



Policy Department

Turkey's progress towards EU accession in 2005

NOTE

Abstract:

This note reviews Turkey's recent progress in the process of EU accession on the basis of the annual Progress Report, the Accession Partnership and a Strategy Paper which were part of the so-called "enlargement package" published by the European Commission on 9 November 2005.

The note is intended for European Parliament Members of the EP delegation to the EU-Turkey Joint Parliamentary Committee on 23-24 November.

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Sources:

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EU Observer
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I. Introduction: Turkey as a candidate country for EU membership

The EU opened accession negotiations with Turkey as well as with Croatia on 3 October 2005. As a precondition (following up to the December 2004 European Council), Turkey had to enact six key pieces of legislation enhancing human rights and improving the functioning of the judiciary. Ankara also had to agree on the extension of the EU-Turkey customs union agreement to the new EU member states, including the Republic of Cyprus, in signing the Additional Protocol to the Ankara Agreement this summer.

On 9 November 2005 the European Commission adopted a number of important new documents for the European Union enlargement process. This so-called "enlargement package" outlines progress and prospects for the two new candidate countries Turkey and Croatia, and for the four potential candidates. The *Strategy Paper* sets out the Commission's overall strategy for enlargement, in particular its vision for the Western Balkans. *Progress reports* for Turkey and Croatia describe political and economic developments as well as each country's ability to transpose and implement EU legislation. They highlight the main achievements and pinpoint the shortcomings. *Accession partnerships* prescribe in relative detail short-term and medium-term priorities for these countries, in particular steps for the implementation of the *acquis*. They also form the basis for programming pre-accession assistance from EU funds.

The *Accession Partnership for Turkey 2005*, the most extensive and detailed one so far, is based on the longstanding model for Accession Partnerships since 1998. As usually, short-term priorities are deemed to be fulfilled within one to two years and medium-term priorities to be accomplished within a timeframe of three to four years. The priorities concern both legislation and the implementation thereof. The country is expected to respond to the Accession Partnership by preparing a plan, including a timetable and specific measures to address the Accession Partnership's priorities.

EU assistance is targeted to the priorities, and the Accession Partnerships are regularly updated in order to adjust priorities to the countries' specific needs and stage of preparation. Following demands of both the European Council and the European Parliament the Commission puts much *emphasis on the fulfilment of the political criteria, in particular human rights issues* by Turkey, all of them in the *short-term frame*. The respective section covers almost half of the entire document and this way seems to indicate that the Commission regards notable progress in the political criteria and human rights as crucial for the accession process in the next months and years.

With these Council Decision proposals, the Commission invites the Council to adopt, eventually with amendments, the new Accession Partnerships underlying that they have no financial implications. The European Commission will continue to provide *substantial financial assistance* to support Turkey in the accession process. In 2005, around EUR 300 million is available for Turkey, rising to around EUR 500 million in 2006.

The EU has already begun *screening Turkish legislation* for compliance with European law in the field of science, culture and education after the start of accession talks. The negotiation mandate is one of the toughest ever imposed on a candidate country, giving member states wide scope to use *national vetos* in closing any of the 35 chapters of the membership process. The mandate also states the *EU can suspend talks* if it finds "*a serious and persistent breach...of the principles of liberty, democracy, respect for human rights and fundamental*

freedoms and the rule of law". The accession talks have been defined as an "*open-ended process*" that may last ten to 15 years.

II. Political criteria

According to the progress report Turkey "continues to sufficiently fulfil the Copenhagen political criteria". Important judicial reforms have entered into force and should lead to structural change. Still, the *pace of change has slowed down* since the last report in 2004, and *implementation remains uneven*. Turkey should better integrate the reform process into the work of all public authorities and *reforms should "be translated into more concrete achievements for the benefit of all Turkish citizens regardless of their origin"*.

According to the progress report *human rights' violations are diminishing, but continue to occur*. The Accession Partnership urges Turkey to fulfil all standards of international human rights law, particularly the *European Convention of Human Rights (ECHR)*, ratify all its protocols, and ensure its consistent application and interpretation by the judiciary and law enforcement authorities, including all case law.

There are still frequent *reports of torture and ill-treatment and police brutality* (especially following demonstrations and during transport of detainees), while perpetrators of torture still stay unpunished in many instances. The Commission makes clear that Ankara must show "zero tolerance" for torture and fight against impunity. Detainees are not always made aware of their rights (e.g. to request a lawyer) or have access to a lawyer in private. Human rights defenders continue to encounter significant judicial harassment in practice, as illustrated by the number of open investigations and prosecutions. In line with the European Parliament's demand also the ratification of the optional protocol to the UN convention against torture which provides for the establishment of a system of independent monitoring of detention facilities is called for in the Accession Partnership.

Journalists continue to face prosecution and are sometimes convicted for the expression of non-violent opinion through the application of vaguely worded articles which refer to defamation, offences against symbols of state sovereignty, the reputation of state organs and national security. These and other articles still constitute a potential threat to the *freedom of expression* given their broad margin of appreciation. The case of Ohan Pamuk is raised in this respect. Pamuk made remarks regarding the killings of Armenians and Kurds in Turkey to a Swiss newspaper and subsequently faced prosecution.

Turkey's approach to *minority rights* remains unchanged since last year's report. The *exercise of cultural rights is "precarious"* as Ankara continues to adopt a "*restrictive approach to minorities and cultural rights*". Minorities usually associated by the authorities in their approach following the 1923 Treaty of Lausanne are Jews, Armenians and Greeks. However, there are other communities in Turkey which, in the light of the relevant international and European standards, could qualify as minorities. Some cautious attempts from inside the administration to review this approach and bring it in line with international standards were so far unsuccessful and met resistance (e.g. an investigation was launched against the author of a critical report of the Human Rights Advisory Board – a state body which reports to the Office of the Prime Minister - which questioned the current policy on minorities and communities). Turkey has not signed the Council of Europe Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages. It has not yet ratified Additional Protocol No 12 to the ECHR on the

general prohibition of discrimination by public authorities. This is particularly important given that minorities are often subject to *de facto* discrimination, and encounter difficulties in acceding to administrative and military positions. History textbooks for the 2005/06 school year still portrayed minorities as untrustworthy, traitorous and harmful to the state. Teaching of minority languages is very limited. Too little steps are taken to address economic, cultural and social development and security situation in Southeast. Associations whose objective includes promoting a certain cultural identity or a particular religion are still not able to register. The Commission demands the legal protection of minorities in line with ECHR standards. Moreover, it directly calls on the Turkish broadcasting board to no longer protract giving licences to TV and radio broadcasters who want to broadcast in Kurdish.

The situation of *internally displaced persons (IDPs)* remains critical according to the report, with many living in precarious conditions. The *Law on Compensation of Losses Resulting from Terrorist Acts* adopted in 2004 has started to be implemented although with considerable delay and uncertainty. No progress has been made in addressing the problem of *village guards* which are reported to continue to harass returning IDPs.

With respect to *freedom of religion* only very limited progress has been made since October 2004 in terms of both legislation and practice. Non-Muslim religious communities continue to encounter significant problems: they lack legal personality, face restricted property rights and interference in the management of their foundations, and are not allowed to train clergy. The non-Sunni Muslim Alevi community continues to experience difficulties in terms of recognition of places of worship, representation in relevant state bodies as well as in relation to compulsory religious education. A number of non-Muslim religious communities are still not entitled to establish foundations, including the Catholic and Protestant communities, and are thus deprived of the right to register, acquire and dispose of property. The Commission calls on Ankara to adopt a law comprehensively addressing all the difficulties faced by non-Muslim religious communities and minorities.

Little progress has been made regarding *women's rights*, which has been a particular focus of the European Parliament. *Violence against women remains a "matter of serious concern"*. Although the entry into force of the new Penal Code delivers some important improvements, such as the abolition of reduced sentences for "honour killings" there is still a high incidence of physical and psychological abuse within the family, sexual abuse, forced and often early marriages, unofficial religious marriages, polygamy, and trafficking. "Honour killings" continue to be reported. An absence of statistical data on violence against women, coupled with a lack of effective monitoring for victims, obstructs efforts to tackle the issue. The Commission sees urgent need to ensure implementation of the Law on the Protection of the Family as the security forces still often fail to investigate women's complaints of violence. In particular, further training for staff dealing with the victims of domestic violence - such as social workers, law enforcement officers, health care providers and the judiciary - is required and resources offering advice for those falling victim to such abuse should be made more widely available. The Commission demands the full implementation of legislation relating to women's rights and the prosecution of violence against women.

The Commission calls on Turkey to ensure a *consistent interpretation of human rights* by all judicial authorities *in line with the ECHR*. This concerns in particular the freedom of expression and the right to a retrial (e.g. in the Öcalan case). Moreover, the *independence of the judiciary needs to be ensured*, which includes less influence of the ministry on appointments, as well as equality of arms between prosecution and defence during criminal proceedings, and a better separation of prosecution and judiciary.

Furthermore, the report marks that the *armed forces continue to exert "significant influence by issuing public statements* on political developments and government policies". Turkey therefore needs to establish full parliamentary oversight of military and defence policy, all related expenditure, and abolish any remaining competence of military courts to try civilians.

With respect to *trade unions*, significant constraints remain on the right to organise and the right to collective bargaining, including the right to strike. Turkey still falls short of ILO standards. As a result of legal restrictions, a very limited number of collective agreements have been signed in enterprises, leaving most of the labour force unprotected by collective agreements. Limited or no social dialogue exists in most private enterprises.

Corruption remains serious problem according to the report, more transparency on public officials' assets is needed, as well as auditing of party financing and some public institutions which so far were not subject to auditing. Therefore, Ankara should reform public administration and personnel policy in order to ensure greater efficiency, accountability and transparency, strengthen institutions in the fight against corruption and limit the scope of parliamentary immunity.

The Commission reminds Turkey that the *recognition of all member states* is a necessary component of the accession process. Following the signing of the Additional Protocol to the Ankara Agreement Turkey had issued a declaration that its signature to the Protocol would not amount to a *recognition of the Republic of Cyprus*. In this regard the Commission restates its position that they regard Turkey's declaration as unilateral, as not being part of the Protocol and without a legal effect on Turkey's obligations under the Protocol. Turkey continues to block the participation of Cyprus and Malta in *EU-NATO strategic cooperation* and Cyprus' accession to the Wassenaar agreement on export controls for conventional arms and dual-use goods and technology. The Commission calls on Turkey to undertake steps towards normalisation, and continue to support efforts to find a comprehensive settlement of the Cyprus problem in the UN framework. The report notes that the *border with Armenia is still closed* and calls on Turkey to continue efforts to peacefully resolve outstanding border disputes.

III. Economic criteria

The section on economic criteria in the report and the Accession Partnership appears to be the least problematic. The Commission decided to grant Turkey the status of "a *functioning market economy*", provided that it keeps up the pace of reforms. Moreover, the report recognises the country's recent gains in macroeconomic stabilisation, states that economic growth has remained robust, notes the "considerable progress" which has been made in public financial management and control, as well as fiscal transparency. It calls for *further structural reforms*, along with a more efficient allocation of resources, and the strengthening of the rule of law. Concerns remain over the *current account deficit*, and *deviations from the reform programme*. Privatisation and enterprise restructuring should be enhanced, labour market imbalances corrected, market liberalisation and price reforms continued, and the informal economy reduced. Particular attentions should be paid to improve education and professional training for the younger population. Turkey remains to be characterized by significant inequalities in terms of income, health, access to education, labour market and other living conditions, as well as marked regional and rural/urban disparities.

IV. Ability to assume the obligations of EU membership

As regards Turkey's ability to adopt and implement the EU legal order, according to the progress report there has been some, though uneven, progress since 2004. Progress in some areas is noted while ***alignment in most areas remains at an early stage***. The Accession Partnership outlines in detail a large number of short and medium term priorities to be fulfilled in order to align Turkish legislation with the *acquis*. Transposition and implementation of EU laws and standards requires further efforts – in the financial sector and in most sectoral policies, in agriculture, in regional development policies, in environment, and in European Security and Defence Policy. Moreover, new legislation should not move away from the *acquis*.

For most chapters alignment is still limited. At the general level, the progress report points out that successful adoption and implementation of the *acquis* requires a ***well-functioning and stable public administration built on an efficient and impartial civil service, and an independent and efficient judicial system***. Enforcement of the new legislation is often the biggest problem as noted by the Commission.

The Commission remarks that ***a number of commitments deriving from the customs union have not been respected***. It notes that there is still discrimination against non-Turkish service providers or products, or different treatment of EU member states, while circulation of products are not yet entirely free. Existing obstacles to free circulation of goods due to restrictions on Cypriot vessels or aircrafts should be lifted. Foreigners are still not allowed to acquire real estate and engage in certain economic sectors.

In the areas covered by the ***judiciary and fundamental rights***, Turkey has made progress in aligning with EU standards and practices concerning the judiciary and anti-corruption measures. However, further steps are needed to ensure the independence and efficiency of the judiciary. Among others a code of police ethics should be adopted and an independent complaints system be established. The fight against organized crime, drug trafficking, fraud corruption, human trafficking, money laundering and counterfeiting needs to be stepped up. Turkey does not recognize the right of conscientious objection to compulsory military service and has no alternative civilian service, as prescribed by the Council of Europe Recommendation which lays down the principles regarding conscientious objection. On corruption, further action is necessary to improve the efficiency of the relevant bodies established to combat corruption and to raise public awareness of corruption as a serious criminal offence. Concerning ***environment***, Turkey has made limited progress while alignment in the area of ***consumers and health protection***, is advancing steadily.