democratic European countries.”² The EU provides its members free travel, no borders between members, free trade, the mutual currency (Euro),³ higher living standards⁴ in poorer regions, help for poorer members, free movement of people, millions of opportunities to study abroad, healthier foods, green environment, collective behaviors against crime, terror and anti-democracy.

² See Europa Panorama of the European Union, http://europa.eu/abc/panorama/index_en.htm (last visited on 10/5/2010)

³ “Bulgaria, Czech Republic, Denmark, Estonia, Latvia, Lithuania, Hungary, Poland, Romania, Sweden and the United Kingdom are EU Member States but do not currently use the single European currency”. See <http://www.ecb.europa.eu/euro/intro/html/map.en.html> (last visited on 10/5/2009)

⁴ “This is a community of the prosperous who have top living standards, live long ,work on average less, than many others in the world yet produce much study a lot , learn foreign languages, and travel extensively. Also biggest donor of development aid in the world” See BURAK AKÇAPINAR : TURKEYS NEW EUROPEAN ERA FOREIGN POLICY ON THE ROAD TO EU MEMBERSHIP 2 (2007).

Countries of the Community have three main bodies that constitute the EU and put into effect its legislation. These include; the European Parliament (representing the people of Europe), the Council of the EU (representing national governments), the European Commission (representing the common EU interest).⁵

The idea of European Countries Union comes from the Middle Ages.⁶ After the Second World War the six founder countries⁷ wanted to prevent similar disasters and bloody wars between European Countries.⁸ Therefore, they signed the Treaty of Paris in 1952.⁹

As the first step, they signed the Treaty of Rome which created the Common Market in other words European Economic Community in 1957.¹⁰ This treaty achieved integration via trade and economic tools. The Treaty of Roma removed barriers to the free movement of goods, workers, services and capital among the member states.¹¹ The treaty also provided a common tariff and commercial policy towards non – members, established common policies in antitrust, agriculture, transportation and harmonization of laws of the member states.¹²

⁵ See, Europa Panorama of the European Union, http://europa.eu/abc/panorama/index_en.htm (last visited on 11/10/2009)

⁶ *Id.*

⁷ Six founder countries : Germany, France, Luxemburg, Italy, Netherlands , Belgium See DAMIAN CHALMERS, GARETH DAVIES, GIORGIO MONTI, EUROPEAN UNION LAE TEXT AND MATERIALS, 10(2010).

⁸ See William J. Davey, the European Union, LAW 210 A COURSE READER INTERNATIONAL TRADE LAW, Vol. 2, 102. (Richard Steinberg ed., 2009-2010).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

The Maastricht Treaty and Treaty on European Union was signed in 1992, an economic and monetary union was established.¹³ The EU points out that the union is neither an international organization nor federal state.¹⁴ In 1993 the German Federal Constitutional Court held that “the Treaty establishes an association of States for creating an ever-closer union among the peoples organized into states of Europe, not a state based upon a single-European nation’.¹⁵

The EU is the biggest exporter in the world and the second biggest importer.¹⁶ The EU’s most important trading partner is the United States and second is China.¹⁷ The EU computed 18.1 % of world exports and 18.9 % of worldwide imports in 2005.¹⁸

	China	European Union 25 members	Japan	The United States of America
Exports	599.5	1 071.9	443.0	709.1
Imports	470.7	1 183.8	399.6	1 363.3
Trade balance	128.8	- 111.9	43.4	- 654.2

Figure 1: International trade in goods in billions of euro (2005); Above vertical axis: € billion¹⁹

¹³ See DAMIAN CHALMERS, GARETH DAVIES, GIORGIO MONTI, EUROPEAN UNION LAE TEXT AND MATERIALS,2(2010).

¹⁴ See, Heinrich Kirschner, The Framework of the European Union Under the Treaty of Maastricht, 13 J.L. & Com. 233, 245 (1994)

¹⁵ *Id.*

¹⁶ European Commission Directorate-General for Communication, Key Facts and Figures of Europe and Europeans (2007), http://ec.europa.eu/publications/booklets/eu_glance/66/index_en.htm (Last visited 5/10/ 2009)

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

As a result, the EU is a key player in international trade negotiations.²⁰ First the EU eliminated barriers to trade among its members. Secondly it has enforcement in the process of economic integration which was born from treaties, and it has an effective settlement dispute role.²¹ Therefore, it has a significant importance for international trade law.²²

2. ENLARGEMENT OF THE EUROPEAN UNION AND THE MEMBER STATES

Enlargement is the key dynamic in the EU. Enlargement will continue to integrate both more widely and more deeply.²³ The EU's enlargement policy objectives are stated as follows:

- “ Political objective to enhance democracy throughout the continent
- Security objective to stabilize Europe and prevent any possible conflict
- Economic objective to create a vast European single market
- History and identity objectives to create a European identity and reunite the divided Europe”²⁴

²⁰ *Id.*

²¹ See DAVEY, *supra not* at 8.

²² *Id.*

²³ See Ian Ward, The Culture of Enlargement, COLUM. J. EUR. L., 199 (Winter 2005/2006)

²⁴ See HARUN ARIKAN, TURKEY & the EU, 45 (2006).

The first enlargement is the acceptance of Denmark, Ireland and the United Kingdom in 1973.²⁵ In 1981, Greece was admitted to the Community, followed by Spain and Portugal in 1986.²⁶ Finland, Austria, and Sweden accessed the EU on 1 January 1995.²⁷

The EU enlargement to 25 countries took place on May 1 2004 when the Czech Republic, Hungary, Poland and Slovakia Estonia, Latvia and Lithuania, Cyprus and Malta were admitted to the EU.²⁸ Lastly in 1 January 2007 Bulgaria and Romania joined the EU.²⁹ Today the EU has 27 members. Currently three candidate countries are Turkey, Croatia and the former Yugoslav Republic of Macedonia.³⁰

3. DIFFERENT TREATMENT OF THE EU TOWARDS TURKEY AMONG THE OTHER EU MEMBERS AND FORMER CANDIDATE STATE

Former candidates have been permitted to develop their struggling economies after accession to the EU.³¹ Although Turkey and Central and Eastern European Countries (hereinafter CEE) had similar economic problems and they share same economic security and political interest for joining the EU,

²⁵ See MARTIN SADJIK MICHEAL SCHWARZINGER, EUROPEAN UNION ENLARGEMENT BACKGROUND DEVELOPMENTS FACTS, 6 (2007)

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ See Vince Burskey: Times Of Change- Can Turkey Make the Necessary Changes in its Human Rights Policies to be Admitted to the European Union?, 29 N.C. J. INT'L L. & COM 731 (2004)

the EU has not been consistent in applying its precessions instruments to Turkey and CEE countries equally.

CEE countries had a positive response from the EU and the EU supported their economical, political and social reforms.³² This situation was against the Helsinki Summit which declared that Turkey was going to be treated on the same basis as the other the EU candidate countries.³³

The criteria for the EU accession are not particular standard enlargement norms equally applicable to all candidate countries. Moreover the requirement for the EU membership represents a general principle which leaves a considerable scope for different interpretations of the conditions. As a result, the EU applies these conditions more strictly towards Turkey than other candidate countries. These vague conditions are used as a reason for different approaches towards Turkey.³⁴ Some of the CEE countries started with lower social and economic conditions when compared to Turkey.³⁵ However the EU has made substantial efforts to upgrade their legal documents of the Europe Agreement.³⁶

The CEE countries started benefiting from the EU enlargement policy and sources in 1994 before fulfilling the Copenhagen criteria³⁷. On the other hand the EU- Turkey Association has never

³² *Id.*

³³ ARIKAN, *supra* note 21, at 46,49.

³⁴ *Id.*

³⁵ Turkeys unemployment rate used to be lower than other candidates ..See ARIKAN, *supra* note 21 , at 46,49.

³⁶ ARIKAN, *supra* note 21 , at 157.

³⁷ *Id.*

proceeded.³⁸ Moreover, the EU had a containment policy towards Turkey including Custom Union and Accession Partnership which caused lack of parallelism between the EU and Turkey and agreements failed.³⁹

Year (1999)	Total Area (km)	Population	Unemployment as (%)
Turkey	775 381	63 451 980	6.4
Bulgaria	111 300	8 230 700	16.0
Czech Republic	79 800	10 290 780	9.9
Hungary	93 270	10 920 087	7.8
Poland	313 879	38 667 980	10.7
Romania	238 689	25 897 780	6.3

Figure2: A comparison of unemployment rate of the Turkey with applicants of CEE in 1999⁴⁰

Year (1999)	The Share agriculture in GDP (as %)	The share of agriculture in the labor force (as %)
Poland	4.8	18
Turkey	14.3	41
Romania	16.1	41.7
Bulgaria	17.3	29.5

Figure 3 : The agricultural sector in Turkey and selected applicants of CEE⁴¹

³⁸ *Id.*

³⁹ ARIKAN, *supra* note 21 , at 81, 95.

⁴⁰ *Id.*

⁴¹ *See f.* Martin Sadjik Micheal Schwarzinger, European Union Enlargement Background Developments Facts, 6

Among Organization Co-operation and Development Countries⁴² (hereinafter OECD) Turkey's economy has grown by an average 7.55 % a year since the Worlds 2001 crisis, the strongest growth performance.⁴³

The Custom Union Agreement came into force between Turkey and the EU in 1995.⁴⁴ Pursuant to this agreement goods can travel between parties without any restrictions. However, the Agreement doesn't apply to agriculture, services or public procurement. Turkey and the EU have very strong trade relationships. Therefore Turkey ranks 5th export and 7th import trade partner of the EU, and the EU is the top trade partner of Turkey.⁴⁵ Financial statues of Turkey described as follows:

“Turkey has never had an access to pre-accession financial aid or other forms of cooperation project. By contrast the EU sets up cross – border projects and pre accession redistributive schemes to support the economies of non – member states. While other countries entering the Custom Union with the EU benefited from the European Community cohesion policy strategies Turkey did not. When compared to the aid that the EEC received prior to the 2004 enlargement, Turkey has borne most of the costs

⁴² OECD Countries are : Australia, Belgium Chile Denmark France Greece Iceland, Israel, Japan, Luxemburg Netherland Norway Portugal Slovenia Sweden Turkey United States Austria, Canada, Czech Finland Germany Hungary Italy Korea Mexico New Zealand Poland Slovak Republic Spain Switzerland United Kingdom. See *OECD* http://www.oecd.org/countrieslist/0,3351,en_33873108_33844430_1_1_1_1,00.html, (Last visited 11/02/2010)

⁴³ See Nurhal Süral: *Labor Law In the Eastern Mediterranean, Wrongful Dismissal and Management Prerogative, Economic Implications of Employment Protection Legislation in Turkey: Has Turkey Found Its Juste Milieu?*, 30 Comp. Lab. L. & Pol'y J. 335 (2009)

⁴⁴ See European Commission: Trade: Turkey Bilateral Agreements. http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/countries/turkey/index_en.htm (Last visited 10/05/2010)

⁴⁵*Id.*

rather than shared the benefits of European economic integration by never entering the pre- accession category.”⁴⁶

European Commission’s 2008 Progress Report analyzed the Turkey’s situation in the perspective of economic and political criteria for membership.⁴⁷ The progress report criticized Turkish Governments attitude towards to minority right and accordingly minorities of Roma used as one of the example of the bad attitude.

However in the rest of the EU such a minority has not encountered much better treatment. Lastly some cases before European Court of Human Rights (Hereinafter ECHR) against Greece and Czech Republic have adjudged these members of the EU for the discriminatory treatment of Roma children regard to education.⁴⁸

Human rights violations and the discriminatory treatment of minorities have been the reason used over by the EU in order to postpone Turkish accession. In a way this seems to conceal deeper political and cultural problems, such as the geography, the large population, and the dominance of Islam in Turkey.⁴⁹

⁴⁶See Fernando G. Nichola, *Promises of Accession: Reassessing the Trade Relationship Between Turkey and the European Union*, 24 AM UN INT’L L. REV. 754,755 (2009).

⁴⁷ *Id.* at, 750.

⁴⁸ *Id.*

⁴⁹ *Id.* at 751.

CHAPTER III

THE HISTORY OF TURKEY AND THE EUROPEAN UNION RELATIONSHIPS and TURKEYS 2009 PROGRESS REPORT

This chapter explore the history of Turkish and European Union relationships, particularly westernization efforts of the Ottoman Empire and the Turkey's 2009 Progress Report.

1. HISTORY OF TURKEY AND EUROPEAN UNION RELATIONSHIPS

Turks began the Westernization efforts nearly two hundred years ago with the Ottoman Empire.⁵⁰ Ottoman Empire used to be the one of the biggest power in Europe for more than six hundred years. However it improved the national movement, it was not recognized as a European Country.⁵¹

After the First World War, under the leadership of Ataturk, the new nation state Turkey Republic turned its face completely to the Europe. This Kemalist Modernization reforms⁵² including secular

⁵⁰ See Yelda Demirdağ : Turkiyenin Batıyla Butunlesme Cabalarinin 200 yıllık Tarihsel Gelişimi, in Türkiye AB İlişkileri Avrupanın Genişlemesi , Müzakere Süreci ve Batılılaşma Sorunsali 269-388 (Ertan Efeğil & Mehmet Erol Seyfettin ed.,2007).

⁵¹ *Id.*

⁵² Ataturk's six fundamental principles : republicanism, nationalism, populism, stateism, secularism (1926), and reformism were incorporated into the Constitution in 1937. Also women were given political and social rights in the new republic earlier than most of European Countries. See David A. Kanareg, Turkey and the European Union: The Path to Accession, 9 Colum J. Eur L. 463(2009)

regime, alphabet change,⁵³ equivalence of woman and men, adopting European Civil and Criminal Codes are the quickest steps of Turkey's integration to the Europe.⁵⁴

Turkey has been a member of NATO since 1952 and a member of the Council of Europe since 1949.⁵⁵ From the very early beginnings of the constitution of the EU, Turkey is interested in joining the integration process in Europe as a logical result of its modernization and Westernization policies.⁵⁶ Turkey applied to the European Economic Community (EEC) in 31 July 1959 just 15 days after Greece's application. Greece's application forced Turkey to apply.⁵⁷

The ECC and Turkey signed the Ankara Agreement which is an Association Agreement based on Article 238 of the Roma Treaty.⁵⁸ The Ankara Agreement addresses Turkey's full membership to the Community and recognizes Turkey as an European Country.⁵⁹ The Ankara Agreement's goal is to establish freedoms of goods, labors, services, capital circulation and finally a Custom Union.⁶⁰ It had three stages: after 22 years of transitional stages during the final stage Turkey became a member of the Custom Union in 1995.⁶¹ Also Turkey and EEC signed an additional protocol to the Ankara treaty

⁵³ See ionnis n. grigoriadis; Trials of Europeanization Turkish Political Culture and the European Union, 21 (2009)

⁵⁴ See ARIKAN, supra note 21, at 1.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ See Cinar Ozen & Hatice Yazgan` Zor Ya Da Zoraki Aday; Turkiyenin Avrupa Birliğine Tam Uyelik Sureci in Türkiye AB İlişkileri Avrupanın Genişlemesi , Müzakere Süreci ve Batılılaşma Sorunsali 234-239 (Ertan Efeğil & Mehmet Erol Seyfettin ed.,2007)

⁵⁸ *Id.*

⁵⁹ See İlhan Tekeli & Selim İlkin, Türkiye ve Avrupa Topluluğu 1 Ulus Devletini Aşma Çabasındaki Avrupaya Türkiyenin Yaklaşımı, 8 (1993).

⁶⁰ *Id.*

⁶¹ *Id.*

in 1970 that provided financial assistance to Turkey and extended the protections of four freedoms, goods, services, labor and capital and to adopt Turkish law with EEC directives.⁶²

Meanwhile in 1974 Turkey had Cypriot problems, an economical crisis and democracy problems in 1981.⁶³ Therefore Turkey failed on its liabilities. After Turkey got rid of its Army Administration and abandoned the Government Protection policy⁶⁴ and tended to have a liberal economy, it officially applied for full membership to the European Community in 1987 and started to do its duties are born from the Ankara Treaty.⁶⁵ In 1989 the European Commission declared that Turkey is not ready to be a full member of the Community because of its economy and political problems in its report and as a result negotiations did not start.⁶⁶

In 1993 the EU determined the full membership criteria in Copenhagen Summit. According to Copenhagen criteria applicants have to fulfill 3 different issues for starting the negotiations with the EU. A first criterion is stable institutions guaranteeing democracy, the rule of law; respect for human rights, and the protection of the Minorities. Second criterion is having a functioning market economy. Finally applicant country must be able to take on the obligations of political economic and monetary Union.⁶⁷

⁶² *Id.*

⁶³ See SINAN ÜLGEN AB MÜZAKERELERİ EL KİTABI NE BEKLİYORUZ NE OLACAK? 1-11, 2005.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ See Nichola, *supra* note 41, at 745.

In 1997 in Luxemburg ; the European Council decided to start accession negotiations with Poland Hungary, Slovenia, Estonia Cyprus at the same time it gave the candidate status to Bulgaria, Romania, Lithuania, Latvia, Slovakia, Malta. On the other hand it was clear that European Council didn't included Turkey among the candidate states to start the accession negotiations. ⁶⁸

Copenhagen Criteria also included Agenda 2000 a document encouraging the EU east ward enlargement by including the former 10 Communist Countries while excluding Turkey from the list.⁶⁹ This report was a big frustration for Turkey As a result Turkey withheld its diplomatic relationships with EU until the 1999 European Council in Helsinki. ⁷⁰ In 1999 during the Helsinki European Council Turkey had been recognized as a candidate for accession to the EU.⁷¹ Turkey has been adopting numbers of harmonization packages and technical measurement constituting the cumulative law of the EU since 1980`s.⁷²

In 2002, according to the Commissions reports, Turkey fulfilled the Copenhagen Criteria and finally in October 2005 EU started accession negotiation with Turkey. Although thirty five chapters of the aquis opened since then, only one was closed in 2006. ⁷³Olli Rehn⁷⁴ In the 2008 Progress Report published by The European Council analyzed the Turkey`s economic and political situation for membership and drew attention to the Turkeys strategic importance of Turkey to secure energy policy

⁶⁸ *Id.*

⁶⁹ *Id.* at 746.

⁷⁰ See ÜLGEN *supra* note 58, at 1-11.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ The Commissioner who is responsible for Enlargement.

the role that Turkey played during Russia – Georgia crisis and secure European borders and prevent conflicts.⁷⁵

In addition to this, it stresses increasing economic interdependence between the EU and Turkey despite the current worldwide economical crises.⁷⁶ The EU suggests that Turkey be given reforms in order to strengthen democracy and human rights. However others had a different perspective :

“Human rights violations and discriminatory treatment of minorities have been used over and over by the EU to postpone Turkish accession in a way that seems to conceal deeper political and cultural problems such as geography, the large population and the dominance of Islam in Turkey”.⁷⁷

2. TURKEYS 2009 PROGRESS REPORT

Since 1997, the European Council has evaluated Turkey`s progress towards membership for the EU. Recently the European Commission published the 12th progress report⁷⁸ The Commission underlined the following issues:

⁷⁵ See Nichola, *supra* note 41, at 751.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ For the full report. See https://webgate.ec.europa.eu/olacrf/20091014Elarg/TR_Rapport_to_press_13_10.pdf (Last visited Dec. 10. 2010)(hereinafter Progress Report.)

The first one is the Ergenekon Case.⁷⁹ The European Commission views it as an opportunity to strengthen confidence in proper functioning of Turkey's democratic institutions and application of rule of law. They point out a limited progress on political reforms such as freedom of expression and gender equality.

Secondly, the Commission criticizes the Turkish Armed Forces, Internal Service Law and Law on the National Security Council and EMASYA secret protocol.⁸⁰ The Turkish Government's approval of the judicial strategy in August 2009 is underlined as a positive step both in terms of consultative process and adoptions of the EU legal system.

The Commission found Turkey in progress of adopting legislation and growing economy.⁸¹ On the other hand, on implementation and application of the Cyprus policy, minority issues differs Turkey from the Commission.⁸²

If the planned date of full membership is 2014, the Commission should concentrate on the issues, and for the efficiency of the negotiations it should prepare the files for negotiations. According to Economic Development Foundation opinion on the 2009 Progress Report, Commission has been publishing this

⁷⁹ *This is the first case in Turkey to probe into a coup attempt and the most extensive investigation ever on an alleged criminal network aiming at establishing the democratic institutions`. Id. at 6.*

⁸⁰ This protocol gives permission to Military Operations to be made for internal security reasons under certain conditions without giving a reason. *Id. at 10*

⁸¹ *Id.*

⁸² *Id.*

progress report since 1998, and these reports aims to evaluate candidate Turkey`s progress on being a full member of the EU.⁸³

Contrary to this target of the some members of the EU Countries show efforts to find some alternative partnership statutes. These efforts are contrary to the target of the progress reports and have a negative effect on the progress. If the Commission does not determine a reasonable membership date and accordingly does not have a certain speed for negotiations, these progress reports would be meaningless.⁸⁴

3. WORLD PERSPECTIVE ON THE TURKEYS ADMISSION TO THE EUROPEAN UNION

Since Turkey is located in the center of the African, Asian and European continents, it occupies a unique position amongst the Islamic and Western countries.⁸⁵ This geopolitical location is important for world peace, security, international policy and international trade issues.⁸⁶

After the prospective accession to the EU, Turkey could be the best model for the Middle East and African Islamic countries modernization process.⁸⁷ This antique territory hosted lots of Empires such

⁸³ See *Turkiye 2009 İlerleme Raporu Hakkında İktisadi Kalkınma Vakfı Gorusu* www.ikv.org.tr/images/upload/.../TR-2009İlerlemeRaporu-İKVgorusu-.pdf (Last visited Dec. 10. 2010)

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

as Roma, Byzantine and Ottoman Empires.⁸⁸ Turkey is a unique country that has been governed by a secular regime, although the majority of the community is Muslim.⁸⁹ United States has a strong economic and politic relationship with the EU.⁹⁰ US has been a supporter of the Turkey`s membership into the EU.⁹¹



⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ See US Department of State Diplomacy in Action, <http://www.state.gov/p/eur/rt/eu/> (Last visited Dec. 10. 2009)

⁹¹ See WARD *supra* note 20, at 7.

CHAPTER IV

THE EUROPEAN UNIONS HESITATIONS ON TURKEYS PROSPECTIVE MEMBERSHIP AND ALTERNATIVE APPROACHS

Turkey has failed to undertake the needed policy reforms for accession into the EU. As a result, this situation has provided some grounds for hesitation towards Turkey`s accession to the EU. However, not enough reasons have been given as to why Turkey has been treated differently from the other former applicant countries which have the similar problems.⁹² In this chapter we will try to figure out the reasons of why the EU hesitates to accept Turkey`s admission and briefly summarize the alternative approaches for the accession.

A. THE EUROPEAN UNIONS HESITATIONS ON TURKEYS PROSPECTIVE MEMBERSHIP

The background reasons of the EU`s hesitations on Turkey`s prospective membership would be characterized in seven main reasons which are large Population and land, the EU as a Christian community and prejudicial policies of the EU members, Turkish Identity –History, Turkish Policy, inadequate human rights System, lack of protection of minorities, Greece and Cyprus issues, labor law issues (free movement of person) and, Turkey`s geopolitical location and security.

⁹² See ARIKAN *supra* note 22, at 1,2.

1. LARGE POPULATION- LAND (POTENTIAL COST)

The EU financial plan had proposed the poorer joining members a significant amount to help them adjust and adopt the existing common policies of the EU; also, create a social adhesion among the member states through the Structural and Cohesion Funds, and the Common Agricultural Policy (hereinafter CAP) .⁹³ Considering Turkey’s level of economic development and its’ relatively large agricultural sectors with a low level of gross domestic product (hereinafter GDP) per capita the estimated financial cost associated with the enlargement of Turkey appears to be high on the existing structure of the EU.⁹⁴ If Turkey joined the EU, Turkey’s participation in the CAP would be higher than any other country in the CEE since Turkey is going to have the greatest land area and second biggest population in the EU. ⁹⁵

Country	Surface area (1 000 km²)	Country	Populatio n in millions
EU-27	4 215.1	EU-27	493
TURKEY	769,6	Germany	82.4
France	544	TURKEY	72.5
Spain	506	France	62.9
Sweden	410.3	United	60.4

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.* at 11,12.

⁹⁵*Id.*

		Kingdom	
Germany	357	Italy	58.8
Poland	312.7	Spain	43.8
Finland	304.5	Poland	38.2
Italy	295.1	Romania	21.6
United	243.8	Netherlan	16.3
Kingdom		ds	
Romania	230	Greece	11.1
Greece	130.7	Portugal	10.6
Bulgaria	111	Belgium	10.5
Hungary	93	Czech	10.3
		Republic	
Portugal	91.9	Hungary	10.1
Austrai	82.5	Sweden	9
Czech	77.3	Austria	8.3
Republic			
Ireland	68.4	Bulgaria	7.7
Lithuania	62.7	Denmark	5.4
Latvia	62.3	Slovakia	5.4
Slovakia	49	Finland	5.3
Estonia	43.4	Ireland	4.2
Denmark	43.1	Lithuania	3.4
Netherland	33.8	Latvia	2.3

s

Belgium	30.3	Slovenia	2
Slovenia	20.1	Estonia	1.3
Cyprus	9.3	Cyprus	0.8
Luxembourg	2.6	Luxembou	0.5
g		rg	
Malta	0.3	Malta	0.4

Figure 4. Surface of EU countries and Turkey Figure5: Population of the EU members and Turkey⁹⁶

Sural pointed out the Turkey's economic achievements as follows,

“Turkey is the World's 17th and the Europe's 6th largest economy. Turkey has recently achieved impressive results in economic privatizing state owned enterprises and opening up its economy to international trade and capital flows a significant break from the past decades of short lived economic booms followed by sharp down turns or recessions. Turkish economy has grown by an average 7.5 % a year since 2001 crisis, the strongest growth performance among other OECD countries.”⁹⁷

Turkey has a rapid population growth that causes age structure.⁹⁸ If we compared with the Europe, the population pyramid shows an extremely wide base and is typical of a developing country. ⁹⁹Turkey has the youngest population among the European Countries and this has almost not changed in the last three centuries. ¹⁰⁰

⁹⁶ European Commission Directorate-General for Communication Manuscript completed in May 2007.

⁹⁷ See SÜRAL *supra* note 38, at 335.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ See Harun Gumrukcu, *The Turkish Labor Market and Migration* in TURKEY AND EUROPEAN COMMUNITY 170 (Ahmet Evin & Geoffrey Denton eds. 1990)

The European Parliament members are elected according to the member states population.¹⁰¹ If Turkey joins the EU, Turkey is going to be the second biggest represented member after Germany. Also Parliament entitlements are extended day by day; this is also a concern for the members who have biggest populations. Prospective membership of Turkey is going to have an effect on balance of powers between member states.¹⁰²

2. THE EUROPEAN UNION AS A CHRISTIAN COMMUNITY AND FOREIGN POLICIES OF EUROPEAN UNION MEMBERS

Turkey is the only country which has a modern democracy and secular regime with predominantly¹⁰³ Muslim population.¹⁰⁴ This fact is a big political cultural and theoretical challenge for the EU. The EU fears the possibility of a fundamental Islamic state not only on the border of the Europe, but within the EU. Some of the EU members believe there is no separation between religion and politics.¹⁰⁵ Others are afraid of radical behaviors like September 11. Finally another European group believes that secularization in Turkey driven by a military regime and not espoused by general populace.¹⁰⁶

¹⁰¹ *Id.*

¹⁰² Hacı Can, *Türkiyenin Avrupa Birliği ile Bütünleşme Sorunu* 303 *Türkiye Avrupa Birliği İlişkileri Avrupanın Genişlemesi Müzakere Süreci ve Batılılaşma Sorunsalı* ", in "TÜRKİYE AB İLİŞKİLERİ AVRUPANIN GENİŞLEMESİ , MÜZAKERE SÜRECİ VE BATILILAŞMA SORUNALI" 303 (Ertan Efeğil & Mehmet Seyfettin Erol ed., 2007).

¹⁰³ More than %99 percent of the population is Muslim in Turkey.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ David Schilling: *European Islamophobia and Turkey -Refah Partisi (The Welfare Party) v Turkey*, 26 *Loy. L. A. Int'l & Comp. L. Rev.* 514 (2004)

Cyprus, as a member of the EU is located two hundred kilometers from the coast of Lebanon, is nearer to the Middle East and somehow it seems more European than Lebanon, Tunisia, or the Ukraine.¹⁰⁷ The EU tends to be rooted in cultural perception and prejudice Former Chancellor Kohl's comment about the EU is "a Christian Club", a comment of obvious significance in the context of the putative Turkish accession.¹⁰⁸

EU President Herman Van Rompuy, opposes Turkey's accession into the EU because it has an Islamic community. Herman Van Rompuy, Belgium's Prime Minister, has in the past spoken out against Turkish the EU membership because, he warned, "It would dilute Europe's Christian heritage." Moreover he said:

"Turkey is not a part of the Europe and will never be part of the Europe. An expansion of the EU to include Turkey cannot be considered as just another expansion as in the past," and "The universal values which are in force in Europe, and which are fundamental values of Christianity, will lose vigour with the entry of a large Islamic country such as Turkey."¹⁰⁹

In other words much of the controversy Central Europe's acceptance of Turkey emanates from Turkey's Islamic religion and culture.¹¹⁰ Although, Turkey is a secular country still the huge percentage of the population believes Islam.

¹⁰⁷ Because there is a cultural and religious bond between Cyprus and EU

¹⁰⁸ See WARD *supra* note 20, at 207.

¹⁰⁹ Daily Telegraph <http://www.telegraph.co.uk/news/worldnews/europe/eu/6600570/EU-president-Herman-Van-Rompuy-opposes-Turkey-joining.html> (Last visited Dec. 5 2010)

¹¹⁰ Patrick R. Hugg, *The Republic of Turkey in Europe: Reconsidering the Luxemburg Exclusion*, 23 Fordham Int'l L. J. 626 (2000)

Some commentators have identified the cultural and religious difference between Turkey and the Europe as *sotto voce*¹¹¹ concerns. Even lots of Turks don't believe that the EU is not ready to admit a Muslim majority country.¹¹² Valery Giscard Estaing a former president of France remarked that Turkey was not a European country and that if Turkey were invited to join the EU it would mean the end of Europe.¹¹³ Moreover, Jean Monnet one of the founders of the EU pointed out that;

“Drawing lines through the Ural Mountains and Russia in the east around Strait of Gibraltar in the southwest, and the Bosphorus and Dardanelles in the southeast may be too simplistic. By becoming accession partner with Turkey, the EU has already tacitly acknowledged that Turkey is part of Europe.”¹¹⁴

Turkish secular movements started with the reform during the Edits of Tazminat(1839) and Islahat (1856) from Ottoman Empire.¹¹⁵ In 1923 Turkish Republic established and adopted Swiss Civil Code in 1926 which was a radical step that is still unique in the present day Islamic World.¹¹⁶ Moreover in 1937 secularism became a constitutional principle in Turkey.¹¹⁷ There are many Muslim majority countries in the World. Turkey is a unique one which has secular regime. The actual fight over

¹¹¹ In an undertone, under the breath. <http://www.merriam-webster.com/dictionary/sotto+voce> (last visited Dec. 5. 2010)

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ David A. Kanarek, *Turkey and the European Union: The Path to Accession*, 9 Colum. J. Eur. L. 472,473 (2003)

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

secularism is not between secularist and Islamist, but between the hard liner secularist and mild secularist. Turkey is a country with militant secularism.¹¹⁸

3. TURKISH IDENTITY –HISTORY

The EU's target is constitution of the international values and accordingly the EU tries to create a common European culture and spirit.¹¹⁹ Therefore they use music and media. Moreover the EU uses Socrates, Leonardo Da Vinci and Erasmus exchange student programs.¹²⁰ By this way with the EU members and candidate countries student have a chance to travel and know each other's cultures and get closer relationships.¹²¹

While the EU had to choose its identity some confliction occurred. Some people wanted to establish the European identity under the common religion, history and ethical origin.¹²² From this perspective Turkey is called as other because of its different religion and history. However these two cultures affect

¹¹⁸ See Nurhan Süral, *Islamic outfitters In the Workplace in Turkey, a Muslim Majority Country*, 30 COMP LAB. L. & POL'Y J. 594, 595 (2009), Comparative Labor Law and Policy Journal, p,14. On one hand the author calls this as a militant regime because There female students have no right to wear Muslim headscarf on the Campus and some people see this as limitation and lack of the freedom. Also See Dinesh D. Banani , *Reforming History : Turkeys Legal Regime and Its Potential Accession to the European Union* 26 B.C. INT'L & COMP. L. REV. 115, (2003) On the other hand this author thinks that Chief Prosecutor and elites thinks that headscarf is merely a political sign and in no way should be interpreted as a human right. Moreover Turkey adopted administrative laws from France and the application is the same in France.

¹¹⁹ Id.

¹²⁰ Id.

¹²¹ Id.

¹²² Id.

each other to constitute each other for defending themselves against Ottoman Empire European Countries come together in the history. ¹²³

If the main target of the EU is having multi cultural structure and international values Turkey's admission would be a great contribution. ¹²⁴ Therefore Turkey has multi cultural structure. ¹²⁵ Since Turkish national identity was not embedded in all the Muslim populations of which were often of diverse ethnic origin: Kurds, Arabs, Lazs, Bosnians, Albanians, Circassia's, Chechens, and other Caucasian people were only a few of the Existing Muslim ethnicities in Anatolia. ¹²⁶

Also there are other people has different religions beliefs other than Islam living together with peace for long decades. Turkey had a moderate policy for all people with all religions since Ottoman Empire. ¹²⁷ Since the Turkish philosopher Mevlana ¹²⁸ says : "Come, whoever you are come, again come, Heathen fire worshipper or idolatrous, come! Come even if you broke penitence a hundred times " in 13th century .

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ See HÜSAMETTİN İNANÇ, AB ENTEGRASYON SÜRECİNDE TÜRKİYENİN KİMLİK PROBLEMLERİ (2005)

¹²⁶ See GRIGORIADIS *supra* note at 21 (2009)

¹²⁷ *Id.*

¹²⁸ "Mevlana who is also known as Rumi, was a philosopher and mystic of Islam, but not a Muslim of the orthodox type. His doctrine advocates unlimited tolerance, positive reasoning, goodness, charity and awareness through love. To him and to his disciples all religions are more or less truth. Looking with the same eye on Muslim, Jew and Christian alike, his peaceful and tolerant teaching has appealed to men of all sects and creeds." See <http://www.mevlana.net/>

The background reason that the EU citizen are usually against of Turkey's accession to the Community is that they don't have enough knowledge about the Republic of Turkey and the presence of the negative propagandas of Turkish aliens.

In 1960 and in 1970 millions of uneducated unemployed Turkish people who usually living in the villages are sent to Europe especially to Germany to fulfill the need for workers.¹²⁹ They had the immigrant worker statues. Their living style and they are concerned like representative living style of among all the population. This made the huge damage on Turkish people prestige on European public opinion. In addition to this Turkey oppose groups are still active.¹³⁰

4. TURKISH POLICY INADEQUATE HUMAN RIGHTS SYSTEM – LACK OF PROTECTION OF MINORITIES

The EU has stressed Turkey's human rights problems as the primary reason for its refusal to admit Turkey. The Human rights problem in Turkey is usually linked to ethnic minorities most likely Kurds. And another issue some people claim that there is government sponsored terrorism in Turkey.¹³¹

¹²⁹ *Id.*

¹³⁰ İrfan K. Ülger, "Avrupa Birliğinde Gelecek Tartışmaları ve Türkiye Sorunu Müzakere Süreci ve Batılılaşma Sorunsali", 16, 17 (Ertan Efeğil & Mehmet Erol Seyfettin ed., 2007).

¹³¹ For example Kilic V Turkey case before European Union Court Human Rights Turkey failed to protect a Kurdish journalist that have being threatened and need to protection; no protection provided and Kilic was found shot dead. In another case Tanrikulu v Turkey applicant claim that her husband doctor working for the Government is killed because he helped PKK (Terorist Kuridsh people) members. One again the European Human Rights Court found Turkish Government responsible by failing to conduct proper investigation. *See f. Burskey supra* note 14 at 720-727.

In the year of 2000 The European Council detailed the Accession Partnership with Turkey in connection with the partnership a national Program for adoption of Acquis prepared called NPAA.¹³² For further developments of the relationships EU requested preconditions for opening the negotiations. It sets short term¹³³ and medium priorities¹³⁴ for the accession.

Turkish Constitutional reform eventuated in 2001 that was an important step for strengthening human rights and fundamental freedoms such as freedom of expression press freedom right of peaceful assembly and association. Moreover death penalty is abolished, Kurdish people had their right to use their language in the radio and television and private tutuio, freedom of expression is strengthened.¹³⁵

The latter has identified areas in which Turkey needs to undertake policy reforms in order to make its standards convergence with those of the EU. These are as follows:

- “Restrictions on full participatory democracy
- The role of the military in Turkish politics
- Breaches in human rights, including, torture and other cruel
- inhuman or degrading treatment or punishment and arbitrary arrest and detention

¹³² *Id.*

¹³³ Strengthen constitutional guarantees for the right to freedom of expression and of peaceful assembly and encourage development of civil society, Fight against torture practices and ensure compliance with European Convention for Preventing of Torture, Maintain de facto moratorium on capital punishment, Remove any legal provision forbidding the use by Turkish citizen of their mother tongue in Tv –radio broadcasting, Improve efficiency of the judiciary, Support strongly the UN Secretary General’s efforts for a comprehensive settlement of the Cyprus problem

¹³⁴ Guarantee full enjoyment by all individuals of all human rights and fundamental freedoms (alignment with EU practice and standards as set forth in the European Convention for their Protection of Human Rights) Abolish the death penalty, Ratify the two UN Human Right Covenants, Align the constitutional role of the National Security Council as an advisory body See Schwarzinger, *supra* note 13, at. 286,287.

¹³⁵ *Id.* at, 288.

- The Kurdish issue”¹³⁶

Although the EU still has some concerns about Human Right issues in Turkey if we look at the Progress Reports we can see the quick improvement on this issue and notice the appreciation of the EU.¹³⁷ For example as regards of the freedom of expression article 301 of the Turkish Criminal Code is no longer used systematically to restrict freedom of expression. Revision of this article led to a significant in prosecutions compared with previous years.¹³⁸

Although the Armenian genocide issue is not prerequisite issue for admission to the EU, Turkish citizens collapsed 30.000 signature for apologizing the Armenian people. This situation found as a positive improvement by the EU.¹³⁹ Also when the Hrant Dink an Armenian Turkish editor assassinated by a Turkish 17 year old nationalist, one hundred thousands of Turkish people joined his funeral and mounted “ We all Armenians, we are all Hrant Dink ” in 2007.¹⁴⁰ Also Turkey’s attitude related to Nagorna Karabah conflict, started positive negotiations between Armenia and Turkey which is both supported by the EU and the US.¹⁴¹

¹³⁶ See ARIKAN, *supra* note 22, at. 119.

¹³⁷ *Id.*

¹³⁸ See Progress Report, *supra* note 73, at. 15.

¹³⁹ *Id.* at 18.

¹⁴⁰ See http://en.wikipedia.org/wiki/Hrant_Dink (Last visited Dec. 10.2009)

¹⁴¹ Turkey and Armenia signed a Protocol on The Establishment Of the Diplomatic Relationships Between The Republic of Armenia and the Republic of Turkey in 10.10.2009. See http://www.tabdc.org/docs/20091013_protocol.pdf for further See Business Development Council <http://www.tabdc.org/index>. (Last visited Dec. 15.2010)

The role of Military in Turkey was established for protecting the secular regime and republic form radical people.¹⁴² However in some cases Military found over reacted or over entitled by the EU. Therefore the impact of the Military has been decreasing day by day. Accordingly criticized State Security Courts are abolished in 2004.¹⁴³ In 2009 Progress Report it is indicated that some progress made for limiting Military Courts.¹⁴⁴

5. GREECE AND CYPRUS ISSUES

Turkey and Greece had disputes on Cyprus, treatment of Turkish and Greek minorities living in both two countries and control over the Aegean Sea and the islands which are armed by Greece. Greece wanted settlement of these disputes between Greece and Turkey before Turkey`s accession.¹⁴⁵

Another problematic issue for Turkey`s admission to theEU is the Cyprus. `The conflict in Cyprus in the manifestation of almost a millennium of Turkish and Greek rivalry`. ¹⁴⁶ Cyprus become independent in 1960, Afterwards Greek and Turkish Partnership Governments divided the small island into two parts in 1963.¹⁴⁷

¹⁴² *Id.*

¹⁴³ See Ceza Muhakameleri Usulu Hakkında Degisiklik Yapilmasi ve Devlet Guvenlik Mahkemelerinin Kalidirilmesine Dair Kanun CODE CIVIL (C.CIV) Law no. 5190 publish on 16 June 2004.

¹⁴⁴ See Progress Report, *supra* note 73, at. 11.

¹⁴⁵ See ARIKAN, *supra* note 22 , at 161.

¹⁴⁶ See David A. Kanarek, *Turkey and the European Union: The Path to Accession*, 9 Colum. J. Eur. L. 471(2003)

¹⁴⁷ *Id.*

The UN Security Council established United Nations forces in Cyprus because of the civil war like hostilities between two Greek and Turkish parts.¹⁴⁸ In 1974 Greece aimed to at uniting the island with Greek motherland so Turkish forces intervened to prevent the island from uniting with Greece.¹⁴⁹

In 1983 Turkish Cyprus declared its establishment of the Turkish Republic of Northern Cyprus a sovereign independent state.¹⁵⁰ The international Community did not recognize this new state. Moreover international Community pursue to recognize Republic of Cyprus as the only State in Cyprus and its Greek controlled government as the government of the whole island despite the fact that this Government ad no entitle, any control over the Northern Cyprus since 1974. Since then lots of attempts¹⁵¹ occurred for solving the problem, unfortunately all of them failed.¹⁵²

The Greek side of the Cyprus joined the EU as a divided island on 1 May 2004. While Turkish Government need a solution on Cyprus for joining the EU the Greek Cyprus should not wait for Turkey nor do international community.¹⁵³

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ Lastly the Annan plan which is a United States proposal to settle the dispute and establish United Cyprus Republic failed. In 2002 negotiations started between United States, Cyprus Turkey and Greece. Finally in 2004 65 per cent of Turkish Cypriots voted in favor of the Annan Proposal, 76 per cent of Greek Cypriots opposed the Agreement. As a result UN attempt come and just one week later on 1 May 2004 Cyprus joined the European Union as a divided island and only for Greek side. See JAMES KER-LINDSAY EU ACCESSION AND UN PEACEMAKING IN CYPRUS, 116, 121 (2005).

¹⁵² Stefan Talmon: *The European Union-Turkey Controversy over Cyprus or A Tale of Two Treaty Declarations*, 5 Chinese J. Int'l L. 579, 581, (2006).

¹⁵³ See KER-LINDSAY *supra* note 147 at 136.

Greece rejected Turkey to join the EU since the earthquakes in Turkey and Greece in 1999 the two countries get a closer relation step by step. This approach is preceding parallel to the economic integration progress between Turkey and the EU started in Helsinki Summit.¹⁵⁴

6. LABOR LAW (FREE MOVEMENT OF PERSON)

One of the biggest concerns about Turkey's accession to the EU is employment, and specifically the freedom of movement of a big number of Turkish workers in the EU. Countries of the Community afraid of the possible big Turkish workers migration to their countries.¹⁵⁵

Immigrant workers who went to Germany in 1960 had a negative effect on the prospective Turkish workers. Lots of them did not turn back to Turkey. They had their own families there. They had integration problems. However the employment of Turkish workers in the EC could be a way of improving economic cooperation between two partners.”¹⁵⁶

¹⁵⁴ See Epaminondas Marias, *Toward a Political Community In The Aegean Area; New Opportunities For Greece and Turkey*, 25 WTR Fletcher F. World Aff. 161 (2001)

¹⁵⁵ See ULGEN, *supra* note 58, at 121.

¹⁵⁶ See İsmet Ergün, *The Problem of Freedom Of Movement of Turkish Workers in the European Community*. in *TURKEY AND EUROPEAN COMMUNITY* 167(Ahmet Evin & Geoffrey Denton eds. 1990)

With the establishment of the EC Common Labor Market, foreign labor was classified into two groups workers from member countries were accorded equal treatment with the Adoption of the Regulation No, 162- 63 by the EC Council in 1968.¹⁵⁷ The labor force from Turkey was put in the same category as workers from non- member countries, whose access to the EC labor market is regulated by bilateral agreements.

In contrast to Association Agreement of 23 December 1963 and Supplementary Protocol of Brussels of 23 November 1976 provide a step by step introduction of freedom of movement for Turkish workers by 1986. This has been and still is one of the Turkey's most significant demands from EC, since freedom of movement is essential for achieving fast improvement of the labor market. However the EC particularly Germany, has declared that the freedom of movement for Turkish workers beginning 1986, as provided for in the Association Agreement, was not feasible for social and economy policy reasons.¹⁵⁸

In the near future European workers are going to retire and the population is not young so they will need young workers which probably will be Turkish young population. Although the EU doesn't tend to admit Turkey these days; 2nd and 3rd generation Turks are already in the European Parliament.¹⁵⁹ If

¹⁵⁷ Article 12 of the Ankara Agreement expressly states that Contracting Parties agree to be guided by Articles 48,49,50 of the treaty establishing the Community for the purpose of progressively securing freedom of movement for workers between them. Article 36 of the Additional protocol guarantees : ` freedom of movement for workers between Member States of the Community and Turkey shall be secured by progressive stages... With these two provisions Turkey and EC were clearly committed towards the progressive elimination of the obstacles to free movement of goods workers and services in their commercial relationship . The various steps in the implementation of such a commitment were to be taken through the decision of the Association Council the institution established by the Agreement. See Nichola, *supra* note 23 at, 771.

¹⁵⁸ See Gümrükçü, *supra* note 51, at. 167.

¹⁵⁹ Turkish European members of European Parliament : Arif Kader, Vural Öger and Cem Özdemir See Statistic Survey Of European Union -European Communities 1995-2008, European Union Encyclopedia and Directory, 480,490 (2009)

Turkey is not admitted to the EU its economy is not going to improve as the same level as the EU States because of the unbalanced agreements with the EU such as the Custom Union. ¹⁶⁰

If the growing young population can't find job in Turkey they will immigrate to other countries. Every year 35.000 people are moving to the Europe and settle there. Commonly they got married and have the citizenship. If these people don't get the free movement right they will tend to find alternative ways. Also statistics shows that in the past Portugal and Spain used to send workers to Europe but after they joined into the EU this migration is significantly reduced because of the economical growth and the immigrant Spanish and Portuguese people initiated to turn back to their countries. ¹⁶¹ In a similar situation If Turkey is admitted to EU and accordingly the economic improvement occurs in Turkey the workers are possibly tend to return to Turkey since the only reason they live in Europe is economical.

7. GEOPOLITICAL LOCATION AND SECURITY

Turkey is neighbor to Middle East Countries including Iraq and Syria and former Soviet Countries. This location frightens the EU Members. And also reminds the question of what is the limitation of the Enlargement?

¹⁶⁰ *Id.*

¹⁶¹ See Gümrükçü, *supra* note 51, at. 167.

However this location frightens some European at the same time it emphasizes Turkey's geographical importance. Turkey is called ` *cross roads of the world* ` where Europe Africa and Asia meet. Therefore Turkey was vital partner of West during the Cold War. Also Turkey has represented a center of cultural diversity and development.

Istanbul (Constantinople) was Roman Empires then its successors Byzantine Empires and Ottoman Empires capital city. Turkey is located where Western and Eastern cultures meet. Also Turkey is vital because it is near Middle East energy sources. In addition to this Turkey derives its importance because of its borders it shares with Syria; Iran and Iraq. On one hand Turkey is a model for those countries and on the other hand Turkey's geographical location is useful in several military campaigns.¹⁶²

Turkey has been a vital power for of NATO with more than 370.000 armed soldiers more than any other NATO Country except for United States.¹⁶³ When Soviet Union collapsed Turkey succeeded in establishing significant relations with Turkic Republics, particularly through the non- governmental organizations. As a result Turkey plays a significant role in the future relations between the EU and these republics.¹⁶⁴

¹⁶² See David A. Kanarek, *Turkey and the European Union: The Path to Accession*, 9 Colum. J. Eur. L. 472,473 (2003) at 459.

¹⁶³ *Id.*

¹⁶⁴ Bulent Aras, *The Importance Of Turkey to Relations Between Europe And the Turkic Republics Of the Former Soviet Union*, 2 UCLA J. Int'l L. & Foreign Aff. 91 (1997)

B. ALTERNATIVE APPROACHES TO TURKEY'S CANDIDATE STATUS

In some cases, national leaders were personally opposed to Turkish accession. Hence some, notably Angel Merkel and Nicolas Sarkozy preferred to talk of Turkey being guaranteed a “privileged partnership” instead of membership. This status is also not determined. Little of this provided much encouragement to Turkey, even if some of the EU countries are vocal in their support of Turkey becoming an EU member.”¹⁶⁵ Mostly people wants to access the EU therefore Turkish economy is bounded the EU by the Custom Union and they want better living standards.¹⁶⁶

Other Turkish people have concerns about the accession. As an example imperialism opponents don't support to Accession to the EU. For example they think the EU's target is destroying Turkish secularregime and Nationalist Structure, Turkish culture and history by the usage of “Human Rights” issues.¹⁶⁷ Also some of their concern because they don't want Turkish Republic to lose its national sovereignty.¹⁶⁸

¹⁶⁵ STATISTIC SURVEY OF EUROPEAN UNION -EUROPEAN COMMUNITIES 1995-2008, EUROPEAN UNION ENCYCLOPEDIA AND DIRECTORY, 180 (2009)

¹⁶⁶ *Id.*

¹⁶⁷ *See, f. DOĞU PERİNÇEK, KAREN FOGG'UN E POSTALLARI, 21 (2002)*

¹⁶⁸ *See, YILMAZ DIKBAŞ , AVRUPA BİRLİĞİ TABUTA ÇAKILAN SON ÇİVİ, 18(2006)*

CHAPTER V. CONCLUSION

Overall this thesis examined Turkey and its relationships with the EU and the EU's hesitations on this potential accession. Also this study tried to underline the different treatment of the EU towards Turkey among other candidate states. Moreover, the EU did not treat Turkey fairly in the enlargement process.

Turkey signed the Custom Union and adopted its law system according to the European system since the Republic has been established. However it could not enroll the decision process and could not get economic aid like the former candidate states. This preparing procedure for the EU has had negative effects on Turkish economy.

Human rights violations and discriminatory against minorities have been the reason used over and over by the EU for postpone the Turkey's accession. In fact, the real reason is probably the dominance of Islam in Turkey and cultural differences. If the EU claims that it is not a Christian Community Turkey's accession into the EU is the best opportunity to demonstrate this. Despite the recent reforms, adoptions and positive improvements Turkey's short term potential for the EU admission still appear unlikely.

In conclusion, the Negotiation Framework for Turkey clearly underlines an open ended process for the admission outcomes of which can not be guaranteed before. Is Turkey going to be ever the EU member? Only time will tell. It is not going to be likely happen in the short term. For long term, time will tell. However, if the EU members not change their prejudices against Turkey and insist on not determining a certain time for the accession, using step by step procedure, Turkey's accession into the EU will never likely happen.



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