Democracy in Turkey

The impact of EU political conditionality

Ali Resul Usul

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This book examines the impact of European political conditionality on the process of democratization in Turkey over a 20-year period (1987–2007). Employing theoretical and conceptual approaches to the issue of EU conditionality, the author compares the case of Turkey with that of other European nations.

Arguing that Turkey became vulnerable to European conditionality when it applied for membership in 1987, he shows how the political reforms demanded of Turkey were not fully achieved as the EU had not in essence accepted Turkey as an official candidate during this period. The EU has started to exert 'active leverage' since Turkey was declared an official candidate in 1999, and the author explores how these conditions have exerted a positive influence on democratic consolidation in Turkey. However, its effectiveness in this regard has been diminished to a significant extent due to a number of problems that have continued to remain central in EU–Turkish relations.

This comprehensive analysis of Turkish–EU political relations and democratization places the case of Turkey within an international context. As such, it will be of interest not only to those studying Turkish politics, government and democracy, but to anyone working in the area of international relations and the EU.

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Abbreviations and acronyms

AKP	Justice and Development Party
ANAP	Motherland Party
AP	Accession Partnership
CAT	Convention against Torture
CE	Council of Europe
CEECs	Central and Eastern European Countries
CHP	Republican People's Party
CPT	Committee for the Prevention of Torture
CSCE	Conference on Security and Cooperation in Europe
DC	Democratic Conditionality
DEP	Democracy Party
DGM	State Security Court
DİSK	Confederation of Revolutionary Labour Unions
DP	Democrat Party
DPT	State Planning Organization
DSP	Democratic Left Party
DYP	True Path Party
EC	European Community
ECHR	European Convention for Human Rights
EEC	European Economic Community
EU	European Union
FYROM	Former Yugoslav Republic of Macedonia
HADEP	People's Democracy Party
HEP	People's Labour Party
ICCPR	International Convention for Civil and Political Rights
ICESCR	International Convention for Economic, Social and Cultural Rights
ICTY	International Criminal Tribunal for the Former Yugoslavia
İKV	Foundation for Economic Development
ILO	International Labour Organization
IMF	International Monetary Fund
INGO	International Non-Governmental Organization
IR	International Relations

İTO	Istanbul Chamber of Commerce
JPC	Joint Parliamentary Committee
LPP	Law on the Political Parties
MEDA	Mesures d'accompagnement
MHP	National Action Party
MÜSİAD	Independent Industrialist' and Businessmen's Association
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
NPAA	National Programme for the Adoption of the Acquis
NSC	National Security Council
OAS	Organization of American States
OAU	Organization for African Unity
OSCE	Organization for Security and Cooperation in Europe
PHARE	Pologne-Hongrie: Actions pour la reconversion économique
PKK	Kurdistan Workers' Party
RP	Welfare Party
RTÜK	Supreme Audio Visual Board
SAA	Stabilisation and Association Agreement
SHP	Social Democrat People's Party
SSC	State Security Court
TEC	Treaty Establishing the European Community
TESEV	Turkish Economic and Social Studies Foundation
TİSK	Turkish Confederation of Employers' Association
TRT	Turkish Radio and Television Corporation
TÜSİAD	Turkish Industrialists' and Businessmen's Association
UN	United Nations
US	United States
YAŞ	Higher Military Council
YOK	Turkish Council of Higher Education

Introduction

This book is a comprehensive study that endeavours to explain and understand EU conditionality and democratic consolidation in Turkey, analysing both Turkish–EU political relations and the effectiveness of European conditionality over a period of 20 years (1987–2007).

Turkey's aspiration to be integrated into the European state system could be said to have started in the eighteenth century when the Ottoman Turks realized that they had fallen behind the European states in terms of military technology, administrative methods and economic prosperity. Therefore, Turkey's relations with the prominent European states and organizations since the eighteenth century have been interpreted by the Turkish governing elites in the crudest terms as a journey to reach the goal of what has come to be known as 'the contemporary level of civilization' by means of a process of Europeanization/modernization.

Turkey, for a period of at least 200 years, has sought to be recognized as 'European' by other prevailing forces present in Europe. These attempts have become even more visible since it first applied for EU membership in 1987. However, since this date, the EU has generally shown itself reluctant to accept Turkey as a natural part of Europe. Thus, the EU did not admit Turkey's application in 1989 on the grounds that Turkey was not yet ready for membership, both in political terms and from an economic standpoint. Even when the Customs Union was agreed between the EU and Turkey in 1995, the anti-democratic policies of the Turkish state and its human rights violations were cited as basic obstacles to full acceptance by Europe. At a later point, at the 1997 Luxembourg Summit, Turkey once more was not permitted to advance to candidacy status for membership. Senior figures in the Union argued that democracy in Turkey was not mature enough to satisfy the Copenhagen criteria. However, the 1999 Helsinki Summit proved to be the real turning point in the relationship. Turkey was eventually put forward as a candidate for official EU membership. The Turkish governing elites, as well as the overwhelming majority of the wider population, accepted and believed in the notion that Turkey had to consolidate its democracy and cease human rights violations before it would be allowed to enter the Union. The EU has since specified these requirements in detail through a series of progress reports as well as the Accession Partnership documents.

   This book aims to explain the nature of EU conditionality and its impact on the process of democratization in Turkey between 1987 and 2007. It argues that the role of EU democratic conditionality in this regard should be analysed in two different phases: pre-Helsinki and post-Helsinki. Regarding the nature of EU conditionality and its impact on the democratic consolidation of Turkey during the pre-Helsinki period, the following can be argued:

1   The EU did not accept Turkey's application for membership in 1987. Since the basic motivation necessary for compliance with EU conditionality (EU membership) was not present, the potential for the EU to operate as an influential external actor in the process of consolidation of Turkish democracy in this period was substantially reduced. Neither did the EU provide enough support for Turkey to realize democratizing reforms, nor could the Turkish governing elites take the risk of eliminating the permanent problems standing in the way of Turkey's integration with the EU with the exception of some partial improvements.

2   Since the EU did not grant candidacy status to Turkey until the Helsinki Summit in 1999, it did not develop the same sophisticated mechanism of conditionality that the Union had applied to the Central and East European countries (CEECs). Due to the acute absence of a sophisticated mechanism of conditionality in the pre-Helsinki period, the EU was rendered incapable of monitoring Turkish democracy and human rights records in Turkey on a constant basis, and European pressures were shown to be sporadic, unsystematic and conjunctural.

3   However, a number of political reforms occurred during the pre-Helsinki period that were one way or another linked to EU conditionality. Two cases during the pre-Helsinki period are remarkable: Turkey's application for EU membership in 1987 and the concluding of the Customs Union decision in 1995. The central incentive of these reforms attached to the EU was Turkey's expectation that the EU would grant Turkey the status of candidacy for membership if Turkey were to implement satisfactory political reforms. The EU had never officially rejected Turkey's application, and never clearly/officially declared that Turkey would not become an EU member in the future. This intentional elusiveness in the EU's attitudes had kept Turkey anchored at the European harbour and Turkey had indeed carried out some political reforms expecting that the EU would in turn accept Turkey's application. However, since the 'carrot' of membership had not been offered and there was no apparent 'light at the end of the tunnel', the reforms were not substantial enough to consolidate Turkish democracy during the pre-Helsinki period. In other words, the outcome of constant ambiguity concerning Turkey's candidacy rendered weak the very political changes that had been mainly realized with the aim of creating a favourable impression for the EU and to persuade it that Turkey was improving its records concerning human rights and democracy.

Furthermore, the forging of good relations with the EU and improvements as regards integration with the EU have sometimes proved to be a valuable asset in Turkish domestic politics that politicians have tried to exploit. In addition to the constant expectation that Turkey would be a candidate for EU membership, closer relations with the EU, and thus meeting EU requirements in terms of democracy and human rights were sometimes cited as important factors in the realization of political reforms. For example, as discussed in Chapter 3, the decision concerning the Customs Union with the EU was marketed by politicians as if Turkey had joined the EU.

Regarding the nature of EU conditionality and its impact on the process of democratization in Turkey in the post-Helsinki period, the following can be argued:

1 Contrary to the pre-Helsinki period, the EU granted Turkey the status of candidacy and declared that Turkey could join the European club if it complied with EU conditionality. Thus, the basic motivation for compliance was met, and a mechanism of conditionality was created by the EU Commission. The Turkish governing elites have undertaken very significant political reforms to meet the Copenhagen criteria and to proceed towards EU membership.
2 However, concerning Turkish candidacy, the meritocratic nature of conditionality has been damaged, the reward of conditionality has been blurred, conditionality for Turkey has been tougher and, as a result, the push-pull dynamics of conditionality for Turkey have been destroyed. Therefore, these changes have weakened the logic of conditionality, and the impact of EU conditionality has been more limited than it should be.

Structure of the book

Since this study deals with democratization in Turkey and its external aspects, it allocates special attention to the existing literature regarding democracy, democratization, the consolidation of democracy and the international factors that push democracy forward. The first chapter comprises a series of theoretical discussions on democracy and democratic consolidation, and draws heavily on the works of Democratization Studies.

Chapter 2 presents the EU as an international actor that enjoys a special position within the process of democratization, in particular with regard to those candidate states that know they need to comply with European political conditionality in order to be incorporated into the Union. The EU has created well-developed regulations, rules and policies to promote democratic consolidation and respect for human rights in the applicant countries. Following on from its position with regard to the CEECs, the EU has continued to play the role of 'external democratizer' through the imposition of democratic conditionality on the Western Balkan states, which find themselves lining up in anticipation of membership and among which Macedonia

and Croatia have already been granted official candidate status, the latter even being allowed to start negotiations with the EU.

Chapters 3 and 4 are concerned with Turkish–EU relations in terms of democracy and human rights. Applying conceptual and theoretical tools that have been provided in the preceding chapters, the degree and nature of the EU's impact on the political regime in Turkey is analysed during the course of these chapters. Since I believe that the 1999 Helsinki decisions constitute a real watershed both in EU–Turkish relations and with respect to Turkey's political regime, a division of the relations into two main periods will prove beneficial in understanding and explaining the impact of European conditionality more effectively. Thus, Turkish–EU political relations and the nature of the transformation of the Turkish political regime are discussed in two basic periods: the pre-Helsinki period and the post-Helsinki period.

Turkish–EU political relations during the pre-Helsinki period, which are debated in Chapter 3, cover the period during which Turkey applied formally for membership (on 14 April 1987) and the political developments that had taken place subsequent to the application and prior to the 1999 Helsinki Summit. When analysing the period, it is possible to observe that the discussions on European conditionality and Turkey's response to this conditionality concentrated on two historic developments: Turkey's application for membership in 1987 and the formation of the Customs Union between Turkey and the EU in 1995.

As discussed in Chapter 4, the Turkish governing elite has to some extent found the courage to implement these reforms through numerous constitutional amendments and reform packages during the post-Helsinki period, which can be said to date from the moment when the EU Council declared that Turkey was to be considered an official candidate and promised that if Turkey were to comply with the Copenhagen criteria, then the EU would incorporate Turkey into the European club. Turkey has realized various constitutional amendments, numerous laws, circulars and regulations and rule books were adopted and implemented between 1999 and 2007.

Chapter 5 is intended to reveal the anatomy of democracy in Turkey and the impact of EU conditionality on this anatomy. Although Turkey formally passed to the parliamentary democracy stage with the holding of general elections in 1950, at a much earlier stage than other recent 'third-wave' democracies, democracy in Turkey has never been adequately consolidated. This chapter deals with the basic impediments to the consolidation of democracy in Turkey, such as the Kurdish problem, the role of the Turkish military in politics, the existence of a weak civil society and the lack of deep-rooted party institutionalization. The effectiveness of European conditionality is also discussed in this chapter. As regards the impact of the EU on the component of consolidation, I find myself inclined to argue that the EU's conditionality has been influential on the democratization at the constitutional/legal level. Nevertheless, it is not in any way possible to reach a decision concerning its influence on civil society and political culture. Therefore, all these amendments

and regulations, which must be considered as vital of course in terms of elimination of the 'perverse elements' within the democratic system, do not remove completely the fragile state of democracy in Turkey. Furthermore, I shall argue that the EU's impact on Turkish democracy has been limited compared to the influence it managed to exert on the CEECs for various reasons that will be discussed in the book.

1 International politics of democratic consolidation
Theoretical and conceptual perspectives

The worldwide resurgence of democracy after the Cold War has focused attention to a greater degree on the role of international/external/foreign factors and actors in regime changes. Thus, several new studies that analyse the international aspect of the process of democratization in new democracies have appeared in the last decade. Although fresh interest in the international dimension of regime change has arisen, literature on regime change has historically been domestic-oriented and has thus paid little attention to non-domestic factors (Pridham 1995a). Gourevitch has indicated this reality, stating that 'students of comparative politics treat domestic structure too much as an independent variable, underplaying the extent to which it and the international system are parts of an interactive system' (1978: 900). Scholte (1993: 11–18) has described this situation as 'the underdevelopment' of international studies of social and political change. As Grugel contended 'the home of democratization studies has traditionally been comparative politics' (2003: 258). Studies of democratization have mainly taken place within the parameters of domestic politics and 'the result has been a marginalization of international variables as key explanatory factors, in favour of domestic variables' (Cavatorta 2005: 548). This fact is very clear when looking at the famous volume *Transitions from Authoritarian Rule*, edited by O'Donnell, Schmitter and Whitehead. One of the 'firmest conclusions' they reached was that 'transitions from authoritarian rule and immediate prospects for political democracy were largely to be explained in terms of national forces and calculations; external actors tended to play an indirect and usually marginal role' (O'Donnell *et al.* 1986: 5).

However, the process of globalization, the global resurgence of democracy within the post-Cold War period and in particular the impact of the EU on the European continent has compelled the discipline to take external, foreign or international factors into consideration more when dealing with regime changes (Whitehead 2001b; Haynes 2003; Pridham 2005; Yilmaz 2009). As Pridham argues 'historical evidence contests the traditional views in comparative work on regime change that international factors are at best of second-order importance and essentially subordinate to if not dependent on domestic change factors' (2005: 4). Therefore, several researchers have now

put forward the theory that international factors have been more significant in the process of democratization in various countries in the post-Cold War period.

Nevertheless, as one scholar argues (Schmitz 2004a: 409), although a consensus has emerged in the discipline regarding the central role of international factors on regime changes, little analytical and theoretical work has been carried out in this regard. As Schmitz puts it, the understanding of the role of the international impact on domestic changes 'is a joint task for comparative and IR scholars' (2004a: 419). Therefore, the discipline needs more analytical and theoretical studies to reveal the process of democratization in recent years.

Perspectives on democracy and democratic consolidation

As often cited, democracy is among the most 'contested concepts' (Gallie 1956). Today, endless disputes continue over the appropriate definition, meaning, indicators and measuring of democracy. To date, it seems that the body of scholarship in regard to democracy has not reached a universal consensus. This chapter is about the nature of democracy and democratization, particularly democratic consolidation as a component of democratization. Doubtless, it is a necessary task to discuss the basic parameters of democracy and review the significant literature on democratization while discussing the democratizing impact of an international actor.

Minimalist and substantive definitions of democracy

The discipline of Political Science has involved various discussions on democracy. As far as this study is concerned, current discussions of democracy are seen to divide into two main groups: 'minimalist' or 'procedural' definitions and substantive definitions. A number of scholars call minimal or procedural definitions 'Schumpeterian Democracy' referring to the famous American political scientist Joseph Schumpeter, who proposed an elite conception of democracy as a political method. He defined the democratic method as an 'institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote' (Schumpeter 1970: 269). This Schumpeterian elite-based understanding of democracy, rather than mass participation and popular rule, has been very influential upon the current understanding of 'procedural democracy' as pointed out by leading students of democratization. Even Lipset sustained a classical procedural definition of democracy as early as 1959 'as a political system which supplies regular constitutional opportunities for changing governing officials, and a social mechanism which permits the largest possible part of the population to influence major decisions by choosing among contenders for political office' (1959: 71).

When carefully reading the body of scholarship within the tradition of procedural democracy, three notions come to the fore: competition, participation

and a set of basic rights, or democratic rule and political liberties (Bollen and Paxton 2000: 59–60). In this regard, a number of scholars have emphasized just electoral contest and participation as an indispensable part of the definition of democracy (Schumpeter 1970: 272–3; Huntington 1991: 5–13; Przeworski 1999; Vanhanen 2000). However, the general tendency in recent democratization studies is to define democracy in such a manner that political liberties are sine qua non for a democratic regime (Collier and Levitsky 1997: 433–4). As Beetham correctly argues, without liberty there could be no democracy:

> If people are to have any influence or control over public decision making and decision makers, they must be free to communicate and associate with one another, to receive accurate information and express divergent opinions, to enjoy freedom of movement, and to be free from arbitrary arrest and imprisonment.
>
> (2004: 61)

Thus, the guarantee of civil and political rights, which have been recently discussed under the human rights issue as the first generation of human rights, is more than a mere component of democracy; it is 'an essential foundation for all the other dimensions of democracy' (Beetham 2004: 65; see also Beetham 2003).

As far as the minimal procedural definition of democracy is concerned, Robert Dahl's criteria for democracy have often been referred to as the agreeable definition of democracy (Diamond *et al.* 1995: 6–7). In fact Dahl used 'polyarchy' rather than democracy to denote a representative liberal democracy; so that it would be possible to analyse and compare the existing 'democracies' without implying that such countries had achieved the ideal democracy.[1]

However, even employment of polyarchy has not completed new searches for better definitions of democracy in the procedural sense. Collier and Levitsky (1997: 434) consider 'expanded procedural minimum' as an outcome of this endeavour. While some scholars expand procedural democracy through the embracing of effective civilian control over the armed forces (Kaldor and Vejvoda 1997: 63; Burnell and Calvert 1999: 3), others highlight how significant the rule of law, the accountability of the government and respect for minority groups are for democracy (O'Donnell 1994, 1998, 2004; Diamond 1996b).

The issue of the minimalist/substantive definitions of democracy is important in order to understand better the EU's democratic conditionality. As some researchers argue, the EU's understanding of democracy has moved from 'mainly procedural conditions of formal democracy . . . to include also criteria of substantive democracy, such as the role of political parties as a vehicle for political participation, the pluralism of the media, the importance of local government and an involved civil society' (Pridham 2005: 21).

The nature of hybrid regimes

The other thorny issue to be clarified is the delineation of the boundary between democratic regimes and non-democratic ones. It is relatively easier to recognize a full-fledged authoritarian regime or a viable democracy. However, this is not the case for many post-authoritarian regimes with 'hybrid' or 'mixed' characters. The main characteristic of these hybrid regimes is that they do not fulfil even the minimal definition of liberal democracy, but they might possess some significant characteristics of democracy, such as elections (Karl 1995; Diamond 2002). While, for example, the criterion of free and fair election is fulfilled regularly in a country, there might also be clear 'nondemocratically generated tutelary powers' and/or 'reserved domains of authority and policy making' (Valenzuela 1992: 63–4), along with serious human rights violations, in the same country. Can these states still be called democratic? The answer would be *no* if the definition of democracy, even in the minimal sense, were to be employed. However, the label of 'autocratic' or 'authoritarian' would be too sweeping. Therefore, students of Comparative Politics (particularly the studies of regimes and democracy) have tried to create new conceptual equipment to understand and explain better the various regimes that fall into the grey area surrounded by the 'tripartite distinction' between real democracies that fulfil the minimal criteria at least, and authoritarian and totalitarian regimes.

One of the first attempts to increase the theoretical vigour of Comparative Politics in respect of democracy came from O'Donnell and Schmitter when they invented *dictablanda* and *democradura*. 'Dictablanda' is an authoritarian regime that liberalizes without democratizing. In other words, some basic human and civil rights are granted to the people without allowing them to participate in democratic contests. 'Democradura', on the other hand, entails some democratic practices including regular elections. However, the participation of certain groups in politics is restricted, and there exist limited civil liberties especially with regard to expression of opinions and building assemblies. Furthermore, the political competences of elected civilians are significantly conditioned by non-elected officials like the military (Schmitter 1995a: 16). Since O'Donnell and Schmitter's conceptual innovation, scholars across the discipline have developed myriad 'diminished subtypes' of democracy, in the words of Collier and Levitsky (1997: 437–42), to enrich the theoretical ground of regime analysis. Today, several scholars talk about 'electoral democracy' (Diamond 1996a; Schedler 1998a), 'illiberal democracy' (Zakaria 1997, 2003), 'protodemocracy' (Valenzuela 1992: 70), 'limited democracy', 'semi-democracy', 'delegative democracy' (O'Donnell 1994), 'low-quality democracy' (Diamond *et al.* 1995: 8), 'low-intensity democracy' (Gills *et al.* 1993), 'façade democracy' (Sadiki 2002), and simply 'non-consolidated democracy'. Even more detailed conceptualizations exist in the studies of the Latin American democracies: 'partially illiberal democracy', 'competitive semi-democracy', 'restrictive semi-democracy' and 'semi-competitive partially pluralist authoritarian' democracy (Diamond 1996b; Levitsky and Way 2002).

As Huntington (1996: 8) argues, most of these new categories of partially democratic regimes reflect one of the very significant characteristics of third-wave democracies. Most of the recent democracies are not liberal in the sense that although they have electoral contests for political power they are suffering from illiberal practices and human and civil rights violations, lack of the rule of law and institutions of 'horizontal accountability' (O'Donnell 1998) that control the possible abuse of power, and lack of civilian control over the armed forces. Illiberal democracies can establish the basic institutional mechanisms for holding relatively free and fair elections, securing some freedoms such as freedoms of expression, association and religion. However, the extent of these freedoms is not adequate, and these kinds of regimes are particularly problematic regarding arbitrary detentions of citizens, torture and ill-treatment in custody, and discriminations on ethnic, religious and gender grounds (Landman 2005a: 23).

Therefore, the body of scholarship regarding democratization has shifted its concern towards the question of how democratic consolidation will be possible in semi-democratic states (Diamond 1999). As one researcher says, 'of the nearly 100 countries considered "transitional" in recent years, only a relatively small number – probably fewer than 20 – are clearly en route to becoming successful, well-functioning democracies' (Carothers 2002: 9). Therefore, the current problem concerning the recent or so-called third-wave democracies is how these democracies can become consolidated rather than remain in transition.

Democratic consolidation

Although political scientists have had more than 30 years of academic experience and innumerable controversies in which to elaborate on the characteristics of regime change, as Schneider and Schmitter accept, 'neither the process of liberalization nor that of consolidation has been consistently conceptualized, much less operationalized, in the literature on democratization' (2004: 60).

If democratization simply means 'political changes moving in a democratic direction' (Potter 1997: 3), it entails a 'transition' to a relatively more democratic regime from an undemocratic one, and a process of consolidation on the way to becoming a 'consolidated democracy'. These two 'phases' of transformation have constituted the main research agenda of the democratization literature. When does 'transition' start and end? Is 'consolidation' just a continuation of 'transition' or does it have a different quality and logic? Is there a relation between these two processes? Does the process of 'transition' and 'consolidation' have a linear character? Is there any end point in the process of democratization? Students of democratization studies have been discussing these questions for over 30 years. More than two decades ago, O'Donnell, Schmitter and Whitehead, in their seminal study *Transitions from Authoritarian Rule*, defined 'transition' as the interval between an authoritarian

regime and consolidated democracy. For them, 'transition' starts simply with the 'breakdown' of an authoritarian regime and ends when a relatively stable configuration of political institutions in a democratic regime is installed.

What most scholars of democratization call 'consolidation' is called 'the second transition' by O'Donnell:

> It is useful to conceptualize the process of democratization as actually implying two transitions. The first is the transition from the previous authoritarian regime to the installation of a democratic government. The second transition is from this government to the consolidation of democracy or, in other words, to the effective functioning of a democratic regime.
>
> (1992: 18)

What the literature of consolidation has tried to do is to find out how, why or why not a 'democratic government', in O'Donnell's sense, can undergo metamorphosis into a 'democratic regime'.

However, although a growing body of literature has emerged that has spelled out the dynamics of consolidation, it seems that it is not so easy to remove the 'conceptual fog' around it. 'Consolidology', in Philippe Schmitter's term (1995a), is anchored in an unclear, inconsistent and unbounded concept, and thus is not anchored at all, but drifting in murky waters (Schedler 1998a, 1998b). Similarly, Pridham (1995a: 167) also thinks that the concept of consolidation is a nebulous phenomenon. Difficulties in defining and conceptualizing the concept and process of consolidation can be attributed to various factors. As Schedler insightfully points out:

> The meaning that we ascribe to the notion of democratic consolidation depends on where we stand (our empirical viewpoints) and where we aim to reach (our normative horizons). It varies according to the context and the goals we have in mind.
>
> (1998a: 94)

Democracy is in the last analysis a normative concept, and various understandings of democracy compete with each other in the realm of ideas. Therefore, various conceptualizations of consolidation are possible depending on how the concept of democracy is framed.

In analysing the literature on democratic consolidation, two main types of conceptualizations are revealed. Avoiding 'democratic breakdown' is the first kind of consolidation commonly used in the literature (Linz and Stepan 1996a: 5–6; Schedler 1998a: 95–6; Diamond 1999: 65–72); that is, the consolidation of democracy means reducing the likelihood of democratic breakdown. In this sense, 'Democratic consolidation is a process that diminishes the probability of reversal of democratization' (Pridham 1995a: 168). In other words, the consolidation of democracy can be construed as the 'mirror image'

of the process of breakdown of democracy, as it was analysed in Linz and Stepan's earlier seminal study (Linz and Stepan 1978). Pridham calls it 'negative consolidation'. 'Negative consolidation' thus involves:

> The effective or final removal of the prospects for nondemocratic system alternatives . . . Negative consolidation includes the solution of any problems remaining from the transition process and, in general, the containment or reduction, if not removal, of any serious challenges to democratization. The latter usually takes the form of groups or individuals characterized as antisystem. Negative consolidation is achieved when their presence or impact becomes numerically or politically insignificant.
>
> (Pridham 1995a: 169)

Democratic consolidation in terms of avoiding democratic breakdown involves doing away with all 'disloyalties', as Linz (1978) has already demonstrated: an explicit rejection of the democratic regime and/or its instruments such as political parties; a willingness of political elites to resort to violence, force, fraud or other unacceptable means to get power; and knocking at the barracks' door to acquire support from the armed forces. Schedler (2001: 71–2) attempts to operationalize the consolidation as the absence of anti-democratic behaviour forms in terms of 'use of violence', 'the rejection of elections' and 'the transgression of authority', which means that political leaders do not obey the law, the constitution or mutually accepted norms of political conduct (Diamond 1999: 69).

However, what has been seen in the third-wave democracies is not an explicit and clear breakdown of democracies through, for example, military intervention. Today, what matters is not only a clear-cut breakdown of democracies, but gradual erosion of the qualities of democracies. Democracy gets hollowed out without classical, conventional interventions. Huntington clearly describes this hollowing out of democracy in comparing the past and the present:

> In the past, when democratic regimes fell as a result of coups or revolutions, no doubt existed as to what happened, and the transition to authoritarianism was brief, clear, and dramatic. With third-wave democracies, the problem is not overthrow but erosion: the intermittent or gradual weakening of democracy by those elected to lead it.
>
> (1996: 8)

Parallel to Huntington's analysis regarding democratic erosion is O'Donnell's *slow death* argument: an authoritarian regression can take place through a 'sudden death' with a military coup, and/or a 'slow death', 'in which there is a progressive diminution of existing spaces for the exercise of civilian power and the effectiveness of the classic guarantees of liberal constitutionalism' (1992: 19).

When the literature of democratic consolidation refers to consolidation in the second sense, it means the transformation of democracy from its low-quality characteristics to a full-fledged, consolidated liberal democracy, rather than emphasizing the avoidance of democratic breakdown and/or democratic erosion. The body of literature that analyses 'positive consolidation' (e.g. Valenzuela 1992; Diamond *et al.* 1995; Gunther *et al.* 1995; Lijphart and Waisman 1996; Linz and Stepan 1996b; Ethier 1997; Dawisha 1997; Diamond 1997; Parrot 1997; Mainwaring 1998; Wise and Brown 1998; Burnell and Calvert 1999; Diamond 1999) attempts to discover a proper answer to the question as to how and/or through which instruments a viable democracy could be achieved. Thus, the agenda for a viable democracy includes drafting, revising and ratifying a new democratic constitution; ensuring the rule of law and establishing democratic representative, legislative and executive institutions; eliminating all human rights violations, and all kinds of discrimination; abolishing all 'tutelary powers' and 'reserved domains'; formation of an autonomous and robust political and civil society; and ensuring a reasonably fair electoral system. To be sure, these two kinds of consolidation overlap conceptually, and are not mutually exclusive. This is seen clearly in Pridham's definition of democratic consolidation:

> It involves in the first instance the gradual removal of the remaining uncertainties surrounding transition (e.g. the constitutional ones, elite behaviour, the resolution of civil–military relations.) The way is then opened for the institutionalisation of a new democracy, the internalisation of rules and procedures and the dissemination of democratic values through a 'remaking' of the political culture.
>
> (2005: 12)

While some scholars of democratization see consolidation as an agreement on the implementation of democracy that marks the end of transition (Di Palma 1990a, 1990b; Przeworski 1991; Przeworski *et al.* 2000), a number of other scholars regard consolidation as a long process of 'achieving broad and deep legitimation . . . such that all significant political actors . . . believe that the democratic regime is the most right and appropriate for their society, better than any other realistic alternative they can imagine' (Diamond 1999: 65). Linz and Stepan offer a middle-of-the-road definition of a consolidated democracy, which has been often cited in recent democratization studies:

> *Behaviorally* a democratic regime in a territory is consolidated when no significant national, social, economic, political, or institutional actors spend significant resources attempting to achieve their objectives by creating a nondemocratic regime or turning to violence or foreign intervention to secede from the state. *Attitudinally*, a democratic regime is consolidated when a strong majority of public opinion, even in the midst of major economic problems and deep dissatisfaction with incumbents, holds the

belief that democratic procedures and institutions are the most appropriate way to govern collective life, and when support for antisystem alternatives is quite small or more-or-less isolated from prodemocratic forces. *Constitutionally*, a democratic regime is consolidated when governmental and nongovernmental forces alike become subject to, and habituated to, the resolution of conflict within the bounds of specific laws, procedures, and institutions sanctioned by the new democratic process.

(1996a: 16)

In a similar vein, Diamond (1999: 66–73) proposes that consolidation occurs on two dimensions – norms and behaviour – on three levels: the elite level of top decision-makers, organizational leaders, political activists and opinion shapers; the intermediate level of parties, organizations and movements; and the level of the mass public. Diamond's definition is in fact a modified version of the conceptualization of consolidation proposed by Linz and Stepan.

Similarly, following Linz and Stepan's definition, Merkel (1998) puts forward a 'multilevel' consolidation model involving 'constitutional consolidation', 'representative consolidation' (parties and interest groups), 'behavioural consolidation' and 'the consolidation of civic culture'. Thus, all these three conceptualizations of consolidation overlap each other, and three main dynamics of consolidation come to the fore: institutional, behavioural and attitudinal. In other words, democracy becomes 'the only game in town', institutionally, behaviourally and attitudinally.

Thus, this definition, like most of the definitions, involves the stabilization of processes and the routinization, institutionalization, habituation, socialization and legitimization of liberal democracy. Schneider and Schmitter underlined these points in their definition of consolidation: 'Regime consolidation consists in transforming the accidental arrangements, prudential norms and contingent solutions . . . into relationships that are reliably known, regularly practiced and normatively accepted' (2004: 62). The practice of 'contingent consent' is institutionalized through the process of consolidation.

Furthermore, realization of all these processes requires tasks such as drafting or revising a new constitution, establishing a robust civil society, political parties, institutions and the rule of law, installing a fair electoral system and weeding out all the 'perverse elements' such as tutelary powers and reserved domains.

One last point in this regard is that while transition and consolidation are often seen as different phases of the process of democratization, they may not be divisible as successive phases. As Pridham puts it,

consolidation may start at one or more levels while transition is still in progress . . . In any case, democratic consolidation is viewed as a multilevel process where different levels may develop at variable paces and, notionally, consolidation may be achieved at different points of time. There are, therefore, areas of overlap between transition and consolidation.

(2005: 13)

Institutionalization and democratic consolidation

Institutionalization or institution-building is often regarded as the central component of the entire process of democratization (Lijphart and Waisman 1996; Berman 1997a; Elster *et al.* 1997; Heper *et al.* 1997; Bunce 2000). Diamond views political institutionalization as one of the three 'generic tasks that all new and fragile democracies must handle if they are to become consolidated' (1999: 74).[2]

A simple and broad definition of institutionalism would be 'the rules of the game'. However, a great debate on what constitute the rules is going on (Rothstein 1996: 145). Institutionalism might be defined as societally stabilized patterns of behaviour. Therefore, it refers, among other things, to norms, habits, routinized behaviour, procedures, practices and patterns of interaction (Koelbe 1995). 'Institutionalization' then, refers to a process wherein norms and rules of the game (here democracy) are established. For Huntington, 'Institutionalization is the process by which organizations and procedures acquire value and stability' (1968: 12). Thus, a relative stabilization of democracy, predictability and certainty of actions are ensured through institutionalization. This is in fact one of the cornerstones of the process of consolidation.

In the same way, Diamond suggests that what a fragile democracy needs to be consolidated is political institutionalization: 'Institutionalization enhances trust and cooperation among political actors . . . Thus it helps to draw reliable boundaries around the uncertainty of politics and to facilitate trust in, tolerance, and moderation, civility, and loyalty to the democratic system' (1999: 75).

More precisely, when debating on institutions and institutionalization, and their relations with democracy, we are in fact dealing with various factors, including party systems, electoral systems, legislative assembly, government structure (unitarian vs. federalist), central authority (parliamentarism vs. presidentalism) and constitutions.

Party institutionalization and democratic consolidation

Many students of democratization have satisfactorily demonstrated that parties and the party system have a crucial role in the process of democratic consolidation. As Scott Mainwaring (1998: 67) puts it, weakly institutionalized party systems have been one of the most serious problems faced by third-wave democracies. Although it would be an illusion to regard institutionalization as a panacea for all problems of the consolidation process, the four benefits of more institutionalized party systems suggested by Mainwaring (1998: 69–70) are as follows:

1 More institutionalized party systems enjoy considerable stability; patterns of party competition manifest regularity.
2 More institutionalized systems are ones in which parties have strong roots in society.

3   In more institutionalized systems, the major political actors accord
legitimacy to parties.
4   In more institutionalized systems, party organizations matter.

In a similar vein, for Pridham, political parties fulfil a significant 'legitimising
function in the crucial transfer of loyalties to the new regime by exercising
decisional authority and expressing social diversity and possibly dissent'.
Furthermore, parties may promote liberal democracy in various manners,
especially by virtues of 'interest optimalisation', and other civic engagements
(Pridham 1990a: 112).

Thus, institutionalization of a party system, which means in fact a stable
system, might engender closer and firmer ties among parties and their
grass roots. Socially anchored parties increase the legitimacy of the regime,
thus people can raise their voices to spell out their policy preferences and
organized interests. Institutionalized parties do not suddenly change their
ideological postures. Thus, institutionalized parties ensure ideological
coherence and citizens know what policies parties will embark on when they
govern the state.

In a related vein, in an institutionalized system people and elites put
their trust in parties. Furthermore, an institutionalized system might
prevent, to some extent, excessive concentration of power in party leaders'
hands and might eliminate what German sociologist Roberto Michels
(1962) called the 'iron law of oligarchy', implying that power tends to
fall into the hands of a small number of leaders in all organizations.
Institutionalization of parties leads to autonomy of parties against indi-
viduals who might have established parties for their individual interests.
In sum, all of these factors actually mean a substantial increase in the legit-
imacy of the system, which is regarded as the key concept by scholars of
consolidation.

For a number of researchers, a reverse relation exists between democratic
consolidation and degrees of fragmentation, polarization and volatility in
a party system. In this regard, a higher fragmented party system is more
breakdown-prone (Sartori 1976; Linz 1978). Any ideological polarization,
coupled with weak central authority, might lead to a chaotic and anarchic
political system that results in the breakdown of democracy. This is empir-
ically demonstrated by Mainwaring's calculation:

> With low volatility, electoral outcomes are stable from one election
> to the next, lending a high degree of predictability to a crucial aspect of
> democratic politics. Parties are long-lasting, and citizens know what they
> stand for . . . With high volatility, outcomes are less stable. The electoral
> market is more open and unpredictable . . . The rapid rise and fall of
> parties make the system more opaque to citizens, who have less time to
> get a fix on where the different contenders stand.
>
> (1998: 71–2)

Weakly institutionalized party systems are common in third-wave democracies. As Mainwaring states 'it has become apparent that democracy can survive with weakly institutionalized party systems, but weak institutionalization harms the quality of democracy and the prospects for democratic consolidation' (1998: 79). However, it would be a mistake to argue that institutionalization automatically leads to consolidation. 'Over-institutionalization' can hinder democratization just as 'under-institutionalization' does. Institutionalization might mean rigidity in some cases (Diamond 1999: 96–7).

'Stateness' and democratic consolidation

The most basic institution is the state itself, which is among the 'six interacting arenas' where consolidated democracies take place (Linz and Stepan 1996a: 7). Following Rustow's legacy (1970),[3] Linz and Stepan attach great importance to stateness. Scholars of democratization think that consolidation cannot be possible without stateness. 'There is . . . one rule that all consolidologists are likely to agree upon: It is preferable, if not indispensable, that national identity and territorial limits be established before introducing reforms in political (or economic) institutions' (Schmitter 1995a: 29). Bunce (2003: 180), for example, while discussing the post-Communist experiences of democratization, regards 'the weakness of the Russian state' as one of the two basic problems of Russian democratization. In the same way, Fukuyama's book *State-Building* (2004) also highlights generally, not just for democratization, the importance of state-building and the dangers of weak or failed states in world politics.

However, globalization and localization have led to the emergence of sub-national, ethnic identities and ethno-nationalism, putting stateness under great pressure (Evans 1997). 'Consolidology' is not well equipped to deal with these problems. Concerning ethnic problems, Schmitter accepts that 'Consolidologists have little to offer here . . . Worse yet, consolidologists have to admit that there is no reliable democratic way to arrive at such a solution' (1995b: 30–1).

The rule of law and democratic consolidation

Most studies on democracy and democratization regard the rule of law as an indispensable attribute of democratic regimes. The rule of law is 'the form of government in which no power can be exercised except according to procedures, principles, and constraints contained in the law' (Scruton 1996: 489). Linz and Stepan underline that the rule of law, a *Rechtsstaat*, or a state of law through which the governments and other state administrations are subjected to a network of laws, courts, semi-autonomous review and control agencies, is vital to democratic consolidation because 'the consolidation of democracy . . . requires such a law-bound, constraint-embedded state' (1996b: 19).

The rule of law cannot be considered unless there is a constitution. Traditionally, the modern understanding of constitutionalism has attached a particular importance to the rule of law that retains and 'tames' democracies (Sartori 1962, for example). As Linz and Stepan (1996a: 10) rightly put it the constitution is sine qua non to ensure the rule of law or *Rechtsstaat*. Therefore, the democratization literature attaches great importance to drafting a new constitution and/or revising an old one in the process of consolidation (Baaklini 1997; Baaklini and Desfosses 1997). According to Merkel (1998: 43), 'the fixed constitutional norms represent the first step in the process of democratic consolidation' because existence of a constitution reduces the contingency in political life. Mutual distrust among the political elites would be prevented by it.

However, a number of authors argue that while the rule of law sustains 'formal' and 'legal' equality it conceals the domination, power relations and thus 'substantive inequality' within a society. What is more important, as far as this study is concerned, is that judicial review might be 'undemocratic as it gives un-elected judges the power to override decisions of democratically elected legislatures' (Faundez 2005: 757). For Faundez, 'this mechanism gives courts the power to declare unconstitutional and unenforceable any law or act by a public official inconsistent with the constitution' (2005: 757). There is recent literature that questions the legitimacy of the judicial review of governmental acts, which is the cornerstone of the rule of law, which easily undermines the basic principles of democracy and might turn it to 'juristocracy' (Hirschl 2004; Kramer 2004). This kind of discussion on 'juristocracy' and the decisions of the courts against the acts and policies of governments and narrow interpretation of the law by the courts are matters under discussion in Turkey as well (Özbudun 2005).

Behavioural consolidation

What matters, from the standpoint of behavioural consolidation, is whether or not there exist any 'disloyal' or 'semi-loyal' organized groups that may attempt to destroy or hijack a democratic regime. These groups can be various, including political parties, armed forces, interest groups or individual politicians.

Disloyalty includes refusal to give up violence as political means; the politics of 'knocking at the barracks' door' for armed forces' support; refusal to accept elected parties as the legitimate government of the country; bringing systematic discredit on politicians and political parties; the misrepresentation of political opponents as foreign agents; and proposing anti-democratic and authoritarian policies that restrict fundamental freedoms (Linz 1978: 30). Linz attaches great importance to political elites concerning loyalty and regime survival. A democratically loyal elite should reject any kind of application of violence or resorting to unlawful means for the pursuit of power (Linz 1978: 27–38). Therefore, the behavioural dimension of consolidation is something that is heavily related to the elite level (Merkel 1998: 56).

The literature of democratic consolidation attaches great importance to the elimination or at least marginalization of disloyal or anti-system parties in the process of consolidation. However, two basic problems emerge while detecting 'disloyalty'. First, deciding whether or not a party or group is anti-democratic might not be an easy task. Rival parties sometimes abuse the term to gain political benefits (Gunther *et al.* 1995: 13).

Second, the literature highlights that a significant anti-system party or group might be detrimental to consolidating democracy. How can we decide whether a party or a group is politically significant or not? Sizeable support that an anti-democratic party receives might be an answer. But a well-organized party that might possess some close relations with non-elected centres, politically powerful centres or groups can wield significant power even if it does not have sizeable public support (Diamond 1999: 67–8).

What is more problematic is 'semi-loyalty'. The existence of a politically significant semi-loyal organization is construed as an indicator of the fragility of a regime (Linz 1978). Yet, since semi-loyal actors do not overtly reject democratic institutions, rules and norms, a semi-loyal character is not easy to identify. They have ambitious attitudes concerning rules and norms of democracy. They may seem to be committed to democracy, but their reactions to political crises are hard to predict. Semi-loyalty can hinder a democratic system. Gunther *et al.* (1995: 14–15) cite the Basque Nationalist Party case as an example of semi-loyalty. However, all the problems related to definition of the anti-system parties are valid for semi-loyal parties, yet on an even larger scale.

Attitudinal consolidation

Broadly speaking, a country's political culture reflects the basic attitudes of the public. The question as to the relevance of the attitude of the general public for the establishment of viable democratic regimes has appeared on the academic agenda of Democratization Studies again following Inglehart's assertion of the 'Renaissance of Political Culture' in 1988. It was really a renaissance, since political culture had not been a fashionable topic in Comparative Politics after the decay of the studies on 'Political Development' led by the Committee on Comparative Politics of the Social Science Research Council in the 1960s. Studies in Political Development focused seriously on the extent to which political attitudes and values were conducive to political stability and produced three volumes: Pye's *Politics, Personality and Nation Building* (1962), Almond and Verba's *The Civic Culture* (1963), and Pye and Verba's collection on *Political Culture and Political Development* (1965). These volumes analysed the relations between individual attitudes, values and behaviour, and prospects for democracy and political stability, but they analysed this from opposite directions. While Pye tried to indicate that Asian values, with reference to Burma, had a lot of problems regarding democracy, Almond and Verba's volume focused on the 'civic culture' that they supposed was found in Britain and the United States.

The main argument in *Civic Culture*, which is whether general public attitudes have a significant causal effect on the stability of democracy, is further elaborated by other scholars (Inglehart 1988, 1990; Inglehart and Welzel 2005: 149–209). Hence, a 'civic' political culture embodies high levels of interpersonal trust, tolerance, compromise and democratic legitimacy. Inglehart's findings support mainly the proposition that countries possessing high levels of civic attitudes have more viable democratic regimes than those that have lower levels of civic attitudes, regardless of socioeconomic factors.

In the light of what he had found, Inglehart argued 'that over half of the variance in the persistence of democratic institutions can be attributed to the effects of political culture alone' (1990: 46). Thus he came to the conclusion that his findings confirmed 'the basic thesis of the *Civic Culture*' (Inglehart 1990: 48). Inglehart's findings concerning the renaissance of political culture coincided with what was happening in Central and Eastern European countries. Thus, political culture has come to the fore once again (Kaldor and Vejvoda 1997: 60).

Therefore, a shift in political culture towards democratic political culture, which finds its full meaning in the term civic culture, is sine qua non for consolidation. In other words, 'democratic consolidation can thus only be fully understood as encompassing a shift in political culture' (Diamond 1999: 65). A similar conclusion was reached by Alexander (2002) and Shin and Wells (2005). Accordingly, democracy cannot be regarded as consolidated unless there exists unconditional mass support for democratic values, culture and institutions.

What characteristics does a 'democratic' or 'civic' political culture have? The literature dealing with the attitudinal dimension of consolidation answers this question in two ways: one concerns the *civic* characteristics of political culture involving interpersonal trust, tolerance towards differences and lack of support for revolutionary change. These are the components of the civic culture concept proposed originally by Almond and Verba (1963). Inglehart enhanced the operational definition of civic culture by adding life satisfaction to the list. Thus, it is expected that countries with high levels of interpersonal trust, for example, have more viable and enduring democracies than those that have low levels.

However, a consensus among scholars with regard to the civic culture argument does not exist. For example, Muller and Seligson's empirical analysis rejects the relevance of the attitude of the general public for the establishment of viable democratic regimes: They concluded that

> the results of our analysis of causal linkages between levels of civic culture attitudes and changes in levels of democracy are not supportive of the thesis that civic culture attitudes are the principal or even a major cause of democracy.

> (Muller and Seligson 1994: 647)

Furthermore, a number of scholars of democratization think that a reverse relation exists; that is, a democratic culture is in fact not a cause of democracy, but an outcome of it: 'I am deeply convinced that the attainment of a civic culture is much more likely to come as a product of democracy than as a prerequisite for it' (Schmitter 1995a: 33). It seems very plausible to argue that a democratic culture can only flourish within a democratic regime.

Additionally, various scholars totally reject the uniform and homogeneous characteristics of political culture. They assert that seeking out homogeneous mass political attitudes in different societies is a critical mistake especially in multi-ethnic societies. Therefore, as Silver and Dowley (2000) aptly put it, sub-national variables should be taken into consideration before deciding general mass political attitudes of the public.

Civil society and democratic consolidation

The literature of democratization has traditionally attached great importance to the autonomous and robust civil society. Diamond defines civil society typically as

> the realm of organized social life that is voluntary, self-generating, (largely) self-supporting, and autonomous from the state, and that is bound by a legal order or set of shared rules. It is distinct from 'society' in general in that it involves citizens acting collectively in a public sphere.
>
> (1994: 5)

Linz and Stepan, among other scholars of consolidation, evaluate 'free and lively civil society' among the 'five other interconnected and mutually reinforcing conditions that must be present, or be crafted, in order for a democracy to be consolidated' (1996b: 17).

Civil society is in fact a historical concept and can be found in the studies of several great political philosophers, including Hegel, Locke, Tocqueville and Gramsci. When analysing the employment of civil society, particularly in studies of democratization, Locke's and Tocqueville's understandings of civil society are predominant. What matters most in the Lockean liberal tradition as far as civil society is concerned are both its independence from the state and its function of curbing the state's power to protect the liberties of individuals. On the other hand, the neo-Tocquevillian approach regards civil society as a school that teaches civic-democratic values, such as interpersonal trust, moderation, tolerance, cooperation and participation. These two traditions have heavily influenced students of democratic consolidation and civil society, including Putnam, Linz and Stepan, Diamond and Schmitter.

Diamond (1994), for example, proposes that a robust civil society can contribute to democratic consolidation in eight different ways:

1   Civil society curbs and monitors the state's power that might be arbitrarily used and abused.
2   Civil society stimulates political participation by citizens.
3   It helps to inculcate democratic or civic norms of tolerance, trust, moderation, compromise and accommodation that facilitate the peaceful, democratic regulation of cleavage and conflict through the process of participation and civic education.
4   Civil society creates ways of articulating, aggregating and representing interests outside of political parties.
5   It mitigates conflict through cross-cutting or overlapping interest.
6   Civil society recruits and trains new leaders who may get involved in the political arena.
7   It improves explicitly democratic processes through election-monitoring, human rights-monitoring and public corruption-monitoring, and disseminates alternative and independent information, which is especially beneficial in case of state censorship and/or state disinformation, especially about human rights abuses.
8   Civil society enhances democratic legitimacy and governability by extending the borders of accountability and inclusiveness.

Therefore, all these eight functions of civil society that improve the quality of democracy exhibit the Lockean and Tocquevillian traditions of civil society stated above.

What brings the democracy–civil society relation to mind is Robert D. Putnam's path-breaking study *Making Democracy Work* (1993). No study until Putnam's had been so influential and had produced so much debate concerning viable democracy and robust civil society with the notable exception of Tocqueville's *Democracy in America* (Seligson 1999: 343).

What Putnam says basically is that civil society – citizen participation in formal organization – influences the success of democracy. He claims that this neo-Tocquevillian argument can be proved through a comparison of the northern region of Italy, which has high levels of associational activity, with southern Italy, which has lower levels. He attributes northern Italy's success with democracy to the strength of its civic associations, including 'amateur soccer clubs, choral societies, hiking clubs, bird-watching groups, literary circles, hunters' associations, Lions Clubs and the like' (Putnam 1993: 91).

In addition, what Putnam calls 'social capital' is the key term for the role of civic associations on democratic development, and for the connection between the political culture argument and civil society. 'Social capital', originally devised by the famous American sociologist James S. Coleman, 'refers to features of social organization, such as trust, norms, and networks that can improve the efficiency of society by facilitating coordinated actions' (Putnam 1993: 167). Thus, Putnam concludes that social capital enhances the opportunities for democratic government. However, one question remains:

What is the direction of causal nexus between social capital attitudes and civic participation? In other words, is it people's participation in civil society organizations that leads to the emergence of civic 'social capital' attitudes? Alternatively, is it 'social capital' that generates vibrant civic associations? This point remains to be clarified. Putnam's answer is not particularly clear. He thinks that social capital attitudes and civic participation are 'self-reinforcing and cumulative' (Putnam 1993: 117).

What kind of civil society promotes democracy? Putnam, in this regard, does not differentiate the organizations of civil society: 'These effects . . . do not require that the manifest purpose of the association be political. Taking part in a choral society or a bird-watching club can teach self-discipline and an appreciation for the joys of successful collaboration' (Putnam 1993: 90). However, Seligson, while generally confirming the Putnam thesis, proposes: 'Only participation in one form of civil society organization, namely, community development groups, consistently relates to demand making' (1999: 357).

More importantly, it is 'simplistic' to equate democracy with a strong civil society, in Brysk's words, simply because 'a strong civil society, however, may not necessarily be a democratic one' (2000: 151). Both critiques of the Putnam thesis and its advocates agree that civil society organizations must be democratic regarding their inner structures, and they must adhere to democratic credentials. Otherwise, civil society may hinder consolidation rather than promoting it. 'Whether the component elements of civil society will benefit democracy depends on the degree to which they are truly civil and democratic in their spirit and internal structure – pragmatic and willing to compromise, tolerant, and pluralistic' (Diamond *et al.* 1995: 30). Putnam himself suggests that all civil society organizations could be beneficial for democracy, provided that the organizations of civil society are organized around 'horizontal bonds of mutual solidarity' rather than 'vertical bonds of dependency and exploitation' (1993: 144–5, 174–5). That is, according to Putnam, the Church and the Mafia cannot be considered real components of civil society because they are 'vertically' organized. In a similar vein, as far as democratic consolidation is concerned, scholars of civil society have started to differentiate between truly civil societies and 'uncivil' societies. The argument here is that only democratic associations can help democratic consolidation in a country, and uncivil associations, which might have disloyal and/or semi-loyal attitudes towards democracy, on the contrary, might be harmful to democratic consolidation. The most cited examples of organizations having destructive effects on democratic regimes include the Nazi movement in Germany and the Poujadist movement in France, led by the French right-wing political leader Pierre Poujade, which were supported by a vibrant associational infrastructure (Berman 1997a, 1997b). Therefore, in order to argue that the existence of a robust civil society does promote democracy, a democratic civil society must be ensured; that is, 'a civil society must be representative, accountable, and pluralistic, and it must respect human rights' to be called democratic (Brysk 2000: 152). It should be mentioned

in this regard that it is necessary to differentiate between individual civil society organizations and civil society as a whole. 'For an organization to be democratic, it must accountably represent its members; for civil society as a whole to be democratic, it must be pluralistic' (Brysk 2000: 152).

The sceptics of the civil society argument have always adduced the Weimar Republic of Germany to demonstrate how a vibrant civil society could be degenerated and even become a threat to the very existence of democracy (Berman 1997b). This kind of thinking received support from Armony's study *The Dubious Link: Civic Engagement and Democratization* (2004). The author criticizes 'neo-Tocquevilleans', indicating that robust civil society does not automatically lead to further democratization, but what is more important is 'creating an effective rule of law in new democracies' (Armony 2004: 195). Armony particularly underlines the non-civic, non-democratic and non-tolerant nature of NGOs in the real world.

As far as developing countries are concerned, the sceptics propose 'political institutionalization', in a very Huntingtonian manner, to alleviate the problems engendered by civil society and to consolidate democracies. They argue that if political institutions are fairly weak, civil society may become an alternative to political institutions for dissatisfied individuals. In such a situation, a vibrant civil society might undermine political stability and exacerbate the existing socio-political and socio-economic cleavages in a dangerous way. In addition, all these might be destructive to democracy. Those who put forward this nightmare scenario depend heavily upon Huntington's previous conceptualization of 'political decay' (1968: 1–92).

The open-ended nature of democratization

Democratization is a complex, long-term, dynamic and open-ended process. Thus, even if democracy is accepted as 'the only game in town', it is still questionable whether democratization has been completed when taking into account the floating and value-laden nature of democracy (Whitehead 2002: 27). Whitehead (2002: 28–30) gives the examples of India, Uruguay and Venezuela in the 1960s to argue that the process of democratization may be 'erratic and subject to reversals' even when we think that the process has completed on the ground of the indicators of consolidation discussed above. Whitehead concludes that

> even when by the standards of the 'consolidation' literature democratization seemed most complete, our perspective would keep us alert to continuing public debates that could indicate further developments in the process . . . democratization is a process of movement towards an outcome that is neither fully stable nor entirely predetermined.
>
> (2002: 30–2)

It would not be correct to see democratization as a linear process. Even if the standards of democratic consolidation can help us to understand the

nature of the process, there might be several temporal possibilities that might be different from what the indicators of democratization show. As Whitehead discusses, 'there can be sudden advances, followed by long periods of stagnation or even reversal. There can be protracted periods of reluctant and partial reform, followed by a perhaps unexpectedly complete and abrupt breakthrough' (2002: 244).

International relations and democratization

The interaction between domestic and international politics has in general not constituted one of the mainstream issues of international relations, although there do exist some notable exceptions. Robert Putnam's metaphor of 'two-level games' (1988) is generally cited as an example of the interaction between domestic and international politics, together with Peter Gourevitch's phrase 'the second image reversed' (1978), which aims to describe the impact of international politics on domestic policy. It is a 'reversed' second image simply in the sense that Gourevitch was more interested in the impact of international relations on domestic politics than the other way around. In other words, the approach of the 'second image reversed' focuses on the impact of international politics (e.g. human rights regimes) and processes (e.g. globalization) on domestic structures and processes. However, as Gourevitch conceded in 2002, his self-coined phrase 'second image reversed' 'has also been more of a metaphor than a guide to an actual research program', as was the case with Putnam's metaphor of 'two-level games' (Gourevitch 2002: 322). According to Gourevitch, 'we do not have very good theories to handle what happens when both are in play, when each influences the other' (2002: 321).

Existing international relations (IR) literature, in general, has been more interested in the impact of regime types on the international system, as can be seen in the 'democratic peace thesis', which has as its central argument the notion that 'democracies never/rarely wage war on each other' (Russett 1993; Elman 1997; Weart 1998; Gowa 1999; Rasler and Thompson 2005; Rousseau 2005). There is much discussion in contemporary IR literature about whether an international system that contains greater numbers of liberal democracies is less prone to an international war than non-democracies. It has even been debated whether 'democratization' could be used as a proper tool of foreign policy and the extent to which the promotion of democracy could constitute a tangible goal in foreign policy (Gourevitch 2002: 317), as is the case in the American-led 'Greater Middle East Initiative', where democratization of the Middle East could be regarded by some theorists as a grand strategy to bring peace and stability first to the region and later to the world (Owen 2005; Rice 2005; Doyle 2008; Ish-Shalom 2008).

What I will attempt to achieve here is not to construct a grand theory that could endeavour to explain the whole nature of the interaction between domestic and international policies, but rather to analyse the impact of international politics on the process of democratic consolidation, which could be

regarded as an example supporting Gourevitch's concept of 'second image reversed'.

International factors in democratization

Specifying international factors or contexts is in fact not an unproblematic undertaking. Since nothing in the world has taken place in an international 'vacuum', international dimensions by definition must prove to be omnipresent (Schmitter 1996: 28–9). Pridham's articulation (1994) here is useful to diminish the complexity of the issue: an 'unscrambling of the international context' through establishing a clear differentiation of its background and situational variables, different external actors and the forms of external influence. Though they are expressed using different concepts or formulations, these categorizations are often stated in some of the recent debates within IR studies. Whitehead, on the other hand, suggests that 'three main headings under which international factors may be grouped and analysed may be those of contagion, control, and consent' (2001a: 4). It would be better to combine Whitehead's and Pridham's suggestions to realize more comprehensive analyses about the consequential international factors.

Forms of international impact range from imposing a democratic regime through military intervention (Peceny 1999; von Hippel 2000) to simple cultural influences exerted by a neighbouring country. Main headings covering the international factors in this unscrambled international context include contagion, consent and control as well as conditionality (Whitehead 2001a).

Contagion

According to Whitehead, 'contagion through proximity' is a simple and obvious phenomenon. The cases of France-Belgium-the Netherlands-Denmark-Norway-Germany-Austria-Italy; Jamaica-Trinidad-Barbados-the Bahamas-Dominica-St Lucia-St Vincent-Antigua-St Kitts; Peru-Ecuador-Argentina-Bolivia-Uruguay-Brazil; and Poland-Czechoslovakia-East Germany-Hungary-Romania-Bulgaria serve as examples that indicate the importance of spatial proximity and thus the contagious character of democratization (Whitehead 2001a: 5; Wejnert 2005). The political developments in Ukraine and Kyrgyzstan could be added to the examples of 'infected' regimes that have been contaminated with democracy through proximity to and interactions with states that have liberal democratic regimes (Kubicek 2005a: 271).

Concerning the mechanism of 'contagion', Whitehead argues that we need 'neutral transmission mechanisms'

> that might induce countries bordering on democracies to replicate the political institutions of their neighbours. Such mechanisms would have the scope and power to affect the attitudes, expectations, and interpretations of the public at large, regardless of whether or not outside

agencies intend to produce this effect, and independent of the strategies and calculations of those holding political power within.

<div align="right">(2001a: 6)</div>

What Whitehead underlines in this context is the neutral character of the mechanism of *contagion*. In other words, the mechanism of contagion could promote democracy and thus prove to constitute a 'pro-democratic contagion' or it could help to promote anti-democratic values and regimes. Therefore, we need other formulations that could explain the nature of the pro-democratic contagion of the last decades, such as the ideological attractiveness of liberal democracy and Western capitalism.

Contagion and 'linkage' go hand in hand. Linkage in this regard means the closeness of a country's ties to the United States, the European Union and Western-led multilateral institutions (Levitsky and Way 2005: 21). Levitsky and Way hold the view that there are five basic dimensions of this linkage: economic, geopolitical, social and communication linkages, and transnational civil society. The authors simultaneously accept that 'the primary source' of this linkage is geographical proximity. Greater economic interaction, more intergovernmental and transnational connections, and larger cross-border flows of people and information could occur through geographical nearness. According to the authors, these linkages increase the 'cost' of authoritarianism in several ways: governmental abuses would reverberate more on the Western and international scene; a strong linkage could also shape the political culture and shape political preferences towards democratic direction in a certain given country; and linkage also serves to change domestic balances of power in favour of democracy (Levitsky and Way 2005: 22–5).

Control

Whitehead (2001a: 8) is of the view that a 'vaccine' might be a more proper metaphor to use, in terms of the international aspects of democratization, than a 'virus' that spreads from one organism to another without intentionality, as could be observed in the case of the role played by the USA during the Cold War in some South American states, such as the Dominican Republic, Grenada, Panama, Nicaragua, El Salvador and Guatemala; in Greece and Turkey in Europe; and maybe in Iraq as a recent example. Whitehead argues that 'approaching two-thirds of the democracies in 1990 owed their origins, at least in part, to deliberate acts of imposition' (2001a: 9). In the category of control, democratic governments are installed by a foreign power and foreign actors play important roles in the establishment of democratic governments.

Whitehead argues that the US in general promoted 'democracy' in several regions of the world, just after the Second World War and during the Cold War, including Europe, South America and Asia, for considerations of general security. The cases of West Germany and Japan are often described as the greatest post-Second World War success stories of *imposed democratic*

regimes. Similarly, the re-democratization of France and Italy was very significant at that time, taking European security as a whole into consideration. The Truman Doctrine and the promotion of democracy in Greece and Turkey, against the 'Communist menace', at the end of the 1940s was again a decision taken strategically rather than merely a normative decision to promote democratic regimes in these countries. American policies towards Iraq and Afghanistan are more recent examples of this category of the *control* and imposition of democracy. Not only America, but other colonial powers during the 1960s sought to foster democratic governments in some African states. France, for example, sought to install democracy in Congo and Benin, while the UK made similar efforts in Nigeria, Uganda, Botswana, Gambia and Zimbabwe during the same era. Some authors even underline the role of British colonialism as an important democratizing factor among post-colonial regimes. However, Rueschemeyer and Stephens (1997) demonstrated that this result is not as clear-cut as was previously accepted. While they found evidence of the positive effect of British colonialism in North America and the Antipodes, the British colonial administration openly opposed further democratization (for example the planned extension of suffrage) in the West Indies.

The Carter administration, for example, which proclaimed a policy of democratic promotion at home and abroad, imposed democracy on the Dominican Republic, while simultaneously undermining democracy in Iran. President Reagan supported democracy in Grenada but not in Haiti; Bush backed democracy in Nicaragua but not in Mexico (Whitehead 2001a: 14). In short, it is clear that, whether or not as a result of strategic reasons, most of the democratizations that took place in the immediate aftermath of the Second World War and in the course of the Cold War were related to some extent to the power politics and the grand strategies of the Great Powers, particularly the US (Whitehead 2001a: 14).

It seems that one of the most basic theoretical arguments in support of the imposition of democracy in the international arena and the application of democratization as a tool of foreign policy emanates from the liberal/Kantian belief that more democratization could assist in bringing about local and global peace and security. There exists a significant literature on the subject of the *democratic peace thesis* (Rousseau 2005). While a certain part of this literature does indeed support the thesis and locates correlations between democracy and international peace, some other researchers do not display such a positive reaction to claims that a permanently positive correlation between liberal democracy and international peace exists (Elman 1997). Some academic studies even go so far as to argue that the process of democratization would be more dangerous to existing international stability (Mansfield and Snyder 2005).

So what is to be anticipated from the future of imposed democracies, once imposition has taken place? A recent study concerning the nature of democracy in the countries where foreign states have imposed democratic

government during the period 1800–1994 purports that the survival of democracy in these imposed democratic regimes is by no means assured (Enterline and Greig 2008). The authors argue that 'prior experience with imposed democracy does not increase the likelihood that democracy will take root in the future' (Enterline and Greig 2008: 342). According to this research, the survival of democracy in the 43 countries in this study is more related to other determinants of democracy than a consequence of imposition alone.

Consent

Another dimension of Whitehead's argument is 'consent'. Lexically it means 'permission to do something'. This is a more comprehensive and complicated concept. Whitehead argues that we need such complex explanations because 'the first two perspectives [contagion and control] rest on extremely basic and inadequate conceptions of democratization. To develop a more elaborate and nuanced understanding of the process would require a more subtle and complex account of its international dimension' (2001a: 15). From his perspective, sustaining a viable democracy requires 'the positive support and involvement of a wide range of social and political groupings . . . Such support must be more or less freely given for the term "democracy" to apply' (Whitehead 2001a: 15).

The question here is what are the international factors that produce 'consent' for democracy in a country so that democracy encompasses a legitimate and positive meaning for influential societal groups that support democracy and democratization. Hence, 'consent' entails complicated interactions or linkages between the international environment, system, actors and domestic players that engender democratic norms or hegemony.

Huntington explains this 'consent' as taking the form of a 'wave of democratization', which can be defined as 'a group of transitions from non-democratic to democratic regimes that occur within a specified period of time and that significantly outnumber transitions in the opposite direction during that period of time' (1991: 15). For Huntington (1991: 100–7), the mechanism of 'demonstration effect' is one cause of the third wave of democratization. In the age of increasing speed of the process of globalization, the increasing influence of the demonstration effect shapes to some extent the political and non-political selections and desires of peoples. The critical point in the 'demonstration effect' is related to 'how an almost universal wish to imitate a way of life associated with the liberal capitalist democracies of the core regions (the wish for modernity) may undermine the social and institutional foundations of any regime perceived as incompatible with these aspirations' (Whitehead 2001a: 21). In this sense, 'international demonstration effects' may be 'regime-creating' or 'regime-destroying' (Whitehead 2001a: 22). Here, the key focal point lies in the development of an imitated 'Western-capitalist-liberal democracy'.

Conditionality

Conditionality refers to a foreign policy tool aimed to promote democracy and respect for human rights through the attachment of these ideals to mostly economic relations; that is, to economic aid, sanctions or for other valuable aims (such as a club membership) (or as popularly stated, 'carrot or stick'). It seems that conditionality is generally used by the states (or the EU) from the 'rich Western club' as a means to force a non-democratic regime to carry out democratic reforms and to improve its human rights record. According to Kubicek, it is 'the most developed of all approaches relating to international aspects of democratization and can also be considered the most visible and pro-active of policies explicitly designed to promote democratic convergence' (2003: 7). In a similar vein, Pridham also thinks that 'of all the transnational concepts, conditionality is . . . the most suggestive of deliberate efforts to determine from outside the course and outcome of regime change, with the exception of course of "control" through foreign occupation' (2005: 9).

When thinking about 'conditionality', US relations with non-democratic countries, and in particular with Latin American nations, the EU's relations with Southern European, Eastern and Central European and a number of African states, and the relations between a number of European states and various less developed states, for example those between the Netherlands and Indonesia, come to mind. Scholars engaging in conditionality divide it into two main forms: negative and positive conditionality (Baylies 1995; Carothers 1997). While positive conditionality focuses on reinforcing conditions of democracy and human rights through certain clearly defined aid projects (carrots), negative conditionality, or sanctions, are employed in the case of human rights violations, or as a result of the authoritarian and undemocratic practices of governments (stick).

US relations with Japan, Nicaragua, the Dominican Republic, Panama, Grenada, Guatemala, the Philippines, Chile, Haiti, Argentina, Brazil, Iran, Egypt, Israel, Pakistan, Greece and Turkey regarding democracy and human rights provide some fruitful empirical data for conditionality. In addition to the US, a number of European countries, such as Britain, Germany, France, the Netherlands, Norway and Sweden, and Canada and Japan have provided aid and imposed sanctions to promote democracy abroad (Baehr 1997).

In addition to the states mentioned above, international organizations such as the UN, the IMF, the EU, the Organization of American States (OAS), the British Commonwealth, and the Organization for African Unity (OAU) have also employed mechanisms of conditionality to support democracy and human rights in the authoritarian and the newly democratizing countries. As Schmitter (1996: 30) adds, the *locus classicus* of conditionality has been the IMF. However, 'what is new' in current IMF conditionality 'is the tying of policy responses to political objectives' (Schmitter 1996: 42). New requirements like protection of the environment, good governance and

respect for human rights and democratization were added to the terms of IMF conditionality between 1985 and 1992 (Ethier 2003: 107).

Furthermore, as will be discussed at a later point, this new literature has underlined the positive role of the EU (and its member states), which while formerly somewhat effective in the breakdown of and transition from authoritarian rule and in the consolidation of democracies in Spain, Greece and Portugal, has likewise exerted great influence on the processes of democratization in Turkey, and in Eastern and Central European and Western Balkan countries, all of which have displayed a strong desire to be full members of the EU. The term 'leverage' has often been used in association with 'conditionality'. As discussed later in greater detail, the conditionality of the EU has often been regarded as the EU's principal source of leverage (Vachudova 2005). Levitsky and Way (2005), for example, use the term 'leverage for conditionality'.

Effectiveness of conditionality

'Effectiveness' lexically means having a desired effect, producing the intended or wanted result. Therefore, an effective conditionality should result in an improvement in the quality of democracy and the human rights record in a norm-violating state. Is conditionality an effective instrument in the prevention of human rights abuses and undemocratic policies? Under which circumstances does conditionality actually prove effective? Why does a norm-violating country comply with conditionality? All these questions are important. However, as Burnell (2005: 367) states, little literature exists at present on the subject of the assessment of the impact of foreign pressures on norm-violating states.

A number of scholars across disciplines are sceptical about the effectiveness of conditionality. Morgan and Schwebach, among other sceptics, maintain that 'most studies in political science have concluded that sanctions do not "work", at least not in the sense of bringing about a desired change in the policy of the target country' (1997: 28).

Nevertheless, studies by some other scholars conclude the effectiveness of conditionality over transitions to, and consolidations of democracy. For example, Crawford (1997) demonstrates that conditionality has proved an ineffective tool, not due to its inappropriateness per se as a foreign policy instrument but due mainly to the inconsistency and inappropriateness of the state policies.

To evaluate the degree of the foreign policy role in democratization in a country is indeed a difficult task. Darren G. Hawkins suggests three main reasons for these difficulties. First, it is not so easy to distinguish between what should be regarded as a relevant change for further democratization and mere 'window dressing'. Second, there exists a 'veil of secrecy' behind the decisions of authoritarian regimes to initiate reforms, which makes any evaluation of democratic change much more difficult. Third, Western governments often over-emphasize some minor changes in authoritarian

regimes when they have some economic, political or strategic benefits to gain from the authoritarian regimes (Hawkins 1997: 404). In addition, the long-term characteristics of democratization, that is the transition to and the consolidation of democracy and some of their peculiarities, such as in the form of a trade-off between significant groups in a transitionary country, require the existence of both short-term and long-term characteristics of democratization and improvements in human rights. Hawkins (1997: 404) indicates this differentiation with regard to Chile from 1973 to 1980.

A similar conclusion comes from Sikkink's study (1996), which investigates the success of US human rights and democratization policies in Argentina, Guatemala and Uruguay in the 1970s and early 1980s. During this period, the US linked its provision of economic and military aid to improvements in human rights practices in these three Latin American countries. According to Sikkink,

> Although the short-term impact of a human rights policy is important, it is equally essential to evaluate the longer-term impact of human rights policies, especially [as regards] the impact on democratization . . . I argue that the Carter policy was partially effective in both the short term and the long term in Argentina and Uruguay, but to different degrees, and in different ways. In the short term, the policy helped to limit direct human rights abuses, but also, by helping to isolate military regimes from a traditional ally by removing symbolic and material support, the US human rights policy indirectly contributed to the transition to democracy.
>
> (Sikkink 1996: 93–4)

When does conditionality actually work better? With regard to the effectiveness of conditionality, researchers have put forward some conditions for effective conditionality (Stokke 1995; Crawford 1997; Crawford and Klotz 1999). First, the well-defined and unambiguous requirements of political reforms can increase the effectiveness of the conditionality. Second, the greater the donor states' strategic, political and economic interests are in a particular country, the less effective conditionality against the recipient governments seems to be. Third, there exists a correlation between the effectiveness of the conditionality and the size and importance of bilateral relations between the two parties: stronger and closer relations mean more effective conditionality.

Fourth, some recipient governments might use external pressures to strengthen their domestic position through, for example, provocation of certain nationalist sentiments. Some governments have been able to become more powerful as a consequence of external pressures. The cases of Togo, Cameroon, Guinea, Sudan and Cuba can be regarded in this context. These cases may be seen as examples of the 'counterproductive' consequence of conditionality and sanctions. As Crawford and Klotz aptly put it, 'External pressure often inspires a sense of isolation and resentment at foreign

interference which may provoke intransigence or may even take the aggressive form of economic and military retaliation' (1999: 32).

Fifth, it seems that economically the poorest countries are more vulnerable to conditionality. Unsurprisingly, these countries are more likely to be situated in sub-Saharan Africa (Diamond 1997: 349–50). Sixth, as some empirical studies suggest, multilateral actions have much more power to implement human rights polices effectively than unilateral ones. Crawford cites the cases of Kenya and Malawi as examples of multilateral actions. Last but not least, the prize (aid or membership) should be attainable and the candidate/beneficiary state should be free from doubt that it will receive the prize if it complies with conditionality.

Thus, a well-defined conditionality, carried out by the states multilaterally rather than unilaterally and that has at its core the political will concerning conditionality against norm-violating states that depend significantly on donor states, can work better. It is clear that 'democratic conditionality is also heavily dependent on the responsiveness of domestic elites. The EU examples demonstrate to us that the governing elites in non-democratic countries should likewise be vulnerable to international pressure' (Pridham 2005: 9).

International human rights

Human rights form an indispensable part of modern liberal democracy and, therefore, any improvement in the state of human rights in a country will have a positive impact on the quality of democracy there. As Landman (2005b: 1) underlines, along with the global resurgence of liberal democracy in the 1990s, the acceptance of the principal notions of international human rights has grown in 'breadth and depth' and the world has entered an age of human rights. Almost all members of the UN have signed most of the significant human rights treaties, including the International Convention for Civil and Political Rights (ICCPR), the First Optional Protocol to the ICCPR, the Convention against Torture (CAT) and Articles 21 and 22 of the CAT (for the whole list, see Landman 2005b). In addition to these global human rights treaties, regional human rights treaties in Europe and treaties in the Americas and Africa (though not comparable to the European ones) have also been signed by numerous countries: the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the American Convention on Human Rights, the Inter-American Convention to Prevent and Punish Torture and the African Charter on Human and People's Rights.

Thus, it is clear that international human rights has become an important set of universally accepted norms that some students of international relations have even started to label a 'regime of international human rights' (Landman 2005b: 12), a term that was employed most famously in Donnelly's often-cited article: 'International Human Rights: A Regime Analysis' (1986).

A huge debate is being conducted in the literature of international politics as to what role(s) international norms play in the international arena, and how effective they are within it. There exist significant differences in the theories of IR concerning views on the following questions about international human rights norms and regimes:

- How and why do human rights norms emerge and become institutionalized?
- Do internationally codified human rights norms make a difference?
- What actions and processes are most likely to lead to norm compliance?

<div align="right">(Schmitz and Sikkink 2002: 521)</div>

As is well known, 'norms' have been construed as *epiphenomenon* by the realist school of international politics (Landman 2005b: 14). The (neo)realist school of international relations does not see international norms in general, nor international human rights specifically, as significant and independent factors within international relations.

Realists generally think that the global resurgence of the international human rights regime is because of the global hegemony of the dominant powers in the international arena, most of which have democratic regimes. Thus, less powerful states are compelled to adopt these norms that hegemonic powers impose (Landman 2005b: 14).

The liberal school of international relations theory focuses on the domestic sources of state preferences as the determinant of outcomes in IR. Moravcsik (1995, 2000), for example, emphasizes that non-consolidated democracies seem more supportive of the regime of international human rights because governments in these countries employ international human rights norms to appease opposition in the country and reduce uncertainty in their countries. Neoliberal institutionalists, on the other hand, emphasize that states harbour interests in joining international institutional arrangements, and they underline the beneficial effect of international regimes 'helping countries to reap the mutual, often long term benefits of cooperation' (Neumayer 2005: 928; Martin 2007).

What took place in the late 1980s in the literature of international politics was a 'sweeping ideational turn' (Finnemore and Sikkink 1998: 888). Thus, international norms have become one of the central themes of discussion. A constructivist theory underlines the significant and independent functions of international norms and ideas in affecting international and domestic politics. Scholars across disciplines, including John Ruggie, Friedrich Kratochwil and Alexander Wendt, have been vigorously discussing several aspects of what is actually meant by 'norms'. Some scholars suggest that there are differing kinds of international norms (Katzenstein 1996b), and a number have tried to explore the evolution of these international norms (Finnemore and Sikkink 1998).

According to the constructivist theory of IR, the global spread of human rights norms is related to the process of 'norm cascade' that accelerated in the post-Cold War period (Finnemore and Sikkink 1998). Human rights norms have been slowly adopted in time by members of the international community and have reached a 'tipping point', and other states have accepted international norms more rapidly and a 'cascading effect' has occurred in the adoption of human rights norms globally. However, cascading effects or a 'norm cascade' do not tell the whole story. As Schmitz and Sikkink ask, 'is this norm cascade an inconsequential commitment on the part of state actors to weakly institutionalized human rights norms, or does it actually signal a profound transformation of international and domestic politics?' (2002: 523). Constructivists coined the term 'socialization' and underline the role of *transnational* actors, rather than state-centric explanations, as agents of change (Risse *et al.* 1999: 11).

Socialization of human rights norms by norm-violating state elites and social groups are very important for the constructivist, but this change does not happen overnight. For constructivists, adoption of human rights norms and their socialization is a long process where transnational actors, like 'transnational advocacy networks', are crucial. Various international non-governmental organizations have constituted one of the most significant agents of international backing of democratization. They have been defined and explained using a number of names and concepts, including INGOs (international non-governmental organizations), 'transnational social movements' (Smith *et al.* 1997), 'transnational civil society' (Price 2003), 'transnational advocacy groups' (Khagram *et al.* 2002) and 'issue-networks' (Keck and Sikkink 1998). On the one hand, as several scholars argue (Finnemore and Sikkink 1998; Keck and Sikkink 1998), INGOs and networks exert a substantial influence on the creation of international human rights norms and the further development of norms but, on the other hand, existent norms facilitate INGOs' activities (Risse 2002). Academic studies in this regard (Klotz 1995; Finnemore and Sikkink 1998; Keck and Sikkink 1998; Checkel 1999a; Grugel 1999; Risse *et al.* 1999; Landman 2005b, 2005c) across disciplines have successfully demonstrated that INGOs, 'advocacy networks' and 'epistemic communities' can have a substantial impact on the diffusion of international norms into domestic practices, particularly in the realm of human rights and democratization (Risse 2002).

According to *network* analysis, fundamental actors in advocacy networks include international and national non-governmental advocacy organizations; local social movements; foundations; the media; religious organizations; trade unions, consumer organizations and intellectuals; some regional and international intergovernmental organizations, and some parts of the executive and parliamentary branches of governments (Keck and Sikkink 1998: 9). Constructivists employ the phrases 'boomerang effect' and 'spiral model' to attempt to explain the interaction between repressive states and transnational advocacy networks, and the related process of socialization (Keck and Sikkink 1998: 12–13; Risse *et al.* 1999).

Compliance with international human rights norms

According to Schmitz and Sikkink (2002: 529), compliance is a continuum including

1   The ratification of a human rights treaty.
2   The fulfillment of reporting and other requests by supervisory bodies.
3   The implantation of norms in domestic law.
4   The emergence of rule consistent behavior on the domestic level.

In other words, compliance is a process that starts with formal adoption of a human rights norm and ends with 'rule consistent behaviour' of a government.

Why do states comply with human rights and democracy conditions mostly set down by Western states or organizations? According to 'classical realism' states behave in accordance with their national interest and all internal norms, like human rights norms, are secondary and neglectable if they are against the national interests of a given state. A human rights norm is complied with merely 'when it is in the interests of a hegemon or a few powerful states, which coerce less powerful states into accepting the regime and complying with it' (Hathaway 2002: 1945). In other words, international human rights norms, like other international norms and international law, are epiphenomenal. This view is largely shared by those in the 'neorealist' school. Neorealists argue that compliance with international human rights, as would be the case with any other international norm, is merely 'coincident with the path dictated by self-interest in a world' in such an anarchic realm as international politics (Hathaway 2002: 1946). However, as Hathaway argues (2002: 1946), realist theories (whether realist or neorealist) have difficulties in explaining current compliance with human rights regimes. With regard to their central argument, it is not very logical for realists to argue that a sovereign state would allow an international organization to monitor some aspects of its policy. Yet realists do openly concede that states sometimes comply with the existing human rights regime when they are forced into doing so by a greater power.

Though institutionalists like realists regard states as unified actors and recognize the existence of international anarchy, the school itself attaches greater importance to the significance of international institutions, as can be seen in Keohane's *After Hegemony* (1984). Accordingly, international regimes are useful in facilitating agreements, and states comply with these regimes and norms. In other words, compliance can be seen as a 'winning long-term strategy to obtain self-interested ends' (Hathaway 2002: 1948–9). The crux of the analysis is that a policy is deemed 'reasonable' if a balance of benefits over costs exists, and 'optimal' if a clear and greater balance of benefits over costs is available. 'This approach assumes that the locus of decision making and change resides within the self-interested, rational utility-maximizing decision-making elite of the state who respond to actual

or anticipated changes in the ratio of costs and risks to benefits' (Crawford and Klotz 1999: 26–7; see also Hawkins 1997).

However, the institutionalist account sometimes fails in explaining compliance because direct sanctions in cases of human rights violations are rare. In such an event, the basic explanatory variable for compliance becomes the international reputation of states. In other words, it seems that the fear of being tarred with a bad reputation is the real motivation for compliance with human rights norms (Hathaway 2002: 1951).

It should be conceded that the cost–benefit analyses of the key decision-makers in a state are crucial in regard to the international aspect of any decision made vis-à-vis human rights. However, the constructivist approach argues that the key decision-makers' political attitude and behaviour, and hence their policy formulations, cannot be treated as divorced from their structural environments. In other words, the key decision-makers cannot behave as rationally as the rationalist models anticipate. Studies of the constructivist school concerning compliance do not deny the validity of the decision-makers' rational calculations, but they argue that these calculations occur within a broader structural, ideological and cultural environment. Furthermore, they underline the role of elite socialization, international norms and internalization of international norms by the ruling elite and masses in the policy-making process (Checkel 1997a, 1999b; Finnemore and Sikkink 1998; Risse 1999, 2000; Cortell and Davis 2000; Schimmelfennig 2000).

As discussed above, this norm-driven argument attaches special importance to transnational advocacy networks that play a significant role in 'entrapping' and 'socializing' state elites to the requirement to embrace and espouse human rights and democratic norms (Risse *et al.* 1999; Risse 2000). This approach provides to some extent the micro-foundation of the diffusion of democratic norms across the state(s), and the demonstration effect. 'Democratization of the political culture', which is construed as an indispensable component of democratic consolidation could be explained within the context of these processes of socialization and internalization.

The gap between principle and practice

Landman (2005b, 2005c) underlines that although the world has witnessed a global resurgence of international human rights norms, particularly during the post-Cold War period, and most of the states in the world have formally adopted many of the significant international human rights treaties, there exists a 'significant and persistent gap between practice and principle' (2005b: 5). He notes that there is 'strong empirical support for the limited effects of the international law of human rights on state practices' (Landman 2005b: 6). There exists now a canon of literature which analyses the impact of international human rights in domestic politics and generally agrees with Landman's findings. For example, in 1999 Keith conducted a survey on the impact of the ICCPR, which forms one of the cornerstones of international

human rights treaties in 178 states, and found that there is no clear direct positive impact on the ratification of the treaty by these countries as regards their human rights records, as was to be expected. In other words, ratifications of the treaty do not lead to any decrease in human rights violations in the ratified states (Keith 1999).

A more comprehensive and influential study in this regard came from Hathaway (2002). She asked 'Do human rights treaties make a difference?' and answered that there is no evidence that ratification of certain international human rights treaties (the ICCPR, the Torture Convention and the Genocide Convention for example) is positively connected to better human rights performance. Another important study that further demonstrates this 'gap between practice and principle' was carried out by Eric Neumayer (2005). He thinks that 'in the absence of civil society and/or in pure autocracies, human rights treaty ratification often makes no difference and can even make things worse' (Neumayer 2005: 950).

How do we explain 'the paradoxes of empty promises', as Hafner-Burton and Tsutsui (2005) label them? When looking at the theories of international relations, realists, as discussed before, are less interested in international human rights norms and more interested in power-politics within an international system of self-help and international anarchy (Waltz 1979; Mearsheimer 1994/1995). Therefore, few realists would expect that the states in question would ratify these treaties unless they were coerced by a super or hegemonic power that imposes these human rights norms.

The liberal theorists, for example Andrew Moravscik (1995, 2000), put forward the argument that governments make commitments to comply with human rights treaties when they are endeavouring to reduce domestic political ambiguity in their countries and gain tangible capital from doing so. In other words, according to Moravscik, making commitments to binding international human rights enforcement is a tactic of newly established governments to consolidate their positions against oppositional forces. Therefore, newly founded democracies in Europe, for instance, are the greatest supporters of human rights norms. What we expect from this thesis is that newly democratic governments, but not authoritarian and repressive governments, make commitments to international human rights enforcement.

The constructivist theorists of IR, on the other hand, as discussed previously, emphasize in general the significance of the socialization process, in which transnational/international human rights advocacy networks play significant roles, and through which governments become convinced of the value of complying with human rights norms.

However, as discussed above, there remains a paradox because empirical studies on the relationship between the ratification of international human rights treaties and domestic human rights records have yielded confusing results. Many authoritarian states make commitments to the international human rights regime without any clear intention of improving their human rights records. Worse, Hathaway (2002) notes that the ratification of international

human rights treaties is sometimes associated with the revelation of a much worse human rights record on the part of the state than otherwise expected.

Recent empirical studies (Keith 1999; Hathaway 2002, 2007; Hafner-Burton and Tsutsui 2005; Landman 2005b, 2005c, 2006; Neumayer 2005; Hafner-Burton *et al.*, 2008) have focused on the questions raised by these puzzling results and tried to answer them. They have rendered similar results: domestic politics and strong civil society do indeed matter. Hafner-Burton and Tsutsui (2005) and Neumayer (2005) underline the role of strong civil society in compliance with human rights norms. Neumayer (2005: 951), for example, concludes that 'ratification of human rights treaties often does improve respect for human rights, conditional on the extent of democracy and the strength of civil society'. Hathaway (2007) reached a similar conclusion that states with less democratic institutions would be more likely to make commitments to international human rights treaties should they have poor human rights performance, because state elites know that these treaties would not be enforced. This conclusion is generally confirmed by Hafner-Burton *et al.* (2008). They argue that if a repressive state is less constrained by 'domestic forces' the possibility of the ratification of human rights treaties by this state is more likely; while constrained governments are less likely to ratify the treaties. Ratification of the treaties introduces 'low-cost' legitimation to 'autonomous' norm-violating governments.

There are, however, more optimistic attitudes with regard to why states are ready to commit to such international agreements. Keith did not want to 'dismiss the optimistic expectation that the covenant would make a difference' in the behaviour of a state and proposed that the impact of the treaty may well be 'indirect' rather than 'direct' (1999: 113). In other words, the impact of the treaty is dependent upon 'how quickly and effectively the party state is able to make constitutional or legal changes' and this would be a slow process. Neumayer also optimistically thinks that even though empirical studies demonstrate that there is no positive correlation between treaty ratification and domestic human rights records, 'this would not necessarily imply that these treaties are ineffective'. There may be indirect effects through 'the provision of a common language of human rights, a reinforcement of the universality of human rights, the signalling of a consensus of the international community, the creation of a set of stigma for offenders, providing support to human rights campaigners' (Neumayer 2005: 957). Thus, Neumayer agrees with the studies that it is very difficult, if not impossible, to show the impact of ratifying human rights treaties quantitatively (Goodman and Jinks 2003) and that the indirect impact should also be taken into consideration.

International actors

Foreign states, global and regional organizations, including the UN, the EU, NATO and the IMF, and translational actors constitute what are called 'international actors'. There is today a great deal of literature on the activities of

international actors, such as the EU, the US, the UN, the IMF and the World Bank, the OAS, the British Commonwealth and the OAU (Carothers 1997, 2004; Whitehead 2001a; Pevehouse 2002a, 2002b; Crawford 2003; Gershman 2004; Knack 2004; Asmus *et al.* 2005; Koeberle *et al.* 2005; Newman and Rich 2005).

In addition to the role of the foreign states and international actors, international non-state actors play significant roles in this regard. However, it seems that the international roles that non-governmental actors play have been allocated little attention within the analysis of the process of democratization. Nevertheless, what has been noticed, in particular in the aftermath of the Cold War, is a substantial increase of non-governmental actors in terms of both size and significance. Furthermore, recent developments show that states and non-state actors cooperate with each other to force norm-breaking countries to comply with international norms. Therefore, in the present climate it is essential for any study to pay significant attention to international non-governmental organizations and their alliances with conventional international actors while discussing the international aspect of democratization.

Various INGOs have acted as the agents of the principal international backers of democratization. They have been defined and explained using a number of names and concepts, including INGOs, transnational social movements (Smith *et al.* 1997), transnational civil society (Price 2003), transnational advocacy groups (Khagram *et al.* 2002), issue-networks (Keck and Sikkink 1998) and epistemic communities (Haas 1997). The function of INGOs in the international relations of democratization is particularly apparent when analysing the emergence of transnational advocacy 'networks'.

When Laurence Whitehead wrote the chapter in the often-cited *Transitions from Authoritarian Rule* with regard to international aspects of democratization (Whitehead 1986: 25–31), he underlined the significance of the international activities of democratic Western political parties, with particular reference to the member parties of the Socialist International (SI), but did not pay enough attention to the role of other international NGOs. This underestimation might partly be due to the international positions of the INGOs at the time. However, the number and significance of international non-governmental organizations in the international and domestic area has been continuously on the increase. As far as democracy and human rights are concerned, parallel to the increasing saliency of the INGOs in world politics, analytical studies of how these organizations exert an impact on domestic regimes have started to increase in number. For example, the role of Amnesty International (Brysk 1993; Bouandel 1997: 69–95; Keck and Sikkink 1998: 103–10; Clark 2001) and *Charter 77* in Eastern Europe during the Cold War (Chilton 1995) can be considered as good examples as far as the effect of transnational non-governmental organizations on the regime change of an authoritarian country is concerned.

In conclusion, as Schmitz suggests, in addition to the pressures of the INGOs on the norm-breaking states, transnational mobilization 'diffuses norms of democratic governance across the globe and affects domestic political change'

(2004a: 418). However, one point that should be raised in this regard is the democratic nature of NGOs or INGOs. As discussed before, the advocacy networks or the INGOs and NGOs should encompass democratic mentality and methodology in order to exert a democratic impact on the states concerned. Otherwise, if the INGOs start mimicking the state model in world politics, then democratization through transnational non-governmental activities seems difficult (Schmitz 2004b).

Conclusions

As Karen Remmer put it, 'among the most interesting and important theoretical questions raised by the contemporary context have to do with linkages between international and domestic systems' (1997: 55). This mission seems inescapable given the nature of globalizing world politics. This reality is now accepted even by the leading scholars of democratization studies: as Schmitter argues 'Now any country, anywhere in the world . . . is invaded by elements of the international environments . . . Traditional protestations of "non-interference in domestic affairs" have become less compelling, and the line between the realms of national and international politics has become more blurred' (1995a: 35).

Although the significance of the international realm is generally accepted by the leading scholars of the discipline, few theoretically and empirically sophisticated models, approaches, devices or tools have been designed to analyse how international variables influence domestic political development. Thus, the discipline of Comparative Politics has few, if any, analytical instruments in its conceptual tool kit to analyse and explain it. Politics students should combine Comparative Politics and International Relations, two very important sub-disciplines of Political Science, in order to analyse domestic–international interaction and democratization. It seems that recent studies on this matter have reached a similar conclusion (Schmitz and Sell 1999).

As far as international factors are concerned, what has been so far demonstrated in this chapter is that two basic foundations of the impact exist. One is generally related to coercion and bargaining power, including political conditionality. This kind of relation is analysed mostly by the rationalist schools of IR. The other, the idealist school, supports the persuasive power of principled ideas. Governments accept binding international human rights norms and democracy because they are swayed by 'the seemingly inescapable ideological appeal of human rights in the post-war world' (Donnelly 1986: 638). In this account, the most fundamental motivating force behind the international politics of democratization and human rights is transnational socialization. In this view, transformations in actor identities take place through the impact of INGOs and transnational advocacy networks, epistemic communities and the hegemonic position of human rights and democracy. Thus, socialization of elite and masses occurs eventually. So,

in this chapter, both rationalist (cost–benefit) and idealist views (socialization–internalization) have been noted, which is in fact a new trend in IR studies.

Although all the theories or approaches cited above are useful in explaining the domestic–international linkage and the international characters of democratization, they do not open 'the black box' of democratization. As far as democratic consolidation is concerned, to assess any international impact it is first necessary to identify international factors that influence the parameters of consolidation; that is, it is necessary to show how international factors/actors influence structural, behavioural and attitudinal components of consolidation. More particularly, new studies should be carried out to understand better the role of international factors' influence on the development of democratic political culture; the neutralization of anti-system, disloyal and semi-loyal actors; civilian supremacy over the military, the elimination of the tutelary powers and reserved domains; political institutionalization including party-building, the creation of a robust civil society and economic growth. It seems that international factors at both governmental and non-governmental levels can exert significant impact on the process of consolidation in new democracies.

Although this chapter does not attempt to construct a comprehensive new theory that could explain all aspects of the international dimension of democratization, it does attempt to combine and synthesize both the theoretical and conceptual tools of International Relations and the studies of democratization. As discussed above, we now require more sophisticated conceptual and theoretical devices to explain the process of democratization. EU conditionality, for example, is a relatively recent concept that has been coined to explain the impact of EU candidacy on the political regimes in applicant countries. The following chapter will discuss the nature, scope and impact of EU conditionality, which encompasses both international and domestic characteristics. The EU has been the most prominent international actor in creating a robust portfolio that supports and promotes further democratization among aspirant candidate countries. The chapter that follows deals with the basic characteristics and history of EU conditionality and analyses why and how EU conditionality could change domestic politics towards liberal democracy and why, and also how, EU conditionality exerts influence on the democratic consolidation process in candidates.

2 The nature and impact of EU political conditionality

This chapter serves as a continuation of the previous chapter, analysing the EU as an external actor, and its conditionality as an external form of influence. The question as to how the EU has developed the ability to pursue policies concerning democracy and human rights towards applicant states has been of particular importance for two main reasons. First, the EU has developed an ever more extensive portfolio of conditionality demands to promote democracy in the current applicant states. Second, since the main strand of this study is related to the uneasy relationship between the EU and Turkey as regards democracy and human rights, and since Turkey is an applicant state itself, this necessitates paying greater attention to the issues of human rights and democracy and how they constitute key conditions at the heart of the enlargement process.

It seems that there are three general agreements in the relevant literature as to how one can analyse EU conditionality. First, the nature, style or policies of the EU's democratic conditionality are not static but dynamic. Second, there is a close relation between EU conditionality and the process of democratization among the candidate states. Third, the mechanism that explains the impact of conditionality depends to a great extent on the promise of full membership of the EU. As Olli Rehn has stated: 'Conditionality only works if the countries can trust in the EU's commitment to eventual membership, even if that is many years away' (cited in Pridham 2007: 464).

As discussed below, the nature, scope and practices of democratic conditionality in the Southern and Eastern European enlargements are not the same. Compared to the Southern European cases, the EU has successfully exerted a much more advanced and systematic degree of conditionality on the CEECs. Under the challenges of the next enlargements (the South Eastern European states and Turkey), the EU has again modified the rule of conditionality, and while this conditionality has been exerted in a stricter manner, the prize at the end is not as clear as it was for the Eastern European countries. This fact has altered the balance of the push-pull dynamics of EU conditionality and weakened its transformative impact on candidates. Furthermore, as discussed below, the effectiveness of conditionality varies also according to the given phase of any accession process; it seems that the impact of conditionality

is at its most tangible once the EU declares a state as a candidate for the EU prior to the opening of negotiations talks.

There is a close dependency between democratization, EU conditionality and the accession processes. Conditionality has largely relied on accession processes and dynamics. If there were no accession processes, compliance with EU conditionality would be more difficult. In other words, 'the drive behind conditionality has been predominantly extrinsic' (Pridham 2007: 450). Thus, it follows that any changes in the policy of accession would have an impact on the nature and effectiveness of conditionality.

As discussed in Chapter 1, there are generally two different theoretical explanations for candidates' compliance with EU conditionality in the relevant literature: a rationalist cost–benefit analysis on the part of elites that acts according to a 'logic of consequences' and a consequent argument that the behaviour of elites is motivated by the 'logic of appropriateness'. This study follows a general agreement in the existing literature (for example, Kelley 2004; Vachudova 2005; Schimmelfennig *et al*. 2006) that the magnitudes of material or political incentives and domestic costs construct 'the most important conditions' for an influential impact of conditionality.

The origin of EU conditionality

The emphasis on the relation between membership and the necessity for each member state to be governed democratically originated with *The Birkelbach Report* (1962), published by the political committee of the European parliament. It specified the conditions for eventual membership: 'Only states which guarantee on their territories truly democratic practices and respect for fundamental rights and freedoms can become members of our community' (cited in Pridham 1991c: 215). It also warned that 'states whose governments do not have democratic legitimisation and whose people do not participate in government decisions, either directly or through fully elected representatives, cannot aspire to be admitted into the circle of nations which form the European Communities' (cited in Pridham 2005: 30).

Since the publication of this report, the EU has managed to gradually construct a well-functioning conditionality mechanism through which it has succeeded in exerting great influence on the transformation of political regimes in applicant states. In fact, by learning more from its experiences at each stage of accession, the EU has succeeded in improving and tightening its bureaucratic structures that deal with the enlargements and norms as well as the rules and practices that applicant states must comply with in order to become full members.

EU conditionality in the Southern European cases

Existing literature, in this regard, explains certain parts or dimensions of the democratization process through the influence of the EU, whether directly or

indirectly (Pridham 1991b; 2005, 2006; Whitehead 2001a). As Schmitter articulated, none of the Southern European applicants were formally accepted as eventual members until they had succeeded in fulfilling most of the EU criteria (Schmitter 1994: 25). However, these cases show that conditionality had not really developed beyond a declaration of principle (Pridham 2007: 451). In these cases, which constitute what Pridham (2007: 451) labels 'preliminary phases' in the political conditionality of the EU, the EU adopted non-strict formal terms of conditionality that included the holding of free and fair elections and possession of a constitution. Furthermore, there was no formal monitoring of candidates during Southern European enlargement (Pridham 2007: 451).

The first case in point is Franco's Spain, which from the early 1960s had showed an interest in forging closer relations with the EU. Spain originally wanted to join the Six in 1962 and it applied for association status with the EEC. The EU's attitudes at that time were diverse, demonstrating that the EU had not yet developed an apparent collective attitude on conditionality matters. While France and West Germany demanded closer EEC–Spanish relations, the governments in the Benelux countries strongly disliked the Franco regime in Spain. Furthermore, the other institutions of the EU were also divided: while the majority in the European parliament were against closer relations with Spain, the Commission President Walter Hallstein inclined to forge good relations with the country. However, as a result of increasing pressure on the EU (the Congress of the European Movement in Munich in 1962 for example), the EEC Council of Ministers eventually dropped the idea of association for political reasons and a simple commercial agreement was signed instead in 1970. This matter demonstrated for the first time that 'political incompatibility with European democracies prevented association not to mention full membership of the EEC' (Pridham 2005: 30–1; see also Pridham 1991c: 215; Powell 2001; Whitehead 2001c). After Franco's death in 1975, Spain applied for membership and a favourable opinion was expressed by the Commission following the first democratic general elections held in June 1977. Spain eventually became an EU member in 1986.

The Community's relations with Greece during the period of military dictatorship (1967–74), and the period afterwards are presented as another example of the EU's influence over the transition to and consolidation of democracy through the policies of an external actor. Greece was the first country to conclude an Association Agreement with the EEC in 1961 (Treaty of Athens). The Treaty made explicit reference to membership at a later date. However, the Community decided to freeze the agreement when a military coup occurred in the country in 1967.[1]

According to some authors, the EEC's conditionality contributed heavily to the collapse of the Colonels' military regime because, accordingly, the decision of the Community created a heavy economic pressure, as well as also increasing the isolation of the regime in Europe. These developments weakened the legitimacy of the regime and reinforced domestic opposition (Coufoudakis 1977; Verney and Couloumbis 1991).

However, some other researchers argued that rather than EU pressure on the military regime, it was the impact of the Turkish military victory over Cyprus in 1974 that undermined to a much more serious degree the prestige and legitimacy of the military regime and eventually resulted in its fall (Tsingos 2001). Nevertheless, the EU's suspension of relations with Greece was important as far as the development of European conditionality is concerned, and as Pridham argues, the EU once again

> learned a lesson about the complications of DC [Democratic Conditionality]. The collapse of the Colonels' regime got it this time out of a dilemma, but the message was now obviously the need to develop a less reactive line. By and large, the Greek case reinforced the decision reached over Franco's Spain that conditionality is best exercised in advance of membership, whether associate or full.
>
> (2005: 32)

In a similar vein, since Portugal had been governed by authoritarian political regimes under Salazar (1932–68) and Caetano (1968–74), it was initially barred from membership of the organization. When the Armed Forces Movement seized power in 1974, democratization was part of the slogan of the 'three Ds': democratization, development and decolonization. Portugal applied for membership in 1977 and joined the European club in 1986. It is clear that EU conditionality was one of the most significant factors behind the democratization process in Portugal (Magone 2004). As Royo (2004: 102) highlights 'the most important lever was, obviously, the democratic precondition for EC entry' in the early phases of democratization in Portugal.

Concerning the EU's democratic conditionality within the Southern European context, Pridham (2005: 34–5) proposes three patterns and problems. First, there was coordination over this matter between the organs of the EEC and the member states. The Council was the most important decision-making institution in this regard, but there were differing views on the application of democratic conditionality. The European Commission's role was insignificant at that time. The European parliament was the strongest advocate of the application of democratic conditionality while the political parties represented there held different opinions.

Second, 'factors which could be called high politics intervened in determining when and how political requirements could be applied and even waived' (Pridham 2005: 34). This meant in practice that some leading states in the Community could prioritize their national interests in various forms (security, economics or even cultural matters for example) according to the issue of democratic conditionality, as occurred in the relations between France and Spain and France and Greece.

Third, as Pridham (2005: 35) puts it, although the existence of a democratic regime was a pre-condition for membership, this understanding of democracy was highly limited and was reduced mostly to the very minimum of conditions

such as free elections. Furthermore, there was no formal or informal regular monitoring of candidates.

EU conditionality in the Eastern European cases

The EU's relations with the CEECs in respect of democracy are often considered as another, even stronger, example of how EU conditionality assists in constructing new democracies. EU scholars have begun to study how the Union's policies – notably its application of strict political conditionality – are promoting domestic change among candidates (for example Pridham 2005, 2007; Schimmelfennig and Sedelmeier 2004; Vachudova 2005; Schimmelfennig *et al.* 2006). According to this literature, the EU has developed a well-functioning mechanism of democratic conditionality which renders candidates more democratic over time.

Furthermore, the literature has revealed that the EU's democratic conditionality for the CEECs was much stricter in terms of nature, scope and application than was the case before. Thus, as Pridham argued, 'while democratic conditionality emerged within the EU's predecessor organisations from the 1960s, this did not become a strategy central to the enlargement process until the 1990s and then not clearly so until the second half of the decade' (2005: 60).

When analysing the nature and operation of the EU conditionality that was applied to the CEECs, Pridham (2005) highlights some significant characteristics. Accordingly, the EU's understanding of democracy has moved from one that is mainly procedural to one that is more substantive (Pridham 2005: 21, 39). When looking at the progress reports that are penned in accordance with the Copenhagen criteria, it seems that the EU not only monitors minimal/formal requirements of democracy (the existence of free elections, democratic constitutions, etc.) but also screens the issues that are commonly regarded as elements of 'substantive democracy', such as women's rights, minority rights, labour rights and problems of corruption. As already discussed, fulfilling the minimal conditions of democracy was often regarded previously as sufficient to meet EU conditionality criteria. However, Pridham (2005: 40) argues that the EU in general and the Commission in particular does not have a systematic view of democracy or democratic consolidation. Therefore, it is now a common belief that the Copenhagen criteria which constitute the backbone of EU conditionality were formulated in a vague manner (Grabbe 2002a, 2002b) maybe deliberately to allow 'for some flexibility in their application on grounds of high politics' (Pridham 2005: 40). The matrix of the Copenhagen criteria has become wider through adding new elements to the conditionality. As Pridham puts it, from the 2000 progress reports onwards, more attention has been paid to socio-economic rights, women's rights and gender equality. Thus, the Commission has in time adopted a 'checklist approach' which includes some elements of substantive democracy (Pridham 2005: 41).

Thus, if the current content of EU democratic conditionality is compared to the conditionality during the accession of the Southern European candidates, it can be seen that EU democratic conditionality has broadened in scope and 'it has moved decisively from the then essentially formal criteria, concentrating on institutional matters, to embrace areas of substantive democracy involving political society. This is particularly noticeable over human rights, which have in general become more of an EU concern over the past decade' (Pridham 2005: 42). In relation to this, the 'administrative capacity' of the candidate is something that the EU has often emphasized as a very important requirement that candidates should comply with. This emphasis is a result of the fact that most of the post-Communist candidates had weak central administrative capacities that have often led to negative consequences such as widespread corruption in the CEECs.

The changing nature of the Commission's role in the enlargement process is another point that is often underlined. The Commission's role in the latest Eastern enlargements has enhanced many of the critical decisions, and the monitoring of the enlargement process as regards general democratic conditionality in particular. The Commission has exerted significant pressures on candidates to urge them to comply with democratic conditionality criteria. The annual progress reports prepared by the Commission on the accession countries have been 'the centrepiece of the Commission's activity concerning the DC . . . monitoring . . . the political and other Copenhagen criteria' (Pridham 2005: 44). The enhancement of the Commission's role in the process of enlargement and monitoring has also enhanced the meritocratic nature of the process. It is a common belief that the Commission's decisions in this regard are much more 'technical' and objective and therefore less 'political'. Nevertheless, Pridham also reminds the observer that although the Commission seems be more objective in its political evaluation, 'applying political criteria is to a large extent qualitative . . . This has left open some room for political decisions about candidate countries which could be influenced by subjective . . . considerations' (2005: 45). As for the European parliament, Pridham (2005: 46) underlines in particular the role of the Joint Parliamentary Committees (JPCs) that has become a focal point of the political socialization of the participating MEPs.

Pre-candidacy period

Although the EU had started to negotiate agreements with some of the CEECs as early as 1989 (King 1996: 99), the real relationship was forged with the innovation of the Europe Agreements. The Europe Agreements were a type of association, 'mixed' agreement under Article 238 of the Treaty establishing the European Community (TEC), which are sometimes called 'second-generation' association agreements.

The Yugoslav crises and the disputed suspension of the cooperation agreement with Yugoslavia in 1991 led the EU to think of a tough human

rights conditionality clause in its future agreements with third countries. This concern resulted in the 11 May 1992 declaration regarding the EU's relations with the CSCE (Conference on Security and Cooperation in Europe) states. Referring to the Final Act of the 1975 Helsinki Agreement and the 1990 Charter of Paris for a New Europe, the declaration clearly stated that democratic principles and human rights would be an essential element of agreements between the EU and its CSCE partners. From May 1992 onwards, the EU started to use this essential element clause in its agreements with the other CEECs. The agreements with the Baltic States were the first to incorporate this new *essential element* clause.

Furthermore, Article 21 of the Agreements, which is known as the *Baltic clause* (King 1996: 107), contains a clear *non-compliance clause* that provides for a suspension mechanism of the agreement under certain conditions. It is clearly stated in the suspension clause that the Community might suspend the agreements without giving any opportunity to its treaty partners to defend their positions before suspension. However, the 'Baltic clause' attracted vehement criticisms both from some member states and from some non-member states, and the Commission even began to think that the 'Baltic clause' might be applied in an excessively harsh manner under certain conditions and that this might frighten the other CEECs and so undermine what the EC had tried to realize so far. Thus, the Commission decided later to modify the 'Baltic clause' to incorporate a certain degree of consultation in the event of an alleged infringement. Therefore, the Community's Trade and Cooperation Agreement with Slovenia on 5 April 1993 was the only other agreement with the CEECs to include the 'Baltic clause'. The Commission's new form of 'non-execution' clause (King 1996: 108) was first used in the Association Agreements with Romania and Bulgaria in February and March 1993 and is therefore known as the *Bulgarian clause*.

The 'Bulgarian clause', along with the provisions that aimed to bolster respect for democracy and human rights, has been used by the Commission, following the Council statement of 11 May 1992, as a model for all subsequent agreements with CEECs, including Romania, Estonia, Latvia and Lithuania (King 1996: 110–11).

The EU's influence in the final years of the 1990s differed to that in the first half of the decade, in particular because the EU had not given its final decision on the eventual membership of the CEECs, and the Association Agreements could have provided a satisfactory solution for the CEECs to be anchored in the European harbour (Phinnemore 1999). The EU had installed the human rights clause within the Association Agreements. There were still the EU's considerations of human rights issues regarding the applicant states to consider and it had tried to influence the domestic politics of these nations through diplomatic instruments like demarches. However, the EU had not yet developed a genuine mechanism to transform the domestic politics of the applicant states.

Opening the door: the 1993 Copenhagen Summit

Although the Europe Agreements provided a general political framework to associate countries in terms of political and economic cooperation, and a gradual integration of Eastern Europe into the European Union, they did not satisfy the associate countries as to when and how they would join this 'rich men's club'. The EU did not pay great attention to these complaints until the Copenhagen European Council was held in June 1993. The Council meeting declared two historic steps that were to be taken by the EU: first, the EU agreed that all the Central and Eastern European countries with Europe Agreements should become members of the European Union, provided that they fulfilled the conditions that later became known as the 'Copenhagen criteria':

> The associated countries in Central and Eastern Europe that so desire shall become members of the European Union. Accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required.
> (Council of the European Union 1993)

Thus, the matter shifted from discussion as to whether the CEECs would become EU members, to the debate as to when they would become EU members. In particular, the question concerning to what extent the associated countries could fulfil the criteria was becoming more relevant. These famous conditions or 'criteria' were listed as follows:

> Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities; the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union; the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union. The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries.
> (Council of the European Union 1993)

What were the main political impulses that compelled the EU to declare a clear statement on the accession of Eastern Europe? According to Smith (1999), the answer to this question lies in the 'turmoil' that spread throughout the whole of Yugoslavia and Russia. The EU and its member states came back down to earth with a bump when a coup attempted to overthrow the pro-Western government in Moscow on 19–22 August 1991. This attempted coup, along with the increasing popularity of the ex-Communist parties in

Eastern Europe and Russia resulted in a fear that increasing Communism in the region could once more serve to destabilize all of Europe. They realized that the transitions to a liberal regime would not be so smooth. Therefore, they accepted that giving more concessions to Eastern European states, such as the opportunity to become an EU member, would provide more security in the region known then as a 'powder keg' for potential conflict.

The 1993 Copenhagen Summit was a real shift in the EU's policy of establishing conditions for membership. However, the criteria were vague and no concrete guidance on what conditions would be considered by the EU to guarantee viable democracy was available. The basic Copenhagen conditions were very broad and open to interpretation. As discussed in Chapter 1, democracy is itself a contested concept. This vagueness would create what Grabbe (2002b: 251) labelled a 'moving target problem', since the criteria were not clearly constructed, compliance with them by the applicants would not be definite.

Second, the summit did not establish formal monitoring mechanisms that went beyond political dialogue between the applicants and the EU. Thus, the applicants had not clearly evaluated what they actually needed to accomplish in order to meet the criteria. In addition, the EU did not establish an aid mechanism to help the applicants realize the great political and economic transformations necessary for membership.

The 1994 Essen Summit and 'pre-accession strategy'

At the European Council in Essen in December 1994 the paths towards membership were further clarified with agreements on a 'pre-accession strategy'. This had been requested from the Commission to provide a more coherent strategy to prepare the candidates for accession (European Commission 1994a, 1994b, 1994c). This was clearly stated by the Essen Council in 1994:

> The essential element of the strategy is their progressive preparation for integration into the Internal Market of the Union . . . This strategy will be supported by the implementation of policies to promote integration through the development of infrastructure . . . This integration will be supported by the Phare programme.
>
> (Council of the European Union 1994)

The pre-accession strategy focused on the Europe Agreements, the 'structured dialogue', the Phare programme, and the White Paper of May 1995, defining key measures in each sector of the internal market and priorities on the harmonization dialogue. Furthermore, the EU declared in Essen that it would help provide for 'the lasting peace and stability of the European continent and neighbouring regions'.

The Essen decisions were designed as technical preparations for membership, focusing more on economic, financial and legislative aspects of enlargement

than political ones. Therefore, the turning point in this regard was the set of Agenda 2000 proposals of the Commission in July 1997 that were approved by the Luxembourg Summit in December of that year.

The 1997 Agenda 2000 proposals: beginning the accession process

The Commission is required to give its Opinion before negotiations on accession can proceed with an applicant state under Article 49 of the Maastricht Treaty. The 1995 Madrid Summit gave a new 'impetus' to the enlargement process by calling on the Commission:

1   To expedite preparation of its Opinion, so that it can be forwarded to the Council as soon as possible after the conclusion of the Intergovernmental Conference.
2   To embark upon preparation of 'a composite paper on enlargement', to complement the Opinion by providing an overall approach (to how to incorporate new applicant nations).

(Council of the European Union 1995)

The Commission could gather information on 'political criteria' from the member states, the Council of Europe, and the High Commissioner for Minorities of the Organization for Security and Cooperation in Europe (OSCE), as well as from some NGOs and academic circles (Avery and Cameron 1998: 39). Avery and Cameron (1998: 38) inform us that the Commission harboured a conviction that priority should be accorded to the political criteria in preference to the other criteria, and 'respect' of the political conditions would be necessary for the opening of accession negotiations. This conviction was corroborated by the decision at the Amsterdam European Council in June 1997 to amend the Treaty's basic provision (Article O) in such a way as to make respect of democracy and human rights an explicit condition of applying for membership.

These Opinions of the Commission, a 1,300-page study entitled 'Agenda 2000', were presented by Jacques Santer, the President of the Commission, to the European parliament on 16 July 1997. Described as a 'detailed strategy for strengthening and widening the Union in the early years of the 21st century', Agenda 2000 was accepted by the Luxembourg European Council on 12–13 December 1997 as the main basis for future enlargement negotiations.

The Luxembourg Council confirmed that the Commission did not exclude any applicants of East Europe from the 'accession process'. However, it differentiated the 'accession process' from the 'accession negotiations'. As a gatekeeper, the EU declared that 'negotiations' would start from the moment when the applicants were judged to have complied with the Copenhagen conditions, as evaluated by the Commission.

Accordingly, the negotiations started with the Luxembourg Six in March 1998. The second group remained non-negotiating candidates until February 2000.[2] As Pridham has suggested (2002a: 958) it may be hypothesized

that the EU's direct leverage over the applicants was most effective in the pre-negotiation and negotiation period during which the EU functioned as gatekeeper and monitored closely the domestic developments of the applicant states.

The 1999 Helsinki Summit and Commission decisions

The 1999 Helsinki Council decided to launch accession negotiations with Romania, Slovakia, Latvia, Bulgaria and Malta. Furthermore, the Council approved the Commission's recommendation that Turkey should receive a membership perspective and Turkey was raised to non-negotiating candidate status from that of potential candidate/pre-candidate status. The Helsinki decisions reinforced the monitoring mechanism and accession criteria, and the process of enlargement became more systematized (Magen 2004: 16).

In addition to the CEECs, the EU had started to use political conditionality and the carrot of membership with regard to the Western Balkan states (Pippan 2004). In 2001 Macedonia became the first country in the region to sign a Stabilisation and Association Agreement (SAA), which came into force on 1 April 2004. The Commission recommended on 9 November 2005 that the EU could grant candidacy to the Former Yugoslav Republic of Macedonia (FYROM), and the Brussels Council held on 17 December 2005 granted candidate status to the state without specifying a date for the start of membership talks.

Croatia, as a country negotiating for membership, is different from other countries in the region. The Council scrutinized the political and economic conditions in the country with a view to developing further relations with this country in 1997 and upon the Commission's positive report an SAA was signed between the EU and Croatia in October 2001. Croatia applied for membership in February 2003, and the Council gave the green light to open accession negotiations with Croatia in June 2004. The EU foreign ministers declared in December 2004 that accession negotiations could be started in spring 2005 if Croatia cooperated with the EU fully regarding the war crimes tribunal in the Hague; since Croatia did not fulfil these conditions, the start of negotiations was postponed until March 2005. The EU decided to open formal accession talks on 3 October 2005 (with Turkey) and the screening process was launched on 20 October 2005 (together with Turkey).

According to the Commission's reports, Croatia has a generally stable democratic regime and a good record in the field of human rights. However, the country has had some problems, concerning which the EU introduced certain conditions prior to membership: full cooperation with the UN war crimes tribunal, the granting of permission for the return of ethnic Serbs who fled the country during the Yugoslavian civil war (1991–5), and reform of the judiciary and public administration. The EU has put particular pressure on Zagreb concerning the case of the former general Ante Gotovina, who was indicted in 2001 by the International Criminal Tribunal for the Former

Yugoslavia (ICTY). The indictment accused him of sanctioning war crimes under his command in 1995 during Operation Storm at the end of the Croatian War. While Croatia's bid for accession was finally accepted in October 2005 as part of a deal with Austria, which supported Croatia but opposed Turkey's bid to join the EU, the ICTY announced at the same time that Croatia was then 'cooperating fully' with the tribunal, but did not provide further details. The substantive negotiations started on 12 June 2006 on the Science and Research chapter of the Community acquis.

EU conditionality and minority issues in the candidate states

It is a well-known fact that the EU does not have at its disposal a single minority policy towards the member states of the Union. All member states decide their minority policies according to their own historical legacies and administrative traditions. Therefore, treatment of minorities in Britain and France, for example, is not the same (Biscoe 1999).

However, as part of the enlargement process, the welfare of ethnic and/or national minorities in the candidate states has been one of the most sensitive issues that the EU has particularly focused on. It seems that the decision-makers in the EU, drawing huge lessons from the Yugoslavian cases, believed that granting democratic and minority rights to minority groups in the candidate states would prove to be the best policy to sustain local and European security. Therefore, all candidates were obliged to solve their minority issues within democratic parameters. The EU appeared determined that candidate nations with serious problems with their minorities would not be allowed to enter the club. The EU's attitudes towards the candidates, including Slovakia, the Czech Republic and Romania, in terms of protection of minorities and minority rights, clearly demonstrated this sensitivity of the Union (Pentassuglia 2001; Hughes and Sasse 2003; Johns 2003; Ram 2003; Tesser 2003).

The Russian minority issue in the Baltic States deserves particular attention in this regard. Since the national languages in Latvia and Estonia had been excluded from the public sphere during the Soviet era and the Russian language had been used as the state language, radical language policies had been introduced in these countries to restore sovereignty and national integration after they declared their independence, and the requirement for language proficiency in these languages was introduced particularly for Russian speakers. Although these countries have softened their official attitudes towards ethnic Russians, Belarusians and Ukrainians following pressure from the EU, it seems that the EU allowed Estonia and Latvia to start accession negotiations in spite of the fact that they had serious problems regarding the protection of their minority populations; the states were eventually permitted to join the European club on 1 May 2004 with many of the problems unresolved (Adrey 2005). This might be partly explained by the fact that these countries (particularly Latvia) have all achieved substantial

improvements in democratization and the EU had declared several times since 1997 that these countries had fulfilled political conditions to start negotiations, having scrutinized the general character of the political regimes in these states (Muiznieks and Kehris 2003). Therefore, in their discussion of the minorities issue in Latvia, Muiznieks and Kehris defined it as an 'issue-specific reluctant democratizer' (2003: 30).

It seems that the European conditionality issue did not totally solve the problem at hand because Latvia in fact tightened its Citizenship Law on 8 August 2006, introducing new stricter laws for citizenship and refusing to grant it to those failing a Latvian language test three times. About 450,000 ethnic Russians, Belarusians and Ukrainians, most of them born in Latvia, and representing almost 20 per cent of Latvia's total population, are being denied citizenship rights unless they pass the state-administered language-proficiency exam.

Introducing conditionality concerning the protection of minorities has not of course automatically ended the problem of minorities within the EU. The EU has extensively used conditionality as a tool to address the issue of Hungarian minorities in some of the new Eastern member states.

EU conditionality in the process of change

Tougher conditionality, increased uncertainty and distorted pull-push dynamics

This chapter has demonstrated that EU conditionality is dynamic not static. As Pridham argues, the nature, scope and application of the democratic conditionality of the Union has been in a process of change since the last Eastern enlargement and new patterns have emerged in this regard. Pridham (2007: 454) sees four general factors driving the development of this new approach:

1   The recent candidates and potential candidates are more difficult cases than the EU has had to deal with previously in terms of conditionality and democratization.
2   The Union has gained much experience from the Eastern enlargement with regard to the application of democratic conditionality.
3   A new Commission has been in office since late 2004, and new commissioner Olli Rehn, who is in charge of enlargement of the EU, 'has differentiated himself from his predecessor Gunter Verheugen in some key aspects of conditionality policy'.
4   The crisis of the European constitution has demonstrated the so-called 'enlargement fatigue' among people of the EU member states.

The EU has started to exert a much stricter conditionality as the result of these new factors, in particular because the Western Balkans (Croatia apart) were marked by general disaffection with democratic performance:

> There was a significant gap in political and economic transformations between the Western Balkans and East-Central Europe . . . Countries in the Western Balkans could therefore be fairly easily categorised as defective democracies, especially as regards progress with 'stateness', the rule of law, institutional stability, and political integration.
>
> (Pridham 2007: 457)

Thus, the EU has started to exert tougher democratic conditionality over the new candidates and even to enhance once again the scope of the Copenhagen criteria, including new conditions such as the arrest of war criminals.

The EU's increased emphasis on the implementation of reforms among candidates is a result of the previous experience of the Union. As Pridham (2007: 460) argues, the Commission has criticized itself because simple adoptions of legislation were often incorrectly regarded as sufficient by the Commission for fulfilling political reforms without looking more closely at the reality on the ground. This kind of monitoring of reforms was called 'Potemkin Harmonization' by Jacoby (1999) to indicate the sluggish and insufficient character of monitoring. Therefore, the Commission has introduced new mechanisms to improve the implementation of reforms in candidate countries. They include 'applying benchmarks for provisionally closing and also opening negotiations chapters . . . the introduction of safeguard clauses to extend monitoring; and a more routine and flexible procedure for suspending negotiations' (Pridham 2007: 460). These new mechanisms were included in the negotiations framework for Croatia (and Turkey) in 2005.

In addition to this new tougher understanding of conditionality and increasing emphasis on the actual application of the formal reforms, the EU's deliberate emphasis on the open-ended nature of the accession process and on the absorption capacity of the Union has changed the EU's political conditionality. For example, the framework of negotiations for both Croatia and Turkey including the following sentence: 'By their very nature, the negotiations are an open-ended process whose outcome cannot be guaranteed beforehand' (Negotiating Framework 2005: 1). Furthermore, the EU also highlighted the 'Union's capacity to absorb' into the framework of negotiation for Croatia (and Turkey) as a new criterion for accession:

> Enlargement should strengthen the process of continuous creation and integration in which the Union and its Member States are engaged. Every effort should be made to protect the cohesion and effectiveness of the Union. In accordance with the conclusions of the Copenhagen European Council in 1993, the Union's capacity to absorb Croatia, while maintaining the momentum of European integration is an important consideration in the general interest of both the Union and Croatia.
>
> (Negotiating Framework 2005: 3)

Although 'the absorption capacity' was already included in the presidential declaration of the 1993 Copenhagen Council, it had not generally been applied

for the post-Cold War round of Eastern enlargement (Pridham 2007: 464). Now the Union implied that even though a candidate had complied with all conditions required by the EU for accession, it might be refused on the grounds that the Union could not 'absorb' this candidate. However, the definition of this 'absorption capacity' is unclear; it is also confusing to argue that the EU would encounter difficulties in absorbing tiny Croatia with its population of less than five million.

The open-ended nature of conditionality, together with the application of the 'criteria' of 'absorption capacity' is partly explained by the so-called feeling of 'enlargement fatigue' in the EU. According to Pridham, ' "Enlargement" became in effect a dirty word' (2007: 465), as was observed in the French and Dutch referenda in spring 2005 which led a backlash against further integration and enlargement of the Union. As Pridham concludes,

> Political conditionality has become broader in its scope, much tighter in its procedures, and less easy to control within a less enlargement-friendly environment in the EU and against less certainty about enlargement prospects. At the same time, the priority accorded conditionality has been upgraded while its mechanisms much strengthened with a view to improving its implementation by candidate countries. However, the combination of greater institutional diffusion, stronger demands over conditionality together with high expectations from applicant countries, and emerging counter-pressures against further enlargement have seriously compromised the push-pull dynamics that had worked fairly well during the 2004 enlargement process.
>
> (2007: 468)

While the push-side of conditionality has been strengthened by tougher conditionality, requirement of the application of reforms and introducing more systematic mechanisms of monitoring candidates, the pull-side of conditionality has been weakened by re-inventing the absorption capacity of the Union as a new criterion and more emphasis on the open-ended nature of the accession process together with the less friendly environment for further enlargement in Europe (Schimmelfennig 2008). Without doubt, as Pridham argues, if the balance between the push and pull aspects of conditionality were significantly distorted, the prestige and force of EU conditionality would be damaged.

Why does EU conditionality policy change?

As I have already proposed, the nature of EU conditionality is not static and it has been continuously changing. One reasons for this change is that the normative structure of international politics has been changing. The historical changes in the EU's (and its member states') foreign and external policies in terms of democracy and human rights, which can be basically divided into a Cold War period and a post-Cold War period, have reflected the

sensitivities of the EU about democracy and human rights in its relation with third-party countries.

The EU, at least in theory, changed its human rights policy in respect of its external affairs as the end of the Cold War was approaching. The end of the 'Communist menace' was a real impetus for the EU to develop more idealist and human rights-oriented external policies. Furthermore, some developments took place within the EU in the second half of the 1980s that helped the Community to incorporate human rights into its external policy. With the entry into force of the Single European Act in 1987, the European parliament started to use its new power of assent to force the Community's other institutions to take human rights considerations seriously in the EU's external affairs. Coupled with systemic changes in the post-Cold War international arena (Donnelly 1994), all these factors, *inter alia*, contributed to policy changes in this regard.

The new thinking in foreign policy culminated in the Maastricht Treaty, which was formally signed on 7 February 1992 and entered into force in November 1993. One of the most important innovations of the Maastricht Treaty was its explicit references to democracy, human rights and rule of law in different parts of the treaty (Article 130, for example). The Treaty of Amsterdam, which came into force on 1 May 1999, marked another significant step forward in incorporating human rights considerations into the main legal order of the Union.

Parallel to this increasing saliency of democracy and human rights norms in Europe and the world, the second source of change in EU conditionality that has been applied towards the CEECs is the relationship between liberal democracy and European security. A large number of leading academics and policy-makers have claimed correctly that real security of the EU could only be realized through a process of further democratization within the CEECs (Kahl 1997; Sperling and Kirchner 1998). The most original and effective method of dealing with the security issues that arose regarding the CEECs were the Europe Agreements made with these states. As far as the Europe Agreements are concerned, Smith (1999) has stated clearly that the political nature of the agreements was directly intended to create a climate of confidence that would lead to stability-enhancing reforms and thus the creation of a secure Europe. The EU intended to expand the European 'security community' via the integration of Eastern Europe to generate a more secure Europe through the use of some tough methods. For the EU, a more secure Europe can be created only through the emergence of a more democratic Eastern Europe where liberal democracy and the market economy should constitute general norms. Hence, the EU has successfully used the conditionality of EU membership as the carrot to which the CEECs should aspire, and as a possible means of sanction, which in practice would mean dropping an offending country from the list of candidates. Therefore, EU conditionality applied towards the CEECs was much stricter in theory and application in order to construct a more nuanced push-pull balance that would lead to more

democratic and liberal candidates. Actually, as already mentioned, these new candidates (CEECs) were former socialist countries that were not very familiar with the 'Western' orientation of liberal democracy; EU conditionality had been changed in a more stringent way.

The increasing Euro-fatigue in the post-enlargement period led to the emergence of a non-friendly environment for new enlargements. Together with this new European environment, EU decision-makers have started to apply more stringent conditionality for new candidates and potential candidates in the Western Balkan region for two further reasons: on the one hand, the candidates and potential candidates in this region seem more problematic in terms of state capacity and capability of the rule of law, human rights records and the protection of minorities; on the other hand, the persistent problems in democratic governance, the rule of law and human rights records in some former candidates (Bulgaria and Romania for example) has rendered European decision-makers and European bureaucracy more stringent on the push-side of European conditionality.

The EU's instruments for the application of conditionality

Official and non-official formalities and procedures within the pre-accession and accession process constitute the most significant 'active leverage' for democratic consolidation in the candidate countries (Vachudova 2005). Formalizing the accession criteria, the Copenhagen criteria, through the Accession Partnership agreements and the process of monitoring candidate countries through regular progress reports, the EU has managed to exert the most effective leverage over the governing elites and publics in the candidate countries. The shift of the EU from a 'passive' economic and democratic 'hub' into an 'active democratic hub' has been the most significant long-term contribution of the enlargement strategy (Magen 2004: 21). To put it another way, it constitutes an 'active leverage' because the EU has for the first time in its history of enlargement developed a fairly comprehensive, systematic and dynamic strategy to strengthen democracies among the candidates.

The EU has performed as a 'gatekeeper' (Grabbe 2002a, 2002b) that controls all stages of the accession process, and allows candidates to proceed to further stages of the accession or prevents a candidate (or candidates) from passing to another stage in the process of accession. There are now generally seven stages in the process (Vachudova 2005: 126):

1 Privileged trade access and European assistance.
2 Signing an enhanced Association Agreement (Europe Agreements for the CEECs, Stabilisation and Association Agreements with the Western Balkan countries).
3 Recognition of an official candidate status.
4 Opening of accession negotiations.
5 Opening and closing of the chapters in negotiations.

6   Signing of an accession treaty.
7   Ratification of the accession treaty by national parliaments, the European parliament and possible referenda in some countries.

As discussed above, the EU had tried to exert a sort of leverage before it adopted a general strategy for European enlargement and conditionality through a number of trade agreements and, later, Association Agreements with candidates. Although the Association Agreements do not have the potential to transform the domestic political structure in candidates, as argued before, some conditionality clauses of human rights were enshrined in the Europe Agreements, and there exist similar clauses in the SAAs with the West Balkan states.

Passing from the status of 'associated state' to candidature is essential and this decision changes radically the context of the relations between the EU and the applicant states. The EU, playing the role of gatekeeper, decides which country will be granted candidate status. This gatekeeper function was persistently used during the accession process of the CEECs. The EU's instruments that have effectively been used include public demarches, Agenda 2000 and the Opinions, regular progress reports, accession partnerships and National Programmes for the Adoption of the Acquis (NPAAs), and Screening and Negotiations.

Demarches

According to Vachudova, public criticisms of aspiring EU members, which are sometimes termed 'demarches', because of their non-democratic policies were the first tool of the EU's active leverage. For Vachudova, 'the most dramatic and sustained public criticism by the EU was of the third Meciar government in Slovakia, starting with a démarche in October 1994 and ending only once it lost power in 1998' (2005: 127). In addition to public demarches, the EU's range of instruments also includes diplomatic notes and official protests, 'which are the most severe reprimands that the EU can issue' (Pridham 2005: 55).

The Opinions

Agenda 2000 and the Avis of the Commission were the next most influential instruments used by the EU (Vachudova 2005: 128). The Political Criteria section of the Opinions describes and critically evaluates each applicant state in respect of the political elements stated in the Copenhagen criteria: democracy, the rule of law, human rights and minorities. In terms of democracy, they mean of course liberal, multi-party democratic regimes with free, fair and regular elections, and they investigate critically the significance of parliaments, the executive structure, which includes the respective roles of the President and Prime Minister, relations between central and local governments, and whether or not there is civilian control over the military.

The rule of law covers the judicial systems of the countries and requires that they are independent of any de facto or de jure centres of power (e.g. the military). Furthermore, the characteristics of constitutions as to whether they stipulate a democratic and liberal regime, as well as the role of constitutional courts, along with supreme courts, and the positions of public prosecutors and ombudsmen are assessed by the Commission in the Opinions in terms of the rule of law. Finally, under a section headed 'Human Rights and Protection of Minorities', are the Opinions' evaluations concerning the extent to which a regime is respectful of fundamental human rights. The Commission takes human rights violations, including the use of the death penalty, restrictions on civil and political rights, freedoms of association and expression, the rights to property, any trade union activities and freedom of education and religion into account before drawing conclusions about human rights conditions in any applicant states. In addition, minority issues in the applicant states cause concern to the Commission, because minorities can potentially serve as the main sources of any inter-state or intra-state conflicts in the region and they are the groups most vulnerable to human rights abuses in many applicant countries. In this respect, the Roma (Gypsy) community is mentioned a great deal in the Opinions with regard to 'protection of minorities'.

The Commission recommended in the 1997 Opinions that accession negotiations should be started with Hungary, Poland, Estonia, the Czech Republic and Slovenia (and 'Cyprus', the Luxembourg Six). As for Romania, Slovakia, Latvia, Lithuania and Bulgaria, the Commission recommended that negotiations would be started as soon as they had made sufficient progress in satisfying the Copenhagen conditions. The Commission rejected Slovakia on political grounds only because of its serious deficiencies in the functioning of its democracy. Latvia, Lithuania, Romania and Bulgaria were all rejected at first for economic reasons; however all could start negotiations after they had registered progress in these areas (Mayhew 1998: 176).

Thus, as stated above, the 1997 Luxembourg Council declared that the EU would start negotiations with Poland, Hungary, the Czech Republic, Estonia and Slovenia (known as 'ins') and postpone the start of negotiations with Romania, Bulgaria, Slovakia, Latvia and Lithuania (known as pre-ins). Concerning the effectiveness of EU conditionality, one point here should be underlined in particular: as Vachudova (2005: 114) rightly put it, the Opinions mentioned two groups that were to be called the 'ins' and the 'pre-ins' as opposed to the 'ins' and the 'outs'. The question regarding the pre-ins was not whether the EU would include these countries, but rather when the EU would include these pre-ins. Therefore, the effectiveness of conditionality continued not only for the 'ins' but also for the 'pre-ins'. However, as discussed later, Turkey's situation in this regard is quite different, because the question for Turkey is still whether Turkey can become a member state, as opposed to being a 'pre-in' country.

The progress reports: monitoring candidates

The European Council Meeting in Luxembourg in 1997 called on the Commission to draw up 'regular reports' on the progress of the applicant states on the path to accession. The Commission prepared a 'composite paper' and 'progress reports', in accordance with the methods used for the Opinions in Agenda 2000, which were to be presented at the end of 1998, upon the request of the European Council meeting in Cardiff in June 1998. The composite paper and the progress reports included specific sections in which the Commission critically evaluated the progress of the applicant states towards accession in the light of the Copenhagen criteria: 'Political Criteria', 'Economic Criteria', 'Ability to Assume the Obligation of Membership' and 'Common Foreign and Security Policy'. The Political Criteria section in the composite paper and the progress reports consisted of critical evaluations of the political situations in each applicant state in respect of democracy and the rule of law, which was subdivided into parliamentary, the executive and judicial systems, as well as human rights and the protection of minorities. According to the composite paper,

> The Commission considered that only Slovakia did not satisfy the political conditions . . . On the whole, the Commission considers that the overall situation remains satisfactory [in as far] as developments are being consolidated reinforcing the positive trends noted in the Opinions . . . A common problem for all the candidate countries remains the inherent weakness of the judiciary . . . On the issue of minorities, the EU has already welcomed the outcome in Latvia's recent referendum on the citizenship law . . . The situation of the Roma continues to be problematic . . . in particular in Hungary, Slovakia, Bulgaria and the Czech Republic. Home to several million Roma, Romania needs to step up its efforts to improve the situation of this minority.
>
> (European Commission 1998c: 3–4)

The Accession Partnership and the National Programmes

The Accession Partnership is a road map designed by the EU which consists of the requirements of the EU for candidate states in the short or medium term according to the Copenhagen criteria. An Accession Partnership is established for each candidate country to provide guidance and encouragement during preparations for membership. To this end, each candidate country draws up an NPAA, which sets out a timetable for putting the partnership into effect. The accession partnership may also be revised in the light of new developments, especially any new priorities identified during the pre-accession process.

As far as political criteria are concerned, the Accession Partnership documents clearly stipulate what the EU requires from an applicant country in

terms of democracy, democratization, human rights, minority rights, the rule of law and administrative capacity. Candidates should prepare national programmes, reform programmes, which are designed to comply with the EU requirements outlined in the documents of Accession Partnership. Therefore, the mechanism of the Accession Partnership and the NPAA forms a very strong and influential instrument of the EU that can transform the domestic political structure of candidates.

Screening and negotiations

Screening involves an analytical examination of the acquis, and it constitutes the preparatory stage to accession negotiations. It is important because it forms the basis for the bilateral negotiations between the European Union and the various candidates. The screening process is carried out collectively by the Commission and each of the candidate countries. Accession negotiations progress involves monitoring and helping candidate countries prepare for accession and assessing how ready they are for membership. Negotiations help candidate countries to prepare to fulfil the obligations of membership. Negotiations relate to the adoption and implementation of the Community acquis. The acquis is divided into chapters, and there are as many chapters as areas in which progress must be made. Each chapter is negotiated individually, and measurable reference criteria are defined for the opening and closing of each chapter.

As for democratic conditionality, there are two general aspects of the process of screening and negotiations: first, the opening and closing of the chapters (there were 31 chapters for the CEECs; there are now 35 chapters for Turkey and Croatia) are dependent on the degree of progress that candidate countries achieve. While candidate countries must prove the progress they have achieved in adaptation and implementation of the acquis so as to finalize the chapters, they must also reach certain 'benchmarks' in order to open the accession chapters and start negotiations. Opening and closing of the chapters must be a unanimous decision made at an intergovernmental conference. Second, as some authors put it, the process could represent a series of 'pedagogical sessions' for candidates where they are able to familiarize themselves with the acquis and demonstrate their capacity to put it into effect (Vachudova 2005: 130).

The impact of EU conditionality

According to existing literature that analyses the nature and mechanism of EU conditionality, the dimensions of the benefits of membership and the magnitude of the entry requirements affect the magnitude of the EU's impact. If the calculated benefits of the accession process, which are mainly related to socio-economic, welfare, security and international legitimacy, are prioritized over the calculated costs, which may include more limited

national sovereignty, revival of ethnic consciousness among some ethnic minorities, and even economic and financial losses in some areas, the governing elite would probably be willing to comply with the membership requirements. This calculation of the cost includes the cost of exclusion from the enlargement, which could endanger the economic and security positions of the excluded state, and might result in it becoming a pariah state (Schimmelfennig *et al.* 2006).

This generates what some authors call 'asymmetrical interdependence' (Vachudova 2005: 109). The relations between the EU and applicant states are asymmetrical in the sense that the Union itself specifies or even imposes the condition for deepening those relations with the EU. The candidate states, which aspire for EU membership, have to meet the conditions defined by the EU so as to be incorporated by the Union. Otherwise, these asymmetric relations allow the EU to threaten any norm-breaking country that they will be kept out of future stages of enlargements.

As discussed in Chapter 1, in addition to the size and speed of rewards and the size of adoption costs, in order to generate 'compliance' these asymmetric relations should have a meritocratic nature and the threats and promises of conditionality should be credible. Meritocracy, consistency and credibility have been proven to be very important for an effective application of conditionality. In this regard, according to Vachudova, meritocracy means 'an applicant's place in the membership queue has corresponded to the progress it has made toward fulfilling the EU's requirements' and 'all of the candidates are subject to the same requirements and are evaluated in a manner that has proved to be more or less based on merit' (2005: 112). The accession process could not work if the process was not generally considered to employ objective and technical standards for evaluating whether candidates qualify to move forward in it (Vachudova 2005: 113).

Meritocracy and consistency

Meritocracy and consistency are very necessary for an effective conditionality; however, the EU has been subject to some criticism for its meritocratic nature. While some states may be subject to conditionality in a strict manner, others may encounter more lenient treatment from the Union. A number of researchers argue that 'membership conditionality has not been applied consistently and other considerations will continue to play a role in enlargement decisions' (Smith 2003: 105), which would diminish the force of EU conditionality. In other words, according to Smith, the EU's decisions to conclude negotiations with particular countries are not based only on fulfilment of the conditions. 'There is . . . plenty of leeway to fudge the application of conditionality' (2003: 130).

It is often argued that high politics or geopolitical considerations, along with individual member state pressures, are sometimes prioritized over a merit-based accession process. A much-quoted case in this regard was the decision of the 1999 Helsinki Summit on the inclusion of Bulgaria and

Romania. Despite their failures to satisfy the political criteria stipulated, their membership was deemed necessary so as to sustain stability in the wider Balkan region (Pridham 2007: 453). The accession of Poland with German help, and Latvian and Estonian accession in spite of the disadvantaged position of the Russian minority are often indicated as significant evidence in this regard (Schimmelfennig *et al.* 2005: 32; Vachudova 2005: 114–17; Pridham 2007: 453). Smith (2003: 131) also cites the accession of Cyprus as an example, arguing that conditionality has not been applied consistently with respect to the Republic of Cyprus, as good neighbourliness has been ignored while this has been stipulated as a strong criterion for Turkey's accession.

Another kind of 'double standard' that researchers often emphasize is that the EU sometimes demands the fulfilment of certain criteria by candidates that even current EU members have failed to abide by. The protection of minorities, which is considered as one of the chief political criteria for accession, is often cited as an example of the difference between what the EU requires from candidates in theory, and what the members do in practice. As Johns (2003) has stated, the EU sometimes acts in manner that is ridiculed as 'Do as I Say Not as I Do'. Smith (2003: 120) also calls attention to the fact that the EU requires candidates to sign the Framework Convention of National Minorities of the Council of Europe, while a number of long-time EU members, including France have not signed it.

Unambiguous process and the reward of EU membership

Furthermore, it is often argued that EU conditionality is far too broadly and vaguely defined (Schimmelfennig *et al.* 2005: 32). It contains extremely controversial and slippery concepts that can lead to a highly politicized process (Grabbe 2002b: 251; Pridham 2006: 377). 'The result . . . is possibility for "wiggle room", both on the side of the EU and the targeted state' (Kubicek 2005c: 182). However, as already discussed, 'the more transparent the EU conditionality is, the higher the probability is of rule adoption taking place' (Schimmelfennig *et al.* 2005: 52).

Regarding the clarity of rewards, there is now almost a consensus in the relevant literature that 'compliance' without an adequate amount of reward is highly difficult (Kelley 2004; Schimmelfennig *et al.* 2006; Schimmelfennig 2008). In practice, it seems that it is only the material benefits of EU membership (together with NATO membership) that have led to compliance on the part of the CEECs and other potential EU candidates (Kelley 2004). Frank Schimmelfennig provides the example of Latvia and Estonia with regard to minority rights:

> for many years, the OSCE's High Commissioner on National Minorities (HCNM) had tried in vain to persuade the governments and parliaments of these two countries to liberalize their citizenship laws and grant minority rights in favour of the large Russian-speaking minorities. These efforts bore fruit only when the European Union and NATO

subscribed to the recommendations of the HCNM and made their fulfilment a precondition of accession in the second half of the 1990s.

(2007: 128)

Therefore, it seems that a clear goal of EU membership offers the most powerful incentive and prerequisite for an effective implication of EU conditionality as has been seen in the cases of the CEECs and the Western Balkan states. Any reward other than full EU membership would probably diminish the chance of effective conditionality.

The EU and passive and active leverage

Concerning the transformative role of the EU on candidates, Vachudova thinks that the leverage that the EU had exerted until the advent of a systematic mechanism to monitor candidates in terms of conditionality should be considered as 'passive'. By 'passive leverage', she means 'the traction that the EU has on the domestic politics of credible candidate states merely by virtue of its existence and its usual conduct' (Vachudova 2005: 65). 'Passive leverage', therefore, includes the benefits of EU membership (in particular economic benefits including increasing foreign direct investment and economic assistance from the EU such as aid from EU regional funds) and the costs of exclusion and being treated as a 'pariah' state. However, contrary to 'active leverage', the passive form does not include any systematic and intentional policies to make candidates more democratic.

The point here is that although the EU had not developed deliberate and systematic policies that would transform the democratic condition of the candidates before the last enlargement, the existence of the EU had been a factor in the political transformations in these countries. According to Vachudova, 'the EU merely reinforced the domestic strategies of reform in the liberal pattern states' in this period from 1989 to 1994, and 'the EU's passive leverage did not have a decisive influence on domestic politics. In illiberal pattern states, the EU's passive leverage failed to avert or modify the rent-seeking behaviour of governing elites' (2005: 81).

Vachudova (2005: 143) distinguishes the EU's role during the first years of its active leverage into two basic categories: its direct influence over and its impact on the whole political system. Regarding direct impact, she argues that the EU's active leverage on 'illiberal pattern states' was not very significant between 1994 and 1998, particularly because governing elites in these countries regarded the EU requirements as a dangerous threat to their domestic political status. Thus, EU pressure produced negligible political changes on the part of illiberal governments in countries such as Slovakia, Bulgaria and Romania.

However, during this period,

the greatest and clearest impact of EU leverage was . . . in shaping the political forces that won those elections . . . EU leverage . . . strengthened

pro-EU civic groups and shaped how opposition parties portrayed themselves in the election campaign . . . and how they governed once in power.

(Vachudova 2005: 140)

Thus, the EU's 'active leverage' promoted a 'more competitive political system' in these illiberal states. For several candidates, it seems that the EU tried to change political balance of power through various methods, including assisting these pro-EU circles; 'it provided a focal point for cooperation among oppositional political forces' (Vachudova 2005: 162). For example, 'Returning Slovakia to Europe' served as a 'focal point for cooperation' among opposition groups and parties in Slovakia, and the new Party of Civic Understanding (SOP) became a centre of anti-governmental forces in 1998 (Vachudova 2005: 170). In a similar vein, the movement of 'Impulse 99' was cited as another example of this cooperation (Vachudova 2005: 197). This important point is also noted by Schimmelfennig *et al.* (2006). They argue that the longer-term effectiveness of conditionality depends on the nature of 'the party constellations' in the candidate states.

Vachudova argues that, after all the CEECs had complied adequately with the Copenhagen criteria and the EU had decided to start negotiations with these countries, the EU's impact on former 'illiberal states' could also be seen in the implementation of political reforms in these countries. As a rational explanation, according to Vachudova,

> As accession approaches, the process of qualifying for membership in the international organization becomes more exacting and constrains even further the room to manoeuvre of any ruler. But the benefits of joining the international organization also increase – or more precisely, the costs of being excluded become greater and more transparent, making exit from the pre-accession process more costly. This increases substantially the credibility of the state's commitment to reforms.
>
> (2005: 183)

Thus, in addition to the EU's function in reinforcing the oppositional groups and offering support to enrich domestic politics in the candidate states, during the period 1997–2004 EU leverage also had a direct impact on governments themselves.

Conditionality, socialization and compliance

I have already discussed the issues of socialization, conditionality and compliance in Chapter 1 from the realist, liberal, instutionalist and constructivist point of view. However, existing literature on EU conditionality and its impact on candidates also examines these debates in the context of EU conditionality.

The democratizing force of the EU exerted on the applicant states can be explained using the concepts of *conditionality* and *convergence* in

democratization theory. Pridham defines the main characteristics of convergence as

> gradual movement in system conformity with a grouping of established democratic states that has the power and institutional mechanisms to attract transiting regimes and to help secure their democratic outcomes. The EU is the most ambitious example . . . of this kind of grouping.
>
> (2001: 4)

The convergence and the prospect for incorporation (EU membership) affect prospective member states through policy choice, content and commitment, and socio-economic interests. What is particularly significant is the impact of the mentalities of elites (Pridham 1999a: 61). The key words concerning convergence are socialization and political learning.

Increasing attention is now being paid to the process of socialization or 'international socialization'. Schimmelfennig *et al.* define 'international socialization' 'as a process in which states are induced to adopt the constitutive rules of an international community' (2006: 2). Previously, Schimmelfennig described 'international socialization' as the 'state's internalization of constitutive beliefs and practices institutionalized in its international environment' (2000: 111–12). More recently, Schimmelfennig *et al.* have preferred to use the term 'rule adoption' instead of 'internalization'. They argue that

> a rule has been adopted if mechanisms internal to the state (domestic mechanisms) guarantee compliance. After adoption, external sanctions or other forms of international influence and inducement cease to be necessary to make a socialized state comply with the constitutive community rules.
>
> (Schimmelfennig *et al.* 2006: 3)

They differentiate between 'rule adoption' and 'internalization' because while the latter is about 'individual adoption of rules' ('only individuals can internalize rules'), the former may occur at collective and institutional level. When 'rule adoption' is 'institutionalized', 'rules' are adopted into domestic law and regulations, and 'rule compliance' is ensured by 'administrative implementation and judicial law enforcement' (Schimmelfennig *et al.* 2006: 4).

However, their conceptualization of socialization is different from 'constructivist' undersigning of socialization, which is best described by Jeffrey Checkel's oft-cited differentiation between 'logic of consequences' and 'logic of appropriateness' (2005: 804). According to Schimmelfennig *et al.*,

> in contrast to the constructivist perspective, however, we find that the process and outcomes of international socialization in post-Cold War Europe are better explained by instrumental and strategic behaviour. Material and political external incentives and domestic costs prove to

be one of the most important conditions for an effective impact of international organizations on democratic consolidation.

(2006: 5)

However, theorists of the 'social learning model' (Checkel 2005) argue that persuasion is to be preferred to conditionality, arguing that compliance through conditionality did not produce a genuine internalization and this internalization of democratic norms is at odds with political conditionality. Furthermore, if compliance of the candidates is not genuine, the EU leverage might not work as it should. Smith argues that 'conditional membership is a consumable power resource – once it has been used up, and once the applicants have joined the EU it could be difficult to exercise leverage over them' (2003: 133). Thus, according to this view, there is a general problem in the logic of conditionality in that the European pressure might not lead to 'internalization' of democratic norms even though candidates comply with the political conditionality through carrying out several institutional reforms. Under EU pressure, the governments in candidate states might carry out various changes rapidly to satisfy the EU and catch the EU train. These policy-makers then are more interested in the 'consequences' of the change, the 'logic of consequentiality', than whether reforms would bring substantive changes in political regimes, the 'logic of appropriateness'.

This debate leads to the discussion of the genuine application of reforms. According to Schimmelfennig *et al.*,

> The main indicator is the adoption of legal rules. A state is considered to be in compliance if it has signed a treaty and/or passed a law containing the rules promoted by the community organization. Thus, compliance goes beyond political declarations of acceptance.

(2006: 58)

Although a legal adoption does not change all non-democratic application suddenly, it is the most important step for 'rule adoption'. I also think that the use of 'internalization' as a conceptual tool generates big problems in estimating the amount of 'internalization'.

'Impact': the mirror image of compliance

'Impact' lexically means the effect or influence that an event, situation and so forth has on someone or something. Roughly speaking, I mean by this term the EU's effect on a candidate state's domestic political regime as a result of the EU's transformative effect or influence. Therefore, from this perspective, it is a 'mirror image' of compliance. 'Impact' is its 'active' side, while compliance is its 'passive' side. Thus, to speak about the 'impact' of a 'pressuring' actor (here the EU), there must be 'compliance' in the 'pressured' state (here candidates). In other words, 'impact' should lead to compliance.

Therefore, the discussion of 'impact' is about what compliance means, which is discussed in Chapter 1 and just above.

Impact, therefore, needs to be considered in minimalist and maximalist understandings. From a minimalist understanding, impact means a political declaration of acceptance and some legal adoptions. As discussed above, we believe that legal adoption is crucial for compliance or rule adoption, but it does not automatically lead to rule adoption. As I discussed in detail in Chapter 1, and as Landman (2005b and 2005c), Neumayer (2005), Hathaway (2002) and Hafner-Burton and Tsutsui (2005) indicate, concerning human rights treaties there exist significant gaps between practices and principles. Therefore, legal adoption should be regarded as a first step on the way to 'rule adoption' or socialization of democratic norms as constructivists have it.

From the maximalist point of view, any impact of EU conditionality on candidates requires cultural shifts or changes in mentalities at elite and mass levels in candidate states. Although the actual longer-term impact of EU conditionality should be understood in terms of change in mentalities at elite and mass levels, any 'cultural shifts' require decades to be truly measured. For example, since we cannot determine whether a cultural shift has taken place in Turkey due to European pressure over a 20-year period, legal changes at macro level (constitutional changes) and at implementation level (laws, regularities, decrees, etc.) are the basic indicators that show the existence of impact. In addition, sometimes de jure changes cannot demonstrate the impact, as can be manifested through civilian control of the military in Turkey. There are numerous formal/legal regulations that should have stopped the military from intervening in politics; however the military remains a significant actor in Turkish politics and interferes in politics at regular intervals.

The EU's democratic conditionality and other European organizations

When compared with the EU, other European organizations (the Council of Europe (CE) and the OSCE in particular) 'offer less promise' (Pridham 2005: 21) although these organizations have also expanded their democratic portfolio for their members and potential members. Both the CE and the OSCE now have at their disposal certain instruments to force their member states and candidates to improve human rights and minority rights in particular.

The EU is quite different from other international bodies for two main reasons: first, the EU has developed a very effective and complicated mechanism of conditionality that includes monitoring; second, the EU's democratic conditionality is much more comprehensive in detailing the democratic criteria, which have moved from procedural conditions of democracy to include some aspects of substantive democracy, such as gender equality (Pridham 2005: 21). As Pridham argues, 'one should bear these other organisations in mind as their activity has tended to complement or buttress the democratic conditionality set out by the EU' (2005: 21).

Conclusions

This chapter has demonstrated that EU conditionality is one of the most influential tools that the EU possesses to transform domestic politics and policies in candidate states. What this chapter has indeed underlined is that the effectiveness of EU conditionality depends on certain distinct conditions, which here have been given the general collective label of 'the push-pull dynamics of EU conditionality'. The core of this push-pull dynamic is that while the EU imposes strict political conditions with which candidates need to comply to bring about a finalization of the process of candidacy and thus be granted EU membership, the EU in due course makes it clear that any candidate that successfully meets all stipulated democratic conditions can join the European club without any reservations. However, it is argued in this chapter that this balanced push-pull dynamic, which has produced successful results in terms of democratic consolidation in the former candidate countries, has started to change in character in the course of the post-Eastern enlargement period. As EU conditionality has gradually become ever more difficult to satisfy in terms of the criteria used, the nature of the exact prize or 'carrot' that would be received by a state showing compliance, that is, EU membership, has become increasingly less well-defined in the post-enlargement period.

The next chapter has as its main focus EU conditionality and its subsequent impact on Turkey in the pre-Helsinki period. Turkey applied for EU membership in 1987 and did not receive a candidate status until the 1999 Helsinki Summit. Therefore, it is argued in the next chapter that the basic motivation necessary for compliance with EU terms of conditionality was not present. This fact substantially reduced the potential of the EU to operate as an influential external actor in the process of the consolidation of Turkish democracy in this period. Nevertheless, a number of political reforms took place that were in one way or another connected to pressures emanating from the EU. Two periods in this regard are noteworthy: Turkey's application for EU membership in 1987 and the conclusion of the Customs Union Agreement in 1995. The basic motivation for these 'half-hearted' reforms was Turkey's expectation that the EU would grant Turkey the status of candidacy for membership if Turkey implemented genuine and substantial political reforms. However, as discussed in the next chapter, these reforms were too weak to bring about a meaningful transformation of the political system in Turkey, and therefore at no time was the EU able to provide a reliable port in which Turkish democracy could anchor itself.

3 EU conditionality and democracy in Turkey

The pre-Helsinki period

This chapter deals with European conditionality and its impact on the consolidation of democracy in Turkey regarding Turkish–EU relations between 1987, when Turkey applied for membership, and 1999 when the EU decided to give Turkey candidate status. Turkey's position during this time had been that of a potential candidate in the pre-candidacy period. In this regard, Turkish–EU relations in the period under discussion serve as a rare and good opportunity to evaluate the conditionality of the EU and its impact on the political regime of an applicant state when the applicant does not receive official candidate status.

Although the EU has always acted as a source of magnetism, thus creating its leverage functions, whether they be active or passive, the degree of passive leverage, like its active counterpart, was positively correlated to whether the EU was willing to admit Turkey into the European club and consequently how the EU could establish a mechanism through which Turkey could accede to the Union.

The following points may be made regarding the pre-Helsinki period:

1 Relations between Turkey and the EU remained in limbo and the EU did not create an accession mechanism for Turkey until the 1999 Helsinki Summit. Therefore, the basic motivation necessary for compliance with EU conditionality was not present. This fact substantially reduced the potential of the EU to operate as an influential external actor in the process of the consolidation of Turkish democracy in this period. Nor did the EU provide sufficient encouragement for Turkey to fulfil democratizing reforms, nor could Turkish decision-makers take the risk of eliminating the perennial problems standing in the way of Turkey's integration with Europe with the exception of some limited examples of progress.

2 Nevertheless, there were a number of political reforms in the period which were in one way or another connected to European pressure. Two periods in this regard are noteworthy: first, Turkey's application for EU membership in 1987 and, second, the conclusion of the Customs Union in 1995. The basic motivation for these reforms was Turkey's

expectation that the EU would grant Turkey candidate status if Turkey carried out sufficient political reforms. The EU had never officially rejected Turkey's application, and never clearly declared that Turkey would not become an EU member in the future. This deliberate vagueness kept Turkey anchored at the European port and it carried out some political reforms in the expectation that the EU would accept its application. However, since no carrot of membership had been proffered, the reforms were too feeble to consolidate Turkish democracy in that period. In other words, the EU's persistent vagueness concerning Turkey's candidacy led to only fragile changes mainly realized to give the impression that Turkey was improving its democracy and human rights records.

3   The EU criticisms of Turkey during this era were sporadic, unsystematic and conjectural. There was no mechanism of monitoring to check the government's acts in terms of democracy and human rights.

Turkey's quest for membership and EU conditionality

Turkey's relations with the European Union started on 31 July 1959 when Turkey applied officially for an Association Agreement with the then European Economic Community (EEC) following the Greek application for an association agreement with the EEC on 1 January 1959. On 12 September 1963, Turkey concluded an Association Agreement with the Community, which came into effect on 1 December 1964. The 1963 Ankara Agreement, along with the 'Additional Protocol' signed on 23 November 1970, has constituted the basis of Turkey's relations with the Community, and served as the framework within which the 1995 Customs Union was realized. Turkey applied for EU membership in 1987. Since then, Turkey's political regime and its human rights record have proven to be the most sensitive issues between Turkey and the EU.

From 1980–5, the EU, with the notable exception of the European parliament, pursued a 'wait-and-see' policy and was unable to serve as an effective anchor for Turkey in terms of promoting democracy and human rights in the country. There were two main reasons for this. First was the military intervention on 12 September 1980. Second, relations between NATO and the Warsaw Pact countries were strained during the period, and thus security matters once again were prioritized over the consideration of democracy and human rights, and Turkey's political 'stability' in this international environment could not be jeopardized on account of any 'soft' issues like democracy (Uğur 2000: 269–70).

What we notice after 1986 is an increase in EU pressure on Turkey with regard to democracy and human rights. It seems that the EU began to develop a new attitude concerning Turkey in the second half of the 1980s. As Uğur (2000: 279) rightly asserts, this policy change can basically be explained by two factors: one was the EU's increasing consideration of the matter of human

rights in its external affairs and the second was Turkey's application for membership.

The normalization of relations

Indeed, Turkish–EU relations had been in a real stalemate since the 1980 military intervention. Turkey's policy-makers, and in particular Prime Minister Özal, who was the locomotive of the government, started seriously to think about submitting an application in the immediate future in order to break this deadlock.[1] Ali Bozer, the minister in charge of relations with the EU, describes how 'the Government decided that the best solution would be to proceed with an accession request and to reorganize the relations in a clearer and more definite status' (1987: 11) considering that relations were not going well.

The first thing to do was to normalize relations with the EC. For this, Turkey officially requested a meeting of the Association Council, which had not convened for five years. For this purpose, Prime Minister Özal sent a letter to Jacques Delors, the head of the European Commission, stating that integration with the EU constituted the main pillar of Turkish foreign policy (*Milliyet*, 30 January 1986).

It was decided at the convening of the Foreign Affairs Council, which was held in Luxembourg on 16 June 1986, that the Association Council would be held on 16 September 1986. That meeting was very important for Turkey because the Council at ministerial level had not been held since 30 May 1980, a short time before the military intervention, and thus it signified the normalization of EU–Turkish relations.

The EU–Turkey Association Council met in Brussels on 16 September 1986. The most important message of the meeting was the re-invigoration of relations with the EU. The EU gave a conditional green light to the normalization of relations with Turkey. The political situation in Turkey was among the items debated in the meeting, and the EU representatives made it clear that progress in restoration of democracy and human rights was the essential requirement for the normalization of relations between Turkey and the Community (Dagi 2001: 23).

European pressure for democracy in Turkey

After the normalization of relations, the nature of Turkish democracy was the point that European decision-makers often cited as the significant problem for Turkey's further integration with the EU.[2] The significant policy-makers in the EU, including French Prime Minister Chirac and Belgian Foreign Affairs Minister Tindemans, stated that Turkey should improve the democratic basis of its regime before making an application (Tekeli and İlkin 2000: 86).

Turkey attempted to pacify the European countries through recognition of the competence of the European Commission of Human Rights to hear

individual complaints albeit with some reservations on 23 January 1987 (*Milliyet*, 25 January 1987). This was a very significant decision, because the EU, and in particular the European parliament, had always insisted that Turkey should accept the right to individual application to demonstrate that it was making progress in its democracy and human rights records. Furthermore, Turkey declared that it would fulfil some democratic reforms to improve its democracy and human rights records (*Milliyet*, 30 January 1987).

Thus, Ali Bozer submitted Turkey's official application for membership to Leo Tindemans at 9 a.m. on 14 April 1987. When Bozer presented the application, he said 'We demonstrate Turkey's determination to become European through this application' (*Milliyet*, 15 April 1987). On the same day, Özal said that Turkey would encounter several difficulties in the way of integration with the EU. As far as democracy and human rights were concerned, he said that Turkey had so far realized significant headway, but it would have been able to make yet more progress if the constitution could be changed more easily (*Milliyet*, 15 April 1987). In his vision, Turkey would be a member state in ten years (Tekeli and İlkin 2000: 100).

This proved to be a historic development in relations between Turkey and the EU and thus Turkey moved into the European sphere of influence and became more vulnerable to European pressure in the realm of democracy and human rights. One scholar, for example, argued that 'This move led to a considerable increase in European influence on the process of democratization in Turkey' (Karaosmanoğlu 1994: 129; see also Steinbach 1994: 108).

The attention of European institutions on Turkey and its political system increased after the application. The European parliament, for example, became a place where Turkey was often discussed. The parliament in particular issued a number of resolutions on four basic items: the anti-democratic policies of the Turkish state, the position of the Kurds, the status of Armenians, and relations with Greece and the Cyprus problem. This was first clearly seen in the meeting of the Association Council on 25 February 1988. Democratization and human rights in Turkey were the main issues on the agenda along with the reactivation of the fourth financial protocol, the free movement of goods and people, and the lowering of customs duties. As far as democracy and human rights were concerned, EU representatives welcomed the progress on democracy in Turkey, but considered it insufficient for a country that had applied for membership (Tekeli and İlkin 2000: 114).

Özal's speech to the Parliamentary Assembly of the Council of Europe on 27 September 1989 became a manifesto to convince the Europeans to start negotiations.[3] He emphasized the historical place of Turkey in the European state system. The leitmotiv of Özal's speech was democratization and human rights in Turkey. He clearly explained his plan for more democratizing reforms in the near future. Özal also said that Articles 141, 142 and 163 of the Turkish Penal Code would be repealed, and thus 'crimes of thought' would be repealed, and Turkey would recognize the compulsory jurisdiction of the European Court of Human Rights as soon as possible. He highlighted that

democracy and respect for human rights were the most significant common elements of 'civilized countries'. It seems that this speech was prepared as a sort of manifesto by which the Turkish government clearly pledged to implement the reforms necessary to consolidate democracy in Turkey on the road to EU membership (*Cumhuriyet*, 28 September 1989).

The effect of the collapse of the Berlin Wall on Turkey's EU bid and the Avis

The collapse of the Berlin Wall on 9 November 1989 and the end of the Cold War changed deeply the general international parameters and particularly Turkey's geopolitical position vis-à-vis the European state system. Furthermore, the former socialist states began to aspire to join the 'rich club', the EU, employing the slogan 'return to Europe' (Henderson 1999). Turkey observed these new systemic and structural changes with concern, because all these new developments might result in devaluation of Turkey's geopolitical significance, and with regard to Turkish–EU relations, the CEECs might jump the EC membership queue where Turkey had been waiting for a long time. Turkey's fears were realized, and the EU has increasingly paid attention to developments on its former eastern borders.

The Avis

In this international environment, on 17 December 1989, the Commission completed its Opinion on Turkey's application for EU membership dating back to 14 April 1987. The Avis, as expected, was negative. The main theme of the report was that Turkey was not ready for membership in all senses, and a 'premature step' might be harmful for the Community, given that the Community had been in a state of flux (European Commission 1989).

As far as democracy in Turkey was concerned, the Commission made the following statement: 'Although there have been developments in recent years in the human rights situation and in respect for the identity of minorities, these have not yet reached the level required in a democracy' (European Commission 1989).

However, the Commission, albeit in a quite vague manner, seemed to accept the 'eligibility' of Turkey for membership:

> To contribute to the success of Turkey's modernization efforts, the Commission recommends that the Community propose to Turkey a series of substantial measures which, without casting doubt on its eligibility for membership of the Community, would enable both partners to enter now on the road towards increased interdependence and integration, in accordance with the political will shown at the time of the signing of the Ankara Treaty.
>
> (European Commission 1989)

The Opinion was penned in a very vague style. Although it implied that there existed serious problems in Turkish democracy, it did not go into details. Although the report did not officially reject Turkey's application, neither did it propose a perspective of membership to Turkey and a mechanism through which Turkey could fulfil significant political reforms at home.

After the Commission issued the Avis, Özal[4] declared that it was better than his expectation, given that Turkey was declared 'eligible' for accession (*Hürriyet*, 20 December 1989). The overwhelmingly optimistic reaction to the report was generally shared by the business associations, including TÜSİAD, İTO, İKV and TİSK, which all highlighted Turkey's 'eligibility' for accession (Tekeli and İlkin 2000: 164).

The opposition, on the other hand, regarded the report as a failure of the government, and stated that it was the government's fault, given that the government could have achieved more substantial democratizing reforms. For example, Erdal İnönü, leader of the Social Democrat People's Party (SHP), accused the government, stating that 'The deficiencies in democracy are nothing but the failure of the government. The government could have easily provided a picture of the country in which human rights . . . are respected' (*Cumhuriyet*, 19 December 1989).

For President Özal, everything had to be done to open the negotiations on time (*Hürriyet*, 11 January 1990). However, all these efforts produced little results, the Council did not take Turkey's request into consideration and thus the 1987 Turkish application was left on the shelf. This was the end of the period in which Turkey tried to gain accession to the EU.

EU conditionality and the Customs Union

The Turkish elite's aspiration to realize the Customs Union made Turkey more vulnerable to the EU's criticism on democracy and human rights issues. However, as discussed below, forging a Customs Union with the EU would not be sufficient for the Turkish decision-makers to realize political reforms on sensitive issues, in particular the Kurdish question. In other words, forging a Customs Union with the EU was a highly restricted carrot or incentive in this regard. Nonetheless, Turkey was able to accomplish some limited political reforms that could be explained by its expectation that concluding the Customs Union would facilitate its bid for EU membership.

The growing Kurdish question and tension between Turkey and the EU

Turkey's Kurdish question and human rights abuses, mostly connected to separatist activism and Turkish state reactions to this, together with other problems of democracy in Turkey dominated Turkish–EU relations in the period when discussions on the Customs Union began, and these were concluded in 1995.

The most significant blow to EU–Turkish relations at the beginning of the 1990s came with the increasing number of PKK (Kurdistan Workers' Party)

insurgencies. The terrorist activities of the PKK in the 1990s and the response of the Turkish military to these activities resulted in more human rights violations and increasing state repression in the south-eastern part of Turkey. Naturally, Turkish–EU relations started to deteriorate. This general deterioration in Turkey's political regime, in particular the hot pursuit of the Turkish army in northern Iraq and the deaths of 31 people in Cizre during the 1992 Nevruz celebration, provoked a reaction in European public opinion.[5] The Kurdish diaspora extensively used these two events to create sensitivity in Europe. These events sparked off a series of violent incidents in Europe conducted by the Kurds to protest against the activities of the Turkish state. Meanwhile the German TV channel SAT-1 argued that Turkey was using tanks donated by Germany in the war against the Kurds, and on 26 March 1992 Germany halted military aid to Turkey (*Sabah*, 28 March 1992). Thus, Turkish–German relations hit rock bottom.

The DEP event and European reactions

The banning of the pro-Kurdish Democracy Party (DEP) by the Turkish Constitutional Court and the detention of DEP parliamentarians stoked up tensions between the European institutions and Turkey. When on 2–3 March 1994 the Turkish parliament abolished the political immunities of six DEP parliamentarians and two independent parliamentarians, who were previously DEP and Welfare Party (RP) members, there was a significance response within European public opinion. Several leaders from EU member states, including German Chancellor Kohl, became involved in this event (*Milliyet*, 12 March 1994).

The Constitutional Court banned the DEP on 16 June 1994 because of the 'separatist' tendencies of the party. Thus, 13 DEP deputies were stripped of their parliamentary rights according to Article 84 of the constitution. This closure marked Hans van den Broek's visit to Turkey.[6] While he welcomed the democratization programme prepared by the government, he clearly expressed his concerns over the Kurdish problem, in particular the banning of the DEP. He implied that while the European Commission expected Turkey to fulfil more democratizing reforms, the situation seemed to be getting worse (*Milliyet*, 19 June 1994).[7]

The troika, Germany, France and Greece, condemned Turkey heavily at the summit. The presidency conclusion of the Essen European Council included the statement 'The European Council made a statement to the press expressing its concern that freely elected Members of Parliament had been sentenced to imprisonment in Turkey and urging respect for human rights' (Council of the European Union 1994).

The Brittan Report

While Turkey was thinking of opening negotiations for the conclusion of the Customs Union, the Brittan Report, prepared by Sir Leon Brittan,

Vice-President of the Commission, and discussed in the Council held on 13 July 1994, led to unease among Turkish officials. According to the report, both the economic and the political situation in Turkey were getting worse. The report highlighted the Kurdish question, with particular reference to the last DEP incident and the reactions it provoked in Europe. The report concluded that Turkey might not be able to fulfil its obligations as regards the Customs Union (Tekeli and İlkin 2000: 362).

The Association Council (19 December 1994)

Democracy and human rights dominated the Association Council held on 19 December 1994. The most important speech in respect of democracy and human rights was delivered by Klaus Kinkel, Germany's Foreign Minister. He underlined that full compliance with international human rights norms and standards was the vital condition for the forging of good relations with European institutions and that Turkey's human rights record and democracy were suffering from deficiencies. Thus, Turkey must live up to international human rights norms and standards if it wanted to strengthen its relations with Europe.

Karayalçın, Deputy Prime Minister of Turkey and the leader of the junior partner of the coalition government, the SHP, replied to Kinkel, stating that the coalition government was trying to get support from various sectors of society to realize greater democratization and that Turkey would be encouraged to carry out more radical democratizing reforms if the EU allowed it to move closer to the EU. He also stated that Turkey was expecting to conclude the Customs Union at the first Council meeting, which would be held on 6 March 1995 (Tekeli and İlkin 2000: 396).

The Customs Union decision and EU pressure on Turkey

Eventually, the Customs Union between Turkey and the Union was concluded at the Association Council meeting on 6 March 1995, following months of negotiations and bickering due basically to Greece's politically motivated veto.[8] At the meeting the French Foreign Minister Alain Juppe made an important speech on behalf of the Council, stating that any further improvement in relations would be dependent on Turkey's human rights record and constitutional amendments that were deemed necessary for a viable democracy. He continued that Turkey was obliged to comply with the OSCE principles, which Turkey had agreed to achieve. For him, censorship of newspapers, detention of journalists, writers, human rights activists and parliamentarians clearly showed that there existed human rights abuses in Turkey. In addition, Juppe asked Turkey to release the Kurdish DEP deputies (*Turkish Daily News*, 6, 7, 8 March 1995; *Milliyet*, 7 March 1995).

Karayalçın said at the meeting that the present aim of the Turkish government was to amend 21 articles in the constitution. He argued that when

Turkey had fulfilled these reforms, the quality of democracy in Turkey would have reached the same level as Turkey's Western allies. However, Karayalçın warned the Europeans that realization of the reforms might take some time, and thus Turkey needed support and encouragement from the EU member states (Tekeli and İlkin 2000: 427).

Just about two weeks later, the troika of the EU, the term President French Foreign Minister Alain Juppe, the previous term President German Foreign Minister Klaus Kinkel and the next term President Spanish Foreign Minister Javier Solana, and Hans van den Broek, the Commissar in charge of the EU's external affairs, came to Ankara on 23–4 March 1995 to remind Turkey what it would need to do to have the Customs Union come into force on 1 January 1996. They particularly emphasized democratization and improvement of the human rights record. It was understood that both the troika and the European parliament were highly concerned about human rights violations in Turkey, in particular the recent cross-border attacks of 35,000 Turkish troops against separatist rebels of the PKK (*Daily Telegraph*, 21 March 1995).[9]

EU pressure concerning the Anti-Terror Law

While the ratification of the Customs Union by the European parliament was approaching, pressure on Turkey concerning human rights and democracy seemed to increase. The EU declared that if Turkey did not carry out the necessary reforms, the ratification of the agreement would probably be postponed (*Turkish Daily News*, 6 October 1995). The amendment of Article 8 of the Anti-Terror Law was the particular clause that was expected to be problematic. When Prime Minister Çiller told European politicians that the amendment of Article 8 of the Anti-Terror Law did not appear possible until the end of December because of political reasons, Kinkel and the President of the Commission Santer made it known that the abolition of Article 8 was the condition that the European parliament was putting on ratification of the agreement.[10]

Article 8 of the Anti-Terror Law was amended on 27 October 1995. Just four days later, Prime Minister Çiller (the third Çiller government), said that the amendment of Article 8 showed the government's commitment to democratization in Turkey.[11] Thus, there existed no further problem between Turkey and the EU in terms of the Customs Union. The ball was now in the European parliament's court.

After the European parliament had given its assent to the Customs Union agreement with Turkey, deteriorating Turkish–Greek relations (as a result of the Kardak crisis)[12] marked EU–Turkish relations in 1996, along with Turkey's disappointment over not being invited to the European summit with regard to the enlargement of the EU in Madrid on 16 December. The EU summit joint declaration noted Turkey's efforts to introduce democratic reforms with satisfaction, and voiced hope that such reforms would continue in the future (Council of European Union 1996).

EU conditionality after the Customs Union decision

What dominated relations in this era was the constant reluctance of the EU to accept Turkey as a candidate, the deterioration of Turkish–German relations, the declaration of the European Christian Democrats and most importantly the Luxembourg Summit, after which Turkey decided to continue relations only within the framework of the Customs Union and refused to talk with the EU about political matters including Cyprus, relations with Greece and human rights.

Turkey continued to pressure the EU about Turkey's candidacy in this period. Foreign Minister Çiller attended a meeting with EU foreign ministers in Rome on 28 January, and she met with the ministers of the five major states of the EU – Britain, France, Germany, Italy and Spain – for 'informal pentagonal talks'. Çiller underlined that the Turkish government would carry out very important decisions in this regard that would satisfy the European governments.[13] However, the attitude of the big five was in fact a continuation of Turkey's rebuff in 1989 because after years and the advent of a Customs Union agreement, the rhetoric of 'theoretically eligible but not now' did not change.[14]

While the Turkish government was planning to introduce a new human rights package to parliament before the meeting of the EU foreign ministers in Apeldoorn, the Netherlands on 16 March (*Milliyet*, 3 March 1997), a consensus decision at a meeting of the mainly Christian Democrat European People's Party (EPP) shocked Turkey. According to this declaration, 'Turkey is not a candidate to become a member of the European Union, short term or long' because of the fundamental civilizational difference of Turkey. What shocked Turkey was that leading EU politicians – including German Chancellor Helmut Kohl, Spanish Prime Minister Jose Maria Aznar and Italian Prime Minister Romano Prodi[15] – attended the meeting. Although the decision did not talk directly about religion, it was understood by Turkish public opinion that the EU was a Christian club that would never admit Turkey because of its Muslim identity, which was in fact what Islamic groups in Turkey had been arguing.

Although the EU foreign ministers declared that nothing had changed in relations with Turkey in respect of the European Christian Democrats' claim, and argued that Turkey would be treated equally to other EU candidates in their meetings in Apeldoorn, the stamp of the declaration of the Christian Democrats would never fully disappear (*Sabah*, 17 March 1997).

The Turkey–European Union Association Council met on 29 April in Luxembourg, after its lengthy suspension since 1995 because of Greek opposition.[16] While the EU delegation promised to treat Turkey in an equal manner, the Presidency Statement of the Council urged Turkey to fulfil the reforms necessary to bring Turkey's human rights standards to internationally accepted levels and to combat terrorism within a democratic framework.

Agenda 2000 and Turkey

As discussed before, Agenda 2000 was important for both the EU's future and that of the applicants. Regarding Turkey, the Commission particularly emphasized two basic problems in Turkey's political regime: the Kurdish question and civil–military relations. Turkey critically reacted against the Commission's recommendation.[17] Relations with the EU continued to deteriorate in the succeeding months. Luxembourg's Foreign Minister and then-president of the EU Jacques Poos said in Ankara on 12 September that Turkey could not become a full member of the Union unless it solved the Kurdish problem through initiating a dialogue (*Hürriyet*, 3 September 1997).

Similarly, German Foreign Minister Klaus Kinkel declared that Turkey had no chance of realizing its ambitions to become a full EU member in the near future:

> Turkey has had a place reserved for it on the European train since 1963 but there is no chance of it getting on the train in the near future . . . [Turkey] has to deal with its domestic tasks . . . The first of these are human rights, the Kurdish problem and economic problems.
>
> (*Turkish Probe*, 19 September 1997)

Kinkel stated that 'the Turkish train remains on the rail line to Europe but the path to full membership goes via the human rights situation, the Kurdish situation, relations with Greece, and the Cyprus question and naturally over several economic problems' (*Turkish Probe*, 3 October 1997).[18] Similarly, France declared that Paris required Turkey to implement large-scale reform that would guarantee freedom of expression (*Turkish Probe*, 16 November 1997).[19]

The 1997 Luxembourg Summit and deteriorating relations

On 13 December, Turkey was not named among the countries to be included in EU enlargement in the foreseeable future and no pre-accession strategy was granted to Turkey. The EU was given a 'policy of rapprochement' under the title of 'European Strategy for Turkey'. The discouraged Turkish government announced one day later that political relations with the EU had been frozen, and that relations with the EU would continue under the framework of the Customs Union. Turkey would no longer debate Cyprus and the human rights situation, including the south-east problem in Turkey, with the EU. Turkish Prime Minister Yılmaz even threatened to withdraw Turkey's 1987 application for EU membership (*Sabah*, 15 December 1997).

The 'European Strategy for Turkey'

Although Turkish–EU relations during 1998 were characterized by non-dialogue, it was not a 'lost year'. One of the most significant developments

in 1998 was the European Commission's new proposal to Turkey (European Commission 1998a). The 'European Strategy for Turkey', released on 4 March, was prepared in line with the European Council's call to the Commission during the Luxembourg European Council to formulate a strategy on Turkey. The document contained some proposals, which were regarded as a 'Customs Union plus' as they included the fields of agriculture, services and some industries not covered by the Customs Union. The document did not include any human rights conditions.

Ankara's reply to the European strategy came on 17 July 1998. It was not positive. The Turkish policy-makers believed that 'even if they were fully implemented, the proposals contained in the "Strategy Document" would still fall far short of the possibilities made available to the other candidates and be insufficient to integrate Turkey with the EU' (Turkish Ministry of Foreign Affairs 1998). Turkey never accepted the strategy, which was a non-membership solution to the Turkey question offering a sort of 'privileged relationship'.

The year 1998 was a difficult one for Turkey's relations with a number of important European states. Turkey's relations with Germany were at rock bottom until the moment when Germany's Social Democrats toppled the conservative-led government of 16 years standing in the general elections on 27 September. When it was understood that Bonn was against Turkey joining the EU, a series of anti-German outbursts by Turkey's German-educated Prime Minister, Mesut Yılmaz, had soured relations between Turkey and Germany in March and April.[20]

Turkish–French relations had been witness to difficulties when the socialist deputies proposed a resolution that asked to recognize 'the Armenian genocide' allegedly carried out by the Ottoman Empire between 1915 and 1921. Since at the time France was the main 'engine' of the Turkish drive to join the EU,[21] a deterioration in relations with France was the last thing that Turkey wanted.

The hottest issue among all the problems in this regard was that between Turkey and Italy concerning the presence of Abdullah Öcalan in Rome. Relations between Turkey and Italy had already started to deteriorate because of the Kurdish question when Turkey warned Italy concerning a two-day meeting of 'the Kurdish parliament-in-exile' in the Italian parliament with the participation of Italian deputies in September. However, the real blow to relations came when Öcalan was arrested in Rome after he fled to Italy from Russia on 13 November.

The anger against the Italian government increased when it became known that Öcalan, who was being kept in a hospital instead of jail, had been freed on 21 November. The Turkish government reacted against Italy at the highest diplomatic level. Turkish Prime Minister Yılmaz warned that Italy 'cannot carry this shame. If it does, Turkey will not leave this unanswered' (*Turkish Probe*, 29 November 1998). Thousands of Turks angered by Italy's release of Öcalan held demonstrations against Italy and hundreds of Turkish

companies and business groups announced a boycott of Italian goods. When Italian Prime Minister Massimo D'Alema declared in Brussels that Öcalan was not just Italy's problem but Europe's problem, the EU supported the Italian government and the Commission President Jacques Santer warned Turkey on 24 November that Turkey could face retaliatory sanctions from the EU and all its members if it boycotted Italian imports (*Turkish Probe*, 29 November 1998).

The European parliament and pressure on Turkey

In contrast to the post-Helsinki period, the European parliament had been important in determining the agenda between Turkey and the EU between 1987 and 1999 regarding Turkey's political regime. This was related to the fact that the EU had not established a mechanism through which it could perform as a 'gatekeeper' in the full sense and monitor the democracy and human rights record of Turkey. In other words, since the EU had not clearly given official candidate status to Turkey, a conditionality mechanism had not been structured in the pre-Helsinki period. It seems that the other institutions of the EU deliberately delegated Turkey to the European parliament, simply because the JPC had been the only working organ between the Community and Turkey throughout the period.

The European parliament was predominantly critical of Turkey's human rights record and its quality of democracy between 1987 and 1999. When analysing the European parliament's various resolutions concerning the condition of democracy and human rights in Turkey, the following issues often came to the fore: torture, death penalties, political restrictions on former politicians, mass trials (of *Barış Derneği* and DİSK) and the Kurdish problem. The European parliament requested that Turkey eliminate torture in police custody, repeal the death penalty, end mass trials, release 'political prisoners' and recognize the competence of the European Commission of Human Rights to hear individual complaints.

After Turkey applied for membership, its first major problem with the European parliament was the Kutlu-Sargın issue.[22] Other problems were the death penalty in Turkey (European parliament 1988c) and former Diyarbakır Mayor Mehdi Zana.[23] Furthermore, certain groups within the European parliament, in particular the socialist and Communist group, continued to keep Turkey on the agenda of the parliament, calling attention to the trial of the newly established Socialist Party.[24]

Moreover, the European parliament debated the Walter Report, which was prepared by Gerald Walter, a German parliamentarian from the socialist group, on 15 September 1988. Walter argued in his report that, despite some progress, human rights violations were continuing in Turkey, and the cultural rights of the Kurdish and 'Christian' minorities were being violated (Walter 1988).

When the European parliament started to discuss Turkey on 17 May 1990, its main focus was the Kurdish problem. Although the European parliament

first stated that it condemned all forms of terrorism, it continued that a peaceful solution to the Kurdish problem depended on the recognition of the political, cultural and social rights of the Kurds by the Turkish state. The European parliament asked Turkey to nullify the decree that had declared the state of emergency in south-east Turkey because, according to the parliament, this decree had led to severe human rights violations carried out by state agents under the pretext of combating terrorism. The violence at the May Day events, which had also been mentioned in previous European parliament resolutions (for example, European parliament 1989) was also discussed. The issue of torture in police custody was a common feature in European parliament documents and debates (*Milliyet*, 18 May 1990).[25] In addition, İsmail Beşikçi,[26] Haydar Kutlu and Nihat Sargın[27] were often mentioned in European parliament resolutions (European parliament 1988a).

The years 1991 and particularly 1992 were those during which the PKK's violence rose substantially and reached its peak. At the same time, the Turkish army intensified its military operations against the rebels. The power vacuum in northern Iraq meant that Turkish soldiers frequently crossed into the area in pursuit of rebels. These 'hot pursuits' provoked criticism in the European parliament and European public opinion regarded them negatively.

The final event that ruined relations came when the Nevruz festival turned into a rebellion in the town of Cizre on 21 March 1992, resulting in 31 deaths. The European parliament was prompt to condemn Turkey in relation to this event. The resolution prepared by liberal, socialist groups and the Christian Democrats was issued on 9 April 1992 and criticized Turkey harshly for events that had taken place during the Nevruz celebration. The European parliament called for an international investigation of the events, and a peaceful solution to the Kurdish problem, which was stated as the essential condition for Turkey's democratization. The Euro-deputies urged the Turkish government to forge a dialogue with the HEP (People's Labour Party) parliamentarians, to establish a Kurdish institute and allow the Kurds to set up TV and radio stations that could broadcast in Kurdish (European parliament 1992).

Another blow to relations between the European parliament and Turkey was the report on the Kurdish problem produced by Italian liberal parliamentarian Jas Gawronski in mid-June 1992. The report basically asked Turkey to recognize the cultural rights of the Kurds, and condemned Turkey for trying to solve the Kurdish problem through military measures alone.[28]

In addition, the European parliament issued a report on Euro-Turkish relations in November 1992. The report, prepared by Belgian parliamentarian Raymond Dury, asked Turkey to fulfil the democratizing reforms that the government had formerly pledged as soon as possible, and to respect fundamental human rights in its conflict with the PKK. The Dury Report made Euro-Turkish relations conditional on Cyprus and human rights, including the Kurdish issue (Tekeli and İlkin 2000: 284–5).

When the European parliament convened with its new 567 members on 18 July 1994, the DEP case constituted the main theme of the debates. The

parliament accepted a resolution in this regard.[29] The resolution heavily criticized the Turkish state for the banning of the DEP and detention of DEP members, and asked Turkey to release them soon. What was more important was that the activities of the JPC would be frozen until the conclusion of the case (European parliament 1994a and 1994b). The European parliament had previously frozen its relations with Turkey only following the military intervention in 1980.

The European parliament was apparently not keen to give its assent to the conclusion of the Customs Union due to Turkey's Kurdish problem and alleged human rights abuses. It was obviously expecting more democratizing reforms from Turkey, particularly with respect to the Kurds, before approving the decision. Although Turkey did not accept the conditions for human rights reforms, arguing that this constituted interference in internal affairs, unofficially and behind the scenes, the Turkish government was well aware that the European parliament could not be persuaded without the implementation of certain political reforms. This was clearly demonstrated by another resolution of the European parliament on the Customs Union with Turkey (European parliament 1995a).

The European parliament reacted severely to the Turkish army's cross-border operations to confront the PKK militants. On 20 March 1995, 35,000 Turkish troops had entered northern Iraq to root out the PKK bases. The operation was the largest military action in the history of the Turkish Republic. The European parliament accepted the draft prepared by the seven groups in parliament and asked Turkey to halt military operations against the PKK and to find a political solution to the problem. More importantly, the European parliament made it clear that the human rights situation in Turkey was so bad that it would prevent realization of the Customs Union.

The Council sent the agreement on the conclusion of the Customs Union to the European parliament to be discussed and ratified. The parliament forwarded it to the Foreign Affairs Committee on 10 July 1995. The draft report would be re-written in the light of the debates taking place in the Foreign Affairs Committee, and be debated again there on 22 November 1995. Thus, the committee meeting on 22 November became the target that Ankara locked onto (Birand 1995).

The governments of the EU member states, the Turkish government and organizations, the US and even Israel called on the European parliament deputies to ratify the agreement, referring to three basic interrelated reasons for supporting Turkey's bid. First, they underlined the geostrategic importance of Turkey to the West's vital interest. As *The Economist* (1995a) argued 'Europe – and not only its EU countries – needs Turkey, for years a bastion of relative stability at a dangerous global crossroads, just as Turkey needs Europe.' Second was that if the agreement was not approved, Euro–Turkish relations might be seriously severed, which could lead to a situation where Turkey might escape from the EU's orbit. Furthermore, the Turkish

government, particularly Çiller, and the governments of the EU states, the US and Israel all often used the fundamental fear of Europe: Islamic fundamentalism. Referring to the RP, Çiller warned the EU that fundamentalist forces would come to power to end democracy if the EU rejected Turkey (*Daily Telegraph*, 2 November 1995).

The EU member states tried to induce the Euro-deputies to ratify the agreement, arguing that the Customs Union would anchor Turkey to Europe, and the EU could become more influential in Turkey's domestic politics. Thus, Turkey would have to comply with European standards of democracy and human rights. For example, the leader of the socialist group in the European parliament, Pauline Green, answered the question 'What made you approve Turkey's Customs Union with the EU?' with 'We have chosen to do it purely on the trade agreement in order to exercise leverage on democracy and human rights' (*Turkish Daily News*, 30 December 1995).

While Ankara was working to prevent Customs Union delay, the European parliament's Sakharov Prize for freedom of thought was awarded to Leyla Zana, the jailed former deputy from the banned pro-Kurdish Democratic Party (DEP). Two hundred and seventeen members of the Socialist group had nominated Zana for the prize. When it was announced that Zana had been awarded the Sakharov Prize, Pauline Green called on Prime Minister Tansu Çiller to release Leyla Zana to collect it.[30]

On 13 December, the European parliament eventually voted for the Customs Union agreement by 344 votes to 149 with 36 abstentions. It also voted for a draft resolution on the human rights situation in Turkey prepared by the socialists and liberals:[31]

> [The parliament] appeals to the Turkish Government, the PKK and other Kurdish organizations to do all in their power to find a non-violent and political solution to the Kurdish issue . . . [and] calls upon the Turkish Government . . . to consider ways and means of allowing citizens of Kurdish origin to express their cultural identity.
>
> (European parliament 1996a: 46)

The European parliament also called on the Commission and the Council to monitor human rights and democratic development in Turkey and requested the Commission to present a report on the situation in Turkey at least once a year.

After the European parliament had given its assent to the Customs Union act, it declared a resolution on 18 January 1996, using very strong wording. The resolution tackled almost every matter of concern regarding Turkey. The parliament called on the forthcoming government to implement further democratizing reforms particularly on the Kurdish issue and to improve Turkey's human rights record (European parliament 1996b).[32] On 19 September 1996, the parliament announced another resolution, again using strong wording, and called on the Commission to suspend financial aid to

Turkey from the MEDA (Mesures d'accompagnement) funds, except for human rights development projects. What is of particular interest is that the resolution used the term 'Kurdistan' to describe the south-east of Turkey, which was unacceptable to the Turkish governing elite (European parliament 1996c: 187). The European parliament called on Turkey to initiate a peaceful settlement in 'Kurdistan' and asked Çiller to carry out her promises. Foreign Minister Çiller criticized the EP's resolution, saying 'we kept our promises. We passed legislation such as the 8th article that was blocking freedom of expression. We gave wider powers to the local governments. I ask my European friends to keep their own promises' (*Turkish Daily News*, 21 September 1996).

The JPC meetings

The JPC became the central organization liaising between Turkey and the EU after the failure of the Association Council meeting. Human rights violations and non-democratic policies continued to be the principal topic of discussion in these meetings. Since there was no other place where the European and Turkish delegations could meet and discuss Turkish–EU relations, Turkey and the EU had attached importance to the meetings in the pre-Helsinki period. Human rights, democracy in Turkey and the Kurdish question were the unchanged subjects of the meetings in the pre- and post-Helsinki periods. However, the meetings started to lose importance when EU–Turkish relations were framed within the 1999 Helsinki decisions.

The first JPC meeting after the military intervention was held on 17–19 January 1989. For the first time, Turkish parliamentarians in the JPC, particularly from the opposition parties, accepted the European parliament's critiques concerning human rights, but they said that Turkey was trying to fulfil reforms to consolidate its democracy (*Milliyet*, 19, 20 January 1989; Birand 1989).[33] The first JPC meeting after the Commission declared its Avis on Turkey's application was held on 22–3 March 1990 in Antalya. The European parliament delegation, again, focused on the Kurdish problem, the minority issue, human rights violations in Turkey, and asked Turkey to comply with European norms in this regard (*Cumhuriyet*, 23 March 1990; *Milliyet*, 24 March 1990).

Turkey's human rights issue and its non-democratic political system were again the main thread running through the meeting of the JPC held in Strasbourg on 11–13 July 1990. The next meeting was held in Istanbul on 7–9 November 1990. Heated debates with regard to the Kurdish problem and other violations of human rights in Turkey took place at this meeting. The European parliament delegation insisted that an improvement in EU–Turkish relations and reactivation of the fourth financial protocol were definitely conditional on Turkey's progress in fulfilling the reforms that could consolidate Turkish democracy and improve its human rights record (*Milliyet*, 8, 9, 10 November 1990).

The first JPC meeting in 1991 was held in Brussels on 20–2 March just after the end of the Gulf War, which de facto ended with the ceasefire on 28 February 1991. As in the previous meetings, the Kurds and the other human rights and democracy issues constituted the dominant theme (*Milliyet*, 21, 22, 23 March 1991). The next JPC meeting was held in Istanbul on 17–19 July 1991. While the Turkish parliamentarians emphasized the necessity of the reactivation of the Association Council and the fourth financial protocol, the European parliamentarians, as usual, focused again on the Kurdish problem, and in particular the death of Vedat Aydın (*Milliyet*, 18 July 1991).[34]

The next JPC meeting was held on 29–30 June 1992. The meeting was again the scene of hot debates between the two sides on the Kurdish problem (*Milliyet*, 30 January 1992). The debates in the next two JPC meetings held in Brussels and Antalya on 25–7 November 1992 and 5–7 May 1993 respectively were to a large extent identical to the previous ones.

The European parliament reactivated the Turkish–EU Joint Parliamentary Committee, which was suspended on 29 September 1994 when the DEP deputies were sentenced to jail, on 15 November 1995, stating the necessity to forge relations again since the new developments in Turkey. The Turkish and European deputies met on 1 December and resumed fighting on human rights. The Euro-deputies started their visit to Turkey by going to visit Leyla Zana in prison on 1 December. The European wing of the JPC also created a tense atmosphere by bringing up the question of Leyla Zana (*Turkish Daily News*, 2 December 1995).

The JPC convened on 24 June 1996. As usual, human rights dominated the meeting. At the opening ceremony, while Mehmet Sağlam, the co-chairman of the JPC, stated that the amendments in the constitution, the Penal Code and the Anti-Terror Law implemented in the previous year were an important step forward on the path to improving democracy, both the European delegation and European Union representative to Turkey, Michael Lake, advocated that more efforts were needed by the Turkish officials on democratization and human rights (*Turkish Daily News*, 26 June 1996). Furthermore, the 40th Turkish–EU Joint Parliamentary Committee meeting was again a platform for the discussion of Turkey's political regime and the European parliament delegation exerted pressure on Turkey in this regard.

The impact of EU conditionality in the pre-Helsinki period

The EU's pressure on Turkey in the pre-Helsinki period produced little success regarding democratic consolidation in Turkey. As discussed above, the EU exerted political pressure on Turkey and asked Turkey several times to improve its democracy and human rights records. However, these pressures generated little result for a number of reasons:

1   The EU did not accept Turkey's application for membership in 1987, although it did not reject it either. The status of Turkey's application

had always been vague. The EU never declared Turkey as a candidate but always kept its status ambiguous and attempted to find a solution to the Turkish case through introducing some *sui generis* formulation for Turkey, such as the 'European Strategy for Turkey'. This of course is very much against the logic of conditionality, as discussed in the previous chapter. As stated before, it is proven that it is only the carrot of EU membership that is effective in the political transformation of candidates. As we have learnt from the East European and West Balkan cases, any status less than candidacy for full membership is insufficient leverage for change in applicant states. There were no push-pull dynamics in the pre-Helsinki period because the pull side of conditionality was so weak. This destroyed the cost–benefit analysis of the political elites who needed strong encouragement from the EU to realize substantial political reforms.

2   Since Turkey did not have candidacy status, there was no monitoring mechanism, which is normally an important element for the implementation of political reforms in candidates.

3   The EU's criticisms of Turkey were sporadic and non-systematic. Most of the criticisms were related to conjunctural issues that were high on the agenda, such as Article 8 of the Anti-Terror Law during the discussion of the Customs Union.

4   However, Turkish governments had undertaken some legal reforms expecting that they could convince the EU to accept Turkey's application, but these reforms were generally insubstantial and not enough for further consolidation of democracy.

Legal reforms during Özal's period in office

After Turkey applied for EU membership in 1987, Prime Minister Özal stated that 'Nobody will be able to say that democracy in Turkey is different from democracies in Europe in five years' (*Milliyet*, 1 January 1988). Turkey had already carried out some reforms to restore democracy and improve its human rights record. The Turkish parliament adopted a partial amnesty bill on 11 March 1986 (*Official Journal*, 19 March 1986, no. 19052) and another bill in April 1986 that lifted the ban on the expression of opinion on domestic and foreign policy by former politicians through amendments to Law 2969.

More importantly, Turkey recognized the competence of the European Court for Human Rights to hear individual complaints in January 1987 (*Milliyet*, 25 January 1987). Thus, Turkey tried to appease the EU, particularly the European parliament, which had always pressurized Turkey to accept the right to individual application.

The other issue highlighted by the EU, and in particular the European parliament, concerned restrictions on former politicians. These politicians had been banned from involvement in politics for 10 years by provisional Article 4 of the 1982 constitution. It banned political activities by over 600

former politicians, who were the members of the central executive organs of the parties dissolved by the military government in 1981. Just after the application, Özal declared on 28 April 1987 that the government would prepare a bill to repeal the constitutional restrictions on the former politicians. Provisional Article 4 of the constitution was abolished with a referendum held on 6 September 1987. It was well known that Özal himself was against abolition of the ban. However, pressures, particularly from the EU, forced his hand (Tekeli and İlkin 2000: 148).[35] The referendum approved the repeal by a very narrow majority (50.1 per cent, *Official Journal*, 6 September 1987, no. 19572). In addition, the voting age was lowered from 21 to 20 (Article 67).

The most important amendment through Law 3361 with regard to the consolidation of democracy was the change in the amendment procedure of the 1982 constitution (Özbudun 1998: 42). On 14 April 1987, when Turkey applied for EU membership, Özal explicated the progress Turkey had made up to that day and declared that Turkey would be able to implement democratizing reforms more quickly if the constitution could be more easily amended (*Cumhuriyet*, 15 April 1987). Since the first version of Article 175 of the 1982 constitution required a qualified majority of two-thirds of the full membership of the parliament, it was highly difficult to amend the constitution. The amended version of Article 175 made constitutional amendments relatively easier, procedure for amendment was made more flexible and the scope of referendum was broadened.[36]

When Turkey's application was rebuffed in 1989, Turkey did not receive any concrete projections from the EU regarding future EU–Turkish relations. This obviously decreased the potential influence of the EU on Turkey's politics. However, since Özal and his friends were still expecting a clear date for the beginning of accession talks, EU–Turkish relations had not yet reached rock bottom. Thus, the reforms carried out after 1989 could still be connected to Turkey's EU bid.

A Parliamentary Commission consisting of the representatives of all political parties was established on 4 December 1990 to monitor human rights violations in Turkey, to investigate allegations and complaints and to propose amendments to the existing legislation. The Commission started work in January 1991 by examining petitions received from individuals and organizations. Sub-commissions were created to supervise police stations.

Some amendments were made to the Turkish Penal Code and the Anti-Terror Law, through adopting Law 3713 on 12 April 1991. Articles 141, 142 and 163 of the Penal Code were lifted. Thus, Communist activities and propaganda were no longer subject to prosecution, and all pending prosecutions were suspended. Article 163 was concerned with Islamic propaganda, and abrogation of 163 meant that religious propaganda would not be prohibited. According to some official figures, between 1982 and 1990, 10,949 people faced accusations of violating these articles (Tanör 1994: 70).

Furthermore, the abolition of the law banning publications issued in languages other than Turkish (Law 2932) was another significant improvement.[37]

The abolition of the law banning publications issued in languages other than Turkish (in practice Kurdish) was not easy. Özal considered it as a step to solve the Kurdish problem in a democratic way. He stated in his visit to Hakkari that the Kurdish question could be solved only within the parameters of democracy (*Cumhuriyet*, 14 October 1991; *Hürriyet*, 15 October 1991). Even though he did not personally support federalism or autonomy for the Kurds, he proposed that all possible means of solution, including federalism, should be discussed (*Sabah*, 12 March 1991; *Cumhuriyet*, 31 October 1991).

When Özal proposed the abolition of the language ban, his party ANAP (Motherland Party) and his ministers were reluctant to do so. The cabinet was not easily convinced. The ministers and the ANAP group in parliament resisted Özal's demand for a while (*Hürriyet*, 2 February 1991; *Cumhuriyet*, 19 March 1991; *Cumhuriyet*, 29 March 1991).[38] The cabinet was reluctant to approve the removal of the ban on the Kurdish language because they did not know what the next step would be. They feared opening the Pandora's box that would promote separatism.[39]

In addition, the government announced, three months before the Commission had completed its Opinion on Turkey, that the crimes leading to the death penalty would be reduced from 29 to 13. Turkey had in fact carried out no executions since 1984.

It can be asked here whether all these legal reforms could be attributed to the dynamics of EU–Turkish relations. Some authors have argued in the past that 'the decision was, to a large extent, prompted by the need to prepare the country internally and internationally for the bid to join the EC' (Dagı 2001: 35; see also Aral 2001: 82). Since Özal himself was a reform-minded politician, it is very difficult to determine whether the reforms were really connected to the EU. However, my interviews with Özal's friends (such as Hasan Celal Güzel, Cemil Çiçek, Oltan Sungurlu, Engin Güner and Bülent Akarcalı) suggest that most of the reforms could be attributed to Turkey's EU bid.

Legal reforms during the discussions on the Customs Union

When it was understood that the EU would not grant Turkey the status of candidacy in the foreseeable future, the governing elite in Turkey started to think of alternative ways to gain membership; the Customs Union with the EU was deemed as a means of further integration with the EU. However, the Customs Union was never the final target for Turkey. Therefore, the finalization of the Customs Union was not a perfect prize that could convince the Turkish governing elite to comply with EU conditionality. European pressure was not deemed greater than the costs calculated by the governing elite, which was in fact facing a drop in support in the approaching elections. In other words, since the EU had not given a real carrot to Turkey (candidacy), the EU's impact was not regarded as sufficient to change the calculations of the governing elite.

Furthermore, the nature of conditionality was not unambiguous. Contrary to the post-Helsinki process, the EU's requests had been quite vague, general and unsystematic; there was no mechanism to monitor Turkey's implementation of reforms. However, the governing elite did carry out some important reforms, although these were not enough in scope and nature to radically change Turkey's regime. As I have understood from my interviews with politicians who were important decision-makers at the time (Süleyman Demirel, Tansu Çiller, Murat Karayalçın, Mehmet Sağlam), in addition to the domestic reasons, the Customs Union was an important factor in the realization of the legal reforms.

When the President Turgut Özal died on 17 April 1993, Süleyman Demirel became the President of the Republic. Çiller was elected as the leader of DYP (True Faith Party) on 13 June and as Prime Minister on 26 June. The programme of the new government emphasized preparations within the framework of the application for EU membership.

The coalition government announced the basic points of the new 'democratization package' on 18 May 1994. Accordingly, the constitution would be amended to a great extent, and anti-democratic provisions of the constitution would be weeded out. Furthermore, several amendments to the Penal Code and the State of Emergency Law of 1983 would be carried out.

However, although Çiller pledged to realize the reforms, the package was never fulfilled. Perhaps the DYP did not dare to carry out the democratizing reforms for fear of alienating its 'nationalist' grass roots on the eve of the general election.[40]

On the eve of the Essen Summit, which was very important for Turkey's European vocation, the State Security Court announced its ruling on the former DEP deputies.[41] This fanned the flames of tension between Turkey and the EU, particularly the European parliament, which issued its decision making the Customs Union unattainable on 15 December.

The government put the bill urgently on the agenda of parliament to rush it headlong into law.[42] The bill was accepted by parliament. For some observers (Birand 1994), the bill and its approval showed that the Turkish state no longer rejected European pressure on the grounds that the bill was an infringement of sovereignty or an external intervention in the internal affairs of Turkey.

The Deputy Prime Minister Karayalçın, just after he returned from the Association Council meeting held on 19 December where the European leaders had harshly criticized the Turkish government, met with Prime Minister Çiller to decide how to conduct policy in response to European pressure. The government had to fulfil some reforms prior to the next Association Council meeting on 6 March 1995, giving it just two and a half months to do so. The basic points decided in the meeting were as follows: the constitutional amendments should be realized in order to eliminate European criticisms, the Anti-Terror Law should be amended in the line with the principle of freedom of expression and legal changes should be made to allow state officials to unionize (Tekeli and İlkin 2000: 397–9).

Prime Minister Çiller gave one of her first signals of democratization in early January 1995 (*Milliyet*, 2 January 1995) when she deliberately said 'Ne Mutlu Türkiye vatandaşıyım diyene' (Happy is whoever says I am a citizen of Turkey), appealing to the different ethnic groups in Turkey, rather than the well-known maxim of Atatürk: 'Ne Mutlu Türküm diyene' (Happy is whoever says I am a Turk). This was very important because for the first time a Turkish Prime Minister had publicly differentiated between being a Turk and being a Turkish citizen, implying that all citizens of Turkey were not Turks. However, following Çiller's radical statement the government did not propose any legal changes concerning the Kurdish question.

The bill to amend the constitution submitted to parliament in January 1995 was debated in the constitutional commission of parliament. The proposal, signed by 301 deputies, included the amendments to the preamble and 20 articles of the constitution.

When the Turkish governing elites, who were looking forward to concluding the Customs Union, understood that the European parliament would not ratify the agreement if Turkey did not make some progress in realizing reforms, they pricked up their ears in an attempt to understand more clearly what the European parliament required. Actually, what the European parliament required were some constitutional amendments, but in particular the amendment of Article 8 of the Anti-Terror Law. It seemed that the European parliament had reduced the standard expected from Turkey. However, in a short time, it was understood that the realization of these amendments was not an easy task, mainly because of the incompetence of the government. There was strong opposition within the DYP itself to the amendments.[43]

Addressing a luncheon hosted by the İKV following its 32nd general assembly on 30 June 1995, Çiller underlined that the standards in terms of human rights and democracy must be met. She said Turkey had to realize the amendments to the constitution in this way. Çiller once again gave signals to the Europeans to reassure them that democratization would eventually be achieved (*Turkish Daily News*, 1 July 1995).[44]

The 15 articles were finally adopted.[45] The 15 constitutional amendments removed honourable mention of the 1980 military coup from the constitution preamble and allowed trade unions, associations, foundations, cooperatives and public professional organizations to engage in politics and form links with political parties. They allowed civil servants to join trade unions (although not to strike) and university instructors were given the right to join political parties. Local authorities would get more autonomy. The voting age and the age of party membership came down from 20 to 18 and from 21 to 18 respectively. Turkish citizens abroad could vote, and political parties could establish women's and youth branches. Furthermore, suspension of activities of associations and public professional organizations by an administrative authority became more difficult. Only those deputies whose parties were closed as a result of their own deeds or words, would lose their parliamentarian status.

The subsequent evaluations of the amendments generally supported the argument that they were realized to a great extent as a response to European pressure, particularly to convince the Euro-deputies, whose assent was needed for the conclusion of the Customs Union. Following these amendments Turkey was able to relax a little with regard to Europe.[46]

The European parliament, which held authority over the Customs Union decision, welcomed the amendments, although it regarded them as insufficient. The European parliament deputies were expecting the release of the former DEP deputies and the scrapping of Article 8 of the Anti-Terror Law. However, what was the most important for the European parliament was not the content of the amendments, but the realization of certain progress in due time. Thus, the Turkish government made an attempt to do away with one of the biggest obstacles to the conclusion of the Customs Union (Tekeli and İlkin 2000: 464–6).

Article 8 of the Anti-Terror Law had become the focus of attention of European governments and the parliament. After Articles 141, 142 and 163 of the Turkish Penal Code were repealed on 12 April 1991, Article 8 had been used in a very broad and ambiguous manner: indeed the wording of the article was so general that it was possible for the article to include anything that could be regarded as propaganda.[47] Not surprisingly, most of the 'victims' of the article were sentenced in relation to the Kurdish problem. Since the acceptance of the law in 1991, over 4,000 people, including the former DEP deputies, had been sentenced to jail on the grounds of the offences cited in the article (Tekeli and İlkin 2000: 467).

The European parliament had requested several times that the article be abolished or changed, and it almost even made the ratification of the Customs Union agreement conditional on abolition or amendment of the article. The Turkish government had pledged several times to make changes to the article, and the coalition government even included it in its government programme. However, the article had not been amended during that period.

Article 8 of the Anti-Terror Law was eventually amended on 27 October 1995[48] before the governmental programme was submitted to parliament.[49] The new law also stipulated that the courts should re-examine the cases of those in jail within a month of the effective date of the law. Thus, the courts started reviewing the cases and releasing those in jail. Moreover, the amended version of Article 8 introduced the concept of intent (to disrupt the unity of Turkey) in written and oral propaganda.

Regarding the political reforms of the new government[50] that could be connected to Turkish–EU relations, in addition to the establishment of the High Coordinating Committee on Human Rights (chaired by the Minister of Human Rights and bringing together a representative of the Prime Minister and officials from the ministries of foreign affairs, the interior, justice, national education and health) on 9 April 1997, which would co-ordinate and monitor the implementation of measures aimed at improving the human rights situation, the most significant legal reform were the amendments

to the Criminal Procedure Code in March 1997, which shortened the maximum period of detention for people detained for offences within the jurisdiction of State Security Courts from 30 days to 10 days in provinces under a state of emergency, and from 14 days to seven days throughout the rest of the country. Accordingly, while the maximum detention period for ordinary offences was reduced, in all cases extensions to detention periods exceeding four days required a judge's decision.

Reading between the lines of Çiller's statement on the adoption by parliament of the amendment, it seems that the amendment to the Criminal Procedure Code was, to a great extent, a response to European pressure:

> This [the amendment] is an answer also to certain circles in Turkey and abroad . . . For years, several of our European friends told us that inadequacies in the legislation regulating human rights were the most important obstacle in the way of Turkey's integration with the European Union. In particular, they claimed that the length of the detention periods led to increase in allegations of torture and encouraged ill treatment of the suspects. Now, the new law is the best reply to these claims. From now on, Turkish norms conform to European norms on detention periods.
>
> (*Milliyet*, 11 March 1997)

Accession to international human rights instruments

Morlino and Magen (2004: 11) define democratic anchoring as 'the binding of domestic institutions and laws to supranational networks of norms and standards and the related convergence of Western European political and economic structures'. Turkey intensified its efforts to comply with international human rights standards through accession to basic human rights conventions. After accepting the competence of the European Court of Human Rights to hear individual applications on 28 January 1987 for three years, Turkey was the first member state to ratify the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment on 26 February 1988 (*Official Journal*, 27 February 1988, no. 19738). The parliament also ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 21 April 1988 with Law 3441. It has been in force since 10 August 1988 (*Official Journal*, 10 August 1988, no. 19895). Turkey also ratified the European Social Charter in June 1989.

Furthermore, Özal announced before the Parliamentary Assembly of the Council of Europe that Turkey would recognize jurisdiction of the European Court of Human Rights in September 1989. And, on 22 January 1990, Turkey recognized the compulsory jurisdiction of the court. Furthermore, Turkey signed the ninth protocol to the European Convention for Human Rights (ECHR), which prescribes the right of individual petition to the European Court of Human Rights, on 5 November 1990 and signed the CSCE Paris Charter on 21 November 1990.

In addition, Turkey removed all the reservations except the reservation to Article 5 of the ECHR on 5 May 1992. Furthermore, the Turkish parliament ratified the UN convention regarding children's rights on 9 December 1994 with a reservation on religious and ethnic groups.

It seems that Turkey's acceptance of the individual application rights to the European Court of Human Rights for its citizens and the recognition of the court's compulsory jurisdiction was very important for Turkey's compliance with European human rights criteria. Although the EU and the CE are two different institutions, they have been in close cooperation particularly during the enlargement process. As discussed in Chapter 2, the CE is the first doorway to the EU club, and without passing through the first door the applicant cannot enter the club. As far as I understand from various interviews with politicians of the Özal era, Özal's decision in this regard was strongly related to Turkey's European vocation. Furthermore, there is enough evidence at hand to conclude that Turkey's ratifications of the European and UN conventions against torture were directly intended to reduce the enormous levels of criticism from European states and organizations.

When analysing the period between 1987 and 1999, although Turkey had accepted various conventions of the international human rights regime, several other international/European human rights agreements, conventions or covenants had not been signed and ratified. So, compliance with the international/European human rights regime was limited. Comparing the period when Turkey applied for membership to the period when the Customs Union was realized, it is clear that Turkey accepted more conventions in the first period than in the latter.

Conclusions

After Turkey made it known that it intended to apply for EU membership and did actually apply in April 1987, both the EU institutions and European public opinion started to pay more attention to Turkey. In line with criticisms from the EU, particularly the European parliament, Turkey implemented some reforms both to consolidate its democracy and to improve its human rights record, although democratization during this period was not so comprehensive (Özbudun 1994: 41).

At first glance, the overlap of the EU's demands and the reforms that Turkey realized is noteworthy. When the EU indicated directly or indirectly that human rights violations and anti-democratic practices were the basic impediment to Turkey's membership, the democratizing reforms sped up, as if Turkish policy-makers wanted to weed out the problems between Turkey and the EU. The EU had limited influence on the consolidation of Turkish democracy, particularly with regard to a number of important amendments to the 1982 constitution and a number of legal codes, during the Customs Union period.

As discussed in this chapter, the strong desire of the Turkish government to conclude the Customs Union with the EU was the key to the EU's influence.

What it is possible to observe during the period is that, rather than the EU member states, the European parliament, having the power of assent to the Customs Union agreement between Turkey and the EU and becoming more powerful through realization of reforms in the EU, was particularly important in promoting Turkish democracy. It seemed that the EU member states deliberately delegated the human rights issues in Turkey to the European parliament. The member states kept a relatively low profile compared to the European parliament's insistence on reform of Turkey's political regime. Later, the importance of the European parliament would diminish when Turkey became a candidate for EU membership and the initiatives in all fields, including democracy and human rights in Turkey, would pass to the Council of the EU, representing member states in the Union.

The period discussed in this chapter involved the years when PKK terrorism and the pressures of the Turkish state on some societal groups in Turkey to end the violence and Kurdish armed resurgence dramatically escalated. This resulted in a deterioration of Turkey's human rights record, which badly affected the country's relations with the EU, particularly with the European parliament. Some events, including the 1992 Nevruz case and the detention of the DEP deputies, were particularly important regarding worsening EU/EP–Turkish relations. During this period, the Kurdish issue had been 'Europeanized', meaning that the Kurdish diaspora in the European states had become highly politicized and radicalized. Thus, Turkey's Kurdish problem became a major issue for European countries such as Germany where both Turkish and Kurdish people lived.

Although the EU was influential regarding amendments to the 1982 Turkish constitution and some legal changes, including changes to Article 8 of the Anti-Terror Law and the Criminal Procedure Code and the Association Law, it can be argued that the EU was not so influential on radically changing Turkey's political regime and human rights record because of the basic reluctance of EU members to give Turkey a clear perspective for EU membership. The EU members were never serious about the subject of Turkey's EU membership during this period. They thought that forging a Customs Union with Turkey would be enough to keep Turkey in the EU harbour, which in fact did not necessitate radical changes in Turkey's semi-democratic political system and negative human rights record. Thus, the smoothing of some sharp points in the Turkish legal system, like Article 8 of the Anti-Terror Law, were enough to satisfy Europeans as regards a Customs Union.

As Uğur (2000) correctly put it, the EU could not, or more correctly, did not become an anchor for Turkey's democratization during this period. Turkey's aspiration for EU membership did not receive a clear response from the Community. Its position vis-à-vis Turkey's application for membership remained vague throughout this period. The basic strategy of the Community was neither a total exclusion of Turkey from Europe nor its clear inclusion. The institutions of the EU repeatedly stated that progress on Turkish–EU relations was conditional upon improvement in Turkey's human rights record

and democracy. However, the EU did not provide a clear human rights and democracy agenda to Turkey, in line with which Turkey could have fulfilled necessary democratizing reforms. It seemed that basically the member states delegated Turkey's human rights and democracy problem to the European parliament. The EU tried to impose conditionality without a clear carrot (membership) which hampered the effectiveness of conditionality. One of the clear indications that EU conditionality was not that strong during the period was the deterioration of democracy in Turkey following the 28 February Process, which increased the military's influence over politics.[51]

Turkey's application was clearly accepted by the EU at the 1999 Helsinki Summit. As discussed in the next chapter, the Helsinki Summit was a real turning point both in relations between the EU and Turkey and in the EU's influence on Turkish democracy. Providing a full membership perspective to Turkey represented a paradigmatic change in relations and thus the EU really began to function as a leverage to promote democracy in Turkey. As discussed in the next chapter, the formal framework created in the post-Helsinki period had increased the influence of the Union over Turkey's political regime. However, the push-pull balance of EU conditionality has been deteriorating in effect due to several reasons. Coupled with the historical Turco-sceptic ideas that have existed in Europe for centuries, the new approaches applied to further enlargement of the EU have slowed down both Turkish entry into the EU and democratic consolidation in Turkey. The ever more stringent, non-meritocratic nature of accession negotiations coupled with ambiguity about the end result of the negotiations have served to severely restrict the impact of EU democratic conditionality in Turkey. We could easily speculate that if the EU had been able to employ the sort of conditionality it applied during the course of the Eastern enlargement process, Turkish democracy may have proven to be more consolidated than is the case at present.

4 EU conditionality and democracy in Turkey
The post-Helsinki period

The political history of EU–Turkish relations can be divided into two main parts: the pre-Helsinki period and the post-Helsinki period. The 1999 Helsinki Summit thus represented a real watershed in these relations. The EU offered clear prospects of membership to Turkey at the summit, on the condition that Turkey complied with the Copenhagen criteria. It has previously been discussed in detail how the EU adopted the role of 'gatekeeper' in the negotiation process with other candidate states. Furthermore, a genuine mechanism for monitoring and reporting was created through the decisions reached at Helsinki. The EU could be best said to have provided 'active leverage' since the conditionality mechanism already described was created at the end of 1999, and Turkey's position had been that of 'not-yet-negotiating candidate' between 1999 and 2005, the time period during which the effectiveness of EU conditionality had been at its greatest, and then that of a negotiating country after 2005.

Most of the Turkish governing elites, who had been aspiring for EU membership on account of the benefits it offered regarding security, welfare and civilizational issues, perceived the Helsinki decisions and subsequent related developments as a real stimulus to carry out significant legal and political reforms to improve Turkey's human rights record and the quality of democracy in Turkey. This chapter endeavours to demonstrate that the EU was able to exert a real, but limited leverage between 1999 and 2007 on democratic consolidation in Turkey. The decision of the European Council in Helsinki in December 1999 that Turkey should become a candidate for membership has proven to be a powerful catalyst that enabled Turkey to embark upon a process of far-reaching constitutional and legislative reforms. There was substantial institutional convergence in Turkey towards European standards in terms of liberal democracy during this period. Turkish governments introduced substantial political reforms ranging from improved civil liberties and human rights to enhanced civilian control of the military. However, one of the basic findings of the study is that although Turkish governments realized a number of substantial political reforms during the period and thus the quality of democracy in Turkey was relatively improved,

the degree of the effectiveness of EU conditionality was limited for various reasons that are discussed in this book, and thus the process of European integration with Turkey has not yet served to consolidate Turkish democracy in the two senses of providing consolidation: a negative and a positive understanding of consolidation.

When analysing the political reforms during this period, it can be seen that the process of consolidation was largely limited to the sphere of constitutional consolidation. Despite the large number of improvements in terms of human rights, democratic control of the Turkish armed forces and the Kurdish question, the political regime in Turkey is still suffering from various formal and informal problems that make democratic consolidation difficult. Thus, it could be concluded that although the EU's impact on democratic consolidation during this period was immense compared to the previous periods discussed in Chapter 3 of this study, it was not enough to transform the whole regime in the fullest sense. It is clear that the EU would have been more influential if it had demonstrated itself to have been less averse to Turkey's EU membership and had treated Turkey more in the manner that it had treated the CEECs. In other words, the EU's reluctance towards Turkey's accession to the Union seems to constitute one of the basic reasons for the limited impact of the EU in this regard. While the nature of the political conditionality set by the EU for Turkey had been made clear, it had not been made explicit that Turkey would be granted membership if it complied fully with the terms of conditionality.

The Helsinki Summit and a paradigmatic change in relations

The conclusion of the European Council in Helsinki (10–11 December 1999) represented a significant turning point in EU–Turkish relations. It would not be an exaggeration to argue that decisions taken at the Helsinki Summit led to a paradigmatic change in relations because the EU for the first time clearly stated that Turkey could be an EU member if it complied with the Copenhagen criteria.

The historic paragraph of the Presidency Conclusion of the Helsinki European Council in respect of Turkey states that:

> Turkey is a candidate State destined to join the *Union on the basis of the same criteria as applied to the other candidate states.* 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 . . . An accession partnership will be drawn up on the basis of previous European Council conclusions while containing priorities on which accession preparations must concentrate

in the light of the political and economic criteria and the obligations of a Member State, combined with a national programme for the adoption of the acquis. Appropriate monitoring mechanisms will be established.[1]

<div style="text-align: right">(Council of the European Union 1999)</div>

Initial domestic reactions to the Helsinki decisions

Most Turks, from the right to the left, with the exception of a small minority comprising ultra-leftist groups, welcomed the decision. Thus, the political criteria the EU demanded of Turkey have become important discussion points at both elite and popular levels. Both the political and state elite, who support Turkey's accession to the EU, and the Turkish populace as a whole started increasingly to refer to the EU entrance criteria when they endeavoured to substantiate their arguments for further democratization. Thus, it would be quite meaningful to assert that the Union gained the potential to perform as a real lever for Turkey's further democratization when it recognized Turkey's candidacy in Helsinki.

At the elite level, the Turkish Prime Minister, after stating that 'things have occurred in the period of the 57th government that have had a very positive effect on Turkish–EU relations' (referring to the legal and constitutional amendments), underlined the need to abolish the death penalty as a condition for EU membership.[2] Turkish Foreign Minister İsmail Cem stated that the government was happy with the decisions taken in Helsinki but warned that deep changes were needed if Turkey were to 'rid itself of human rights violations and a sprawling, inefficient state' (*Turkish Daily News*, 14 December 1999). More importantly, while Yılmaz was criticizing Turkey's state system, he declared in his historic speech in Diyarbakır on 16 December, just four days after the Helsinki Summit, that 'the road to the European Union passes through Diyarbakır', a significant province in south-eastern Turkey where the population is largely Kurdish.

After Cem met EU officials, including EU Enlargement Commissioner Günter Verheugen, on 1 February in Brussels, he declared that the decision in Helsinki would encourage the Turkish government to make necessary political reforms and that Turkey could make quick progress towards EU membership terms following the Helsinki Summit (*Milliyet*, 2 February 2000). The Turkish parliament constituted a committee without delay to review the Turkish constitution and weed out its undemocratic provisions to comply with the Copenhagen criteria (*Turkish Daily News*, 25 December 1999).

The 2004 Brussels Council: another turning point

The decisions held at the Brussels Council on 17 December were another turning point in EU–Turkish relations. The Council decided that Turkey had fulfilled the Copenhagen political criteria and allowed the Commission to

start accession negotiations with Turkey on 3 October 2005, but it also drew up a general framework for the negotiations.

The Brussels Summit made negotiations with Turkey possible but the discussions held on 17 December also mentioned some significant issues that would be able to exert a negative influence on Turkey's EU bid. For example, Turkey was asked to extend the Customs Union to the new EU members, including the Cyprus Republic, established in 1960 after the division of the island in 1974, which Turkey did not recognize as such. Thus, the EU inserted the Cyprus problem in its entirety into the accession negotiations with Turkey. As a result, Turkey would find itself subjected to European pressure to open its harbours and airports to the (Greek) Cypriots.

Decisions reached in the Council would be further challenged in Turkey because they included a provision that there might be permanent derogations (limitations) on the rights of movements of persons and funds from the EU even though Turkey would be a member of the EU. In addition, the EU leaders underlined that the EU has a limited capacity of absorption when it comes to admitting new candidates and if it were to exceed the permitted capacity, then a candidate might not be included.[3] Furthermore, the Council emphasized that the negotiations would be open-ended, and the Aegean issue was indirectly inserted into Turkey's EU bid, which was in fact included in the 1999 Helsinki Conclusions (paragraph 4).[4]

Thus, the changes decided on 17 December 2004 included an important structural and institutional improvement in Turkish–EU relations in that they allowed for negotiations between Turkey and the EU to start; on the other hand, they framed the negotiations in a negative way in as much as the negotiations would not be permitted to proceed in a straightforward manner, and the Cyprus issue in particular would prove to be a significant obstacle on the path to integration.

The accession negotiations started on 3 October 2005 despite efforts by Austria to halt the process. The EU also announced the 'Negotiating Framework' for the negotiations with Turkey. The framework reflects the points that existed in the 17 December decisions mentioned above. A 'screening process', which is a part of the negotiations that investigates to what extent Turkey meets the acquis of the EU, was started on 20 September 2005 on one of the 35 chapters of the acquis, the chapter on Science and Research, which seemed the chapter most likely to be managed without trouble. The screening process was completed successfully. However, the opening of substantive negotiations is not an easy task. It seems that the (Greek) Cypriots have continued to use Turkey's EU bid to increase their advantages concerning the Cyprus issue. Furthermore, both France and Austria also resisted the opening of substantive negations on the Science and Research chapter in the first months of 2006, arguing that Turkey must improve its human rights and democracy records before opening the chapter. After fierce discussions and a series of mini crises between the EU and Turkey, the substantive negotiations began on 12 June 2006 on the above-mentioned

chapter and negotiations were completed on the same day. As of December 2009, only one chapter (Science and Research) out of 35 chapters has been opened and finalized, and a few chapters have been opened.

The emergence of a conditionality mechanism for Turkey

As I discussed in the previous chapter, EU conditionality in the pre-Helsinki period had been vague and unclear. Agenda 2000 and the first Regular Report in 1998 were the two main exceptions, but since Turkey had not seen the light at the end of the tunnel (membership), the Turkish governing elites did not pay enough attention to the European requests or take them very seriously. However, Turkey became a candidate following the Helsinki Summit, and therefore the requirements and criticisms in the Regular Reports and Accession Partnership have specified European conditionality and eliminated noticeably the ambiguity of conditionality. Furthermore, a monitoring mechanism has been created to check closely the Turkish political system.

The Regular Reports on Turkey

The first progress report on Turkey

Though the first Regular Report on Turkey was published in 1998 before the Helsinki Summit, it would be more proper to discuss it in the context of the post-Helsinki period because the Regular Reports are in general prepared to monitor any progress in candidate states. Turkey was not a candidate in 1998, but the Commission prepared the report anyway. As discussed before, this strange event reflects the EU's policy of keeping Turkey in the EU port without granting it the status of candidacy.

The Commission analysed Turkey's political and economic situation thoroughly for the first time in this report. As was the case with the first comprehensive progress report on the nature of Turkey's political regime, subsequent reports have been penned in line with the 1998 report.

The report attempted to analyse the characteristics of the Turkish political regime in the light of the Copenhagen criteria. As far as 'democracy and the rule of law' is concerned, one of the most serious problems that the report outlined was the lack of real civilian control over the army and the increasing influence of the military on political issues:

> The existence of [the National Security Council] shows that, despite a basic democratic structure, the Turkish constitution allows the army to play a civil role and to intervene in every area of political life . . . The army is not subject to civil control and sometimes even appears to act without government's knowledge when it carries out certain large-scale repressive military operations.

> (European Commission 1998b: 14)

The report does not mention the so-called 28 February Process directly but it asserts that 'The army plays an active role in upholding the principle of secularism in the Turkish society against certain strands of Islam that are considered to be opposed to this principle' (European Commission 1998b: 19).

Concerning the executive, although the report admitted that the Turkish administration functioned to a satisfactory standard, it also underlined many cases of corruption, favouritism and influence peddling, as well as the illegal 'links between certain parts of the state apparatus and organised crime', referring to the 'Susurluk' scandal in 1996 (European Commission 1998b: 12).

As for the Turkish judicial system, the report criticized the State Security Courts, arguing that these were not compatible with a democratic system (European Commission 1998b: 14). As far as human rights were concerned, according to the report, cases of torture, disappearances and extra-judicial executions were regularly recorded. It underlined that cases of torture occurred during periods of incommunicado detention in police stations. The report also mentioned 'excessively narrow interpretation' of Articles 7 and 8 of the Anti-Terror Law, Articles 158, 159, 311 and 312 of the Penal Code, along with the constitution, as obstacles to freedom of expression.

Regarding the freedom of the press, the report accepted that 'the media is generally free to express its views'. However, it also noted that newspapers had been censored on certain sensitive issues at the printing stage: 'Public criticism of the armed forces or the peaceful advocacy of alternatives to the basic principles of the Turkish State (e.g. territorial integrity and secularism) may both lead to criminal charges being pressed' (European Commission 1998b: 16). In addition, the report also stated that freedom of association and freedom of assembly were subject to limitations, without giving the details.

Not surprisingly, the Kurdish question constituted the crux of the political criteria part of the report. Although the report did not mention Turkey's Kurds as a national, linguistic or ethnic minority directly, it analysed the Kurdish question under the subtitle of Minority Rights and Protection of Minorities. After arguing that the Kurds were economically and socially disadvantaged and had suffered a lot because of the negative atmosphere of the state of emergency in the south-east, the report strongly called on Turkey 'to find a political and non-military solution to the problem of the south-east' (European Commission 1998b: 20). A 'civil solution' would include 'recognition of certain forms of Kurdish cultural identity and greater tolerance of the ways of expressing that identity, provided it does not advocate separatism or terrorism' (European Commission 1998b: 20).

This was the first time that the EU had strongly asked Turkey to solve its Kurdish problem politically. Furthermore, it underscored that a political solution meant recognition of Kurdish identity.

The second progress report on Turkey

The Commission issued the second progress report, along with the accompanying Composite Paper, on 13 October 1999. The report was also full of

criticisms of Turkey under the title of political criteria. The existence of a national electoral threshold of 10 per cent (for entry of parties into parliament), State Security Courts (SSCs), widespread corruption and the influence that the military exerts over the democratic system were outlined as the most serious problems of Turkish democracy (European Commission 1999b).

Concerning human rights, the report underlined that widespread torture, disappearances, extra-judicial executions and detention procedures were problems that Turkey should deal with urgently. Furthermore, the report expressed once again that freedoms of expression, the press, association and assembly were highly restricted in Turkey. The Commission, in addition, emphasized that the continued existence of the death penalty in Turkey was not in accordance with European practice. As far as the issue of minorities was concerned, the problems relating directly to the Kurdish issue, including no broadcasting in Kurdish, came to the fore. The existence of emergency legislation in the six provinces was also a point to which the report drew attention. The 1999 progress report concluded:

> Recent developments confirm that, although the basic features of a democratic system exist in Turkey, it still does not meet the Copenhagen political criteria. There are serious shortcomings in terms of human rights and protection of minorities. Torture is not systematic but is still wide-spread and freedom of expression is regularly restricted by the authorities. The National Security Council continues to play a major role in political life. Although there have been some improvements in terms of the independence of the judiciary the emergency court system remains in place.
> (European Commission 1999b: 16)

The third progress report on Turkey

Along with the Accession Partnership, the Commission declared the third progress report and the Strategy Paper on 8 November 2000. The report and paper were important, because the Commission was evaluating Turkey's progress for the first time since its candidacy had been officially declared at the Helsinki Summit. The report, in its introduction, stated that 'Turkey has not fulfilled these political criteria' (European Commission 2000a: 7). It concluded that, in comparison to 1999, the situation had 'hardly improved' (European Commission 2000a: 21). However, the report noted that 'a positive development since the last report is the launching in Turkish society of a wide-ranging debate on the political reforms necessary with a view to accession to the EU' (European Commission 2000a: 20). The report also welcomed the endorsement by the Turkish government the work of the High Board of Co-ordination for Human Rights.

The report consisted of various criticisms of the Turkish political regime from the perspectives of democracy and human rights. Concerning 'democracy and the rule of law', the Commission continued to argue that democratic

control over the military should be increased, and the regime needed to become more 'civilized'. The dominance of military members on the National Security Council (NSC) and its political aspect were cited as matters of concern. The over-centralization of the administrative structure was another reason for discomfort. Regarding the judicial system, the Commission indicated that the existence of the State Security Courts was inconsistent with European norms, and the European Court of Human Right's decision should be incorporated into the Turkish judicial system rapidly.

Concerning criticism of the state of human rights in Turkey, the Commission's list was long: the existence of the death penalty, widespread torture and ill-treatment in custody, prison conditions, serious limitations of freedom of expression, and limits on association and religion (for non-Muslims and Alevis). Furthermore, the Commission was of the view that ethnic groups in Turkey (the Kurds and other groups) did not enjoy cultural rights to broadcast in their mother tongue. They should therefore be allowed to use their mother language in education and broadcasting. High gender disparity and legal discrimination between men and women were other points emphasized.

The fourth progress report on Turkey

The Commission published the 2001 Regular Report and the Strategy Paper on 13 November 2001. This report was particularly important because, for the first time, the National Programme that Turkey had introduced would be evaluated by the Union. In addition, the broad amendments to the constitution, adopted in September 2001, would also be evaluated in the report.

The 2001 progress report, with its 123 pages (with annexes), encompassing 20 pages for the political criteria and a separate part for the evaluation of the National Programme, was different from previous reports. The report emphasized that constitutional amendments were vital for Turkey's democratization, but stated that 'compared to last year, the situation on the ground has hardly improved and Turkey still does not meet the Copenhagen political criteria' (European Commission 2001: 13). Although the report accepted that the recent constitutional amendment was 'a significant step towards strengthening guarantees in the field of human rights and fundamental freedoms and limiting capital punishment', it also asserted that a number of restrictions on the exercise of fundamental freedoms remained (European Commission 2001: 19). It also highlighted that the details of implementing legislation and the practical application of the amendments were more important.

In addition, the 'D' section of the report analysed the Accession Partnership and the National Programme for the Adoption of the Acquis (NPAA). The Commission asked Turkey to revise the NPAA in such a manner as to introduce clearer timetables and deadlines, particularly as regards the priorities of the Accession Partnership. It also stated that

> The NPAA falls considerably short of the Accession Partnership priority of guaranteeing cultural rights for all citizens irrespective of origin. Furthermore, the priority on the removal of all legal provisions forbidding the use by Turkish citizens of their mother tongue in TV/radio broadcasting is to be included. With respect to the death penalty, a commitment in the NPAA to sign Protocol 6 of the ECHR is lacking. The document should specify how Turkey intends to guarantee freedom of religion, in particular with respect to minority religions not covered by the Lausanne Treaty (Muslim and non-Muslim communities).
>
> (European Commission 2001: 103)

According to the report, democratic control over the military remained one of the most serious hindrances to Turkish democracy. This included the excessive influence of the NSC where the representatives of the military had traditionally been dominant. Furthermore, the report also underlined the problems in the SSCs concerning fair judgment. Trials of civilians in the military courts, problems concerning the juvenile courts and the extent of the independence of the judiciary were all issues that the Commission underlined.

As regards human rights in Turkey, the report advocated that the situation needed improvement. The existence of the death penalty, torture and mistreatments, the report argued, were still problematic. The report also argued that freedom of expression was highly restricted by the Turkish state (notably Articles 159 and 312 of the Penal Code and Articles 7 and 8 of the Anti-Terror Law). In addition, the Commission thought that no improvements had been made in the situation of non-Sunni Muslim (Alevi) communities and in the allowance of ethnic groups (particularly Kurds) to express their linguistic and cultural identity. Furthermore, the report declared that Turkey should sign the Framework Convention for the Protection of National Minorities.

After parliament had adopted the constitutional amendments in September 2001, the ruling elites and people in Turkey were expecting more positive signs from the EU on Turkey's EU candidacy. However, the 2001 progress report did not herald any improvements.

The fifth progress report on Turkey

Contrary to the expectations of the Turkish government, the 2002 Regular Report did not provide Turkey with a clear timetable for the starting of accession talks. Although the coalition government had fulfilled a number of constitutional and legal amendments to comply with the Copenhagen criteria, the 2002 progress report was again full of critiques of Turkey. The criticisms were more detailed than previous ones. In fact, the section on political criteria was 32 pages long, 12 pages longer than the 2001 report (European Commission 2002). The report underlined that there had been few signs of increased civilian control over the military. Concerning the

judicial system, the Commission thought that the SSCs needed to be brought into line with European standards. The report also criticized the fact that no progress had been recorded regarding the establishment of intermediate courts of appeal and there remained a number of inconsistencies in the judicial system. The Commission also criticized trials of civilians in military courts. Furthermore, it expressed the EU's concern regarding the extent of the independence of the judiciary and problems with the juvenile courts (European Commission 2002).

Regarding the NSC, the Commission declared that the NSC continued to involve itself in all aspects of political life, in spite of the constitutional amendment that had increased the number of civilian members on the Council. The Commission also underlined the fact that the military had a considerable degree of autonomy in establishing the defence budget (European Commission 2002).

On the subject of 'human rights and the protection of minorities', the Commission argued generally that on the whole the human rights situation in Turkey needed more improvement. Turkey had not fully carried out the decisions of the European Court of Human Rights, including the cases of former DEP deputies and the Loizidou case, and had not yet ratified several international human rights conventions.

Furthermore, the report revealed that torture and mistreatment, in particular in the case of 'incommunicado detentions' were still a large problem in Turkey, and there were some problems regarding F-type prisons. On the matter of freedom of expression, the report underlined that the new RTÜK (Supreme Audio Visual Board) Law imposed tighter restrictions on freedom of expression and new restrictions had come into being in the Civil Code.

Concerning freedom of association, the report argued that the exercise of freedom of association was still subject to restrictions, referring particularly to the pressures on NGOs (including the German foundations). The Commission highlighted that Article 42 of the constitution (about the language of instruction) remained unchanged. Furthermore, the closure of the Alevi-Bektashi associations, the banning of music cassettes of Kurdish songs and books on Laz and Pontus cultures, which were subject to investigation and prosecution, were set out as points of critique against Turkey in the area of 'cultural rights'. In addition, regarding the 'protection of minorities', the report concluded that, overall, no improvement could be discerned as far as ethnic groups being allowed to express their linguistic and cultural identity. The Commission also emphasized that Turkey should sign the Framework Convention for the Protection of National Minorities and that the return of village guards to rural areas remained a matter of concern (European Commission 2002).

The sixth progress report on Turkey

The 2003 Regular Report was the first official evaluation of the Turkish political system after Turkey had declared its second National Programme,

which was the cornerstone of Turkey's European vocation together with the Accession Partnership. However, the report did not assess the programme.

The political part of the report welcomed the reform packages and encouraged Turkey to do even more. As discussed later, the new AKP (Justice and Development Party) government would carry out further major political reforms in terms of freedom of expression, freedom of demonstration, cultural rights and demilitarization and civilian control over the military. The report particularly underlined the significance of the seventh reform package adopted in July 2003 that is mentioned below. Furthermore, the Commission seemed particularly impressed by the establishment of a reform monitoring group in parliament to monitor and ensure effective implementation of the reform packages, the 'zero tolerance' policy towards torture and the lifting of the state of emergency in all remaining provinces of the southeast on 30 November 2002.

However, the Commission thought that in spite of some positive developments on the ground, 'the reforms have produced limited practical effects. So far, implementation has been slow and uneven' (European Commission 2003a: 16). Therefore, the Commission concluded that Turkey had not met the criteria that were necessary for opening accession negotiations.

First of all, the Commission thought that the existence of a 10 per cent national threshold for parliamentary representation was non-democratic. As for the judicial system, the report stated that the SSCs still needed to be brought into line with European standards, the establishment of intermediate courts of appeal had not yet been completed, the extent to which the judiciary could be said to be fully independent was still debatable and there existed inconsistent use of the Penal Code particularly with regard to issues of freedom of expression. The Commission also particularly underlined that the armed forces still enjoyed a substantial degree of autonomy in establishing the defence budget. In addition, corruption remained a serious problem (European Commission 2003a).

As regards human rights and the protection of minorities, the report highlighted that Turkey had not signed the Optional Protocol to the ICCPR, the Council of Europe Framework Convention for the Protection of National Minorities, the Revised European Social Charter or the Statute of the International Criminal Court. Furthermore, Turkey still did not fulfil completely the execution of judgments of the European Court of Human Rights. Moreover, Turkey still did not possess any comprehensive strategy or legislative and administrative provisions against discrimination (European Commission 2003a).

In addition, the report revealed that there were still reports of torture, ill-treatment, including disappearances, abductions, arbitrary detentions, and the excessive use of force against demonstrators, and a tendency for prosecutors to use alternative provisions of the Penal Code (Articles 312 and 169) and of the Anti-Terror Law (Article 7) to limit freedom of expression. As regards freedom of the press, the situation continued to give rise to

concern in spite of some legislative changes. There had not yet been any broadcasts in Kurdish, the exercise of freedom of association was still subject to restrictions and non-Muslim minorities continued to face serious obstacles with respect to 'legal personality', property rights, internal management and a ban on the training of clergy. The Turkish state had not yet acknowledged the Alevi identity (European Commission 2003a).

The Commission also argued that the use of languages and dialects other than Turkish in the areas of film, the arts, festivals, cultural events and radio broadcasts was still subject to legal restrictions and judicial prosecution, and similarly no progress had been recorded on the learning and use of languages by different ethnic groups. Lastly, the report underlined that the situation of internally displaced persons was still critical and the issue of village guards had not yet been resolved (European Commission 2003a).

In addition, the report also declared that violence against women was still widespread in Turkey and Turkey had not yet accepted Article 8 of the European Social Charter on the right of employed women to maternity protection.

The seventh progress report on Turkey

The Brussels European Council meeting in June 2004 reaffirmed the decision of the Copenhagen Council that 'on the basis of a report and recommendation from the Commission that Turkey fulfils the Copenhagen political criteria; the EU will open accession negotiations with Turkey without delay' (Council of the European Union 2004: 5).

The Commission published the 2004 Regular Report at the end of the year. The report was important because the EU states promised to open negotiations without delay, should the report announce that Turkey had fulfilled the Copenhagen criteria. The report concluded that Turkey had achieved various significant reforms in its efforts to comply with the Copenhagen political criteria (European Commission 2004a: 53–5).

The Commission, in addition to the 2004 progress reports, issued a communication called 'Recommendation of the European Commission on Turkey's Progress towards Accession' to advise the Council that Turkey's journey to accession should proceed to the next stage. The Commission, in the document, concluded that 'Turkey sufficiently fulfils the political criteria and recommends that accession negotiations be opened' (European Commission 2004b: 3).

Although the Commission concluded that Turkey had sufficiently fulfilled the political criteria, which were necessary for opening the negotiations, the report was full of criticisms of Turkey in terms of its upholding of democracy, the rule of law, human rights and protection of minorities. While the report expressed continuing concern about the extent of the independence of the judiciary, it also underlined that public prosecutors often exercised little or no supervision over police and gendarmerie officers during the investigation of a crime. The Commission also saw the scope of parliamentary

immunity as 'a big problem' for anti-corruption measures. In addition, even though Turkey had carried out a number of significant reforms relating to the democratic control of the armed forces, the Commission continued to believe that the Turkish army exercised huge influence through a series of 'informal mechanisms'. Thus, the Commission rightly indicated that formal improvements in the civilianization of the regime did not lead to an automatic practice of democratic control over the army in formal and informal senses.

The Commission's criticisms of Turkey on human rights and the protection of minorities were of a more wide-ranging and harsher nature. According to the Commission, Turkey still needed to pursue vigorously its efforts to combat torture and other forms of ill-treatment by law-enforcement officials and there was still a significant number of cases where non-violent expression of opinion was being prosecuted and punished. In addition to the Kurdish problem, 'Alevi identity' was not recognized and 'non-Muslim minorities' continued to be subject to the interference of the state. The situation of internally displaced persons was defined as 'critical' by the report. Furthermore, the Commission thought that the existence of the 10 per cent threshold made it difficult for 'minorities to gain representation in parliament'. The report also underlined that the impact of the reforms 'had not been uniform throughout the country'. The report also stated that regulation in the field of broadcasting was still rather restrictive and that the new Penal Code provided limited progress on freedom of expression.

The report noted that Turkey had not signed the Framework Convention for the Protection of National Minorities or the Revised European Social Charter and drew attention to a significant number of cases where European Court of Human Rights decisions had not been entirely implemented. Additional Protocol No. 12 to the ECHR had also not been ratified.

The eighth progress report on Turkey

The eighth progress report, which was issued on 9 November 2005, was the first report to evaluate Turkey's political regime since the EU had decided that Turkey had successfully complied with the necessary political criteria and since accession negotiations had started on 3 October 2005. As discussed above, the Commission had given a green light to Turkey's EU bid and the leaders declared that Turkey was sufficiently democratic for accession negotiations to begin.

The Commission continued to criticize Turkey in the report in terms of its progress on democracy and human rights. Regarding democracy and the rule of law, the existence of a 10 per cent threshold in parliamentary elections continued to be the matter that concerned the Commission the most. Furthermore, while the report required Turkey to establish an ombudsman, the democratic control of the military forces was again the issue that the EU emphasized. According to the report, despite legal and institutional reforms, the civilian authorities did not fully exercise their supervisory functions

in practice, and the audit of defence expenditure was not totally realized (European Commission 2005).

The Commission also indicated that the Turkish Armed Forces Internal Service Law, which gives leeway for the military to involve itself in domestic politics, was unchanged. The report argued that the NSC Law provided a broad definition of national security that increased the unusual role of the military in a democratic regime. The other point that the EU saw fit to criticize was the existence of the provisions of the Military Criminal Code permitting the trial of civilians before military courts. Furthermore, according to the report, government control of the gendarmerie should be strengthened. In general, the EU believed that the army continued to exercise significant political influence, and Turkey should work towards greater accountability and transparency in the conduct of security affairs in line with member states' best practice (European Commission 2005).

As for the judicial system, the report argued that the new Penal Code might be used to restrict freedom of expression, and there were some concerns related to the provisions concerning the rights of defence and the rights of detainees in the new Code of Criminal Procedure. The Commission also expressed some concerns about the provisions regarding juveniles and about the principle of the independence of the judiciary. The Commission reported that the provisions of Turkish law and the ECHR should be interpreted consistently (European Commission 2005).

Regarding anti-corruption policy, the report claimed that the scope of parliamentary immunity was a significant problem in this regard and no progress had been made concerning the transparency of the financing of political parties (European Commission 2005).

With regard to 'observance of international human rights law', the Commission required Turkey to sign the Framework Convention, accede to the Statute of the International Criminal Court and submit its first reports to the ICCPR and the International Convention for Economic, Social and Cultural Rights (ICESCR). In addition, the Commission claimed that there was a lack of government cooperation with the European Court of Human Rights in the investigation of cases and in ensuring the right of return to the villages. It was also argued that provisions enabling retrial did not apply to cases that were pending before the European Court of Human Rights prior to 4 February 2003, including the case of Öcalan. Regarding the promotion and enforcement of human rights, the report indicated that the institutional framework had not been modified (European Commission 2005).

As for civil and political rights, the Commission maintained that there were still reports of torture and ill-treatment, the forensic Medical Institute was not fully independent because of its direct line to the Ministry of Justice and the allegations of extra-judicial killings had increased especially in the south-east. The commission also reminded Turkey that it had not yet authorized publication of the Committee for the Prevention of Torture (CPT) report on its March 2004 visit to Turkey (European Commission 2005).

The report stated that there were cases where citizens with non-violent opinions had been prosecuted and convicted and Article 301, is arguably a vaguely worded article, was particularly highlighted. The other important issue that the report noted was that broadcasting in non-Turkish was still very restricted, despite some significant improvements. Also, the report contended that despite advancements, there were still restrictions on the freedom of association and limited progress had been made regarding freedom of religion particularly for non-Muslims and Alevis (European Commission 2005).

The Regular Report declared that Turkey's reservations about committing itself to the ICCPR and the ICESCR were of concern. Besides, Turkey had not ratified the Additional Protocol No. 12 or signed the Framework Convention that the EU required. The Commission indicated in the report that there were still restrictions on the use of languages other than Turkish by political parties. The progress report, like other progress reports, noted that the village-guard system was a problem. It stated that the situation of internally displaced persons was still critical. The report concluded that no comprehensive policy had been established to address the socio-economic and political problems in the east and south-east of Turkey (European Commission 2005).

The ninth progress report on Turkey

The ninth progress report, which was released on 8 November 2006, consisted of only 81 pages in total, of which 20 pages were reserved for political criteria. The Commission's criticisms of Turkey in terms of democracy and the rule of law included once more the 10 per cent participatory threshold for parties at national level, the broad definition of terrorism included in the new Anti-Terror Law and further administrative reforms in particular in the arena of decentralization. Regarding civil–military relations, the report argued that the Turkish military had continued to exercise significant political influence on domestic and foreign policy issues including Cyprus, secularism and the Kurdish problem. Furthermore, the report also indicated that the Turkish military's 'Internal Service Law', which defines the role and duties of the military and grants the military a wide margin of manoeuvre, had remained unchanged. In a similar vein, article 2a of the NSC Law, which provides a broad definition of national security, had not yet been changed. In addition, the Commission accepted that there had been an improvement in the control of defence expenditure, but still, most procurement projects were funded separately from extra-budgetary funds, which were excluded from parliamentary scrutiny. Thus, according to the Commission, no further progress had been achieved in terms of strengthening parliamentary control of the military budget and expenditure. Furthermore, although the Court of Auditors could carry out ex-post audit of defence expenditure, it remained unable to complete the task because of the lack of implementing legislation (European Commission 2006).

As for the judicial system, the report underlined the inconsistency in the judiciary's approach to the interpretation of legislation. Furthermore, the Commission argued that a number of factors undermined the independence of the judiciary. The Commission also emphasized that corruption remained widespread in the public sector and judiciary (European Commission 2006).

Concerning civil and political rights, the Commission reminded observers again that certain provisions of the new Penal Code, including Article 301, were a cause for serious concern and 'may contribute to create a climate of self-censorship in the country'. For the Commission, this was particularly the case for Article 301,[5] which, according to the Commission, needed to be brought into line with the relevant European standards. According to the Commission, although there was a downward trend in the number of cases of torture and ill-treatment, concerns remained; there were also concerns about the confidentiality and quality of medical examinations. The application of a solitary-confinement regime to prisoners was deemed too extensive (European Commission 2006).

As regards freedom of assembly, according to the report, security forces used excessive force in some public demonstrations, in particular when the demonstrations were carried out without permission. Regarding freedom of association and political parties, the report concluded that no progress had been made in aligning Turkish law on political parties with EU practices. In particular, Kurdish parties were not allowed to use Kurdish in their formal writings. As regards freedom of religion, the Commission criticized the fact that non-Muslim religious communities had no access to 'legal personality' and faced restricted property rights, and it noted again that the Greek Seminary in Heybeliada remained closed. One delicate issue in this regard was the Alevi community. According to the Commission, 'Alevis face difficulties in opening their places of worship (Cem houses)', which 'are not recognised as places of worship and receive no funding from the authorities'. Thus, 'the Alevis continue to face discriminatory practices' (European Commission 2006: 16).

As regards, 'minority rights, cultural rights and the protection of minorities', the Commission noted that Turkey's approach to minorities remained unchanged. However, the Commission argued that 'there are other communities in Turkey which, in the light of the relevant international and European standards, could qualify as minorities' (European Commission 2006: 19). Thus, the Commission contended that Turkey should align with European standards and 'best practice' in EU member states in this regard. Furthermore, the Commission argued that Turkey's reservation towards the ICCPR and the ICESCR was of concern. The Commission noted that Turkey had not yet signed the Framework Convention of the Council of Europe. The Commission also expected Turkey to loosen its strict policy on the Kurdish language. While the Commission noted that there was no comprehensive plan to address the Kurdish issue, it argued that 'a comprehensive strategy should be pursued, to achieve the socio-economic development of the region and

the establishment of conditions for the Kurdish population to enjoy full rights and freedoms' (European Commission 2006: 22).

The Accession Partnerships with Turkey

When on 8 November 2000 the European Commission announced the long-awaited Accession Partnership (AP) with Turkey, the 'centrepiece of the pre-accession strategy', a Pandora's box was opened as the EU expressed in concrete terms what it expected from Turkey by way of reforms if Turkey were to become a member of the EU.

The first Accession Partnership with Turkey

The priorities in the first AP were classified into two main groups – short and medium term. Accordingly, Turkey should complete the issues in the short term or 'take them substantially forward' by the end of 2001. The priorities classified as medium term were 'expected to take more than one year to complete although work should, wherever possible, also begin on them during 2001' (European Commission 2000c: 7).

The short-term issues included freedom of expression, freedom of association, eradication of torture, abolition of State Security Courts and a moratorium on the death penalty. Moreover, the AP asked Turkey to 'remove any legal provisions forbidding the use by Turkish citizens of their mother tongue in TV/radio broadcasting'. The EU expected that Turkey would 'guarantee full enjoyment by all individuals . . . of all human rights and fundamental freedoms', a review of the constitution and other relevant legislation, abolition of the death penalty, ratification of the ICCPR and the ICESC, improvement of detention conditions in prison and 'an alignment of the constitutional role of the National Security Council as an advisory body to the government in accordance with the practice of EU member states', as well as an end to the state of emergency in the south-east, and to 'ensure cultural diversity and guarantee cultural rights for all citizens' in the medium term.

In addition to the priorities that Turkey should tackle within the short or medium term, the AP underlined the conditionality of the EU's assistance to Turkey. The document clearly stated that assistance to Turkey was conditional on 'the fulfilment of essential elements, and in particular on progress towards fulfilment of the Copenhagen criteria' (European Commission 2000c: 3), and 'respect by Turkey of its commitments under the Association Agreement, Customs Union and related decisions of the EC–Turkey Association Council' (European Commission 2000c: 16).

The first reactions to the document in Turkey were generally positive; a reference to the issue of Cyprus within the document's short-term priorities proved to be the only significant obstacle for the Turkish government. The first official reaction from the government, which had previously asked the

Commission not to include the Cyprus and Aegean disputes in the document, was to refuse to accept any connection between EU membership and the Cyprus problem.[6]

It seems that, leaving aside the Cyprus issue, the document was carefully prepared and penned, so much so that even the words 'Kurds' and 'minority' were not used.[7] The government also stated that the requirements of the EU stated in the AP coincided to a great extent with the report entitled 'The Necessary Measures to Be Taken in Light of the Copenhagen Criteria' prepared by the Human Rights High Coordinating Council of the office of the Prime Minister and accepted by the government as a reference document (*Hürriyet*, 10 November 2000).[8]

The EU foreign ministers agreed on the new wording of the text of the AP on 4 December.[9] According to the new text of the document, which was considered to be 'acceptable' by the Turkish government, the Cyprus and Aegean disputes were placed under a new paragraph defined as 'enhanced political dialogue'.[10] Thus, the ball was in Turkey's court, and Turkey had to show how it would bring about the required political and economic reforms within a certain period of time through a National Programme. The Council eventually approved the AP on 8 March 2001 (Council of the European Union 2001a).

The second Accession Partnership with Turkey

A revised Accession Partnership was adopted by the Council on 19 May 2003. Similar to the first AP decided in March 2001, the priorities were divided into two basic groups: short and medium term. Those grouped under the short-term objectives should be carried out in 2003/2004. The medium-term priorities were expected to take more than one year to complete. However, as far as the political criteria were concerned, contrary to the previous practice, no differentiation between short and medium terms was given. This was actually intended to express that there was no medium term concerning the political criteria and all reforms that were necessary to meet the Copenhagen criteria had to be implemented in 2003/2004 (Council of the European Union 2003).

In addition to the Cyprus and the Aegean problems, the EU required Turkey to ratify the ICCPR and its optional protocol, the ICESCR and Protocol 6 of the ECHR, implement measures against torture and ill-treatment by law-enforcement officials, adopt further measures to ensure that prosecutors conducted timely and effective investigations of cases and that courts impose adequate punishments on those convicted of abuses and to guarantee the right for detained and imprisoned persons to have private access to a lawyer (Council of the European Union 2003).

Furthermore, the document asked Turkey to implement additional reforms regarding freedom of expression, freedom of the press, freedom of association and peaceful assembly, and to eliminate restrictions on both foreign and

national associations, and to expand freedom of thought, conscience and religion including legal protection and judicial protection of communities, their members and their assets, the teaching, appointing and training of clergy, and the enjoyment of property rights (particularly for the Greek minority in Turkey). The AP also wanted Turkey to ensure 'cultural diversity' and access to radio/TV broadcasting and education in non-Turkish (predominantly Kurdish) languages (Council of the European Union 2003).

Reforming the functioning of the NSC to increase democratic control over the military, reinforcement of the independence and efficiency of the judiciary to promote consistent interpretation of legal provisions related to human rights and fundamental freedoms in line with the ECHR, aligning the functioning of the SSCs with European standards, establishment of intermediate courts of appeal, as well as an extension to the training of law-enforcement officials on human rights issues were among the priorities that the document highlighted (Council of European Union 2003).

In addition, developing a comprehensive approach to reduce regional disparities, and in particular to improve the situation in the south-east and support the return of internally displaced persons to their original settlements were the issues that the document indicated were essential. The revised AP was very similar to the previous AP concerning the principal priorities with the exception of some points that had already been implemented such as the banning of the death penalty and the lifting of the state of emergency in the south-east (Council of European Union 2003).

A blurred incentive for Turkey: the Negotiating Framework document

Although the EU had declared Turkey as an official candidate and had announced that the Union's attitude towards Turkey would be the same as its attitude towards the CEECs in the Helsinki Summit, it was soon understood that the EU would treat Turkey differently than the Eastern European candidates. Although Turkey was declared a candidate in 1999, it had to wait until 3 October 2005 to start accession negotiations with the EU. When the EU Council decided in 2004 that the accession negotiations would begin in October 2005, it also added new conditions to the existing conditionality.

The Negotiating Framework document, which determined the road map for Turkey's accession process and was prepared by the Commission in the light of the European Council decision of December 2004, included these new conditions for Turkey's pre-accession process. The document underlined that the process was open-ended and that the Union might evoke 'the absorption capacity' principle for Turkey. Although the absorption capacity criterion went back to the decisions of the 1993 Copenhagen criteria, it had never been evoked officially for the former CEECs. Furthermore, it might be argued that the accession process is naturally open-ended. However, the disturbing thing for the Turkish decision-makers was not the existence of the clause regarding 'open-endedness' but the EU's insistence in this regard.

Furthermore, the document also introduced the possibility of permanent derogations on the free movement of Turkish people and European assistance to Turkey from the regional funds of the EU. It meant that even if Turkey were to become a full member of the EU, it might not benefit from the various funds of the EU, and Turkish citizens could not have freedom of movement in the EU. Thus the document of the accession negotiations significantly blurred the net benefits of EU conditionality, the basic incentives offered by the EU (the possibility of membership) and the push-pull dynamics of the accession process.

Turkey's response to European conditionality

National Programmes for the Adoption of the Acquis (NPAA)

The first National Programme for the Adoption of the Acquis

The preparation and adoption of the NPAA was critical in EU–Turkish relations and for the development of Turkey's democracy. Although Turkey's NPAA fell behind what the EU requested from Turkey in terms of democracy and human rights, it still constituted an important document because the Turkish ruling elites, after intense discussion and deliberations, decided to present a road map to the EU through which Turkey would transform its political structure.

This was not an easy process. The coalition leaders of the government discussed the programme several times before reaching the final version. On 8 February, it was declared that the NPAA had been completed and was awaiting the government's approval. Finally, Turkey adopted its NPAA on 19 March 2001 and promised new political, economic and legal reforms aimed at gaining EU membership. Foreign Minister Cem officially presented it to Günter Verheugen on 26 March, and Verheugen said that this document was a turning point in Turkey's preparation for EU membership and constituted the most essential phase in Turkey's transition to modern democracy. However, he called on Turkey to carry out more concrete reforms, particularly in the field of human rights (*Milliyet*, 27 March 2001).

The first NPAA was a wide-ranging document addressing most of the priorities stated in the Accession Partnership. It introduced a wide agenda of political and economic reforms. However, the document was imprecise as clear timetables and deadlines were not provided. Furthermore, the document did not specify some points which were among the priorities of the AP, such as guaranteeing cultural rights and the signing of Protocol 6 of the ECHR.

Turkey promised in its first National Programme that in the short term it would review various provisions of the constitution on human rights, and a large number of legal provisions including Article 312 of the Penal Code and Articles 7 and 8 of the Anti-Terror Law. The government also promised

to change the RTÜK and press laws. In terms of freedom of association, the government would improve the constitutional protection of NGOs. The NPAA declared that the government would review the acts of the security forces and modernize forensic-medicine institutions to more effectively prevent torture.

As regards the judicial system, the programme proposed reviewing the constitutional provisions and law concerning the SSCs, strengthening legal defence and the independence of the judiciary and the training of Turkish judges and prosecutors in EU member states. As for the training of the security forces and other civil servants on human rights issues, the programme included extensive human rights education. Concerning freedoms, in the short term, Turkey would conclude the UN Convention on the Elimination of All Forms of Racial Discrimination, reinforce male–female equality in the constitution, enact a draft of the Turkish Civil Code to improve gender equality and implement the ILO (International Labour Organization) Convention concerning Child Labour. Turkey also undertook to review the constitution in the light of the ECHR.

In the medium term, the list of reforms that Turkey declared itself ready to fulfil included a review of the Law Concerning Political Parties, the Acts on Security Forces and the Act on Cinema, Video and Musical Works, and a ratification of the new Penal Code. Furthermore, it promised a review of the restrictions on trade union rights on the basis of the ILO Convention and the European Social Charter, and a review of legislation on the freedom of association and peaceful assembly.

In order to deter torture, the government would enact the new Criminal Procedure Code and introduce legal provisions against perpetrators of torture. The government would also conclude the Optional Protocol to the UN Convention of All Forms of Discrimination against Women, Protocol No. 4 of the ECHR, Protocol No. 7 of the ECHR, the revised European Social Charter and Protocol No. 12 of the ECHR. A review of the Act on Prosecution of Civil Servants and other Public Employees, the Military Penal Code, procedures of Military Courts, and Military Administrative High Courts, as well as the Act on the State of Emergency were also among the reforms that Turkey promised to enact.

However, the coalition government did not agree on certain critical issues. For example, the NPAA did not contain any undertaking on the abolition of the death penalty, the state of emergency in Turkey's south-east or any policy changes on cultural and minority rights. The declared change related to the issue of the NSC was likewise very vague.

The EU Goteborg Summit on 15 and 16 June declared the programme to be a 'welcome development'. However, the Union expressed that 'in a number of areas such as human rights, further progress is needed. Turkey is urged to take concrete measures to implement the priorities of the Accession Partnership which is the cornerstone of the pre-accession strategy' (Council of the European Union 2001b: 2).

The second National Programme for the Adoption of the Acquis

Turkey adopted a revised National Programme for the Adoption of the Acquis on 24 July 2003. In the document (*Official Journal*, 24 July 2003, no. 25178), Turkey declared itself ready to review the provisions related to the freedom of expression in the light of the ECHR and provisions on broadcasting in, and learning of, 'different languages and dialects used by Turkish citizens in daily life', that is, non-Turkish ethnic languages. Training of members of the judiciary on human rights would be continued and expanded.

As for freedom of association and assembly, the legislative and administrative reforms concerning associations, foundations, meetings and demonstration marches would be reviewed and implemented effectively. In addition, legislation concerning freedom of worship would be 'simplified'.

To deter the use of torture, allegations of torture and maltreatment would be investigated immediately and thoroughly, and offenders would be punished rapidly, provisions on the rights of persons arrested, detained or charged to communicate with their lawyers and inform their relatives would be fully implemented, human rights training for law-enforcement officials would be intensified and expanded, and implementation of the measures in the Code of Penal Procedure and the Bylaw on Arrests, Detentions and Interviews would be monitored effectively.

The government also declared that, regarding accession to international human rights mechanisms, the procedures for the signing of Additional Protocol No. 13 to the ECHR and the Optional Protocol of the ICCPR would be initiated at an early date.

The National Programme also declared that the consultative status of the NSC was to be redefined through constitutional and legislative amendments, and the functions of the NSC and the General Secretariat of the NSC would likewise be harmonized.

Legal/political reforms connected to EU conditionality

When the Helsinki Summit declared Turkey as a candidate for EU membership, and included it in the general framework for the enlargement of the EU, Turkey for the first time was provided with a real impetus to become democratic and improve its human rights record in its fullest sense, to meet the Copenhagen criteria and thus to enter the EU club. The EU's pledge that if Turkey could satisfy the Copenhagen criteria, the Union would accept Turkey as a full member acted as an active leverage for Turkey's further democratization albeit in a limited manner.

Since the EU granted a full membership perspective to Turkey at the 1999 Helsinki Summit and revealed what Turkey should do in order to comply with the Copenhagen political criteria through the progress reports and the AP, the Turkish government has engaged seriously in restructuring itself in the light of the EU criticisms of its political regime and human rights record.

The Demirok Report: the beginning of change

The 'Political Criteria Subcommittee Report', prepared by the 'Turkish Republic's Prime Ministry State Planning Organization (DPT) General Directorate for Relations with the European Union Eight Five-Year Development Plan Ad Hoc Committee on Turkey–European Union Relations' and known as the Demirok Report, deserves particular attention.[11] This report was the first official report prepared by a state institution to show the necessary measures to be taken by Turkey to meet the Copenhagen criteria. The draft of the report, dated 2 February 2000, proposed a number of significant changes, including changes to Article 118 of the constitution so that the NSC would become a consultative body that made recommendations to the cabinet. Furthermore, it recommended that the number of civilian members of the council should be increased and, more importantly, that the Secretary General of the council should be appointed from among ministries in addition to the Turkish armed forces. The report also proposed major amendments to Turkish laws, including the Turkish Penal Code, the Turkish Code of Criminal Procedure, the State of Emergency Law of 1983, the Police Duties and Powers Law, the Anti-Terror Law and the Political Parties Law, to abolish freedom-curbing laws and to provide for freedom of expression. It also urged the Turkish government to lift the death penalty and sign the Sixth Annex protocol of the ECHR.

Some of the proposals in the report, entitled 'The Necessary Measures to Be Taken in Light of the Copenhagen Criteria', were countered by another report prepared by the General Secretariat of the NSC. This five-page report, dated 11 May 2000, was lukewarm about some of the proposals, including broadcasting in Kurdish, the appointment of a civilian Secretary General of the NSC and the adoption of an advisory character on its part, and the judicial review of the decisions reached by the Higher Military Council (YAŞ).

The NSC's report contended:

> It is known that the reports concerning the EU, which are written to show Turkey's insufficiency concerning the rule of law and human rights, are prepared to a great extent in accordance with the views of the institutions which are biased and subjective. Therefore, the excessive and unjust requirements of the European Union, which are not proper to Turkey's national unity . . . and its special realities, should not be carried out.

The report also underlined the need to wait for the correct situation or circumstances before implementing amendments to the constitution and to the various laws that would be harmful to Turkey's national interests. It also proposed that the EU's exaggerated desires with regard to Kurds, which appeared in many of the progress reports, should not be respected. 'In this regard, it is not proper to propose some proposal that will increase the separatism and break the national unity, such as recognition of the Kurdish

identity or permitting broadcasting in Kurdish.' On the other hand, the report agreed with the Demirok Report in its proposals for abolishing the SSCs and the death penalty and increasing the number of civilians on the NSC (*Radikal*, 14 June 2000).[12]

The 'war of reports' between different state institutions was intensified when the Ministry for Foreign Affairs submitted a report about minority rights to the Supreme Board of Co-ordination for Human Rights Secretariat. According to the report, Turkey should include the notion of 'comprehensive citizenship' to solve the minority problem with regard to EU accession. Accordingly, education and broadcasting in Kurdish should be allowed at individual levels. In other words, the report proposed to recognize the Kurdish language on an individual level but not on a collective level. In this regard, the Foreign Ministry indicated France as an example for Turkey, because France, like Turkey, does not recognize officially the existence of any minority but permits different ethnic groups in France to use their mother tongue without disturbing France's unitary structure: 'While the central nationalism increases, peripheric nationalism, as a reaction to the central nationalism, grows. In order to settle this problem, an element of "comprehensiveness" should be added to the constitutional concept of equal citizenship' (*Radikal*, 19 June 2000). However, the final report, which encompassed and fused all the views of the different state institutions, did not include the 'comprehensive citizenship' concept that the Foreign Ministry had proposed.[13]

In a landmark move, the government declared on 21 September 2000 that the Demirok Report had been adopted as a 'reference and working document' on reforming rights, consolidating the supremacy of law and furthering democratization, in line with the Copenhagen criteria. Furthermore, the Prime Minister said European Union adaptation laws should be given priority by parliament. He declared that the cabinet had decided that all claims of human rights violations must be pursued with determination while efforts towards adaptation to EU norms and criteria in all fields should be accelerated. The same statement set a number of clear priority objectives on the part of the government:

1   All efforts required for adaptation to EU criteria need to be accelerated. Among these, laws pertaining to labour rights, meeting and demonstration rights, the law on political parties and the law on the establishment of an ombudsman need to be included.
2   Freedom of thought and expression need to be broadened.
3   Necessary measures should be taken to eradicate the malfunctions that have been observed in the operation of the judicial system.
4   With the prevention of torture a priority, all ill-treatment claims should be pursued diligently and with determination. Those responsible for such practices should be determined and sentenced to appropriate punishment. To reinforce such supervision, a human rights department affiliated to the Prime Ministry needs to be established.

5   In order to eradicate discrepancies between regions, social and economic programmes need to be developed for the south-eastern and eastern parts of the country, and the 'Return to Villages' programme needs to be accelerated.

6   In tandem with success against terrorism, conditions that would speed a return to normal rule need to be created.

7   Staff should be trained on issues regarding EC legislation.

8   Attention will be focused with priority on parliamentary handling of the EU adaptation bills. Within this framework, amendments to be made to the Penal Code and the Civil Code should be given priority.

The Prime Minister stressed that in the new legislative year the government would closely monitor developments in parliament regarding human rights reforms, democratization and consolidation of the rule of law and would do whatever was needed to facilitate the process (*Turkish Daily News*, 22 September 2000).

Democratizing amendments: the reform packages

The 2001 constitutional amendments: the breaking point

The only amendment to the constitution within the sphere of the chapter in 1999 before the Helsinki Summit concerned civilianization of the State Security Courts (*Official Journal*, Law no. 4388, 18 June 1999).[14] A parliamentary committee, formed to prepare a draft bill for amendments to the constitution in compliance with the EU criteria, announced on 23 May 2001 that it had reached a preliminary consensus to amend 51 articles (*Turkish News*, 24 May 2001). Later, it was understood that the inter-party parliamentary reconciliation committee had reached consensus on the amendment of some 37 articles, not 51, of the constitution.

The inter-party parliamentary reconciliation committee released the draft on 14 June 2001. The draft with its 37 articles was submitted to the parliament on 6 September 2001. It was discussed between 24 September and 3 October 2001 in parliament and three articles out of 37 were rejected, while the parliament accepted 34 articles. The President approved the 33 articles of the package on 15 October 2001 and the law came into force on 17 October 2001.[15] The amendments included the introduction of equality for men and women, an increase in the number of civilian members on the NSC and some welcome steps towards an improvement of human rights in Turkey. These included the reducing of detention periods, the abolition of the death penalty for criminal offences, the introduction into the constitution of the right to a fair trial and the lifting of the ban on statements and publications in Kurdish.

The restrictions and prohibitions of abuse of fundamental rights and freedoms (Articles 13 and 14 of the constitution) were reworded to a large extent. The principle of proportionality was introduced. Previous explicit restrictions

that referred to the indivisible integrity of the state were removed from Article 13, but retained in Article 14. Article 13 ceased to be a general restrictive clause and became a general protective clause (Özbudun and Yazıcı 2004: 16). The Turkish Regulation on Apprehension, Police Custody and Interrogation provided clear guidelines for the registration of people taken into custody and their right to inform their relatives 'unless informing the relatives will harm the investigation'. In the amendment of Article 19 of the constitution such a restriction was lifted. The amendment of Article 14 on the prohibition of rights abuse introduced a reference to 'actions'.

Another positive step was the abolition of Article 26 (3) on freedom of expression and Article 28 (2) on freedom of the press, which had banned statements and publications 'in a language prohibited by law'. These provisions had apparently been targeted at the Kurdish language without actually mentioning it. The law that had allowed the ban on Kurdish had already been lifted in 1991. The amendment of the constitution's Article 33 on freedom of association aimed to alleviate restrictions on civil society. Together with the Law on Associations this provision had been used to seriously impede the activities of associations.[16]

Article 19 was amended to shorten pre-trial detention periods. In the previous text of the article such periods were a maximum of 48 hours for individual crimes and a maximum of 15 days for collectively committed crimes. In the amended text, the period for collectively committed crimes was reduced to a maximum of four days in accordance with European Court of Human Rights jurisprudence. Article 34 of the constitution was amended and the freedom of assembly was broadened.[17]

The right for a fair trial was added to Article 36. The 2001 amendment also underlined equality between the sexes through a new text for Article 41 that stated that the family is based on equality between spouses.

A serious impediment to democracy in Turkey had been the prohibition of political parties. As stated before, Articles 68 and 69 concerning the regulation and prohibition of parties were extensively amended in 1995 and the 2001 amendment made the dissolution and prohibition of political parties more difficult.[18]

Özbudun and Yazıcı (2004: 9) state that 'of the eight constitutional amendments since the adoption of the 1982 constitution, the one with most far reaching effects on fundamental rights and liberties was that of 2001'. Although it is clear that the package of amendments did not radically change the political regime in Turkey, it is significant because it marked the commencement of the process of change through EU leverage in the post-Helsinki period.

The 2001 constitutional amendment was a real turning point after which several new reform packages would come. Although the psychological and political barrier against political changes remained, it could not prevent realization of the political reforms. One of the key points in this regard was the position of the military. However, as discussed elsewhere, when the Chief

of Staff made the announcement that EU membership was a geopolitical necessity for Turkey, it opened the way for political reforms connected to the EU.

The first reform package

The DSP-MHP (National Action Party)-ANAP coalition partners agreed to submit the so-called 'mini-democratization package' on 15 January 2002 in parallel with the 34-article constitutional amendment drafted in line with the AP and the NPAA to supposedly expand the scope of democratic rights and freedoms. Accordingly, Article 312 of the Turkish Penal Code would be amended in a manner that 'concrete danger' rather than 'abstract danger' would be taken as the basis of the punishment. In the rationale of the bill, it was stated that the amendment to Article 312 was in accordance with the US Supreme Court's description of 'clear and present danger'.

Amending Article 159 of the Penal Code, the bill would re-arrange the crimes against the state apparatus. Accordingly, the expressions 'Republic' and 'against the government's moral being' would be replaced by 'Turkish nation' and 'Turkish state [*Türkiye Devleti*] and council of ministers'. The upper threshold for the punishment would be lowered from six years to three years. Thus those who openly incite and deride 'the Turkish Community, nation, state, parliament, cabinet, ministries, jurisdiction, military or security forces, or those who represent them' would be sentenced to imprisonment for up to three years.[19]

The first harmonization law package was finally accepted in parliament with some changes on 6 February 2002. The first change in the draft bill was to abandon the inclusion of the mention of 'some sections of the state apparatus' in Article 159 of the Penal Code. Furthermore, wordings like 'the Turkish state and the Turkish nation' as well as the mention of the 'council of ministers' were not included in the article. Thus the existing Article 159 was left unchanged in terms of its content. The penalty limits for offenders were reduced from one to six years to one to three years imprisonment. The concept of the 'heavy imprisonment' foreseen under the first paragraph of the article was changed to 'imprisonment'. Furthermore, the 'heavy fine' foreseen for the offence defined in the third paragraph was deleted from the article.

The parliament also approved some changes to Article 312. Accordingly, the amended Article 312 is to be used to punish those who 'incite people to hatred and enmity on the basis of religious, ethnic and class differences in a way to endanger the public order' instead of the draft text that says 'the possibility of danger'. Furthermore, fines stipulated for the offences under the first and second paragraphs of 312 were abolished.

Concerning Article 7 of the Anti-Terror Law, the amendment to the second paragraph of the article specified that using propaganda 'in a manner encouraging terrorism' would be criminalized, rather than the use of 'propaganda' in general. As for Article 8 of the Anti-Terror Law, the duration of bans imposed

on radio and television-broadcasting institutions for offences under the third paragraph was reduced from one to fifteen days to one to seven days; the aggravating situation clause in the last paragraph was changed to limit the penalty increase to 'one-third' instead of 'from one-third to a half'.

The bill also lifted the second and third paragraphs of Article 16 of the law regarding the establishment and trial procedures of the SSCs. The provision in the second paragraph for 'up to 7 days' of pre-trial detention in collective crimes was removed. The pre-trial detention in the state of emergency areas was reduced from seven to four days. The maximum pre-trial detention period was reduced from ten days to seven days. According to the new law, the detainee must be brought before the relevant judge before a pre-trial detention extension can be granted. Furthermore, according to the bill, the relatives of arrested citizens would be informed promptly on the arrest or the prolongation of the arrest through amending Article 107 and 128 of the Criminal Procedure Code. This amendment also provided an opportunity for the detainee to contact one of his or her relatives if this did not jeopardize the goal of arrest.

Furthermore, a new Civil Code was adopted by parliament in November 2001 and came into force in January 2002. It introduced changes in areas such as gender equality, freedom of association and child protection.

The second reform package

The draft of the second 'harmonization package' was submitted to the Prime Minister on 4 March 2002 and adopted by parliament on 26 March with some changes following objections from the MHP. The second pact included the following important political reforms. As a result of the amendment of Articles of the Law on the Organization, Duties and Powers of the Gendarmerie, military officers were no longer entitled to act in provincial administrations as deputies for sub-governors in the absence of such officials. Thus, the role of civilian control in local administration was strengthened.[20] The package introduced a deterrent against torture.[21] With the amendment to Article 101 of the Political Parties Law, 'deprival of the political parties concerned from state aid, in part or in full' was introduced as an alternative to permanent closure of the political parties. In line with the last constitutional amendment, 'the hub of execution' was defined and added to Article 103 of the Political Parties Law.[22] Thus, the law made it harder for the Constitutional Court to dissolve or prohibit political parties.

The third reform package

In the process of preparing accession to the EU, Turkey gave priority to amending the constitution, and the Turkish parliament adopted a law amending 34 articles of the constitution (Law 4709) on 3 October 2001 and implemented two previous harmonization law packages. However, the toughest problems

between Turkey and the EU, including the abolition of the death penalty and minority rights, were left untouched.

According to the 14-point landmark reform package, which was adopted by parliament on 3 August 2002 (Law 4771; *Official Journal*, 9 August 2002, no. 24841), the Turkish parliament scrapped the death penalty, in line with Protocol No. 6 of the ECHR, although it would remain on the books to be used in times of war or during the imminent threat of war. Under normal circumstances, the most severe penalty was replaced with life imprisonment without parole. This meant that PKK leader Öcalan and other leading PKK militants would not be executed.

Article 159 of the Turkish Penal Code, which was related to crimes against the state or state institutions, was amended so that, from that point on, the Republic, the Turkish parliament, the government, the ministers and the security forces (including the military) could be criticized, provided such criticism did not contain insults. This article had previously been amended through the 'first EU harmonization package' accepted on 6 February 2002. According to the earlier changes, prison sentences had been reduced, but these changes were criticized in Turkey as being insufficient.

The new laws allowed those non-Muslim minority communities established by the 1923 Lausanne Treaty (especially Greeks, Armenians and Jews) greater rights over religious property, such as churches, and greater freedom to satisfy their cultural, religious, educational, social and health needs through their foundations, provided they first received government permission to do so.

The amendments introduced provisions that made retrial possible for civil and criminal law cases, provided they were approved by the European Court of Human Rights. Under the new law, a Turkish citizen subject to a conviction that the European Court of Human Rights had found to contravene the ECHR could force Turkish courts to review the original verdict. Thus, the European Court of Human Rights' jurisprudence could be directly applied to Turkey's legal system, thereby addressing the European Commission's 2001 Regular Report criticisms on this matter (European Commission 2001: 17). This amendment would come into force only a year after being published in the *Official Journal* and therefore would not be applicable to past applicants to the European Court of Human Rights.[23]

The EU adaptation laws also allowed Kurds and other ethnic groups in Turkey to make broadcasts in their mother tongues, provided they did not violate the 'national unity and the principles of the Republic'.[24] Moreover, minorities would be allowed to establish language courses. The measure did not, however, specifically provide for Kurdish and/or other minority language courses in state education, nor did it cover the use of these languages as a medium of instruction.

One of the most important aspects of the new package was the official recognition of a Kurdish presence as well as that of other ethnic groups including Laz, Caucasians and Arabs. For the first time in the history of modern

Turkey, the official republican ideology, which had so far stated that everyone living in Turkey was Turkish, had been radically altered. Furthermore, by granting more civil rights to the non-Muslim minorities in Turkey, the Turkish Republic expanded the minority rights defined by the 1923 Lausanne Treaty, upon which the modern Turkish Republic was created.

The new laws were applauded and praised by many both within Turkey and abroad. According to a leading Turkish political commentator, the new laws 'steps of a revolutionary nature' because 'from now on, not the narrow-angled Kemalist view but the wide-angled Ataturkist approach will prevail in the implementation of the principles of the Republic. Certain taboos, which had remained untouchable for so many years, have come to be broken' (Birand 2002). In a similar vein, Deputy Prime Minister Mesut Yılmaz, who was responsible for EU affairs, commented that the EU harmonization laws constituted 'the most comprehensive and deepest reform package in the history of the Republic' (*Hürriyet*, 7 August 2002). In addition, as quoted in *The Economist*, Volkan Vural, the Turkish diplomat in charge of EU affairs, stated that the new laws 'represent a fundamental change in our [Turkish] identity . . . They recognise cultural diversity and undertake to respect that diversity' (*The Economist* 2002).

As one human rights activist stated in the British Sunday paper *The Observer*, the reforms were the 'most positive changes made during the whole history of the Turkish Republic' (*The Observer*, 4 August 2002). Similarly, the executive director of the US-based Human Rights Watch's Europe and Central Asia division argued that while 'much of what passed as reforms since the beginning of Turkey's candidacy for EU membership has been little more than cosmetic gestures, these new reforms are truly significant' (Human Rights Watch 2002).

The fourth and fifth reform packages

When the AKP triumphed in the 2002 general elections and forged a majority in parliament, speeding up the harmonization efforts was declared an immediate priority in terms of both foreign policy and domestic policy. The new government's haste in this regard could be partly explained by the upcoming Copenhagen European Council where Turkey was expecting to receive a definite date for accession talks. The so-called fourth harmonization package was introduced to parliament on 3 December 2002, adopted on 2 January 2003 and came into force on 11 January 2003. The fourth harmonization package, consisting of 16 articles, mostly dealt with the struggle against torture, the closure of political parties, the rights of non-Muslim communities in Turkey within the sphere of the Lausanne Treaty and associational freedoms. The packages included the changes discussed below.

Regarding measures against torture and mistreatment, Article 2 of the Law on the Trial of Civil Servants and other Public Officials, and Article 154 of the Code of Criminal Procedures were amended in such a way that the

prosecution of officers in cases of torture and maltreatment was rendered possible by removing the rights of these persons to administrative immunity. Furthermore, an amendment to Article 243 (torture) and Article 245 (ill-treatment) of the Turkish Penal Code made conversion of sentences for torture and maltreatment into fines and their suspension impossible.

In addition, the duration of time for which a convict or detainee could be taken out of a prison or detention centre was reduced from 'ten days' to 'four days' in accordance with the previous constitutional amendments and reforms in the first harmonization package. This amendment and similar changes were enacted in order to improve detention conditions.

Parallel to the previous amendment to Article 33 of the constitution, associational freedoms were broadened with the amendment to Article 5 of the Law on Associations relating to restrictions on the purposes for which associations may be established. Similarly, parallel to the amendment to Article 26 of the constitution, restrictions on the Law on Associations as to their foreign relations were abolished. The amendment enabled associations to use any language in their non-official correspondence and allowed legal entities to become members of associations.

Regarding political parties, a 'three-fifths majority' was required to make a decision on the prohibition of a political party through the amendment to Article 98 of the Law on Political Parties. This was in alignment with the amendment to Article 149 of the constitution.

As for the non-Muslim minorities in Turkey, the requirement for a decision taken by the Council of Ministers for the acquisition of immovable properties by community foundations was replaced by the requirement to obtain permission from the Directorate General for Foundations. The procedure for the acquisition of property by community foundations was simplified.

The fifth package of reforms was submitted to parliament by the new government on 9 December 2002. After negotiations in the parliamentary committees the package was discussed in the plenary session and accepted on 23 January 2003. It essentially broadened the right to retrial on the basis of European Court of Human Rights' decisions. The third harmonization package, dated 9 August 2002, had already made the retrial of cases upon European Court of Human Rights jurisdiction possible. The possibility of retrial was extended by the new amendment. For example, the phrase 'The violation . . . is seen to have had consequences that cannot be compensated' was removed from the provision. Thus all European Court of Human Rights' judgments of violation may be considered for retrial, provided that applications for retrial were made within one year of the date on which this law entered into force. In other words, retrial could be applied to all decisions which were finalized by the European Court of Human Rights prior to 4 February 2003 when the law was published in the *Official Gazette*. Furthermore, the amendment to Article 82 of the Law on Associations replaced 'prison terms' with 'fines' for offences and reinforced the right to association by replacing imprisonment penalties with fines.

The sixth reform package

The government submitted the sixth reform package to parliament on 12 June 2003 and it was adopted on 19 June 2003. However, since the President objected to two articles, the package could not come into force until 19 July 2003.

One of the important democratizing reforms in the package was an amendment to the Anti-Terror Law: the definition of terror in the Anti-Terror Law was changed and 'use of force' or violence became the prerequisite in the definition of the crime of terrorism. Furthermore, only actions 'constituting a crime' were included in the definition of terrorism. Thus, freedom of expression was expanded, a particularly sensitive step in Turkey. Remembering that many people had been jailed because of convictions for terrorism, particularly in the south-east, this amendment was an important step towards the European standard in this regard. Article 8 of the Anti-Terror Law (propaganda against the indivisible unity of the state) was thus repealed as part of the sixth harmonization package.

The amendment to Article 4 of the Law about Radio and Television Broadcasting deserves special attention because of the sensitivity of the issue: the amendment made possible public and private broadcasting in 'languages and dialects used by Turkish citizens traditionally in their daily lives'. In other words, in accordance with the previous constitutional amendment, the different ethnic groups in Turkey could broadcast in their own languages. Previously, a Regulation on the Language of Radio and TV Broadcasts had been issued in December 2002 to implement the reforms accepted in August 2002. The regulation allowed that only the TRT (the state broadcasting corporation) could broadcast in non-Turkish ethnic languages used by Turkish citizens.

The amendment shortened the restrictions on broadcasting of election propaganda from one week to 24 hours before elections.

In terms of further civilianization and elimination of the more reserved domains of the military, the amendment to Article 3 of the Law on Cinema, Video and Music Works was significant. Accordingly, the NSC representative was no longer a member of 'the Board of Supervision'.

Regarding the protection of minorities and freedom of religion, the amendment to the Construction Law recognized the right of non-Muslim communities to build new places of worship when necessary. The word 'mosque' in the law of construction was replaced by 'place of worship'. Thus, churches and synagogues would be covered.

Furthermore, an amendment made to Article 16/4 of the Civil Registry Law, with reference to the naming of children, removed the condition that children may not be given names that were not appropriate to the 'national culture' and 'customs and traditions', meaning that the Kurds, in particular, could now give Kurdish names to their children.

Article 453 of the Turkish Penal Code was amended to impose heavier sanctions for the 'honour killings of children'. Article 462 of the Penal Code,

which allowed for the reduction of sentences in cases known as 'honour killings', was repealed. In addition, an amendment to the Law on Administrative Procedure was made to harmonize it with the retrial of cases on the basis of European Court of Human Rights' decisions.

The seventh reform package

The seventh reform package was submitted to parliament on 23 July 2003 and accepted on 30 July. The package, which contained 37 articles, realized new democratic openings dealing with several codes and laws including the Turkish Penal Code, the Code on Associations, the NSC, the Law on Assembly and Demonstration, the Law on Foundations, the Anti-Terror Law and the Civil Code.

One of the most important reforms in the package concerned the further elimination of the military from politics through redefining and restructuring the NSC. Thus, as for further civilianization of the regime, Article 4 of the Law on the NSC and the General Secretariat of the NSC were amended to revise the duties and competences of the NSC. Articles 9 and 14 of the law were repealed and Article 13 was amended. Thus, the consultative nature of the body was more greatly emphasized.

Second, as a result of an amendment to Article 5 of the law, the NSC would meet regularly 'once every two months' instead of every month. Thus, the role of the NSC in politics was further diminished. Third, an amendment to Article 15 of the Law civilianized to a greater degree the procedure for the appointment of the Secretary General of the NSC. Accordingly, the Secretary General was proposed by the Prime Minister and approved by the President. The views of the Chief of General Staff were to be obtained in cases when members of the military were to be appointed to this post.[25]

More importantly, Article 19 of the law was repealed. This article had previously allowed the NSC great authority over the civilian government so its repeal was particularly sensitive to the military-oriented NSC: 'the Ministries, public institutions and organizations and private legal persons shall submit regularly, or when requested, non-classified and classified information and documents needed by the General Secretariat of the National Security Council'. Thus, abolition of the article served to engender further both a civilianization of the regime and a protection of the individual's rights to privacy. A further step on the road to civilianization came with the repeal of the provision on obtaining the views of the NSC when determining the foreign languages to be taught and learned in Turkey. Last, the package also narrowed the jurisdiction of the military courts over civilians.

The package also amended one of the most important articles of the Turkish Penal Code, Article 159, in such a way that the minimum penalty for those who 'openly insult and deride Turkishness, the Republic, the Grand National Assembly, the moral personality of the Government, the Ministries, the military or security forces of the State or the moral personality of the judiciary'

was reduced from 'one year' to 'six months'. The second amendment to the same article underlined that expression of thought undertaken solely for the purpose of criticism did not incur any penalties. Furthermore, again in terms of freedom of expression, the phase 'incitement to violence' was incorporated into the text of Article 7 of the Anti-Terror Law in line with the ECHR.

To deter torture and mistreatment further, in relation to 'the zero-tolerance policy' of the government against torture, the investigation of cases of torture and mistreatment was to be considered urgent, and such cases were to be treated without delay as priority cases.

Regarding the freedom of association, assembly and demonstration, the new amendments further reduced the restrictions on the establishment of an association. For example, those people who had not been allowed to establish an association cited in Article 312 of the Penal Code could now do so. Furthermore, legal persons could found an association that had not been possible previously. Also, it was now easier for students in universities to establish associations. Lastly, an amendment to the Law on Foundations made the activities of foundations abroad easier.

The new package also extended the right to demonstration. For example, a meeting could be only banned or postponed if there was a 'clear and present danger' that a criminal offence would be committed. In this case, the maximum period of time of postponement was reduced to one month from three months.

One of the amendments concerned the rights of the child. An amendment made to Article 6 of the Law on the Establishment, Duties and Trial Procedures of Juvenile Courts raised the age below which young people must be tried in Juvenile Courts from 15 to 18 in accordance with the UN Convention on the Rights of the Child.

In addition to the package, regarding the demilitarization of the regime, a regulation declared in November 2003 removed representatives of the security forces from the Human Rights Boards in all provinces. In December 2003 the Law on Public Financial Management and Control was amended to allow the inclusion of extra-budgetary funds in the budgets of the relevant administration, that is, the Defence Ministry, as of 1 January 2005. Thus, control by the civilian authorities over military expenditure was further ensured. Furthermore, another regulation was adopted in January 2004 implementing the legislative changes in the harmonization package. The regulation abrogated the former requirement that governmental branches and private legal persons must submit information and documents when asked.

Another critical regulation entitled 'Teaching in Different Languages and Dialects Traditionally Used by Turkish Citizens in Their Daily Lives' entered into force in December 2003. In accordance with the previous amendments, the regulation for the first time allowed private courses where Kurdish could be taught.

A new regulation was published in January 2004 which made broadcasting in non-Turkish ethnic languages by private national television and radio

channels possible, in addition to the state broadcaster TRT. Furthermore, this regulation opened the decisions of the Supreme Audio Visual Board (RTÜK) to judicial appeal.

The 2004 constitutional amendment

After several packages, the government was able to realize a constitutional amendment in May 2004. Thus, the death penalty was totally eliminated from Turkish jurisdiction with all exceptions including the cases of war and the imminent threat of war, thereby removing the constitutional obstacle to the ratification of the 13th additional protocol of the ECHR that Turkey had already signed in January 2004.

The State Security Courts were abolished. Jurisdiction over the crimes falling within the competence of the SSCs was transferred to the newly created Regional Serious Felony Courts.

Furthermore, one of the most important reforms in terms of further civilianization of the regime came with the 2004 constitutional amendment: the representation of the Chief of the General Staff on the Higher Educational Board was repealed. Similarly, a member appointed by the Secretary General of the NSC was removed from the RTÜK. Similarly, in terms of further demilitarization of the regime and civilian control over the armed forces, the constitutional amendment removed the exemption concerning 'state property in possession of the armed forces in accordance with the principles of secrecy necessitated by national defence' from the control of the Court of Auditors. Previously, the regulation adopted in February had enabled the Court of Auditors, on the request of the President of parliament, to audit military and defence expenditures. The constitutional amendment adopted in May 2004 deleted the exemption from the control of the Court of Auditors.

The new constitutional amendment on the freedom of the press stipulated that printing presses and their annexes should not be seized, confiscated or barred from operation on the grounds of being an instrument of crime.

Through the amendment, the supremacy of international jurisdiction was recognized. Previously, Article 90 of the constitution had stipulated that international agreements that were duly put into effect should have the same value as domestic laws. According to Özbudun and Yazıcı (2004: 26), 'with this reform, a much more effective application of the European Convention of Human Rights and other international human rights instruments by Turkish courts will be ensured'.

In terms of gender equality, the new amendment to Article 10 of the constitution emphasized gender equality even further, stating that 'women and men have equal rights. The State is obliged to put this equality into effect.' This new phrase opened the way for positive discrimination in favour of women. Thus, the new amendment was a further step to the 2001 amendment stating that the family was based on equality between spouses.

The government prepared a bill on 23 June 2004 to harmonize the law, decrees and regulation to the constitutional amendment of May 2004. The significant amendments, decrees and regulations after the constitutional amendment can be summarized as follows.

The new Press Law adopted in June 2004 represented a significant step towards increasing press freedom. Under the new law, prison sentences were mostly replaced by fines, sanctions such as the closure of publications, halting distribution and confiscating printing machines were removed, and the possibility of confiscating printed materials, such as books and periodicals, was diminished. Furthermore, foreign citizens were permitted to edit or own Turkish publications by virtue of the new Press Law.

A Law on Compensation of Losses Resulting from Terrorist Acts (Law 5233) was adopted in July 2004. This was an acknowledgment of the need to compensate the losses of those in the south-east incurred as a result of terrorist actions or of the anti-terror activities of state officials since the beginning of the period of Emergency Rule (19 July 1987).

An entirely new Law on Association was adopted by the Turkish parliament on 17 July 2004 and entered into force in November 2004. The new law reduced further the restrictions on the establishment of associations on the basis of race, ethnicity, religion, sect and region. The law was characterized as 'the most progressive Law on Associations in over 20 years' (Özbudun and Yazıcı 2004: 21).[26] The new law eliminated the requirement to seek prior permission to open branches abroad, join foreign bodies or hold meetings with foreigners. The law also removed specific provisions and restrictions on student associations, lifted the requirement to inform local government officials of the day, time and location of general assembly meetings, and allowed for the establishment of temporary and informal platforms and initiatives to pursue common objectives. Furthermore, governors must issue warnings prior to taking legal action against associations and the security forces were no longer allowed on premises of associations without a court order. Audit officials must give 24-hour prior notice and just cause for random audits and children from the age of 15 could establish associations. Moreover, associations could receive financial support from abroad without prior permission.

The legal regulations and amendment of May 2004 increased the ex-post audit of defence expenditure. The Court of Auditors was authorized to audit defence expenditures on behalf of parliament. Amending Article 160 of the constitution, the exemption of state property of the military from auditing has been repealed. Accordingly, the last paragraph of the article, which reads 'the procedure of auditing, on the behalf of the Turkish Grand National Assembly, of state property in possession of the armed forces shall be regulated by law in accordance with the principles of secrecy necessitated by national defence', has been deleted to increase transparency in the auditing of state property in possession of the armed forces.

The new Penal Code, the Code of Criminal Procedure, the Law on Enforcement of Sentences and the Law on the Establishment of the Regional Courts of Appeal entered into force in 2005. Although the EU has continued to criticize Turkey on the grounds that these laws should be improved further, they represent a major step forward in terms of the guaranteeing of freedoms and human rights. The new Penal Code contains additional safeguards to ensure that due protection is given to the freedom of expression. Although it would be criticized later on the basis that it restricts the freedom of expression, paragraph 4 of Article 301 states that 'expression of thought intended to criticize shall not constitute an offence'. The new Code of Criminal Procedure makes the concept of cross-examination of witnesses possible during trials for example. Furthermore, under the new Code of Criminal Procedure, defendants and witnesses who cannot speak Turkish are to be provided with an interpreter free of charge.

Concerning the democratic control of military forces, the Law on Public Financial Management and Control, which was adopted in December 2003, entered into force in January 2005. This law aims at improving budgetary transparency on military expenditure. The adoption and implementation of secondary legislation should allow parliamentary supervision beforehand of military expenditures. The constitution was amended again in November 2005 in line with the Public Financial Management and Control's broader definition of state budget.

Between October 2004 and June 2005 parliament adopted 166 new laws, including the Law on the Establishment of Duties and Powers of the Ordinary Courts of First Instance and Regional Courts of Appeal and the Law amending the Code of Civil Procedures (October 2004); the Law on Association (23 November 2004), the Law on the Enforcement of Sentences and Security Measures (29 November 2004), the Law amending the new Turkish Penal Code (31 March 2005), the Law on the Implementation of the Code of Criminal Procedure and Law on Misdemeanours (31 March 2005), and the Law amending the Law on the Enforcement and Implementation Procedure of the Code of Criminal Procedure; the Law amending the Law on the Enforcement and Implementation Procedure of the Turkish Penal Code (18 May 2005), the Law amending the Law on Enforcement of Sentences, the Law amending the Law on Judicial Records and the Law amending the Code of Criminal Procedure (European Commission 2005: 10).

Although the Framework Law on Public Administration was adopted in 2004, it was vetoed by the President in July 2004 on the grounds that it might jeopardize Turkey's unitary structure. The Law on Municipalities, the Law on Special Provincial Administrations, the Law on Association of Local Governments and the Law on Metropolitan Municipalities were adopted by parliament in 2004 and 2005. Although some of them were vetoed by the President, the government presented them again to the President after some changes.

In January 2006, the Ministry of Justice issued Circular No. 99 that underscored freedom of expression as a basic element for a democratic society.

Referring to the interpretation of Article 10 of the ECHR by the European Court of Human Rights (which deals with freedom of expression), the circular urged the judiciary to take the decisions of the European Court of Human Rights at the highest level while deciding whether an expression is within the scope of freedom of expression.

Parliament amended the Law on the Establishment and Legal Procedures of Military Courts on 29 June 2006. Thus, military courts no longer had jurisdiction to try civilians in peacetime, except for military crimes committed jointly with military personnel. Furthermore, reopening the case in the military courts would be possible depending on the decisions of the European Court of Human Rights. Individuals who do not comply with compulsory military service will be tried in civilian courts.

In January 2006, the Ministry of Justice updated all existing circulars by issuing some 100 new circulars mainly addressed to public prosecutors for the implementation of the new Code of Criminal Procedure. Furthermore, the Law on Association of Local Governments was amended in January 2006. This allows villages and municipalities to undertake joint projects. And two TV channels (Diyarbakır Gün TV and Diyarbakır Söz TV) and one radio channel (Urfa Medya FM Radio) started broadcasting in Kurdish in 2006.

New human rights bodies

With regard to the promotion and enforcement of human rights, one of the very important novelties for improving human rights conditions and democracy, and monitoring implementation of the reform, has been the establishment of human rights organizations in the state apparatus. The number and influence of these organizations has been steadily increasing since the 1999 Helsinki decision.

A government decree with power of law concerning the establishment of the Human Rights Department attached to the Prime Ministry was approved in the *Official Journal* on 5 October 2000 to maintain contact with all bodies and institutions working in the field of human rights and to coordinate their activities (*Turkish Daily News*, 6 October 2000), and the Human Rights Presidency in Ankara, which is in charge of monitoring the implementation of legislation in the area of human rights, was created in April 2001.[27]

Furthermore, an additional body, the Human Rights Advisory Board was established. The board, which is composed of representatives from civil society organizations, would perform a liaison function between governmental and non-governmental human rights organizations. This reflected a new approach in developing a constructive relationship between human rights organizations and the Turkish state. There are currently Human Rights Boards in 81 provinces and almost all big sub-provinces. Every provincial and sub-provincial board has an application desk, and should evaluate all applications and ensure appropriate follow-up.

The Reform Monitoring Group, a body under the chairmanship of the deputy Prime Minister and Foreign Minister Gül responsible for human rights, was established to supervise the reforms and solve bureaucratic or other obstacles to the reform process. It has held weekly meetings.

A new Department of Associations was established in August 2003 within the Ministry of the Interior to perform tasks that had previously been entrusted to the Director General of Security. Thus, the issues of association are no longer seen from a security perspective.

The Ministry of the Interior established a 'Human Rights Investigation Office' in February 2004 whose functions include the inspection of police stations. Similarly, the gendarmerie's Human Rights Violations Investigation and Assessment Centre began functioning in August 2004.

A new institutional body, the 'Minority Issues Assessment Board', was set up in 2004 in order to address the problems of non-Muslim minorities. The board is composed of representatives of the Ministries of Interior, Education, Foreign Affairs and the Ministry of State responsible for the Directorate General of Foundations.

In addition, the Parliamentary Human Rights Investigation Commission, functioning basically as a national monitoring mechanism, has been operational since as early as 1990. Members of the Commission conduct on-site inspections of detention centres and prisons. The Commission maintains dialogue with NGOs. A parliamentary committee for EU integration, called the EU Harmonization Commission, was established on 15 April 2003. This advisory committee also monitors the implementation of political reforms. A new Committee on Violence against Women and Children was established in 2005. The Ethical Board for Public Servants began operations with the issuing of a circular in 2004.

All these new human rights bodies have been created to monitor human rights abuses in the country and the implementation of the political reforms that are related to Turkey's aspirations for membership of the EU.

Accession to international human rights instruments

Turkey acceded to a significant number of international human rights instruments between 1999 and 2007 both within the UN framework and within the framework of the Council of Europe, of which it has been a member since 1949.

One of the most significant developments in this regard was the 2004 constitutional amendment. As stated before, it revised Article 90 of the constitution, enshrining the principle of the supremacy of international and European treaties ratified by Turkey over domestic legislation. Thus, if there was a conflict between international agreements concerning human rights and national legislation, the Turkish courts would have to apply the international agreements. This was particularly important for the jurisdiction of the European Court of Human Rights because all its decisions thereafter would

influence the local jurisdiction directly. In other words, Turkish judges have to give their decisions taking the European Court of Human Rights jurisdiction as the supreme code.

Furthermore, Turkey signed the UN International Covenant on Civil and Political Rights (ICCPR) and the UN International Covenant on Economic, Social and Cultural Rights (ICESCR) with reservations in August 2000 and ratified them in June 2003. However, Turkey issued a reservation to Article 27 of the ICCPR. It provided that these rights should be interpreted and applied in accordance with the relevant provisions of the Turkish constitution and the 1923 Treaty of Lausanne wherein minorities in Turkey were defined. Similarly, it issued a reservation to Article 13 of the ICESCR concerning the right to education in accordance with the law on the unification of education (*tevhid-i tedrisat*). Turkey also signed the First Optional Protocol to the ICCPR, providing for recourse procedures that extend the right of petition to individuals, in February 2004, and the Second Optional Protocol to the ICCPR on the abolition of the death penalty in April 2004 and ratified the Second Optional Protocol in March 2006.

Turkey ratified the UN Convention on the Elimination of All Forms of Racial Discrimination (Turkey introduced a reservation to Article 22 of the convention, to the effect that cases involving Turkey can only be referred to the International Court of Justice with its consent) and the Optional Protocol to the UN Convention on the Elimination of Discrimination against Women in 2002. The Turkish parliament ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict in October 2003.

On 18 April 2001, Turkey signed Protocol 12 of the ECHR on the general prohibition of discrimination by public authorities. In January 2002, the government decided to withdraw the derogation made in 1992, concerning Article 5 of the ECHR (right to liberty and security) with regard to provinces under emergency rule. In June 2003, parliament ratified Protocol No. 6 of the ECHR on the abolition of the death penalty except in times of war or the imminent threat of war, and Protocol No. 13 of the ECHR, concerning the abolition of the death penalty in all circumstances. This was signed in January 2004 and ratified in February 2006.

Regarding children's rights, the Turkish government ratified ILO Convention No. 182 on the Elimination of Worst Forms of Child Labour on 26 January 2001 and the European Convention on the Exercise of Children's Rights on 18 January 2001.

Turkey ratified the European Agreement concerning Persons Participating in Proceedings of the European Court of Human Rights in October 2004 and signed Protocol No. 14 of the ECHR,[28] which entered into force in May 2006. The Revised 1996 European Social Charter was also ratified by parliament on 27 September 2006.

Furthermore, the International Convention on the Protection of the Rights of All Migrant Workers entered into force in January 2005. The Optional

Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was signed on 14 September 2005.[29] The signing of the Optional Protocol was an important step forward in the implementation of Turkey's policy of 'zero tolerance' in the fight against torture and ill-treatment.

In addition, parliament also ratified the UN Convention on the Fight against Corruption on 18 May 2006. Turkey is also a party to the Council of Europe's Civil and Criminal Law Conventions on Corruption and became a member of the Group of States against Corruption in 2004. Turkey ratified the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime on 30 July 2004.

Conclusions

The 1999 Helsinki Summit was a real turning point both in the relations between the EU and Turkey and in the EU's influence on Turkish democracy. Providing a full membership perspective to Turkey, it represented a paradigmatic change in relations and thus the EU really began to exercise a leverage to promote democracy in Turkey. The EU had resisted giving such a perspective to Turkey within the pre-Helsinki period and had always tried to solve the Turkish problem within the parameters of the Customs Union, including the 'Customs Union plus' formulation discussed earlier. This negative attitude of the EU towards Turkey limited the Union's influence on the promotion of Turkish democracy, although the EU, and in particular the European parliament, had exerted pressure on Turkey to improve its human rights record and the quality of Turkish democracy. The decisions taken at the Helsinki Summit changed this radically, and Turkish elites started to discuss the possibility that if Turkey could carry out reforms to comply with the Copenhagen criteria, the EU would allow Turkey to join the Union. Between 1999 and 2007, 'Compliance with the European standard' regarding democracy and human rights became the keywords referred to by the Turkish state and political elite in order to legitimize significant legal and political changes.

The formal framework created in the post-Helsinki period increased the influence of the Union over Turkey's political regime. The several progress reports (although one of them was published in 1998), the Accession Partnership documents and Turkey's National Programmes, all discussed above in depth, established a formal framework for these relations, and what might be described as a road map was drawn up by the Union to enable Turkey to become an EU member. The keyword in this regard was European conditionality.

This framework also decreased the significance of the European parliament in relations between the EU and Turkey. In other words, in the pre-Helsinki period the governments of the EU had seemed to leave the issue of human rights in Turkey to the European parliament in particular, during which time

it had passed heavy resolutions condemning 'human rights violations' in Turkey. After Helsinki, the human rights and democracy issues in Turkey were discussed in the basic documents of EU–Turkish relations.

The governing elites of Turkey generally responded positively to the EU's requirements between 1999 and 2007 and substantial legal amendments were carried out during this time. The most significant ones are as follows: the transformation of the NSC into a civilian and advisory body and elimination of its executive powers; possibility of the scrutiny of all expenses of the military; the end of emergency rule in the south-east; lifting of the ban on the teaching of non-Turkish ethnic languages including Kurdish and allowing broadcasting in these languages; adoption of a new Association Law, Civil Code and a new Press Law; abolition of the death penalty; easing of the purchase of tangible assets by non-Muslim communities and restrictions on the opening of places of worship; broadening the rights of demonstration; and substantial improvements in elimination of torture and mistreatment and abolishment of the SSCs. Retrial under the ECHR also became possible.

I believe the breakthrough in this regard was the constitutional amendment in October 2001. Although the amendment was modest in scope, it was a very important starting point for the reform movement which reflects the predominance of a pro-EU mentality among most of the Turkish decision-makers and their decisions to comply with the Copenhagen criteria. Later, they would pass eight harmonization packages in this regard. The third package was also important because it allowed broadcasting in minority languages and instruction of non-Turkish languages, including Kurdish. This was a great watershed in the history of the Turkish Republic where any ethnic affiliation other than Turkishness had often been denied. Therefore this package could be regarded as an official recognition of the existence of non-Turkish ethnic groups in Turkey, and in particular the Kurds. The military had always been cautious about the EU's requirements with particular regard to the Kurdish problem. However, its tacit 'yes' to the reforms was influential in marginalizing anti-European discourses within Turkey.

Nonetheless, between 1999 and 2007 the possible influence of the EU was often curbed by the EU itself. Although the EU provided a membership perspective to Turkey, for a long time it did not give a clear signal to Turkey as to when accession talks would begin. Several times the Turkish elites and people had optimistically expected the commencement of the accession negotiations, including at the Laeken, Seville, Goteborg, Copenhagen, Thessalonica and Brussels summits. This reluctance of the EU to give a clear date for accession negotiations sometimes curbed the willingness of the Turkish elites to carry out more reforms. More importantly, the Accession Negotiations document was full of new conditions for Turkey that blurred the incentives of EU conditionality and made conditionality for Turkey tougher, destroying the pull-push dynamics of conditionality. Both this reluctance and the declarations of some European politicians questioning

Turkey's Europeanness and stressing its Asian and Muslim character raised doubts at both elite and public levels concerning the EU's true intentions.

The next chapter considers the nature and problems of Turkish democracy that have hindered both democratic consolidation in Turkey and Turkey's further integration with the EU. Having discussed the basic nature and characteristics of the political regime in Turkey, the overall impact of the EU on these characteristics of Turkish democracy is analysed. It is demonstrated that although EU conditionality was influential in the consolidation of Turkish democracy, its effectiveness has been limited both because of the general nature of the conditionality of the EU and because of some specific characteristics of Turkish–EU relations, as discussed in this study.

5   The impact of EU conditionality in Turkey

Since its inauguration in the 1950 elections, when Turkey formally moved to multi-party democracy, democracy in Turkey has never been sufficiently consolidated (Özbudun 1998, 2000). Democratic practice in Turkey was interrupted completely in 1960 and 1980 by two military coups, by an indirect intervention by memorandum in 1971 and by a 'virtual' intervention using more subtle means in 1997. In addition to these 'democratic breakdowns', the problems that have curbed the development of Turkish democracy and stand in the way of further consolidation, include, *inter alia*, the democratic supervision of the Turkish military, the Kurdish question and ethnic and separatist terrorism related to the Kurdish problem, a weak party system, the nature of civil society and human rights abuses, and *à la Turca* secularism and its tensions with liberal democracy (Sunar and Sayari 1987; Heper 1992a, 1992b; 2000, 2002; Özbudun 2000).

The nature and problems of liberal democracy in Turkey have attracted international focus since its inauguration in 1950, in particular because Turkey is often held up as a rare example of a Muslim country that could have a democratic regime and of a democratic regime that could flourish in a territory where most of the population is Muslim. Furthermore, the Turkish case is also interesting for political scientists because in spite of the fact that the country progressed to liberal democracy earlier than various new democracies, Turkish democracy has not yet been adequately consolidated and its fragility has not been totally eliminated. In other words, Turkish democracy, from the beginning, has been a story of a series of political crises which have constantly hindered democratic consolidation in Turkey. In addition, Turkey is a country that has been negotiating with the EU for membership; this adds another dimension to the Turkish case which makes it more complicated in nature. As discussed in previous chapters, European political conditionality has forced Turkey to carry out significant political reforms in order to comply with the Copenhagen criteria that are necessary for membership.

When looking at the literature concerning democracy in Turkey, it seems that the European dimension has not been comprehensively analysed, although there are a number of studies that analyse the EU's impact on Turkey in terms of democracy and human rights. A number of researchers have analysed EU

policy towards Turkey in terms of democracy and human rights during Özal's era (Aral 2001; Dagı 2001), and most of the studies are about European pressure after Turkey became a candidate at the 1999 Helsinki Summit (Öniş 2003, for example). Thus, with the exception of some individual studies cited above, there is no comprehensive account of Turkish–EU relations in terms of democracy and human rights and the impact of the EU on democracy in Turkey, and therefore it can be argued that there has been an underdevelopment in studies that analyse the role of foreign factors on democratic consolidation in Turkey.

This chapter is about the nature and problems of Turkish democracy that have hindered both democratic consolidation in Turkey and Turkey's further integration with the EU and thus the EU's transformative impact on Turkey. Having discussed the basic nature and characteristics of the political regime in Turkey, I will scrutinize the overall impact of the EU on these characteristics of Turkish democracy. However, as discussed in Chapter 1, separation of the impact of a particular international actor from the overall/global contextual variables is not an easy task. Although divorcing the EU's particular role in Turkey's democratization from the global resurgence of liberal democracy and democratic values and norms after the end of the Cold War, which without doubt has exerted a significant influence on Turkish elites and grass roots, is difficult, the negotiations, EU pressure and Turkey's response, as discussed in the previous chapters, demonstrate that the EU's impact, particularly in the form of conditionality, is an undeniable fact, but its magnitude is controversial.

EU political conditionality has been an important element in the further democratization of the Turkish political regime, particularly after the EU granted Turkey candidate status in 1999, as demonstrated in the previous chapters. Comparing the current nature of Turkish democracy with that of the country in the pre-Helsinki period, it is clear that Turkey has carried out serious reforms with a view to satisfying European conditionality and it is also clear that these political reforms would not have been possible without EU conditionality. Nonetheless, European political conditionality has its limits and it has not eliminated all the problems that continue to hinder democratic development in Turkey. Furthermore, as discussed previously, the extent of the impact of the EU has varied depending on the type of relationship between Turkey and the EU. The impact of the Union in the pre-Helsinki period, when Turkey was constantly excluded from the process of enlargement, was much less than its impact in the post-Helsinki period, which can be divided into two periods: pre-negotiation and negotiation. Overall the EU has been an important factor in democratic consolidation in Turkey but the extent of its impact has been limited for various reasons that are discussed later.

Civil–military relations and democratization in Turkey

One of the most difficult problems of democratic consolidation in Turkey has always been the control of the Turkish armed forces and the powerful

role of the Turkish military in politics. As discussed before, in addition to the military interventions that clearly would have disturbed the democratic practice in any country, the Turkish military has been influential in the political process through its 'nondemocratically generated tutelary powers' that hold 'reserved domains of authority and policy making' (Valenzuela 1992: 63–4). As discussed in Chapter 1, formal or informal military involvements in politics can lead to 'gradual erosion' of democratic norms and values, such that democracy becomes hollowed out without conventional interventions (O'Donnell 1992: 19; Huntington 1996: 8). Since the publishing of its first Regular Report in 1998, the EU has constantly declared in its official reports that the role of the Turkish armed forces is not in accordance with European practices and at various times has asked for serious reforms to be carried out to 'normalize' the role of the Turkish military in politics. Indeed, Turkish governments have completed significant reforms to alleviate certain problems but the recent developments discussed below show that EU conditionality has not entirely sustained the mechanism of democratic control of the military in Turkey.

The Turkish army historically regards itself as the guardian of the Republic, of its indivisibility and secular character. The accredited basis of the army's role is the political culture of Turkey which legitimizes the army's exceptional position in the country (Jenkins 2001: 9–20). Turkey has had three military interruptions of democracy – in 1960, 1971 and 1980. While the interruptions to the democratic process in 1960 and 1980 were coups in the full sense, the 1971 interruption was instead a 'coup by memorandum', since it did not suspend the constitution, dissolve parliament or close down the political parties. Rather, the military urged the formation of a non-elected, technocratic government, through which it wielded its influence over politics. Students of Turkish democracy suggest that each intervention was a moderating coup rather than the creation of a permanent or long-term military regime and that democracy was restored swiftly after the interventions (Hale 1994; Özbudun 2000: 13).

The strong influence of the military over politics is not limited to coups or semi-coups. If the military notices substantial 'challenges' of 'religious extremism', which 'threaten' secularism, or ethnic separatism that threatens the territorial integrity of the country and creates a danger of destabilization or public disorder or anarchy, then the military will consider intervention using various methods.

It can wield its influence vigorously in subtle and sophisticated ways, as observed in the so-called '28 February Process'. The 'process' demonstrated the critical threshold, the surpassing of which might result in a military intervention. It also demonstrated the limits of the officers' tolerance for government policies, and that the military could shape civil politics without direct intervention. Furthermore, apart from military interventions in different forms (through direct intervention or more sophisticated means of shaping politics), the military had a 'constitutional' mechanism to influence politics, the National

Security Council, until the structure of the council was radically changed through reforms that were adopted under the pressure of EU conditionality.

The Turkish constitution in fact does not proclaim any guardianship role for the military. However, Law 2945, which is related to the NSC and its General Secretariat, had generally been used to legitimize the involvement of the NSC and its secretariat, which, before the amendment, was composed wholly of officers in all aspects of social, economic and political life. In addition, according to Article 35 of the Internal Service Act of the Turkish armed forces (*Türk Silahlı Kuvvetleri İç Hizmet Kanunu*, enacted on 4 January 1961 through Law 211), 'the military is responsible for defending both the Turkish Fatherland and the Turkish Republic as defined by the constitution'. This and similar articles have several times been invoked when the military has intervened directly or indirectly in politics, especially against the two main perceived treats to the Republic: Islamic fundamentalism and separatism. Furthermore, officially, the military has had at its disposal an autonomous intelligence service for all crimes regarding domestic security and its budget was not inspected by civil authorities until very recently (Sakallıoğlu 1997).

The National Security Council

The NSC is a constitutional institution designed for the military to express its ideas. The military has traditionally used the NSC to state its opinions concerning almost everything, not just military or security issues. In fact, the military usually employs the NSC as a platform for putting forward its own political agenda (Cizre 2003: 222).

The NSC was created by the 1961 constitution, and its role and influence was reinforced by the 1971 constitutional amendment following the military intervention on 12 March 1971. Article 111 of the 1961 constitution originally designed the council in such a way that it was composed of ministers to be determined by law, the Chief of the General Staff and representatives of the forces (the army, navy and air forces), and chaired by the President of the Republic. The council had the power to submit its views to the council of Ministers to *assist* it in making decisions about national security. Article 111 of the constitution was amended in 1971 after the military intervention, and the role of the NSC was strengthened in such a way that 'force commanders' instead of 'force representatives' became the members of the council. The NSC was further reinforced in the 1982 constitution, which was written after the 1980 military intervention in an authoritarian style, curbing fundamental rights and freedoms.

How binding the decisions of the NSC are is not clear even from a formal viewpoint. The legal implications of NSC decisions have been widely discussed in the country especially during the 28 February Process when the government tried to resist the decisions (the 18 points) made by the NSC on 28 February 1997 which were essentially issued against the government of the day. Although the decisions of the NSC, even before the last amendments, were advisory,

this was not the case de facto. For example, Doğan Güreş, the former Chief of the General Staff, stated openly that 'the NSC, as it is defined in the constitution, determines the National Security Policy which is the god and constitution of all policies. It is unthinkable to behave against it' (*Milliyet*, 4 March 1997). Article 4 of Law 2945 defined the responsibilities of the NSC. Accordingly, the Secretary General had such a degree of substantial power that some researchers question whether or not he acted as a 'shadow Prime Minister' (Özdemir 1989: 126). Therefore, some commentators in Turkey have argued that the Secretary General should be a civilian, but according to law he or she had to be selected from among the ranks of four-star generals.

The National Security Policy, which is sometimes called 'the hidden constitution of Turkey [*Gizli Anayasa*]', was formulated in such a broad manner that it included domestic political discord (the Kurdish and terrorism issues and Islamic movements) as the main threat to Turkey's security. The definition of national security was provided by Law 2945 in an extremely broad manner. Accordingly, 'the national security' was defined in the article as

> the protection of the constitutional order of the state, its national existence, and its integrity; of all of its interests in the international field, including political, social, cultural, and economic interests; and of interests derived from international treaties against all external and internal threats.
>
> (Özbudun 2000: 108)

For Cizre, in this regard,

> the main instrument affecting the military's expanded influence over Turkey's political development and its autonomy from civilian actors has been the redefinition of the 'national security concept' . . . the very nature of the civil–military imbalance means that the military has almost exclusive control over the definition of what qualifies as being within the remit of national security in the first place.
>
> (2004: 108)

The military and Islam

The military saw the increasing popular support for the RP as the rise of political Islam and 'Islamic fundamentalism'.[1] Furthermore, some Islamic symbols, such as the headscarf, were increasingly seen in the 'public sphere' and in universities, which have always been sanctified by the republican elites as the most distinguished institutions of the republic. The military became increasingly suspicious of the Islamic-oriented parties, institutions, movements and supporters whom it accused of attesting to hijack democracy and impose *Shariah* law.

In fact, the increasing Islamization of society had also alarmed the secular civil elites, including journalists, businessmen, workers and university professors. They considered this Islamization to be a substantial threat to the secular character of the state (Ayata 1996). Therefore, the rise of the RP as the largest political party in Turkish politics and the growing presence of Islamic figures in the public sphere alarmed the secularist elites and some segments of the people as a threat to the secular character of the regime. As Salt rightly put it, 'although specific issues bore the brunt of the generals' ire in 1997, it was the overall growth of this Muslim environment that appeared to be the real cause of their alarm' (1999: 73).

However, the military, unlike the military in Algeria, did not intervene immediately when the RP forged a government with the DYP, and preferred to observe the activities of the government closely. It was not the first time an Islamic-oriented political party had been in government, but it was the first time one had become the senior partner and its leader Prime Minister (Salt 1999: 73). The new approach in foreign policy[2] run by the RP-led government and more tolerant policies towards Islamic practices in the public sphere[3] irked the secular establishment, led by the military. Thus, as Salt put it 'the generals launched a carefully calibrated campaign of destabilization against the Refah (Welfare)–True Path Party coalition government of Prime Minister Necmettin Erbakan' (Salt 1999: 72).

This campaign of wearing the government down resulted in the famous demarche on 28 February 1997 at the meeting of the National Security Council. The commanders warned the government about the threat of Islamic fundamentalism and asked the government to take strict measures against it.[4] In the coming days, the commanders established the so-called West Working Group (*Batı Çalışma Gurubu-BÇG*) to monitor closely the activities of fundamentalists throughout the country.[5] Judges, prosecutors, senior bureaucrats, journalists and academics were frequently called in by the military for briefings on the fundamentalist threat to the republic.[6] Islamic fundamentalism was regarded as the number one enemy of the state and a 'total war' against it was launched by the General Staff.[7]

As the pressure on the RP–DYP coalition increased, Erbakan submitted his resignation to the President on 18 June, hoping that the leader of the junior partner of the coalition would be appointed to the post by the President, but President Demirel surprised them by appointing as Prime Minister Mesut Yılmaz, the leader of the ANAP. Later, the Constitutional Court dissolved the RP on 16 January 1998.

It was now clear that interventions by the military would be achieved in a more subtle manner. It was the first time the military had made extensive use of the mass media[8] to 'win the war' against the 'enemies inside'. It was a 'total war', which included 'a psychological war' that necessitated manipulation of the people with some new tools. The military started to use extensive propaganda against what officers regarded as 'enemies' of the regime.[9]

The military and the EU

The other point that influences the officers' cognitive maps is the love–hate relationship with the West. While the officers have been the most vigorous defenders of the European way of 'modern' life, they are also suspicious of the intentions of Western powers in respect to Turkey's territorial integrity and stability. In other words, the so-called Sèvres syndrome has often been noticed among Turkish officers. Karaosmaoğlu succinctly concludes that three conflicting sets of ideals are noted in the officers' pattern of thinking:

> staying out of politics because it is harmful to professional integrity, but intervening in politics whenever it is necessary for the protection of the secular and democratic regime; safeguarding the democratic regime and contributing to the process of democratization (because democratization is part and parcel of Westernization), but refraining from acting as an instrument of the political government; joining the Western community of nations to become an integral part of it, but maintaining a guard against the West.
>
> (1993: 32)

This dilemma of the Turkish military regarding Turkey's integration with the EU has constantly produced an ambiguity and while the top generals generally approve Turkey's EU membership,[10] they have often declared that EU conditionality, particularly in terms of minority rights and the Kurdish question, jeopardizes Turkey's national unity and national security. Although the military has not publicly and officially resisted attempts to secure EU membership and in general has remained silent concerning the reforms which the EU has asked for regarding the demilitarization of the regime, it seems to advocate a controlled and gradual transformation that does not eliminate totally the guardianship role of the military against Islamic revivalism and Kurdish separatism. The statement of General Tuncer Kılınç as Secretary General of the NSC was an uncommon example of a top-level commander in the army clearly defending a new rapprochement with Russia and Iran, instead of the EU (*Hürriyet*, 2002b).

The impact of EU conditionality on democratic control of the military

It is interesting to note that until very recently it seemed that the EU had accepted this modus vivendi; as one researcher contends: 'The EU knew where the military's red lines lay. Therefore, it deliberately abstained from any attempt to challenge the military's considerable policy space to intervene in domestic politics using informal channels of influence' (Misrahi 2004: 35). In particular, the EU had not attempted to challenge the military's powers to intervene in domestic politics with a view to safeguarding its conception of secularism (Misrahi 2004: 30).

Also the EU had not directly and vehemently criticized the soft coup of the military in the 28 February Process. It had not, for example, requested a sweeping a change to the Supreme Military Council (*Yüksek Askeri Şura-YAŞ*) which deprives officers dismissed from the military for religious activities and those suspected of Islamic activism of a right of appeal. This is the official position of the General Staff, which is responsible directly to the PM, and is contrary to common European practices.

Of course, the EU has many times declared in its official documents that civil–military relations in Turkey are not in line with European norms and practices and has asked Turkey to make reforms with regard to democratic control of the armed forces. The military issue has not been of such high profile that the EU has felt the need to pay it serious attention,[11] and it has not so far been prioritized in the same way as, for example, Article 301 of the Turkish Penal Code.

Without doubt, the constitutional amendment accepted on 3 October 2001 under Law 4709 is significant from the aspect of consolidation of democracy in Turkey, taking into consideration the extraordinary position of the military. Article 118 of the constitution was amended so that the number of civilians in the NSC was increased through inclusion of the Deputy Prime Ministers and the Minister of Justice, thus creating a civilian majority against the military commanders. Furthermore, the third paragraph of the amended article states that the NSC's decisions are 'advisory'. As stated above, after the NSC meeting on 28 February 1997, the legal position of the 18 points made in the NSC was debated at the time. While some argued that the government had to comply with the points, others argued that they were just advisory and the government did not have to carry them out. Therefore, adding the word *advisory* was very helpful in determining the legal position of decisions taken in the NSC. In addition to the amendment to the constitution in October 2001, the law on the NSC and the General Secretariat of the NSC was modified; the Secretary General of the council is now chosen from civilians, the NSC representative from the Supervisory Board of Cinema, Video and Music was removed (as a result of an amendment to Article 6 of the Cinema, Video and Music Works Law 3257) and transparency of defence expenditure was increased.

However, it would not be wholly accurate to argue that these and other reforms that were carried out as a response to EU conditionality have eliminated the vulnerability of the regime concerning military intervention in all forms (hard or soft, direct or indirect, total or partial, formal or informal) and all 'perverse elements' that exist in the Turkish political regime. It seems that the military wants to keep its role as the primary interlocutor in politics; it 'probably opts for a process of entry into the EU that is under its close supervision and control' (Misrahi 2004: 108–9). Ümit Cizre has strong suspicions that these legal and institutional reforms could lead to 'normal', democratic civil–military relations in Turkey:

> Mere institutional reforms of civil–military relations will often fail to identify and respond to an underlying web of unspoken and maybe indivisible systems of sustenance that legitimize the military's ability to influence. As Decaf [Democratic Control of Armed Forces] is about creating a new military culture with a newly instilled respect for civilian control where the ideological and historical underpinnings of the power relationship must undergo substantial change, what is required is more than just a list of institutional reforms, amendments to existing laws, and the constitution or the promulgation of new laws.
>
> (2004: 119)

The military's criticism of the government on 2 October 2006 and 27 April 2007 seems to support the arguments above. The Chief of the General Staff Gen. Büyükanıt accused the government of encouraging 'Islamic reactionism' and rejected EU criticism that the military had too much influence in politics. General Büyükanıt's speech and some other top-level generals' harsh criticism about increasing Islamism and separatism in Turkey demonstrate that despite improvements in Turkey regarding further civilianization and democratic control of the Turkish armed forces, the military is still keen to keep its hold on the Turkish political regime, following the departure of former Chief of the General Staff Gen. Hilmi Özkök, who was described as the 'unusually mild-mannered Chief of the General Staff' in *The Economist* (2006) and as an 'unusually democratic soldier' by a Turkish commentator (Bayramoğlu 2006).

EU conditionality and the Kurdish question

One of the most difficult impediments to democratic consolidation in Turkey has been the Kurdish question. When referring to the Kurdish question, three related problems come to the fore. First are the traditional official policies of the Turkish state with regard to the Kurdish population in Turkey; second are the terrorist activities of the Kurdish organization the PKK, which generate insecurity in the region and in the whole country, provoke the security forces and thus endanger democratic consolidation. Third is Turkey's deteriorating human rights record during the late 1980s and 1990s, related mostly to the insurgency in the south-east of the country.

For a long time, Turkey's state policy regarding Kurds living in Turkey was that Turkish citizens of Kurdish origin belonged to the 'Turkish' majority. In other words, until recently Kurds in Turkey were not regarded by the Turkish state elites as an ethnic group different from the Turkish majority. According to this official view, there is no Muslim minority in Turkey. This was reflected in the essential provisions of the Treaty of Lausanne (1923), which was preceded by the Treaty of Sèvres (1920) and created the basic framework of the Turkish Republic in 1923.

While Article 62 of the Treaty of Sèvres referred to the need for 'local autonomy for the predominantly Kurdish areas', and Article 64 mentioned a possibility that 'the Kurdish people' might be granted 'independence', the Treaty of Lausanne, in contrast, does not refer to Kurds directly. The third section of the Treaty concerns the protection of minorities in the Turkish country, and Articles 37–45 are about minorities in Turkey.

The official view of the Turkish state has been that the rights agreed to at Lausanne should be applied only to non-Muslim minorities, which are the Greeks, Armenians and Jews. In other words, Turkish officials have always argued that according to the Treaty of Lausanne there is no Muslim, 'ethnic' or 'national' minority' in Turkey. A different Kurdish identity was rigorously rejected by the founders of the Republic of Turkey. Following the European state models, they believed that Turkey should be a modern nation-state with a single nation/people. An all-encompassing Turkish sense of identity was created for this cause, which denied any ethnic identity other than Turkishness. In order to forge a sense of national identity and unity, all citizens were to have their previous identities subsumed by Turkishness. All these attempts to create a new modern nation-state, of course, entailed a sort of elimination of cultural differences in order to pursue a policy of uniformity. The political elite had treated cultural differences as deviant for a long time (Yeğen 1996; Pierse 1997).

Increasing ethnic tension in the region, along with the radical modernization carried out by the modernizing elite at the time, resulted in the first Kurdish rebellion against Ankara: the Sheikh Said rebellion in 1925. Some Turkish commentators believe that the Sheikh Said rebellion was a product of the Great Powers abroad, particularly Britain, which provoked the Kurds to prevent Turkey from capturing Mousul and Kirkuk and their rich oil fields (Öke 1988; Çay 1993; Kılıç 1999). This kind of thinking, which sees the Kurdish problem in Turkey as a product of the Great Powers abroad, has been very influential among the Turkish elite and people, and they have always been very suspicious of Western involvement in the problem (Erkal 1998). This 'Sèvres syndrome', meaning that the Western Great Powers still look forward to further partitioning of Turkey, has created an 'insecurity complex' and 'sense of territorial insecurity' throughout the history of the Republic. As Robins rightly put it:

> This sense of territorial insecurity has, furthermore, not been helped by the location of the Kurdish areas adjacent to the Middle East, a region where the revision of the state system has been the focus of active debate from decolonization in the 1940s to the Iraqi invasion of Kuwait in 1990.
>
> (2000: 67)

The Sheikh Said rebellion was not the first Kurdish insurrection against the Turkish state and would not be the last. Fourteen more revolts, including the Dersim rebellion in 1937, were suppressed by the Turkish army. Kurdish

ethno-nationalism had not come to the fore for decades since the suppression of the Dersim rebellion in 1937, until violent attacks carried out by the PKK in the towns of Eruh and Şemdinli in 1984 marked the beginning of one of the most violent and long lasting 'low-intensity conflicts' in world history, between the Turkish security forces and the PKK.[12] The late 1980s were the years during which the PKK built up a comprehensive network in south-east Turkey, northern Iraq and western Europe. Furthermore, it began to perpetrate illegal acts of aggression in order to create fear and terror in south-eastern Anatolia.

The Turkish parliament declared a state of emergency in ten south-eastern provinces in 1987 in an attempt to effectively combat the activities of the PKK. However, the measures of the Turkish state against PKK terrorism initially were not effective. The PKK managed to attack security patrols and gendarmerie stations, carry out acts of sabotage against factories and other government facilities, set fire to schools and kill several civil and military officials, including school teachers, and cause traffic to stop on highways. It seemed a kind of dual power had started to emerge in the region: the state versus the PKK. The emergence of such a situation was in fact the first stated aim of the PKK.

The Gulf War in 1991 was another turning point in the struggle of the Turkish state against ethno-nationalist Kurdish separatism. As van Bruinessen (1998) indicates, the migration of two waves of Kurdish refugees from Iraq in 1988 and 1991 exerted a great impact on public awareness in Turkey, particularly among Kurds, who became more perceptive of the existence of Kurds in northern Iraq. So, it could be argued that these two waves of refugees fleeing from Iraq contributed to the 'national' awareness of the Kurds living in Turkey and northern Iraq.

The Turkish army had started to win the psychological war against the PKK by the end of 1994. The real blow to the PKK came when Şemdin Sakık, one of the most important figures in the PKK, and Abdullah Öcalan, the leader of the PKK, were captured in northern Iraq in early 1998 and in Nairobi on 16 February 1999 respectively. After Öcalan's arrest,[13] the PKK, which found itself unable to sustain its terrorist activities to achieve its political targets, decided to abandon its armed struggle and pursue a policy of legalization and internalization/Europeanization of the Kurdish problem (Alpay 2000). Accordingly, the leadership of the PKK declared that it would abandon the armed struggle at its seventh Extraordinary Congress on 7 February 2000 in northern Iraq. The PKK constituted its new programme by formulating 'a democratic transformation strategy' expressing the need for 'the democratization of Turkey and the resolution of the Kurdish national question in connection with it' (Öcalan 1999).

One of the main themes of the PKK's new strategy was to use certain democratic tools such as civil disobedience to achieve its main goals and it has also benefited from Turkey's EU perspective. The PKK changed its name as part of this strategy and adopted the title KADEK (Kurdistan Congress

for Freedom and Democracy) at its eighth congress held on 4–14 April 2002. However, at a later stage, the PKK abandoned the new name and once again adopted the title of PKK and started to use violence again to attack the security forces.

One of the most negative ramifications of this war has been the deterioration in the democracy and human rights record of Turkey. During the late 1980s and 1990s this deterioration was related principally to the Kurdish question. The war against the PKK was so comprehensive that it replaced the Greek threat as the first priority in the National Security Documents prepared in the 1990s.

A state of emergency was declared in south-east Turkey in 1987 to fight the PKK rebellion and related terrorism. The use of torture particularly during 'incommunicado detentions', disappearances and extra-judicial killings, unlawful killings, arbitrary detention, as well as the forced evacuation of hamlets and villages were usual practices in the south-east and other areas where the Kurds live.

Furthermore, fundamental freedoms, like freedom of expression, assembly and political associations, were severely curbed. Although the alleged violations were not limited to the south-east, they occurred to a lesser degree in other parts of Turkey. Human rights abuses in other regions were also often related to the Kurdish question.[14]

Second, the violent rebellion of the PKK led to the increased influence of the military on politics and thus the civilian–military balance was further disturbed, which was detrimental to the process of democratic consolidation. Third, the terrorist activities of the PKK and state oppression against Turkish citizens of Kurdish origin have created a negative atmosphere for democratic political culture. Tension between Turks and Turkish citizens of Kurdish origin appears with regularity throughout the country.

The impact of EU conditionality and the Kurdish question

The Kurdish issue needs to be resolved in order for Turkey to meet EU conditionality for membership. It has forced Turkish governments to recognize officially that there exist ethnic groups in Turkey whose mother tongues are not Turkish. Today, Kurdish books, newspapers, journals, cassettes and so on can be published, there are Kurdish language courses and a number of TV and radio stations can broadcast in Kurdish. This would have been unlikely 10 years ago without the pressure of EU conditionality.

As already discussed in detail, the 2001 constitutional amendments and subsequent reform packages have provided a number of cultural rights to Turkey's citizens of Kurdish origin. However, the EU does not appear satisfied by the current situation in Turkey and has asked constantly for more cultural rights/minority rights to be granted to the Kurds and other ethnically non-Turkish groups living in Turkey. The Turkish decision-makers have been suspicious of the EU's demands to expand cultural/minority rights to

the Kurds, fearing that broadening the scope of such rights could increase separatist tendencies in the country and eventually lead to a partitioning of the country.

These fears are obviously not groundless, since the PKK has been trying to end the sovereignty of the Turkish state in the eastern part of Turkey through terrorist means for more than 20 years. The EU has managed to settle the ethnic problems in some CEECs, though they have not yet been totally eliminated. Furthermore, unlike the CEECs, the existence in Turkey of armed Kurdish groups that use violence and resort to terrorism has exacerbated the situation. This does not necessarily represent a justification that the cultural rights of Kurds should not be acknowledged; rather it suggests that there exists a serious argument that any ethnic awakening in Turkey might weaken Turkey's nation-state structure and democratic consolidation would consequently become more difficult in such a society because, as we have already discussed, democratization needs a well-established state structure. It is well recognized that the literature of democratic consolidation has not introduced a useful model that can help us to carry out democratic consolidation in countries where ethnic separatist movements exist and use violence and armed struggle to achieve their political aims.

To sum up, the impact of EU conditionality has a mixed and complicated history with regard to democratic consolidation in Turkey. On the one hand, EU conditionality has, without any doubt, facilitated the process that has improved the cultural rights of Turkish citizens of Kurdish origin but, on the other hand, it is highly difficult to argue that EU conditionality and the political reforms that Turkey has carried out as part of the process of EU membership have ended the armed struggle and violence of the Kurdish groups in the region. The Kurdish question has itself become more complicated with the emergence of an autonomous Kurdish region in northern Iraq in the aftermath of the second Gulf War. Nevertheless, the Kurdish question and the existence of armed groups in the region (the PKK in particular) is still one of the most challenging problems Turkish democracy faces just as it was in the pre-Helsinki period.

Institutions and democratic consolidation in Turkey

The 1982 constitution and democracy in Turkey

The existence of a democratic constitution is vital to the process of democratic consolidation and to help sustain the rule of law. From this point of view, Turkey holds an important advantage because the tradition of constitutions in Turkey is comparatively old and can be traced back to the proclamation of the first Ottoman constitution (*Kanunuesasi*) on 23 December 1876. The Turks have formulated new constitutions three times, in 1924, 1961 and 1982. Both the 1961 and 1982 constitutions were rewritten following military interventions. As Özbudun rightly advocates, none of the constitutions in

Turkey was prepared by a Constituent Assembly that represented all segments of society. Therefore, 'all three constitutions had weak political legitimacy, and judged by the frequency of military interventions in politics; none produced a fully consolidated democratic regime' (Özbudun 2000: 68–9). Furthermore, both later constitutions, but in particular the 1982 constitution, encompassed a myriad of undemocratic provisions that Turkey has since annulled or amended, many of them during the EU membership process.

The 1982 constitution severely restricted fundamental human rights, including freedom of expression and freedom of association, and popular participation (Uygun 1992; Tanör 1994: 192–212; Özbudun 1998: 35–45) until very recently. So much so that Sami Selçuk, the former president of the Turkish Court of Cassation, declared that it resembled 'a regulation of the police' (2000: 171).

The impact of EU conditionality and the 1982 constitution

The undemocratic nature of the 1982 constitution had been one of the most significant barriers to both further democratization of Turkey and Turkey's European orientation. The constitution has been amended several times since Turkey's application for EU membership in 1987 in order to comply with the EU's democratic conditionality. According to a list, Turkey made 43 amendments to the constitution between 2001 and 2004. No less than 66 laws, including eight harmonization packages, 49 circulars and 29 regulations and one rule book were passed and implemented. Some 175 laws that influenced the lives of Turkish citizens were changed (Birand 2004). Turkey has continued reforms with further amendments in 2006 and 2007 and a ninth reform package that was adopted at the end of 2006. Thus various constitutional and legal changes which are vital for democratic consolidation in Turkey have been achieved within the framework of EU conditionality. It seems that most of these legal and constitutional reforms would not have been achieved if EU conditionality had not exerted external pressure. Hence, it could be argued that EU conditionality has been very influential with regard to the constitutional dimension of democratic consolidation.

Nonetheless, the Turkish case has demonstrated that significant improvements in the constitutional dimension of democratic consolidation do not lead to consolidation of the regime as a whole. The case of democratic control of the military in Turkey could be given as a good example of the fact that constitutional and legal improvements do not necessarily lead to an automatic civilianization and democratization of a regime. As already shown, the reforms carried out during the EU process have changed the nature of the NSC radically, the military is now under stricter civilian control regarding financial matters and some 'perverse elements' and 'reserved domains' in the regime were eliminated. However, all these improvements have not ended the informal influence of the military over politics. This is very clear when monitoring the military's persistent role in Turkish politics even after

the EU declaration that Turkey had satisfied the Copenhagen criteria and was ready to start accession negotiations with Turkey in 2005.

Parties and the party system and democracy in Turkey

As has been discussed in depth in Chapter 2, there exists a reserve relation between democratic consolidation and the weakly institutionalized party system and with its accompanying fragmentation, polarization and volatility (Sartori 1976; Linz 1978; Mainwaring 1998; Merkel 1998). Parties and the party system in Turkey as a whole have suffered a great deal from a continuous weakening of institutionalization or 'de-institutionalization', which has been observed in the form of the increasing volatility, fragmentation and ideological polarization of the Turkish political system.

As students of the Turkish party system have clearly demonstrated the system had proven to be much more fragmented than ever before despite the highest ever national and constituency thresholds in the electoral system in Turkey until the most recent general elections in November 2002, where a new situation emerged (Çarkoğlu 1998: 545–54; Özbudun 2000: 76; Akgün 2001: 81–9).

Thus, it had proven to be increasingly difficult to reach a parliamentary majority and to form single-party governments. Coalition governments in Turkey have continuously failed to carry out successful polices. Although the 2002 elections resulted in two political parties being represented in parliament itself, this did not mean that the problem had been eliminated from the Turkish political system. The current situation might be related to conjuncture rather than permanent trends.

Another 'malady' of the Turkish party system, which indicates the weak institutionalization of the party system in Turkey, is volatility. As discussed in Chapter 2, increasing electoral volatility shows a weak partisan attachment among the electorate. When analysing the Turkish case, the average volatility over the entire 1954–99 period is 21 per cent (Çarkoğlu *et al.* 2000: 41), meaning that on average 20 per cent of the electorate gave their votes to different parties at each election. This indicates that the Turkish electorate has demonstrated a very fluid aggregate-voting pattern (Çarkoğlu 1998: 547). This clearly indicates de-institutionalization of the party system in Turkey and as Özbudun (2000: 78) correctly asserts, to the extent that the stabilization of electoral behaviour is an element of democratic consolidation, the current trend in Turkey seems to be detracting from consolidation.

The literature on the Turkish party system explains that the high volatility and fragmentation of the system is due to three basic reasons. According to Özbudun (2000: 78), high Turkish volatility stems in part from the destructive effects of military interventions, suggesting that Turkish political parties are not strongly rooted in civil society. It is true that cyclical military interventions have hampered party institutionalization in Turkey. This is in fact an irony, because, as Çarkoğlu (1998: 551) rightly puts it, the

military has often complained of party fragmentation in Turkey and considered it as a major reason for intervention. However, each military intervention has resulted in higher levels of electoral fragmentation and volatility.

Another reason for the weakly institutionalized party system is the elitist tradition of politics in Turkey. Although the CHP and the AP (and DP) managed to use patron–client politics when they were in power, these did not successfully penetrate into society itself. Most of the parties in Turkey have suffered from over-centralization. Political participation in decision-making within the parties is highly limited. The central executive committees in most of the parties determine the candidates for elections. Furthermore, the dissolving of local branches of the parties by the central executive committees (mainly at the instigation of the leaders themselves) is frequently observed. It seems that the 'iron law of oligarchy' could be applicable to politics within the intra-party mechanism, which is marked by its strong degree of elitism, even 'personalism'. This, naturally, hampers the further institutionalization of the parties and party system in Turkey.

According to a number of scholars of Turkish politics, the upsurge in the salience of religious and ethnic issues that has led to the polarization and radicalization of politics is another worrisome development concerning democratic consolidation and the party system. While religious salience has been increasing, secularist circles have been increasingly radicalizing. This polarization of the society along religious and ethnic lines has been reflected in the increasing power of the ethnically and religiously oriented political parties. One researcher believes that the 1995 general election was a real turning point in Turkish politics, because the ethno-nationalist, ultra-nationalist and Islamic-oriented parties received 35 per cent of the total votes (Çarkoğlu *et al.* 2000: 41–2). However, it is not clear to what extent polarization and radicalization exist in Turkish political society. This is particularly true for politics in the post-2002 election period.

It is clear that the 2002 elections and the success of the AKP represent another watershed in Turkish politics. Some scholars described the elections as a 'tsunami' (Özel 2003) after which 'a new path emerges' (Öniş and Keyman 2003). The AKP, which was the winner of the 2002 elections, declared that it was not an Islamic party and religion was not a reference point for it. The founders of the party announced that the identity of the party was to be 'Conservative Democrat' rather than 'Muslim Democrat' (Akdoğan 2003). Therefore some authors have argued that the ideological change within the AKP represents a real 'transformation' of the Islamic groups in Turkey with an increased sense of 'ideological moderation' to be heard in their discourses (Mecham 2004). Nasr (2005), for example, analysing the AKP's emphases on democracy, democratization and freedom, concluded that the AKP case represents 'the rise of "Muslim Democracy"' throughout all Muslim countries. If all these comments on the AKP are correct, then we can argue that a decrease in ideological polarization in Turkish politics has occurred with regard to Islam and secularism in place of polarization and radicalization.

The oligarchic nature of the political parties in Turkey also demonstrates the undemocratic character of Turkish parties in respect of their inner mechanisms. For Özbudun, central control over candidate selection is 'both a cause and a consequence of oligarchic tendencies . . . No special procedures exist for socializing party candidates into their respective sets of norms, values, and standpoints on issues – either prior to nomination or after election to office' (2000: 84). It is clear that democracy within parties is very important for the development of democratic culture and practice. One of the most important issues in this regard is candidate selection.

Nevertheless, the first step in the realization of intra-party democracy was to weed out the anti-democratic provisions in the Law on the Political Parties (LPP). For example, with regard to the designation of candidates for elections, Article 37 of the law stipulates central nomination or election by local party branches. The law does not make local nomination by election compulsory. Thus the central headquarters or leaders determine generally who will be candidates for elections.

Some observers of Turkish politics suggest that one of the most important sources of volatility in the party system is the LPP itself, because it destroys all ideological differences between parties and most parties are similar to each other on almost all significant matters (Çarkoğlu *et al.* 2000).[15]

The impact of EU conditionality on political society in Turkey

The impact of EU political conditionality on political society in Turkey has been in general very limited. In fact, as Pridham (2006) has pointed out, EU conditionality has paid little attention to political parties in the process of enlargement. According to him, 'the commission's reluctance to engage with political parties is an admission of its more bureaucratic than political approach' (Pridham 2006: 382). It seems that the European political parties have not created successful institutional relations with their Turkish counterparts that might have resulted in further democratization of Turkish political society, as has been the case in the CEECs where close transnational party links between political parties in the CEECs and the EU member states have influenced the political regimes in these countries in positive ways (Pridham 1999a, 1999b, 2006).

Civil society and democracy in Turkey

As discussed earlier, the function of a robust civil society in the process of democratic consolidation is often underscored by the literature of consolidation. Regarding the Turkish case the first thing that should be noted is the strong state tradition in Turkey that has historically hindered the development of robust and democratic civil society.

Heper argues that 'Continuity rather than change characterizes Turkish political culture. Ottoman political norms emerged and developed during the

many centuries of the Empire. They persist today, affecting numerous aspects of contemporary Turkish politics' (2000: 64). One of the most prominent aspects of the Ottoman/Turkish political regime is Turkey's strong state tradition (Heper 1992a, 1992b; Barkey 2000). As Heper (1992a) rightly put it, the strong state tradition of Turkey makes it different from other new democracies. It is also different from the continental European countries in this regard (Heper 1992a: 144–5).

Although the strong state tradition has sometimes created a favourable atmosphere in which Turkish democracy could flourish through the curbing of praetorianism, it has often restrained the consolidation of Turkish democracy, basically for two reasons. The strong state tradition is propitious for a political regime that has strong authoritarian inclinations. Second, the strong state tradition inhibits the development of robust civil society and civic culture (Barkey 2000).

Civil society has always been relatively weak in Turkey compared with the strong Turkish state that has existed since Ottoman times (Mardin 1969: 264; Heper 1992a; Kazancıgil 1994: 221; Sarıbay 1995: 124–5). Generally speaking, the Turkish state elites have always suspected autonomous civil society of being the agent of activities that may serve to destroy the basic nature of the state and regime. For the state elites, all strong and robust civil society organizations might threaten the secular or unitary character of the state, if they do not adhere ideologically to Kemalism. Therefore, what we observe is that the activities and formation of the institutions of civil society in Turkey have been heavily restricted by legal regulations and until very recently have often found themselves monitored and controlled by the security forces. As Göle puts it, 'the military interventions of 1960–61, 1971–73, and 1980–83 can in fact be perceived as state reactions against the "unhealthy" autonomization and differentiation of economic, political and cultural groups' (1994: 214).

According to Göle (1994), new political issues and new social cleavages emerged first in the late 1980s, after Turkey moved to democratic government in 1983, before which the existent cleavage was alongside 'grand' issues, like capitalism vs. socialism, leaving little room for debate on 'light' issues, like women's rights, human rights, pollution or public health. 'Thus, the relative autonomization of the political system and social sphere from the domination of the state elites has characterized the new era in Turkey' (Göle 1994: 217). Göle (1994: 214) was right when she argued that political discourse has tended to shift from confrontation to tolerance and a dialogue has been established for the first time among Islamists, leftists and liberals. The end of the Cold War contributed to the appearance of new social and ideological movements that had been eclipsed by the global confrontation between two basic camps led by the US and the USSR.

However, everything in this regard began to change because of two developments: increasing PKK terrorism and Kurdish ethno-nationalism, and the emergence of political Islam in Turkey in the late 1980s and beginning

of the 1990s. These two developments, which were regarded by the state as the most significant threat to the Republic of Turkey, provoked the state elite to curb civil liberties in an attempt to combat these two 'evils'. The increasing authoritarianism at government level against these two 'enemies' of the Republic (Yavuz 1996) influenced the formation and activities of the institutions of civil society.

When looking at the law and regulations of civil society in Turkey, it is apparent that the formation and activities of the institutions of civil society have not been encouraged for a long time. There existed so many detailed requirements for establishing an association and so much control over its activities that one might think that law-makers had deliberately aimed to restrict them until the substantial amendments came about as a result of the EU reform packages in recent years. Freedom of association is essentially regulated by the constitution and the Law of Association (*Dernekler Kanunu*: 2098, 4.10.1983), both of these were the products of the 1980 military intervention. However, parliament adopted an entirely new Association Law in 2004, which is much more democratic, as mentioned in the previous chapter.

While the provisions in the constitution concerning freedom of association and the Association Law were being prepared, the military elite aimed to prevent over-politicization of associations, which was thought to be one of the most important reasons for social and political disorder in the pre-1980 period. Therefore, the original formulation of the relevant provisions in the constitution and the Association Law severed the relations between civil society and political parties. In doing so, the officers thought that politics would be carried out by political parties only, and civil society should not involve itself in politics. This 'depoliticization' can be clearly observed in Article 33 of the constitution prior to its amendment in 1995. The laws and regulations with regard to the foundation, activities and membership of associations, and their control by the state, were still highly restrictive until they were amended in 1995 and the 2000s.

The other very important problem that should be mentioned here is the question of to what extent the institutions of civil society in Turkey can be described as 'civil'. As discussed before, civil society can only contribute to democratic consolidation if its institutions sincerely adhere to democratic credentials. However, when looking at associations in Turkey, it can be seen that associations that are democratic in terms of their ideas and inner structure are not common. While some of them have strong relations with the state (professional chambers for example), which renders autonomy of civil society from the state impossible, some of them have very particularistic and oligarchic natures (religiously oriented associations whether they are Sunni or Alevi) and a number of them have authoritarian tendencies (the extreme-right, extreme-left, and ultra-Kemalist organizations) (see Yerasimos *et al.* 2000). Therefore, democratization of associations in Turkey, along with democratization of laws and regulations, is among the first priorities for the consolidation of Turkish democracy.

Civil society in Turkey became directly engaged in the 28 February Process. The Turkish Confederation of Employers' Association (TİSK), the Confederation of Labour Unions of Turkey (Türk-iş), the Confederation of Revolutionary Labour Unions (DİSK), the Union of the Chambers of Industry, Commerce, Maritime Trade and Stock Exchanges of Turkey (TOBB) and the Confederation of Tradesmen and Artisans of Turkey (TESK) became directly involved in the process and called on popular support on 21 May to protect Turkey from 'religious reaction', which was labelled as the most serious threat to the secular regime in Turkey.[16] The declaration called also for a new government (*Hürriyet*, 1997). While Özbudun (2000: 138) argues that this involvement of civil society in the process demonstrates the growing power of civil society in Turkey, it seems that the active involvement of several civil society organizations in a soft coup demonstrates the fragile and non-autonomous nature of these anti-state organizations. Furthermore, it indicated the oligarchic nature of these organizations because none of the organizations sought to reflect the dominant views of their members in the process, and it likewise demonstrated the non-civic nature of these institutions in their display of zero tolerance to opposing political ideas (İnsel 1997).

The impact of EU conditionality on Turkey's civil society

Has EU conditionality changed the basic nature of state–civil society relations and the fundamental characteristics of civil society in Turkey in a more democratic way? According to a number of students of Turkish politics (Yerasimos 2000; Diez *et al.* 2005; Göksel and Güneş 2005; Kubicek 2005b), Turkey's integration process with the EU has intensified the EU's relations with a myriad of organizations of civil society in Turkey and thus various business, civic, academic or human rights organizations, including TÜSİAD, İKV, TESEV (Turkish Economic and Social Studies Foundation), the Arı Movement, the Liberal Thinking Society, the Helsinki Citizens' Assembly and the Human Rights Association, have been able to put pressure on the Turkish government to carry out more reforms in its efforts towards securing EU accession. The European Movement 2002 (Avrupa Hareketi 2002), which as a consortium includes 175 NGOs, and the Turkey Platform, which includes 269 NGOs, both of which aim to encourage the government to initiate deeper reforms and lobby in Europe for Turkey's membership, have often been cited as good examples of the increasing strength of civic societies; this arguably constitutes a good sign for democratic consolidation.

However, it is not very clear to what extent civil society in Turkey has become more powerful through EU integration and the degree to which the process of integration has changed the nature of the civil society organizations in a democratic manner. It is clear that various civic organizations have encouraged the government to fulfil several democratizing reforms that have certainly facilitated the reform plans of the government, and that these groups have sometimes pressurized the government to institute wider

reforms especially on delicate issues such as the Kurdish question. From this point of view, it might be argued that the EU anchor has played an important role in the democratic consolidation of Turkey. However, it does not mean that the basic nature of state–society relations in Turkey has been radically transformed and that the nature of civil society has changed to a significant degree in a democratic sense. The European Movement 2002 could not become a 'focal point for cooperation', as stated by Vachudova (2005: 170) for the CEECs.

Furthermore, the EU process and the increasing integration of Turkey within the EU has also raised the number and effectiveness of Euro-sceptic NGOs, some of which regard the democratizing reforms as an act of treason and the end of Turkey's independence.

Thus it might be concluded that the EU process has led to more liberalization in the rules and laws concerning the organizations of civil society and has boosted freedoms for civic associations, thus contributing to Turkey's further democratization. It has also acted to strengthen some civic organizations through EU political and financial support, which grants legitimacy to the actions of certain civic organizations about which the government had previously been suspicious. Nonetheless, none of these have radically changed state–society relations and the nature of civil society in Turkey where no 'grass-roots revolution' has taken place in the process (Kubicek 2005b: 373).

Turkish political culture and democracy in Turkey

It has already been stated that a number of studies of democratic consolidation suggest that consolidation can only be understood as an encompassing shift in political culture. Therefore, any process of democratic consolidation in Turkey would require a democratic shift in political culture. As far as Turkish political culture is concerned, Kalaycıoğlu (1995: 65–6) concludes that tolerance towards difference and interpersonal trust in Turkey are quite low. This may lead to degeneration in the relations between different political parties, the political elites and people who have different political ideologies or visions and a low level of associability and participation in politics. This argument is confirmed by a number of studies carried out on the democratic political culture of Turkish society (Esmer 1999). In a similar vein, more recently, Tessler and Altınoglu (2004), having analysed the data from the World Values Survey carried out in Turkey in 1997, scrutinized to what extent the Turkish population holds attitudes supportive of liberal democracy. They conclude that 'findings from the present investigation indicate that Turkey does not at present possess a broad-based democratic culture' (Tessler and Altınoglu 2004: 45).

On the other hand, as discussed before, the political culture argument should be used carefully because whether democratic political culture is a reason for democratization or an outcome of democracy is not very clear. Therefore, it is clear that development of a democratic political culture needs a

democratic environment to flourish. However, since a democratic climate in Turkey has been interrupted several times, the game of democracy with its rules, norms and traditions has never been allowed to thrive. Furthermore, it should be kept in mind that escalation of violence throughout the country has been another major problem that has undermined any improvement in democratic culture. In addition, other surveys demonstrate that Turks generally approve of the basic values of liberal democracy. According to a TESEV survey in 2002, it seems that Turks generally accept fundamental rights and freedoms, though they seem less supportive of minority rights.

The TESEV survey carried out in November 2006 (Çarkoğlu and Toprak 2006) signalled a mixed message in this regard. It is clear that a majority of Turkish people (76.9 per cent) believe that democracy is the best form of government, and 78.6 per cent of people support the idea that freedoms should not be restricted in a non-democratic manner. However, only 54.7 per cent of people reject the idea that only a military regime could solve Turkey's basic problem and about 60 per cent of people support the idea that the Turkish military should be allowed to criticize civil governments. Thus, these results demonstrate that the need for a democratic regime is generally supported by Turkish people and no alternative system (for example an Islamic state) receives mass support from the people. However, it seems that military intervention in various forms could find a sociological justification if there were ever an escalation of security problems connected to PKK terrorism or other forms of violence.

The impact of EU conditionality and Turkish political culture

We do not know clearly yet the extent to which the EU process has influenced Turkey's political culture because we need more time and more statistical studies to comprehend the degree to which Turkey's political culture has changed in the process of integration with the EU. However, the EU's impact on Turkey's democratic culture could be indirect: if the EU process acts to prolong the civil administration and prevent any democratic breakdown, and thus to improve the practice of democracy in the country, then the democratic nature of political culture will increase.

The sources of limits of EU conditionality in Turkey

This study has demonstrated that EU conditionality has been influential to a limited extent on the democratic consolidation process in Turkey. It could be argued that the EU's impact on the transformation of the political regime in Turkey could have been more substantial, if the EU had forged a more constructive pre-accession policy towards Turkey as it had for the CEECs between 1997 and 2004 and in 2007 for Romania and Bulgaria. The effectiveness of EU conditionality in Turkey has been significantly diminished for a number of reasons.

Blurred reward of conditionality

First of all, the effectiveness of EU conditionality for Turkey has been significantly curbed by the fact that it has not been made absolutely clear that the candidate (Turkey) will definitely receive the carrot of membership if it complies entirely with the conditionality. In other words, the Turkish decision-makers and population as a whole are not entirely certain that the EU would include Turkey if Turkey were to carry out all the political reforms that the EU has demanded, in particular with a view to the more sensitive issues such as the Kurdish question. The governing elite in Turkey is not wrong to suspect that the EU might not grant Turkey full membership despite Turkey's full compliance, when taking some formal decisions into account.

The Negotiating Framework document

The EU underlined both in the Brussels European Council in December 2004 and the Negotiating Framework document in October 2005 that the negotiations with Turkey would be open-ended, meaning that even if Turkey satisfied EU conditionality, membership would not automatically be guaranteed. Furthermore, the EU also wanted to apply the so-called 'absorption capacity' of the Union proviso, which was mentioned in the decisions of the 1993 Copenhagen Council but had not come to the fore in the accession process of the CEECs. The absorption capacity proviso implies that even though Turkey might meet the criteria and fulfil the requirements of the negotiations, the EU might still refuse Turkey's membership on the grounds that the Union cannot 'absorb' Turkey.

In addition, both the decisions of the Brussels Council and the Negotiating Framework document contain a provision that there might be permanent restrictions (derogations) concerning the freedom of persons and the structural and agricultural funds that would hinder the assimilation of Turkey as a normal member state. The EU has also applied some restrictions in this regard to the CEECs; however, the problem here is that the derogations for Turkey would be permanent, which does not conform with the EU's former promises that it would behave towards Turkey as it had to the CEECs. In fact, it is clear that a membership without freedom of persons and regional or structural funds would mean a very different kind of membership.

Thus the vagueness regarding the reward of conditionality has discouraged the governing elites in Turkey from carrying out more radical political reforms, and this, coupled with the feeling of discrimination among the Turkish people about Turkey's candidacy, has led to an increase in Euro-sceptic feelings within Turkish society.

Furthermore, all EU member states must approve all accessions. Although it is not a formal necessity, both France and Austria have declared that they will put the question of Turkey's membership to the public vote through popular referendums. Thus, even if Turkey were to satisfy all conditions for

membership, the EU might decide not to ratify Turkey's membership, because it is considered an open-ended process and the Union might declare that it is unable to absorb Turkey as member. Even if the Union were to then accept Turkey as a member, it might be a kind of 'second-class' membership with permanent derogations regarding the freedom of movement of persons and benefits from the regional and structural funds of the EU.

In conclusion, it is clear in the Turkish case that whether Turkey would receive the reward of membership if it complied with conditionality demands is quite blurred and this has served to considerably diminish the effectiveness of European political conditionality.

Turco-scepticism in Europe

Increasing Turco-scepticism and Islamphobia in Europe and the declarations of the EU leaders, in particular the Christian Democrats, against Turkey's membership have contributed to an increase in Euro-scepticism in Turkey. Of course, this is not new and the history of Turkish–EU relations is full of these kinds of declarations.[17] What is new has been the issuing of recent statements by EU leaders who question Turkey's membership and Turkey's European character now that Turkey is an official candidate and has started accession negotiations. These leaders have been arguing that Turkish–EU relations should continue on a path that would not end in membership, something that is sometimes labelled a 'privileged partnership'.

A number of influential European leaders, including the German Chancellor Angela Merkel, Wolfgang Schüssel, the Prime Minister of Austria, Edmund Stoiber, the leader of the conservative Christian Social Union in Germany, and Nicolas Sarkozy, the President of France and former interior minister, continue to openly oppose Turkey's EU membership. Furthermore, Turkey's prospects of joining the EU were dealt a heavy blow when France's National Assembly approved a bill on 12 October 2006 which would make it a crime to deny that Armenians were the victims of genocide during the First World War. The French legislation sparked huge reactions all over Turkey with this decision and it was broadly regarded as a sign that France would continue to oppose Turkey's EU membership (*Financial Times*, 12 October 2006).

Cyprus-related problems and the partial suspension of Turkey's accession process

Cyprus-related problems have continued to loom as potential crises in the accession process, which, while they could serve to increase the Euro-sceptic outlook in Turkey, have also led to a severing of formal relations, and thus have limited the success of European political conditionality. When the EU gave candidate status to Turkey at the 1999 Helsinki Summit, the Union also asked Turkey not to prevent a solution to the Cyprus problem in accordance with the explicit demands of the EU, and solution of this issue was set as a

condition that Turkey was obliged to comply with as part of its EU accession process. This was unusual because the Copenhagen political criteria have remained the standard conditions that candidates should comply with in order to make progress on the path to EU membership. However, an international dispute, which is not directly related to Turkish–EU relations and Turkey's political regime, was made a criterion for Turkey at the 1999 Helsinki European Council and in all vital documents since that time including the 2001, 2003 and 2006 Accession Partnerships, which have constituted the backbone of the accession process, and all Regular Reports/progress reports prepared after the 1999 Helsinki Summit.

After the EU declared that negotiations with Turkey would begin in October 2005, it also introduced an additional protocol in June 2005 that asked Turkey to extend the 1963 Ankara Agreement, which is the basic agreement between Turkey and the Union, to the 10 new EU members including 'the Cyprus Republic'. This in practice means opening Turkey's harbours, airports and airspaces to (Greek) Cyprus. The Turkish government, in order not to disrupt the EU process, signed the additional protocol, but declared unilaterally that Turkey does not recognize the current Cyprus Republic as the Cyprus Republic that Turkish and Greek Cypriots established together in 1960. The EU then declared, on 21 September 2005, that it recognizes only one government in Cyprus and that Turkey should recognize the Cyprus Republic within the process of negotiations and open its harbours and airports to the Cyprus Republic. The EU leaders and the Commission (Olli Rehn in particular as a head of the unit of enlargement) continue to exert heavy pressure on the AKP government in this regard, and they openly declared that if Turkey did not open its harbours and airports to the Greek Cypriots, the negotiation process would be halted.

The government's position has been that Turkey would open its harbours, airports and airspace if the EU kept its promise to abolish all isolationist measures against the Turkish Cypriots. The EU had already accepted the 'Direct Trade Regulation' and 'Aid Regulation' on 26 April 2004, after the Turkish Cypriots had approved the Annan Plan in the referendum held on 24 April 2004 that had been simultaneously rejected by the Greek Cypriots. Although the EU leaders, after the referendum, accepted the abolition of isolationist measures against the Turkish part of the island, Greece and Greek Cyprus (after it became an EU member in March 2004) have hindered the implementation of the regulations, and the isolationist measures have continued up to the present time. For this reason, the Turkish government has often asked the EU to end the isolationist measures in effect against Northern Cyprus and to keep the promise it made, while declaring on several occasions that Turkey would open its harbours and airports only after that change had been implemented. Since Turkey has not complied with the requirements of the additional protocol and opened its harbours and airports to 'the Cyprus Republic', the eight chapters in the negotiation process related to the Customs Union cannot be opened up, while the other chapters can

be opened but not closed.[18] Thus the Council decided in December 2006 to punish Turkey and Turkey's accession process has been partially suspended.

It would be difficult for the Turkish government to open its harbours and airports without abolition of the isolationist measures against the Northern Cypriot government as such a step would be harmful to the government given the fact that Cyprus has been a sensitive domestic issue in Turkey. Thus, in conclusion, the Cyprus problem seems to have the potential to cause a deterioration in relations and since in this regard the EU has not been seen to be an 'honest broker', in the sense that it has allowed Greek Cyprus to become an EU member without a political solution, this has rendered more difficult any possible lasting solution. More EU pressure will probably therefore increase Euro-scepticism and decrease the popularity of the EU in Turkey. The Cyprus problem is influencing the pace of negotiations due to the fact that the Greek Cypriots continue to obstruct the opening of further chapters in the accession negotiations between Turkey and the EU and thus have served to slow the pace of the negotiation process.

Another problem that may well contribute to the increased feeling of European fatigue as regards Turkey, and that may directly influence the AKP's decision-making process, is the fact that the EU integration process has not yet created a favourable atmosphere for the provision of more freedoms for those conservative circles that constitute the grass roots and cadres of the AKP on issues that directly interest them such as the headscarf issue or educational matters like protection and support for Imam Hatip High Schools or reform of the higher education authority (YOK). These 'pressures' on religiously oriented citizens have been mentioned neither in the progress reports nor in the Accession Partnership or other EU documents. Even the 28 February Process, which may be regarded as clearly anti-democratic in nature, was not criticized openly by the EU. This 'double standard' of the Union has been seriously criticized by certain conservative organizations, such as Mazlumder (Ensaroğlu 2000) and MÜSİAD (2004: 30). Furthermore, the European Court of Human Rights' decisions on the headscarf issue, and in particular with reference to the case of Leyla Şahin and the closure of the RP, seem to have confirmed the limitations of the EU in initiating change in this respect, and may well have served to increase Euro-scepticism among conservative groups in Turkey (Usul 2008).

Conclusions

Turkish democracy has not been yet consolidated. There are many problems concerning democracy in Turkey and its component, Turkey's human rights record. In addition to the Kurdish problem, the democratic control of the military, the authoritarian nature of Turkish secularism and its tension with the requirements of a democratic regime constitute the other main problem.

In relation to these issues, civil–military relations in Turkey have been highly problematic. Military interventions, whether soft or otherwise, have

distorted democracy in Turkey. Furthermore, the significance of the army in the Turkish political system, aside from the interventions, is a point that has been emphasized in this chapter. In addition, the undemocratic, semi-authoritarian constitutional and legal characteristics of the Turkish polity, the non-institutionalized party system and weak and non-democratic civil society, which are directly related to the problems mentioned above, are among the primary problems of Turkish democracy that need to be weeded out for consolidated democracy in Turkey to flourish.

This study demonstrates that although EU conditionality has been influential on the consolidation of Turkish democracy, its effectiveness has been limited because of the general nature of the conditionality of the EU and because of some specific characteristics of Turkish–EU relations. Pridham (2006: 394–5) asked how much the EU had contributed through accession towards democratic consolidation in the CEECs and answered that EU accession and its conditionality had achieved democratic institutionalization (albeit with some reservations) and contributed in a limited way to transnational elite socialization and the strengthening of civil societies in applicant states. I agree with Pridham in this regard and argue that the EU's contribution has been restricted to the legal/constitutional/institutional aspects of consolidation. Furthermore, what this study reveals is that some specific issues in EU–Turkish relations, such as the Cyprus issue and the rejectionist rhetoric of some influential European leaders, have cooled Turkish–EU relations and increased Euro-scepticism in Turkey, which, together with the other problems discussed above, has diminished the effectiveness of EU political conditionality in Turkey.

Conclusion

There is now a growing body of literature that attempts to understand how, and through which mechanisms, international factors shape the political regimes in countries where the process of democratization is taking place. Without doubt, the global contextual variables that have been observed to promote values of liberal democracy have exerted a deep impact on decision-makers and peoples all around the world.

In addition to the global contextual variables, according to the existing body of literature, foreign actors could exert an impact on a 'not-yet-democratic' country in different forms, most notably through conditionality. The literature also demonstrates that the degree of effectiveness of conditionality depends on a number of factors that shape the nature of conditionality. As demonstrated in the first chapter of this book, the first requirement for conditionality to be effective is that the state exposed to the democratic pressure exerted by a foreign actor accepts the importance of political conditionality. Conditionality can work only under this circumstance. Other characteristics that determine whether the use of conditionality proves to be influential include the extent to which it is well defined, to what degree the prize offered as part of this process is realistically attainable and clarification that any incentive (carrot) offered (whether aid, assistance or membership) is only obtainable should certain pre-conditions be satisfied and applied. Furthermore, if the calculated cost of the conditionality exceeds the calculated benefit accruable to the state should it comply with the stipulated criteria, then the effectiveness of conditionality consequently considerably diminishes.

In order to understand and account for foreign involvement in the process of democratic consolidation in a country we need to borrow from the conceptual tools of what is called 'consolidology'; that is, the investigation of the dynamics of the process of democratic consolidation. This study follows the conceptualization of democratic consolidation shaped by Linz and Stepan and later used and developed further by several 'consolidologists'. Accordingly, it encompasses certain behavioural, attitudinal and constitutional dimensions. While the behavioural aspect of consolidation questions whether there are relevant anti-democratic and/or semi-loyal political circles that can jeopardize or hijack a democratic regime, the attitudinal dimension focuses

on the nature of political culture and legitimacy from the perspective of liberal democracy. The constitutional dimension concerns itself with the constitutional and legal nature of a political regime and in fact finds expression in the 'concrete' character of a political regime.

For foreign or external factors to be influential in democratic consolidation, foreign variables should exert great influence on factors such as the elimination of 'non-democratically generated tutelary powers' and the 'reserved domains of authority and policy-making', which are actually connected to the conceptualization of democratic consolidation in the form of 'avoidance of democratic breakdown'. This may also be labelled 'negative consolidation' as discussed in Chapter 1. Thus, an external actor must be influential in the removal of anti-system parties, movements or institutions, tutelary powers and reserved domains. However, it should be also kept in mind that that what we observe on the whole is not a total breakdown of democracy, but rather a gradual deformation of democratic quality, which constitutes an important problem in non-consolidated democracies like Turkey.

In addition, a foreign actor's role in the process of consolidation includes its involvement in the process of 'positive consolidation', which includes, *inter alia*, the drafting and revising of a democratic constitution, as well as the safeguarding of the rule of law and human rights. Of course, these two different conceptualizations of democratic consolidation are not mutually exclusive and overlap each other in many respects. Thus, to speak about the impact of a foreign actor on democratic consolidation in a country, we need to demonstrate the points that an international actor significantly influences in terms of both negative and positive consolidations.

The impact of the EU on the democratic consolidation in candidate states has generally been cited as among the most successful examples of foreign roles in the process of democratic consolidation in non-consolidated democracies. When looking at the past history of EU conditionality, it can be observed that the process of candidacy has served to promote the consolidation of democracy in candidate states, for example in Spain and Greece. The EU's impact on the CEECs has been considerable, and EU conditionality, known commonly as the Copenhagen criteria, has stimulated the candidates from Eastern Europe to carry out significant political reforms that are regarded as sine qua non for EU membership.

The degree of the EU's impact regarding democratic consolidation in candidate states varies according to the status of the applicant countries. The effectiveness of EU conditionality also depends on a number of conditions including whether the carrot (here membership) is clearly defined, whether there is a double standard in the application of the conditionality that weakens the legitimacy of conditionality and whether the conditionality applied is unambiguous.

When applying this theoretical framework to the Turkish case, which constitutes the central part of this book, our analysis has two basic and closely

related dimensions. One is the process of democratization in Turkey and the other is Turkish–EU relations and the conditions that Turkey is obliged to comply with in order to become an EU member. As discussed in detail, Turkey's democratic regime, since its inception in 1950, has not been adequately consolidated. Therefore, the problem of Turkish democracy is the problem of democratic consolidation. The relatively long history of Turkish democracy, when compared to the so-called third-wave democracies, has been full of direct and indirect military interventions and it has suffered several problems including the persistent influence of the military over politics, escalating ideological and ethnic polarization, largely connected to the Kurdish question, in addition to separatist violence, human rights abuses, weak party institutionalization and weak and non-democratic civil society organizations. Thus, in O'Donnell's terms (1992: 18), Turkish democracy has not progressed from a 'democratic government' to a truly 'democratic regime' in its 60-year history. What Turkey needs in this regard is the consolidation of its democracy, which includes the prevention of democratic breakdown and the development of a robust political and civil society, and a democratic political culture and democratic constitutional and legal changes.

Concerning the European impact on democratic consolidation in Turkey, the first point that I have made is that the normative power and attraction of the democratic regimes in the European countries works as a form of 'passive leverage', which has been influential on Turkish democracy in serving as a model for the Turkish governing elites, who have generally considered Turkey as being within European borders culturally, and who accept 'European values' as the basic criteria for civilization. Thus, from this point of view, it would not be a mistake to argue that European influence has enjoyed a passive leverage, historically speaking, since Turks started to believe in the reality of European superiority in the eighteenth century. It seems that the significance of Europe's passive leverage expanded when it overlapped with the global resurgence of liberal democracy on the international stage in the aftermath of the end of the Cold War. This phenomenon is described as a 'background variable' in the first chapter.

Although the EU has always acted as a source of magnetism exerting leverage functions, whether active or passive, the degree of passive leverage function, as is the case with 'active leverage', is correlated with the degree to which the EU is willing to admit Turkey into the European club. Thus, as far as the EU's function as a source of passive leverage is concerned, the Helsinki decisions, which officially proclaimed Turkey's Europeanness, constituted the turning point in Turkish–EU relations. The magnetic power of the Union subsequently reached its highest point just after the Turkish ruling elites welcomed those decisions and regarded the European criticisms in respect of democracy and human rights as obstacles that should be overcome so that the country could become an EU member and 'European' in the truest sense. Thus, although Turkey applied for membership in 1987, this study has demonstrated that the EU did not function as an agent of

active leverage until the 1999 Helsinki decisions. This is because the EU had not developed an active mechanism of conditionality, which could be defined as structured conditionality; Turkey had not even been an official candidate before Helsinki.

This book has demonstrated that the EU was modestly influential in the realization of some democratizing amendments to the 1982 Turkish constitution and legal codes, both during the Özal period and in the period in which the Customs Union was at stake. The EU's impact in this sense was largely restricted to the constitutional/legal dimensions of consolidation and moreover, with hindsight, was extremely humble in scope.

However, since the EU had rebuffed Turkey's application in 1989, the governing elites at the time were unable to obtain a clear EU membership perspective that would perhaps have served as a welcome incentive for them to carry out more daring political reforms. One may well speculate that if the EU had provided an obvious EU membership perspective to Turkey at the time, the governing elites of the country, led by Özal, might have implemented more significant reforms that might have changed the nature of the political regime in Turkey and opened new avenues for further consolidation of liberal democracy in Turkey.

As far as the pre-Helsinki period is concerned, the EU's impact on Turkey's democracy and human rights records could also be observed in the period during which the Customs Union between Turkey and the EU was at the top of the agenda. The strong desire of the Turkish governing elite of the time to successfully conclude the Customs Union with the EU, which was then regarded as an alternative way to deepen integration with the EU, and the EU's, in particular the European parliament's, insistence on fulfilment of some legal improvements to the constitution and legal codes generated a modestly suitable environment for EU influence. As far as we are able to conclude from the speeches of the leaders and various interviews with leading members of the political elites of the time, certain of the legal improvements at this time, for example Article 8 of the Turkish Penal Code, were directly related to EU/European parliament pressures.

However, the reforms undertaken were quite modest in scope and the EU had not in fact attempted to ask Turkey to carry out a dramatic transformation of its political regime in time for conclusion of the Customs Union.

From the Turkish point of view, the Customs Union decision did not warrant a significant enough incentive (carrot) for the Turkish political elite to carry out daring political reforms that would have served to improve democracy and/or the country's human rights record at the time. The European parliament, more concerned about human rights issues and the Kurdish question in Turkey, was the EU institution in particular that the Turkish government tried to appease through a number of legal amendments.

Furthermore, in the period immediately following the end of the Cold War, the former socialist East European countries had started to pursue 'a return to Europe' policy and Turkey suddenly found these 'Johnny-come-latelys'

had jumped to the front of the queue for EU membership. This major shift in international politics changed both the EU's priorities and the significance of Turkey's geostrategic role for the EU. Turkey's traditional role in the Cold War era had disappeared, and the EU started to increasingly engage with the newly independent East European states.

As far as EU conditionality and Turkey is concerned, the Helsinki European Council at which the EU decided to give a membership perspective to Turkey could be regarded as a starting point for the EU in terms of its ability to exert active leverage in Turkish politics. The decisions reached in Helsinki were historic in the sense that the Turkish governing elites started seriously to believe that Turkey would become an EU member on condition that it complied with the Copenhagen political criteria, in spite of the fact that certain civil and military bureaucrats still harboured scepticism regarding the political changes that the EU required Turkey to implement, in particular those concerning 'minorities' in Turkey.

The pre-accession mechanism and related structured conditionality have made Turkey more vulnerable to the EU's requirements in the post-Helsinki period and the EU's interventions into Turkey's domestic politics have been justified by these mechanisms, which had been often regarded as something that essentially stood in opposition to the principle of the sovereignty of Turkey in the pre-Helsinki period. Thus, domestic/international-internal/external differentiation in the context of EU–Turkish relations has become less salient during the post-Helsinki period. The pro-EU elites were duly able to marginalize anti-European groups and dismiss the Euro-sceptic arguments raised within the state and civil society.

The attitude of the military towards the EU is very important in this regard. Although the military has frequently declared both officially and non-officially its concern over the EU's demands regarding the role of the Turkish army in politics and on the Kurdish issue in particular, as an institution, it has not positioned itself against compliance with EU conditionality. This position of the army, which is known for its sensitivity to the issue of the national integrity of Turkey, as far as the EU's political conditions are concerned, has increased legitimacy of the pro-EU elites' attempts to implement what the EU has demanded. It has also decreased the saliency of the ideas of the anti-European and Euro-sceptic groups that have claimed that EU political conditionality could jeopardize Turkey's national security and the nation's survival. The attitude of the army could be explained partly by the fact that modernization through the process of Europeanization forms one of the central tenets of Kemalism, as discussed previously. Furthermore, strong and influential pro-EU non-governmental organizations, like the TÜSAİD and the İKV, were successfully able to suggest that the Helsinki process was the last chance for Turkey to catch the EU train and become European, equating the process with a raising of welfare provision and an improved standard of life for Turkish citizens. Thus, as a consequence of the enthusiasm that greeted the Helsinki decisions, the Turkish governing

elite and prominent pro-EU civil society organizations propagated the belief to the general public that the EU would grant membership to Turkey provided that it could complete its homework and carry out serious political reforms in order to comply with EU conditionality.

Applying conditionality in a formal way has improved the effectiveness of EU conditionality in the post-Helsinki period, and, as I have discussed in detail in this study, the EU has frequently seen fit to publish what changes it deems necessary for the satisfying of political conditionality through the vehicle of regular progress reports and the AP documents. Turkey formally accepted this 'external intervention' by declaring the NPAA as the basis of its National Programme. The EU has issued nine progress reports through which the EU has regularly monitored Turkey's progress regarding political conditionality, and two Accession Partnership documents, in 2003 and 2006, which constitute the centre of the accession process. Finally, the Union also issued a framework document for accession negotiations that determined the basic rules of the process of negotiations which started on 3 October 2005.

Thus, from 1999 to 2007, all this activity facilitated the work of the pro-EU elites to accomplish the political reforms to meet EU conditions. The government had been able to realize various constitutional amendments as well as nine harmony packages during the period. As discussed thoroughly in this study, although the package of constitutional amendments to the 1982 constitution accepted in 2001 was modest by its very nature, it signalled a process by which sweeping political changes would take place. The third harmonization package proved to be the most challenging one, because the Turkish state for the first time acknowledged that there were some Muslim groups in Turkey whose mother languages were not Turkish and granted them the right to broadcast in their mother tongues. Furthermore, they were permitted to teach their languages in private schools. This change could be considered revolutionary and was actually realized by a three-party coalition, one member of which was 'ultra-nationalist' in nature (the MHP).

When the AKP started to govern the country, the pace of reforms accelerated significantly and, as a result, Turkey has been able to make a number of significant constitutional amendments and legal and administrative improvements. The Turkish state has likewise participated in various international conventions on human rights and allowed for stronger international monitoring in this regard. From the perspective of legal/constitutional consolidation of democracy in Turkey, it can be argued that the legal structure of Turkish democracy has been changed within the context of the process of EU membership in accordance with the broader principles of liberal democracy since its point of departure in 1999.

In addition to the legal amendments or improvements, which are all situated within the sphere of constitutional consolidation, other dimensions of democratic consolidation should also be taken into consideration. From the behavioural dimension of democratic consolidation, it is important to ask whether significant anti-democratic and/or semi-loyal political groups have

existed in a given country. Asking the question as to what extent EU conditionality has exerted an impact on Turkey's democracy does not lead to one unambiguously clear answer. On the one hand, as discussed before, a process of moderation in terms of democracy and fundamental freedoms has occurred within the Islamic-oriented groups, who had been the losers in the 28 February Process, and who as a result started to see EU conditionality as a possible solution to get rid of state pressures exerted on conservative groups in Turkey. As explained previously, most of these groups had up to that point regarded the EU as a Christian club and were suspicious of the EU's intentions towards Turkey. However, in the fallout from the 28 February Process, they started to support Turkey's EU vocation believing that Turkey's EU perspective would make Turkey more democratic and liberal and thus serve to liberate them from the authoritarian nature of Turkish secularism.

On the other hand, the EU integration process has also boosted the Euro-sceptic movements that argue that the political reforms carried out to satisfy EU conditionality have served to weaken the unitary nature of the Turkish state and the edifice of Kemalism and who espouse the belief that the EU harbours the desire to divide Turkey and put the Treaty of Sèvres into practice again. Thus, it seems that the significance of these groups, coupled with the recent rise of Euro-scepticism in Turkey, has increased although this trend can still be described as marginal.

As for the attitudinal dimension of consolidation, though we do not have at our disposal empirical data to test the possible impact of EU conditionality on the 'civicness' of Turkish political culture, as far as the governing elites are concerned, after the Helsinki decisions significant numbers of these elites started to believe that if Turkey really wanted to become European it should comply with 'European values'. This kind of thinking resulted in an 'internalization' of 'European values' on the part of these elites. Since we do not have enough empirical data to provide a suitable comparison of the 'civicness' of Turkish political culture in the pre- and post-Helsinki periods, it is not possible to measure to what extend EU conditionality has been influential on attitudinal consolidation at a public level. However, it is possible to observe in daily newspapers and discussions on TV programmes that Turkey's EU candidature has often been said to have ushered in an era of increased toleration on political issues.

Furthermore, it is not crystal clear to what extent the EU has been influential in the development of a robust and democratic civil society in Turkey. It could be argued that the EU has endeavoured to promote such changes in Turkey through a process of persuading successive Turkish governments to amend the rigid legal framework for civil society institutions in Turkey. As reviewed in the previous chapters, the constitutional and legal amendments altered the codes regarding civil society organizations that had highly restricted their activities. All these legal changes aimed to address the criticisms the EU had made through the vehicle of the progress reports

and the AP. Thus, it could be concluded that, in addition to the financial assistance assigned to certain civil society organizations in Turkey, the role of the EU in the development of a robust and democratic civil society in Turkey is related to the legal changes that were largely pushed forward by the EU.

A similar conclusion could be reached as regards the EU's role in the further institutionalization of the Turkish political parties and party system, which has shown itself to be vital to the process of democratic consolidation. Turkish parties and the broader party system have suffered from legal restrictions that have impeded the institutionalization of both, as this study has demonstrated. In contrast, political parties in the CEECs have succeeded in forging strong relations with political parties in EU member states and thus the parties in the EU states were able to successfully socialize the parties in the CEECs in terms of their institutionalization and internalization of liberal democratic values, Turkish parties do not generally enjoy strong relations with European parties. Although some of the Turkish political parties (like the ANAP and the CHP) are indeed members of the European conservative or socialist political leagues, it seems that relations between Turkish parties and the European partners and therefore the impact of the EU conditionality in this regard have proven to have been extremely limited. Like the civil society issue, the effect of EU conditionality seems indirect. In addition to the passive leverage function of the European democracies, the legal amendments have alleviated restrictions on political parties. For example, the aforementioned amendments to the Law on Political Parties made more difficult the dissolution of political parties by the Constitutional Court, which had until recently been one of the most serious obstacles to the consolidation of democracy in the Turkey.

Thus, EU conditionality has been influential to a limited degree in the process of democratic consolidation in Turkey. The EU membership perspective and conditionality stimulated the governing elites to introduce important legal changes that were able to challenge the official paradigm of Turkey's nation-state. Doubtless, these democratizing reforms would have been extremely difficult if there had not been EU conditionality. However, the impact of European political conditionality has been more limited, and the EU's impact on the transformation of the political regime in Turkey could have been more substantial, had the EU been able to forge a more constructive pre-accession policy towards Turkey as it had managed to do for the CEECs between 1997 and 2004 and in 2007 for Romania and Bulgaria. The effectiveness of EU conditionality in Turkey has been significantly diminished due to various reasons.

Between 1987 and 2007, the EU was reluctant to accept Turkey for EU membership for several cited reasons: Turkey was seen to be too populated, too poor and too 'Oriental', in addition to the problems posed by its 'non-democratic' regime and its dangerous geopolitical location. Therefore, unlike the CEECs, which had received lots of incentives under the 'return

to Europe' and 'united Europe' policies of the European states between 1993 and 2007, Turkey had always found itself to be in an awkward position in its relations with the EU. Even though the EU granted Turkey candidature in 1999, accession talks did not start until 2005. This reluctance has diminished the EU's potential to render transformation of Turkey's political regime. In addition to the general reluctance of the EU regarding Turkey's membership, the following points have limited the EU's influence on Turkey in the post-Helsinki period through the nourishing of anti-European and Euro-sceptic ideas at both elite and public levels and hence have discouraged the pro-EU governing elites from accomplishing daring political reforms. The 'Europeanness' of Turks has often come into question. Civilizational, cultural and religious characteristics of the Turkish people have frequently been cited as non-European, particularly by Christian Democrat elements. Such rhetoric has fuelled anti-European and Euro-sceptic feelings at both elite and public levels in Turkey and thus has made compliance with EU political conditions more difficult.

The other issue that has fuelled anti-European feelings in Turkey is the EU's direct involvement in the Cyprus problem. The EU has forged a direct connection between Turkey's EU membership and the Cyprus problem, and pressured Turkey to handle the problem promptly. Such conditionality is not common when looking at similar disputes between candidate countries or between a candidate and member states (the disputes between Britain and Spain on Gibraltar for example). EU officials have declared on various occasions that unless this issue is settled, Turkey will not be allowed to enter the Union. This perceived 'pro-Greek' position of the EU has served to further increase nationalist sentiment against the EU among the Turkish people.

Concerning the period between 1987 and 2007, it is difficult to locate concrete examples of *direct* EU involvement that had as its aim changes in the authoritarian nature of Turkish secularism. Unlike on the Kurdish issue, the EU had generally preferred not to interfere in such a delicate, complicated and sensitive issue.

Having outlined these limitations, one can safely argue that the EU was influential, albeit with limitations, in the consolidation of democracy in Turkey during the period between 1999 and 2007, when the EU offered a full membership perspective to Turkey and the governing elite was forced to acknowledge the EU's 'interference' as legitimate. The EU's influence on Turkey had been insignificant in the pre-Helsinki period, because no EU membership perspective had been presented to Turkey. The EU's influence could have been more significant if it had provided a clearer road map for Turkey's membership.

In conclusion, what we have learnt from this study is that the strength of EU conditionality depends largely on its credibility. The credibility of EU conditionality, on the other hand, depends on its meritocratic nature. A candidate should be sure that if it carries out the conditions stipulated by the EU, it will become a member without any political obstacle. However, this study has demonstrated that EU conditionality has not been so meritocratic

as regards Turkey's situation and therefore its impact on Turkish democracy has been relatively limited and less than it could have been. It is also clear that Turkey's democratic future is closely related to its European orientation; if EU conditionality and its credibility and effectiveness come to be weakened due to the reasons discussed above, the future of Turkish democracy, its European orientation and the credibility of the EU in the whole Eurasian area could be at real risk. EU conditionality exerted on Turkey should be exerted in a meritocratic manner in such a way that the push-pull dynamic of EU candidacy is shown to be more balanced, leading to a more democratic, more European and more stable Turkey, one that can contribute to European security and wealth over a long period of time.

Notes

1 International politics of democratic consolidation: theoretical and conceptual perspectives

1 Dahl's 'polyarchy' includes the following characteristics: elected officials, free and fair election, inclusive suffrage, right to run for office, freedom of expression, alternative information and associational autonomy (Dahl 1971: 3–20; Dahl 1989: 221).
2 The others are 'democratic deepening' and 'regime performance' (Diamond 1999: 74).
3 Dankwart A. Rustow pointed out that national unity was the 'single background condition' for democratization in his seminal article 'Transitions to Democracy', published in 1970.

2 The nature and impact of EU political conditionality

1 Although the EEC 'froze' the agreement, trading obligations under the agreement continued.
2 As discussed in depth later, Turkey was the only applicant explicitly excluded from the accession process.

3 EU conditionality and democracy in Turkey: the pre-Helsinki period

1 Özal declared his intention to apply when he convened the prominent bureaucrats to debate relations with the EC on 10 August 1986. Along with the impasse between the EU and Turkey, it seems that Turkey rushed to apply for membership for two more reasons. First, Greece had increasingly been using the EU in its bilateral relations with Turkey, and it was becoming the real stumbling block in relations between the Community and Turkey, increasingly touching on all parts of the relationship. Second, after membership was granted to Spain and Portugal, the EU seemed to prepare to close its door to further enlargement and to engage in a 'deepening' of the Community (Birand 1999: 406–7).
2 When Ali Bozer, who became the minister in charge of relations with the EU on 17 October 1986, visited some European states to make inquiries about Turkey's possible application, he met with Belgian Foreign Minister Leo Tindemans, British Foreign Secretary Geoffrey Howe and Claude Cheysson. Bozer could not get any support from these politicians for the application. Cheysson clearly stated that Turkey's image in Europe was extremely negative, and its image must be improved before an application (Birand 1999: 414). Furthermore, Richard Balfe stated that an application would be too early at this stage and there existed two great obstacles: Turkish democracy and its economy. He believes, Turkey should prioritize democracy (*Milliyet*, 5 January 1987).

3 This was the second speech to the Assembly made by a Turkish Prime Minister following Bülent Ecevit's speech on the Cyprus issue ten years previously.

4 Özal became the President on 1 November 1989.

5 The Nevruz/Newroz spring festival turned bloody as the PKK attempted to take advantage of the Nevruz to launch an uprising on 21 March 1992. According to some estimates, at least 90 civilians died in clashes with security forces, 45 in Cizre alone. See Zaman (1993: 8) and *The Economist* (1992).

6 He was in charge of the external affairs of the Commission and came to Ankara on 17–19 June 1994 to discuss the problems regarding the completion of the Customs Union a day before the Constitutional Court banned the DEP.

7 He proposed a kind of 'local democracy' in terms of 'subsidiarity' for the Kurdish question.

8 Greece was persuaded to lift its opposition with the promise that negotiations on the admission of Cyprus into the EU as a full member would begin once the 1996 Intergovernmental Conference was over (*Daily Telegraph*, 6 March 1995).

9 No sooner was the ink dry on the signatures than 35,000 Turkish troops entered northern Iraq to wipe out the bases from which the PKK militants had been waging their separatist campaign in south-east Turkey. The foreign ministers of three key European Union members expressed their serious concerns to the Turkish delegation over the cross-border operation and the fate of civilians in the region, and called for an early end to the operation. Actually, the troika meeting, announced just after the conclusion of the Customs Union on 6 March, had been planned for the discussion of political and economic matters in respect of the Customs Union, but the scale of the incursion, which was the largest one ever into northern Iraq, created mounting expressions of international concern over the operation. Thus the troika could not ignore it (*Turkish Daily News*, 24 March 1995).

10 On 9 September, EU foreign ministers decided to pursue a 'two-pronged strategy', which was announced by Kinkel: 'First to persuade Turkey that its constitutional changes are not enough, and second to put pressure on the European parliament to approve the accord' (*Turkish Daily News*, 11 September 1995).

11 The meeting of the Turkey–EU Association Council was held on 30 October 1995 in Luxembourg. While the head of the Turkish delegation was the Turkish Foreign Minister Coşkun Kırca, the Spanish Foreign Minister Solana was the president of the Association Council. Solana underlined again that the European parliament would have the final word on the Customs Union. He continued that the European parliament was looking forward to the release of all former DEP deputies. Furthermore, Solana also said that the EU was against terrorism, but Turkey should find a political solution to the Kurdish problem within the framework of the OSCE and the Council of Europe which Turkey was party to (*Turkish Daily News*, 30 October 1995) (Tekeli and İlkin 2000: 474).

12 What badly influenced Euro–Turkish relations was the Kardak crisis. Turkey and Greece came to the brink of war on 25 December 1995 after a maritime accident in the uninhabited rock islets of Kardak/Imea, situated less than four nautical miles off Turkey's Aegean coast.

13 Furthermore, the Turkish government started signalling that it would block NATO's enlargement plans unless EU members accepted Turkey's candidacy (*Milliyet*, 29, 30 January 1997; *Sabah*, 30 January 1997; *Turkish Daily News*, 31 January 1997; Kohen 1997).

14 It might be interesting to note here that Abel Matutes, who wrote the report of the Commission in 1989, was sitting at the table in Rome as the foreign minister of Spain.

15 Italian Prime Minister Romano Prodi later declared that he was not in agreement with all the views of other European Christian Democratic leaders regarding Turkey's EU bid (*Turkish Probe*, 14 March 1997).

16 Although the meeting was unsuccessful in persuading Greece to lift its veto on the EU aid package to Turkey within the framework of the Customs Union agreement, the member states of the EU approved a common position that reconfirmed Turkey's theoretical eligibility for EU membership. Thus, Turkey would 'be judged on the same objective criteria' as other applicants to the EU.

17 Turkey also reacted to the fact that the EU had not begun accession talks with Turkey but was beginning such talks with the Greek Cypriot community. Deputy Prime Minister Bülent Ecevit said that if the EU continued to negotiate with the Greek Cypriot community, Turkey would have no choice but to unite with the northern part of the island (*Turkish Probe*, 18 July 1997). Furthermore, Ecevit also told a daily newspaper that the Turkish government was reviewing the implementation of the Customs Union agreement with the EU (*Hürriyet*, 22 July 1997).

18 Furthermore, when Eşber Yağmurdereli, a blind 52-year-old 'human rights activist' was jailed on 20 October, and Human Rights Association chief Akın Birdal was sentenced to one year in jail a day later, Kinkel reacted critically to the detention of two leading Turkish human rights figures, saying on 22 October that Ankara was destroying its reputation, and warning that a good human rights record was a precondition for EU membership.

19 A French foreign ministry spokeswoman also stated that France had asked Turkey to set Eşber Yağmurdereli free rather than suspend his sentence on health grounds.

20 He compared the German approach to EU expansion to Hitler's *Lebensraum* plans for German settlement of Eastern Europe and charged that Germany had been using 'intolerable delaying tactics' in the EU, which were aimed against Turkey (*Turkish Probe*, 15 March 1998; *Turkish Probe*, 5 April 1998).

21 Pangalos referred to Chirac as 'the frontrunner in a beauty contest for Turkey's benefit' (*Turkish Probe*, 21 June 1998).

22 On 16 November 1987, when Haydar Kutlu (Nabi Yağcı), the Secretary General of the illegal Turkish Communist Party and Nihat Sargın, the Secretary General of the banned Turkish Labour Party, came to Turkey, together with seven parliamentarians from the European parliament, in order to legalize the Turkish United Communist Party formed from the merger of these two parties, they were arrested immediately on arrival. This development cast a shadow over Turkey's relations with the European parliament, and the parliament issued a resolution requiring Turkey to release Kutlu and Sargın soon (European parliament 1987, 1988a). The parliament, mainly due to the human rights problem, did not accept some technical issues, such as a protocol between Turkey, Spain and Portugal on 19 December 1987. The parliament passed the protocol on 20 January 1988 (European parliament 1988b).

23 The European parliament requested that Turkey release M. Zana because of his illness.

24 It was to be dissolved by the Constitutional Court of Turkey after the hunger strike in Diyarbakır Prison to protest against the ban on the Kurdish language in the prison. The socialist and Communist groups stated that these violations were against European democratic standards and hence asked the EU not to open accession talks with Turkey (*Cumhuriyet*, 19 February 1988).

25 Bülent Akarcalı, the head of the Turkish Wing of the Turkey–EC Joint Parliamentary Committee, criticized the European parliament's decisions above (*Milliyet*, 30 May 1990).

26 See, for example, 'Questions No 52 by Mr. Newman (H-1186/90) to the Foreign Ministers Meeting Political Cooperation: Dr Ismail Beşıkçi, Kurdish Scholar awaiting trial in Turkey', *Debates of the European parliament*, no. 396, p. 207.

27 Like Beşıkçi, Kutlu and Sargın, as stated earlier, had been the subject of debate in the European parliament several times before. For example, 'Question No 11 by Mr. Ephremidis (H-42/88) to the Council: The Continued Detention and Torture

of Mr. Kutlu and Mr. Sargın in Turkey' (*Debates of the European parliament*, no 364, p. 63), OJ C 122, 09.05.1988, p. 23.

28 However, the European parliament did not agree to the proposal that the report should be changed to include self-determination rights for the Kurds. Abel Matutes argued in his speech that granting self-determination to the Kurds would pave the way for chaos and instability in the region, which would be the last thing that the European states wished (*Milliyet*, 10 June 1992).

29 It accepted the draft prepared by the seven political groups in the European parliament by a great majority (254 in favour, four abstentions and no votes against).

30 She said: 'The award recognizes the steadfastness of Leyla Zana, her courage and leadership in the face of the heartless repression . . . We in Europe are appalled by Turkey's record on human rights and treatment of minority groups within the country' (*Turkish Daily News*, 11 November 1995).

31 This resolution irked Ankara, mainly because it called on the 'PKK and other representatives of the Kurdish people' to do everything in their power to reach a non-violent solution to the problem in south-east Turkey. After 'three days of wrestling between Turkey and the socialists' the wording was changed in the final accord (*Turkish Daily News*, 14 December 1995).

32 The European parliament reiterated in particular 'its appeal to find ways and means of allowing citizens of Kurdish origin to express their rights to cultural identity'. It

> welcomes the announcement of a unilateral ceasefire made by the President of the PKK . . . expresses its hope that the Turkish Government will view this gesture as a positive contribution to finding a peaceful solution to the problem and calls upon all concerned in Turkey to seize the present opportunity to consider ways and means to start a national dialogue.
>
> (European parliament 1996b: 93)

The European parliament also asked the Council and the Commission to investigate some photos showing Turkish soldiers holding the severed heads of 'presumed anti-government fighters' (European parliament 1996b: 93). What was also interesting in the resolution was that parliament defined those who supported the RP as religious fundamentalists and religious extremists.

33 However, when İbrahim Aksoy, himself of Kurdish origin, got the sack from the opposition party, the SHP, because of his speech at the JPC meeting where he required 'cultural autonomy for Kurds', relations were badly affected (*Milliyet*, 31 January 1989).

34 Vedat Aydın was the chair of pro-Kurdish HEP's Diyarbakır branch. The HEP accused police of murdering Aydın.

35 Hasan Celal Güzel, former Minister of Education who was close to Özal, accepted this point. Interview with Hasan Celal Güzel, 16 August 2001.

36 Accordingly, the adoption of a proposal for an amendment requires a three-fifths majority of the total number of members of the Assembly by a secret ballot. If parliament adopted an amendment by a majority greater than three-fifths but less than two-thirds of the total number of votes of parliament it could become a constitutional amendment inasmuch as it was approved by a referendum. In this case, if the president does not return the bill to parliament, a popular referendum is necessary. If a bill is adopted by parliament by a two-thirds majority of its full membership, then the president can either submit it to referendum or return it to parliament, if he or she does not approve the bill (Özbudun 1998: 125–32).

37 The hunger strike in Diyarbakır prison triggered off a hot debate about the Kurds, Kurdish language and the Act (2932) on the use of languages other than Turkish (in practice Kurdish). While Prime Minister Özal stated that speaking in Kurdish

would be permitted in the prisons soon, the opposition parties, the SHP, the DYP and the DSP (Democratic Left Party), declared that they were also against the ban on the Kurdish language (*Hürriyet*, 18 and 21 February 1988).

38 Interview with Cemil Çiçek, 14 June 2000; interview with Hasan Celal Güzel, 16 August 2001.

39 Former Justice Minister Oltan Sungurlu expressed this in an interview, on 12 July 2000, in Ankara. When the removal of the language ban was discussed, Demirel, the leader of the main opposition party, harshly criticized Özal stating that this removal was something carried out as a response to Western pressure (*Hürriyet*, 6 February 1991). He also argued that, in this way, Özal was damaging the unity of Turkey (*Milliyet*, 17 March 1991). However, Demirel stated later, when he became Prime Minister, that he recognized the Kurdish reality in Diyarbakır (*Cumhuriyet*, 9 December 1991).

40 Some deputies of the DYP were particularly against the amendments to the Anti-Terror Law, which constituted one of the most vital parts of the democratization package, on the grounds that this amendment would weaken Turkey's combat with the PKK.

41 Accordingly, while Leyla Zana, Hatip Dicle, Ahmet Türk, Orhan Doğan and Selim Sadak were sentenced to 15 years in prison, Sedat Yurttaş was sentenced to seven years and six months in prison, and Sırrı Sakık and Mahmut Alınak were sentenced to three years and six months in jail respectively.

42 The deputies from the opposition parties criticized this. For example, Engin Güner, from the ANAP, criticized the government, stating that it was a pity to see the government suddenly try to change the agenda of parliament within 24 hours of the requirement to appease the Europeans (Tekeli and İlkin 2000: 391). Mr Güner affirmed this when I interviewed him on 25 April 2001, in Ankara.

43 Even the President of the Republic, Süleyman Demirel, had mixed feelings about European pressure regarding human rights and in particular the Kurdish problem. He stated on 1 May 1995 that the West wanted the Treaty of Sèvres again for Turkey (*Milliyet*, 2 May 1995). Later Demirel said to retired ambassador and columnist Şükrü Elekdağ that his words were a reaction to the resolution of the European parliament, which, for Demirel, was full of prejudices and 'evil intentions'. Referring to the European parliament's consideration of the Kurds living in Turkey, Demirel said he would not accept any bargaining concerning Turkey's territorial unity. Furthermore, as for Article 8 of the Anti-Terror Law, Demirel added that only if the amendments to the article did not weaken the combat with terrorism could he support the amendments (Elekdağ 1995).

44 Part of the reason for the lack of movement in this regard were the problems within the Republican People's Party (CHP). The CHP had not been able to establish its parliamentary grouping as different factions competed for the deputy chairmanships of the parliamentary group. This had not only stalled the implementation of the coalition protocol but also stalled legislative changes. Second, many deputies believed that 'First we get rid of terrorism then we improve human rights' (*The Economist*, 1995b: 50).

45 Only seven articles were adopted by the required three-fifths majority (270 votes). Fifteen articles failed to get even a three-fifths majority. However, the 15 articles were adopted finally by virtue of the new procedure (Özbudun 2000: 66–7).

46 *The Economist* (1995c) expressed this view as follows:

> The avowed purpose was to increase democratic rights and develop power in one of the most centralized systems of government in Europe. The real purpose was to hold on to Turkey's chances of joining the European Union some day . . . The Turks hope that the constitutional revisions will be enough to change the MPs' minds.

In a related vein, Turkey's standing representative to the EU, Uluç Özülker, said that 'Turkey relaxed a little with these new amendments vis-à-vis Europe. An important step was taken by these changes on the path to the Customs Union. Europe, which wanted to include us in the Customs Union, also relaxed' (Tekeli and İlkin 2000: 459).

47 Article 8 of the Anti-Terror Law: 'No one shall, by any means or with any intention or idea, make written and oral propaganda or hold assemblies, demonstrations and manifestations against the indivisible integrity of the state of the Turkish Republic with its land and nation.'

48 The most important change to the article was that the revision removed the wording in the first paragraph that had led to the ambiguity: 'Whatever method, objective and thought'. Second, prison sentences 'from two to five years' in the previous version of the article were lowered in the new version to 'from one to three years'. Third, the revision to Article 13 of the Anti-Terror Law enabled the courts to suspend the execution of punishment or to commute it to fines.

49 The DYP–CHP coalition government collapsed on 20 September. When the DYP's minority government failed to receive a vote of confidence in parliament, Deniz Baykal, the CHP's leader, agreed to forge a new coalition government with the DYP on the condition that the new government would put the amendment of Article 8 onto the agenda of parliament immediately and that general elections would be held on 24 December 1995.

50 Turkey went to ballot for general elections on 24 December 1995 and subsequently the Islamic-oriented RP and centre-right DYP forged a coalition.

51 The 28 February Process was a political process that began with a military memorandum issued on 28 February 1997 by the Turkish military against the Islamic-oriented Turkish Prime Minister Necmettin Erbakan and his coalition government. The military, accusing Erbakan of bringing Shariah law to Turkey, pressurized the government to resign. Eventually the military was able to remove the government without a formal military coup and the Turkish parliament was dissolved.

4 EU conditionality and democracy in Turkey: the post-Helsinki period

1 Emphases added. The Turkish government was suspicious about the content of the presidency conclusion concerning Turkey, and in particular with the reference to Cyprus. Even the Turkish Foreign Minister opposed accepting the EU's offer and supported a continuation of Turkey's stance of 'no dialogue'.

2 For the speech delivered by Turkey's Prime Minister Bülent Ecevit with regard to the decision of the Helsinki summit, see Birand (1999: 541–4). On the other hand, in the same speech the Prime Minister underlined that the Turkish state would not grant freedom to those who opposed secularism. Furthermore, Ecevit also argued that there were not any ethnic minorities in Turkey and the National Security Council was not an impediment to Turkish democracy.

3 This 'criteria' of absorption capacity was cited in the conclusions of the famous 1993 Copenhagen Council, but had been neglected until 2004.

4 The Turkish delegation in Brussels, led by Turkish Prime Minister Erdoğan, did not accept the first decisions of the Brussels Council, which were even harsher than the existing ones and after fierce discussions between the Turkish delegation and the EU leaders, the current version of the decisions were accepted by the government.

5 Article 301 penalizes insulting Turkishness, the Republic, as well as the organs and intuitions of the Turkish state. However, it includes a provision that expression intended to criticize should not constitute a crime.

6 Şükrü Sina Gürel, the spokesman of the cabinet, gave the decision of the government after the cabinet had evaluated the AP: 'Turkey sees only the Helsinki Summit decisions and the official correspondence between the EU authorities and Turkey as binding on the issue of Cyprus' (*Milliyet*, 10 November 2000).

7 Therefore the pro-Kurdish People's Democracy Party (HADEP) mayors criticized the Commission on 13 November for not placing sufficient importance on the AP.

8 However, relations between Turkey and the EU were soured once again when Turkish Prime Minister Ecevit accused the EU of not keeping its promises, and stated that the Union had 'duped' Turkey on the Cyprus and Aegean disputes. He sent letters to the leaders of the EU on 15 November and asked them to remove the Cyprus issue from the short-term priorities of the AP document.

9 Since the Greek Foreign Minister Yorgo Papandreou insisted that the document should include the Cyprus and Aegean disputes within the section on political criteria, the EU foreign ministers failed on 20 November to reach consensus on the final content of the document, and they delayed the ratification of the document until 4 December.

10 According to some Turkish daily newspapers, this new paragraph was created due to pressure from the US on behalf of Turkey (*Hürriyet*, 5 December 2000).

11 The report was prepared by an ad hoc committee headed by Gürsel Demirok, the Chair of the Supreme Board of Co-ordination for Human Rights.

12 Meanwhile, when the Supreme Board of Co-ordination for Human Rights Secretariat Chairman Gürsel Demirok quit his post on 15 June, it was speculated that deliberations between the military and the Human Rights Board over possible amendments to the NSC had disturbed the military circles which in turn led to Demirok's departure (*Radikal*, 16 June 2000). The objections were regarded in the Turkish press as the military's resistance to the EU: 'Ordu AB'ye direniyor' (*Yeni Binyıl*, 17 June 2000).

13 The Foreign Ministry's report of 'the necessary measures to be taken in light of the Copenhagen criteria' submitted to the Supreme Board of Co-ordination for Human Rights Secretariat.

14 Civilianization of the State Security Courts (DGMs) of Turkey, which had been on the agenda of the country since 1984 when these courts were established to replace the martial law courts, was accomplished within five days by the Turkish parliament due chiefly to repercussions emanating from the trial of Abdullah Öcalan. The presence of the military judge on the three-judge panel of the DGMs had been a source of criticism from the European Court of Human Rights and human rights groups. European states and human rights groups had claimed that the presence of a military judge on the three-member panels raised questions as to the impartiality and independence of the courts.

15 The President called a referendum on one article of the package that related to an increase in the salaries of deputies. However, parliament amended Article 86 of the constitution on 21 October 2001, making it possible to discard a popular referendum in that case, and it entered force on 1 December 2001.

16 See Özbudun (2002) for further details on the amendments.

17 The last paragraph, which reads 'Associations, foundations, labour unions and public professional organizations shall not hold meetings or demonstration marches exceeding their own scope and aims', was deleted from the text.

18 According to the amended sixth paragraph of Article 69, the dissolution of a political party may be decided only when the Constitutional Court determines that it has become a focal point of such activities. A political party can be deemed to have become the focal point of such activities when they are undertaken intensively by the members of that party and when these actions are implicitly or explicitly approved by the general convention, or by the chairperson or the

central executive organs, or by the plenary session of its parliamentary group or its executive committee. It was also stipulated in the amended Article 69 that the Constitutional Court may decide to deprive a party totally or partially of state funds, instead of closing it down permanently, depending on the gravity of the violations. A third change involving the prohibition of political parties was made in Article 149, according to which the Constitutional Court may decide to prohibit a party only by a three-fifths majority of its members instead of a simple majority.

19 The 'mini-democratization package' created a rift within the uneasy three-party coalition. While the ANAP stated its dissatisfaction with the bill due to its restricted scope, the MHP accused the ANAP of being too submissive to the EU's demands (*Turkish News*, 25, 26, 31 January 2002; *Hürriyet*, 31 January 2002, 1 February 2002). The DSP, on the other hand, played the intermediary. Justice Minister Hikmet Sami Türk stated that the harmonization laws could have been penned better but reflected a minimum consensus in the government (*Turkish News*, 31 January 2002).

20 'Only those of the executive category of the gubernatorial administrative service may act as sub-governors ad interim.'

21 The following paragraph was added to Article 13 of the Law on Civil Servants:

> The provision in the above paragraph shall also apply with respect to reimbursement of the compensation paid by the State, in compliance with the decisions of the European Court of Human Rights for offences of cruel, inhuman or degrading treatment, by the personnel responsible.

22 A party shall be considered to have become the hub of execution of such acts if acts of this nature are committed intensively by the members of that party and if this attitude is tacitly or overtly endorsed by the general convention or the chairman or the central decision-making or executive organs of that party or by the general board or executive board of the party group in the Turkish Grand National Assembly, or if these are directly committed in a determined manner by the said party organs.

23 This delay clause was promptly criticized by Human Rights Watch (2002).

24 The first broadcasts in non-Turkish ethnic languages were aired on radio and television by the state broadcasting corporation TRT in June 2004. Broadcasts were in Bosnian, Arabic, Circasian and the Kurdish dialects of Kirmanchi and Zaza.

25 In August 2004, a senior diplomat was appointed as the first civilian Secretary General of the NSC.

26 The 2006 progress report on Turkey also accepts that the legal framework concerning freedom of association is generally in line with international standards and freedoms (European Commission 2006: 15).

27 The 2006 progress report criticized Turkey on the grounds that 'the Human Rights Presidency lacks independence from the government, is understaffed and has a limited budget' (European Commission 2006: 12).

28 It amends the control system of the ECHR.

29 It provides for a system of regular report visits to places of detention by complementary international and national independent expert bodies.

5 The impact of EU conditionality in Turkey

1 The Islamic-oriented RP took 18.8 per cent of the popular vote in the 27 March 1994 municipal elections, more than double its earlier total, and gained the municipalities of Turkey's two biggest cities, Istanbul and Ankara (Turkey's capital and the symbol of the secular/modern republic of Turkey), and many other provincial centres. Thus nearly two-thirds of the country's population started to

live in municipalities run by personalities affiliated to the RP. The RP's electoral power increased in the 24 December 1995 general election when it captured 21.4 per cent of the popular vote. It became the largest political party in parliament with 158 seats in the 550-seat parliament, while the two big centre-right parties, the ANAP and the DYP, acquired 19.6 per cent and 19.2 per cent respectively.

2 When Prime Minister Erbakan visited Iran, Libya and Nigeria, the secularist establishment argued that the RP had taken an alternative route in foreign policy, which traditionally had been pro-Western.

3 For example, allowing female officials to wear the headscarf at work and adjusting work hours during Ramadan.

4 After nine and a half hours, the NSC declared its adoption of 18 points. They included the strict enforcement of the principle of secularism; activities of the foundations in respect of education must be put under strict control; eight years of uninterrupted education should be realized across the country; Koran courses should only be run by state agencies; the principle of the Law on Unified Education should be sustained; activities of *tarikats* (sufi orders) should be ended; personnel expelled from the military because of religious activities should not be employed by other public institutions particularly municipalities; Iran's activities of transferring religious extremism to Turkey should be closely observed; and political movements based on 'umma' and 'separatism' should be prevented by legal and administrative means.

5 The Turkish people first heard of the West Working Group (BÇG) when it prepared the famous briefings for the judges on 10–11 June 1997. The legality of its establishment and activities are still mysterious. It is not even clear whether it was established within the General Staff or the Navy. The activities of the BÇG caused tension between the military and the police as well. The police intelligence department closely followed its activities depending on its internal code (additional Article 7).

6 A Turkish columnist defines what he observed during the briefing: 'after what I heard yesterday, I would like to add this: Do not suppose that Turkey is governed by the civilians . . . What more would they [the Officers] do? The only thing they have not done is to take up the prime ministry' (Sertoğlu 1997).

7 While the military was exercising its influence on domestic politics in the 28 February Process, it also conducted an alternative foreign policy to the government's. As Turan observed, 'the military wing of the NSC, the president and the bureaucracy of the Ministry of Foreign Affairs act independently as if there were no government . . . in the field of foreign affairs' (1997: 135). While the government tried to normalize Turkey's relations with Iran, for example, General Çevik Bir blamed Iran for supporting terrorism, after 'the Night for Jerusalem'. Furthermore, Turkey's rapprochement with Israel was developed by the military, in spite of the RP's anti-Zionist outlook.

8 The media published several 'reports' uncritically to 'demonstrate how significantly Islamic fundamentalism threatened secularism'. For example, according to the apocalyptic vision of a report prepared by the NSC in May 1997, the RP would gain 66.94 per cent of the votes in 2005 elections, if proper measures were not taken. See Cıvaoğlu (1997).

9 '*Andıç*' (memorandum) was one of the most famous words at the time. It usually refers to 'memorandums' between branches of the military but it became popular during the 28 February Process because these memorandums included plots to put pressure on the government of the time. See Ilıcak (2001).

10 Former Chief of the General Staff General Kıvrıkoğlu declared very succinctly that EU membership is 'a geopolitical necessity for Turkey' (*Hürriyet*, 2002a).

11 For example, when Hans Jörg Kretschmer, the representative of the EU Commission in Turkey, criticized the Turkish military on 22 September 2006,

arguing that the armed forces did not respect the legal and instructional order of democracy and that Turkish democracy had not consolidated itself for this reason, the Chief of the General Staff General Yaşar Büyükanıt, speaking at the opening ceremony of the new academic year for the Turkish war academies on 2 October 2006, criticized Kretschmer directly. Later, Kretschmer stepped back and stated that his criticism was friendly and misunderstood.

12 For the history and ideology of the PKK, see Özcan (1999) and Radu (2001).

13 For the events after Öcalan's capture, see Gunter (2000).

14 There are several reports on Turkey's deteriorating human rights record during its war against the PKK rebellion prepared by Turkish and international human rights NGOs, including Amnesty International and Human Rights Watch, and the US Department of State. For example, seeing only the Human Rights Watch's reports about Turkey would be enough to gauge the huge amount of criticism levelled at Turkey: 'Nothing Unusual: The Torture of Children in Turkey' (1992); 'Broken Promises: Torture and Killings Continue in Turkey' (1992); '16 Deaths in Detention in 1992' (1993); 'Kurds of Turkey' (1993); 'Killings, Disappearances and Torture: Free Expression in Turkey' (1993); 'Killings, Convictions, Confiscations: Twenty-One Deaths in Detention in 1993' (1994); 'Forced Displacement of Ethnic Kurds from Southeastern Turkey' (1994); 'U.S. Cluster Bombs for Turkey?' (1994); 'Weapons Transfers and Violations of the Laws of War in Turkey' (1995); 'Violations of the Right of Petition to the European Commission of Human Rights' (1996); 'Turkey's Failed Policy to Aid the Forcibly Displaced in the Southeast' (1996); 'Torture and Mistreatment in Pre-Trial Detention by Anti-Terror Police' (1997); 'Turkey: Violations of Free Expression in Turkey' (1999).

15 For example, Article 4 of the LPP reads 'Political parties are the indispensable elements of democratic political life. They operate in loyalty to the principles and reforms of Atatürk.'

16 For the activities of these five organizations during the 28 February Process, see Refik Baydur's *Bizim Çete* (Our Gang) (2000). He himself was among the 'Gang', as the chair of TİSK.

17 One of the most well-known events in this regard was a consensus decision at a meeting of the mainly Christian Democrat European People's Party (EPP) in March 1997 that shocked Turkey, as I discussed earlier.

18 These chapters are free movement of goods (Chapter 3), right of establishment and freedom to provide service (Chapter 9), financial services (Chapter 11), agriculture and rural development (Chapter 13), fisheries (Chapter 14), transport policy (Chapter 29), Customs Union and external relations (Chapter 30).

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