

FOLLOW-UP REPORT

TURKEY

TOWARDS MEMBERSHIP OF THE EUROPEAN UNION

No. 37, July 2004

Members of the Advisory Council on International Affairs

Chair F. Korthals Altes
Vice-chair Professor F.H.J.J. Andriessen

Members A.L. ter Beek
Professor G. van Benthem van den Bergh
Ms A.C. van Es
Professor W.J.M. van Genugten
Dr B. Knapen
H. Kruijssen
Professor A. de Ruijter
Ms E.M.A. Schmitz
Ms H.M. Verrijn Stuart

Secretary P.J.A.M. Peters

P.O. Box 20061
2500 EB The Hague
The Netherlands

Telephone + 31 70 348 5108/6060
Fax + 31 70 348 6256
E-mail AIV@minbuza.nl
www.AIV-Advice.nl

Members of Turkey working group

Chair Dr B. Knapen

Members Professor P.R. Baehr
Professor G. van Benthem van den Bergh
T. ETTY
Lieutenant General G.J. Folmer (retd.)
F.D. van Loon
P. Scheffer

Secretary Ms M.M.J. Louwerens

Table of contents

Foreword

I	What did the AIV say in its 1999 report?	7
II	From 1999 to 2004: a world of difference?	9
II.1	The international context	9
II.2	On the way to Turkish membership?	10
II.3	Reforms in Turkey en route to EU membership	12
III	Human rights and democratisation	13
III.1	A leap forward: but is it enough?	13
III.1.1	<i>What did the AIV say in 1999?</i>	13
III.1.2	<i>And now in 2004?</i>	13
III.2	Human rights	14
III.2.1	<i>Freedom of expression</i>	14
III.2.2	<i>Freedom of association</i>	15
III.2.3	<i>Employee and trade union rights</i>	15
III.2.4	<i>The functioning of law enforcement institutions and concern about disappearances, extrajudicial executions, cruel and inhuman treatment and torture</i>	16
III.2.5	<i>The judiciary</i>	16
III.2.6	<i>The protection of cultural rights</i>	17
III.2.7	<i>Status of women</i>	17
III.3	The role of the army	18
III.4	Conclusions	19
IV	The economic outlook	20
IV.1	What did the AIV say in 1999?	20
IV.2	A look at the economy nonetheless?	20
IV.3	Improvement over 1999?	20
IV.3.1	<i>Migration flows?</i>	21
IV.4	Still much work to do	22
V	Conclusions	23
Annexe I	Overview of the human rights situation in 1999 and progress since then, to 30 June 2004	
Annexe II	Public opinion on EU enlargement	
Annexe III	List of abbreviations	
Addendum	The position of the European Union on Turkey from 1959 to June 2004	

Foreword

Five years after the Advisory Council on International Affairs (AIV) issued its 1999 advisory report on relations between Turkey and the European Union, the subject is still on the agenda.¹ Significant changes have taken place since that time, both in Turkey itself and in its relations with the EU. Turkey has implemented many reforms, and this is one of the reasons the European Union decided that the European Council, under the Dutch presidency, would decide in December 2004 whether to begin accession negotiations with Turkey. It is therefore not surprising that political interest in relations between Turkey and the European Union has been growing. The lack of clarity about the exact content and scope of the decision the European Council will take in December 2004 is a complicating factor, however. The AIV saw a need for an updated report.

The members of the working group commissioned to draft this report were Dr B. Knapen (Chair of the working group, European Integration Committee), Professor P.R. Baehr (Human Rights Committee), Professor G. van Benthem van den Bergh (Peace and Security Committee), T. Etty (Human Rights Committee), Lieutenant General G.J. Folmer (retd.) (Peace and Security Committee), F.D. van Loon (Development Cooperation Committee), P. Scheffer (European Integration Committee). Ms M.M.J. Louwerens (secretary of the European Integration Committee) acted as secretary, assisted by trainee Ms L. Janssen. The AIV approved the report at its meeting of 9 July 2004.

When preparing the report, the members of the Turkey working group were briefed on developments there since 1999 by E.J. Zürcher, Professor of Turkish and Modern Turkey at the University of Leiden. The AIV thanks him for his contribution.

This follow-up report is divided into chapters. Chapter I sets out the considerations and conclusions of the 1999 report. Chapter II describes the principal changes which occurred between 1999 and 2004. Chapter III explores the status of human rights and democratisation. Chapter IV outlines the country's economic prospects. Chapter V presents a summary of the AIV's conclusions and highlights its recommendations. There is also an addendum to the report "The position of the European Union on Turkey from 1959 to June 2004".

1 'Towards Calmer Waters – a report on relations between Turkey and the European Union', AIV report no. 9, The Hague, July 1999. In preparing the report, Dutch and Turkish policymakers and experts were consulted.

I What did the AIV say in its 1999 report?

The 1999 AIV report sets out several considerations and conclusions. These are summarised briefly in the following paragraphs.

The AIV dealt extensively in 1999 with the question of whether Turkey's cultural and historical background make membership of the European Union possible. The report pointed out the difficulty of defining the precise geographic, political and cultural boundaries of Europe and showed that, even if they were defined, they would not shed light on how relations between Turkey and the European Union might develop further. The AIV noted a certain discrepancy between the terms used in official documents when discussing relations between Turkey and the European Union and the subtext of the political debate, which frequently harks back to Turkey's history, the development of Ottoman civilisation and Islam. Official documents are often based on a growing rapprochement but the undercurrent of the debate reveals hesitation as to whether Turkey and the European Union can ever belong with one another at all.

One opinion frequently voiced is that religion is a core characteristic of civilisation and that states whose culture and religion are different run a greater risk of finding themselves embroiled in conflict than those that share a civilisation and a religion.² This mindset assumes that a difference of civilisation and religion either excludes cooperation or makes it extremely difficult. The view rejects Turkey as a member of the European Union not because of its level of economic development, its domestic politics, its lack of respect for human rights and minorities, but because it is said to be 'different'. Those who take this position consider Turkey purely as the heir to the Ottoman Empire and an Islamic country.

Turkey counters this contention by asserting that Atatürk's revolution must be seen as the Turkish Enlightenment, in which a conscious choice was made to break with the past and create a secular state whose objective was the introduction of civil, democratic values. In Turkish eyes, their country has been European for centuries and, in this respect, has nothing to prove.³

In its 1999 report, the AIV distanced itself from what it called 'cultural and historical determinism' founded on the idea that the gap between Turkey and the European Union is unbridgeable because of the history of civilisation and culture. It noted that civilisations and culture develop under the influence of fresh elements from other civilisations and that history and culture provide equally convincing arguments for and against Turkish membership. For example, by subscribing to the idea that Turkey "is different", it is not difficult to arrive at the conclusion that rapid accession is called for specifically as a means of helping to solve the problems Turkey is facing.

The AIV went on to conclude that political and cultural differences do unquestionably exist but that these can be bridged. The European Union itself consists of member

2 For a general foundation of such opinions, see the work of the American political scientist S.P. Huntington.

3 The widely used 19th-century expression "Turkey, the sick man of Europe" speaks volumes about this view.

states whose differences did not present an obstacle to its creation. The fact that the Union finds itself forced to confront the question of whether a country with an overwhelmingly Muslim population can be a member may, qualitatively, be a new development but this development is not in principle different from the issues which arose at the time of earlier enlargements. Some 17 to 21 million Muslims already live in the EU member states and Turkey's accession would only strengthen the position of those who assert that Islam and the culture of Islam must have a place in Europe.⁴ In this connection, the AIV notes a difference of scale: Turkey is not only an Islamic country but also a large one with a population some forecasters predict will rise to 89 million by 2025.⁵

The AIV could see no compelling reasons in principle to reject Turkey as a potential member state. In addition to observing that one cannot define Europe's cultural and historic boundaries, it should be pointed out that in its relations with Turkey the European Union has never asserted that Turkey lies outside the boundaries of Europe. The AIV also noted that, over the years, the European Union had raised so many expectations that the Turkish government was justified in its assumption that membership was a real objective.

The AIV did however note that Turkey still had a long way to go before it could satisfy the Copenhagen criteria, largely because it did not have a pluralist, democratic system and because of how it treated the Kurds.⁶ Were it to meet these conditions, the impact on Turkey's political culture would be tremendous. Accordingly, the AIV advised recognition of the fact that the issue would require a long-term perspective if disappointments and misunderstandings in addition to those which had already soured relations between Europe and Turkey were to be avoided.

4 In its report "The European Union, Turkey and Islam", no. 69 of June 2004, the Advisory Council on Government Policy also found that Turkey's Islamic character was no obstacle to the country's accession to the European Union.

5 "Turkey would have largest population in EU", Demos, Bulletin over Bevolking en Samenleving (Bulletin on Population and Society), March 2004, Netherlands Interdisciplinary Demographic Institute. The article also notes that the population, almost 70 million, is as great as the population of all the new member states together.

6 These criteria relate to democracy, human rights, the treatment of minorities, the legal system and the free market economy (functioning market economy and competitiveness of Turkish businesses) as well as adopting and applying the *acquis*.

II From 1999 to 2004: a world of difference?

The period 1999-2004 witnessed significant changes in the international context surrounding Turkey, and, more particularly, in Turkey itself and in its relations with the European Union. A brief summary of these changes follows.

II.1 The international context

In 1999, relations between Greece and Turkey were very bad, as they had been throughout the 20th century. The AIV recommended that the European Union should no longer accept Greek vetoes, wishes and demands regarding Turkey. Now, in 2004, relations between the two countries are much better. An analysis of the improvement would exceed the scope of this report but there are compelling reasons to believe that it will continue. The earthquake which devastated western Turkey and eastern Greece in August 1999, killing thousands of people in Turkey, was a turning point. The time seemed ripe for improving the soured relations and the authorities on both sides used the opportunity to assist one another. Greece put an end to its almost systematic thwarting of European Union decisions on Turkey and this made it possible for relations to improve and become more businesslike. Although mutual suspicions have not completely disappeared, progress in this area since 1999 is striking. Relations are now continuing to develop positively.

Cyprus was another sticking point in 1999. On the basis of the AIV's premise that the European Union should not import conflicts, membership of Cyprus under the then prevailing circumstances was not deemed feasible. But because, among other considerations, the European Council feared that Greece would veto the accession of the Eastern European countries, it decided otherwise and, in March 1998, opened accession negotiations with the island without demanding that the dispute there be resolved beforehand. It should be noted that, in 2004, despite intense negotiations under the leadership of United Nations Secretary-General Kofi Annan, the Cyprus question could not be resolved before the island acceded to the European Union. The Greek Cypriots voted en masse against the Annan plan in a referendum on 24 April 2004 whereas the Turkish Cypriots accepted it by a majority of 75%.⁷ This meant that on 1 May 2004, Cyprus became a member of the European Union, although the *acquis* does not apply to the northern part of the island. It is remarkable that the European Union earmarked funds for the Turkish part of the island, that is, for a regime which only Turkey recognises.⁸ In view of the possible start of accession negotiations, the Turkish government had made efforts to put an end to the conflict.

Since both the Greek and Turkish Cypriots feel insecure, prospects for a resolution of the Cyprus question in the near future are not good. Only confidence-building measures can remove this obstacle. The Turkish government cannot be accused of lack of commitment, which is why the AIV believes that the Cyprus question must not stand in the way of a positive decision on opening the negotiations. Nonetheless, the problem must

7 The official name of the Annan plan was 'The Comprehensive Settlement of the Cyprus Problem'; see www.cyprus-un-plan.org.

8 The funds had already been earmarked in 2002 but distribution was to begin after the referendum.

be resolved satisfactorily before Turkey accedes because, to put it mildly, it would be peculiar for one member state to station a 35,000-strong military force on the territory of another member state without its express consent.

In 1999, in an attempt to find a counterweight to its difficult relations with the European Union, Turkey was trying to improve its relations with countries in the region. In 2004, its interest in the region has not dissipated but, to date, has produced few concrete results. To some extent, this is because the United States has expanded its sphere of influence so much that scarcely any room remains for any other country, Turkey for example.⁹ This does not take away the fact that were Turkey to become a member of the European Union, its role in the region would have greater weight, certainly in the economic and financial arenas.

It is striking that the war in Iraq has put a dent in Turkey's traditional pro-American stance. Ankara's refusal to allow American troops to cross its territory on their way to Iraq in 2003 made this clear. The Turkish Government's refusal can, in part, be explained by the serious opposition to the war among the population and by the Justice and Development Party (AKP) which scored an election victory in November 2002. Moreover, what is perceived as arrogance in the American attitude, not only in the war but more generally in the 'war against terrorism', has weakened the pro-American attitude.

The fact that Turkey is relatively less focused on the region and the United States means that it is more Europe-directed and interested in membership of the European Union. This gives greater importance to the central question the report sets out to answer: should the European Council decide in December 2004 to open negotiations?

II.2 On the way to Turkish membership?

The AIV first wishes to emphasise that it believes the premises set out in its 1999 report to have lost none of their validity. These state that because the cultural and historic boundaries of Europe cannot be defined and because the European Union itself has never defined them, no compelling reason exists to support the argument that Turkey should in principle be rejected as a future member of the European Union. Moreover, the European Union has raised so many expectations over the years that the Turkish government is justified in assuming that membership is a real objective.¹⁰

There have been important developments in the relations between the European Union and Turkey, and in Turkey itself, since 1999. The most important feature below.

1. The December 1999 Helsinki European Council concluded 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'. As was the case with other candidate states, an Accession Partnership Document was drafted on that basis in 2001. It applied the

9 In 1999, a core feature of Turkish foreign policy was to strengthen ties with countries in the Middle East, especially Israel, and also with countries in the Caucasus region, the Russian Federation, Central Asia, the Balkans, etc.

10 The addendum to this report contains consecutive agreements reached between 'Brussels' and 'Ankara' since 1963.

Copenhagen criteria to the situation in the candidate state in question and set priorities. The political priorities, as formulated by the European Commission in the Partnership Document, are the criteria on the basis of which the European Commission assesses Turkey in its annual progress reports.¹¹

2. The Turkish governments of both Eçevit and Erdogan have clearly undertaken to meet the Copenhagen criteria on several occasions. This is evident from the Turkish government's cooperation in drafting the above mentioned Partnership Document and the reforms which are being implemented. An important step taken in these reforms was the 2001 amendment to the Constitution by the government of Prime Minister Eçevit of the Democratic Left Party (DSP). This reform policy was continued by the Erdogan government after the AKP's 2002 election victory and the pace has accelerated further. Two constitutional amendments, one in October 2001 and one in May 2004, as well as seven reform packages have been approved by the Turkish parliament.
3. The December 2002 Copenhagen European Council decided that 'if the European Council in December 2004, on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the European Union will open accession negotiations with Turkey without delay'.¹²

A great deal of confusion surrounds the decision to be taken in December 2004. Many people believe that the European Council will be deciding whether Turkey can become a member of the European Union but this is not so. The Union already answered that question of principle in the affirmative when it concluded 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'.¹³

What must be decided is whether the European Union will open accession negotiations. This too may lead to confusion however: what are the criteria Turkey must satisfy for a positive decision and how do they relate to the decision to open negotiations with other candidate states? In addition to its premise that Turkey must be judged by the same criteria as those applied to other candidate states, the December 2002 Copenhagen European Council concluded that the decision, like the one taken for other candidate states, can be based solely on whether the political Copenhagen criteria have been met, and not on the economic criteria and the assessment of whether the Community *acquis* has been or can be adopted. When it accedes, however, Turkey will have to satisfy the latter criteria.

Just what does 'meeting the political Copenhagen criteria' mean? When the ten new member states acceded on 1 May 2004, 'meeting the political Copenhagen criteria' was interpreted to mean that amendments to legislation will go, or have gone, far

11 The progress reports also assess the two other Copenhagen criteria: the economic criterion and the adoption and application of the *acquis*. In light of the reforms which Turkey introduced in 2001 and 2002, in May 2003 the Council adopted a revised Partnership Document which addressed the remaining reforms required in all three parts of the Copenhagen criteria.

12 The European Commission announced that the progress report on which the European Council will base its decision will be released on 6 October 2004.

13 It should be added that the European Council took that decision, as well as the decision of December 1999, unanimously and that the national parliaments, at any rate implicitly, agreed.

enough to satisfy the criteria at the time of accession. The central question which the AIV is posing is whether this interpretation must be applied to Turkey or whether conditions should be attached to the decision to open accession negotiations with Turkey. The second question is whether the negotiations should be conducted in the same way as for the last enlargement. Answering these questions requires assessment of the relevant factors. Before delving into the issue of human rights, democratisation and the economic situation, however, we must review the background to the rapid pace of reforms. Concomitantly, a prudent assessment of the support for and the sustainability of these reforms is in order.

II.3 Reforms in Turkey en route to EU membership

The above shows that, after 1999, the Turkish government launched into as thorough and rapid a reform programme as possible in order to satisfy the criteria for membership of the European Union. The AKP of Prime Minister Erdogan itself, a party with Islamic roots, accelerated the reforms and many say that real progress was achieved. But are the changes in fact real? Before the AKP assumed power, members of the establishment, who had grown up in the Kemalist state tradition and were inextricably bound to it had difficulty accepting the adjustments the European Union demanded which they saw as concessions, especially, when, as was often the case, they demanded tampering with the traditional system of government. In this sense, some real changes were made when the AKP came to power, in that the short-term AKP agenda and its vision of Turkish society run parallel with the adjustments required. The AKP for example views the traditional Turkish state as a threat and welcomes reforms designed to undermine it. The fact that the domestic and foreign agendas coincide means that reforms are not only set in place quickly but also that the AKP government wants to continue along the same route. It sees the European Union as a support for and guarantee of its reforming path.

To what extent does the public support these reforms? Would, or could, they be reversed under a different government? When discussing public support, it is important to note that, over the past few decades, the gap between what the state permitted and what people wanted had widened considerably. The genie is now out of the bottle and nobody expects that it can be forced back in: reforms are a way to catch up and respond to a widespread desire for change. The solid support the reforms enjoy also justifies the expectation that no government, whatever its persuasion, will be able to reverse them with impunity. Furthermore, in the current political landscape, there is no serious competition for the AKP, whose broad power base and widely supported political course seem firmly entrenched even though Turkey's volatile political climate does warrant a degree of caution when making such predictions.

In these circumstances, one can assume that even the army would not seek, or be able, to turn back the clock. In order not to obstruct a positive decision in December 2004, the military leadership have accepted these reforms en route to EU membership. The course on which the army leadership has embarked comes down to agreeing, and continuing to agree, to a slow, phased reduction of its role. In turn, it expects to receive European Union support for maintaining Turkey's secular character.

III Human rights and democratisation

III.1 A leap forward: but is it enough?

III.1.1 What did the AIV say in 1999?

In 1999, the AIV noted that serious deficiencies in the areas of democracy and respect for human rights separate Turkey from the European Union. Turkey cannot be said to have a pluralist, democratic system because power is not always subject to oversight by parliament or open debate in a free press, and because socioeconomic interest groups and non-governmental organisations are not yet in a position to arrive at social and political views commanding widespread support and to help set the political agenda. The armed forces impose serious limits on political debate because it is illegal to tamper with

- the secular character and
- the territorial integrity and unity of the country. Those who present themselves as minority representatives are suspected of seeking to undermine that unity, and this is reflected in the problem of the Kurds and the Kurdistan Workers' Party (PKK).

Many of the problems in the area of human rights and democracy relate to the above two basic principles. They include fundamental freedoms (freedom of expression, religion and association), disappearances and extrajudicial executions, the structural deficiencies of the Turkish legal system, torture and inhuman or degrading treatment or punishment, and violations of the rights of women, employees and trade unions. Two extremely important problems are the situation of the Kurdish people and the relationship between the civil and military components of society. The AIV observed that although legislation had generally improved in the last few years, the improvements had not been sufficiently implemented.

III.1.2 And now in 2004?

This remains true in 2004. As stated above, the Turkish government embarked on a comprehensive reform programme in 2001 which Prime Minister Erdogan's government is accelerating. The European Commission, the European Parliament and the Council of Europe Commissioner for Human Rights have prepared reports on progress on implementing these reforms.¹⁴ The Turkish authorities are strongly committed to improving the human rights situation in the country and, clearly, have made some progress. This can be seen *inter alia* in constitutional amendments on fundamental freedoms, recent legislation relating to the press and political parties and planned legislation on the right to assembly and demonstrations. The government's resolve to carry out serious reforms is also evident from the new mechanisms for monitoring human rights protection

14 2003 Regular Report (or the yearly progress report, as indicated in Chapter I) on Turkey's progress towards accession, COM(2003) 676, Report on the 2003 Regular Report of the Commission on Turkey's progress towards accession, by the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, 19 March 2003, A5-0204/2004 of the European Parliament, and the report of 19 December 2003 by Commissioner for Human Rights Alvaro Gil-Robles about his visit to Turkey to the Committee of Ministers and the Parliamentary Assembly of the Council of Europe (CommDH(2003)15).

and application of the reforms.¹⁵ Still, significant limitations remain on the exercise of certain civil, political and cultural rights.¹⁶ The statutory reforms – planned or introduced – must be applied, and this will require great efforts by all of Turkish society.

In this report, the AIV will focus on several general important developments and base its observations primarily on the above-mentioned reports by the European Commission, European Parliament and Council of Europe Commissioner for Human Rights on the progress and introduction of the reforms.

III.2 Human rights

III.2.1 Freedom of expression

The constitutional reform of 2001 and the subsequent reform packages have gone a long way to relaxing the restrictions on freedom of expression which existed in 1999.¹⁷ This has resulted in several acquittals and prisoner releases. A few examples will serve to show how the restrictions have been relaxed. Instead of saying that ‘no protection shall be afforded to “ideas and opinions” which contravene Turkish national interests’, the Constitution now refers to ‘activities’. Another important step was to reduce restrictions on the use of languages other than Turkish and to introduce regulations guaranteeing the independence of journalists and radio and television broadcasts. Changes to the composition of the council which monitors television and radio broadcasts are also planned so that the representatives of the government or the state security service will no longer hold sway. Anti-terrorism legislation has been amended in such a way that ‘separatist propaganda without incitement to violence’ is no longer a criminal offence. The article listing all situations in which freedom of expression may be restricted has been changed. Here too the main aim appears to be liberalisation, but the wording of the article does not make this absolutely clear. It is important for the application of the new legislation to show in practice that no further restrictions are being contemplated but that the intent truly is to broaden freedom of expression. A hallmark of all these reforms is that the legislation has been only recently introduced and must now be properly applied. Effective, successful application will depend primarily on effective action by the courts, the civil service, lawyers and prosecutors. To date, application has been rather inconsistent.¹⁸

This touches on the core of all the human rights reforms which, admittedly, are moving forward steadily but for which some caveats are still in order.

15 The Turkish government set up inter alia an Investigative Council, chaired by the prime minister, to investigate violations of human rights, an Advisory Council, composed of representatives of NGOs, to assist the Minister for Human Rights in areas falling within his jurisdiction, and a National Human Rights Commission whose objective is to raise awareness of human rights. With a view to ensuring effective application, the government has also created a Reform Monitoring Group.

16 See the Report on the 2003 Regular Report of the Commission on Turkey’s progress towards accession, A5-0204/2004 of the European Parliament. Examples of this are given in III.2.1 and III.2.2.

17 See the Gil-Robles report, pp. 6-12.

18 See the Gil-Robles report, pp. 11-12.

- First, the reforms generally involve the liberalisation of severe restrictions. Liberalisation must go further so that laws and rules are made consonant with internationally accepted rules and norms.
- Second, what matters now is effective application.
- Third, there is the problem of attitude and mentality. Since these are difficult to measure, practice will have to show whether changes have really been effected.¹⁹

III.2.2. Freedom of association

Another significant development relates to freedom of association, an important fundamental freedom because it allows socioeconomic interest groups and non-governmental organisations to play their role properly in building a democratic Turkish state. In 1999, the AIV noted serious shortcomings here.

Since then, it must be noted that although the serious restrictions have been substantially relaxed, significant ones still remain. For example, there are not enough guarantees to make it possible for the many non-governmental organisations in Turkey to operate unhindered. An important restriction which has not been lifted is the clause prohibiting associations to express the aim of 'promoting the idea that minorities exist in Turkey based on differences in class, race, language, religion or region', or to create minorities based on the protection and promotion of languages and cultures other than Turkish. It must also be noted that the government, even under the new rules, can still exercise excessive control of associations and non-governmental organisations.²⁰ Admittedly, associations may now use languages other than Turkish, which represents genuine progress, especially in view of the situation of the Kurds. The latter problem also relates to the status of political parties. The Constitutional Court frequently used its right to dissolve political parties considered dangerous because of the opinions they expressed, a practice criticised by Turkish socioeconomic interest groups, non-governmental organisations and the member states of the European Union. Parties were frequently banned because they were religious and threatened the secular character of the Turkish state or because they were pro-Kurdish and endangered its unity. Rules have now come into force which place strict limits on disbanding a political party and thus clearly represent steps towards democratisation. A positive trend must be noted in respect of non-governmental organisations working in the field of human rights but, as indicated, difficulties persist.

III.2.3 Employee and trade union rights

In the past, trade union rights were subject to serious restrictions, and liberalisation, albeit slow, has begun in this area also. Both the public and private sectors still have a long way to go, however. It has been some time since the gravest violations occurred but, over the last twenty years, the government has shown no hurry about following up the regular recommendations of the International Labour Organisation (ILO) and the Council of Europe in this area. Social dialogue remains limited. An Economic and Social Council has been created which could play an important role in strengthening democratic decision-making in respect of major socioeconomic issues through consultations between the government and the most representative interest groups. In practice,

¹⁹ The Turkish government itself acknowledges that application has been rather limited. See *inter alia* the 2003 progress report of the Commission and the Gil-Robles report.

²⁰ Gil-Robles, p. 16.

however, the Council seems little more than a talking shop in which endless discussions take place with little or no influence on government policy. In February 2004, the government announced that it would review the composition of the Council and, in particular, its own position in it. The Council is still chaired by the prime minister and several ministers are members.

III.2.4 The functioning of law enforcement institutions and concern about disappearances, extrajudicial executions, cruel and inhuman treatment and torture

How institutions involved in law enforcement and the prison system operate has always been a major cause of concern. Problems referred to in the previous report were disappearances, extrajudicial executions and torture, and cruel, inhuman or degrading treatment of detainees, in particular in police stations. Kurdish activists were the principal victims here. The role of the police and the security services prompted a great deal of criticism.

It is tremendously significant that in 2002 the state of emergency in south-east Turkey, which had authorised the security services to suspend fundamental freedoms there, was lifted. It is also significant that on 16 January 2003, the Minister of the Interior distributed a circular calling for compliance with the recently amended legislation forbidding torture and other similar acts. Nonetheless, the results have been mixed and serious problems remain. Legislation has been amended in many respects to meet internationally accepted rules and norms but such legislative progress must now be implemented. Non-governmental organisations report that despite the 'zero tolerance' policy of the highest level authorities, cases of cruel and inhuman treatment and even torture still occur, mostly in police stations. What is needed is a change of police attitude and mentality so that such offences are prosecuted with vigour. Victims frequently report that their complaints are not treated seriously, and offenders are frequently not convicted or receive only light sentences. The authorities have made clear that they wish to tackle the problem in various ways, for example by improving and extending police training and by distributing a collection of judgments of the European Court of Human Rights against Turkey which have been translated into Turkish.

Marked improvement can be seen in prison conditions.²¹ Criminal law has been amended with a view to improving security in prisons and to preventing hunger strikes. It is noteworthy that the number of hunger strikes has fallen significantly.

III.2.5 The judiciary

The role of the Turkish judiciary in implementing the reforms must now be discussed. Here too there is room for improvement, specifically in two respects: due process before state security courts and the extraordinary length of proceedings. The role of the state security courts has always been a source of concern. The constitutional amendment of May 2004 incorporated a proposal eliminating them – an important step to be sure.²² The length of proceedings remains problematic however. Reports still accuse the judiciary of not always acting impartially and consistently. In addition,

21 See pp. 28-29 of the 2003 Regular Report of the European Commission.

22 It should be noted that in a recent case the court ruled that no further cases could be brought before the state security courts because they had been disbanded by the latest constitutional amendment.

its impartiality is undermined by several articles in the Constitution which create an organic bond between the judiciary and the executive.²³

III.2.6 The protection of cultural rights

One of the most complex problems regarding the protection of cultural rights relates to the Kurds. Compared to the situation in 1999, significant progress has been achieved. At the time, the AIV recommended that Turkey should be permitted to accede only if it demonstrated that it was no longer seeking a military solution to the Kurdish problem and was prepared to create scope for the expression of Kurdish identity. In 2002, the state of emergency was lifted in the last south-eastern province, and life and conditions in the region are gradually returning to normal. An important step the Turkish government took to improve the situation is an amendment to article 26 of the Constitution which had stipulated that only the Turkish language could be used in public life. The use of other languages, Kurdish in particular, had been severely punished.²⁴ Various measures followed and it is now permitted to broadcast television and radio programmes and to provide teaching in Kurdish as well as in other traditional languages and dialects. Though room for improvement remains in respect of how the Kurdish population is treated, the trend is unquestionably positive. For instance, it is remarkable that even the war in Iraq has not made the government more nervous in its attitude towards the Kurds. The predecessors of the AKP government had always assumed that internal separatism and the power plays of foreign powers would lead to Turkey's ruin. The AKP government in this respect is much less defensive and suffers less from this sort of siege mentality.

It is also important that in 2003, with the agreement of the Turkish parliament, Turkey ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). It did however enter a reservation to the Covenants on the right to education and minority rights, and it has not yet signed the Council of Europe Framework Convention for the Protection of National Minorities.²⁵

III.2.7 Status of women

In 1999, the AIV noted that although Turkish legislation generally accords a position to women equal to that of men, culture and customs are still major obstacles to this equality in practice. Discrimination, marital abuse, and the murder of women suspected of adultery were causes for concern.

23 Ibid, pp. 21-22.

24 In 1994, the Kurdish member of parliament Leyla Zana and three other members of parliament of Kurdish origin were sentenced to fifteen years in prison for having spoken Kurdish at a parliamentary meeting and for membership of the PKK. On the basis of the judgment of the European Court of Human Rights which found that the legal proceedings were not consonant with the provisions of the European Convention on Human Rights, the case was reopened in April 2003. On 21 April 2004, the judgment was upheld, on the same grounds, but in June 2004 an appeal court ordered that they be released pending the outcome of the case on appeal.

25 It should be noted that a country like France has not signed the Convention either and that the Netherlands has signed but not ratified it.

Equality of women in 2004 is now more firmly anchored in legislation. In practice, the position of women – more highly educated women in particular and especially in the large cities – can withstand criticism. Further improvements are also anticipated.²⁶ Changes to the criminal law have been proposed which will make it possible to combat violence against women more effectively. In practice, however, the situation remains worrisome and many women live in a culture of violence. One-third to half the women in Turkey are victims of domestic violence. Hundreds of thousands are beaten, tortured, killed or forced to commit suicide.²⁷ Violence against women denies them a number of the most important human rights such as the right to health, the right to work and the right to education. Application of the appropriate legislation against such violence falls short and the authorities frequently do not treat complaints seriously.

III.3 The role of the army

The armed forces have played an important role in Turkey's development and modernisation ever since Atatürk's revolution and have been a stabilising force in the country's political relations. They have however also contributed to what, until recently, could be characterised as the closed character of the Turkish political system, which is not very compatible with attempts to create a pluralist open democracy. Stated briefly, the relationship between the civilian and military components of society has raised obstacles to democratisation. Partly because of this, a critical mass of socioeconomic interest groups and non-governmental organisations, an important condition for such democratisation, has not been able to develop.

Nonetheless, as stated in Chapter I, reform is moving forward quickly, public support is strong and the army is not standing in the way. Just the opposite, in fact. Senior army officers have agreed to their role being curtailed which, in the Turkish context, can be termed revolutionary. An important indication of how the army's role has been curtailed is its acceptance on 8 May 2004 of a constitutional amendment which provides that, starting in 2007, parliament will have control over the military budget. The army has also agreed to its representatives being removed from the supervisory Councils for Education and the Media and to the abolition of the state security courts. The role of the Secretary General of the National Security Council has also been limited. Whereas this organ once played an important role through the exercise of its power to demand information from all authorities at any time, the law now assigns only a supporting role to the Secretary General. In addition, the law now states that the post of Secretary General of the National Security Council can be held by a civilian.²⁸

Here again, everything will depend on the implementation of the reforms that will make it possible to curtail the influence of the army, which was often exercised unofficially.

26 Turkey is one of the few Islamic countries which have signed and ratified the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (in 2002).

27 See the Amnesty International report 'Turkey: Women Confronting Family Violence', AI Index: EUR 44/0013/2004' of May 2004.

28 The first appointment after the new regulation was still from the military.

III.4 Conclusions

The government has introduced comprehensive reforms which have produced far-reaching changes in the political and legal systems and has taken significant steps towards ensuring their effective application. Some of these have great political consequences because they apply to sensitive areas in the Turkish context: freedom of expression, freedom to demonstrate, cultural rights and civilian control of the army.²⁹

Further reforms are needed, in that legislation on some points must still be amended if it is to be brought into line with internationally accepted rules and norms. Amendments are needed, for example, in respect of cultural rights and further improvement of the efficiency and independence of the judiciary. One point of concern remains implementation as the flood of reforms makes this slow and uneven. In view of the great many statutory reforms, adapting lower level legislation is proving difficult. The senior political and army echelons support the reforms and encourage proper implementation but such implementation at lower and intermediate level frequently lags behind. The powerful tradition-minded bureaucracy is still often firmly opposed to change. Proper implementation of the reforms is necessary since, in practice, the human rights situation is not up to the standards of the European Union. Conversely, changes are taking root slowly but surely: police treatment of people in pre-trial detention remains a source of concern but less so than a few years ago. Even organisations like Amnesty International note that the reforms are starting to have an effect on the ground. Still, one must conclude that quite some time will be needed before the human rights situation and democratisation in Turkey fully meet the political Copenhagen criteria. At that point, it may become apparent whether curtailing the role of the armed forces has had unanticipated negative consequences for the favourable developments Turkey has experienced as a secular state since Atatürk's revolution.

²⁹ See p. 43 of the European Commission's 2003 progress report.

IV The economic outlook

IV.1 What did the AIV say in 1999?

In 1999, the AIV noted that the Turkish economy had the features of a market economy because the country had functioning institutions, with a statutory framework geared to the operation of the market, a dynamic private sector and liberalised regulations on trade. It noted that the economy was geared to the world market and had the capacity to adapt to international developments. The AIV also pointed out that ever since the 1995 customs union, Turkey had been introducing reforms with a view to satisfying the EU's economic criteria and adopting the *acquis*. This notwithstanding, Turkey had still not attained the degree of macroeconomic stability required for participation in the internal market of the European Union without distorting it. The structural problems which characterised the Turkish economy, rampant inflation in particular, were due primarily to ongoing budget deficits caused by poor tax collection, the generous organisation of the social security system, deficient structure of the financial sector and public enterprise deficits. The resulting economic instability was one of the reasons for the low level of foreign investment. Attempts to reform the economy failed because of political instability.

IV.2 A look at the economy nonetheless?

The economic Copenhagen criteria will not be used as a yardstick by the European Council for its decision in December 2004. The AIV will however examine the economic situation because it forms the background against which the decision will be taken. This makes the economic crisis of 2001 and its consequences an important factor. A relevant question in this respect is what impact accession would have on the economies of the European Union and Turkey. Here too one must review the extent to which the government is honouring its promises. As with the other Copenhagen criteria, there is the question of whether a gap exists between the planned reforms and the reality of the situation.

IV.3 Improvement over 1999?

In 2001 the Turkish economy went into a tailspin. Until then, Turkey had been a country with a medium-sized debt. In that year however its domestic and foreign debt rose dramatically. In 2002, the International Monetary Fund (IMF) provided large-scale financial assistance linked to a programme of reform.³⁰ Both the previous and current Turkish governments made solid commitments to the IMF programme and are implementing important reforms which have led to marked macroeconomic improvement. The economy is growing rapidly and inflation has fallen to less than 10% for the first time in decades.³¹ The government has rebalanced the budget and, in 2003, had a surplus of 5% of Gross National Product (GNP) before interest payments. The drop in inflation raises the prospect of lower interest rates and hence a reduction in the enormous interest payments on the government debt which meant that the government deficit in

30 Turkey is now the second largest IMF debtor country, after Brazil but before Argentina.

31 For the first time, inflation (consumer and producer) fell to less than 10% in May 2004.

2003 was still about 11% of GNP. Government debts fell from 91% of GNP in 2001 to 71% at the end of 2003. Nonetheless, they remain very high.³² These debts heavily mortgage future economic development and keep the economic climate volatile and unpredictable. Although budget discipline has much improved, the quality of the government budget remains a source of concern, considering, among other things, the sorely needed investments in education and infrastructure.

Other structural obstacles also impede proper functioning of the market economy, and further improvement in future economic growth must therefore be based on progress in lifting them and stabilising the economy. The government is making efforts to achieve this goal and, with the support of the IMF and the World Bank, is working on privatising inefficient public enterprises and reforming the banking sector to make it easier for small and medium-sized businesses to secure loans for development and to release additional funds for the investment required in the economic structure. The government is also working to strengthen legislation, oversight and the administration of justice. Deficiencies in those areas – compounded with the problem of macroeconomic instability and corruption – are the reasons why Turkey attracts so much less foreign direct investment than comparable countries.

Another issue is the unhealthy interrelationship between governmental, semi-governmental, military and private institutions which limits proper functioning of the market economy and forms an impediment to appropriate crisis response. The government must withdraw as an omnipresent player in the economy and become an impartial regulator. Such a transition is already under way but is not yet fully realised. The army plays a prominent role in the economy if only because, to date, the huge defence budget has not been subject to democratic control.³³ There is an extensive formal and informal network of military economic influence. The army's pension fund, for example, owns an important bank and retired generals are members of the boards of directors of many large companies. A positive aspect of the army's important role in economic life is the fact that it enjoys a good reputation because it is not corrupt.

IV.3.1 Migration flows?

Economic modernisation and the concomitant reduction in economic instability are hugely significant because of their relationship to estimates of future migration flows. Migration, certainly within the EU, will most likely evolve into economic migration and, in turn, will be greatly affected by economic crises. Concern about large immigration flows from Turkey once the country has joined the European Union and the borders are open is the very reason that several EU countries are hesitant about the prospect of Turkish membership.

In this respect, several significant factors must be kept in mind. In Turkey, 35% of the workforce is still engaged in agriculture. Even in Poland, the most agrarian new member state, the figure is 'only' 19%. The European Union average is 4%. Furthermore, per capita income in Turkey is only 10% of the EU average, which means that if Turkey accedes to membership under prevailing conditions, it would be the poorest EU country

32 Comparable figures are, for example, France 4.1% and Poland (in 2002, most recent available figure) 5.1% of GNP.

33 Control by parliament is planned to begin in 2007; see also Chapter III.3.

by far.³⁴ It is also important to note the existence of large 'migration paths' from Turkey to Western Europe, to Germany in particular. This can be explained by the fact that Germany already has a very large Turkish community which exerts a great pull on many compatriots. As noted, Turkey's economic history is one of serious instability. These factors mean that the country's rapid accession to the Union might lead to undesirable migration flows. Although these are difficult to predict with certainty, it is essential that Turkey first carry through the difficult restructuring in order to ensure that accession does not degenerate into an irresponsible gamble which will drain it dry and destabilise the old European Union.

IV.4 Still much work to do

As Turkey moves toward membership of the European Union, it will be necessary to remove the obstacles outlined above. There is little debate about the economic advantages of Turkish membership but a great deal about the scope of those advantages. The macro-effect of accession on the European Union will be small in view of Turkey's current GNP which is only 2% of the Union's. The Netherlands Bureau for Economic Policy Analysis (CPB) estimates that the additional growth in European Union GNP after accession will be positive but negligible.³⁵ At micro-level, however, the positive effect of regional trade flows, foreign investment in Turkey and accelerated convergence of the Turkish and European financial markets might prove significant.

The big question is whether the reforms will lead to the real, sustained long-term improvement which is important for satisfying the economic Copenhagen criteria and for assessing the potential financial and economic effects – positive or negative – on the European Union. In the short term, there is justification for assuming that a positive decision by the European Council in December 2004 will have a positive economic effect on Turkey and will encourage change. Another positive effect might be that the prospect of European Union membership will make it easier for the Turkish government to carry through the painful structural reforms that are still necessary. Still, it is not unreasonable to conclude that these reforms are of a type and scope that can be achieved only in the longer term. Satisfying the economic and political Copenhagen criteria will take a long time. It goes without saying, therefore, that membership of the European Union is not possible until the country builds up a better financial and economic record.

34 See Michael S. Teitelbaum and Philip L. Martin 'Is Turkey Ready for Europe?', *Foreign Affairs*, May/June 2003, volume 82, no. 3, pp. 97-111.

35 'Assessing the economic implications of Turkish accession to the EU', CPB document 56, March 2004. It must be noted that the study is based on figures from 2001, an economically disastrous year, and also that positive effects such as economics of scale were not included in the study.

V Conclusions

Since the European Council decision of 1999, Turkey has been a candidate for membership of the European Union. In view of the time which has elapsed, the question of whether Turkey can, in principle, become a member has already been answered. The European Council has never sent out any other signal and Turkey can count on joining the Union. In several other cases accession requests were rejected in advance, Morocco being an example.³⁶

The AIV agrees. The question is now whether negotiations can begin. The AIV has based its answer on several premises:

1. Turkey can count on not being treated differently from the member states that acceded recently. As noted, this principle was adopted by the December 2002 European Council which concluded that for Turkey to accede to the Union, it must satisfy the same criteria as the other candidate states.
2. Turkey's move to democratisation and full compliance with the political Copenhagen criteria will take time and, as recent history has shown, may experience setbacks.
3. The European Union must learn from the mistakes it made during the last accession negotiations even though this may be at odds with the first principle.³⁷ In this respect, the European Union has not fully played by its own rules and has lost credibility. The situation of the Roma in some of the new member states does not meet the European standards for dealing with minorities but was not an obstacle to starting negotiations or to accession. Although the economic criteria and the adoption of the *acquis* will not be a yardstick for the decision in December 2004, they will form the background to that decision and will be on the agenda. Here too, the European Union made mistakes from which lessons must be learned. During the negotiations on adoption of the *acquis*, the Union agreed that chapters would no longer be completed on the basis of results achieved but of promises to achieve them in time. The remedy of introducing supervisory mechanisms and safeguard measures proved ineffective because, in practice, this could only be done under great political pressure.
4. Turkey's size and position mean that, during the negotiations, the European Union will be confronting different risks from those it faced with other new member states. The Union's absorptive capacity, effectiveness and governability will come into play more than at the time of the last enlargement.³⁸ In 2004, Turkey has a population of over 68 million but, in time, it may exceed that of Germany, currently the largest EU member state. The negotiations over a new Constitutional Treaty for the European Union showed how difficult it is to resolve many issues, institutional ones in

36 In 1987, Morocco submitted a formal request for membership which was rejected with the argument that it was not a European country and did not satisfy the requirements for membership of the European Community.

37 The European Commission has announced that in autumn 2004 it will publish a communication on the lessons to be learned from the last enlargement.

38 During the June 1993 Copenhagen European Council, the following criterion for accession was formulated: 'the EU must be able to take in new members without obstructing the European integration process'.

particular. And then there is the question of whether the reforms will be sufficiently far-reaching to guarantee that the European Union remains governable. An enlargement with Turkey will not only put the Union's institutions to the test but will also require radical changes to programmes like the Common Agricultural Policy and the Structural and Cohesion Funds.³⁹

Before making recommendations on the basis of these premises, the AIV would first deal with the question of Cyprus. A satisfactory solution to this problem must be found before Turkey can be admitted into the European Union; it cannot be a prerequisite for a decision on opening negotiations. In its previous report, the AIV recommended that the member states and the European Union should use political and financial instruments to deal with Greece's veto policy. As mentioned above, Greece's role has shifted. Still, *mutatis mutandis the AIV recommends that, five years on, the Dutch government should urge the European Union to do everything possible to circumvent a possible veto by Greek Cyprus, and thus ensure that the integration process between Turkey and the European Union is not frustrated.*

The AIV has noted in this report that there must be a satisfactory solution to the Cyprus question before Turkey can accede because, to put it mildly, it would be most peculiar if one member state had a 35,000-strong military force stationed on the territory of another member state without its express consent. For a solution to the Cyprus question before Turkey joins the European Union, *the AIV recommends that, despite the failed referendum of 24 April 2004, attempts should be made to develop initiatives in keeping with the Annan plan.* This is how to pave the way for a gradual withdrawal of Turkish troops.

It is not the purpose of this updated report to further elaborate on possible solutions. The dust of the referendum has barely settled, and the effects of EU economic support to 'Turkish' Cyprus, and of the movement of persons – tourists in particular – between the two parts of the island, still cannot be felt. There is also ample time to work on possible improvements to the Annan plan. Suffice it to point out that the European Union member states have the obligation to apply pressure so that a workable resolution will be found.

Accordingly, the AIV recommends that the EU member states continue to apply appropriate pressure in order to come up with a workable solution which, as Turkey must understand, will also have consequences for its military force on Cyprus.

We now come to the central question: what are the AIV's recommendations to the Dutch government about opening accession negotiations with Turkey?
On the basis of the four premises indicated above, the AIV recommends that in European Union policymaking, the Dutch government should work to ensure that the EU

- 1. informs Turkey that negotiations will begin within 24 months at the most, or earlier if possible, if it meets several specific action points based on the political Copenhagen criteria not satisfied to date. These are concrete, clear matters. The European Council should decide in December 2004 that negotiations can begin and delegate oversight power to the European Commission in respect of progress on*

³⁹ In its 2003 progress report to be released on 6 October 2004, the European Commission will consider and/or make projections about the possible consequences of Turkish membership for the institutions, finances and programmes of the European Union.

these action points. It will then be up to the European Commission to determine when to begin actual negotiations. Such a decision will make the European Union more certain that Turkey will satisfy the political Copenhagen criteria at the outset of negotiations. It will also send a positive signal to Turkey that no further Council decision will be needed. A decision in December 2004 will put the start of negotiations in Turkey's own hands within the very near future. A list of concrete action points is given after point 6 below;

2. *makes it clear to Turkey in advance that membership will take considerably more time than was the case with previous accession states.* The move towards democratisation and satisfying the political Copenhagen criteria requires time and, as recent history has shown could face setbacks. In addition, unprecedented economic differences must be overcome and the European Union's absorptive capacity will be tested;
3. *does not set a date for accession.* This would be unfair not only because false expectations would be created but also because caution would be subordinated to artificial, politically charged time pressures, putting the accession negotiations under unnecessary strain;
4. *builds in benchmarks for the Copenhagen political criteria. The AIV recommends that in December 2004 the European Union should decide to keep a 'benchmark chart' when negotiations begin. Emphasis must be on measuring actual implementation of legislation.* It should be noted that such rules must apply not only to Turkey but to all candidate states;
5. *sets up the benchmarks in such a way that negotiations will be suspended whenever one of these indicates that Turkey has not (yet) achieved the agreed objectives. Membership is never irreversibly automatic once negotiations have begun but always the common goal.* In any case, the benchmarks would give the European Union and Turkey the opportunity to make sure that no gaps exist or still exist between legislation and its implementation;
6. *clearly states that the chapters of the acquis must be truly and successively completed during the negotiations phase and that the Union will not be satisfied with mere promises and undertakings. The European Union must therefore play according to its own rules.*

In point 1, the AIV recommends that negotiations should begin once Turkey has satisfied several concrete action points so that all parties know that the Turkish government is maintaining the pace of implementation, too. The European Commission must ensure progress on these action points. *Specifically, the AIV recommends that Turkey carries through on the following:*

- to demonstrate in the practice of law enforcement and actual measures that the (new) legislation on freedom of expression is not intended to impose restrictions other than those permitted by the European Convention on Human Rights and Fundamental Freedoms (ECHR) and to guarantee that effective application thereof can be enforced through the legal system;
- to lift the prohibition on associations championing internationally recognised cultural rights;
- to withdraw the reservation entered to the UN International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights with respect to the right to education and the rights of minorities;
- to show in practice that it is serious about effective access to radio and television broadcasts in languages other than Turkish;
- to effectively combat torture and cruel and inhuman treatment and, if these continue, to show in practice that it will guarantee effective prosecution;

- to bring government supervision of associations and non-governmental organisations in line with Council of Europe case law on freedom of association and assembly;
- to show in word and deed that it is serious about eliminating violence against women and is doing everything to prevent, identify and prosecute such violence;
- to ensure that the proposed amendments to the criminal code which make it possible to combat violence against women more effectively are in fact approved;⁴⁰
- to actually dismantle the state security courts;⁴¹
- to stipulate in law that the length of proceedings must be made consonant with the standards set in the ECHR;
- to fully adopt the recommendations directed at Turkey by the ILO and the Council of Europe in respect of the rights of employees and trade unions.

These points have been formulated in a way that provides objective insight into the extent to which the Turkish government is able to turn intentions and legislation into deeds. *The AIV recommends that the European Commission draft periodic reports on progress in carrying out these points. If the European Commission finds that they have been implemented, the negotiations will begin in December 2006, or earlier if possible, that is, as soon as Turkey has carried through on these points.*

In conclusion, the AIV recommends that the European Union and the national governments go to great lengths to strengthen support for Turkey's accession. As already noted, there are hesitations in several countries of the Union about the very idea of possible Turkish membership, not only because of the potential for large flows of migrants from Turkey but also because of the idea that Turkey 'is different'.⁴² Despite the European Council's repeated promises to Turkey about membership, no serious attempts have been made to inform the public about the why and the what of these decisions and the consequences they may have.

40 See the Amnesty International report of May 2004, 'Turkey: Women Confronting Family Violence'.

41 The earlier observation that the court had ruled in a recent case that no further cases could be brought before the state security courts because they had been disbanded by the latest constitutional amendment is appropriate here also.

42 See also Annex II which shows that the Netherlands had some hesitations about Turkish membership.

Annexes

Overview of the human rights situation in 1999 (based on the AIV advisory report) and progress since then, to 30 June 2004

1999 REPORT

SITUATION IN 2004

General**General**

Turkey may be expected to make an unambiguous statement in favour of the Copenhagen criteria and show its willingness to accept them.

Turkey has unequivocally accepted the Copenhagen criteria.

1. Turkey is not party to the Framework Convention for the Protection of National Minorities of the Council of Europe and recognises only religious minorities.

1. Turkey is still not party to the Convention and continues to maintain its own, overly narrow interpretation of the Treaty of Lausanne 1923.

2. The role of the state security courts must be scaled back.

2. In May 2004, a constitutional amendment was passed by the Turkish parliament, abolishing the state security courts.

3. There must be full implementation of the judgments of the European Court of Human Rights and the introduction of measures to prevent further human rights violations of the kind identified by the Court.

3. The government has committed itself to full implementation. An important case in this context is that of Leyla Zana and three other members of parliament, who were sentenced to 15 years for supporting the PKK, a judgment that was subsequently quashed by the ECtHR. On 21 April 2004 a special state security court upheld the sentence, but in June 2004 a Turkish court of appeal ordered their release, pending the hearing of their appeal against the security court judgment.

4. Guarantees must be in place, stipulating that trials be conducted in public and defence counsel be given immediate and confidential access to suspects, regardless of the type of custody.

4. Detainees now have the right to consult with an attorney after 48 hours in custody. This is inconsistent with the generally accepted European norms on this issue.

5. Torture and cruel, inhuman or degrading treatment of prisoners must come to an end; this must be achieved through a strict prosecution policy for

5. Legislation conforms to the relevant norms of international law. Despite the zero-tolerance policy, cases of cruel and inhuman treatment, and

those guilty of such conduct and implementation of the recommendations of the UN Committee against Torture and the European Committee for the Prevention of Torture. In 1999 the latter body reported that the situation is looking up, but that torture still occurs and the implementation of the circular requiring a zero-tolerance policy is far from complete.

even torture continue to occur in practice. However the reform that was cautiously launched in 1999 has slowly begun to take hold.

-
- | | |
|--|---|
| 6. Turkey should become party to the Sixth Protocol to the European Convention on Human Rights, which mandates the abolition of the death penalty. | 6. Turkey is now party to the protocol. All that remains is for the Council of Europe to be notified. |
|--|---|
-
- | | |
|---|---|
| 7. Turkey must recognise and apply the right to peaceful demonstration, if necessary with protection. | 7. The existing restrictions on this right were relaxed in 2002 and 2003. Under current legislation, meetings and demonstrations can be banned only if there is a “clear and immediate threat that a criminal offence will be committed”. |
|---|---|
-
- | | |
|---|---|
| 8. Turkey must recognise and respect the freedom of religion, including the right to manifest religious beliefs in a peaceful manner. | 8. The legislative reforms since 1999 offer greater scope for this. |
|---|---|
-
- | | |
|---|--|
| 9. There must be complete respect for freedom of expression and freedom of the press, even in provinces with a Kurdish majority. This should include publications and radio and television broadcasts in Kurdish. | 9. Many restrictions on these freedoms have since been struck from the Constitution and the relevant legislation. However there is still room for further liberalisation. The new legislation permits publications as well as radio and television broadcasts in Kurdish, and people have slowly begun to take advantage of the changed climate. |
|---|--|
-
- | | |
|--|--|
| 10. Protection should be provided for women in a vulnerable position, for example victims of marital abuse and violence. | 10. Various measures have been taken to improve this situation, but problems remain, since a permanent solution requires a change in mentality and attitude. |
|--|--|
-
- | | |
|--|--|
| 11. The European Union could help Turkey improve its record on employee and trade union rights, for example by providing training, etc. Once | 11. Turkey has taken the first steps toward improving employee and trade union rights. |
|--|--|
-

these rights have been secured, an attempt could be made at some stage to tackle more sensitive subjects in a similar manner.

12. Turkey must break the taboo on acknowledging the existence of minorities. (Turkey recognises only religious minorities for fear of eroding Turkish unity.)

12. Turkey still recognises only religious minorities.

13. There should be the prospect of a solution to the armed conflict in south-eastern Turkey; the Turkish government and the PKK must end this conflict.

13. In 1999 the armed conflict between Turkey and the PKK effectively came to an end, and in 2002 the state of emergency was lifted in the last province in south-eastern Turkey.

In this context it is also important to note that in 2003 the Turkish parliament ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of the United Nations. However Turkey entered reservations to these Covenants on the right to education and the rights of minorities. Turkey has also not yet signed the Framework Convention for the Protection of National Minorities of the Council of Europe.

Public opinion on EU enlargement

In chapter IV.3.1 and in the conclusions, the AIV registers a degree of hesitation among the countries of the European Union and their populations about Turkey's possible accession to the European Union. The Dutch situation is the subject of unpublished data compiled by the Social and Cultural Planning Office (SCP). With the permission of the SCP, the AIV has been able to make liberal use of these data, which are reproduced below.

Responses from the Dutch public, aged 16 and over, (in percentages) in the spring of 2004 to the question: "...and regarding the enlargement of the European Union to include new member states. Which of the following standpoints is closest to your own?"

	AGE GROUP				LEVEL OF EDUCATION*		
	All ages	16-34	35-54	55+	VBO MAVO	HAVO VWO MBO	HBO WO
The European Union must expand further to include all candidate countries, including Turkey, provided they meet the criteria for admission.	13	13	14	10	9	12	22
The European Union must expand further to include the European candidate countries, provided they meet the criteria for admission.	22	24	25	16	17	25	29
After the European Union is enlarged this year with the addition of 10 new member states, it should cease expanding for quite some time.	18	17	15	23	18	18	17
The European Union should have stayed limited to the current 15 member states.	17	16	17	17	18	14	18
It would have been better if the European Union had stayed smaller.	14	11	14	16	16	14	9
Don't know	17	20	16	17	23	17	5
(N = 100%)	(2239)	(722)	(869)	(648)	(1035)	(704)	(494)

* Key to abbreviations: pre-vocational education (VBO), junior general secondary education (MAVO), senior general secondary education (HAVO), pre-university education (VWO), secondary vocational education (MBO), higher professional education (HBO), university (WO)

Source: Social and Cultural Planning Office, A Study of Expectations, 2004; weighted results.

List of abbreviations

AIV	Advisory Council on International Affairs
AKP	Justice and Development Party
CPB	Netherlands Bureau for Economic Policy Analysis
DSP	Democratic Left Party
EC	European Community
ECHR	European Convention on Human Rights
ECU	European Currency Unit
EEC	European Economic Community
EU	European Union
GNP	Gross National Product
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organisation
IMF	International Monetary Fund
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
PKK	Kurdistan Workers' Party
SCP	Social and Cultural Planning Office
UN	United Nations

Addendum

THE POSITION OF THE EUROPEAN UNION ON TURKEY FROM 1959 TO JUNE 2004

Foreword

This addendum describes developments in relations between the European Union and Turkey from 1959 to the present day, with an emphasis on the most recent developments surrounding the enlargement of the European Union and its position on Turkey. It contains the following five sections: 1. Friendly relations following initial problems; 2. Losing sight of the goal; 3. The Turkish application of 1987 and partnership with the Mediterranean; 4. The customs union and receding prospects of membership; 5. Turkey on the threshold? 6. A candidate country after all.

1. Friendly relations following initial problems

1959

On 31 July 1959, the government of Turkey sought an association agreement with the European Economic Community (EEC), intended as a step towards future membership. A major reason for wishing to join the common market was the fact that the biggest single slice of Turkish foreign trade (over 30%) was with the six Member States of the EEC, from whom Turkey also received financial assistance. An additional reason was the inclusion of agriculture in the Treaty of Rome, at a time when this was the largest sector in the Turkish economy. The Turkish application for association with the EEC was also politically motivated: it came just four days after an application from Greece.

Because of the problems surrounding the Greek application, the Council of Ministers hesitated in the first instance to enter into negotiations with Turkey, given that its economy was in an even worse state than that of Greece. Turkey responded by consistently emphasising the importance of its geopolitical position to the EEC. The words of the Netherlands' explanatory memorandum on the later association agreement (of 1964) shows that this was regarded as a major argument: "Turkey's membership of NATO and the strategically exposed geographical position of the country are pressing reasons for enabling Turkey to establish closer ties with the free West. An association between Turkey and the EEC, bringing benefits to Turkey, could create opportunities for this". Eventually, on 11 May 1960, the Council of Ministers authorised the European Commission to start negotiations, which were then however considerably delayed by that year's military coup in Turkey.

1963

The association agreement between the EEC and Turkey (the Ankara Agreement) was eventually signed on 9 September 1963. It provided for three phases of development:

1. An initial '*preparatory phase*' to enable Turkey to work towards economic recovery and to achieve a sufficiently solid position to be able to assume the responsibilities associated with the gradual establishment of a customs union. The Community was to provide commercial and financial assistance and Turkey was offered tariff quotas allowing it to sell a number of Turkish products on the European market at reduced tariff levels. An association council was to supervise the implementation of the agreement. This body was to be made up of members of the Turkish government on the one hand and representatives of the European Commission, the Council of Ministers and Member State governments on the other. The association council was to take its decisions by unanimous vote and had powers to settle all disputes connected with the association.

2. The second or '*transitional phase*' was designed to enable the establishment of a customs union between Turkey and the Community. The 1963 agreement had done no more than lay down a framework for the movement of goods and other economic transactions. Institutional powers were now to be extended, with the association council being given additional authority in the second phase to take community action to achieve one of the aims of the association agreement without any explicit authorisation for this being contained in that agreement. The association council was also to take responsibility for contacts between the Economic and Social Committee and the other bodies of the European Community on the one hand and counterpart Turkish bodies on the other. Practical arrangements for the transitional phase were to be decided by the association council.

3. In the '*final phase*' of the association, the achievements of the first two phases were to be expanded. The customs union which was gradually being built up in this way would also require ever closer coordination between the economies of the various parties to the agreement.

1964

The association agreement came into force on 15 January 1964. Tariff quotas were fixed during the first meeting of the association council.

1965

During the association council's second meeting, a parliamentary association committee was appointed. Its membership consisted of 15 elected representatives from the Turkish parliament and 15 members of the European Parliament.

1969

Meeting of the parliamentary association committee in Paris: the committee felt that relations between the EEC and Turkey should take account of the fact that Turkey was an associated country that eventually expected to become a member of the Community. The European Parliament adopted this recommendation in its resolution of 30 June 1969.

1970

The second phase of the association agreement - the process of gradual integration between the Turkish economy and the common market - began with the signing of an additional protocol to the agreement intended to lead to the gradual development of a customs union. The deadline for the harmonisation of the Turkish economy was to be 12 years, but that period could be extended to a maximum of 22 years. The protocol encompassed the entire economy with the exception of the agricultural sector. The reason for this was the sensitivity of the subject within the European Community. Agriculture, it was decided, should be considered only at the end of this phase (in other words, at the end of the 12 to 22-year period). The protocol does, however, include a detailed section on the free movement of labour, to be achieved between 1976 and 1986.

1973

The complementary protocol to the association agreement between the European Economic Community and Turkey relating to the accession of the new Member States (the United Kingdom, Ireland and Denmark) came into force, as did the additional protocol of 1970. This marked the start of the second phase of the association agreement.

2. Losing sight of the goal

1974

On 3 July 1974, Turkey intervened in Cyprus and occupied the northern part of the island reportedly to protect the Turkish-Cypriot community against Greek/Greek-Cypriot efforts to achieve *enosis* (the union of Cyprus and Greece). Relations between Turkey and the European Community were unaffected by the military intervention: relations within the framework of the association continued as normal. As regards the association agreement between the EEC and Cyprus, the EEC took the view that its benefits must accrue to the entire Cypriot community. Not so much the occupation of Cyprus but economic developments brought a deterioration in relations between Turkey and the EEC in the mid-seventies. The association found itself in crisis following an extremely serious economic crisis in Turkey. A request from Turkey for concessions on a number of Mediterranean products prompted the EEC to adopt a protectionist stance. Then in 1977 Turkey suspended the reform of its tax and tariffs systems which was intended to bring them into line with the economic policies of the European Community. However, perhaps the most crucial factor in the hardening of relations was the refusal of the EEC Member States to introduce freedom of movement for Turkish workers. The period of labour migration ('guest workers') was over and many Member States were facing rising rates of unemployment.

1980-1985

In February 1980, the association council decided to revive the agreement. A number of decisions were taken concerning cooperation in social, economic, technical, financial and agricultural fields. However, the revival was soon quashed by the Turkish military coup of September 1980. The institutions of the European Community called for a rapid reinstatement of democratic institutions and for respect for human rights. In the light of assurances from the military authorities, relations under the association agreement continued for a time but financial assistance (at this period amounting to around 647 million ECU) was suspended.

In 1981, negotiations were concluded on a further financial protocol but the political situation in Turkey made the Community institutions delay the completion of formalities for its approval. The Community continued to emphasise the importance of parliamentary democracy and respect for human rights. Turkey announced that, following the restoration of democracy, it would wish to proceed as quickly as possible to membership of the EEC. However, restoration did not come immediately and this caused delays in the operation of the association agreement. On 1 January 1981, Greece acceded to the Community, adding a new dimension to the issue of Cyprus and relations with Turkey within the EEC.

In 1982, the association council met only once. It did so at the request of Turkey and met at ambassadorial level.

In 1983, relations between Turkey and the Community deteriorated still further and were eventually limited to the routine operation of the association agreement. The stagnation was due not only to the freezing of relations as a consequence of the political situation within Turkey, but also to the tension between Greece and Turkey. On 15 November 1983, the Turkish Republic of Northern Cyprus declared independence but received recognition only from Turkey. The European Community regretted the situation, especially in the light of earlier attempts by the United Nations to bring the two parties to the negotiating table. In line with the position of the United Nations, the Community

emphasised the unity, independence and sovereignty of Cyprus and withheld recognition from the Turkish Republic of Northern Cyprus.

In **1985**, there was some improvement in relations between Turkey and the European Community. Turkey promised to raise the imposition of martial law and European representatives were allowed in to assess the human rights situation in the country. This continued to give cause for concern and hence to impede the resumption of normal relations.

3. The Turkish application of 1987 and partnership with the Mediterranean

1986

In 1986, Spain and Portugal acceded to the EC. This gave their populations the opportunity of participating in the free movement of labour within the Community. This was still denied to Turkey's workforce because the clause of the association agreement providing for its introduction by 1 December 1986 still had not been implemented. In 1986, however, the dialogue between the European Community and Turkey was resumed in the association council, meeting at ministerial level for the first time in 6 years.

1987

Normal relations were restored in other respects too: negotiations were completed on a protocol of adjustment to the association agreement to take account of the accession of Spain and Portugal and an economic protocol was concluded. In addition, development and other projects to a value of 10 million ECU were launched in Turkey and on 14 April 1987 Turkey applied for membership of the European Community.

1988

Protocols were attached to the association agreement in relation to the accession of Greece, Spain and Portugal. The association council was henceforth to include representatives of the new Member States, including Greece.

1989

On 17 December, acting under article 237 of the Treaty, the European Commission issued an 'avis' concerning Turkey's application for membership. It stressed that priority was given to achieving the aims of the Single European Act and that it was undesirable to start accession negotiations with any country before 1993. In addition to this general point, the Commission saw a number of specific problems associated with the accession of Turkey in particular. Firstly, Turkey's economic position was weak. Secondly, there were the political differences between Turkey and an existing Member State of the European Community (Greece, which was openly opposed to Turkish membership). Finally, the problems concerning human rights, minorities and democracy were still a major obstacle to accession. Nevertheless, the Commission still thought Turkey might qualify for membership at some point in the future and therefore advocated the strengthening of relations under the association agreement.

1990

On 3 February 1990, the conclusions reached in the European Commission's avis were endorsed by the Council of Ministers, which agreed that ties with Turkey should be strengthened. In that light, the financial protocol – signed back in 1981 – now came into force. The Commission suggested that the customs union should be completed in

1995 and that cooperation between Turkey and the European Community should be expanded in the industrial and technological sectors and encouraged in political and cultural fields.

1991

The association council met in 1991 for the first time since 1986 and discussed the further development of relations under the association agreement.

1992

The Lisbon European Council stressed the importance of Turkey's role in the current political situation in Europe and decided to step up cooperation by means of top-level political dialogue. At the same time, negotiations started on the establishment of a customs union between the European Union and Turkey. The Lisbon European Council also discussed the applications from Turkey, Cyprus and Malta and decided that they should be assessed on their merits.

The Edinburgh European Council applauded the positive results of the association council's meetings with Turkey. It called on the Council of Ministers to continue the development of appropriate and specific relations with Turkey in line with the policies decided in Lisbon.

1993

The Copenhagen European Council established the accession criteria for countries wishing to join the European Union. They were to possess stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. They must have a functioning free market economy and the capacity to cope with economic competition and market forces within the EU. In addition, they had to be able to take on the obligations of membership, including adherence to the aims of political, economic and monetary union. The European Council formulated these criteria principally with an eye to the candidate states in Central and Eastern Europe, but it was clear from them that Turkey could not yet qualify for membership. In this respect, the European Council confined itself to calling on the Council of Ministers to ensure that the policies established by the Lisbon European Council concerning closer cooperation and the development of relations with Turkey would actually be implemented. This was motivated by the memory of the disappointment following the 1964 association agreement and the 1970 protocol (regarding the establishment of a customs union).

1994

The human rights situation in Turkey had deteriorated. Despite the concern about this within the European Union, a number of advances were made:

- the Commission approved the directives for the completion of the customs union;
- the Corfu European Council gave the go-ahead for the Euro-Mediterranean Partnership, intended to reinforce the European Union's policies on the Mediterranean region. The new Partnership included Turkey and was designed to help create a free trade zone encompassing the European Union, the countries of Central and Eastern Europe and the associated countries around the Mediterranean.

The Essen European Council emphasised the strategic importance of the Mediterranean region to the European Union. It confirmed that the Union was prepared to support the efforts of the countries around the Mediterranean to turn the region into a zone of peace, stability, welfare and cooperation. In order to do this, it would establish a

Euro-Mediterranean Partnership, come to appropriate agreements and gradually strengthen relevant trade relations (on the basis of the outcome of the Uruguay Round and with an eye to the changing priorities of the Community). It hoped that the planned Barcelona Conference the following November would lay the foundations for a Euro-Mediterranean Partnership and it welcomed the *rapprochement* between the European Union and Turkey.

1995

The European Parliament agreed to the completion of the customs union but felt that the European Union should keep a close eye on human rights developments in Turkey. The European Commission was to report regularly to the parliament on this issue. In March, the association council reached agreement on the conditions for the establishment of the customs union.

On 28 November the European Union and twelve Mediterranean countries (including Turkey), meeting in Barcelona, signed the declaration on the Euro-Mediterranean Partnership. This created a framework for political, economic, cultural and social cooperation. Its two main objectives were:

- to support political reform and guarantee human rights and freedom of speech;
- to support economic and political reforms aimed at promoting economic growth, raising the standard of living and creating employment.

The Partnership was to consist of:

1. a multilateral dialogue between the European Union and its twelve Mediterranean partners on political, economic and social matters;
2. a series of Euro-Mediterranean association agreements;
3. closer cooperation between the European Union and the Mediterranean partner countries on social issues.

In principle, a Euro-Mediterranean Conference was to be held every year. The Partnership included not only the Member States and institutions of the European Union and Turkey, but also Morocco, Algeria, Tunisia, Egypt, Jordan, Israel, Syria, Lebanon, Malta, Cyprus and the Palestinian Authority.

The Madrid European Council pointed to the importance of the results achieved by the Euro-Mediterranean Conference in Barcelona (the 'Barcelona process') and called on the Council of Ministers and the European Commission to implement the Barcelona Declaration and associated work programme. It hoped that the 'spirit of Barcelona' would inspire the participants in the new Euro-Mediterranean association to continue to fulfil their collective responsibility of ensuring peace, stability and welfare in the region. The process was to culminate in the establishment of a Pact for the Mediterranean.

In laying down the political agenda for the next five years, the Madrid European Council pressed for continuing effort regarding the implementation of the existing policy of dialogue, cooperation and association with the Union's neighbours generally, and more particularly with Russia, Ukraine, Turkey and the Mediterranean countries. Support was to be given to the efforts of the Turkish government to strengthen democracy and implement economic reform in order to promote Turkey's closer integration into the transatlantic community.

The customs union between Turkey and the European Union came into force on 31 December 1995.

4. The customs union and receding prospects of membership

1996

According to the European Commission, the customs union was functioning well. However, little progress was being achieved in the process of democratic and economic reform and violations of human rights were still routine. In February the European Parliament condemned the human rights situation and reign of terror in Turkey. It expressed concern about the tensions between Turkey and Greece regarding various islands in the Aegean (which later in the year produced a near-crisis in relation to the islet of Imia). So long as Turkey maintained its refusal to take the conflict to the International Court of Justice, Greece continued to use its veto to prevent payment of the 375 million ECU to which Turkey was entitled under the customs union. In September, the European Parliament called on the European Commission to withhold the money destined for Turkey under the Barcelona process unless it was to be used to promote democracy, human rights and civil society (and not to swell the coffers of the Turkish government). The European Commission agreed not to disburse the money until it had consulted with the European Parliament.

During the Dublin European Council, the presidency was asked to maintain efforts to achieve an internationally acceptable solution to the situation in the Aegean and at the same time to liaise with the Turkish government with a view to calling a meeting of the association council in the near future. At the same time, the Council confirmed the importance that the European Union attached to the development of closer political and economic relations with Turkey. It regretted that a number of serious issues were still waiting to be resolved. The European Council welcomed the Turkish government's announcement that it intended to take steps to improve the human rights situation and stressed that Turkey must observe the highest standards in this respect if it wished to enjoy a close partnership with the European Union. The European Council urged Turkey to wield its influence to achieve a solution to the Cyprus conflict in line with the resolutions passed in the UN Security Council.

1997

At an informal General Affairs Council meeting held under the Dutch presidency (March 1997), it was suggested that a 'committee of wise men' might be appointed to open up discussion of the problems between Greece and Turkey in the Aegean. Although Greece and Turkey accepted the idea, the proposed committee never met. In April, the association council confirmed that Turkey qualified for membership but failed to agree on the disbursement of the 375 million ECU to which Turkey was entitled under the terms of the customs union.

On 15 July, at the Council's request, the European Commission announced a further development in relations between the European Union and Turkey. The Commission confirmed that Turkey qualified for membership and that it would be assessed on the basis of the same objective measures and criteria as other candidate countries. The announcement related to proposals for the consolidation of the customs union and the expansion of relations with Turkey into fields such as agriculture, human rights and humanitarian matters, combined with the resumption of the macro-economic dialogue, participation in Community programmes and cooperation in the field of justice and home affairs.

Agenda 2000, published in the same month, also addressed the question of Turkey. It included not only a description of the country's political and economic situation but also an appeal to Turkey to recognise its responsibilities for problems in the region and for the situation in Cyprus. At the same time, it offered assurances that the European Union would support Turkey in its efforts to establish closer relations.

The Luxembourg European Council decided to launch a European Conference which would bring together the Member States of the European Union and countries seeking to qualify for accession and sharing the values and the domestic and foreign policy aims of the Union. The Conference was to be a multilateral forum for political discussion. It would aim to address issues of general importance to the participants with an eye to the further development and intensification of cooperation in the fields of foreign and security policy, justice and home affairs, and other areas of shared interest, in particular relating to the economy and regional cooperation. The Council stressed that participation in the European Conference would enable Turkey and the Member States of the European Union to enter into closer dialogue and cooperation in areas of common interest.

The members of the Conference were to give a commitment to strive to achieve peace, security and neighbourly relations and to respect national sovereignty (as the principles on which the European Union was founded), and to respect the integrity and inviolability of the external frontiers and the principles of international law. They were also to commit themselves to settling territorial conflicts by peaceful means, in particular via the International Court of Justice in The Hague. Countries wishing to be invited to take part in the Conference would have to endorse these principles, respect the right of accession of every European country meeting the relevant criteria and be prepared to cooperate with the European Union in the project of creating a Europe which had put the divisions of the past behind it. The European Union's offer was directed primarily at Cyprus, the candidate states in Eastern Europe, and Turkey.

The Luxembourg European Council also decided to launch an accession process for Cyprus and the ten candidate states in Central and Eastern Europe. The fact that negotiations were starting simultaneously did not, however, mean that they would all conclude at the same time. The timing of conclusion and subsequent accession would depend both on the extent to which the individual candidate states complied with the Copenhagen criteria and on the Union's capacity to absorb new members. In that light, the European Council decided in 1998 to convene bilateral intergovernmental conferences to begin negotiating with Cyprus, Hungary, Poland, Estonia, the Czech Republic and Slovenia on the conditions for accession to the Union. Preparations would also be stepped up for negotiations with the other countries of Central and Eastern Europe.

The European Council confirmed that Turkey could eventually also qualify for accession to the European Union and that it would be assessed on the basis of the same criteria as the other candidate states. Although Turkey could not yet meet the political and economic conditions for accession talks to be a possibility, the European Council nevertheless felt that it was important to plan a strategy to prepare Turkey for accession by establishing closer ties with the European Union in all areas. This strategy should consist of:

- exploiting the full potential of the association agreement;
- deepening the customs union;
- implementing financial cooperation;

- changes in Turkish legislation and the adoption of the Union acquis;
- participation in various programmes and agencies (to be decided on a case-by-case basis).

The European Council cautioned that the strengthening of Turkey's ties with the European Union depended partly on the progress of Turkey's current programme of political and economic reform (in particular convergence of human rights standards and practices), respect for and protection of minorities, the establishment of satisfactory and stable relations between Greece and Turkey, the settlement of disputes (in particular via the courts, especially the International Court of Justice), and support for action taken under the auspices of the UN to achieve a political solution to the issue of Cyprus, based on the relevant resolutions of the United Nations Security Council. It asked the Commission to make appropriate proposals concerning future relations with Turkey.

Following the Luxembourg summit, Turkey felt that it had been passed over. Accession talks were being launched with countries which had applied for membership much later than Turkey, which had now been in the queue for more than fifteen years. Turkey did not even appear to feature in the group of countries qualifying for inclusion in a second round of accessions. Worst of all, in the eyes of the Turkish government, special additional requirements were being imposed for Turkish accession (as detailed above, concerning relations with Greece, the issue of Cyprus, observance of human rights and the protection of minorities). Ankara decided to respond by boycotting the first European Conference, to be held in London in March 1998.

1998

On March 4 1998, the European Commission issued proposals for a 'European strategy for Turkey'. These were based on the Communication of July 1997 and therefore covered practically the same areas. The European Commission indicated that a start could be made by mid-1998 with the implementation of proposals requiring little or no funding. Other proposals could only be implemented if the financial assistance (375 million ECU) promised in the 1995 protocol were approved by the Council. However, this was still being frustrated by the Greek veto. Because of Greece's attitude, Turkey refused to participate in the association council in May 1998.

The Cardiff summit, likewise, failed to persuade the Greeks to withdraw their veto on financial assistance to Turkey. However, efforts were made to revive the dialogue with Turkey by referring to 'a strategy to prepare Turkey for membership'. The European Council welcomed the European Commission's Communication of March 4 and asked the Commission to develop proposals for the effective implementation of the strategy for Turkey. The strategy could be modified to take account of ideas advanced by Turkey itself. At the same time, it was announced that the Commission would report at the end of 1998 on the progress made by the individual candidate states (including Turkey) on the road to accession. In the case of Turkey, the reports were to be based on article 28 of the association agreement and the conclusions of the Luxembourg European Council.

On 17 June 1998, Turkey presented its own proposals for a strategy for the development of relations between Turkey and the European Union.¹ It made the general point

1 See 'A Strategy for Developing Relations between Turkey and the European Union – Proposals of Turkey' (July 1998).

that the customs union could not exist in isolation of the guarantee of full membership of the Union and referred to the Luxembourg European Council's discrimination against Turkey compared with the other candidate states. Although the Cardiff European Council had done some good, Turkey felt that the discrimination had certainly not been eliminated. The Cardiff European Council had not succeeded in formulating the sort of clear strategy for Turkey's accession that had been produced for that of the other candidate states. Turkey therefore called on the association council to design such a strategy. It also argued for the implementation of the financial protocol to the customs union, which had so far been prevented by the "negative attitude of one of the Member States and of the European Parliament".

As regards the Commission's European strategy document, Turkey pointed out that this document was confined in scope to the free movement of agricultural products and services as set out in the association agreement for the final phase of the association. Turkey particularly criticised the Commission's failure to produce proposals for financial cooperation and the lack of any proposal for an advisory mechanism concerning the operation of the customs union. Overall, Turkey's criticism of the 'European strategy' boiled down primarily to the fact that the Commission's proposals were far less generous than those made in relation to other candidate states. For this reason, Turkey viewed them more as a basis for discussion than as a goal in themselves. Accordingly, it made a number of counterproposals with regard to: the operation of the customs union; agriculture; freedom to supply services and the right of establishment; the free movement of capital and coordination of economic policies; free movement of labour; cooperation and participation in European programmes in fields such as industry, justice and home affairs, consumer affairs, the environment, energy and education; and finally financial cooperation. These proposals constituted a package which Turkey felt should be accepted in its entirety in order to strengthen relations between the European Union and Turkey and achieve the ultimate aim of the association agreement: full Turkish membership of the European Union.

5. Turkey on the threshold?

Right from the start of negotiations with candidate states in Central and Eastern Europe and with Cyprus (in November 1998), there was no doubt that Turkish membership would take a considerable time to achieve. The European Commission produced reports on each candidate state's progress towards accession, including one on Turkey.² These reports were based on the Copenhagen criteria (see above). The report on Turkey identified serious shortcomings in relation to the political criteria. Although improvements could be identified in some areas (the right to stand for election and legislation to combat fraud and corruption), the Commission pinpointed democratic and legal abuses relating to the political role of the army and the lack of democratic control over the armed forces and security services, corruption in government bodies and allegations of corruption among members of the political elite, close relationships between organised crime and the machinery of state, political appointments in the judiciary, corruption amongst senior figures in the legal system, political intervention in the judicial process and the use of state security courts. Many abuses were also identified with regard to respect for human rights and the protection of minorities. These included torture, disappearances and executions, political constraints on freedom of speech

2 See 'Regular Report from the Commission on Turkey's progress towards accession' (November 1998).

(especially in relation to criticism of the actions of the armed forces and security services), the poor conditions in Turkish jails and limitations on the freedom of assembly and association. Serious shortcomings were also identified with regard to economic and social rights. The European Commission indicated that many of the reported shortcomings were connected with the conflict with the PKK in south-eastern Turkey. It was true that some slight improvements could be discerned (detention in police custody reduced to a maximum of four days, arrangements made for the protection of human rights) and many good intentions had been expressed. Where Turkey was falling short, the Commission reported, was in the implementation of agreed policies. The section of the report dealing with the political criteria concluded with the statement that Turkey needed to make a constructive contribution ("by peaceful means in accordance with international law") to settling political disputes with various neighbouring countries.

The economic section of the Commission's report stated that the market in Turkey was unpredictable and unstable, in particular due to monetary instability. Although Turkey had embarked on a programme of economic modernisation (partly as a result of the customs union), government policy needed to focus still more closely on eliminating social and regional imbalances and creating financial and other institutions to improve the operation of the country's internal market. The Commission examined the extent to which the Turkish economy had converged with the European Union acquis in various respects (free movement of goods, competition etc.) and identified agriculture, the environment and public procurement as areas in which much still remained to be done. It found that Turkish legislation was increasingly in line with that of the European Union.

On 17 November 1998, President Demirel of Turkey presented the president of Austria with a non-paper³ expressing Turkey's desire for formal recognition as a candidate state and its wish to be treated on an equal footing with other candidate states. Naturally enough, the paper also raised the issue of the European Union's failure to meet its financial obligations under the customs union. Finally, it contained forceful passages on PKK terrorism and human rights.

The non-paper did not have the intended effect. At the European Council meeting in Vienna on 11 and 12 December 1998, Turkey was once again barred from the European Union. The European Council's conclusions (Section V. Enlargement, point 63) read:

The European Council underlines the great importance it attaches to the further development of relations between the EU and Turkey taking forward the European strategy to prepare Turkey for membership. In this respect, it recognises the central role of the further implementation of the European strategy in line with its conclusions in Luxembourg and Cardiff.

Annex III states:

The Commission's analysis with regard to Turkey was generally shared by the Council which noted the need for particular efforts by Turkey to ensure the rule of law in a democratic society according to the Copenhagen criteria and the relevant conclusions of European Councils; it also stresses the importance of further developing relations with this country on a sound and evolutionary basis. In this process the Council reaffirms the importance of the European strategy for Turkey.

3 'Enlargement of the European Union – Turkey's Expectations'.

Turkey reacted in predictable fashion: it felt that it was once again being treated differently from other states which had applied for membership of the European Union (because the conclusions of the Luxembourg meeting were mentioned and because Turkey was discussed separately from other states) and was therefore being rejected. This feeling was exacerbated by the warm welcome given to Malta's renewed application, suggesting that it will in all probability be able to qualify as a candidate state in the not too distant future, probably ahead of Turkey.

At the European Council meeting in Cologne on 3 and 4 June 1999, it proved impossible to reach agreement on a declaration on Turkey and the meeting's conclusions therefore contain no mention of the country.⁴ According to newspaper reports, the German presidency made an attempt to have Turkey accepted as a candidate state, but this foundered in the face of non-cooperation from other Member States (especially Greece and Italy).⁵ Although Turkey had no great expectations of the European Council meeting in Cologne, it will be difficult for the Turkish government to present this outcome as a step forward, particularly in view of the attitude it adopted in the talks with the German presidency in the lead-up to the meeting.

6. A candidate country after all

December 1999

The Helsinki European Council granted Turkey the status of a candidate state and determined that the same accession criteria would apply to that country as to all the other candidate states: Turkey would have to comply with the political Copenhagen criteria. Turkey would also be able to make use of the pre-accession strategy. The purpose of this strategy was to offer a coherent programme which would prepare Turkey for accession to the European Union. In this way, various forms of support offered by the European Union were brought together in a single framework, the Accession Partnership. Turkey would be given the opportunity to participate in Community programmes, allowing it to keep abreast of all EU procedures and policy. This process would be accompanied by an intensive dialogue, with an emphasis on fulfilling the political accession criteria with respect to human rights.

2000

In June 2000 the Feira European Council noted that Turkey had taken the first steps towards fulfilling the Copenhagen criteria as a candidate country. The Council expressed its desire to see concrete improvements in the areas of human rights and the judiciary. The Nice European Council of December 2000 repeated the conclusions of June, but welcomed the progress that had been made by Turkey's application of the pre-accession strategy and emphasised the importance of the Accession Partnership.

The European Commission's 2000 report on Turkey's progress on the road to negotiations mentioned that talks on political reforms in Turkey, essential for accession to the European Union, had already begun. However the situation on the ground had not

4 See the letter from the Dutch Minister of Foreign Affairs to the Lower House of the Dutch parliament on 7 June 1999, point 8.

5 See, for example, 'Turkije voorlopig nog geen EU-lid' (Turkey not yet to join EU), NRC-Handelsblad, 5 June 1999.

changed, and Turkey still did not meet the political Copenhagen criteria. The institutional reforms, which are indispensable for guaranteeing the rule of law and democracy, were slow in coming. As to the economic criteria, the report stated that a functioning market economy had yet to be developed, despite the fact that a sizeable part of the Turkish economy was supposed to be able to withstand market forces and competition with the European Union. Restructuring was particularly essential in branches of the economy like banking, agriculture and state enterprises. The report also pointed out that Turkey had made good progress in policy areas related to the customs union, but that there was still much that needed to be done in other areas to bring about the changes demanded by the *acquis*. Moreover there was no comprehensive system for the actual implementation of the *acquis*.

2001

The first Accession Partnership for Turkey was established in March 2001. The purpose of the Accession Partnership, which was approved in 2001 and revised in May 2003, was to unite the most important spheres of activity, the financial aid available for the implementation of these priorities and the conditions attached to this support in a single legal framework.

The Göteborg European Council of 15 and 16 June concluded that the agreements made in Helsinki had brought Turkey closer to the European Union and that this development had created new expectations for Turkey's European aspirations.

The Laeken European Council of 14 and 15 December announced that, by means of recent constitutional amendments, Turkey was heeding the call to carry out the changes needed to meet the political criteria, bringing the country closer to accession negotiations. The Council continued to encourage Turkey to fulfil the economic and political criteria. The pre-accession strategy would have to show to what extent Turkey was ready for the *acquis*.

2002

The Turkish reforms of 2002 were welcomed by the Seville European Council of 21 and 22 June 2002, which expressed its support for Turkey's efforts to carry out the priorities of the Accession Partnership. The Council indicated that new decisions would have to be taken in Copenhagen about the progress of Turkey's candidacy vis-à-vis the agreements made in Helsinki and Laeken. The European Commission's 2001 progress report on the enlargement of the European Union would also play a role.

The Brussels European Council of 24 and 25 October concluded that progress had been made on the economic criteria, as stated in the aforementioned European Commission progress report, bringing Turkey closer to the opening of accession negotiations, but the European Union continued to encourage Turkey to take concrete steps on implementation, as the other candidate states were doing. The Council indicated that it would begin working in the coming months on further preparations for the development of the Turkish accession procedure, which would be discussed at the Copenhagen European Council.

The Copenhagen European Council of 12 and 13 December reiterated the conclusions of Brussels. The European Union welcomed the decision by the new Turkish government to implement the reforms appropriately and thus correct previous shortcomings. Once again the Council specified that, as per the political Copenhagen criteria of 1993,

membership will only be extended to candidate countries where there is not only institutional stability but where democracy, human rights and the protection of minorities are guaranteed. If the European Council determined in December 2004, on the basis of a report and recommendation by the European Commission, that Turkey had met the political Copenhagen criteria, accession negotiations would begin without delay. It was agreed that the accession strategy would be intensified so as to better guide Turkey towards EU membership, and the European Commission was invited to submit a new Accession Partnership. At the same time it was decided that the customs union between the two parties should be strengthened and financial pre-accession support increased.

2003

The Thessaloniki European Council of 19 and 20 June underscored that, despite progress in many areas, the Copenhagen criteria still had not been met. Accordingly, the Council revised the Accession Partnership in an effort to support Turkey in its attempt to satisfy the criteria before December 2004.

The Brussels European Council of 12 December 2003 confirmed the substantial progress made by Turkey, largely in the areas of political and legal reform. In particular, the adoption of the legal reform packages, the important steps taken to guarantee actual implementation, the progress towards meeting the Copenhagen criteria and the Accession Partnership had all brought Turkey closer to the European Union. Despite that there were many areas in which improvements still had to be made. In addition to strengthening the independence and improving the functioning of the judiciary so it can guarantee fundamental human rights, Turkey must introduce changes to bring civil-military relations in line with EU practice. Concerns still remain about the human rights situation in south-eastern Turkey. At the same time the European Council stressed the importance of Turkey's political will in solving the problem of Cyprus, which would facilitate the run-up to accession negotiations.

2004

The constitutional amendments adopted by Turkey in May of this year met with approval from the Brussels European Council of 17 and 18 June. At the same time the Turkish government's commitment to meeting the political Copenhagen criteria was once again encouraged. Nevertheless the European Council urged Turkey to expedite the completion of the legislative amendments and carry through on the implementation of reforms at all levels of policy. The same is true for the complete financial implementation of the agenda on structural reforms. The European Union will continue to support Turkey in the pre-accession strategy, with an emphasis on a well-functioning judiciary and guarantees for both fundamental freedoms and cultural rights. The Turkish government's constructive cooperation in trying to find a comprehensive solution for Cyprus was welcomed. The Council also invited Turkey to complete negotiations with the European Commission on amendments to the Ankara Agreement on the accession of the new member states.

In December 2004, on the basis of a Commission report and recommendation, the European Council must decide whether to open negotiations with Turkey.

Previous reports published by the Advisory Council on International Affairs

- 1 AN INCLUSIVE EUROPE, *October 1997*
- 2 CONVENTIONAL ARMS CONTROL: urgent need, limited opportunities, *April 1998*
- 3 CAPITAL PUNISHMENT AND HUMAN RIGHTS: recent developments, *April 1998*
- 4 UNIVERSALITY OF HUMAN RIGHTS AND CULTURAL DIVERSITY, *June 1998*
- 5 AN INCLUSIVE EUROPE II, *November 1998*
- 6 HUMANITARIAN AID: redefining the limits, *November 1998*
- 7 COMMENTS ON THE CRITERIA FOR STRUCTURAL BILATERAL AID, *November 1998*
- 8 ASYLUM INFORMATION AND THE EUROPEAN UNION, *July 1999*
- 9 TOWARDS CALMER WATERS: a report on relations between Turkey and the European Union, *July 1999*
- 10 DEVELOPMENTS IN THE INTERNATIONAL SECURITY SITUATION IN THE 1990s: from unsafe security to unsecured safety, *September 1999*
- 11 THE FUNCTIONING OF THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS, *September 1999*
- 12 THE IGC AND BEYOND: TOWARDS A EUROPEAN UNION OF THIRTY MEMBER STATES, *January 2000*
- 13 HUMANITARIAN INTERVENTION, *April 2000**
- 14 KEY LESSONS FROM THE FINANCIAL CRISES OF 1997 AND 1998, *April 2000*
- 15 A EUROPEAN CHARTER OF FUNDAMENTAL RIGHTS?, *May 2000*
- 16 DEFENCE RESEARCH AND PARLIAMENTARY SCRUTINY, *December 2000*
- 17 AFRICA'S STRUGGLE: security, stability and development, *January 2001*
- 18 VIOLENCE AGAINST WOMEN: LEGAL DEVELOPMENTS, *February 2001*

* Issued jointly by the Advisory Council on International Affairs (AIV) and the Advisory Committee on Issues of Public International Law (CAVV).

- 19 A MULTI-TIERED EUROPE: the relationship between the European Union and subnational authorities, *May 2001*
- 20 EUROPEAN MILITARY-INDUSTRIAL COOPERATION, *May 2001*
- 21 REGISTRATION OF COMMUNITIES BASED ON RELIGION OR BELIEF, *June 2001***
- 22 THE WORLD CONFERENCE AGAINST RACISM AND THE RIGHT TO REPARATION, *June 2001*
- 23 COMMENTARY ON THE 2001 MEMORANDUM ON HUMAN RIGHTS POLICY, *September 2001*
- 24 24 A CONVENTION, OR CONVENTIONAL PREPARATIONS? The European Union and the ICG 2004, *November 2001*
- 25 INTEGRATION OF GENDER EQUALITY: a matter of responsibility, commitment and quality, *January 2002*
- 26 THE NETHERLANDS AND THE ORGANISATION FOR SECURITY AND COOPERATION IN EUROPE IN 2003: role and direction, *May 2002***
- 27 BRIDGING THE GAP BETWEEN CITIZENS AND BRUSSELS: towards greater legitimacy and effectiveness for the European Union, *May 2002*
- 28 AN ANALYSIS OF THE US MISSILE DEFENCE PLANS: pros and cons of striving for invulnerability, *August 2002*
- 29 PRO-POOR GROWTH IN THE BILATERAL PARTNER COUNTRIES IN SUB-SAHARAN AFRICA: an analysis of poverty reduction strategies, *January 2003*
- 30 A HUMAN RIGHTS BASED APPROACH TO DEVELOPMENT COOPERATION, *April 2003*
- 31 MILITARY COOPERATION IN EUROPE: possibilities and limitations, *April 2003*
- 32 BRIDGING THE GAP BETWEEN CITIZENS AND BRUSSELS: towards greater legitimacy and effectiveness for the European Union, *April 2003*
- 33 THE COUNCIL OF EUROPE: less can be more, *October 2003*
- 34 THE NETHERLANDS AND CRISIS MANAGEMENT: three issues of current interest, *March 2004*

** Also available in French and Russian.

Advisory letters issued by the Advisory Council on International Affairs

The enlargement of the European Union, *10 December 1997*

The UN Committee against Torture, *13 July 1999*

The Charter of Fundamental Rights, *9 November 2000*

The Dutch presidency of the EU in 2004, *15 May 2003**

The results of the Convention on the Future of Europe, *28 August 2003*

From internal to external borders. Recommendations for developing a common European asylum and immigration policy by 2009, *12 March 2004*

* Joint report by the Advisory Council on International Affairs (AIV) and the Advisory Committee on Aliens Affairs (ACVZ).