

# **EU's Double Standard Approach to EU Membership Applicant Countries: a Comparative Case Study of Bulgaria and Turkey**

By

David Ghuchashvili

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Department of Political Science

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Supervisor: Professor Anton Pelinka

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## **Abstract**

Not many books or articles have been written on the EU's double standard approaches to its applicant countries. One could even argue that there is no such thing as double standards in the EU and every single member of the club or applicant country is treated individually by applying to the written guidelines of the union. However, the recent January 2007 enlargement rose or at least should have risen interesting questions about the issue.

The present comparative country case study of Republic of Bulgaria and Republic of Turkey illustrates a perfect example to argue that the notion of double standard approach to the applicants of the EU is not groundless myth but rather fact, which questions the fair practice of Accession Criteria of the European Union towards its applicant countries.

Chapter one gives short but comprehensive introduction to the issue, which is followed by chapter two presenting a detailed account of the Bulgarian Judicial System before and after accession. It underscores the judicial issues that the country should not be facing after entering the EU if it has fully satisfied the Accession Criteria. Although, Turkey experiences the similar problems with regard to the Accession Criteria, it is still fighting for its membership. Hence, chapter three looks at Turkey's identity within the European one and describes the issues that the country is facing with regard to Accession Criteria. Chapter four concludes the arguments and facts that were touched and discussed previous chapters.

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## ***Chapter 1: Introduction***

### ***1.1 What is the European Union***

It is still unclear among many prominent scholars and in numerous publications what the European Union is. Is it a state, a union, or an experiment in the form of the European Union, which turned up to be very successful and productive in many different ways for its member states, neighbors and partners? Currently, the EU and its complex system “remains one of the most elusive of all subjects of study in the social sciences”<sup>1</sup>. However, the question who or what is the EU remains the subject of further debates.

A wide range of arguments points out that the EU represents a complex and unique federalist state like no other. Thus, based on that theoretical approach: “Federalism is the theory or advocacy of federal political orders, where final authority is divided between sub-units and a center. Unlike a unitary state, sovereignty is constitutionally split between at least two territorial levels so that units at each level have final authority and can act independently of the others in some area”<sup>2</sup>. The theory of federalism also states that: “federalism is ordinary defined as a system with a formally established, vertical division of power such the central governing body incorporates sub-national unites in its decision procedures on a constitutionally entrenched basis”<sup>3</sup>.

Like in any other federalist states, the EU is composed of a set of special institutions, which play a vital role in the union’s further development. Hence, it is very important to acknowledge that institutions are the main engines of the EU, which ensure that everything runs smoothly. Moreover, one can argue that institutions interact with the state on everyday bases and make its

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<sup>1</sup> John Peterson and Michael Shackleton 2006 “The Institutions of the European Union” second edition. Chapter One, The EU’s Institutions, Introduction page 1

<sup>2</sup> Daniel J. Elazar 2001 “The United States and the European Union: Models for Their Epochs”. Page 34

<sup>3</sup> Vivien Schmidt 2001 “Federalism and State Governance in the European Union and the United States”. An Institutional Prospective. Page 337

citizens life more secure and remarkable, while not having institutions at all can create chaos and fear of insecure tomorrow. Therefore, it is significant to understand that having a strong and reliable watchdog in the form of an institution is a guarantee that nothing will be above the rule of law and written guidelines. In the EU, the institutions are part of the EU and without them the union would have taken a very different path.

The EU represents the complex set of institutions, each in charge of specific aspects of the union. There are a few institutions that play an essential part in the EU's system, like the Commission, the Council and the EU Parliament. All of them represent the face and the voice that come from the EU. However, do they have any power to make the final decisions individually in the EU on EU matters? And, do they speak in one voice?

The EU Commission "is independent of national governments. Its job is to represent and uphold the interests of the EU as a whole. It drafts proposals for new European laws, which it presents to the European Parliament and the Council"<sup>4</sup>. In addition to that Commission is assigned other functions, like: "propose legislation to Parliament and the Council, manage and implement EU policies and the budget, enforce European law (jointly with the Court of Justice) and represent the European Union on the international stage, for example by negotiating agreements between the EU and other countries"<sup>5</sup>.

On the other hand "the Council is the EU's main decision-making body. It represents the member states, and its meetings are attended by one minister from each of the EU's national

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<sup>4</sup> European Commission, EU institutions and other bodies, Available on web site [http://www.delalb.ec.europa.eu/sq/rreth\\_bese/struktura\\_dhe\\_institucionet\\_e\\_bese](http://www.delalb.ec.europa.eu/sq/rreth_bese/struktura_dhe_institucionet_e_bese) Last Accessed on May 27, 2008

<sup>5</sup> European Commission Available on web site [www.forumoneurope.ie/getFile.asp?FC\\_ID=159&docID=967](http://www.forumoneurope.ie/getFile.asp?FC_ID=159&docID=967) Last Accessed on May 27, 2008

governments”<sup>6</sup>. They are one of the major players in the EU and are able to act independently and speak in one voice. However, the EU’s unique and complex structure makes all its parts cooperate with each other over certain areas like the union’s further enlargement and sometimes the single voice that is coming from the EU transforms into multiple voices, creating different opinions on certain matters in the union.

Furthermore, the Council might seem to be an important body which promotes the EU ideas and makes sure that everything runs smoothly in the union. But the Council is bounded by the national interests and it has to follow the directions and the orders that come from the national governments. On the other hand, the EU Commission takes a lot of responsibility and acts in good faith in the EU’s name inside the union and on the international stage. One can argue that the Commission is a powerful body within EU, however as it seems from above “the Commission remains politically accountable to the parliament, which has the power to dismiss the whole Commission by adopting a motion of censure”<sup>7</sup>. Nevertheless, the main source of the Commission’s power has always been its monopoly right to propose legislation”<sup>8</sup>, as well as issuing annual reports on the specific matter concerning the EU. Moreover, “alongside the European Court of Justice (ECJ), the commission was also designed as a guardian of the Treaty, and tasked with ensuring that its rules and injunctions were respected”<sup>9</sup>. However, does the Commission make sure that everything is done according to the treaties and other guidelines?

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<sup>6</sup> The Council, EU institutions and other bodies, Available on web site [http://www.delalb.ec.europa.eu/sq/rreth\\_bese/struktura\\_dhe\\_institucionet\\_e\\_bese](http://www.delalb.ec.europa.eu/sq/rreth_bese/struktura_dhe_institucionet_e_bese) Last Accessed on May 27, 2008

<sup>7</sup> European Commission, Mission of Delegation Available on web site <http://www.delhry.ec.europa.eu/en/static/view/id/2> Last Accessed on May 28, 2008

<sup>8</sup> John Peterson and Michael Shackleton 2006 “The Institutions of the European Union” second edition Chapter Five, The College of Commissioners, The origins and history of the college page 96

<sup>9</sup> John Peterson and Michael Shackleton 2006 “The Institutions of the European Union” second edition Chapter Five, The College of Commissioners, The origins and history of the college page 83

Given the EU's complex governing system and sometimes different aims and opinions of its member states on certain EU matters, the EU institutions are not always able to perform their functions fully. This dysfunctional message creates the potential for double standards where the rules and regulations are applied to applicant countries differently. The bargaining between the EU member states on important aspects like the EU's further enlargement and which country should be in the list hinders the proper function of the EU institutions in charge, hence raising the question of double standards in the EU.

### ***1.2 Does the EU Play a Double Game?***

Little has been written on the EU applying double standards in approaches to applicant countries. As this paper attempts to look precisely into this, the primary sources for the argument below will be the official EU progress reports describing the countries' progress in specific fields. In addition, some of the literature available at the time of writing will also be employed. The raising issue of double standards of the EU is not openly discussed, however from the analyzes of EU published progress reports and other sources, point out that some countries holding the EU membership still struggle to meet the EU requirements. Hence, the question raises; how come some countries lagging behind the EU Accession Criteria are in the union, while other countries facing the similar problems are outside of it?

This paper will analyze the accession progress of Bulgaria and Turkey from a comparative analysis framework. This methodology will draw on various articles, manuscripts and EU progress reports. The centerpiece of documents, however, will be the Copenhagen criteria, according to which every all countries are obliged to meet all the necessary preconditions before joining the union. And if it happens that some countries manage to gain the EU full membership without fully meeting the Copenhagen criteria, the EU assigned to them special safeguard

mechanisms like the Co-operation and Verification Mechanism (CVM). This would assist a country to have a will and further intentions of integration into the EU and acquiring all its standards.

The purpose of this thesis is to show that there are situations where EU applicant countries are treated differently, in violation of the Copenhagen criteria and strict accession guidelines. By applying the comparative research analyses of Bulgaria and Turkey, one can observe for some country some EU requirements do not apply and they can be fixed later on, while from others it's strictly asked to comply with the accession requirements.

### ***1.3 The Ideology of Entry Membership***

History shows a long string of examples that come to underscore the benefits of belonging to the right brotherhood, union, club, fraternity whether as an individual or collectively as a society. Today, in a globalizing world, belonging to the right “club” can result in significant benefits for any country. Not surprisingly, becoming a full member of a particular union, organization or club like North Atlantic Treaty Organization (NATO), European Union (EU), United Nation (UN) and World Trade Organization (WTO) and many others, has become high priority for many countries.

It is generally believed that being a member of a union implies that one's membership benefits oneself, one's society, or one's country otherwise one would not choose to become a member of that particular union. Following this logic, unions that seemed to offer the most benefits are also the most popular. Hence, a high number of countries showed significant interest in joining such clubs and organizations that offer a wide range of benefits. However, the increased number of applicants seeking membership made unions and clubs also adjust and act accordingly. In order to keep the balance and stability in the system, new rules and entry



requirements were introduced for the new comers and the old members as well. Furthermore, not all the clubs or unions apply their entry requirements to applicants equally, thus creating double standards.

Setting up the written guidelines and having strict entry requirements should prevent any applicant from ill treatment from the union's system and diminish the possibility of corruption, mistreatment or any other double standard approaches that can hinder one from becoming full member of the desired club or union. For instance; if one desires to become the member of the local golf club, he/she would probably have to fulfill the club's membership requirements or if one desires to singe up and open an email account at Gmail, he/she should probably fill out their online form. Consequently, if the club's requirements are met or the all white boxes in the online form are filled, the membership should be granted. The guidelines and the entry requirements are clearly spelled out and in theory should be applied to everyone equally. Of course if one's family owns the golf club, then one may not have to wear the special golf equipment that is required of everyone else.

The ideology of the membership criteria is the same for small and big clubs, or at least should be the same. The written guidelines and strict entry requirements are applied/should apply equally to every single applicant, in order to sustain the healthy environment and the functioning of the system. However, if it happens that the golf club administration discovers that one of its members wears the same type of shoes, which he/she was wearing before becoming the member of the club, and he was required to take them off as a part of entry membership criteria, still wears them. While, on the other hand there is an applicant who wears different type of pants, which are against the entry criteria, that applicant stays on the waiting list unless he/she changes his pants. Although, the golf club administration creates special paths, especially for that type of

shoes so he can walk while not damaging the grass on the golf field. Hence, the interesting question raises why do you treat applicants to your gold club differently, when you have a strict entry requirements and guidelines and then what is the point of having those same entry requirements which supposedly be the same for everyone?

Today, the most popular and highly rated club in Europe is the European Union. That is why a number of countries from the region are trying to gain full membership. However, the entry requirements are outside of their range for many of them. The accession process represents the complex fulfillment of the Accession Criteria and not many applicant countries are able to meet them fully. However, as it seems from the recent enlargement of the EU it is not necessary to meet all of the criteria; countries can catch up to them later on or even having introduced some special watchdog mechanisms especially for them, which would help the country to fix the gap between the national and the EU standards.

Furthermore, one can argue that written guidelines and meeting special entry criteria for acquiring the EU full membership are just a small cover up for the club, where the member states have the final decision on the applicant countries. The opinion and the position of the member states should be taken into consideration on important matters such the further enlargement of the union. However, from the case of Bulgaria and Turkey the strict entry requirements can be disregarded if the majority of the union wants to have a specific applicant as a union member.

The strict entry requirements like the EU Accession Criteria seem to be nothing more than a way to keep the union from undesired members. Hence, accession does not depend on the applicant country and how well it meets the Copenhagen criteria, but rather on the positive attitude towards it from the union's members. This raises further question on EU's fair treatment

of its applicants struggling to acquire all steps in order to become the full members of the union.

In this paper I am going to argue by using a case study of Bulgaria and Turkey as an example where the EU plays with its Accession Criteria and creates the double standard approach environment toward applicant countries. The comparative analysis of applied the EU Accession Criteria for both countries will illustrate the clear picture how the EU entry requirements are met. For instance; the Republic of Bulgaria was facing mounting criticism from the EU Commission and the EU officials before the country's accession in January of 2007, regarding the existence of significant unresolved issues in the country's Judicial System and high number of unresolved corruption cases. However, even though the tone from the EU critics has not changed, Bulgaria managed to become the full member of the EU, in spite of these unresolved issues.

On the other hand, one of the applicant countries, the Republic of Turkey, is experiencing similar problems with the EU's Accession Criteria, problems that actually hinder this country's further integration into the EU family. Although Turkey has the longest relations with the compare to any other applicants, however the country is still lagging far behind in the race towards full membership of the union. With these two examples in mind, and considering the similarities between the two cases one has legitimate reasons to raise the question of double standards of the EU toward its applicant countries.

#### ***1.4 EU Accession Criteria***

One can argue that the Treaty of Rome of 1957 was a solution from the European states to avoiding the horrors of previous conflicts. In the aftermath of World War II, they were trying to find common grounds on which to base cooperation and to foster tolerance. At that time, given

the limited scope of the treaty, multilateral agreements and EU level decisions were easy. The small number of states involved and the stability of their Governments in the domestic sphere guaranteed popular approval. “European” decisions could easily be implemented by state Governments as they were the result of a long and thorough diplomatic process. However, with the passing of time and the enlargement of the union, the interests of the new member states to join to the club have risen. Hence, it became essential for further enlargement of the union to set a set of specific requirements for membership criteria in order to avoid non-democratic and corrupt countries becoming a part of the European Union.

Thus, a set of specific requirements was introduced according to which “any European country which respects the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law may apply to become a member of the Union”<sup>10</sup>. Furthermore, the EU applicant countries, in order to be able to become full fledged members of the union, also they should meet “Ascension Criteria” or known as the “Copenhagen Criteria”, which was established by the European Council in 1993 and “strengthened by the Madrid European Council in 1995”<sup>11</sup>. The Copenhagen Criteria clearly states the following requirements from an applicant country:

1. “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
2. the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union;
3. the ability to take on the obligations of membership including adherence to the aims of political, economic & monetary union.”<sup>12</sup>

<sup>10</sup> [http://ec.europa.eu/enlargement/the-policy/conditions-for-enlargement/index\\_en.htm](http://ec.europa.eu/enlargement/the-policy/conditions-for-enlargement/index_en.htm) Accessed on April 18, 2008

<sup>11</sup> [http://europa.eu/scadplus/glossary/accesion\\_criteria\\_copenhagen\\_en.htm](http://europa.eu/scadplus/glossary/accesion_criteria_copenhagen_en.htm) Accessed on February 20, 2008

<sup>12</sup> [http://ec.europa.eu/enlargement/enlargement\\_process/accesion\\_process/criteria/index\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accesion_process/criteria/index_en.htm) Accessed on May 25, 2008

In addition to the Copenhagen Criteria, the Madrid European Council stated that: “While it is important that European Community legislation is transposed into national legislation, it is even more important that the legislation is implemented effectively through appropriate administrative and judicial structures. This is a prerequisite of the mutual trust required by EU membership”<sup>13</sup>. Therefore, one can conclude from the EU membership requirements that the judicial system (along with many other institutions) is an essential part of further integration of the state into the EU community and requires decisive attention from the membership applicant countries as well as from the EU’s administration in charge.

Furthermore, in order to fully fix the judicial gaps in the states for further implementation of the EU requirements and regulations, the local Governments should fight against existing corruption in the country, which usually is the main reason why a state is slowing down with the ongoing reforms. Hence, it is vital for the country to pay enough attention to these issues and make proper adjustment in time, in order to be able to solve the existing problems in the governing and administrative system of the country.

The fulfillment of the Copenhagen criteria is the guarantee for the further implementation and feasible adoption of the EU standards within the country. On the other hand not fully meeting the Accession Criteria, might cause future unexpected issues that might hinder not only the country’s image in the international arena and inside the union, but also raise the question of the EU’s enforcement of the accession treatment of the membership applicant countries. The ideology of the Copenhagen Criteria should apply to the membership applicant countries equally with no exception, in order to keep the image of the EU as one entity. This should not allow the

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<sup>13</sup> [http://ec.europa.eu/enlargement/enlargement\\_process/accesion\\_process/criteria/index\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accesion_process/criteria/index_en.htm) Accessed on February 20, 2008

placement of some applicant countries in privilege position due to their geographical locations or the length of time they have been on the waiting list.

However, as it seems that for some applicant countries the EU is not requiring the fulfillment of all points from the Accession Criteria, while for other applicants it asks that they follow the strict guidelines. As A. Moravcsik and M.A. Vachudova argue in their article *National Interests, State Power and EU Enlargement* “the EU compels new applicants to transpose and implement standards of internal democracy, state administration, and detailed regulatory protection that the EU-15 have had a half century to accommodate. It also imposes something of double standard in a handful of areas, chiefly the protection of ethnic minority rights, where candidates are asked to meet standards that the EU-15 have never set for themselves”<sup>14</sup>.

That and many more assumptions/arguments that will be mentioned throughout this thesis lead its focus on two countries that have many similarities. However, currently one is enjoying the benefits of EU membership, while the other is still working on its way towards it. The countries that this analysis will be using as a case study in order to prove that the EU is using double standard approaches to its applicant countries are current member of the EU, the Republic of Bulgaria and potential future member of the EU, the Republic of Turkey. Here, Turkey is mentioned as a potential future member of the EU because of the progress that the country has achieved so far in various economical, political and social areas. Given this progress one can surmise that sooner or later the Republic of Turkey will eventually become a full member of the European Union.

Furthermore, in order to fully understand why Bulgaria and Turkey would make ideal candidates for this study one should be aware of the following facts, which describe both countries as equal applicants for the EU membership. First the geographical location, second the

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<sup>14</sup> Andrew Moravcsik and Milada Anna Vachudova. 2003 “National Interests, State Power and EU Enlargement”

history, third the culture, fourth the desire of integration into the West and fifth not fully meeting all requirements in Copenhagen criteria.

## Chapter 2: Republic of Bulgaria

### 2.1 Relations Between the EU and Bulgaria

The Republic of Bulgaria is one of the ex-Communist countries in the Balkan region, a former satellite of the Soviet Union. Following the collapse of the Communism in 1991, Bulgaria saw itself faced with a number of difficulties in marching the path to democracy. Over the last seventeen years, Bulgaria underwent two changes of so-called democratic Governments. Both of them had different perspectives and ideas on the development of the country. Unfortunately, in a funny way like the Italian constitution does not seem to work in Italy (in spite of the fact that the Italian constitution is one of the best written constitutions that exist in the European Union), neither of the plans seemed to work for the Bulgarian Government. By employing corrupt practices and professing self interest at any cost, both governments have contributed to the widening of the gap between the general public and the government. Additionally, during this time the image of the Republic of Bulgaria deteriorated in the international arena.

However, after collapse of Communism, Bulgaria was one of the few countries in the region which did not waste time in starting to march on the path to integrate itself into the West and establish democratic values which would help the country in the future to become the member of the EU. As Emil Giatzidis argues in his article *Bulgaria on the Road to European Union* “the campaign to join the EU has been the central element of Bulgaria’s post-communist policy.”<sup>15</sup> However, despite of enormous willingness and efforts to join the Westernized clubs, Bulgaria was still suffering from its Communist past, which was hindering the country’s accession to the EU.

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<sup>15</sup> Giatzidis, Emil (2004) ‘Bulgaria on the Road to European Union’, Southeast European and Black Sea Studies, 4:3, 434-457. Page 434



Despite of slow reforms and implementing the Western values into country's system, Bulgaria still found its own way to decrease the existing gap between the EU and itself. As one of the post-Communists states, the country, with its geographical location, was in a favorable position for future EU candidacy compared to other candidates like Turkey.

The ongoing reforms in the EU countries directly or indirectly had effect on Bulgaria's development and ability to acquire the EU standards in the attempt to gain the country's future membership. The fact that Bulgaria was one of the Communist states put it into privileged position in the race for accession. Furthermore, religion has played a vital role for the country as well. At a superficial glance, the EU still represents the union of the "Christian Club" and inviting one more Christian country would make a sense in the enlargement process.

With Christian values and post-Communist background, Bulgaria was able more easily to adopt some parts of the EU membership criteria and integrate into the union. However, due to the same Communist background the country still suffers and needs further drastic reforms in some of the areas, in order to fully meet the EU requirements.

Officially, the relations between the EU and Bulgaria started on December 1995, when the country submitted its application for the EU membership. However, it was only in the late of 1990s that the country was able to make significant steps in establishing a stable "market economy and democracy. The most significant outcome of these changes has been the considerable progress made in building democratic institutions and the promotion of civil liberties"<sup>16</sup> in the state. Consequently after the positive sings of determination and productive work from the Bulgarian Government "the Commission presented its first regular report on

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<sup>16</sup> Gratzidis, Emil (2004) 'Bulgaria on the Road to European Union', Southeast European and Black Sea Studies, 4:3, 434-457. Page 435

Bulgaria's progress towards accession in November 1998. The second report, released in 1999, recommended to open formal negotiations.”<sup>17</sup>

Furthermore, by establishing all the necessary pre-conditions of democracy and promoting the human rights in the region. “Bulgaria’s bid for integration into Western alliances received a boost when it was among the seven countries that joined NATO in March 2004 and when in December 2002, at the Copenhagen European Council, the EU declared that it would accept Bulgaria as full member in 2007 ‘depending on further progress in complying with the membership criteria’”<sup>18</sup> of the EU.

Following this integration into the Western clubs and progress toward the EU membership, Bulgaria managed to gain full support from the European Parliament in 2005, hence established itself as the future member of the union. However, the concerns from the EU politicians remained over Bulgarian Judicial System and fighting against deep rooted corruption among high level Bulgarian officials. Their comments and reports were raising negative signals regarding the accession date of the country. However, despite of the problematic issues with regard to Accession Criteria Bulgaria managed to become the full member of the union on the 1<sup>st</sup> of January of 2007.

According to the latest EU Commission *Monitoring report on the state of preparedness for EU membership of Bulgaria and Romania* before the accession of Bulgaria into the EU, “further progress is still necessary in the area of judicial reform and the fight against organized crime and corruption. The Commission will establish a mechanism to cooperate and verify progress in

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<sup>17</sup>Bulgaria EU Relations, Available on web site

[http://ec.europa.eu/enlargement/archives/bulgaria/eu\\_bulgaria\\_relations\\_en.htm](http://ec.europa.eu/enlargement/archives/bulgaria/eu_bulgaria_relations_en.htm) Last Accessed on May 18, 2008

<sup>18</sup> Gratzidis, Emil (2004) ‘Bulgaria on the Road to European Union’, Southeast European and Black Sea Studies, 4:3, 434-457. Page 434

these areas after accession.”<sup>19</sup> Hence, one can argue that Bulgaria did not fully meet the Accession Criteria upon entering into the EU and the gaps in the judicial and corruption issues were neglected by the EU Commission and the EU officials.

Furthermore, in order to avoid negative impact on the EU system and EU’s international image, the EU officials have introduced special mechanisms which are known as Co-operation and Verification Mechanism (CVM). The idea of introduction of the special mechanisms like CVM stem from the fact that “based on the *acquis* can be invoked upon accession, as for any Member State, in many policy areas (transport, food safety, aviation safety etc). Such measures are applied as long as the underlying problems exist.”<sup>20</sup> And the problems did exist in judiciary and fighting against corruption, hence the introduction of CVM would help the country to cope with them.

Furthermore, as a part of requirement from CVM the country has to submit a progress report in every six month in order to show to the EU Commission the level of the improvement (if any) has been achieved with regard to judiciary reforms and fighting against corruption in the country. The following sub-chapters give the detailed account the existing problems that Bulgaria was facing before the accession into the union and what kind progress the Bulgarian Government has achieved since 2007 in the problematic fields.

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<sup>19</sup> Commission of the European Communities, Brussels, 26.9.2006 COM(2006) 549 final, COMMUNICATION FROM THE COMMISSION Monitoring report on the state of preparedness for EU membership of Bulgaria and Romania, Page 9 Available on web site [http://ec.europa.eu/enlargement/pdf/key\\_documents/2006/sept/report\\_bg\\_ro\\_2006\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2006/sept/report_bg_ro_2006_en.pdf) Last Accessed on May 18, 2008

<sup>20</sup> Commission of the European Communities, Brussels, 26.9.2006 COM(2006) 549 final, COMMUNICATION FROM THE COMMISSION Monitoring report on the state of preparedness for EU membership of Bulgaria and Romania, Page 9 Available on web site [http://ec.europa.eu/enlargement/pdf/key\\_documents/2006/sept/report\\_bg\\_ro\\_2006\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2006/sept/report_bg_ro_2006_en.pdf) Last Accessed on May 18, 2008

## **2.2 Bulgaria before Accession to the EU**

This section will focus on the Judiciary System within Republic of Bulgaria and Administrative courts in the country. Looking at the topic through the lens of Bulgaria's further integration into the European Union, the analysis will focus on the work being done in order to satisfy EU requirements before the country's accession into the EU. It will highlight positive and negative aspects of the process using official data about judicial reform in the Republic of Bulgaria.

After the fall of Bulgarian Communism in November 1989, the Assembly dominated by members of the former Communist party established a new constitution that was approved in 1991. After a few years in 1994 The Judicial Systems Act [JSA] passed through the Parliament. While it aimed at settling turmoil in the legal system, it resulted in the beginning of a deep crisis for the Bulgarian judiciary system. Legal experts from all around world from international and local non-governmental organizations to the EU Commission seemed to agree on the poor arrangement of the Administrative Court's system of Republic of Bulgaria. The poor legal support combined with a very high level of corruption made it completely impossible to foster a work environment that would support the development of a fully independent judicial system, upholding the law above petty interests and that would further Bulgaria's bid for progress in its judicial system.

Furthermore, the existing socio-economic situation in Bulgaria exhibited high rates of poverty, unemployment, and significant levels of mistrust in the government. All of these factors significantly contributed to the barriers raised in front of a quality judicial system. Additionally, the high costs associated with such an endeavor made this attempt nearly impossible. Economic constraints, political pressure and the overall atmosphere in the Bulgarian society lead many of

the bright legal minds to seek a better future outside of their home country. Consequently, Bulgaria lost a large number of quality people that could have furthered the reform process, thus adding lags to its already crumbled process of modernization.

According to the Bulgarian Constitution, Chapter Six outlines the general setting of the Judicial Power in the country. The same Chapter, Article 117, second point states that “the judicial branch shall be independent. In the performance of their functions, all judges, court assessors, prosecutors and investigating magistrates shall be subservient only to the law”<sup>21</sup>. However, despite the optimistic aspirations of the writers of the Constitution, reality seems bleaker. The economic and political pressures seem to place the judicial system far from its ideal independence. This harsh reality seems to be reflected both in the perceptions among Bulgarians and in assessments of the EU. Many factors could have contributed to this negative attitude towards the Bulgarian judicial system. Among the chief ones we seem to find: the lack of transparent and neutral standards for assigning cases; poor coordination between prosecutors, investigators, and courts; corruption; low salaries; understaffing; antiquated procedures; and a heavy backlog of cases.

However, more recently the world was witness to radical changes in judicial reform that the Republic of Bulgaria undertook. This renewed commitment to uphold the law in the fairest and most independent way seems to represent a major improvement in Bulgaria’s approach to the matter. It also seems to have furthered Bulgaria’s efforts to regain its reputation on this matter in the international scene. The reason for these changes can be found in the adoption of certain

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<sup>21</sup> Bulgarian Constitution, Available on web site <http://www.online.bg/law/const/const6.htm> Last accessed on May 18, 2008

items and making changes required in order to satisfy elements of country's accession into European Union.

Presently, the administrative jurisdictional body is represented by a Supreme Judicial Council [SJC], which is composed of twenty-five members, three of which are ex officio members [President of the Supreme Court of Cassation, President of the Supreme Administrative Court, Prosecutor General]. These three are mandated to serve in their respective positions for seven years. Additionally, the Parliament elects eleven members, and their mandate is for five years. The other eleven members came from the judiciary apparatus [six from the judges, three from the Prosecutors and last two are from the Investigators].

The Minister of Justice serves as the chairman of the Council and as such he/she does not have voting rights during the meetings. SJC is a very powerful actor in the whole Bulgarian judicial system. According to Article 27 of the Judicial System Act [JSA], the SJC has the right to appoint and dismiss any judge who it finds lacking competence in fulfilling his/her duty. Furthermore the SJC is in charge of overseeing the management of the state's budget, reviewing and creating state policy and maintaining law and order.

Currently, in addition to the SJC, the Bulgarian Judicial System consists of four levels of courts.

Which are:

- Supreme Court of Cassation (SCC)—the highest court in the country, which regulates the proper function of the laws implemented by the courts;
- Supreme Administrative Court [SAC]— in charge of supervision of administrative cases. The President of the Supreme Administrative Court of Bulgaria is appointed for seven years by the President of the Republic, following a proposal by the Supreme Judicial

Council. Every valid candidate should satisfy the following: “Have a university degree in law; Have the required seniority and the legal experience not be condemned and imprisoned for ordinary premeditated crime; have the necessary moral and professional qualities, have at least twelve years of judicial seniority, including five years as a judge, examining magistrate or barrister”<sup>22</sup> The judges of the Supreme Administrative Court are not allowed to: be member of parliament, minister, assistant-minister, mayor or town councilor, exercise the function of barrister, exercise the function of elected member or nominated member in a public or in a municipal body, work in private companies, be administrator or participate in councils of control, administration or management of private companies or cooperative societies, accomplish services according to a civil agreement with state companies, trade companies, cooperative societies, physical persons ; this rule does not apply to the functions of teacher and researcher neither to the contracts dealing with royalties

- “The Court of Appeal—competent in hearing the appealed district courts judgments (only when the District Court had acted as a first instance), as well as other cases specified explicitly by law. The Bulgarian court system includes five Courts of Appeal and one Military Court of Appeal;
- District Courts, Military Courts and Regional Courts—courts of first instance. The District Court is functioning as a court of second instance when a Regional Court judgment is appealed, as well as other cases specified explicitly by law. The Bulgarian

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<sup>22</sup> Vincenzo Sgubbi “Reform of the Judiciary”. Available on web site <http://www.mjeli.Government.bg/Eurointegration/Docs/EN/Statement%20Vincenzo.doc> Last accessed on April 19, 2008

court system includes twenty-eight District Courts, five Military Courts and one hundred-twelve Regional Courts.”<sup>23</sup>

The integration challenges have required implementation of certain judiciary reforms. While these steps set the country in the right direction, they need to be followed through for the process to represent sufficient change. However, Bulgaria seems committed to doing so, and its actions in the last few years seem to speak to that. For instance, according to the new provision, which came into force in January 2004, it requires all future judges to pass an obligatory course and training six months long. Furthermore, according to the new competition policy on the location where the candidate wants to work as a judge, he/she is allowed to choose his/her future working location in advance. These changes are helpful as they seem to offer a more transparent process based on competency and provide more prospects for the young people.

Nevertheless, these new changes, though seemingly positive, have come under criticism from various authorities and individuals. Vincenzo Sgubbi mentions in his reports about *Reform of the Judiciary* in Republic of Bulgaria that “A period of only six months is too short in order to train a judge”<sup>24</sup> and also “It’s obvious that a magistrate in a small town has to be as prepared as a magistrate in Sofia and the problem could be successfully and simply solved by the provision of a centralized competition after which every winner chooses his/her position following the order of the list (who had the highest score chooses first and so on).”<sup>25</sup>

These criticisms are understandable and seem to have sufficient grounds. Six month of training does not seem like a significant period of familiarization with the job, especially given a

<sup>23</sup> Vincenzo Sgubbi “Reform of the Judiciary”.

<http://www.mjeli.government.bg/Eurointegration/Docs/EN/Statement%20Vincenzo.doc> Accessed on April 19, 2008

<sup>24</sup> Vincenzo Sgubbi “Reform of the Judiciary”.

<http://www.mjeli.government.bg/Eurointegration/Docs/EN/Statement%20Vincenzo.doc> Accessed on April 19, 2008

<sup>25</sup> Vincenzo Sgubbi “Reform of the Judiciary”.

<http://www.mjeli.government.bg/Eurointegration/Docs/EN/Statement%20Vincenzo.doc> Accessed on April 19, 2008



judge's job description. They are, after all, the ones who implement the laws and insure their abidance, a task that requires a high degree of professionalism and rich background in order to make proper decisions regarding the vast array of cases they will be faced with. Judges need more training time and practice in order to insure a fair and competent outcome of the judicial process. Additionally, it would help if portions of their training would be conducted on location somewhere within the EU in order to become familiar future challenges that their work might pose after 2007. Their task will definitely change once Bulgaria joins the EU and their decisions will become part of a larger body of law. Once the country will become a member of the EU, they will be obliged to work and solve different levels of hitches on national level while keeping in mind and having to deal with the EU highest judiciary bodies.

According to the electronic news publications of EUMAP, regarding to judicial reforms in the Republic of Bulgaria, "The EU accession process has generated an unprecedented momentum for judicial reform in candidate states, whose impact has, however, been limited by the lack of a more comprehensive approach. They still need to find the right balance of independence and accountability for courts"<sup>26</sup>. According to this report, as it seems Bulgaria still has a long way to go to implement policies aimed at judicial stability and bringing its judicial system on equal footage with its future partners in the EU, however it did not stop the country to become the full member of the club.

Even with the criticism mentioned above, the adoption of the new system in Bulgaria is a fact and it needs to be given its proper credit. For instance, in accordance with JSA stipulations, the SJC has adopted a codex of ethics for all magistrates, comprising of: Moral code of the

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<sup>26</sup> [www.eumap.org](http://www.eumap.org) <http://www.eumap.org/pressinfo/ipc/judicialrefbulgarianeeds> Last Accessed on April 19, 2008

investigations; Rules on Professional Ethics of Prosecution; Rules on Professional Ethic of Judges. These can also be seen as an additional step towards the country's integration and adoption of the new codes of legislation. Additionally, the budget was planed to increase by 44.64% in 2004. This clearly suggests that there is a great deal of thinking and progress in the right direction. However, the implementation of the new rules caused the augmentation in the number of employees of the SJC. The data from 2004 shows that the number is 53 and it should be increased to 58.

For country's successful integration into the EU, the SJC has established new units. These came as a direct effect of Bulgaria's commitment to upholding the EU requirements. These units are: Units of "Human resources and competitive examinations for magistrates" – in accordance with the new provisions of the JSA which require the human resources files of all magistrates to be kept within the SJC; Unit of "Press" – in accordance with the requirements for transparency in the SJC activities; Unit of "European Integration" –in accordance with the need of effective management and implementation of the activities in this area."<sup>27</sup> Additionally, in order to increase transparency and to support the dissemination of information about judicial management in the country, the SJC makes annual reports to the parliament and keeps all information on its webpage.

To further underline its commitment to eradicating corruption once and for all from the system, the SJC also publishes records from 1998 to 2003. According to this data "the SJC has taken the decision of lifting the immunity of 7 magistrates – 6 investigators and 1 military

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<sup>27</sup> Vincenzo Sgubbi "Reform of the Judiciary". Available on web site <http://www.mjeli.Government.bg/Eurointegration/Docs/EN/Statement%20Vincenzo.doc> Last accessed on April 19, 2008

investigator. The Council has rejected 4 requests for removing magistrates' immunity – for 1 judge, for 1 prosecutor, and for 2 investigators.

A summary of these cases would be:

### **Disciplinary proceedings**

- 125 cases
- 7 magistrates have been punished with a transfer to a different judicial region
- 25 have been penalized with non-promotion in rank
- 6 magistrates have been reduced in rank
- 24 the salary remuneration has been reduced
- 18 magistrates have received a warning
- Until the end of its mandate the former SJC has left unresolved 36 disciplinary cases.

In total 279 decisions of the Supreme Judicial Council have been appealed at the Supreme Administrative Court, 254 of those are confirmed by the court, 15 decisions are repealed, 1 is announced invalid<sup>28</sup>.

Additionally, development in technologies has also supported the reform process. Their website has by now become the main tool for keeping the public informed and maintaining the system's transparency. It has greatly increased in scope over the last years, and is now visited by a large number of people interested in getting access to this information.

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<sup>28</sup> Vincenzo Sgubbi "Reform of the Judiciary".  
<http://www.mjeli.Government.bg/Eurointegration/Docs/EN/Statement%20Vincenzo.doc> Accessed on April 19, 2008

Nevertheless, despite these efforts to increase transparency, there are some aspects of the system which remain hidden. Judicial reform slowdown will impact negatively privatization and the war against crime. To solve this problematic issue the Ministry of Justice works very closely with the SJC for further productive cooperation, for improvement of the judiciary system in and for its alignment with the EU standards.

However, even with this potential threat, we must take into consideration development steps like:

- Increasing salaries for the people who work in the judicial system
- Establishing witness protection programs
- Very serious transparency of the information and close cooperation between the different branches of the judicial system.

One could say that the Republic of Bulgaria has come a long way in its attempt to reform the legal system. However, there are still many actions that need to be taken to further the process and many requirements to be fulfilled. But presently this seems to be only a matter of time. To further emphasize this point we should mention the most recent changes in the Bulgarian judicial system:

- Magistrates [judges, prosecutors and investigators] have been revoked immunity, allowing for more flexibility than the prescription of the Bulgarian Constitution.
- The removal of the corrupt judge must be up to the specific body, which will consist of the experts related to the issue

While these changes may be viewed as small, nevertheless, they signify important progress in the right direction. They symbolize Bulgaria's commitment to the integration process and its

abundance to its requirements. As such, they suggest continued interest in providing a fair and independent environment for the judicial branch. One could argue that all these changes and judicial reforms in the country came to life only because of the EU accession. While accepting the potential validity of such a statement, we still have to note the progress made. Additionally, without this very important factor it would have been very difficult to find fresh motivation for positive changes. The building of the democracy in the country is not an easy task and requires a lot of hard work, along with cooperation among many different judicial bodies.

The establishment of more judicial institution both under Government supervision and outside of it, like the creation of a public institution - the National Institute of Justice - to train members of the judiciary and administrative staff, will further enrich the skills of future judges and increase the quality of the people involved in the system. Signals of this positive trend came as early as 2002. Back then, the Bulgarian news agency Sofiaecho reported Denmark's Minister for European Affairs Bertel Haarder statement in interview with a Bulgarian correspondent: "I received confirmation that Bulgaria had made good progress in its preparations to accession to the EU, but some work still remains to be done before Bulgaria can become a member state."<sup>29</sup> While the tone in 2002 seemed to be optimistic, the statement still exhibits some reservations about the future developments in the area. Three years later we can note the positive changes implemented by the Bulgarian society in its attempt to remain true to its commitment to follow a European path. It now seems a lot clearer that Bulgaria has been successful so far in maintaining its promises and that the future steps required are only constrained by time and financial resources, but strongly backed up by enthusiasm and commitment. However, the issues in

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<sup>29</sup> Ivan Vatahov, 2002. "Judicial reform key to EU" sofiaecho [http://www.sofiaecho.com/article/judicial-reform-key-to-eu/id\\_5077/catid\\_5](http://www.sofiaecho.com/article/judicial-reform-key-to-eu/id_5077/catid_5) Accessed on April 19, 2008

Judicial System and fighting against wide spread corruption environment still remain rotten spots for the Bulgarian Government.

### **2.3 Bulgaria After Accession to the EU**

Credit should be given to the productive steps that the country has taken after accession into the union in 2007. However, the issues in the judiciary and corruption remain of significant concern among the EU officials. Some gaps were fixed yet some more have to be fixed, in order to fully integrate into the EU. Upon accession the country was granted the special mechanism. “When Bulgaria entered the EU on 1 January 2007, special provisions were made to facilitate and support its smooth accession while, at the same time, safeguarding the proper functioning of EU policies and institutions.”<sup>30</sup>

In addition, the “Action Plan on the Implementation of the Benchmarks in the areas of judiciary reform and the fight against corruption and organized crime”<sup>31</sup> was introduced along with the CVM in order to monitor the progress of the Bulgarian Government. Moreover, the country has to show that it is making improvements in the problematic fields on which the EU Commission is publishing so called the progress reports every six months. Since the accession into the union two reports were published which underline the actions that have been taken in order to deal with the further reforms in the country.

The first report which has been published shortly after the country’s accession on June 2007 states that “in the first six months of accession, Bulgaria has continued to make progress in

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<sup>30</sup> COMMISSION OF THE EUROPEAN COMMUNITIES Brussels, 27.6.2007 COM(2007) 377 final REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on Bulgaria's progress on accompanying measures following Accession Available on web site [http://ec.europa.eu/dgs/secretariat\\_general/cvm/docs/bulgaria\\_report\\_20070627\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/cvm/docs/bulgaria_report_20070627_en.pdf) Last Accessed on May 20, 2008

<sup>31</sup> Action Plan on the Implementation of the Benchmarks in the areas of judiciary reform and the fight against corruption and organized crime Available on web site <http://www.mvr.bg/NR/rdonlyres/A8FF1DB1-AE91-490F-84B2-8CC1D4EA382F/0/ActionPlanBM16ENFinal.pdf> Last Accessed on May 20, 2008

remedying weaknesses that could prevent an effective application of EU laws, policies and programmes. But, there has not been sufficient time to demonstrate convincing results in key areas.”<sup>32</sup> By ‘key areas’ the progress report of 2007 meant the reforms that should be carried out in Judiciary and fighting against corruption in the country.

However, the progress report underlines the progress that the Bulgarian Government has made and argues that more needs to be done in order to implement them fully. At present the progress achieved is insufficient to deal with the existing problems in the country and lags far behind of the EU standards, which might cause some problems for the country as the safeguard mechanism will apply to the ineffective work of the Government by cutting financial support in different fields.

Moreover, the EU Commission states in the report that “the Bulgarian Government is committed to judicial reform and cleansing the system of corruption and organised crime. In all areas, the Bulgarian authorities demonstrate good will and determination. They have prepared the necessary draft laws, action plans and programmes.”<sup>33</sup> However, it also stresses that more needs to be done.

The progress made did not go unnoticed by the EU Commission. There are many positive aspects noted, especially Constitutional amendments needed to further improvements in the Judiciary. For instance the progress report of 2007 states that “Bulgaria adopted constitutional

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<sup>32</sup> COMMISSION OF THE EUROPEAN COMMUNITIES Brussels, 27.6.2007 COM(2007) 377 final REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on Bulgaria's progress on accompanying measures following Accession Available on web site [http://ec.europa.eu/dgs/secretariat\\_general/cvm/docs/bulgaria\\_report\\_20070627\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/cvm/docs/bulgaria_report_20070627_en.pdf) Last Accessed on May 20, 2008

<sup>33</sup> COMMISSION OF THE EUROPEAN COMMUNITIES Brussels, 27.6.2007 COM(2007) 377 final REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on Bulgaria's progress on accompanying measures following Accession Available on web site [http://ec.europa.eu/dgs/secretariat\\_general/cvm/docs/bulgaria\\_report\\_20070627\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/cvm/docs/bulgaria_report_20070627_en.pdf) Last Accessed on May 20, 2008

amendments which ensure the independence of the judiciary and provide for the creation of an independent judicial inspectorate to monitor the integrity of the judiciary and follow-up on complaints.”<sup>34</sup>

As it seems some progress is really made in the Bulgarian Judicial System. However, the question about how the new changes in Constitution are implemented in everyday life of the country still remains open to the discussion. The next progress report which was published in February of 2008 is quite different from the previous one. This was mainly due to the fact that the first six months after accession there was very little time to make any sufficient predictions about how the ongoing reforms in the problematic fields will be monitored by the CVM. The level of the productiveness of the safeguards was not that much visible in the first 2007 progress report. However, from the first observation, the outcome from the achieved progress in the country was implying that the introduction of the CVM was doing its job. But, further observation and progress reports were and are necessary in order to see the whole picture of the changes in Bulgaria.

The progress report of 2008 (second in line) is the update version of the progress report of 2007. As the report reads “the six months since the first report is considered to be too short to allow Bulgaria to remedy all shortcomings and for the Commission to revisit the assessment made last June. Therefore, the report presents a factual update of progress without providing a

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<sup>34</sup> COMMISSION OF THE EUROPEAN COMMUNITIES Brussels, 27.6.2007 COM(2007) 377 final REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on Bulgaria's progress on accompanying measures following Accession Available on web site [http://ec.europa.eu/dgs/secretariat\\_general/cvm/docs/bulgaria\\_report\\_20070627\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/cvm/docs/bulgaria_report_20070627_en.pdf) Last Accessed on May 20, 2008



detailed assessment of results achieved under each of the benchmarks established under the CVM”<sup>35</sup>

Moreover, the Bulgarian Government took the proposed recommendation from the EU Commission and set up the Action Plan. This would help the country narrow the existing gaps in the problematic fields of Judiciary and corruption. The idea of the Action Plan was met with positive feedback from the Bulgarian Government, which involved active participation from the various administrations and civil society as well in drafting of the plan. In addition, “the members of the Supreme Judicial Council participated actively in the Action-Plan drafting process.”<sup>36</sup>

Despite the willingness for further cooperation with the EU Commission with regard to CVM the Bulgarian Government is struggling to implement the outcome of the progress into the system. Without, implementation and actual practice on the ground the achievements mentioned in the reports will not bring Bulgaria any closer to the EU standards.

The unresolved corruption cases in Bulgaria continue to be a problem for misappropriation of EU funds like PHARE. As Sofiaecho states in its May 16, 2008 issue the “Bulgarian authorities in charge of liaising with the European Commission concerning the spending of European Union

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<sup>35</sup> COMMISSION OF THE EUROPEAN COMMUNITIES Brussels, 14.2.2008 COM(2008) 63 final/2 INTERIM REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL On Progress in Bulgaria under the Co-operation and Verification Mechanism Available on web site [http://ec.europa.eu/dgs/secretariat\\_general/cvm/docs/bulgaria\\_report\\_20080201\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/cvm/docs/bulgaria_report_20080201_en.pdf) Last Accessed on May20, 2008

<sup>36</sup> Action Plan on the Implementation of the Benchmarks in the areas of judiciary reform and the fight against corruption and organized crime Available on web site <http://www.mvr.bg/NR/rdonlyres/A8FF1DB1-AE91-490F-84B2-8CC1D4EA382F/0/ActionPlanBM16ENFinal.pdf> Last Accessed on May 20, 2008

financing had shown “negligence and arrogance”, according to Meglena Ploumchieva, Deputy Prime Minister in charge of controlling Bulgaria’s use of EU funds.”<sup>37</sup>

Because of the insufficient implementation of the EU requirements and assumed obligations, the Bulgarian Government may lose a significant proportion of the financial aid that comes from the EU. The lack of administrative knowledge of properly distributing the incoming financial resources into the country, leads to the money ending up with corrupt Bulgarian officials. The CVM is not able to do much of the work by itself, unless the Bulgarian Government finds the proper approach to its problems within the governing system.

The reports point area where Bulgaria has achieved very little progress in reforming its Judicial System and fighting against corruption. Despite that, the country still enjoys the EU benefits, while a resolution to the problem is still far into the future.

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<sup>37</sup> Petar Kostadinov 2008 ‘Negligence and arrogance’ Sofiaecho Available on web site [http://sofiaecho.com/article/negligence-and-arrogance/id\\_29333/catid\\_5/search\\_1](http://sofiaecho.com/article/negligence-and-arrogance/id_29333/catid_5/search_1)  
Last Accessed on May 20, 2008

## Chapter 3: Republic of Turkey

### 3.1 Introduction

The Republic of Turkey is a special case when it comes to its geographical location. In addition, the country is one of the few states in the region that did not suffer from the rule of Communism. Turkey's political development was different from those of its neighbors that used to be part of the Communist Block. However, despite the fact that the country has never been under Communism, it still experience serious problems like endemic corruption, high number of human rights violation cases and weak economic structure, much like its former Communist neighbors.

Furthermore, the Turkish Government faces similar problems as its Bulgarian counterpart in many areas of EU integration. However, the major problem in the country still revolves around “political Islam and the Kurdish question that challenge the Kemalist model of a secular republic and the unitary nation and state.”<sup>38</sup> These political debates and struggle between Islamist and pro-nationalist political organizations for political power and position in the government hinders the overall development of the country and acquiring the EU full membership. Nationalists are concentrating their political discourse towards the EU and are trying to implement policies aimed at economic development and social reforms. Such reforms come to clash with the traditional values and beliefs that still govern Turkey. Moreover, the Turkish Government has to resolve the issue of gender inequality in order to gain support for EU candidacy.

The ever-present Turkish traditional issues, on the other hand, reduce the effects of policies aimed at deepening the democratic development of the country. This political and social division in Turkey between the military classes of Kemalist elites and those in favor of supporting and

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<sup>38</sup> H. Kramer, 1999 “Turkey toward 2000”

strengthening of Islam has recently taken the form of a battle between the EU proponents and Middle East ones. Kemalists identify the Islamist movements as the main threat to democracy and possible integration into the EU. These disputes prevent the Kemalists from pursuing an efficient approach for EU integration. In order to comply with the EU regulations the Turkish Government would have to weaken its army and military influence. This might lead to strengthening the political position of Islamists in the country. There have been cases where the Government held back on reforms, like the establishment of private schools, as they could become means for religious propaganda.

According to Kramer, the foreign policy of the Turkish government is aimed at smoothing the path towards improvement of relations with the US and EU. The major argument in this case is that in order to promote democratization in the region Turkey has to play an active role and its “relations with various Balkan states [These relations] are key to establishing cooperative structures in that region.”<sup>39</sup> Furthermore, it is strategically important for the Turkish government to improve its political status and establish itself as a strong actor on the international arena. From this perspective we need to note Turkey’s importance not only in establishing ties with Balkans states, but also as a gateway to the Muslim world for both the US and EU. This has been the most problematic aspect of both European and American foreign policies aimed at Turkey. Furthermore, it is important to mention that, due to its strong army, Turkey has managed to build a very strong regime inside the country, which serves as a basis for the large superpowers, like the USA, for undertaking different economic, political and military endeavors.

So, in order to meet the criteria for membership in the EU and attain political progress in the country, the Turkish Government needs to address the above-mentioned problems and modify, at

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<sup>39</sup> H. Kramer, 1999 “Turkey toward 2000”

least partially, its traditional society and improve the human rights situation in the country. One should mention in this case that only the Government may handle such transformation in the country and that “Turkey's Western allies can do little to directly support such a development from the outside.”<sup>40</sup> Having a strong military, Turkey is capable of maintaining stability and territorial sovereignty. However, the Government still lacks the ability or desire to further develop socially, economically and politically in order to meet the EU's Accession Criteria. Thus, the Turkish Government finds itself in a difficult position, while the EU officials are debating whether Turkey geographically and culturally belongs to the European society and if the country is able to attain further European values in order to deepen economic progress and political democratization.

It has been argued that “Turks and the Europeans do not share a common culture and civilization, and thus, Turkey is not a European country. It is therefore concluded that this is the reason why it was difficult for imperial Turkey to enter into the European states system in the past, and for republican Turkey to become a member of the European Union at present.”<sup>41</sup>

### ***3.2 Relations Between the EU and Turkey***

Despite of the fact that Turkey is still on the waiting list for EU membership, the country has a very rich and long lasting cooperation with the EU from the beginning of the union's establishment. Turkey was one the first few countries that started to show significant interest and intention of joining to the union in 1959. However, the real relations between the two started in 1963, when Turkey signed with the EU an accession agreement known as the ‘Ankara

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<sup>40</sup> H. Kramer, 1999 “Turkey Toward 2000”

<sup>41</sup> Turkey's Foreign Policy in the 21th Century. A Chaining Role in World Politics edited by Tareq Y. Ismael and Mustafa Aydin 2003. Chapter 5 Perceptions and Images in Turkish (Ottoman)-European Relations by Nuri Yurdusev. Legacy of the Past or the Policy of Managing the Other, Page 77

Agreement'. This was one of the first steps that would help the country taste and experience co-existence with the EU and its system. Furthermore, "an important element in this plan was establishing a "Customs Union" so that Turkey could trade goods and agricultural products with EEC countries without restrictions."<sup>42</sup>

In order to seal the economic cooperation and integrate into the EU, Turkey officially applied to the EU membership in 1987. However, since then little has been done, except raising questions of Turkey's identity within the EU one. The European society and the EU leaders were and still are very concerned with the idea of having such big country as a part of the union. The situation is worsened by the fact that Turkey is a Muslim country, as Duygu B. Sezer states in his article *Turkish Identity, a Test for Europe's Soul?* "the 'M' world is scary to the average European."<sup>43</sup>

However, those difficulties did not stop the Turkish Governments to work their own way for the further development of the country and establishing democratic institutions, which would help to send positive signals to the EU community. Hence, in 1999 the European Council in Helsinki finally recognized Turkey's eligibility for the EU full membership, "on the condition that it comply with the Copenhagen criteria"<sup>44</sup> and opened the accession negotiation in 2005.

Currently the country is facing significant challenges in its ongoing obligations that it took while opening the accession negotiations with the EU. The path that the country has to go until it acquires the full membership of the union includes full implementation of the Copenhagen Criteria and full compliance with the EU acquis. However, the strongest criticism that comes

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<sup>42</sup> Turkey-EU History Available on web site [http://www.avrupa.info.tr/DelegasyonPortal/AB\\_ve\\_Turkiye/Tarihcesi.html](http://www.avrupa.info.tr/DelegasyonPortal/AB_ve_Turkiye/Tarihcesi.html) Last Accessed on May 19, 2008

<sup>43</sup> Armand Clesse and Seyfi Tashan (2004) Turkey and the European Union: 2004 and beyond. Page 272

<sup>44</sup> Armand Clesse and Seyfi Tashan (2004) Turkey and the European Union: 2004 and beyond. Page 282

from the EU officials deals with the human right issues, raising concerns over the question of not when the country will be able to cope with the EU Accession Criteria, but rather its potential membership status.

Turkish officials, however, do not loose faith and do whatever is necessary in order make further progress in the tasks ahead of them regarding the EU full membership compliance criteria. On the issue on the human rights, the Turkish Foreign Minister Cem states that “human values are universal. The Copenhagen Criteria are values that are not particular to the EU; they are values millions share, both inside and outside Europe. They are values we share and that we have developed and will continue to develop.”<sup>45</sup>

One can argue that Turkey has made significant progress in the democratization of the country, which should further the country’s integration into the EU and acquiring its values. The relationship between the two is strong enough to be continued and develop more common areas which would be used as the bases for further development and integration of the Turkish culture into the European one.

The progress and intensive cooperation with the EU, puts Turkey in a position where it will, sooner or later, be able to fully close the all 35 negotiation chapters and eventually become the full member of the union. However, this might take decades, but the progress that the country has achieved so far has been noted by the EU politicians and the EU society, who in the most case will have the final word whether Turkey deserves to be in the union or not.

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<sup>45</sup> Turkey’s Foreign Policy in the 21st Century. A Chaining Role in World Politics edited by Tareq Y. Ismael and Mustafa Aydin 2003. Page 43

### **3.3 Can Turkey Claim being a European Country Geographically?**

After the January 2007 enlargement, the European Union represents the union of 27 member states. The “external borders were shifted, internal borders were dissolved, old borders re-emerged, and new borders were established. It is becoming clear that these processes are influenced not only by political and economic factors, but to a large extent by basic cultural, historic and social conditions as well”<sup>46</sup>. However, the discussion of the EU borders still represents a complex puzzle for the EU officials.

It would be pointless to argue whether Bulgaria belongs to Europe or not, since the country is already in the European Union. However, the case of Turkey can be discussed and argued whether it really belongs at least geographically to the EU or not. Looking at the map one can see that both countries Bulgaria and Turkey are bordering each other, since Bulgaria geographically is considered as a part of EU, Turkey theoretically should be the same case as well. However, is it as simple as it looks on the map?

According to the United Nation’s “Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings” the Republic of Turkey geographically belongs to the Western Asian region. However, according to the Central Intelligence Agency’s “The World Factbook,” Turkey is geographically located in “Southeastern Europe and Southwestern Asia (that part of Turkey West of the Bosphorus is geographically part of Europe)”<sup>47</sup>.

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<sup>46</sup> ICCEES, Regional European Congress, August 2-4, 2007 Transcending Europe’s Borders: The EU and Its Neighbors Available on web site <http://www.iccees-europe.de/> Accessed on May 8, 2008

<sup>47</sup>The World Factbook [www.cia.gov](http://www.cia.gov) Available on web site <https://www.cia.gov/library/publications/the-world-factbook/geos/tu.html#Geo> Accessed on May 8, 2008



The contradiction among different data makes the Turkish case more complicated. However, it is worth mentioning that according to the same UN source, for instance Cyprus belongs to Western Asia as well, but the country is a part of the EU. Hence, one can argue that there is no clear definition of a 'European country', and there is no specific formula which resolves which country belongs to the Europe and where the borders of Europe are. However, one factor which clearly indicates that the EU officials' assigned the European tag to Turkey, is the April 14 of 1987 acceptance of the country's application. This implies that, from the perspective of the EU, Turkey is indeed geographically in Europe. Otherwise the application would have been rejected like Morocco's one, which "applied for the membership in the community a year before Turkey, and opinion of the commission, on this application came shortly after. Rabat was simply told that the community was open only to Europeans"<sup>48</sup>. Moreover, it's worth mentioning that "when the association treaty between the predecessor of the EU, the European Economic Community (EEC), and Turkey was signed in 1963, Christian Democrat Walter Hallstein, then president of the EEC Commission, said: "Turkey is a part of Europe."<sup>49</sup>

Of course by simply arguing that Turkey geographically intersects with ideology of European country says nothing about the extent to which the Turkish culture and history associates itself with the European one. One should not forget that Turkey is a Muslim country and there are no Muslim countries in the union. Therefore, the religion factor widens the already existing gap between the EU and Turkey by raising further questions about how European Turkish culture really is?

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<sup>48</sup> Turkey's Foreign Policy in the 21th Century. A Chaining Role in World Politics edited by Tareq Y. Ismael and Mustafa Aydin 2003. Chapter 5 Perceptions and Images in Turkish (Ottoman)-European Relations by Nuri Yurdusev. Legacy of the Past or the Policy of Managing the Other, Page 91

<sup>49</sup> EU Positions on Turkey's Membership Negotiations in the Freezer Daniela Schröder 2007 Available on web site [http://www.qantara.de/webcom/show\\_article.php/c-301/nr-62/p-1/i.html](http://www.qantara.de/webcom/show_article.php/c-301/nr-62/p-1/i.html) Last Accessed on May 21, 2008

### **3.4 How European Turkish Culture Really is?**

Since the European ideology represents a complex set of variables, which have to be taken into consideration while measuring the EU applicant countries, whether they belong to Europe or not, every single applicant should be treated equally, regardless the religion and the size of the applicant country. At least this should be the case according to EU regulations. However, in Europe not everyone is willing to accept Turkish Muslim culture into the EU. For instance: “on 15 January 1997, Hans van Mierlo, the then Dutch Minister for Foreign Affairs, delivered a speech to the European Parliament on behalf the Dutch presidency of the EU. In his speech, Mr. van Mierlo said that he understood Turkey’s frustration over the issue of the full membership. Then he stated that it was ‘time to be honest’ and admit that the problem was also one of admitting a large Muslim country into the European Union. ‘Do we wish this to happen?’, van Mierlo asked.”<sup>50</sup>

As it seems from the statement above having a Muslim country in EU does not make some countries very happy about it, which suggests the notion of EU as Christian club only. Furthermore, different opinions from the EU about Turkey’s accession into the union confuses the Turkish public as it is sometimes “difficult to understand European politicians who claim that, because its capital is Ankara, Turkey is not European, or, because the great majority of its population is Muslim, the country belongs to another civilization.”<sup>51</sup>

In order to truly understand the cultural relations between Turkey and the EU, one should look into the history of the two and at the same time take into consideration the present as well.

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<sup>50</sup> Turkey’s Foreign Policy in the 21th Century. A Chaining Role in World Politics edited by Tareq Y. Ismael and Mustafa Aydin 2003. Chapter 5 Perceptions and Images in Turkish (Ottoman)-European Relations by Nuri Yurdusev. Legacy of the Past or the Policy of Managing the Other, Page 78

<sup>51</sup> Turkey and the European Union, Prospects for a Difficult Encounter. 2007 Edited by Ersan LaGro and Knud Erik Jorgensen. Chapter 7, Socio-Cultural Dimensions of Accession Negotiations by Pulat Tacar, Reflections of the accession process, page 126

The concept of the past and the present illustrates the picture where the two are interconnected and influence the current culture in both societies. Furthermore, it is argued that “the modern European states system is said to have emerged from the fifteenth century onwards and the Ottoman Empire was in Europe when the European system began to come into being.”<sup>52</sup> Hence, one can argue that the Ottoman Empire was ruling in Europe by that time and has also been involved directly and indirectly in the formation of Europe as we know it today.

The European ideology of the culture in both societies might be under strong influence of religion. However, this factor did not stop either of them from working its own way towards establishing Western democracy and implementing many aspects of it into the government, culture and religion. The idea of establish a functioning democratic system in the country was Turkey’s the main priority since its establishing as the Republic of Turkey in 1923. Moreover, the strong commitment of acquiring the EU membership in the late 1950s, made “even the Islamists in Turkey, who have traditionally looked towards the Middle East and the Islamic world as the natural point of Turkish foreign policy interests, appear to have shifted their position in favor of an active pro-EU”<sup>53</sup> ideology.

The existing significant Turkish minorities in Europe and large number of EU tourists visiting Turkey’s famous holiday resorts serve as a bridge for cultural exchange, which shrinks the existing gap between the two. Furthermore, as Nuri Yurdusev argues in his article *Perceptions and Images in Turkish (Ottoman)-European Relations*, “first and foremost, Turkey has been in

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<sup>52</sup> Turkey’s Foreign Policy in the 21st Century. A Chaining Role in World Politics edited by Tareq Y. Ismael and Mustafa Aydin 2003. Chapter 5 Perceptions and Images in Turkish (Ottoman)-European Relations by Nuri Yurdusev. The Turk as the Other Europe, Page 84

<sup>53</sup> Turkey and the European Union, Democratic Politics, Economic Integration and International Dynamics. 2003. Editors Ali Carkoglu, Barry Rubin, Democratic Politics, International Norms and Challenges to the State: Turkey-EU Relations in the post-Helsinki Era by Ziya Onis, Page 17

Europe from the very beginning.”<sup>54</sup> However, at the same time, the author points out the paradox of being ‘in Europe but not of Europe’. Yurdusev states that “the logical conclusion ought to be that the Ottoman Empire was, empirically, a European state. The paradox is that it was not. Even though a significant portion of the Empire was based in Europe, it cannot be said to have been of Europe. This paradox, ‘being in Europe but not Europe’, may be taken as the characteristic feature of Turco-European relations from the very beginning of the present day.”<sup>55</sup>

The cultural identity of Turkey with regard to Europe raises many questions not only among scholars but in the general population of both sides as well. One question still remains, what does it mean to be a European? Are there any criteria that can be used in order to define a person, country or society as a European? Are there any kind of borders that can be framed in order to measure the ones who are in as Europeans and the ones who are outside not Europeans? Are there any definitions in culture or religion, which point whether one is European? The question of Europeanness remains wide open for further debates.

However, with respect to Turkey the question of how European Turkish culture is one should look at Europe where Turkish people live and work and Turkey’s involvement and active participation in international economic and political stage. Moreover, Turkey’s “economy is largely integrated into Europe and her membership of various political organizations of European

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<sup>54</sup> Turkey’s Foreign Policy in the 21th Century. A Chaining Role in World Politics edited by Tareq Y. Ismael and Mustafa Aydin 2003. Chapter 5 Perceptions and Images in Turkish (Ottoman)-European Relations by Nuri Yurdusev. In Europe but not of Europe, Page 79

<sup>55</sup> Turkey’s Foreign Policy in the 21th Century. A Chaining Role in World Politics edited by Tareq Y. Ismael and Mustafa Aydin 2003. Chapter 5 Perceptions and Images in Turkish (Ottoman)-European Relations by Nuri Yurdusev. In Europe but not of Europe, Page 78

origin such as NATO, the Council of Europe, the OSCE, Association Agreement and Customs Union with the EC/EU.”<sup>56</sup>

All this would not be reality if the Turkish people did not feel associated with the Western world, hence with the EU. One can argue that the Turkish society has showed clear signals that Turkey is not an Islamic state, but rather a mostly populated Muslim culture which allows for a wide range of religions as well and possesses a willingness to integrate more deeply into the Westernized world.

Despite the wide range of arguments from both Turkish and EU sides, there is a feeling that the EU and the EU population is looking at Turkey very negatively. Hence, “the question was no longer whether this nation fulfils the Copenhagen criteria for joining the Union, and even less whether the Cyprus or Kurdish issue can be solved, but whether Turkey can claim the status of member state at some point in the future.”<sup>57</sup>

Moreover, the September terrorist attacks on the United States of America made the world to look at Muslim cultures in a negative light. The 9/11 events had a negative reflection on the Muslim world, hence on Turkey as well. The opinion in the Western world and in the EU has been divided, which consequently will have its implications on the ongoing accession negotiations with Turkey. Questions in the EU public whether they want to have very large country mostly populated by Muslims walking in their streets and living next to them need to be addressed.

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<sup>56</sup> Turkey’s Foreign Policy in the 21th Century. A Chaining Role in World Politics edited by Tareq Y. Ismael and Mustafa Aydin 2003. Chapter 5 Perceptions and Images in Turkish (Ottoman)-European Relations by Nuri Yurdusev. In Europe but not of Europe, Page 79

<sup>57</sup> Armand Clesse and Seyfi Tashan (2004) Turkey and the European Union: 2004 and beyond. Page 283

The negative view on the Muslim culture from the EU officials and divided public opinion puts Turkey in a complicated situation, where the all arguments and historical backgrounds of European identity of Turks have shifted on the back burner and the picture is now more focused negative perceptions of the Muslim culture. Here the EU and its Accession Criteria will be facing challenges on the issue whether the union is open to Christian applicant countries only or it is open to everyone regardless whether applicant's culture starts with 'M' or 'C'.

Despite of the fact what the EU officials are stating there are crystal clear facts that should be taken into consideration, because they represent the EU citizens' voice over the Turkey's future membership in the union. "According to the figures of Eurobarometer, generally barely half of the Europeans (49%) are in favor of an enlargement of the EU, whereas Norway, Switzerland and Iceland receive notably high acceptance as potential members. This changes when it comes to Turkey. More than half of the European population (59%) is opposed to a prospective Turkish membership. 61% of the respondents perceive the cultural differences as too great. 50% of the interviewees do not think that Turkish accession will contribute to the rejuvenation of the European society."<sup>58</sup>

### ***3.5 Turkey's Issues, Challenges to Full Membership***

Currently Turkey is negotiating with the EU over 35 chapters, after which the country will be able to move to the next level of negotiations. Work on these chapter will allow the country to close the gap between itself and the union. However, given the size of the country and large population, the progress that the Turkish Government has accomplished since opening the

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<sup>58</sup> EU-Turkey-Monitor March 2008 Vol.4 No.1 Available on web site [http://www.zei.de/download/zei\\_tur/ZEI\\_EU-Turkey-Monitor\\_vol4no1.pdf](http://www.zei.de/download/zei_tur/ZEI_EU-Turkey-Monitor_vol4no1.pdf) Last Accessed on May 20, 2008

accession negotiations in 2005, the picture is more complicated than just meeting the accession criteria.

Due to external and internal problematic relations with its neighboring country Cyprus, the Turkish Government was not able to find compromise with the EU negotiators and “in December 2006 the Council decided that negotiations will not be opened on eight chapters relevant to Turkey's restrictions regarding the Republic of Cyprus and that no chapter will be provisionally closed until the Commission confirms that Turkey has fully implemented the Additional Protocol to the Association Agreement.”<sup>59</sup>

So far the country was able to successfully close only one chapter out of 35. It seems the Turkish Government has the long way ahead until the country manages to become the member of the EU. Thus, many scholars and the EU officials predict that the country will be ready to join the European community in next 15 years or so. One can argue that lack of progress in some of the negotiable chapters is due to negative signals which come from some of the EU member states. A large country like Turkey with Muslim population does not seem to fit into European ideology of some Europeans.

Therefore, the motivation to produce progressive outcomes from the negotiable chapters is low in the Turkish society. However, this does not imply that the country is giving up its right to be in the EU. A bad signal for Turkey's progress was received when “the Slovenian EU Presidency cancelled an accession conference scheduled for 21 April due to “insufficient

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<sup>59</sup> Commission of the European Communities, Brussels 6.11.2007 COMMISSION STAFF WORKING DOCUMENT Turkey 2007 Progress Report Available on web site [http://www.avrupa.info.tr/Files/File/ab\\_turkiye\\_reports/progress-reports-2007-en.pdf](http://www.avrupa.info.tr/Files/File/ab_turkiye_reports/progress-reports-2007-en.pdf) Last Accessed on May 19, 2008

progress" in negotiations.”<sup>60</sup> However, as the EU enlargement Commissioner Mr. Olli Rehn stated in one of his interviews "Turkey is passing through a more critical phase than at any time since its negotiations to join the EU in 2005 began." Hence, “it is important that the EU shows it is committed to Turkey's membership" given that the country remains "convincingly on the reform course" necessary for accession, he said.”<sup>61</sup>

From the statement above by the EU enlargement Commissioner, one can assume that a significant portion of the success depends on the EU rather on the applicant country alone. The energy and attitude that comes from the EU has direct impact on further progress that a country can achieve with regard of Accession Criteria and with the little bit of help from the EU officials things might move very fast or opposite.

In 2007 the EU Commission has presented its latest progress report on Turkey. The criticism was was mainly aimed at the Turkish Government's ineffective work over the accession matter. However, despite of negative development of the accession negotiations and further adherence to the EU standards, the EU progress report pointed out the positive sides that the country managed to accomplish. Though, as Mr. Olli Rehn strictly pointed out, “Article 301 of the Turkish penal code, which makes “insulting of Turkishness” punishable, had to be immediately changed or abolished.”<sup>62</sup>

The previous 2006 progress report also points out that drastic changes are need in the fields of human rights, freedom of expression, minority issues and stabilization of its relation with the

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<sup>60</sup> EU plays 'good cop, bad cop' with Turkey Available on web site <http://www.euractiv.com/en/enlargement/eu-plays-good-cop-bad-cop-turkey/article-171814> Last Accessed on May 20, 2008

<sup>61</sup> EU plays 'good cop, bad cop' with Turkey Available on web site <http://www.euractiv.com/en/enlargement/eu-plays-good-cop-bad-cop-turkey/article-171814> Last Accessed on May 20, 2008

<sup>62</sup> EU-Turkey-Monitor March 2008 Vol.4 No.1 Available on wed site [http://www.zei.de/download/zei\\_tur/ZEI\\_EU-Turkey-Monitor\\_vol4no1.pdf](http://www.zei.de/download/zei_tur/ZEI_EU-Turkey-Monitor_vol4no1.pdf) Last Accessed on May 20, 2008



neighboring country Cyprus. Without these it is difficult to foresee any progress in the accession negotiations, thus placing full membership in the EU in an indefinite halt. One of the main issues which were strictly pointed out in the progress report of 2006 concerned the human rights issue. The “EU Harmonisation Committee and the Human Rights Committee played an important role in addressing issues arising under the Copenhagen political criteria (*on the Human Rights Committee see section on human rights*).”<sup>63</sup>

Due to the large Muslim population and the number of Kurds which represent the largest minority group in the country, the Turkish Government is facing some problems in maintaining the democratic ideology and the path towards the West and the EU. The strong military forces make the country a stable place to for developing business and attract foreign investments, however at the same time the basic human rights are violated.

Despite of the negative evaluation of the Turkish Government in the last two progress reports one aspect points out that the Government is strongly determined to accomplish its aim and become a member of the union. However, the tensions from both sides of the EU officials and the Turkish Government remain high. There is a believe in the Turkish public that even if the country will gain the full membership of the union some time in the near future, Turkey still will be treated with the different standards compare to its counterpart member states.

The reason for that may e that “within the EU there is a wide range of opinion on Turkey's accession. While Great Britain and Sweden, in particular, advocate the continuation of negotiations, French president Nicolas Sarkozy argues for discussions with an open outcome.”<sup>64</sup>

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<sup>63</sup> COMMISSION OF THE EUROPEAN COMMUNITIES Brussels, 8.11.2006 SEC(2006) 1390 COMMISSION STAFF WORKING DOCUMENT Turkey 2006 Progress Report Available on web site [http://ec.europa.eu/enlargement/pdf/key\\_documents/2006/nov/tr\\_sec\\_1390\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/tr_sec_1390_en.pdf) Last Accessed on May 21, 2008

<sup>64</sup> Daniela Schröder 2007 “EU Progress Report A Bureaucratic Look at Turkey” Available on web site [http://www.qantara.de/webcom/show\\_article.php/\\_c-476/\\_nr-879/i.html](http://www.qantara.de/webcom/show_article.php/_c-476/_nr-879/i.html) Last Accessed on May 21, 2008

Hence, one can argue that there is no common policy over Turkey and the set of issues that the country is facing. The divided European opinion sends negative signals to the Turkish public and slows down the ongoing reforms in the country and its path toward meeting the EU Accession Criteria.

Therefore, the current progress reports and maybe the upcoming ones will continue to point out the mixed outcome of the reforms that are taking place in the country. On the one side the Turkish Government is showing some progress and willingness for further improvements in various *acquis* areas, while at the same time the gap between the EU and Turkey is widening.

The lack of the positive signals from the EU does not give concrete grounds for Turkey to change its current political environment, which might hinder not only the Turkish state but also the EU in the long run as well. Furthermore, the frozen negotiations on eight important chapters like “Free movement of goods; Right of establishment and freedom to provide services; Financial services; Agriculture and rural development; Fisheries; Transport policy; Customs union and External relations”<sup>65</sup> unless Turkey improves its relations with Cyprus, puts additional pressure on the Government. Not having guarantees that the opinion of the EU public and officials would change and give the country equal treatment as the other applicant countries enjoy further reduces its incentive to commit more vigorously to the needed reforms.

Despite the gray areas in the relations between the EU and Turkey one thing is clear: both sides need each other for security and economic reasons. Thus, the full membership of Turkey would be a guarantee of both. However, before that the country still has to comply with the EU regulations and work harder in the problematic fields of the accession process. The Cyprus issue

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<sup>65</sup> What is the current status? Delegation of the European Commission to Turkey Available on web site [http://www.avrupa.info.tr/AB\\_ve\\_Turkiye/Muzakereler,Muzakereler\\_Sayfalar.html?pageindex=3](http://www.avrupa.info.tr/AB_ve_Turkiye/Muzakereler,Muzakereler_Sayfalar.html?pageindex=3) Last Accessed on May 21, 2008

should be resolved in order to defreeze the frozen eight chapters, which would help the country further its accession process and implement the rest of the *acquis*. Hence, it is vital for the country to take into consideration the EU progress reports and act accordingly.

The progress reports are serving as the signaling mechanisms of the areas where the Turkish Government has to speed up their reforms and do more productive work, like the human rights situation in the country, which become the center of mounting criticism from the EU member states. The establishment of the institution like the Ombudsman's office would greatly assist the country to cope with the accession criteria and speed up the accession process. However, "the Law on the establishment of the Ombudsman is still before the Constitutional Court following the veto by the President in November."<sup>66</sup>

Overall, according to the 2007 progress report Turkey has made very little progress in various areas of accession negotiations. The main reason of that can be seen in the inability to cope with the EU requirements from the local administrative offices in charge. However, the divided opinion on Turkey's future full membership in the EU also affects the little progress on the ground. Speaking with one united voice the EU would create a more conducive environment and would send the message to the Turkish Government and the public that the country is welcomed in the union or not. In either case it would be clear where the Turkey is standing with regard to the EU membership and make things much easier for both sides. However, the benefits in the long run are very high, therefore the EU tries to push its maximum on the Turkish Government to implement the changes that are not the accession part of the EU Copenhagen criteria.

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<sup>66</sup> Daniela Schröder 2007 EU Progress Report A Bureaucratic Look at Turkey Available on web site [http://www.qantara.de/webcom/show\\_article.php/\\_c-476/\\_nr-879/i.html](http://www.qantara.de/webcom/show_article.php/_c-476/_nr-879/i.html) Last Accessed on May 21, 2008

## Chapter 4: Conclusion

One can argue the entry criteria for any type of the club of the union can be manipulated by its founding members. Thus, one can question the validity of accession criteria like the Copenhagen criteria of the EU when applied to different applicant states. The strict accession requirements can be seen and judged as a way for the club to maintain the semblance of a fair playing field. However, when double standards are applied and the decision is clearly taken behind closed doors, the legitimacy of the club comes into question.

The EU's double standard approach to its applicant countries can be seen in many fields. The old members of the union are the ones which, in most cases intentionally or unintentionally violate the rules of the EU. The dominance of the old members over the major issues in the EU is running the risk of fueling frustration among applicant countries like Turkey. This sends negative signals and creates an environment where the EU regulations and requirements apply to the applicant countries differently.

Manipulation of the accession criteria is clear in the cases of Bulgaria and Turkey. Both countries are struggling with the fully meeting the Copenhagen criteria, although with a slight difference. The Republic of Bulgaria is already the full member of the union, while its neighboring country's future membership of Turkey is unclear. The uncertainty and negative signals coming from the EU officials, makes the Turkish case more complicated and hence has direct impact on ongoing EU reforms in the country.

Despite the five years gap between the opening dates of the EU accession negotiations with both countries, one aspect is clear: EU's concerns with regard to Judiciary, organized crime and corruption in Bulgaria remain the same even after the country's accession into the union. The introduction of the special mechanisms which should help the country to deal with its problems

in the areas produced very little progress on the ground. The high level corruption among Bulgarian officials remains the same if it did not increase in size due to large cash flows from the EU funded projects. Currently, Bulgaria is facing a crisis over PHARE funded projects, when the financial aid which comes through to this project should help the country catch up with the rest of the EU members. However, the money does not reach its final destination and ends up in the pockets of corrupted Bulgarian officials. This automatically switches on the safeguard mechanism, which cuts some amount of the financial aid for the country.

The existing wide spread corruption and gaps in the Judiciary System was not surprise to the EU officials. This implies that the EU knew and had the information about the problem before the accession. However, despite existing problems, the EU turned a blind eye to the fact that Bulgaria was not fully meeting the Copenhagen criteria and, therefore, was not ready to fully join the EU and implement its standards. Due to political and economic reasons the EU officials manipulated the guidelines and rules, which lead to the introduction of the special safeguards.

One can argue that the EU helped Bulgaria to become its member and applied the Copenhagen requirements very softly. However, in the case of Turkey which has a history of almost 60 years of negotiations with the EU, the accession criteria has not been changed or softened. In addition to that, accession into the union even after Turkey meets the full entry requirements, is now debated in the EU on issues other than the Copenhagen criteria.

While Turkey's joining the union remains unclear, the EU continues to apply double standards to new members. For instance; some of the members of 2004 enlargement have some restrictions that hinder their population to enjoy the full membership benefits of the EU. By closing doors to free movement of workers the old members of the EU started to build create division lines between old and new members.

Furthermore, the same criteria and judgment is applied to the EU applicant countries as well. However, the question still remains of the motivation of the EU in allowing countries in while limiting the benefits extended to them. Why do have negotiations for 60 years, promising full membership while sending mixed signals about the prospects of such a status in the foreseeable future?

The regulations set by the EU member states, which in theory should grant every single applicant country equal opportunity to fair game for a place in the union, are becoming the tools of manipulations and double standards. Recent history shows that it does not really matter whether the applicant country is fully satisfying the Copenhagen criteria or not. If a country's membership is profitable for the union that country will have the full support and assistance to become one of the member states of the EU community.

The Turkish cases is a perfect example where the EU shows that the country is not yet welcome to the union and it has to wait maybe indefinitely. However, at the same time the EU tries to keep its good relations with the country and push the EU initiated reforms in the Turkish political and economical sectors. In essence it is signaling that the EU is very much concerned about Turkish people and their future, while at the same time some of the member states are sending negative signals and questioning if the country belongs to the EU at all. A divided Europe sending mixed signals creates confusion over where Turkey stands with regard to EU full membership. If the EU found the way and good will to support the accession process of Bulgaria regardless of country's problems in Judiciary and corruption, which is against the Accession Criteria, the question remains why the EU can not do the same and help Turkey speed up its accession process by introducing the same safeguard measures as for Bulgaria.

By skillful play with the rules of the accession criteria the EU manages to keep some countries out of the union. At the moment the union has the tools and power to make drastic changes in Turkey's accession process. However, one might argue that it's not the right time of any actions. Because of the size of the country and predominantly Muslim population, EU officials are hesitating to make any further movements to accelerate Turkey's integration into the union.

EU officials are still arguing whether the country or the union will be able to handle to sustain the current political and economical environment of the EU. However, one thing stays clear that the EU and Turkey need each other and should cooperate further and develop more close relations than they have now. Turkey's membership will guarantee that the EU will have what it is looking for from the Turkey including security and energy recourses.

The future membership of Turkey does not lie within the Copenhagen criteria but rather the positive attitude and good will of the EU leaders, who are in charge and have the full control over the all aspects of further enlargement of the union. As Bulgaria showed, the accession criteria have no power and ideological meaning unless the founding members' interests lie around the specific applicant country.

On the other hand the complexity of the decision making and the entry requirements in the EU results in a very complex bargaining system where the member states are actively involved in the union's further enlargement. The bargaining power of the member states is very influential over the actual written or unwritten EU rules, which hints towards situations where the EU strict guidelines or entry requirements, including the Accession Criteria, can be negotiated and the rules can be bent for some applicants. An example of this is the case of Cyprus, when Greece

threatened that it would block and veto the rest of the 2004 enlargement if Cyprus would not be included in among the countries ready to join to the EU in 2004.

The strict rules, guidelines and many other requirements can be overtaken by little bit of help and support from the EU member states, like in Bulgarian case. Apparently, the Turkish one is lacking the same level of support like Bulgaria had while having the accession negotiations with the EU. Current EU reports on Bulgarian further improvements in the problematic areas states that the country still has the long way to fight against the deep rooted corruption and Judicial reforms in the country, similar to the picture from the EU progress reports on Turkey.

The progresses that both countries have achieved unfortunately stay on look good on paper but have little impact on the ground. In addition, the question if Turkey and the Turkish culture belong to the European identity is further mucking the prospect of the country's accession. However, recent surveys show that the majority of the EU public accepts Turkey and the Turkish nation as European and does not have concerns that the country having a Muslim culture.

By accepting Turkey the EU would get rid of the image of the club where the members belong to one religion. Furthermore, the Accession Criteria does not limit the religion of the applicant country, thus, in theory a Muslim country should not have any problems in becoming a full member of the union as long as it proves that it belongs to Europe.

The Turkish case illustrates that the country is in Europe but it is not welcomed in Europe yet although, according to the EU game rules, the country should be treated like any other applicant. Turkey is getting a different treatment unlike the other ex or current applicant countries.

Given the 2007 enlargement and the acceptance of Bulgaria with its large gaps in Judiciary and high level of corruptions, the EU gives enough reasons to raise the question of its double approach to its applicant countries. How come the countries which do not full satisfy the



Copenhagen criteria manage to become the full members of the union, while some other countries with the same problems with regard to Copenhagen criteria are outside of the union and their future membership is unclear at the moment? How come EU officials apply the EU rules and requirements to different countries differently, while the entry criteria of the Copenhagen is the same to all?

Looking at Bulgaria and Turkey we have a clear picture where one can observe how the EU rules and regulations are applied to the EU applicant countries differently, even though they should be the same to everyone.

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