

# Turkey's Political Reforms and the Impact of the European Union

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*The European Union has played the most important role in stimulating political change in post-World War II Europe. Turkey had to become more democratic in order to attain candidacy for EU membership in the second half of the 1990s, and when it became a candidate, it had to adopt sweeping political reforms in order to fulfil the EU's accession criteria so that accession negotiations could begin. Thus, this article proposes that Turkey's EU candidacy since 1999 has stimulated Turkish political and legal reforms and intensified the Europeanization process in Turkey. The article analyzes the political reforms in Turkey in the light of EU membership and argues that Turkey's Europeanization is greatly motivated by the EU.*

*Keywords: Turkey; Europeanization; European Union; Membership; Domestic Reform*

The state elite that established the Turkish Republic in 1923 formulated the recognition of Turkey as a European state as one of its official foreign policy objectives. The political reforms in the early years of the Republic, from 1923 to 1938, were adopted in order to make a break with the Ottoman past and to create a 'modern' European state. This is not to claim that everybody in Turkey shared that ideal, since Turkey's aspiration to become European was, of course, an elite project. As a consequence, the Turkish modernization process became a struggle between the Europe-oriented state elite and the conservative elements in Turkish society. Interestingly, as the Europeanization process stimulated democratic change in Turkey, the anti-European reactionary conservatives gained strength.

Turkey's initial objective in associating itself with the EC/EU was to get an acceptance for its European status. In that regard, Turkey is not very different from other South European states such as Greece, Spain and Portugal, as all these countries tried to adopt basic principles and norms of liberal democracy for the sake of inclusion in the European order. Turkey's main difference probably lies in its Ottoman imperial past and its political culture. In addition, what sets Turkey apart from other European countries is the uncertainty concerning its European nature. Thus, it was expected that

EU membership would finally settle the issue as to whether Turkey is European or not. Consequently, Turkey's relations with the EU since its Association Agreement of 1963 are often analyzed within this context (Müftüler-Bac 1997; Kubicek 1999; Buzan and Diez 1999).

Turkey had to become more democratic in order to attain candidacy for EU membership in the second half of the 1990s, and when it became a candidate, it had to adopt sweeping political reforms in order to fulfil the EU's accession criteria so that accession negotiations could begin. Thus, this article proposes that Turkey's EU candidacy since 1999 has stimulated the Turkish political and legal reforms and intensified the Europeanization process in Turkey.

Turkey's most significant and ambitious adjustment to European norms became possible only when EU membership became a less distant possibility and when the EU finally made a more concrete commitment to Turkey (for a similar argument see Müftüler-Bac 2000; Schimmelfennig, Engert and Knobel 2003). In that regard, the EU is a powerful external actor inducing internal change. The EU has increasingly been the main motor behind the Europeanization process in Turkey as the EU membership perspective became clearer for Turkey and as it became obvious that accession negotiations with the EU could not begin unless Turkey fulfilled the political conditions for EU accession. This is not to claim that the EU is the only reason behind the democratization process in Turkey, but to assert that the EU played a substantial role in stimulating internal change and Europeanization.

There are two main mechanisms through which the EU did so: the 1963 Association Agreement Turkey signed with the then EC, and the prospect of Turkish membership in the EU. The second mechanism became operational when Turkey applied for EC membership in 1987 following the Mediterranean enlargement. However, it gained additional momentum in 1999 when the EU granted candidacy to Turkey for EU membership. A main contention of this article is that the increased assimilation of rules and norms of liberal democracy in Turkey since 1999 is a direct result of Turkey's institutional ties with the EU and its hopes for membership. This, of course, is not to deny the existence of internal pressures in Turkish society for democratization. But it is highly likely that those groups in Turkish society that worked for the adoption of liberal democratic values in Turkey had a higher bargaining power due to the pressures coming from the EU and the necessity of meeting the EU's accession criteria. This article evolves first through an analysis of Turkey's institutional ties with the EU and finally through an in-depth investigation of the impact of the EU on Turkey's Europeanization since 1999.

### **Turkey's Europeanization Process**

The EU's main tool for inducing national domestic political change is its conditionality especially for membership, though not necessarily constrained to membership (see Schimmelfennig, Engert and Knobel 2003). The Rome Treaty of 1957 states that any European country can apply to become a member. Furthermore,

the 1962 Birkelbach Report of the European Parliament stresses the importance of democratic credentials as a central value in the EC. Finally, the EU's accession criteria adopted in the 1993 Copenhagen summit explicitly state that the stability of democratic institutions and respect for human rights are essential pre-conditions for candidacy status as well as for opening accession negotiations. The political conditionality of the EU has become the strongest external factor for political change in countries aspiring for membership. The tools that the EU has at its disposal—trade agreements, financial assistance, association, and most importantly membership—have made the EU the most visible and the strongest actor inducing Europeanization in these countries. That is why the EU is perceived to be the most important actor in community building around European, liberal democratic values and norms (Cowles, Caporaso and Risse 2001; Knill 2001). The European collective identity and its norms and rules transcend the EU without any question. However, because the EU is the only institution with enforcement mechanisms, it becomes the most visible manifestation of the Europeanization process. It is in this context that the EU has been a powerful actor increasingly influencing the Europeanization process in Turkey since 1999.

Turkey is not an easy fit, either in Europe or in the Middle East. The establishment of the Turkish Republic in 1923 and the path taken by the Turkish state elite afterwards clearly looked towards Europe and the adoption of European norms and standards. In the post-World War II European order, Turkey was granted a secure place for its role in containing the Soviet Union. It became clearly anchored in the Western system of states when it joined the Organization for European Economic Cooperation in 1948, the Council of Europe in 1949 and NATO in 1952. Its membership in these institutions, on the one hand, served as a deterrent against perceived Soviet expansionism and on the other, worked towards the fulfilment of the state elite's century-old dream of being accepted as part of Europe. In line with these two parallel foreign policy objectives, in 1959, Turkey applied for an Association with the newly founded EEC and became an Associate member of the EC in 1963. The 1963 Ankara Agreement committed both sides to the step-by-step establishment of a customs union. Article 28 of the Association Agreement reads:

As soon as the operation of this Agreement has advanced far enough to justify envisaging full acceptance of Turkey of the obligations arising out of the Treaty establishing the Community, the Contracting Parties shall examine the possibility of the accession of Turkey to the Community.

Thus, even though there was no promise of membership, it was insinuated as a long-term goal.

However, Turkey's relations with the EC throughout the 1960s and 1970s were highly unstable. This was partly due to the internal divisions inside the EC, the crises that European integration passed through and the unstable international environment of the 1970s, and partly due to Turkish doubts about the benefits of an association with the EC. The hurdles that Turkish democracy passed through in the 1970s, which culminated in the 1980 military coup, did not help matters at all in terms of advancing

relations with the EC. The crisis of the 1970s led to the suspension of the Association Agreement when the then Turkish Prime Minister, Bulent Ecevit, unilaterally froze the Ankara Treaty in 1978, invoking its self-protection clause. Following the 1980 Turkish military takeover, the European Parliament suspended the Association in 1982.

As democracy was restored in Turkey in the second half of the 1980s, Turkey applied for full membership in the EC in 1987. The European Commission in its Opinion recommended the operationalization of the Association Agreement instead of opening accession negotiations at that time, even though it noted Turkey's eligibility for membership. Accordingly, in 1995, as foreseen in the Association Agreement of 1963, the Customs Union agreement was signed between Turkey and the EU. The Customs Union finalized the transitional period of Turkey's association as foreseen by the Ankara Treaty and the 1970 Additional Protocol. One should also note that prior to the European Parliament's vote on the Customs Union in December 1995, the Turkish government adopted a major package of constitutional change in order to satisfy the MEPs regarding the state of democracy in Turkey. This is an important illustration of the EU's impact on Turkey's Europeanization even in the absence of a membership perspective, solely within the premises of its Association.

When the EU launched its Enlargement process in 1997, Turkey had the longest-standing application and Association. In addition, it was the only applicant country that had realized a Customs Union. A crisis erupted in 1997 when the European Council in its Luxembourg summit decided not to include Turkey among the list of candidate countries with which accession negotiations would begin, in line with the European Commission's Agenda 2000 recommendations. The Turkish response was one of anger and resentment. As a result, Turkey's relations with the EU became problematic and to a certain extent distant from December 1997 to December 1999 (see Öniş 2000; McLaren and Müftüler Bac 2003).

At its Cardiff summit of 1998, the European Council asked the European Commission to prepare Progress Reports for Turkey as it does for all the candidate countries, even though Turkey was not then a candidate. The European Council's request for the Progress Reports for Turkey was based on Article 28 of Turkey's Association Agreement which stipulates that when both parties are ready to fulfil the obligations of membership, Turkey's membership would be considered. It is due to the Ankara Treaty that the EU cannot rule out Turkey's membership application based on eligibility, as it was able to reject Morocco's application in 1990 on the grounds that Morocco is not eligible for membership in the EU. The breakthrough in Turkey's relations with the EU came when the European Council granted Turkey candidacy in 1999 in Helsinki and stated that 'Turkey is a candidate country destined to join the EU' (Presidency Conclusions, Helsinki European Council, 10–11 December 1999). In line with the pre-accession strategy for Turkey, the Commission prepared an Accession Partnership Document for Turkey in November 2000, and the European Council adopted the document on 8 March 2001. In line with the Accession Partnership Document, Turkey prepared and submitted its National Programme for the Adoption of the EU *acquis* in March

20 *M. Müftüler Bac*

2001. These documents present the most ambitious programme of Europeanization in Turkey with clearly stated objectives.

While Turkey was adjusting its political system to the EU norms, ten of the candidate countries concluded their accession negotiations in 2002. In December 2002, in its Copenhagen summit, the European Council decided to review Turkey's candidacy two years' hence. The European Commission's Progress Report of 6 October 2004 to the European Council recommended the opening of Turkish accession negotiations, noting the sweeping political and legal reforms in Turkey (European Commission 2004). However, the Commission stated that if there were to be a halt in the political reforms in Turkey, the negotiations could be suspended. If such a recommendation came from the Commission, the European Council could decide on suspending Turkey's accession negotiations by qualified majority.

Between 1999 and 2004, Turkey tried to adopt various democratization packages in order to meet the political aspects of the Copenhagen criteria, based on the hope that the EU would open accession negotiations with Turkey. An important element in this process of political Europeanization was the pressure coming from various civil society groups in Turkey that wanted to begin accession negotiations with the EU. Thus, the prospect of membership increased the visibility of pro-democracy and pro-European groups in Turkey as well.

### **The Impact of the EU on Turkey's Europeanization Process**

The Helsinki Council Presidency Conclusions are explicit in terms of the conditions that Turkey needs to fulfil in order to begin accession negotiations:

Building on the existing European strategy, Turkey, like other candidate States, will benefit from a pre-accession strategy to stimulate and support its reforms. This will include enhanced political dialogue, with emphasis on progressing towards fulfilling the political criteria for accession with particular reference to the issue of human rights' (Presidency Conclusions, Helsinki European Council, 10–11 December 1999).

The Turkish government had a strong incentive for its democratization and political reforms in terms of a distinct possibility for full membership in the EU if it fulfilled the latter's political conditions. This was also the first time that Turkey was given a clear perspective for membership; this in turn increased the impact of the EU on Turkey's political Europeanization process. According to the Commission:

the basic features of a democratic system exist in Turkey, but a number of fundamental issues, such as civilian control over the military, remain to be effectively addressed. Despite a number of constitutional, legislative and administrative changes, the actual human right situation as it affects individuals in Turkey needs improvement (European Commission, 2001, p. 32).

Thus, this section analyzes the Europeanization process in Turkey mainly through the political reforms and legal changes adopted in the aftermath of the Helsinki summit.

From 2001 to 2004, various political reform packages were adopted in order to fulfil the Copenhagen criteria that resulted in deepening Turkey's Europeanization process.

These reforms could be summarized under the broader headings of increased legal protection of social, cultural and political rights of all Turkish citizens irrespective of religious and ethnic origin, the role of the military in Turkish politics, and freedom of expression in Turkey. These reforms automatically brought to the foreground the dominant cleavages in Turkey, most notably that between Turkish nationalism versus recognition of other ethnic groups in Turkey, in particular the Kurds, and between secular and conservative political groups (Table 1).

Even though the 1999 Helsinki summit made it clear that Turkey's accession negotiations could begin only when Turkey fulfilled the political aspects of the Copenhagen criteria, Turkey began its major political reforms only towards the end of 2001. One reason for that was the dire financial crisis Turkey found itself in at the end of 2000. Another important reason was that the government in power at that time was a coalition government composed of the Democratic Left Party (*Demokratik Sol Partisi-DSP*), the Motherland Party (*Anavatan Partisi-ANAP*) and the Nationalist Action Party (*Milliyetçi Hareket Partisi-MHP*). These parties were divided among themselves over the political criteria they needed to meet and it took a long bargaining process to bring about any political reforms. There was therefore a lag from the Helsinki summit in 1999 to the most important Turkish reforms that began to be adopted at the end of 2001.

The most important reservations that the EU had about Turkey and the areas in which most of the Turkish political changes took place can be summarized as: the role of the military in politics through the judiciary; the State Security Courts; and through the National Security Council, the Turkish Penal Code and its articles on freedom of expression and association; the death penalty; the transparency of the public sector and the violations of human rights. Interestingly, one of the most important aspects of the Turkish legal system, the articles of the Penal Code that relate to violence against women were not strongly raised by the European Commission's Progress Reports, or by the various meetings held between the Turkish and European officials until 2003 (Amnesty International, AI Index 44/013/2004).

On 3 October 2001, Turkey adopted a major Constitutional package that addressed the articles on freedom of expression and revised the death penalty with 34 amendments to the 1982 Constitution. This package turned out to be the first constitutional reform package that aimed at fulfilling the Turkish objectives under the National Programme for the Adoption of the Acquis. In November 2001, a new Civil Code was adopted which tried to establish gender equality in marriage; this Code became operational in January 2002. One of the major improvements of this Civil Code was to guarantee that in case of divorce, women's rights to property accumulated during marriage would be recognized. In the negotiations phase for the Civil Code in the Turkish Parliament, there was serious opposition to these clauses, particularly from MHP parliamentarians who were coalition partners from 1999 to November 2002. Despite this opposition, the Code was adopted. One should note that given the male-dominated Turkish culture especially in matters related to the family, the Civil

**Table 1** Turkish political reforms, 2001–2004

Date	Type	Major Changes
3 October 2001	1st Constitutional Package	34 Amendments to the 1982 Constitution
November 2001	New Civil Code	Gender equality in marriage
February/March 2002	2nd Constitutional Package	Constitutional amendments
2 August 2002	3rd Constitutional Package	Abolish death penalty/revised anti-terror law, allowed broadcasting in languages other than Turkish
3 December 2002	4th Constitutional Package	Operationalize previous reforms/revise Penal Code for torture
4 December 2002	5th Constitutional Package	Retrial of all cases decided in State Security courts
May 2003	6th Constitutional Package	Adopt Protocol 6 of the ECHR, convert all death sentences to life imprisonment/repeal Article 8 of Anti-Terror Law
July 2003	7th Constitutional Package	Revise the National Security Council
7 May 2004	8th Constitutional Package	Ten amendments of the Constitution, freedom of press, and gave priority to supranational treaties over domestic law, abolish State Security courts.
24 June 2004	9th Constitutional Package	Change Article 46 of the Penal code, revise the Higher Education Board and the Censure Board.
25–26 September 2004	New Turkish Penal Code	Revise laws on violence against women and children/change the penalties for various offences and redefine offences.

code was a major breakthrough in terms of gender equality and granting women an equal share in goods and property accumulated during marriage.

In 2002, three more packages of constitutional reform were adopted in February, March and August. Of these packages, the most extensive was the one adopted on 2 August 2002. This abolished the death penalty in peacetime, revised the Anti-Terror Law, allowed for broadcasting in languages other than Turkish, and opened the road for the retrial of all the cases that the European Court of Human Rights found to be in violation of the European Convention of Human Rights.<sup>1</sup> The August package was the last reform package adopted by the DSP–ANAP–MHP coalition government which was in power from April 1999.

The August 2002 package was a major step in fulfilling the political aspects of the Copenhagen criteria that the outgoing government was able to adopt. When it became clear that the Central and East European countries were about to conclude their accession negotiations and begin talking with the EU about the timing of their accession treaties, there seemed to be little choice. Unless the coalition government adopted measures to fulfil the Copenhagen criteria, Turkey would be out of the Enlargement process. This was the same Turkish government that was in power during the Helsinki summit, and its members were aware of the implications of not meeting the Copenhagen criteria while the other candidate countries were negotiating their accession. Yet why did the coalition government wait until 2001 to adopt political reforms? In addition to the economic factors already mentioned above, the government of DSP, ANAP and MHP could not act very decisively, partly because they were a coalition government and had different preferences, and partly because the economic crisis became a more pressing problem. In the general elections in November 2002, these parties witnessed an enormous decline in their electoral support. The pro-European voters perceived the coalition government as indecisive and slow in meeting the EU criteria, while, paradoxically, anti-European voters perceived the reform packages as political concessions to foreigners. Especially important in that realm was the nationalist vote.

The August reform package, for example, was seen by the MHP's constituents as a betrayal, and was a factor that pushed them away from their party (see Müftüler Bac 2003; Öniş and Keyman 2003). Similar to the negotiations over the Civil Code, the MHP parliamentarians seriously objected to ending the death penalty and the recognition of Kurdish minority rights, as these were perceived as attempts to undermine the unitary character of the Turkish state. Particularly important in that respect is the cleavage in Turkish society between the Turkish nationalists who perceive any kind of diversity as a threat to the Turkish nation and the state, and the supporters of the recognition of diversity in the Turkish society. This sensitivity was reflected in the Turkish Penal Code, especially in Articles 312, 159 and 169 dealing with acts against 'the indivisible unity of the state'. The ultra-nationalists tended to perceive any cultural rights granted to the Kurdish groups in Turkey as concessions to terrorism. In terms of the death penalty, the August 2002 package was perceived as serving Abdullah Öcalan, the leader of the *Partiya Karkaren Kurdistan* (PKK), which had



engaged in a terrorist campaign in Turkey since 1984 that had claimed more than 30,000 lives. Öcalan had been in jail since the beginning of 1999 and had been sentenced to death in June 1999. The families of the soldiers who had been killed while fighting the PKK in the Southeastern region of Turkey protested against the reform package because it effectively withdrew the death penalty. Since MHP is the party that derives most of its votes from the nationalists in Turkey, it was adversely affected.

In addition, the Turkish nationalists perceived the reform packages' clauses on increased freedom of expression and cultural rights, like any move towards democratization in the Southeastern region of Turkey, as giving in to the terrorists. In that manner, one can even claim that Kurdish terrorism harmed the recognition of the Kurds' cultural rights rather than promoting them. The August 2002 package's impact on Turkish politics and society is an interesting example of the impact of Europeanization on the domestic political balance and illustrates the importance of the EU's role in Turkish politics in the last couple of years. The fact that the government was able to promote a reform package dealing with extremely sensitive issues while a party that has the most radical views on these was a coalition partner, was directly due to the EU and the urgency of meeting the political criteria. The August 2002 package also came as a surprise to the EU because by that time, EU leaders were convinced that Turkey would not be able to fulfil the Copenhagen criteria.

At the end of 2002, a major breakthrough for Turkish–EU relations came paradoxically when the Justice and Development Party (*Adalet ve Kalkınma Partisi*; AKP) emerged as the victor of the November 2002 general elections in Turkey with 35.7 per cent of the votes. As a result, AKP was able to form a majority government. Consequently, the constraints faced by the previous government, the DSP–ANAP–MHP coalition, did not apply to the AKP government. The only major constraint that the AKP government faced was that the political elite in Turkey perceived its democratization attempts as attempts to weaken the secular, Kemalist aspects of the Turkish state and therefore as having a hidden Islamist agenda. The AKP government was able to pass major political reforms; nonetheless, one should note that some of the momentum for these reforms was left over from the previous government. The AKP government was also very lucky in inheriting the economic reforms and packages designed by Kemal Dervis, minister of economics in the previous government, in 2001. These packages drastically restructured the Turkish economy and their positive results were beneficial to the AKP government's performance.

From the end of 2002 to the writing of this paper, the Turkish government adopted seven further major packages of political reform. The first two constitutional reform packages by the new government were adopted immediately after they came to power in December 2002. The fourth adjustment package was adopted on 3 December and became operational in January 2003. The fifth adjustment package was adopted on 4 December and became operational in February 2003. First, these two packages operationalized most of the amendments, most significantly the retrial of all the cases in Turkey decided in State Security Courts, adopted by the previous government in the August 2002 package. Particularly important here is the retrial of the Democracy

Party—*Demokrasi Partisi*—DEP parliamentarians who had been in jail since 1994 for supporting terrorism and Kurdish separatism in Turkey. The retrial of these cases began in March 2003. Of the four parliamentarians in jail, Leyla Zana was the most famous DEP member as the European Parliament had awarded her its Sakharov Prize in 1995. In January 2004, Zana wrote a letter to the then EP President, Pat Cox, arguing that the EU should begin accession negotiations with Turkey, as she would prefer to be in jail in a Turkey that is negotiating with the EU rather than one which is not. These parliamentarians were released on 9 June 2004, lifting an important barrier to Turkey's accession negotiations. Their release was very well received in various EU circles and gave credibility to the Turkish government's claims about the implementation of the reforms adopted to meet the EU accession criteria.

Second, the AKP government began a vast campaign on torture and ill treatment. The fourth adjustment package of January 2003 revised the Penal Code for torture cases and adopted a measure that would prevent sentences because of torture being converted into monetary fines. Similarly, it revised the Law on the Trial of Civil Servants—an Ottoman legacy to the Turkish Penal Code—by eliminating the requirement for the superior's permission to try civil servants. This is particularly important because in such cases as torture, collusion between the superiors/supervisors and lower rank civil servants is common and acts as the major barrier to finding and trying the torturers.

Third, the Turkish government adopted European standards for the death penalty. The August 2002 package had already eliminated the death penalty in peace time. The sixth adjustment package adopted in May 2003, which became operational in July 2003, furthered the August 2002 package by adopting Protocol 6 of the European Convention of Human Rights. It also converted all death sentences to life imprisonment, although one should note that in practice, since 1984 no death sentence has been executed in Turkey. In January 2004, Turkey signed Protocol 13 to the ECHR abolishing the death penalty in all circumstances, including wartime. A major step on the road to fulfilling the Copenhagen criteria was the sixth adjustment package's repeal of the notorious Article 8 of the Anti-Terror Law. This had been used in the previous decade for the imprisonment of a number of journalists and publishers for crimes against the indivisible unity of the Turkish Republic.

Fourth, a major attempt towards political Europeanization in 2003 was the adoption of various Covenants of the UN that Turkey had traditionally claimed reservations about. In the summer of 2003, the Turkish Parliament ratified the International Covenant of Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, although in the latter case some reservations remained. These reservations are mostly concerned with the women's and minorities' economic and social rights. For example, the Turkish government has reservations on allowing international adjudication in granting women rights. Nonetheless, these are important developments because Turkey was the only candidate country in 2002 that had not ratified these Covenants as well as Protocol 6 of the ECHR on the death penalty.

Fifth, a number of sweeping changes were adopted concerning the role of the military in politics (Heper, this issue; see also Güney and Karatekelioglu, forthcoming), the most important institutional manifestation of which is the National Security Council. For example, the civilian members of the National Security Council were increased from five to nine. The military commanders in the NSC had a numerical majority and increasing the number of civilians was a significant step in reforming the institution. The seventh adjustment package adopted in July 2003 made major changes to the NSC. For example instead of meeting every month, it was decided that the NSC would meet once every two months. The position of the Secretary General of the NSC, traditionally reserved for a military official, was revised and it was decided to have a civilian as its secretary general when the current secretary's term would come to an end in summer 2004. Thus, in August 2004, a civilian was appointed as NSC Secretary General.

One should, nonetheless, note that the military's omnipotent power does not only come from the institutions, but from the fact that the Turkish military is still the most trusted institution in Turkey, and that declarations by military officials are still regarded as very important. The regulation on the NSC transformed the NSC into a consultant body and its secretariat has a limited role only in defining the agenda of the meeting. The Europeanization process in terms of the military's role in civilian politics therefore cannot be achieved by institutional reforms alone, but requires a much longer socialization process in Turkey—an observation one can actually make for almost all the major changes listed above. Based on the reform packages that Turkey has undertaken since summer 2003, the European Commission adopted a revised Accession Partnership Document on 19 May 2003. On 24 July 2003, the Turkish government revised its National Programme on the Adoption of the Acquis in line with the changes and political reforms adopted since 2001.

The AKP government adopted the eighth constitutional reform package to meet the Copenhagen criteria on 7 May 2004. This package made ten major amendments to the Constitution, abolishing the State Security Courts, giving constitutional security to the freedom of the press, and most importantly, giving priority to the international treaties ratified by the Turkish Parliament over the Constitutional Court, Article 90 of the Constitution (Turkish newspaper *Radikal*, 20 April 2004). This last clause is important in Turkey's adjustment to EU norms in terms of the priority of supranational over national authority. Furthermore, this package removed the Chief of Staff's representative from the Higher Education Board (YOK) and adopted measures to increase governmental transparency.

The ninth constitutional reform package was presented to the Turkish Parliament on 24 June 2004. This package removed the already abolished death penalty from the Turkish Constitution and changed Article 46 of the Penal Code by converting death penalty sentences to prison sentences. In terms of the military's role, the ninth constitutional reform package eliminated the NSC's Secretary General representative from the Censure Board—RTUK in Turkey, thereby decreasing its control over Turkish broadcasting. According to the European Commission's 2004 Progress report on

Turkey, the Turkish Parliament has adopted 261 new laws in the last two years, which is a major accomplishment.

A very important matter that was left untreated by Turkish governments as well as by the European Commission in 2003 concerned the Articles of the Turkish Penal Code on violence against women. For example, the Turkish Penal Code allowed rapists to go free if they agreed to marry the woman they raped. The rape victims who are pressured by their family and society to marry their rapist then live a life of imprisonment. Rape received different sentences depending on the marital status of the victim. Murder crimes against women could receive lower sentences if they are 'honour crimes'. If a rapist could prove that sexual intercourse with a child is made with the 'child's consent', he could go unpunished.

Interestingly, the European Commission's Progress Reports only raised these issues in a few sentences. For example, in the Progress Report of 2003, the issue of honour crimes and violence against women is raised only in two paragraphs, whereas 12–13 pages are dedicated to minority rights (European Commission, 2003, p. 36). The 2004 Commission report was more critical on the issue and raised the issue of gender equality as one of the most important obstacles to Turkey's accession. The legal rights of Turkish women and the Penal Code's articles on violence against women remain the most important obstacles to Turkey's Europeanization process, and it was paradoxically the only issue not raised by the European Commission.

In Summer 2004, the Justice Commission of the Turkish Parliament began discussing revisions to the Turkish Penal Code. The Turkish Parliament adopted the new Turkish Penal Code on 25–26 September 2004, just a week before the Commission's Report was released. These changes took about seven months of preparation and negotiations with civil society organizations, especially with women's rights activists. The changes to the Penal Code included increasing sentences for 'honour crimes'. However, it still accepts a wife's adultery as a severe provocation and gives reduced sentences to husbands who kill their wives on this basis. For example, the new Penal Code forbids virginity tests on women without a court order; however, it still does not require the woman's consent for the test.

At the last minute in September 2004, the AKP government wanted to insert a clause into the Turkish Penal Code that would criminalize adultery in Turkey. Adultery has not been a criminal act since 1998 and the proposal caused a major uproar in Turkish society and in European capitals. As a result of this reaction, the proposal was taken back.

The importance of the adultery crisis illustrates the inherent struggle in the Turkish society between the modernizers and the reactionaries. On the other hand, because the Prime Minister, Tayyip Erdoğan, supported the proposal, it raised suspicions about the limits of the modernizing capacities of the AK party government. It seems that the issue of women in Turkey acts as an invisible line where modernizers and reactionaries have the most intense struggle. In effect, the AK party's modernizing spirit halted when it came to women's issues. Interestingly, the crisis over adultery almost halted the adoption of the new Turkish Penal Code and this would have had dire consequences

for Turkey's aspirations to begin accession negotiations. The Turkish Penal Code reflects the Turkish society's gender-based inequalities. It would require a long-term socialization process for gender equality to become rooted. Nonetheless the legal bases of this inequality were almost eradicated from the Turkish Penal Code. This remains one of the areas for Turkey's adjustment to European norms. The revisions in the Turkish Penal Code adopted in September 2004 are only the first step on that road.

### **Conclusion**

All in all, the progress made by the post-2002 Turkish governments in Europeanization and fulfilling the EU's Copenhagen criteria has been remarkable. Commission President Romano Prodi, who visited Turkey in January 2004 stated that "Turkey is now closer to the European Union in terms of its democratic credentials" (*Hürriyet*, 16 January 2004). The fact that Prodi was the first Commission President to visit Turkey for 40 years (after Walter Hallstein's visit in 1963) might indicate Turkish success in reforming the political system. Thus, when the Commission recommended accession negotiations with Turkey in October 2004, it acknowledged the Turkish success and concluded that Turkey is able to fulfil the political aspects of the Copenhagen criteria.

I have argued in this article that, in terms of meeting the political aspects of the EU's Copenhagen criteria, the Turkish government has adopted breakthrough political changes. In order fully to appreciate the meaning of the AKP's political reforms of 2003 and 2004, one needs to remember the nature of Turkish modernization and Europeanization process. When the Turkish Republic was founded in 1923, the military and bureaucratic elite of the time repressed the conservative, traditional segments of the Turkish society in order to Westernize Turkey. The opposition to the Europeanization process organized politically around the religious vote, in the 1950s with the Democratic Party, in the 1960s to a certain extent with the Justice Party (*Adalet Partisi*), and in the 1970s, 1980s and 1990s with the Nationalist Salvation (*Milli Selamet Partisi*), Welfare (*Refah*), Virtue (*Fazilet*) and Felicity (*Saadet*) parties. AKP is an outgrowth of this tradition of conservative, traditional, rural, religious vote in Turkey that had reservations—to say the least—about the process of Europeanization.

Paradoxically, after the 2002 elections, AKP became the first political party—the members of which are most probably the great grandsons of the opposition of the 1920s—that was able to adopt European norms and rules in such an ambitious fashion. Interestingly, opposition to the democratizing moves comes from the secular, Kemalist elite, on the grounds that these reforms might open Turkey to the divisive cleavages of Islamic fundamentalism and Kurdish separatism. Thus, the opposition of the early Republican era now finds itself in the position of modernizers and the modernizers of that era find themselves as the opposition today.

In short, this article has proposed that the EU has stimulated the Europeanization process in Turkey in an increasing fashion since 1999. This is similar to the experience of the Central and East European countries that went through their own Europeanization

process. One should also note that the Europeanization process in Turkey has mostly been interpreted as democratization, that is, political Europeanization. However, an important aspect of Europeanization is improving efficiency in policy and decision making. Turkey now faces the challenge of implementing and enforcing the political reforms adopted, especially with regards to the freedom of expression clauses. Civil servants in the lower ranks still lag behind their governments in the implementation of the vast reforms adopted. The policy harmonization and the intensified adoption of the EU *acquis* once accession negotiations begin with the EU will be other important areas of Europeanization in Turkey. The EU's twinning mechanism through which civil servants in EU member states are seconded to candidate countries will be especially important for the enforcement of the legal changes in Turkey. Turkey participated in twinning projects for the first time in 2002 with 13 projects mostly on justice and home affairs and financial sectors. The twinning projects will contribute to Turkey's Europeanization process in the future, not least because they might instigate a larger socialization process. All in all, in the last two years, the prospective EU membership has provided a very strong incentive for adopting major political change in Turkey, and one can confidently claim that without the EU incentive, those changes would have been much harder to adopt.

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### Note

- [1] These were mostly the cases decided in the State Security Courts that had one military and two civilian judges and the Turkish government replaced the military judge with a civilian judge in June 1999 during Abdullah Öcalan's trial.

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30 *M. Müftüler Bac*

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