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the Turkey Experience**

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EU Enlargement and Membership through the Turkey Experience

Alaina Chamberlain¹

To analyze how the enlargement process and accession into the European Union (EU) is accomplished it is important to look at a country going through the process. Turkey has been attempting to be granted EU membership since 1987 when it filed its application² but the relationship between Turkey and the EU dates back to their association agreement made in 1963.³ While it is true that there are many other factors outside of not meeting the Copenhagen Criteria that have kept Turkey from being admitted into the EU, meeting the Copenhagen Criteria is expected of every candidate.⁴ Using the Copenhagen Criteria as a guide this paper will demonstrate the massive reforms countries take prior to being allowed entrance into the EU. Also we will highlight the external factors of accession that make enlargement a difficult process for all EU members and candidate countries.

Copenhagen Criteria

The Copenhagen Criteria was established in 1993 by the European Council in response to the introduction of ten candidate states, from the former soviet bloc, who were in political and economic transition.⁵ The Copenhagen Criteria focuses on three areas Politics, Economics and ability to conform to the *Acquis Communautaire*. Each of these areas will now be discussed in the context of Turkey and her adaptations to meet the Copenhagen Criteria.

Political Criteria

The first Membership requirement of the Copenhagen Criteria is that the Candidate Country has to achieve stability of institutions guaranteeing Democracy, the Rule of law, Human rights and respect for and protection of Minorities.⁶ These are considered the political criteria. These edicts demonstrate that the country will modify its form of government and laws according to the EU's focus and principles of participatory government, equal rights and nondiscriminatory policies.

Democracy

To meet the requirement of a stable Democracy requires having a multi-party system, free elections and separation of powers.⁷ To determine the stability of the democracy the committee looks at Parliament, Government, Public Administration, Civil-Military relations, Judicial system and Anti-Corruption measures.⁸ Turkey currently has a multi-party system, free elections, separation of Government and she is progressing in compliance in the Parliament, Government

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² Bomberg, Elizabeth, John Peterson, and Alexander Stubb. *The European Union: How Does it Work?* Second ed. New York: Oxford UP, 2008, page 182. [TEXTBOOK]

³ Ginsberg, Roy H. *Demystifying the European Union*. New York: Rowman & Littlefield, 2007. Page 305. [TEXTBOOK]

⁴ Id.

⁵ Bomberg at 183.

⁶ Id.

⁷ Faucompret, Eric & Jozef Konings. *Turkish Accession to the EU: satisfying the Copenhagen criteria* New York: Rutledge Taylor & Francis Group, 2008, page 152. [BOOK]

⁸ Id.

and Public Administration realms.⁹ However, there have been issues with the Constitutional Court closing political parties and banning leaders from political activity for upwards of 5 years.¹⁰ Also the democracy in place is not considered to be a fully pluralistic democracy because it is being imposed from the bottom down and not coming from within the country's internal structure or people.¹¹ Therefore, even in the areas of democracy where Turkey is strong on paper, in actual practice there is still work to be done.

Other areas under democracy that Turkey needs to improve upon include Civil-military relations. The military is seen as a dominate force that is well-like within society¹² but has forced out democratic governments four times and holds significant influence over all other parts of the government.¹³ Currently, The National Security Council mediates and is a constant presence in the volatile political world of political party's fights and disappearances; it acts as a stabilizer in society.¹⁴ In order to join the EU the role of the NSC has been limited somewhat at least on the books but the practicality of this is unknown.¹⁵ The practical applications of these restrictions on a strong military hold of government will have to take place prior to EU accession because the government and people are not really free when military coups happen all of the time. Currently, Turkish Prime Minister Recep Tayyip Erdogan is attempting to lessen the power of the army by no longer allowing for "the army to be immune from civilian courts, have a veto over policy, block a settlement in Cyprus, or intimidate the Government. But Mr Erdogan will need tact, patience and determination to stop an angry military establishment from plunging Turkey into the very turmoil that the coup plotters were apparently intent on creating".¹⁶ These steps are in the right direction but are also dependent on the political prowess of a moderate prime minister and his ability to abate the army's attempted coups and the public's potential outcry against lessening the role of the military.

Furthermore, reforms are necessary within the Turkish Judiciary. Turkey needs to simplify their legal codes, upgrade the professional training of their justice officials, increase wages for Judges, modernize the infrastructure of the court and abolish requirements of paying for justice in order for it to be served.¹⁷ The Prime Minister Mr. Erdogan is also making strides in eliminating these problems by proposing 26 amendments to the Constitution.¹⁸ "Critics of the newly proposed amendments fear that the key changes — the way appointments are made to the constitutional court, the main watchdog of secularism in Turkey, and to the Senior Council of Judges and Prosecutors, responsible for judicial appointments and monitoring court officials — would damage Turkey's founding principles."¹⁹ This debate highlights the internal struggle for Turkey in maintaining its own identity while attempting to conform to the Copenhagen Criteria. With a moderate pro-EU Prime Minister in power who states if the Parliament does not pass the amendments he will hold a referendum on them,²⁰ it appears that Turkey will continue to push toward integration, at least as long as the current Prime Minister remains in power.

⁹ Id.

¹⁰ Arikan, Harun. *Turkey and the EU: An Awkward Candidate for EU Membership?* Second ed. Vermont: Ashgate, 2006, page 119. [BOOK]

¹¹ Id., at pages 119-120.

¹² Id. at pages 120-121.

¹³ Faucompret, at page 153.

¹⁴ Id. at page 154

¹⁵ Id.

¹⁶ "High Noon in Turkey." *The Financial Times* 1 Mar. 2010, National ed.,

http://www.timesonline.co.uk/tol/comment/leading_article/article7044665.ece. [NEWSPAPER NON-ENGLISH]

¹⁷ Faucompret, at pages 158-9

¹⁸ Tavernise, Sabrina and Sebnem Arsu. "In Turkey, proposed changes aim at old Guard." *The New York Times* 2 Apr. 2010, National ed.,

<http://www.nytimes.com/2010/04/03/world/europe/03turkey.html?scp=1&sq=Turkey%20and%20Democracy&st=cse>. [NEWSPAPER ARTICLE]

¹⁹ Id.

²⁰ Id.

The final area of reform within the democracy criteria is that Turkey has to implement anti-corruption measures. They must create and implement a strategy and action plan to fight corruption by establishing and strengthening the governmental, parliamentary and other bodies that combat corruption.²¹ A method of improving upon corruption is to increase public awareness and transparency.²² Turkey has begun to address corruption in some forms such as torture. An anti-terror law has reintroduced jail sentences.²³ However, the same law also denies suspects' access to lawyers for the first 24 hours of detention, and licenses security forces to shoot anybody who does not surrender on first command.²⁴ There are still a lot of areas that Turkey needs to address; the 26 proposed amendments discussed previously also deal with the need for transparency in government.

Rule of Law

The Rule of Law within the EU context means that the governmental structure must promote rights and liberties of their citizens and follow the edicts of democracy and written law.²⁵ In order to conform, Turkey needs to reform their Constitution and legislation to guarantee free rights and freedom of all Turkish citizens.²⁶ Also they must open up the political process to all parties and not just those that are favored by the government. The proposed 26 amendments do not lower the steep 10 percent threshold that political parties must meet to claim seats in Parliament...[which] keeps smaller political parties, including those that represent ethnic groups like Kurds, out of Parliament.²⁷ Therefore, the 26 proposed amendments do not do enough and need to further push to encourage the participation of all Turkish citizens to become compliant with European criteria.

In the area of Freedom there are still many areas which are restricted. The Freedom of Expression is still suppressed as there are still laws not allowing statements against Turkishness, the republic and institutions of the state despite changes to some written law in application these laws are still strictly enforced.²⁸ However, in other areas such as freedom of assembly and association Turkey has greatly improved. There are now 80,000 registered associations and assemblies are allowed freely.²⁹ Yet, this progress is still hampered by the government's refusal to allow political opposition to assemble, speak and associate.³⁰ Freedom of Religion technically occurs as Turkey is a secular state with no official religion but the government implicitly supports Sunni Islam.³¹ Therefore, Turkey's attempts to meet the Copenhagen Criteria necessarily involve allowing more political opposition, a concept which is novel to Turkey.

Human Rights

In the area of Human Rights the EU requires compliance with the European Convention on Human Rights (ECHR).³² The ECHR provides that there are certain inalienable rights of citizens including

²¹ Faucompret at page 160.

²² Id.

²³ Id. at page 164.

²⁴ Id.

²⁵ Press Release, EU-Turkey Joint Parliamentary Committee, Olli Rehn, EU Commission for enlargement, (May 27, 2008) (on file at <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/08/275&format=HTML&aged=0&language=EN&guiLanguage=en>).

²⁶ Arikan at page 120

²⁷ Tavernise at page 1

²⁸ Faucompret at page 164

²⁹ Id. at page 165

³⁰ Id.

³¹ Id. at page 166

³² Bomberg at 164.

the right to life, prohibition of torture, prohibition of slavery and forced labor, right to liberty and security, right to a fair trial, no punishment without law, right to respect for private and family life, freedom of thought, conscience and religion, freedom of expression, freedom of assembly and association, right to marry, right to an effective remedy, prohibition of discrimination, derogation in time of emergency, restrictions on political activities of aliens, prohibition on abuse of rights, and limitation on use of restriction on rights.³³

All of these rights are protected but the European Court of Human Rights.³⁴ The European Court of Human Rights has handed down over 290 judgments against Turkey for its human rights violations related to the right to life, the right to liberty and security, the right to a fair trial, the right to respect for private and family life, freedom of expression, freedom of association, and the right to own property.³⁵ Improvements have been made but Turkey still accounts for 14% of cases.³⁶

The areas of most concern in Turkey include the “systematic state designed practices to silence dissent repress non-Turkish identities, intimidate those expressing differing views from the government, and precluding the inclusion and influence of disfavored groups in running the country”.³⁷ Also, the use of torture which was an integral part of Turkish interrogation and detention practice for many years is of concern. There is now a zero tolerance policy attempting to address torture and there are less reported cases of “heavy” torture including electric shock treatment, and *falka* (hanging by arms and beating soles of feet).³⁸ However, torture rates outside of detention facilities are high, indicating that law enforcement is merely circumventing the zero tolerance policy.³⁹ Thus, Turkey must actually ensure that its rules are being enforced and not just merely written and ignored. For Turkey to comply with the ECHR it will need to not only enact more laws like the zero tolerance policy on torture but also ensure that they are being complied with by the citizens and law enforcement itself.

Minority Rights

Technically there are no minorities in Turkey because until recently Turkey did not recognize any other ethnicity than Turkish.⁴⁰ However the Kurdish population is large and vibrant within Turkey.⁴¹ For decades Kurdish language training in public schools was illegal, TV and radio in Kurdish were limited to a few hours a week, Kurdish could not be taught through educational programs and it was unlawful to use a language other than Turkish in politics.⁴² Now Kurds are able to use their language and be Kurdish.⁴³ However, Kurds criticize these changes as “mere tokenism” because the restrictions placed on them for their ethnicity are still very high.⁴⁴ For example Kurds still cannot teach in Kurdish and censorship and judicial harassment continue to prevail against their community.⁴⁵ The way that Turkey handles the Kurds internally is a large public relations issue and only helps to fuel the idea that Turkey is not a truly accepting country of other cultures and thus is non-European. Before accession occurs they will have to become more willing to recognize cultural differences and similarities in not only law but practice.

³³ Convention for the Protection of Human Rights and Fundamental Freedoms, Art. 1-18, September, 2003, at <http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/EnglishAnglais.pdf>.

³⁴ Id.

³⁵ Faucompret at page 163.

³⁶ Id.

³⁷ Yildiz, Kerim and Mark Muller. *The European Union and Turkish Accession: Human Rights and the Kurds* Michigan: Pluto Press, 2008, page 39. [BOOK]

³⁸ Id. at page 44.

³⁹ Id. at pages 45-6.

⁴⁰ Faucompret at page 167

⁴¹ Arikan, at page 119.

⁴² Faucompret at pages 168-9

⁴³ Yildiz at pages 90-1.

⁴⁴ Id.

⁴⁵ Id.

Economic Criteria

The Second Membership requirement of the Copenhagen Criteria is the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces with the Union.⁴⁶ Economically the country must adopt a fiscal policy allowing for a single market and capitalism. The EU has set up criteria that Turkey must follow to become a market economy, to compete in EU markets, and to enter the Economic Monetary Union.

To establish a market economy Turkey must have strong indicators of economic policy, macroeconomic stability, free interplay of market forces, free market entry and exit, an adequate legal system and must have a sufficiently developed financial sector.⁴⁷ Turkey is making progress in all of these areas except for macroeconomic stability,⁴⁸ where it has been repeatedly bailed out by the International Monetary Fund. To improve this record, the government must limit its spending, not run a large deficit and add at least 1 million jobs a year to keep up with the growth of the active population and country flight.⁴⁹ Empirical studies have shown that Turkish inflation is related not only to the aggregate demand and supply, but also to public sector deficits and exchange rate developments.⁵⁰ Therefore, Turkey needs to strengthen its public sector and prior to switching to the euro (as is compulsory for Turkey) it needs to monitor its exchange rates.

In order to compete in EU markets Turkey needs to increase their competitiveness to the current level of EU members. Turkey should invest more in human capital and social benefits encourage foreign investment by making it easier to invest, and improve upon their integration of services.⁵¹ The current customs union between the EU and Turkey includes commercial and trade matters as well as an intensive political dialogue, the development of further cooperation and the continuation of financial cooperation.⁵² The customs union eliminates custom duties, quantitative restrictions and measures of equivalent effect on trade in industrial goods, and aligns Turkey's custom tariffs with the EU in industrial products.⁵³ It harmonizes Turkey's commercial policy and aligns Turkey legislation with that of the EU in competition rules, intellectual protection, industrial and commercial property, patents, anti-piracy, and copyright.⁵⁴ Also it abolishes the limits on the export of Turkish textiles to the EU.⁵⁵ Therefore, Turkey needs to continue to commit to the aims of the customs union and invest in foreign and domestic capital.

To join the Economic Monetary Union Turkey's Accession pact mandates that Turkey adopts the euro.⁵⁶ Turkey has made appropriate steps towards joining the euro such as attempting to make the Central bank independent, eliminating compulsory reserves in Turkish bonds for banks, and generally advancing monetary policy.⁵⁷ Therefore, economically Turkey is on target to join the EU and could be a positive influence to the EU's economic status and the strength of the euro.

⁴⁶ Bomberg, at page 183.

⁴⁷ Faucompret at page 65.

⁴⁸ Id. at page 49

⁴⁹ Faucompret at page 65.

⁵⁰ Hoekman, Bernard M. and Subidey Togan. *Economic Reform and Accession to the European Union.*

World Bank, 2005, page 4. [BOOK]

⁵¹ Faucompret at pages 91-2.

⁵² Arikan at page 89.

⁵³ Id. at page 90.

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ Faucompert at page 93.

⁵⁷ Id.

Acquis Communautaire

The Third requirement of the Copenhagen Criteria is the presupposition of the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.⁵⁸ The obligations formed under the EU are called the *acquis communautaire* and are derived from the EU treaties, laws and Court rulings.⁵⁹ The *acquis communautaire* includes the Four Freedoms of goods, service, people and capital, Common EU rules and standards, competition, monopolies, indirect taxation, health/animal safety, common policies, CAP, regional policy, customs union, Economic Monetary Union and the euro, Common Foreign Security Policy, Justice and Home Affairs and EU citizenship and the Charter for Fundamental rights and the Lisbon Treaty.⁶⁰ No other country has ever been forced to comply with the entirety of the *acquis communautaire* to become a memberstate, but Turkey will have to do so.⁶¹

Turkey has made progress in the areas of free movement of goods, intellectual property law, information society and media, economic and monetary union, enterprise and industrial policy, Judiciary and fundamental rights, Justice, freedom and security, Science and research, Education and culture, Customs Union, External relations, Foreign, Security and Defense policy.⁶² There has been limited progress has been made in the areas of freedom of movement of workers, rights of establishment and freedom to provide services, Competition policy and state aid, Financial services, Agriculture, Transport policy, energy, taxation, Statistics, employment and social policy, Trans-European networks, Regional policy and coordination of structural instruments, consumer and health production, financial control and financial and budgetary provisions.⁶³ No progress has been made on free movement of capital, public procurement, corporate law, food safety, veterinary and phyto-sanitary products, Fisheries, or the Environment.⁶⁴ With this being the first time a country is expected to comply with the entire *acquis communautaire* before entrance, this is a true EU experiment as it yet to be seen if Turkey is even capable of adopting all of the changes necessary to be in compliance.

External Factors of Accession

Outside of the Copenhagen Criteria the other factors that influence accession into the EU include the Absorption Capacity of the EU, the EU Member States acceptance of the Candidate Country and the level of Europeanization necessary for the Candidate Country.

In the Case of Turkey Absorption Capacity would have to be at a very high level as Turkey had a population of 72 million as of 2007 and is expected to increase to 85+ million in the future.⁶⁵ Also, while Turkey is a secular state its population is Islamic which is a contrast to the current makeup of the EU and could make assimilation into a European country more difficult.⁶⁶ Therefore, one reason that Turkey's acceptance into the EU may be taking so long could be the lack of absorption capacity of the current EU.

Another factor is the Acceptance of Turkey by EU Member States. While Turkey's relations with the countries of the Middle East, Caucasus and Central Asia are improving, its

⁵⁸ Bomberg at page 183

⁵⁹ Id. at page 72.

⁶⁰ Muftuler-Bac, Meltem. "Turkey's Accession Negotiations with the European Union: The long Path Ahead," *Turkey-European Union Relations: Dilemmas, Opportunities, and Constraints* New York: Lexington Books, 2008, page 122. [BOOK]

⁶¹ Faucompert at page 95.

⁶² Faucompert at page 96

⁶³ Id.

⁶⁴ Id.

⁶⁵ Bomberg at 192.

⁶⁶ Id.

relationship with the European Union is heading for deadlock. Although the EU and Turkey avoided a crisis over Cyprus in December 2009, the accession negotiations have slowed to a snail's pace.⁶⁷ The EU has suspended some parts of the talks. Nicolas Sarkozy and Angela Merkel are no longer openly calling for a 'privileged partnership', but two-thirds of French and Germans are against any further enlargement of the EU.⁶⁸

Also, Turkey has had a famously tumultuous relationship with Greece. In recent years, this relationship has improved due to "the personal efforts of their respective foreign ministers".⁶⁹ The "earthquake rapprochement"- "an outpouring of mutual sympathy following the devastating tremors that hit the Marmara region in 1999-also helped change the climate of hostility in both Greece and Turkey, as did some remarkable efforts at cooperation by Greek and Turkish NGOs".⁷⁰ Furthermore, both countries have begun to view their interest globally and that has allowed the easing of tension between the neighboring countries.⁷¹ Greece suspended the use of its veto against Turkey, around 2000, and relaxed its previously hard line stance on the status of Cyprus.⁷²

Cyprus has been and is currently one of the largest reasons why Turkey's accession is so hotly debated. Cyprus joined the EU on 1 May 2004 as a divided island between Turkish Cypriots and Greek Cypriots.⁷³ The EU "fully supports the renewed negotiations between the leaders of the two communities, Mehmet Ali Talat and Demetrios Christofias, under the auspices of the UN, to reach a comprehensive settlement leading to the re-unification of the island".⁷⁴ The EU has agreed to follow a Cyprus settlement provided "it allows Cyprus to play its full role as a Member State and that it respects the basic principles upon which the EU is founded – democracy, the rule of law and human rights".⁷⁵ Currently the leader of the Turkish Cypriots Mehmet Ali Talat is up for re-election this month. He has said that if he loses the election to hardliners the peace talks will fail.⁷⁶ Mehmet Ali Talat stated that "a failure of the talks would scuttle Turkey's bid to join the European Union, harm relations between Greece and Turkey, fan instability and undermine economic growth in the eastern Mediterranean."⁷⁷

Currently within the EU all eyes are on the peace negotiations within Cyprus and the pending election. "Turkish accession negotiations are still suspended in eight areas that were frozen by the EU in 2006 because of Turkey's failure to comply with a 2005 agreement -- known as the Ankara Protocol -- to open its airports and ports to Cyprus".⁷⁸ In a recent visit to Turkey President Merkel of Germany, said "the Ankara Protocol had to be addressed to make progress."⁷⁹ However, addressing the Ankara Protocol will only occur if Turkish Cypriots and Greek Cypriots continue in their peace talks, thus Turkey's accession is placed in a holding pattern until Cyprus is settled.

⁶⁷ Barysch, Katinka. "Can Turkey combine EU accession and regional leadership?" *Center for European Reform* (2010). Center for European Reform, Jan. 2010, page 1. Web. <www.cer.org.uk>. [THINK TANK]

⁶⁸ Id.

⁶⁹ Elver, Hilal. "Reluctant Partners: Turkey and the European Union." *Middle East Report* 235 (Summer, 2005): 24-29, page 25. *JSTOR*. Web. 9 Apr. 2010. [JOURNAL ARTICLE]

⁷⁰ Id.

⁷¹ Id.

⁷² Id.

⁷³ European Commission: Enlargement. "Turkish Cypriot Community." *Europa.edu*. 2 Apr. 2010. Web. 9 Apr. 2010. <http://ec.europa.eu/enlargement/turkish_cypriot_community/index_en.htm>. [WEB]

⁷⁴ Id.

⁷⁵ Id.

⁷⁶ Hadjicostis, Menelaos. "Talat: Election loss would kill Cyprus peace talks." *The Washington Post* 3 Apr. 2010, National ed., <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/03/AR2010040304915.html>. [NEWSPAPER]

⁷⁷ Id.

⁷⁸ Evans, Dominic. "Turkey asks Germany for help if EU bid stalls." *The Washington Post* 30 Mar. 2010, National ed., <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/30/AR2010033002193.html>. [NEWSPAPER]

⁷⁹ Id.

Finally, the last obstacle in Turkey's accession is that it is not yet European. In Turkey, Europeanization is already well under way, as seen in the many constitutional and legislative changes that have been made since 2001 to align Turkish law with EU values, norms and practices.⁸⁰ However many scholars believe that Turkey will never join the EU because when it does join the EU, it will no longer be the EU in the form we know it.⁸¹ It is not only scholars who think this way. "Turkish membership is a divisive issue in Europe. Critics say cultural differences with the predominantly Muslim state will hamper integration."⁸² Also, Turks themselves often do not ascribe to the multicultural edicts of Europe as discussed previously.⁸³ Therefore, before Turkey transition from a Candidate Country to a Member State it must first accept itself as not only an EU Member State but as European.

Turkey's attempt to meet the Copenhagen criteria continues. Whether or not Turkey will ever be able to say that it meets the criteria fully is still unseen. However, the recent financial troubles of the EU as well as the recent changes in policy in Cyprus and with Greece may indicate a more willing EU. As Turkey must accept the entire *acquis communautaire*, it would ironically be the most Europeanized country in the EU although having the most diverse population and social structure as a secular Islamic state incorporated within a framework built by Anglo-Saxon, Catholic Western European Countries. Therefore, Turkey continues to be an example of how states must change and shape themselves into being European before they may enter the EU.

⁸⁰ Nugent, Neill. "Turkey's Membership Application: Implications for the EU" *Jean Monnet/Robert Schuman Paper Series* 5.26 (2005). www.miami.edu/eucenter. Miami-Florida European Union Center of Excellence and EU Commission, Aug. 2005. Page 15-16. Web. 9 Apr. 2010. [EU CENTER]

⁸¹ Serra, Francesc. "The EU's relations with Russia and other Eastern European Countries." Guest Speakers Panel. Merrick 307, University of Miami, Miami. 29 Mar. 2010. [LECTURE]

⁸² Evans, at page 1

⁸³ See page 8