

**COMPLIANCE WITH EU DEMOCRATIC
CONDITIONALITY: TURKEY AND THE POLITICAL
CRITERIA OF EU**

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COMPLIANCE WITH EU DEMOCRATIC CONDITIONALITY: TURKEY AND THE POLITICAL CRITERIA

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1. INTRODUCTION

The enlargement of the European Union, its political, social and legal consequences and the application of different theories has been subjects of interest for many scholars working on these fields. Whereas some of the research concentrated on the internal dynamics of the enlargement, others focussed on the effect of the EU on candidate or neighbouring countries to shape their policies, identities, institutional structures and interests. The EU will occupy the academic agenda of researchers and scholars many more years, as we take it into consideration that the EU has a unique nature compared to the other international organisations, such as NATO and the Council of Europe. This uniqueness stems from the fact that the EU integration process requires the delegation of a broad range of state sovereignty to the institution, which is also known as ‘deep’ integration.¹ Hence, the EU and its enlargement serve a very interesting model to scholars who want to understand the complexities of state structures and transformation of those structures.

This article will basically give its main attention to the effect of the EU on Turkey, one of the candidate states. The author chooses Turkey as her case study, since it represents an interesting case in the EU enlargement. Unlike Central and Eastern European countries, Turkey is not a new democracy. Moreover, the official relations between the EU and Turkey go back to 1959, when Turkey made its first application to be a member to the European Economic Community. Turkey made its second application for the full-membership in 1987 and the Customs Union Agreement between parties entered into force in 1995. Considering these factors it would not be wrong to say that Turkey is the only ‘still-not-a-member’ state with the longest history of relations with the EU. Another issue that makes Turkey an interesting case is its both geographical and demographical size. Turkey has the biggest population and geographical area among other acceding and candidate states.² The biggest part of the Turkish territory is geographically in Asia neighbouring Iran, Syria and Iraq. In addition to those, Turkey is the sole candidate country whose population is overwhelmingly Muslim.³ Another important issue that makes Turkey different from some recently acceded and acceding is that unlike Central and Eastern European states (CEE), Turkey did not undergo a regime change at the end of the 1980s or the beginning of the 1990s. If it is summarised, one can easily come to a conclusion that the membership of Turkey to the EU will create political, economic, social and even religious concerns in both sides as it is the EU

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¹ Wallace, Helen, ‘Enlarging the European Union,’ *Journal of European Public Policy*, Vol.9, No.4, 2002, p.659 at pp.658-665.

² Populations of Bulgaria, Romania, Croatia, and Macedonia are respectively 7.97 million, 21.7 million, 4.437 million, 2 million respectively. In Turkey 70.7 million people live. Geographical areas of Bulgaria, Romania, Croatia, and Macedonia are respectively 110.993, 238.391, 56.594, 25.713 square kilometres. Turkey is 769.604 square kilometres. For this information, visit, http://ec.europa.eu/comm/enlargement/index_en.htm, 02.08.2006.

³ 99.8 per cent of Turkish people are Muslim. *Idem*.

which will digest this big country and as it is Turkey which has to complete a huge homework with success to be a member. However this article will focus on one major issue of concern between these two parties that is namely the protection of human rights in Turkey.

In the first section, the author will summarise the recently developing conditionality and compliance literature in international relations. In the second section, the author will make a short historical overview of relations between Turkey and the European Union (EU). The following section will be about issues of concern between Turkey and the EU, namely the freedom of expression and rights of minorities. Author chose these two issues for two reasons. One is to give information to the reader about the crises within the Turkish political culture and traditional state tradition, which were intensified by the EU membership process. Second is these issues have been most controversial issues not only between the EU and Turkey but also in Turkey, with which Turkish governments have still not showed full-compliance. The author will refer to the specific cases and incidents that took place in Turkey in 2005 and 2006. She will try to see reflections and implications of these incidents in Turkey and in the EU institutions. In doing so, she will consult the Turkish press, especially daily newspapers. Article will be finalised with a concluding section, which include final remarks about the conditionality literature and predictions about the future of relations between the EU and Turkey.

2. DEMOCRATIC CONDITIONALITY AND COMPLIANCE

‘Democratic conditionality’⁴ is the use of incentives to alter a state’s behaviour or policies.⁵ It is the core strategy of the EU to induce non-Member States to comply with its principles of legitimate statehood.⁶ In other words, democratic conditionality is a strategy to help producing expected outcomes and behaviours in another party. While one party is meeting certain promises or criteria, the other party usually serves a material or immaterial assistance and help. According to Checkel, ‘compliance’ is the extent to which actors act in accordance with and in fulfilment of the conditions prescribed by the institution.⁷ Conditionality leads to compliance, if the institution has enough leverage and negotiation power and if the domestic conditions of the state are in favour of institution and conditions of conditionality. If there are

⁴ On the EU enlargement, conditionality and compliance, see for instance Schimmelfenning, Frank and Sedelmeier, Ulrich (eds), *The Europeanization of Central and Eastern Europe*, Cornell University Press, Ithaca and London, 2005 Schimmelfenning, Frank and Sedelmeier, Ulrich, ‘Theorizing EU Enlargement: Research Focus, Hypotheses and the State of Research,’ *Journal of European Public Policy*, 2002, Vol.9, No.4, pp.500-528; Schimmelfenning, Frank and Sedelmeier, Ulrich ‘Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe,’ *Journal of European Public Policy*, 2004, Vol.11, No.4, pp.661-679; Schimmelfenning, Frank, Engert, Stephan and Knobbel, Heiko, ‘Costs, Commitment and Compliance: The Impact of EU Democratic Conditionality on Latvia, Slovakia and Turkey,’ *Journal of Common Market Studies*, 2003, Vol.41, No.3, pp.495-518; Schimmelfenning, Frank, ‘The International Promotion of Political Norms in Eastern Europe: A qualitative Comparative Analysis,’ *Center for European Studies Working Paper*, No.61, available at <http://www.ces.fas.harvard.edu/publications/Schimmelfennig.pdf>, 08.08.2006; Pinelli, Cesare, ‘Conditionality and Enlargement in Light of EU Constitutional Developments,’ *European Law Journal*, 2004, Vol.10, No.3, pp.354-362; Matenbroek, Ellen, ‘EU Compliance: Still a ‘Black Hole?’’ *Journal of European Public Policy*, 2005, Vol.12, No.6, pp.1103-1120.

⁵ Checkel, Jeffrey T. (i), ‘Compliance and Conditionality,’ *Arena Working Papers*, 2000, No.18 available at http://www.arena.uio.no/news/publications/publ_wp.htm, 05.04.2004.

⁶ Schimmelfenning, Frank, Engert, Stephan and Knobbel, Heiko, *loc.cit.* (note 4), p.495.

⁷ Checkel, *loc.sit.* (note 5).

incompatibilities – misfit or mismatch - between the institutional rules and rules of the state, there is a possibility for higher compliance and change in the state.⁸

The relations in conditionality are usually asymmetric meaning that one weaker party aspires to get a reward (carrot), in return of applying certain behaviour designated, specified and wanted by a stronger party. In this point, the compliance literature refers to two main models. In external incentives model, the weaker party or state simply makes cost-benefit calculations to see if the final reward exceeds costs of compliance. In this model, the state adopts a bargaining strategy to reduce costs of compliance and to get the reward as soon as possible. However, depending on the leverage power of the condition-setting party, the bargaining capacity of the state differs. Usually, the weaker party has nothing to do but to comply, if it is in its major interest to have the reward that the stronger party can/will give. In certain cases, the stronger party can also punish (stick) the weaker party for a failure in compliance, by postponing the reward or by employing other strategies of punishment (cutting off assistance, isolating the state, freezing relations and in extreme cases adopting coercive methods).

In the social learning model, actors do not only tend to pursue material bargaining and calculation of costs, but also learn how to behave after a process of socialisation and persuasion. Eventually, they choose the most appropriate behaviour to determine their policies, even if there is no clear guidance from the institution.⁹ States can learn and socialise in institutional environments that leads to redefine their interests and identities.¹⁰ So self-interest does not explain alone the integration and internalisation of norms. In this model, it is important that actors are convinced that a certain behaviour or policy is the most desired one for the institution. The final stage of the compliance though learning and socialisation will be the internalisation of rules, norms and values in the state that are prescribed by the institution.

According to the author, both models have explanatory value as far as the EU enlargement is concerned. In the first stages of the relations between the state and institution, state usually considers its gains from the relationship. The state can even attempt to bargain the conditions of compliance. If state is convinced that the gain or the value of the final reward will be higher than the possible domestic costs and if the institution demonstrates a leverage that makes bargaining impossible, state tends to comply willingly or unwillingly. Even if conditions of compliance are legitimate, such as recognition of human rights, the state will always weight its benefits in the final stage. However, in compliance, the eventual role of transfer of knowledge, communication, interactions in regular settings, socialisation and finally the emergence of ‘we’ feeling cannot be explained without the help of social learning model.

The material and immaterial costs of compliance varies from one state to another. In extreme cases, the compliance can cost both money and changing state structure, emergence of a new state bureaucracy, being the target of the opposition or *status quo* powers, chaos in society, loss of pride and even the complete transformation of the state’s traditional identity. Similarly,

⁸ Börzel, Tanja A. and Risse, Thomas, ‘When Europe Hits Home: Europeanization and Domestic Change,’ *European Integration Online Papers*, 2000, Vol.4, No.15, available at <http://eiop.or.at/eiop/texte/2000-015a.htm>, 08.08.2006.

⁹ For more information on the ‘logic of appropriateness,’ see March, James G. and Olsen, Johan P., ‘The Institutional Dynamics of International Political Orders,’ *International Organization*, 1998, Vol.51, No.1, pp.943-970; March, James G. and Olsen, Johan P., ‘The Logic of Appropriateness,’ *Arena Working Papers*, 2004, No.04/09, available at http://www.arena.uio.no/publications/wp04_9.pdf, 08.08.2006.

¹⁰ Checkel, Jeffrey T. (ii), ‘Norms, Institutions and National Identity in Contemporary Europe,’ *International Studies Quarterly*, 1999, Vol.43, No.1, pp.83-114.

the level of compliance also differs from one state to another. In the case of the CEE enlargement, all acceding states adopted different solutions to their domestic problems. A policy, which is not acceptable in a society, can be well-received and easily adopted in another. According to Checkel, “persuasion is more likely to be effective in changing attitudes when the persuadee has few prior, ingrained beliefs that are inconsistent with the persuader’s message.”¹¹ In other words, if persuadee’s priorities have not been established strongly, it is more inclined to import values of the persuader. If we put this formula in terms of states’ interactions with institutions, those states which have institutionalised identities in some issue areas will resist to behavioural or identity change. In the case of the CEEs, one of the reasons of high compliance is the absence of institutionalised structures, which would hinder the introduction of democratic norms and values. However, in Turkish case the European values and institutions should overwhelm the rooted institutional structure of the Turkish state and its established values.

At this point, to see the cost of compliance within a state and to understand the level of compliance, it is important to know the role of the traditional state identity. Questions like how and by whom the state identity was established or represented become crucial to comprehend the degree of compliance. To know state identity will also help us to see how a state describes itself in relation to others. It demonstrates the boundaries of ‘we-ness;’ who is within this identity and who is not. Moreover, it indicates to where one feels belonging or more importantly to where it does not feel any attachment. Identities help us to locate an actor and develop analyses based on this location. However, identities are flexible, changing, multiple and constructed. In a state or in our personal lives, we observe the change of old identities and adoption of new ones every day. The EU membership process usually affects the state identity in differing degrees. Depending on the leverage of the institution, nature and resistance power of the traditional identity; membership conditionality may cause a complete identity transformation and change in the society. For these reasons, the EU enlargement is a very rich area not only for political scientists or scholars of international relations but also for sociologists and even anthropologists.

Conditionality and compliance requires a set of written or unwritten norms and rules prescribed by the institution or regime.¹² These rules and norms have an effect on the state’s domestic political system. According to Kratochwil, regimes do not simply cause certain behaviour.¹³ But rather a certain action is recognised and appraised through the application of a norm. Institutions or regimes can trigger a change both in primary and secondary rules within a legal system. This is not only the regulative effect of norms, but also their constitutive effect. Thus, “(M)any social norms not only regulate behaviour, they also constitute the identity of actors in the sense that who “we” are as members of social community.”¹⁴ In addition to this, norms also are reconstructed in discursive interventions as

¹¹ Checkel, Jeffrey T. (iii), ‘Building New identities? Debating Fundamental Rights in European Institutions,’ *Arena Working Papers*, 2000, No.00/12, available at http://www.arena.uio.no/publications/wp00_12.htm, 05.20.2004.

¹² For an analysis of regimes, see Haggard, Stephan and Simmons, Beth A., ‘Theories of International Regimes,’ *International Organisation*, 1987, Vol.41, No. 3, pp. 491-517.

¹³ Kratochwil, Friedrich, ‘Norms vs. Numbers, Multilateralism and the Rationalist and Reflexivist Approaches to Institutions, A Unilateral Plea for Communicative Rationality’, in Ruggie, John G. (ed.), *Multilateralism Matters: The Theory and Praxis of An Institutional Form*, Columbia University Press, New York, 1993, pp443-474, p.459.

¹⁴ Risse, Thomas, ‘Social Constructivism and European Integration,’ in Wiener, Antje and Diez, Thomas (eds) *European Integration Theory*, 2004, Oxford University Press, pp.159-75.

social practices. So, norms are not only legal prescriptions but also they are social practices with certain meaning and interpretations.¹⁵

As it was mentioned above, conditions for a successful compliance are the leverage of the institution and the readiness of the state actor and availability of state institutions to implement institutional norms and rules.¹⁶ In addition to those, the credibility of the institution and the legitimacy of the conditionality are other significant factors that will trigger the compliance. If the state actor does not believe that the institution will not keep its promises, the motivation for compliance will be lost easily. Similarly, the norms and values should represent a degree of legitimacy in the importing state to make it difficult to bargain or to reject them. The institution should indicate a consistency in applying these norms both at home and in its external relations abroad. Mixed messages about the conditionality or the seriousness of conditions will cause the weakening of the compliance immediately. Vagueness of conditions is another factor that will decrease the compliance. If these norms and rules are not precisely written and even the institution attaches differing meanings for them, it is likely that the level of subjectivity of norms will be higher for the importing state. Moreover, the institution should provide a clear guidance for states to help them implementing these conditions. This guidance can be in form of technical assistance, close monitoring and clarifications when it is necessary. But in addition to those, the institution should demonstrate a degree of trust in the norm-importing state, in order to help the state to identify itself with the institution's 'we.' If state believes that there is no way to be acceptable for the institution and institution is a closed complex with a defined boundary of 'us,' then the likelihood of transformation and change will be less.

A prolonged interaction, according to Checkel, can promote a greater sense of we-ness.¹⁷ But this is true for settings like the Council of Europe, where states are more or less equal members to an institution. However, as mentioned before the European Union membership process requires interactions between unequal parties, until the membership reward is granted at last. In this respect, the prolongation of getting reward can have a counter effect to weaken the feeling of we-ness in the part of the state actor. If the membership prospect is weaker, the party which makes changes and concessions can lose the idea of positive-sum game and the reward can be nothing but a dream that is impossible to achieve. In these situations, states can either try to negotiate rules of regimes or they are beaten by the domestic constraints within their own societies.¹⁸ It is obvious that a relationship between a state and institution is affected by several factors such as economic, political and strategic gains, institution's capability and willingness to trigger a change in a state and the domestic structure of a state and power-relations among elites within a state. So, on one hand the government representatives will try to negotiate or debate the conditions of membership with a certain institution or regime, on the other they have to explain this to the rest of state elite and to their society. The state elite are usually aware of the fact that compliance would increase their credibility in eyes of the institution. Hence the relationship between the institution and state is regularised in a technical and bureaucratic way. However, this would risk their persuasion power in the

¹⁵ Wiener, Antje, 'Contested Compliance: Intervention on the Normative Structure of World Politics,' *European Journal of International Relations*, 2004, Vol.10, No.2, pp.189-234.

¹⁶ Norm influence according to Finnemore and Sikkink has three stages: norm emergence, norm acceptance and norm internalisation. See Finnemore, Martha and Sikkink, Kathryn, 'International Norm Dynamics and Political Change,' *International Organisation*, 1998, Vol.52, No. 4, pp.887-917. In addition, see Cortell, Andrew P. and Davis Jr., James W., 'Understanding the Domestic Impact of International Norms: A Research Agenda,' *International Studies Review*, 2000, Vol.2, No. 1, pp.65-87.

¹⁷ Checkel, Jeffrey T. (iii), *loc.sit.* (note 11).

¹⁸ Haggard, Stephan and Simmons, Beth A., *loc.cit.* (note 12), pp. 514-515.

domestic level, especially if the reward of compliance is not given in a short period of time and if the possible changes risk the position of certain established elite groups in the society.

The European Union has a set of rules and values that are recognised as ‘common’ and ‘legitimate.’ Membership requires an acceptance of these rules and values. The European ‘we-ness’ evolves around these common values like “respect for human dignity, freedom, democracy, equality, the rule of law and the respect for human rights, including rights of persons belonging to minorities.”¹⁹ In the case of the EU enlargement, the democratic conditionality for enlargement entails general implementation of the Copenhagen Criteria and harmonisation of legislation with *acquis communautaire* which is the complete community law. The Copenhagen Criteria are basically the stability of institutions that guarantee the rule of law, democracy, human and minority rights. The obvious primary reward for the compliance is the prospect of membership. In addition to this, the financial assistance and trade agreements are secondary (but expensive) means of reward.²⁰ Here one can easily see the strengthening factor for the EU conditionality and that is the legitimacy of these expectations. The political Copenhagen criteria represent not only values of the Western European states but also values of the overall international community and the United Nations. These values are also considered to be natural outcomes of democracy and political liberalism. But will all states be willing to implement these norms easily? Even if they do, will it be a smooth process concerning reactions that would come from the proponents of the established identity. Next sections will take a look at Turkey’s story in this regard and try to answer these questions.

3. TURKEY AND THE EU: A SHORT HISTORY OF LONG RELATIONS

Although there are some circles in the Western European countries sceptical about the ‘Europeanness’ of Turkey, close institutional relations between Turkey and the European organisations goes back to the end of the 1940s. Turkey has been a member of the Council of Europe in 1949, and a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) since 1954. In addition to those, Turkey is a NATO country since 1952. It is also a member of the Organisation of Security and Cooperation in Europe since 1975. Turkey is a part of the Western European security arrangements since 1992, as an associate member to the Western European Union.

Official relations between Turkey and the European Economic Community at that time started in 1963, with the Ankara Agreement which established an association between two parties. Relations that were interrupted by the military coup in Turkey in 1980 were normalised finally in 1986 with Turkey’s return to multi-party democratic system in 1983.²¹ With a surprising move, Turkey made an application for membership in 1987. Turkey’s application was rejected mostly on economic grounds. The Commission’s advisory report at that time

¹⁹ Article I-2 of the Treaty Establishing a Constitution for Europe, available at http://europa.eu/constitution/index_en.htm, 08.08.2006.

²⁰ For instance, according to the EU Commission internet page, around 1.15 billion Euro of EU financing is being managed in Turkey for projects committed between 1996 and 2004 inclusive. The budgetary allocation for 2006 is 500 million Euro. Turkey is also receiving assistance from European Investment Bank, that worth 1.995 million Euro from 1992 to 2002. Visit http://ec.europa.eu/comm/enlargement/turkey/eu_relations.htm, 08.08.2006

²¹ Between 1980 and 1986 the European Union institutions interrupted financial assistance and institutional relations to a large extent as a result of 1980 military coup and problems with the establishment of complete civilian and democratic regime. See Rıdvan Karluk, *Avrupa Birliği ve Türkiye*, Beta Basım, İstanbul, 2002.

makes a very short reference to the poor democracy in Turkey.²² Yet, even normalised relations were overshadowed by gross violations of human rights in Turkey in the 1980s and 1990s. Especially the European Parliament played a leading role to draw the attention of the European states and public to the situation of minorities in Turkey, large limitations over political and civil rights, the fate of political prisoners, disappearances and anonymous killings.²³ The Parliament used weak democratisation in Turkey as a condition for the flow of financial assistances or conclusion of agreements. For instance, during debates of concluding customs union with Turkey, the European Parliament declared it would vote against it on the grounds of gross human rights violations in Turkey in 1995.²⁴ As a result of this, the Turkish government at that time had to make certain democratic reforms immediately.

The declaration of the Copenhagen criteria in 1993 opened a new era both in the EU history of enlargement and in Turkey. From then on, all candidate states have to respect human and minority rights and establish institutions that guarantee the protection of those rights. In the 1980s and the beginning of the 1990s, the EU enlargement was considered by the Turkish policy makers as a political, economic and strategic initiative to increase material and security gains of the EU. The Copenhagen Political Criteria indicated that the membership was not only an issue of economic or political integration, but also an integration of democratic values and norms that are usually immaterial and intangible. The Turkish governments were not ready for such a change. Highly securitised environment of the 1990s due to the conflict in Kurdish areas hampered democratisation efforts. But most importantly, the democratisation was not a serious plan for governments but something that was postponed all the time. No government was ready to take risks of democratisation process. In Turkey, for a long time the common dominant view about the membership to the European Union was based on strategic calculations. The traditional Turkish foreign policy focuses on the keeping stability in the region and close eyes on the military balance with Greece. Turkey's strategy-oriented and sometimes aggressive foreign policy regarding Cyprus and Northern Iraq has been among the main issues of tension and difference between Turkey and the Western Europe.²⁵ On the other hand, the Copenhagen Political Criteria increased the credibility and legitimacy of the institution especially in eyes of observers and human rights activists. Through these criteria, candidate countries could achieve a democratic transformation more quickly, which would have been impossible or slower in the absence of such a motivation.

Relations between two parties had its worse moment in the 1990s; by the final decision of the European Council at the Luxembourg summit in 1997. By the EU state leaders, Turkey was not given a candidacy status in Luxembourg.²⁶ Besides, in addition to the Copenhagen

²² For the report on Commission Opinion on Turkey's Request for Accession to the Community, visit <http://www.deltur.cec.eu.int/english/opinion.html>, 09.06.2006.

²³ See for instance Dağı, Ihsan, 'Human Rights, Democratisation and the European Community in the Turkish Politics: The Özal Years, 1983-1987,' *Middle Eastern Studies*, 2001, Vol.37, No.1, pp.17-40; Krauss, Stephan, 'The European Parliament in EU External Relations: the Customs Union with Turkey,' *European Foreign Affairs Review*, 2000, 5:2, pp.215-237; Hugh Poulton, 'The Turkish State and Democracy,' *The International Spectator*, 1999, Vol.34, No. 1; Onis, Ziya, 'Redemocratization and Economic Liberalization in Turkey: the Limits of State Autonomy,' *Studies in Comparative International Development*, 1992, Vol.27, No. 2, pp. 3-24.

²⁴ Krauss, Stephan, *idem*.

²⁵ Jung, Dietrich, 'Turkey and Europe: Ongoing Hypocrisy?' *Copenhagen Peace Research Institute Working Papers*, 2001, No.03/02, available on <http://www.ciaonet.org/wps/jud03/>, 05.06.2006; Diez, Thomas, 'The Imposition of Governance: Transforming Foreign Policy Through EU Enlargement,' *Copenhagen Peace Research Institute Working Papers*, 2000, No.11/00, 2000, available at <http://www.ciaonet.org/wps/dit04/dit04.html>, 04.06.2005.

²⁶ For key documents related to the EU enlargement and Turkey, visit the European Commission's webpage at http://ec.europa.eu/enlargement/turkey/key_documents_en.htm, 08.08.2006.

Criteria, the state leaders decided that Turkey's relations with Cyprus and Greece would be monitored closely before a possible membership. After the summit, the Prime Minister of Luxembourg gave an interview to a newspaper commenting that "the representative of a country which practices torture has no place in the EU table."²⁷ These words, just like the final decision of the EU state leaders caused a public and political fury. The decision of the EU was considered to be discriminatory reflecting a double-standard. Many Turkish politicians felt humiliated for not being put in the same status as the former communist states. As a result, in 1997 there was again an interruption in normal relations with the EU but this time the reaction came from the Turkish side. The government decided to reject all conditions and not to discuss issues like Cyprus, Greece and human rights with the EU officials. The government also decided not to extend the provisions of the Customs Union and to deepen the integration with the Turkish Republic of Northern Cyprus on economic and security issues.²⁸ However, two years later, the EU member states changed their attitudes and decided to give Turkey a carrot, instead of stick to foster the democratisation without isolating Turkey. In Helsinki summit of 1999, Turkey was given candidacy status with the same conditions as the other candidates. This decision was celebrated in Turkey by the public, civil society and press. A table in the front page of online *Hürriyet* indicates how reactions can be different compared to the nationalist and aggressive discourses of 1997, if there is a reward given. The table is titled "with what we have to comply?" and itemise important conditions such as "we will respect for minority rights," and "we will prevent torture."²⁹ Suddenly, the dream of EU membership became achievable and the decision of the EU states in Helsinki was not formulated in a humiliating way. So, the Turkish politicians and elite 'forgave' the EU for the mistake they made back in 1997.

The relations between two parties gained a considerable momentum after Helsinki decision. In 2000, negotiating on Services and Public Spending started between Turkey and the EU. In 2001, 2003 and 2006 the European Council approved texts of the Accession Partnership to guide Turkey on the path to the membership. In the same years, Turkish governments adopted National Program for the Adoption of the Acquis to introduce their short, medium and long-term priorities to the European Union. In December 2004, the European Council decided that Turkey fulfilled the Copenhagen Criteria to a satisfactory extent and accession negotiations could begin. However, there was an issue waiting to be resolved and that was the normalisation of relations with all EU countries, especially as far as trade and consular relations are concerned. According to the Turkish government and majority of public, this would mean an official recognition of Cyprus by Turkey. With a successful bargaining, the Turkish authorities postponed the issue so far. On the 3rd of October 2005, the Negotiating Framework was issued by the EU General Affairs and External Relations Council. The Framework states that Turkey's progress and the implementation of the Copenhagen Criteria will be monitored regularly by the European Commission. The text indicates thirty-five issue areas from defence policies to environment and to transportation that Turkey has to complete the implementation of *acquis*. Finally the EU Council decided to start accession negotiations with Turkey in October 2005. Finally, in November 2005, the EU Commission issued the Enlargement Strategy Paper for candidate states. The screening process between Turkey and the EU on thirty-five issues mentioned earlier continues. Negotiations and screening

²⁷ 'Densiz Başbakan,' *Hürriyet*, 13.12.1997 (online), available at <http://arsiv2.hurriyet.com.tr/hur/turk/97/12/13/>, 08.08.2006.

²⁸ For the response of government, see 'Tarihi Cevaplar,' *Hürriyet*, 15.12.1997 (online), available at <http://arsiv2.hurriyet.com.tr/hur/turk/97/12/15/>, 08.08.2006.

²⁹ 'Nelere Uyacağız?' *Hürriyet*, 11.12.1999 (online), available at <http://arsiv2.hurriyet.com.tr/hur/turk/99/12/11/>, 08.08.2006

processes usually take place in the ministerial, technical and bureaucratic level to be evaluated by the EU Commission and the Council at the end. It is important to note that membership negotiations are open-ended. It is not clear when they will be finalised. In addition to that it is not certain that they will be ended with the membership. The membership will depend on both Turkey's general performance, the success of harmonisation and also approval of member states. Some member states like Austria already declared that it will go to referendum on the issue of Turkey's membership. As a result of this, Turkish governments should not only keep the momentum of change and reformation but they should also convince the European politicians and public that they are ready to have a sit at the European table.

So far we have reasons to be optimistic and pessimistic about Turkey's near future. One reason of optimism is the willingness or almost all political groups in Turkey to be an EU member state. Two Turkish governments that took office since 1999 announced their firm commitments to the implementation of the Copenhagen Criteria through many necessary changes in the legislation. The acceleration of democratic reform in Turkey went hand in hand with the membership prospect given in 1999, Helsinki. As the likelihood of achieving the final reward - that is membership - became more visible, the governments found both more public support to keep the reform process in momentum and less resistance which would come from different institutions of the state. In other words, governments' determination to comply with the criteria strengthened the public support and deterred the opponents. As a result of this, governments who secured public support behind them met with less crises or tension in the society. And members of society maintained their support for the governments which would prepare Turkey to the EU membership. If we go back to the Helsinki decisions in 1999, the EU approval on Turkey's candidate status functioned as a vote of trust for the Turkish government, as far as it attaches the European values and complies with the membership criteria. Unfortunately, the coalition government of 1999 could not resist inter-party and intra-party problems and at the end of 2002 one of the coalition members took away the support that it gave to the government. Elections were held in November 2002. In a way for the next government established under the Prime Minister Tayyip Erdoğan, situation was even much more favourable, as the public opinion was already used to the idea of harmonisation and compliance. So in the first years of the government, the reform process that started during the office of the previous government continued without any delay.³⁰

However, it would be wishful thinking to expect the compliance process always goes as smooth as it was explained above. Certain factors can weaken the ruling party's determination and support of the public for the conditionality. First most obvious factor would be the length of the time and the process Turkey entered now. The longer it takes to receive the reward, the lesser support given for the stronger institution that puts rules – European Union in this case -.

Another factor is the weakness of democratic domestic forces and absence of reconciliation in the society, as it will be explained in next sections. The democratisation in the Turkish case was/is initiated, motivated, triggered and regularly monitored by the EU institutions. It is very important to note that unlike some Baltic States and CEE countries, the main motivation for change in Turkish case basically came from the idea of membership to the European Union. In the absence of other domestic or outside forces that would provide 'advice, inspiration and pressure,'³¹ or reward; it was the European Union that generated the momentum for

³⁰ For democratisation reforms in Turkey, Erdogan, Birsen, 'Turkey's Compliance with EU Human Rights Norms,' in *Human Rights in Europe*, Brosig, Malte (ed.), Peter Lang, Frankfurt, 2006, pp. 224-245.

³¹ Wojciech Sadurski agrees that in the case of Baltic, Central and Eastern European states, important institutional innovations were taken predominantly under domestic public pressure in the initial transitional

democratization and liberalisation. In simpler terms, the EU conditionality presented the list of 'what has to be done?' whereas the prospect of membership reward generated the motivation for compliance. There is almost a national consensus on the EU membership in Turkey. Including the nationalist party, majority of political parties support the EU membership, though with different weights. The EU membership promises an 'European and civilised identity,' among many other things. Just like the Central and Eastern European States, the Turkish decision-makers and public wanted to be a part of the European Union so much because of factors like being a part of prosperous and stable democratic states and leaving the 'Eastern' past behind.³² However, this means that democratisation in Turkey was not the result of a mass movement or natural development of the civil society. In these kind cases, it is not for sure that reforms will be persistent, durable and strong, in the absence of a possible reward. The integration of reforms depends on their acceptance, diffusion and legitimisation in the society. A new political and economic structure, a new legislation; emergence of new foreign and domestic actors such as the European Commission officials and new state elite who are experts on the harmonisation and the reformation of the 'old' state institutions like security forces and judiciary can be sources of confusion, tension and even chaos. As it will be explained later, there is still both governmental and public resistance in Turkey against some democratic changes that is weakening the democratisation process.

In spite of the momentum caught in 1999, the reform process has been slowed down. Negotiations are being held in less political environments and the EU is not the first agenda item of the Turkish people and press anymore. In addition to this, the government faces with problems related to the secular nature of the traditional state system. In the worse scenario, the divergences between secular groups and the government may reach a point of a major regime earthquake in the country.³³ The secular, nationalist and opposition groups to the government may easily manipulate the reform process, especially when the issue of recognition of Cyprus is still not resolved yet. The direct or indirect recognition of Cyprus can trigger a national crisis, which would easily turn people against the government. Both secular and nationalist groups can use the tensions caused by reforms and the negotiation process against the government with the excuse of they are harming the Turkish national identity.

To conclude this section with more abstract assumptions, everything mentioned so far address to a more serious and complicated issue, which is the identity problem for the state and its citizens. If one thinks of the harmonisation process as a process that requires the incorporation of eighty thousands of pages of *acquis communautaire* into the domestic system in a relatively short period of time, one can comprehend the complexity of the process and its possible consequences within the domestic structure. It would not be a surprise to expect problems especially in state institutions and in their relations with citizens. Another dimension of this process is its effects on the social identity of a state. The EU membership does not only bring a bunch of institutional and structural surprises within the package, but also it brings the promise of being a real 'European.' If the promise of being a European is read reversed it will be something like this: "You are not European now." All these factors accumulate over time

period of democratic change. In addition to this, there were outside sources other than the EU, such as the OSCE, Council of Europe and NATO to advise, inspire and press the democratic change. Sadurski, Wojciech, 'Accession's Democracy Dividend: The Impact of the EU Enlargement upon Democracy in the New Member States of Central and Eastern Europe,' *European Law Journal*, Vol.10, No. 4, 2004, pp.371-401, at p.375.

³² Thomas Diez makes a reference to Iver Neumann about 'leaving the Eastern past behind,' in Diez, Thomas, *loc.cit.* (note 25).

³³ For an analysis of Islam in Turkish political culture, see Yavuz M. Hakan, 'Cleansing Islam From the Public Sphere,' *Journal of International Affairs*, 2000, Vol. 54:1, pp.21-43; Dagi, Ihsan, 'Trnasformation of Islamic Political Identity in Turkey: rethinking the west and westernization,' *Turkish Studies*, 2005, Vol.6, No.1.

and in a moment of crisis they show the general tiredness, boredom, distrust, loss of pride, identity dilemmas and even a general resistance. The resistance would be against the government or against the democratisation in its totality. If the conventional oppositional forces to the change and liberalisation in the society are still present and survived the harmonisation, then this would be a perfect moment for them to raise their voice both against the government and the stronger institution. A most probable consequence of these tensions would be an increased support for the nationalist groups in the society and less support for the further reformation. Moreover, if the government failed to address the issues of controversy or divergence in the society during times of higher support, then it is highly unlikely that these issues will be resolved smoothly in times of tension and crisis.

We see these stages of identity reformation or deformation in the Turkish case clearly. Next sections will elaborate more on the identity and political crises that Turkey had to face since November 2002 by taking a glance at relevant snapshots from the Turkish daily politics on the freedom of expression and rights of minorities. Reason of choosing these issues is their weight in political and social debates in Turkey and in the European Union. The author will use newspaper columns and articles written by the Turkish scholars as her main source of reference. The study will analyse the effect of the conditionality on Turkey especially as far as the Turkish political culture and state tradition are concerned.

4. TURKISH IDENTITY: WHO ARE WE?

The presenters of the Turkish identity used Westernisation³⁴ and Europe as a frame of reference both as an ideal to be achieved³⁵ and also as an ‘other’ that ‘we’ are not well equipped to be a part of it. The mainstream state elite since Kemal Atatürk perceived Europe, as the cradle of civilization and modernisation. Hence, the Turkish Republic incorporated some established European values such as secularism, social state and woman’s rights into its constitutional structure. The Turkish state elite were proud of cutting the ties off with the religious, expansionist and Eastern-like Ottoman history and being the only and one democratic and secular state in the Middle East for many years. In the Cold war years, the togetherness of Turkey with the West including the United States of America was defined in terms of strategic calculations and bonds of alliance. A secular and West-oriented state in the region was most welcome for the Europeans and Americans, who considered the balance of power against the Soviet Union as their primary foreign policy objective. However, the end of Cold War opened a new era and transformed the security logic of the whole European continent. The European Community, which in fact started a process of desecuritisation both in external and internal matters at the end of the war, reached its peak by the 1990s and it became a ‘civilian’ rather than military power whose norms are based on desecuritisation of foreign policy³⁶ and expansion of zone of peace in Europe including the new democracies of the Central and Eastern European states. In this equilibrium, Turkey was behind and outside of the desecuritisation and democratisation process and of the peaceful European expansion. The security-oriented logic of the mainstream elite that run the country since 1923 was not easy to change. Turkey grounded its republican ideas on the power of its armed forces instead

³⁴ It is important to note that in the Turkish context, the term ‘Europeanisation’ is almost never used. ‘Westernisation’ is the common use to define the direction of the modernization project.

³⁵ See for instance Ergil, Dogu, ‘Identity Crises and Political Instability in Turkey,’ *Journal of International Affairs*, 2000, Vol.54, No.1, pp.43-63; ; Heper, Metin, ‘The Ottoman Legacy and Turkish Politics,’ *Journal of International Affairs*, 2000, Vol.54, No.1, pp.63-83; Rumford, Chris ‘Resisting Globalization: Turkey-EU Relations and Human and Political Rights in the Context of Transnational Democratisation,’ *International Sociology*, 2003, Vol. 18, No.2, pp.379-394; İhsan Dağı, *Batılılaşma Korkusu*, Liberte, Ankara, 2003.

³⁶ Thomas Diez, *loc.cit.* (note 25).

of its people. Armed forces were not only considered the saviour of the nation by state elite and majority of the population, but also founder of the modern republic and its guardian.³⁷ The first and biggest clash between the Turkish and European identity lays in the fact that whereas Turkey has played the security and strategy card against its opponents and allies, the EU has taken an important step to transformed its security logic and strengthened the civilian, accountable and transparent democracy and civil society. According to van Westering, at the heart of relations between armed forces and politics lies a strong sense of insecurity perceived by the Turkish population, due to country's geopolitical location and two decades of conflict with the armed Kurdish group.³⁸

According to Kahraman, the young Turkish state in the 1920s had to make a choice between modernisation and democratisation and it chose modernisation.³⁹ On the contrary in Europe, the primary influence of the modernisation was replaced by the democratisation in the last two decades of the 20th century. Kahraman agrees that this transformation in Europe was achieved relatively easier because the modernisation had reached a point of no return. Yet, in Turkey without achieving this point, the democratisation has been a priority issue as results of the EU pressure. However, the internalisation of the requirements of democratisation has not reached at a satisfactory point yet in the Turkish transformation in last ten years. As a result, in Turkey, reforms and further democratisation required by the European institutions have not been perceived as requirements of identity transformation but rather 'simple formulas' to achieve short-term objectives to be a part of 'modern' states.⁴⁰ However, in the case of the integration to the European Union, by the 2000s with the increasing intensity of the integration efforts, it became clear that the EU process brings the risk of losing the foundations of the state or at least redefining their roles in more democratic, civilian and accountable terms. Obviously this was a threat for their very members and the supporters of these foundations. Both Turkish military and civilian elite and public realised that Europeanization was not happening in one day with some changes in the legislation and Turkey was not welcomed by European states easily. But rather this was and will be a painful and long process of changes in mentalities, identities and behaviours. The 2000s have not only been the years of major transformations to comply with the political criteria but they have also been years of the distrust and suspicion towards Europe reached its highest degree. As İnanç puts it "The distrust to Europe was a result of the limitation of political and sociological resolutions only within the 'permanence of the state,' and perception of the West politically as a 'threat' and culturally as an 'other'."⁴¹ In this picture, the Turkish elite complained for being left outside of Europe that never truly appreciated Turkey's strategic and political concerns to deal with especially its internal problems like political and minority opposition against the very state structure.⁴²

It is argued that identities are not constant, single and fixed. They are open to change and transformation. This kind of transformation can be result of a top-down state policy or a bottom-up peoples` movement. Alternatively, the third parties or internationally and globally

³⁷ Karaosmanoglu, Ali, 'The Evolution of the National Security Culture and the Military in Turkey,' *Journal of International Affairs*, 2000, Vol.54, No.1, pp.199-216.

³⁸ van Westering, Jolanda, 'Conditionality and EU Membership: The Cases of Turkey and Cyprus,' *European Foreign Affairs Review*, 2000, Vol.5, No.1, pp.95-118, at p.98.

³⁹ Kahraman, Hasan B., 'Kıssadan Hisse,' *Radikal*, 22.12.2004 and Kahraman, Hasan, B., 'İki Avrupa Çelişkisi,' *Radikal*, 08.12.2004.

⁴⁰ İnanç, Hüsamettin 'Avrupa Birliği Entegrasyonu Sürecinde Türkiye'nin Kimlik Problemleri,' *Doğu-Batı*, 2003, No.23.

⁴¹ İnanç, *idem*.

⁴² Erdogan, Birsen, *loc.cit.* (note 30), p.247.

accepted system of values and norms can trigger a change or transformation. If states and their peoples decide to change their traditional identity acclaiming a new identity and to take a part in the system as a respectable member of the global society, it is expected that they can face with crises at home. In countries like Turkey, where the dominant view of statecraft is deep-rooted and institutionalised, it would be even more difficult to cope with the new values and norms. The transition period would be painful and resistance to the change would not be surprising. However, when the policymakers realise that the cost of staying outside of the international norm and value system is higher than the costs that they have to pay at home, the transformation and change can be achieved smoothly and people of the state can be convinced to live with a new and more respectable system. In this picture, a ruling class that internalise the democratic norms and citizens that are open to change and tolerance are crucial to achieve.

Turkey's main problems with the EU conditionality are rooted in these observations. Implementation of the political criteria and democratic opening in the issues of freedom of expression, the lessening role of the army and the introduction of minority rights have been major issues of tension and crises in the Turkish compliance process. Next sections will explore the resistance against change, especially as far as freedom of expression and minorities are concerned. The identity problem of Turkey will be re-visited to understand the reasons of resistance better.

5. FREEDOM OF EXPRESSION: MORE TOLERANCE NEEDED?

The last months of 2005 and first months of 2006 witnessed a number of events in Turkey that increases worries about the freedom of expression and thought. One of the most acclaimed novelists of Turkey, Orhan Pamuk had to face trial, on the grounds that in an interview that he gave to a Swiss newspaper, he would have denigrated and insulted the Turkish identity,⁴³ by mentioning the death of one million Armenians and 30.000 Kurdish people in Turkey. In December 2005, the trial was watched closely by his supporters from Turkey and the European Union. But there were also many demonstrators accusing him of treason.⁴⁴ Pamuk was charged based on Article 301 of the new Penal Code, which punishes degrading the Turkish identity, the Republic, as well as state and military organs and institutions, with imprisonment from six months up to three years. The charges against Pamuk were dropped by the court several months later. At the same time, a case against Joost Lagendijk, a member of the European Parliament and Turkish Joint Parliamentary Commission, was filed at a court for the same crime by a group of nationalist lawyers, based on his remarks about the role of Turkish armed forces in Kurdish areas.⁴⁵ Lagendijk in an interview about his trial, mentioned that there is a minority in Turkey that is resistant to change.⁴⁶ He also said that the Turkish public, MPs, politicians and intellectuals must take position. In September 2005, the controversial international conference on 'Ottoman Armenians' was finally held in Istanbul Bilgi University, after two previous attempts of blocking the conference and by changing its venue. Conference, which was scheduled to be held in May 2005, was firstly challenged by some government members like Minister of Justice who describe the attempt as an act of

⁴³ 'Turk Genocide Author Faces Jail,' *BBC International News* (online), 01.09.2005, available at <http://news.bbc.co.uk/2/hi/europe/4205708.stm>, 24.05.2006.

⁴⁴ 'Turk Writer's Insult Trial Halted,' *BBC International News* (online), 16.12.2005 available at <http://news.bbc.co.uk/2/hi/europe/4533664.stm>, 26.05.2006.

⁴⁵ 'Euro MP Faces Turkey Insult Probe,' *BBC International News* (online), 27.12.2005, available at <http://news.bbc.co.uk/2/hi/europe/4563010.stm>, 26.05.2006

⁴⁶ 'Lagendijk: Türkiye'ye Desteğim Sürüyor,' *Hürriyet*, 29.12.2005 (online), available at <http://hurarsiv.hurriyet.com.tr/goster/haberler.aspx?id=1&tarikh=2005-12-29>, 30.05.2006.

treason several days before the conference and by other politicians like members of the social democratic party (CHP) in the Parliament in May.⁴⁷ An MP from the CHP said in his speech in the parliament before the conference that in the conference the ‘official discourse’ would be questioned and a Turkish university would be a part of that ‘betrayal.’⁴⁸ The CHP especially after 2002 elections represented the official state view in many issues regarding pluralism and recognition of differences.⁴⁹ Afterwards, in September 2005, a second attempt came from a court, which decided to stop the conference provisionally in the previously-announced venue, based on the complaints made by nationalists groups on the scientific validity of the conference in September 2005. The Prime Minister Erdoğan described the court ruling as an ‘unacceptable’ attempt of provocation against the expression of ideas.⁵⁰ Moderate members of the cabinet, like Abdullah Gül, Minister of Foreign Affairs and Ali Babacan, State Minister on Economic Issues commented that the court decision was in conflict with freedoms and liberties.⁵¹ The EU Commission and Parliament harshly criticised the postponement of the conference and mentioned that this issue would be evaluated in the Commission’s progress report.⁵² Several state institutions like High Education Council accused the court order as an attempt to control the universities and academicians.⁵³ The conference was finalised, in spite of demonstrations and feeling of insecurity for participants in September 2005. Immediately after the conference, columnist, academician and writer Murat Belge who was also a participant in the conference, in his column in daily *Radikal* wrote that:

“Armenian conference was held. It was not the end of the world, as many newspapers predicted. This morning, the sun has a difficulty to rise, but its reason is not conference but clouds. The reason of clouds is related to some meteorological conditions.”⁵⁴

In his column, he refers to the militaristic nature of the Turkish culture, which considers obeying orders as a symbol of power. He mentions that ‘unity and togetherness’ were ideals of the Turkish society, even before the oldest one among us was born. He describes demonstrators against the conference as groups that see the society a potential army, the life as a war and everyone else as an enemy.

The impact of the conference continued in the following months. Although previously criticizing the court decision stopping the conference as ‘upsetting,’⁵⁵ the leader of the social

⁴⁷ “Konferans Ertelendi,” *Radikal*, 25.05.2005 (online), available at <http://www.radikal.com.tr/haber.php?haberno=153753>, 26.05.2006.

⁴⁸ *Radikal*, *idem*.

⁴⁹ For analyses of the CHP, see Keyman, Fuat, ‘Alternatif Siyaset,’ *Radikal İki*, 16.01.2005 and Keyman, Fuat, ‘Milliyetçi-Ulusalcı Sol,’ *Radikal İki*, 10.04.2005.

⁵⁰ “Erdoğan: Bu Provokasyondur,” *Radikal*, 25.09.2005 (online), available at <http://www.radikal.com.tr/haber.php?haberno=165042>, 26.05.2006.

⁵¹ “İdeolojiye Alet Olmayın,” *Radikal*, 24.09.2005 (online), available at <http://www.radikal.com.tr/haber.php?haberno=164945>, 26.05.2006.

⁵² “AB: Raporda Bu Olay Yer Alacak,” *Radikal*, 24.09.2005 (online), available at <http://www.radikal.com.tr/haber.php?haberno=164935>, 26.05.2006.

⁵³ “Karar Anayasaya Aykırı,” *Radikal*, 24.09.2005 (online), available at <http://www.radikal.com.tr/haber.php?haberno=164938>, 26.05.2006.

⁵⁴ Belge, Murat, “Konferansın Ardından,” *Radikal*, 27.09.2005 (online) available at <http://www.radikal.com.tr/haber.php?haberno=165160>, 26.05.2006.

⁵⁵ “Baykal Nihayet Konuştu: Üzücü,” *Radikal*, 25.09.2005 (online), available at <http://www.radikal.com.tr/haber.php?haberno=165043>

democratic opposition party Deniz Baykal described the conference as ‘unscientific.’⁵⁶ According to him, representatives of one single opinion were invited for the conference.⁵⁷ In December 169 well-known Turkish intellectuals including internationally acclaimed writers like Yasar Kemal and academicians like Nilüfer Göle issued a statement, calling on the government to abolish Articles 301 and 305 as soon as possible.⁵⁸ They also qualified trials against Orhan Pamuk and the reactions towards Armenian Conference as interventions hindering democracy.

In February, a group of well-known journalists⁵⁹ were brought to trial for their articles criticising the court decision banning the Armenian conference.⁶⁰ The above-mentioned group of nationalist lawyers were there again protesting against the journalists. Although cases against most of them were dropped, one of them has still face to a trial.⁶¹ In June 2006, Perihan Mağden, a well-known novelists and columnist faced court for her remarks supporting conscientious objection as a human right.⁶² The charges were based on Article 318 of the Penal Code, titled Incitement against Military Service,” carrying a sentence from six months up to two years, with higher sentences if the crime is committed by using means of press and broadcasting. Her case was brought before the court by the armed forces. The nationalist group of lawyers was at the trial demonstrating against her and disturbing the court hearing until the judge re-established order. All charges against Mağden were dropped in a second trial at the end of July, when both the prosecutor and judge invoked freedom of expression as it is regulated by the Turkish Constitution and the European Convention of Human Rights (ECHR).

In the first half of 2006, more than sixty journalists, columnists, scholars or other writers had been charged for writing pieces expressing their thoughts. Trials are opened based on the above mentioned articles of the Penal Code, together with Article 216 (provocation for revenge and hostility) and 288 (attempt to influence the judiciary).⁶³ Although in most cases the charges were dropped, it is alarming that some cases like Perihan Mağden’s were filed to court by the military. There is also inconsistency between the verdicts of different courts. Whereas some courts gave liberal judgements in favour of freedoms and rights by referring to the Constitution and the ECHR, some others found the defendant guilty without properly taking freedom of expression into account. In 2001, there was only one journalist in jail in the context of freedom of expression. This number has increased to four in the first half of 2006.⁶⁴ Because of complaints against journalists and others, submitted to various courts, usually by nationalist groups or lawyers, the courts have to spend their precious time to evaluate the validity of these cases. There are still 237 books banned from bookstores. During between July 2005 and July 2006, 47 writers, and 22 publishing houses were brought to court

⁵⁶ “Konferans Bilimsel Degil,” *Radikal*, 26.09.2005 (online) available at <http://www.radikal.com.tr/haber.php?haberno=165105>, 26.05.2006.

⁵⁸ ‘Aydınların 301 Bildirisi,’ *Hürriyet*, 27.12.2005 (online), available at <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=3705440&tarih=2005-12-27>, 26.05.2006.

⁵⁹ Among them, there was Murat Belge to whom the author referred above.

⁶⁰ ‘Scuffles in Turkey Insult Trial,’ *BBC International News* (online), 07.02.2006, available at <http://news.bbc.co.uk/2/hi/europe/4688992.stm>, 30.05.2006.

⁶¹ “Yasakçılar Zamana Yenildi,” *Radikal*, 12.04.2006 (online), available at <http://www.radikal.com.tr/haber.php?haberno=184182>, 23.06.2006.

⁶² ‘Turkish Writer in Call-up Trial,’ *BBC International News* (online), 07.06.2006, available at <http://news.bbc.co.uk/2/hi/europe/5054732.stm>, 08.06.2006.

⁶³ Önderoğlu, Erol, ‘İfade Özgürlüğünün Hali,’ *Radikal İki*, 16.07.2006.

⁶⁴ Önderoğlu, Erol, *idem*.

regarding the publication of 49 books.⁶⁵ Charges against 11 writers were dropped, whereas in 11 cases they were found guilty. 25 cases are still pending. Publications on Armenians, minorities in Turkey and criticism on the limitations on the freedom of expression triggered complaints and charges by nationalist and conservative groups. Last but not least, academician and novelist Elif Şafak has to face a trial based on her last novel on the history of an Armenian and Turkish family. Ironically, the Prime Minister Tayyip Erdoğan has his share of court cases as well, but on the petitioner side. So far he sued 59 different people for insulting and degrading him. Some of them are caricaturists that depicted him as a cat or leech. He received approximately 50.000 Euro as a result of 21 cases that he won.⁶⁶

During his visit to Turkey in October 2005, EU Commissioner Oli Rehn pointed out the government violations of freedom of expression and religion. He mentioned that these freedoms are core issues between Turkey and the EU. Turkey as a negotiating country will be monitored closely by the European parliament and peoples.⁶⁷ He recalled that the Commission found that Turkey fulfilled the Copenhagen Criteria ‘sufficiently’, but not completely.

In October 2005, the Turkish columnist of Armenian descent Hrant Dink was found guilty of humiliating and insulting Turkish identity and violating Article 301 of the Penal Code in one of his columns in an Armenian language weekly, *Agos*, of which he is an editor. Similar to other trials mentioned above, in Dink’s trial, a group of nationalists made demonstrations outside and inside the court room and they tried to interrupt Dink’s defense.⁶⁸ In July 2006, in spite of the objections of the public prosecutor that Hrant Dink expressed his opinions and opinions are protected by the European Convention of Human Rights, the general board of the Court of Appeal confirmed his sentence of six months suspended imprisonment.⁶⁹ The decision of the Court of Appeal has been criticised harshly by the representative of the EU Commission in Turkey Hans Jörg Kretschmer. Kretschmer warned the government to change Article 301 as soon as possible. Otherwise the limitations on the implementation of freedoms in Turkey will be found unsatisfactory by the Commission in the 2006 Report on Progress due to this kind of articles.⁷⁰ He also called on the government to submit a ninth reform package. In a press conference on the 13th of July 2006, Kretschmer evaluated the latest Eurobarometer results indicating that the support in Turkey towards the EU declined from fifty-five per cent to forty-four per cent in last six months. He stated:

“I have a call for the Prime Minister and the most progressive forces of the country. The EU process must be explained to citizens in a better way. The government has to make the counter-propaganda of the nationalist groups inefficient.”⁷¹

Yet, the complaints filed by nationalist lawyers did not stop. In July 2006, immediately after Kretschmer’s press conference, Hrant Dink was charged again for giving an interview to

⁶⁵ Behzat Miser ‘Adalet Gereksiz Yere İşgal Ediliyor,’ *Radikal İki*, 10.07.2006.

⁶⁶ Miser, Behzat, *idem*.

⁶⁷ ‘Rehn: Reformlara Asılın,’ *Radikal*, 07.10.2005 (online), available at <http://www.radikal.com.tr/haber.php?haberno=166235>, 03.06.2006.

⁶⁸ ‘Mahkeme Ülkücü Terör,’ *Radikal*, 17.05.2006 (online), available at <http://www.radikal.com.tr/haber.php?haberno=187605>, 05.06.2006.

⁶⁹ ‘Al Sana Uygulama,’ *Radikal*, 12.07.2006 (online), available at <http://www.radikal.com.tr/haber.php?haberno=192727>, 13.07.2006.

⁷⁰ ‘AB’den Dink Uyarısı,’ *Radikal*, 13.07.2006 (online), available at <http://www.radikal.com.tr/haber.php?haberno=192791>, 13.07.2006.

⁷¹ *Radikal*, *idem*.

Reuters. He used the words ‘Armenian Genocide,’ which are considered humiliating to the Turkish identity, again violating Article 301.⁷²

Altan Öymen in his column in *Radikal* criticises Article 301, an article carried over from the old to the new Penal Code. He did note other changes that were positive. But he claims that there are still some who do not internalise those. He mentions that even though there is a paragraph in Article 301 stating that critical thoughts cannot be punished, the Article as a whole is open to different subjective evaluations.⁷³ On press day, the 24th of July, a group of progressive people phoned members of parliament to ask them to abolish Article 301.⁷⁴ In order to support Dink and to seek the abolition of Article 301, a group of intellectuals, writers and journalists initiated a signing petition claiming that they are also guilty of violating Article 301.⁷⁵

In June 2006, the Turkish parliament accepted a law implementing some changes to the Law on the Fight against Terrorism. This law has been criticised by many intellectuals and lawyers in Turkey, as it bypasses similar provisions of the Penal Code and broadens the definition of and supporting a terrorist crime. According to this new legislation, crimes mentioned in approximately 50 provisions of the Penal Code can be considered terrorist crimes. The most controversial one among these provisions is Article 318 (incitement against military service) that was mentioned above. But the law has been harshly criticised especially by journalists, as it extends the definition of crime committed through press to the owners and editors of the publication or broadcast. According to Tarhanlı, this contradicts the principle of ‘individual culpability’.⁷⁶ In addition to this, Tarhanlı mentions that certain restrictions which would be put on the defendant when it is deemed necessary, such as not being allowed to examine the file or to copy it, can violate the norm of ‘equality of arms’ in fair trial. In another column, Tarhanlı points out the role of this kind of law against terrorism, and he agrees that unless they are based on an ‘action’, rather than persons and organisations, they might not be successful in achieving peace and security.⁷⁷ The law also consists of harsh measures against the press such as closing the press agency, if the public prosecutor finds it appropriate. The abovementioned articles of the new legislation have been sent to the Constitutional Court by President Ahmet Necdet Sezer for a review of constitutionality. In his constitutional application about these articles, Sezer mentions that rights and freedoms can be limited only if proportionate and necessary in a democratic society.⁷⁸ He also draws the attention to the balance between ‘action’ and ‘precaution.’ In the absence of such a balance, the freedom of press would be infringed.

⁷² ‘Aydınlarından 301e Karşı İmza,’ *Radikal*, 19.07.2006 (online), available at <http://www.radikal.com.tr/haber.php?haberno=193344>, 20.07.2006.

⁷³ Öymen, Altan, ‘Özgürlüğe Yol Açılmalı,’ *Radikal*, 18.10.2005 (online), available at <http://www.radikal.com.tr/haber.php?haberno=167321>, 19.10.2006.

⁷⁴ ‘Sayın Vekilim Sesim Geliyor mu?’ *Radikal*, 25.05.2006, available at <http://www.radikal.com.tr/haber.php?haberno=193888>, 05.06.2006.

⁷⁵ ‘Hrant Dink’in Düşüncelerine Katılıyoruz, Bizi de Yargılayın’ *Radikal*, 18.07.2006 (online), available at <http://www.radikal.com.tr/haber.php?haberno=193222>, 05.08.2006.

⁷⁶ Turgut Tarhanlı, ‘Terör Kanunu Girdapları,’ *Radikal*, 04.07.2006 (online), available at <http://www.radikal.com.tr/haber.php?haberno=191907>, 05.08.2006.

⁷⁷ Turgut Tarhanlı, ‘Terörle Mücadele Kanunu,’ *Radikal*, 27.06.2006 (online), available at <http://www.radikal.com.tr/haber.php?haberno=191282>, 05.08.2006.

⁷⁸ Ferai Tınç, ‘Terörle Mücadele Yasası ve Sezer’in Gerekçeleri,’ *Hürriyet*, 07.08.2006 (online), available at <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=4880829&yazarid=19>, 08.08.2006.

On the web page of BBC, under the news about Perihan Mağden's trial, it is possible to see comments sent by readers. One comment written by a Turkish person nicknamed Patriot seems to reflect concerns of general Turkish people:

“Unlike in other countries, the military is the institution most trusted by the people in Turkey and as we have to contend with all the instability in our borders to the Southeast besides being made into an 'Islamic example' by the EU (something we don't want), this issue is considerably more sensitive here than anywhere else. Like other cases, charges are likely to be dropped, but I don't want to join the EU until it can understand our sensitivities more fully.”⁷⁹

There are a couple of political, social and structural reasons behind the limitations on freedom of expression. Political and social reasons are closely related to how Turkey defines its. This traditional concept of identity is based on the rejection of the Ottoman past and on pride in being Turkish. As mentioned above, the state and armed forces are perceived as natural institutions protecting this identity and eliminating all possible reactionary voices. The society is not based on values like tolerance and acceptance of differences, but instead on homogeneity and unification. The Turkish state, territory and nation will stay intact and in integral, in order to maintain the ideal of a strong nation and state, which speaks in one voice. Structural reasons behind the limitations of freedom of expression are more related to the judicial system of Turkey. In spite of several calls from the European Union, the Turkish judicial system has still not completed the justice reform required by the EU. One problem is that it is not difficult to open a case in a Turkish court. This leads overburdening of courts and it is abused by many people. As mentioned earlier, even the Prime Minister involved in 59 trials himself. The Turkish judges are working under huge workload and the delivery of justice can sometimes be either late or not complete. Although the government took some measures to achieve the justice reform required by the EU,⁸⁰ it will take time to train all judges and public prosecutors on changes made. Some reforms, like the introduction of the office of ombudsman, have not been enacted yet due to the slowness and the resistance of the bureaucracy and the relatively relaxed environment after the start of the negotiations slowed down the reform process. Most importantly, the internalisation of reforms takes time especially for the practitioners. According to Kretschmer, the representative of the EU Commission delegation in Turkey, ‘some prosecutors did not understand the essence and meaning of reforms, that’s why they open different trials endangering freedom of expression.’⁸¹ According to Can, positive and progressive decisions coming from the judiciary created an atmosphere of optimism at the beginning.⁸² These decisions indicated that the state relies on itself and is not afraid of ideas. It is believed that the judiciary was rejecting to be the

⁷⁹ *BBC International News, op.cit.* (note 60).

<http://news.bbc.co.uk/2/hi/europe/5054732.stm>.

⁸⁰ In June 2005, the Law Establishing the Intermediate Courts of Appeal came into force to reduce the workload of Court of Appeal. But these new courts will not start functioning before 2007. A New Code of Criminal Procedure of June 2005 provided that criminal investigations will be carried out by the judicial police working under the public prosecutor. With this code, the concept of plea bargaining was also introduced. Throughout Turkey, judges and prosecutors received trainings on the new code. In July 2005, the Law on Enforcement of Sentences established the concept of probation and community service. However, according to the EU Commission, trainings on this code have not been completed yet. Computerisation of the justice network has also been progressed since 1998, enabling many tasks done in computers and increasing the efficiency and accessibility for practitioners. For details see Turkey Progress Report for 2005, *European Commission*, available at http://ec.europa.eu/comm/enlargement/report_2005/pdf/package/sec_1426_final_en_progress_report_tr.pdf

⁸¹ ‘Bazı Savcılar Reformları Anlamadı,’ *Hürriyet*, 06.04.2006 (online), available at <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=4211046&tarih=2006-04-06>, 26.06.2006.

⁸² Can, Osman, ‘Yargı-İktidar-Düşünce Özgürlüğü,’ *Radikal İki*, 13.03.2005.

shield of the political conservatism. However, according to Can, unfortunately this optimism is overshadowed by some conservative decisions that show arbitrariness and even a minimum level of judicial sophistication.

Prime Minister Erdoğan during the warm days of the Orhan Pamuk trial, blamed the EU for interfering with and affecting the functioning of independent judiciary in Turkey.⁸³ His remarks about the EU pressure on the judicial cases and freedom of expression reflect that when it comes to the civil pressure over state institutions, the confidence of the government in the EU weakens. Rather than increasing the compliance with the EU conditions, the reasons of non-compliance can be referred to the will of independent judiciary or the issue becomes a domestic issue. In another interview, Erdoğan showed a calmer attitude and said that the parliament changed other legislation criticised by the EU Commission, but the Commission had not objected Article 301 before.⁸⁴ So he invited everyone to observe court decisions and the establishment of a case-law on the Article 301. Although his attitude changes from angry to calm, he does not touch the essence of the compliance issue, but rather shows emotional reactions. However, some liberal and moderate members of the government like the Minister of Foreign Affairs Abdullah Gül referred several times to the problems caused by Article 301 and trials opened against scholars or writers. He described these incidents as practices harmful to Turkey's image abroad.⁸⁵ He also argued that this kind of legislations can be changed. Ali Babacan, the chief negotiator for Turkey in the EU and also State Minister on economic issues commented that Article 301 must be abolished. Referring to Pamuk trial, he also said that "Turkey lost something there." According to news coverage of daily *Radikal*, the Minister of Justice reacted to remarks of Babacan by saying that "justice must be asked from judges, economy from economists."⁸⁶

Because of mixed reflections on media and press, it is not easy to understand the general attitude of the Turkish people. Trials on limitations of freedom of expression have been issues interesting or alarming for a small group of academicians and journalists. The freedom of expression has been considered a problem of a group of scholar elite. If it is about the deep-rooted values in the society, such as discussion of 'genocide' or 'armed forces,' it is more likely that a greater range of population will show nationalist reactions. According to Kadioğlu, 'nationalism is a basic reflex within citizens of the Turkish Republic' and there is a tension between nationalists and pro-EU groups.⁸⁷ On the other hand, majority of the Turkish people seem indifferent to the problems related to the publications or academic or literal works, as long as they do not occupy much coverage in the media or press. So, the way media describes and reflects issues can be very influential on people's reactions. But it is clear that the generality of the Turkish people have not internalised the freedom of expression, as 'their' own problem. This is related to the lack of showing democratic reactions as habitual acts. According to the news of daily *Hürriyet*, a very recent research conducted by an international agency demonstrates that only 3.2 per cent Turkish people joined a demonstration in last three years and only 13.2 of them considers and approves signing petition as a way of democratic

⁸³ Ferai Tınç, 'Birileri Ona AB'yi Anlatmalı,' *Hürriyet*, 19.12.2005 (online), available at <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=3671359&yazarid=19>, 24.06.2006.

⁸⁴ '301'de Aksama Olursa Yasama Karar Alır,' *Hürriyet*, 29.12.2005 (online), available at <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=3715110&tarih=2005-12-29>, 26.05.2006.

⁸⁵ '301'ler Gece yarısı Ekspresi Gibi,' *Hürriyet*, 29.12.2005 (online), available at <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=3714987&tarih=2005-12-29>, 26.05.2006.

⁸⁶ 'Hükümette 301 Kavgası,' *Radikal*, 20.12.2005 (online), available at <http://www.radikal.com.tr/haber.php?haberno=173403>, 26.05.2006.

⁸⁷ Kadioğlu, Ayşe, 'Yükselen Milliyetçi Dalga,' *Radikal İki*, 15.05.2005.

reaction.⁸⁸ It is important to explain to general people that freedoms are necessary for everyone not only a small group of scholars. As far as the expression of critical opinions on the traditional state, its values, its history and its institutions are concerned, a public tolerance is required.

The next section will discuss closely the identity problem of Turkey by taking a look at minorities.

6. 'OTHER TURKS' AMONG 'US': RECONCILIATION IS NEEDED?

On the 9th November of 2005, as it appeared in the press, three men placed a bomb in a book store in Şemdinli, a Kurdish town in Eastern Turkey. As a result of the explosion, one person who was in the book store lost his life. Local people noticing that three men were running away chased them and found one of them in a car full of guns that belonged to the gendarmerie. The local people recognised these men in the car as officers of gendarmerie's intelligence unit and the car belonging to the gendarmerie. Another man was a previously charged person related to crimes of terrorism and apparently working for the gendarmerie. In the following days, there were local riots and demonstrations, which raised the tension in the town. One person lost his life and many injured as a result of fire opened by security officers in the aftermath of the bombing. The issue was not only contained to the town, but suddenly it became the main event on the agenda of the Turkish media and press. The involvement of gendarmerie forces in the incident, working together with a formerly convicted person was a reminder of the questions of illegal measures taken by the state forces. The trial of the case was also an issue of controversy. The public prosecutor Ferhat Sarıkaya referred to the involvement of the armed forces, especially the commander of land forces, Yaşar Büyükanıt in his case statement in March 2006. This accusation had a considerable effect both in the media and in the armed forces. Whereas some journalists drew the attention of the public to the highly militarised measures taken in the Kurdish areas and to the violations of human rights, others gave their full support to the armed forces which are fighting against the separatist terror in the region. Highly ranked members of the armed forces harshly criticised the statement of the public prosecutor. Moreover, the statement made by the public prosecutor was investigated by the Council of Judges and Public Prosecutors and the Council decided to dismiss Sarıkaya on the grounds that he misused his office and powers. As a result of this decision, Sarıkaya lost his job and all titles. Furthermore, there is no possibility of judicial appeal against this decision. According to a report of daily *Zaman*, Joost Lagendijk, the EU parliamentarian and the co-chair of the Turkish Joint Parliamentary Commission qualified the dismissal of the prosecutor as a warning: "If you criticise the army, this happens to you."⁸⁹ The daily *Radikal* refers to a report prepared by the Dutch Parliamentarian; Camiel Eurlings drew the attention to the role of army in civil politics and stated concerns about the dismissal of the prosecutor.⁹⁰ The Turkish office of Amnesty International expressed its concerns on the decision of the Council of Judges and Public Prosecutors, as an attempt to influence the independence judiciary and they called for the establishment of an independent monitoring body to investigate Şemdinli incident.⁹¹

⁸⁸ 'Laf Çok İcraat Yok,' *Hürriyet*, 11.08.2006 (online), available at <http://www.hurriyet.com.tr/gundem/4906430.asp?m=1&gid=69&srld=3044&oid=3>, 11.08.2006.

⁸⁹ 'AB Şemdinli Savcısının İhracına Tepkili,' *Zaman*, 22.04.2006 (online), available at <http://www.zaman.com.tr/?hn=278384&bl=haberler&trh=20060422>, 24.05.2006.

⁹⁰ 'Rehn: Güven Ortamı Yeniden Kurulmalı,' *Radikal*, 21.06.2006 (online), available at <http://www.radikal.com.tr/haber.php?haberno=190825>, 22.06.2006.

⁹¹ <http://www.amnesty-turkiye.org/sindex.php3?sindex=vifois0305200601>

On the 19th of June, the court investigating the case based on the statement of former prosecutor Sarıkaya, gave its verdict on the Şemdinli incident. Two gendarmerie officers were accused of establishing gang. The sentence was thirty-nine years for each of them. The court did not refer to the role or involvement of the armed forces in the case. The verdict has been found as a positive development by the media and the EU officials, although the EU officials asked for more investigations on the possible role of the army headquarters in the gang.⁹² Meanwhile, in an interview in weekly *Yeni Aktüel*, a retired army officer claimed that while he was on duty, he had ordered the placing bombs nearby houses of judges and public prosecutors working in Kurdish areas, in order to ‘put them in order.’⁹³ The Chief of Staff started an investigation against him. By the 30th of August, General Yaşar Büyükanıt was appointed by the new Chief of Staff of the Turkish Armed Forces, by a governmental decision and approval of the President of the Republic. Before his appointment, a group calling themselves ‘young officers’ sent SMS messages from the internet to many people including journalists.⁹⁴ In the messages objecting his appointment, Büyükanıt was claimed to be from Jewish descent and pro-Israel. It is ironic that the lack of tolerance to differences reflected in these messages, chose a general as a target whose direct or indirect involvement in applying terrorist methods in the Kurdish regions was an issue of controversy.

So what happened to the atmosphere of peace, calm and optimism that finally arrived in 1999, after the arrest of the PKK leader and the temporarily end of conflict in the Kurdish areas? Both the arrest of Öcalan and the candidate status given to Turkey in the 1999 Helsinki summit opened a way to further democratisation and normalisation of previously securitised and militarised atmosphere. The EU pressure that started already in the 1980s to recognise minority and cultural rights showed its tangible and legislative results by 1999. Turkish government of that time between 1999-2002 and subsequently the AKP government passed reform packages, which included rights or opportunities for minorities to have a better life. These packages included democratic reforms that helped to introduce private education in the mother tongue, broadcasting and press in minority languages, acceptance of re-trial based on the European Court of Human Rights judgments and in 2004, the release of former Kurdish MP Leyla Zana and her friends after ten years in prison, based on this right to re-trial, the enactment of the Law on Compensation of Losses Resulting from Terrorist Acts, the appointment of a civilian to the Secretary of National Security Council for the first time, the ratification of the Twin Covenants of the United Nations,⁹⁵ the abolition of death penalty and of anti-democratic provisions of the Law on the Fight against Terrorism. Despite all these changes, the reconciliation of the state with its Kurdish citizens has not yet been achieved completely.

The increasing terrorist attacks in the Kurdish areas since 2005 and the changes made in the Law on the Fight against Terrorism, as explained above are signs of the securitisation of the issue again. The death of 15 army officers in three days in August 2006 led the way to nationalist statements by the government. The Prime Minister showed more aggressive foreign policy regarding Northern Iraq from which it is claimed that terrorist groups infiltrate

⁹² ‘Şemdinli’deki Hızlı Karar Yeni TCK’nın Sonucu,’ *Zaman*, 22.06.2006 (online), available at <http://www.zaman.com.tr/?hn=295854&bl=haberler&trh=20060622>, 24.06.2006.

⁹³ ‘Bir İki Bomba Attırmak Meğer Ne Kolaymış,’ *Radikal*, 28.07.2006 (online), available at <http://www.radikal.com.tr/index.php?tarih=28/07/2006>, 01.08.2006.

⁹⁴ Ertuğrul Özkök, ‘İsimsiz Gruba En Güzel Cevap,’ *Hürriyet*. 1.08.2006 (online), available at <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=4847551&yazarid=10>

⁹⁵ Turkey ratified the Covenant on Civil and Political Rights (ICCPR) and the Covenant on Social, Economic and Cultural Rights (ICESCR) on 23 December 2003 see <http://www.unhchr.ch/pdf/report.pdf>, 16.05.2006.

to Turkey.⁹⁶ On the assumption that concept of security is closely related to the establishment of Turkish identity, the following paragraphs will try to analyse the establishment of the official state identity and its contribution to the lack of tolerance to differences in the society. They will also explore the influence of the EU process on this identity.

When Kemal Atatürk and his friends founded the modern Turkish Republic, they also established it around a Turkish identity, which was an alternative to the Ottoman-ness. The roots of this identity go back to the end of the 19th century and modernisation movements that took place in the Ottoman Empire before its collapse. The idea behind the creation of this identity was to build a nation united under a republican state. As mentioned in Section 4., one characteristic of this identity was its attachment to the Western civilisation's modern states. This goal has been maintained by almost all other Turkish rulers and governments that took office after Atatürk and his friends. Another characteristic of the Turkish identity is to establish a centralised, undividable, unified, united, integrated state, which does not recognise any other minority other than those non-Muslims protected by the Lausanne Treaty of 1923.⁹⁷ This model of state protected everyone who calls him/herself 'Turkish' under the umbrella of the Turkish state. As a result, the Turkish state tradition was established on the basis of ideas of unity and homogeneity. Everyone who accepts to live on the Turkish soil and who holds a Turkish citizenship is defined Turkish, as a political choice of the founders of the Republic to unite the peoples of Asia Minor in one single state with no racial connotations. Being a religious or ethnic 'other' was not appreciated or was perceived as threatening against the integrity of state.

Paradoxically, on one hand the Turkish military and bureaucratic state elite maintained the idea and objective of Westernisation as a foreign policy strategy, whereas on the other hand at home they defined themselves as the guardian of a sovereign, independent and territorially and nationally undivided and united 'one-state, one-nation.' This caused a deepening gap between the Turkish elite which indeed seems homogeneous on one hand and rest of the population consisting of differences and diversities on the other hand. The roots of the clash within the Turkish identity are grounded on the tension and lack of consensus between elite and the rest of the nation, especially those who are different. In this respect, the state tradition based on sovereign nationalism does not only threaten the Westernisation project of the Turkish state, but it also makes an internal reconciliation impossible. According to the author, reconciliation is more important and urgent than Turkey's membership to the EU, because it is pre-requisite the well-being and freedom of its own people.

Over the last decades, the EU process in Turkey has demonstrated that Turkey is not as unified and homogeneous as traditional state elite has assumed. Starting from the 1980s, especially the European Parliament has been very critical of Turkey's minority policies and its violation of cultural rights. The Parliament used stick several times against Turkey in order to protest human rights violations by postponing financial assistance or cooperation agreements in 1984 and 1987.⁹⁸ In the 1990s, the securitisation of minority issues, especially concerning

⁹⁶ 'Üç Günde On Beş Şehit Anlayışımızı Aştı,' *Hürriyet*, 22.06.2006 (online), available at <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=4789671&tarih=2006-07-22>, 24.06.2006.

⁹⁷ Lausanne Treaty recognises and establishes cultural and educational rights of three non-Muslim communities in Turkey, namely Armenian, Orthodox and Jewish communities.

⁹⁸ For a more detailed analysis of Turkey's Relations with the EU institutions in the 1980s and 1990s and attempts of democratization, see İhsan Dağı, 'Human Rights, Democratization and the European Community in the Turkish Politics: the Özal Years, 1983-1987,' *Middle Eastern Studies*, 2001, Vol.37, No.1, pp.17-40; Berdal Aral, 'Dispensing with Tradition: Turkish Politics and International Society During Özal Decade, 1983-93', *Middle Eastern Studies*, 2001, Vol.37, No.1, pp.72-88; Stephan Krauss, *loc.cit* (note 23).

Kurds, reached its peak. The rising PKK terror and armed conflict between guerrillas and armed forces in the Eastern and South Eastern Turkey postponed efforts for a democratic solution to the problem. In spite of pressure coming from the EU parliament, the EU Commission and individual European states to further democratisation and find a peaceful solution, a reconciliation did not take place between Turkish state forces and the Kurds.

The issue of 'others' living in Turkey has been either neglected for many years as if it never existed. The authorities dealt with security considerations without evaluating the underlying reasons of the situation. The securitisation is closely related to the militarised nature of the traditional Turkish identity. The state has been founded by a group of distinguished army generals and until 1989 no civilian president took office in Turkey. As mentioned in Section 4., the political culture accepted the armed forces as a natural part of the politics and protector of the stability within the country. The democratic behaviour or ruling as a habitual act has not been developed for many years. Every time there was a crisis, the issue was addressed to the armed forces but not to the people themselves. The confidence in to the armed forces was high, whereas the trust and belief to people was low. By acting on behalf of the state and republican values, the armed forces in Turkey exacerbated the incapability and impotency of civilians to rule themselves. It was the army that had the courage, discipline and decisiveness to guard the state both at home and abroad. Civilians in Turkey learned it belatedly that democracy actually means by people for people and includes making mistakes and taking risks. The highly securitised culture, construction of internal and external threats to the integrity of state, the deep-rooted traditional values of the centralised state, elitist governance from top to bottom, the lack of tolerance in society and the lack of attachments to the history with which almost all ties were cut off created a social and political atmosphere in which being Turkish lost its meaning and context not even to speak of being European. Turkey became a 'statist nation.' In a letter written by two EU Parliamentarians, Dutch Lagendijk and Turkish-descent German Özdemir criticised the use of heavy guns by police against demonstrators in some Kurdish towns in April 2006. The tone of the letter was very moderate by criticising PKK provocations in the region, whereas at the same time calling on the government and judiciary to investigate against police using force on people. Two comments posted by readers of the news covering this letter, summarise the reaction of many Turkish people towards change and critiques coming from outside: "Turk has no other friend than Turk! Our patience is over now!" and "I criticise Lagendijk and Özdemir for criticising our police!"⁹⁹

In the 2000s, Turkey has to face its greatest challenge in history. This is the challenge of defining 'us.' Because 'us' has never become so diverse, polarised, and visible in Turkey. The time has arrived for Turkish people to speak. The process of harmonisation with the EU provided this opportunity, by eliminating most of fears of people for raising their voices. The time to establish a collective and global citizenship has also arrived not only for Turkish people but more generally as well. The identities both in Turkey and in the world at large have never been so blurred before. But at the same time to the path of change has never been so easy to access and proceed on.

For the majority of the Turkish people being European Union citizens bring promises of prosperity and stability. Yet, it is interesting that the source of main motivation for change comes from outside but not from inside, although the civil society is improving in Turkey every day. The EU project will be helpful to achieve and to promote democratisation, as long

⁹⁹ 'Lagendijk ve Özdemir'den Polise ve PKK'ya Eleştiri,' *Hürriyet*, 06.04.2006 (online), available at <http://www.hurriyet.com.tr/sondakika/4212096.asp?gid=0>, 25.06.2006.

as representatives of people explain to the nation that the values and norms that are accepted by the EU countries are in fact legitimate global values and norms, as explained before. If Turkey wants to be a member of respected nations of world society, both state institutions and people should follow and internalise democratic rules of living together in peace. Instead of promoting one kind of belonging, either European or Turkish; multiple identities, differences and tolerance must be encouraged.

Author wants to draw the attention of the reader to some positive developments that took place in Turkey since 2005. In August 2005, Prime Minister Tayyip Erdoğan made a speech in Diyarbakır, which is the largest Kurdish city in Turkey. In his speech, he said that a really strong state is a state that can face its past mistakes.¹⁰⁰ He expressed his wish for reconciliation and peace not only in the region but in the whole Turkey. For the first time, a Turkish Prime Minister named the ‘Kurdish problem’ as such and accepted responsibility for the failure to resolve the Kurdish issue.¹⁰¹ This was a very appropriate step taken in times of rising Turkish nationalism against any Kurdish political activity and against Kurdish nationalists who did not really give signals of a constructive a political solution and dialogue. Later in Şemdinli, the Prime Minister went even further and used the term of ‘primary identity’ to refer to the Turkish identity, without excluding the possibility of having other sub-identities. He mentioned that members of sub-identities cannot claim priority over other sub-identities but they can be proud of their existence.¹⁰² His speech was welcomed by many Turkish intellectuals, journalists and officials from the EU institutions. In October and November 2005, there was a very positive debate on the multiple identities, initiated by the Prime Minister. However, both the so-called social democrat Republican People’s Party (CHP), the only opposition party in the Parliament and supporters of traditional state and other political parties criticised these kinds of debates as they considering them contribute to the fragmentation in Turkey. Yet, it is interesting to note that all these debates turning around Kurds and the dangers of recognising multiple-identities. On the other hand, the fate of non-Muslims and non-Sunnis in Turkey has almost never been issue of public debates or occupied a very limited space. The following section will evaluate on non-Muslims and non-Sunnis in Turkey.

7. NON-TURKS AND NON-SUNNIS OF TURKEY: INCLUSION IS NEEDED?

On the 5th of February 2006, during the heydays of the cartoon crisis in Europe and Middle East, a priest of Santa Maria Church in Northern city Trabzon was murdered by a 16 years old Turkish boy. On the 2nd of August, a priest from the Italian Catholic church in Samsun was attacked by another Turkish person. In both incidents the motive was not established clearly. Both incidents, especially the first, caused a great uproar in society, worried about the negative implications on Turkey’s image and credibility abroad.¹⁰³ What had happened to the culture of tolerance and pluralism on which the Ottoman Empire was claimed to be founded? Can there be any reason to justify the murder of the religious leader of a tiny community in his holy place, while he was praying? The answer is obviously no. The following paragraphs

¹⁰⁰ ‘Kürt Sorunu Benim Sorunum,’ *Hürriyet*, 13.08.2005 (online), available at <http://webarsiv.hurriyet.com.tr/2005/08/13/686222.asp>, 24.06.2006.

¹⁰¹ Erdoğan, Birsen, *loc.cit.* (note 30), p. 244.

¹⁰² ‘Diyarbakır Adımı Tehlikede mi?’ *Radikal*, 17.07.2006 (online), available at <http://www.radikal.com.tr/haber.php?haberno=193136>, 18.07.2006.

¹⁰³ ‘Priest Murder Sparks Press Anguish,’ *BBC International News*, 07.02.2006 (online), available at <http://news.bbc.co.uk/2/hi/europe/4689172.stm>, 25.06.2006.

are not attempts to answer these difficult questions but rather a glance at religious minorities in Turkey and their problems.

Unfortunately, Turkey's minority problem is not just about Kurds. Although many Turkish and foreign experts tend to define the term minority limited to Kurds or to look only at their fate, this is an unfair categorisation and approach, if one considers the position of non-Muslims in Turkey. Non-Muslims in Turkey usually are not seen, discussed or taken into account as a party in the democratisation process, in spite of efforts to the contrary by the EU institutions. The identity of the Turkish state and nation has not been defined by including religious minorities. As a result of this, 'their' problems have never been 'our' problems. There are a couple of reasons for this. One is that according to many people minority rights of non-Muslims have been guaranteed by the Lausanne Treaty. So they did not and do not suffer of lack of protection mechanisms. Secondly, non-Muslims in Turkey never engaged in a violent or armed conflict for their rights and liberties. They did not burn themselves on the streets, nor did they go on hunger strikes. There were no harsh measures, nor an organised state repression against their freedoms. The media and press hardly paid enough attention to them. The general understanding is that they are not aggressive and economically and socially not poor, so they are doing well. If not, they have countries to go to, like Armenia, Israel and Greece. Third reason is their numerical size. According to sources, the number of non-Muslims living in Turkey is not clear. Yet, it is estimated that they constitute 0.2 per cent of the whole population.¹⁰⁴ This is between 140.000 and 160.000.¹⁰⁵ Among this, the majority is Greek, Syrian and Armenian Christians and a small group of approximately 20.000 is Jewish.¹⁰⁶ One last reason is connected to the establishment of the Turkish identity around being Sunni Muslim. Non-Muslims in Turkey had the status of 'minority,' not people from 'us.' In sum, they did not constitute any threat to the security considerations of the state. They were simply ignored. Even the Prime Minister, in a conference in New Zealand in December 2005 mentioned that there are at least thirty different ethnic groups in Turkey and he did not mention any of non-Muslims:

“(...) In Turkey, there are Turks and Kurds, Laz, and Circassian people, Georgian, Abkhaz, Albanian, Bosnian, and others that come to your mind. And all these groups became integrated to each other. There is a significant religious bond in us, that connect ethnic elements to each other. Because, the ninety-nine per cent of Turkey is Muslim.”¹⁰⁷

Different from non-Muslims, the Alevi tradition on the other hand, has been considered as a peculiar cultural and social movement among Muslims in Turkey. Alevism as such has not been perceived a religious category, but rather a group of Muslims living only in Turkey and having different customs and life style. According to the Director of the Directorate of Religious Affairs in 2004, “Alevi are our Muslim brothers. We cannot accept it to be seen another religion. It is a sect, a cultural understanding within Islam.”¹⁰⁸ The existence of Alevi has been a threat to the integrity of Islam as a religion and as a unifying force for the nation.

¹⁰⁴ www.cia.gov/cia/publications/factbook/geos/tu.html or www.country-data.com/cgi-bin/query/r-13948.html

¹⁰⁵ It worthwhile to mention that by the establishment of the new Turkish Republic, there were still millions of Ottoman non-Muslims living in Turkey. Most of them left Turkey in the 1920s through population exchange agreements or other ways. The other migration wave from Turkey was the end of the 1950s and the beginning of the 1960s.

¹⁰⁶ There is also a small group of Syrian Orthodox and Catholics.

¹⁰⁷ ‘Erdoğan: Kürtlerin de Türklerin de Sorunları Aynı,’ *Hürriyet*, 06.12.2005 (online), available at <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=3606388&tarih=2005-12-06>, 26.05.2006.

¹⁰⁸ ‘Dindarlığımız Değişime Sorgulanmaya Açuktur,’ *Milliyet*, 02.02.2004 (online), available at

The total number of Alevi is unknown, but it is estimated that they constitute between ten and forty per cent of the whole population.¹⁰⁹ After 2000, a state violence against Alevi by Sunni Muslims has not taken place in a large scale, as it happened in 1993 and 1995, according to a report on the UNHCR webpage.¹¹⁰ Moreover, Alevi have not put forward an official claim to be considered ‘minority,’ to the contrary of the EU Commission wording used for them. However, their main problem is related to the state lack of recognition of their religion, as a belief. In 2004, 600.000 Alevi signed a petition and sent it to the Prime Minister to make their identity recognise.¹¹¹

According to Alkan, Turkey has recently learnt to talk about Kurds and there are initiatives to break taboos regarding Armenians, but it is not clear when we can discuss Alevi issue freely.¹¹² According to İnsel’s article in the weekly *Radikal İki*, in Turkey so far, there was no systematic discrimination on grounds of ethnic identity, but there was and is discrimination based on religious belonging and religious descent.¹¹³ In another article by the same author, the religious factor of the establishment of the Turkish identity is analysed in more detail and concluded that by referring ‘Turks and Turkish elite,’ the members of the primary nation followed assimilation policies towards the rest. The primary nation was based on an invisible ethnic structure and religion. İnsel also asserts that the policy of Sunniism was applied after 1980 military coup as an element of Turkish-Islam synthesis.¹¹⁴

Although the Turkish state is founded on secular values and the religious practices especially in public spheres are not approved, the implicit religion and sect of the state has been Islam and Sunni. The Directorate of Religious Affairs is a state controlled institution based on Sunni assumptions and practices. As the Alevi belief has never been officially recognised, Alevi are not represented in this institution. Another consequence of this is Alevi as an institution cannot open religious places due to problems with their legal personality. Moreover, in schools, compulsory religious and morality courses introduce mainly Sunni values of Islam except to those who are known to be non-Muslims whose ID cards indicate their religion. In 2005, Alevi launched a campaign for the abolition of compulsory religion and morality courses.¹¹⁵ Some Alevi brought cases before the European Court of Human Rights against the compulsory religion courses in schools.¹¹⁶ At the beginning of 2005, as a result of pressure from Alevi organisations and the EU Commission, Ministry of Education decided to change this course almost completely. According to this change, the course will include other

<http://www.milliyet.com.tr/2004/02/02/siyaset/asiy.html>, 25.05.2006.

¹⁰⁹ Martin van Bruinessen, ‘Kurds, Turks and the Alevi Revival,’ extended version of the article in *Middle East Reports*, Number: 200, 1996, pp.7-10. Available at

www.let.uu.nl/~Martin.vanBruinessen/personal/publications/Alevi_revival.htm#_ftn1

¹¹⁰ In 1993 in Sivas, a big group of violent protesters caused a fire in hotel in which a group of intellectuals were staying. As a result of the fire 37 famous Alevi and Sunni intellectual died. In 1995, there were riots in a neighbourhood in Istanbul, where Alevi-Kurdish residents live. Police took harsh measures and riot resulted with the death of more than ten people. For the evaluation of the UNHCR, visit <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.htm?tbl=RSDCOI&page=research&id=42df61b311>

¹¹¹ www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.htm?tbl=RSDCOI&page=research&id=42df61b311

¹¹² Alkan, Türker “Demokrasiyi Öğrenirken,” *Radikal*, 25.09.2005 (online) available at <http://www.radikal.com.tr/haber.php?haberno=165038>

¹¹³ İnsel, Ahmet, ‘İrkçi Olmayan Milliyetçilik,’ *Radikal İki*, 27.03.2005.

¹¹⁴ İnsel, Ahmet, ‘Rejimin Asli Kurucu Gücü,’ *Radikal İki*, 31.10.2004.

¹¹⁵ <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.htm?tbl=RSDCOI&page=research&id=42df61b311>, 16.06.2006.

¹¹⁶ Altıparmak, Kerem, ‘Zorunlu Din Dersi Gerçekten zorunlu mu?’ *Radikal İki*, 13.02.2005.

religions and Alevism in a section titled ‘Differences of Understanding in Islam.’¹¹⁷ However, the widespread implementation of these changes will take time. Although freedom of association is more or less regulated in parallel to the EU standards, Alevi associations and communal places still face problems, whereas they do not receive a regular state aid. Alevi tended to hide their identity for centuries, scared of discrimination or humiliation.¹¹⁸ Furthermore, non-Muslims preferred living a low-profile life. Intermarriages between Alevi and Sunnis are not very common, whereas intermarriages between Muslims and non-Muslims almost do not exist. Problems of Alevi groups are mostly related to the recognition of their religious identity. Non-Muslims, on the other hand, suffer from restrictions on their institutional, property and educational rights. Syrian Christians are not among non-Muslims recognised in the Lausanne Treaty. So they cannot open their schools or other educational institutions. As İnsel elaborates in his article in *Radikal İki*, religious minorities in Turkey know well what it means to be an ‘other’ among ‘us,’ as they are the representatives of it.¹¹⁹

The situation of Alevi and non-Muslims in Turkey has been an issue in the resolutions EU Parliament and in the Commission reports. For instance, the Commission report on progress for 1998 pays the attention to the lack of state protection mechanisms for Alevi, whereas Sunnis have *imams* paid by the state. Similarly, a report issued in 2000 criticised the lack of legislations regarding financing religious or community places of Alevi. In several reports, the EU Commission also assessed the situation of Assyrian Christians that are not recognised as a religious minority. In addition, both the EU Parliament and the Commission mentioned the restricted property and association rights of all religious minorities, the lack of financial support for them to preserve or restore holy places belonging to them and limitations to their communications with their co-religious people abroad. Another issue of concern was the religious school in Istanbul that used to train Orthodox religious men, which has been closed since 1971. According to Gökaçtı, the distrust for the school and for the Orthodox Patriarch is closely related to the internal secular politics of the state. He considers that the increasing distrust towards Islamic groups in the country made the opening of religious institutions impossible. He remarks that:

“It is obvious that the opening of the mentioned school and the training of eight or nine Orthodox religious men there will not harm anyone. However, the likelihood of rising demands from other groups, especially from conservative groups to give special religious training is the main aspect of the problem of the opening the school.”¹²⁰

As it is clear in the quotation, the rights of non-Muslims and Muslim minorities are closely related to the strict understanding of secularism in Turkey, especially in circles of traditional state elite. In this respect, the demands for more religious tolerance and freedoms, coming from the Islam-oriented and conservative AKP government, overlap with demands of other religious people. According to Kahraman’s daily column titled ‘Maybe State is a Religion?’ in *Radikal*, the secularism in Turkey is not an expanding concept but rather it is limiting and setting boundaries.¹²¹ A more relaxed understanding of secularism is desired for both Muslims and non-Muslims to be able to establish religious institutions, schools and to practice beliefs

¹¹⁷ ‘Din Dersi Sil Baştan,’ *Radikal*, 16.01.2005 (online), available at <http://www.radikal.com.tr/haber.php?haberno=140514>, 01.08.2006.

¹¹⁸ ‘Günlük Yaşamda Aleviler,’ *Radikal*, 29.01.2006 (online), available at <http://www.radikal.com.tr/haber.php?haberno=177016>, 29.05.2006.

¹¹⁹ İnsel, Ahmet, ‘Ayrıcalıklı Ortaklık ve İçimizdeki Öteki,’ *Radikal İki*, 12.12.2004.

¹²⁰ Gökaçtı, Mehmet Ali, ‘Ruhban Okulu Tehlike mi?’, *Radikal İki*, 15 Mayıs 2005.

¹²¹ Kahraman, Hasan, B., ‘Belki de Devlet Bir Dindir,’ *Radikal*, 16.05.2005.

in public sphere, including religious dress codes. However, it is interesting to note that the AKP government has not demonstrated the same determination and ambition to the non-Muslims or Alevites that they demonstrated to promote their Islamic religious rights. Reform period in Turkey for harmonisation with the EU norms and values, contributed to the widespread enjoyment of civil and political rights by all segments of the society. The reform packages enacted by the Parliament based on the political conditionality helped the improvement of civil society, establishment of associations and foundations and print and broadcast in different languages. As a consequence of these reforms, there is now a more equal treatment towards non-Muslim religious places, some new churches have been opened up and restoration of some old ones has been completed. Members of the government showed some interest in problems of non-Muslims throughout visits and meetings. However, both in practice and in legislations, there are still restrictions on legal, institutional, property, educational and religious rights of non-Muslims and non-Sunni Muslims do not feel completely free. As it is mentioned above, one of the reasons of these problems is the state tradition coming from the 1920s that adopted strict secularism while promoting moderate Sunni Islam. Islam has been seen as a uniting force for the nation, which is ethnically diverse but religiously almost the same.

In March 2004, the Dutch EU parliamentarian Arie M. Oostlander wrote a report on Turkey, especially concerning religious freedoms.¹²² In his report, he mentions that the secularism in Turkey is different from secularist traditions in Europe. According to him, the Turkish secularism is based on the control by the state over the main religious sect and on the discrimination against other beliefs. Secularism in Turkey is beyond the scope of this article. Yet, it is very important to mention that the tension between secular forces and the religious (usually Sunni Muslim) groups has been one of the major agenda items of the Turkish politics since the end of the 1980s. This tension has not been resolved yet, on the contrary it reached its peak with the establishment of the AKP government. This tension represents one deep-rooted leg of the identity crisis of the Turkish state and nation. Its resolution is closely connected to the establishment of a plural and tolerant democratic society with a smaller state and with an acceptance of the past and optimism about the future.

As Yıldırım Türker wrote in column in the framework of history of the Turkish Armenians and the trial against Hrant Dink:

“As our facing with the Armenian issue is a reflection of our distance to the reality, the weight of the past, putting a hypothec on the future, (...), shortly the way of connecting to this world; it is an issue that we have to think about without being intimidated by it. If we cure our lives that are poisoned by denial, we have to face this issue as well. If we recognise our brother Hrant; not as a colour in a souvenir mosaic, but as a person who comes from the painful and rich adventures of this land, in other words someone exactly like us who tries to exist (...), then we will make a step towards being a human being.”¹²³

8. CONCLUSION: COMPLIANCE WITH CRISES

¹²² ‘Report on the 2003 Regular Report of the Commission on Turkey’s Progress Towards Accession’, COM (2003) 676- Sec (2003) 1212- C5-0535/2003-2003/2204 (INI), 2004.

¹²³ Türker, Yıldırım, ‘Hrant’ın Hikayesi,’ *Radikal*, 24.06.2006 (online). Available at <http://www.radikal.com.tr/haber.php?haberno=193825>, 24.05.2006.

Why do we still have problems in Turkey regarding legislation and implementation? In spite of all positive changes, improvements and novelties brought by the new Penal Code against restrictions on expression and thought, violence against women, corruption, torture; despite modifications in Law on Fight against Terrorism in the direction of protection of freedoms and rights; why isn't the freedom of expression a value wholly grasped and internalized by the population and even the Prime Minister himself? Why cannot Alevis claim their own religion and rights stem from their right to religion? When the time for reconciliation with the Kurdish people come? Why cannot Turkish people embrace non-Muslims just as people that shared their history for centuries? It is a very difficult task to answer all these questions. Yet, the author tried to state possible answers for some of them, by taking into account the literature on conditionality and compliance on one hand and snapshots from the Turkish press and daily events on the other hand.

Whether one likes it or not, the EU is the address of the democratic change in Turkey. As Heather Grabbe warns us, we should not exaggerate the role of the EU in social and political transformation in the candidate countries.¹²⁴ However, we should also understand why these countries are so receptive to the EU requirements. In addition to this, we should analyse how possible resistances are being dissolved and problems are being resolved by the EU or by the national actors. These problems and resistances do not only give us clues about problem-solving techniques in the EU enlargement, they also point out identity clashes in a state. The later is crucial to know, in order to help the improvement of the domestic institutions and civil society to protect and monitor the democratisation. It is also important to see the influence of norms and values in a state. As mentioned earlier, in the ideal situation, candidate states could strengthen democratic institutions only for the sake of their people long before the EU enlargement process started. In the absence of an internal consensus and peace, even the EU membership would not be strong enough to preserve democratic values, as the Turkish example indicated. That's why, the completion of democratisation and reconciliation in the society is the most important task of every Turkish people and politicians. According to Barkey, "the process of transition to the European Union –even if success is a long way off- is likely to force Turkey to undertake significant changes that will make the state smaller, more efficient, less repressive and intrusive and, yet, genuinely stronger."¹²⁵

The EU candidacy and membership process does not only cause tensions in traditional societies because of domestic identity crises, but it also creates problems inherited in the very logic of conditionality and compliance. For this reason, it would be first of all academically short-sighted to take only candidate states into consideration, as if the conditionality is a stable and fixed variable and only candidate states adopt themselves to changing circumstances. The EU enlargement is usually accepted as a dependent variable with a given conditionality in the relevant literature. Influences of enlargement on the EU itself are usually explained not in terms of building new identities within the EU, but of economic, political and social changes after the enlargement. The EU is considered as an institution with given economic and political integrity, whereas the candidate states are grounds of change. The conditions become simply a list of itemised so-called 'European' values, without explaining

¹²⁴ She mentions that there are many other exogenous forces and endogenous processes of change at work in post-communist contexts, such as globalisation and post-communist transition. Grabbe, Heather (i), 'Europeanisation Goes East: Power and Uncertainty in the EU accession Process,' *ECPR Jpint Session of Workshops*, 2002, available at <http://www.essex.ac.uk/ecpr/events/jointsessions/paperarchive/turin/ws4/grabbe.pdf>, 03.05.2006.

¹²⁵ Barkey, Henri J., 'The Struggles of a Strong State,' *Journal of International Affairs*, 2000, Vol.54, No.1, pp.87-106, at p.87.

their construction and different interpretations by different member states or different EU organs. As Grabbe mentions ‘(T)he Copenhagen conditions are extensive and what constitutes meeting them is open to interpretation, giving the EU considerable discretion in deciding what has to be done before compliance is achieved.’ States do not have right to opt-out, as the United Kingdom did in case of Schengen and Euro regime.¹²⁶ Besides, conditions do not include any alternatives but they are ‘package deals.’¹²⁷ This way, the EU institutions bear a historical task to change an identity in a state from something to the ‘European.’ And this identity means a lot for them. The power of the EU conditions comes from their legitimacy as norms and values and the willingness of candidate states to accept them. However, one norm can mean different things to different people and any attempt to exclude different meaning would be repressive. It is important to know how norms are not pre-given and unchanged but flexible and constructed through centuries. Besides, even if one is willing to change itself in the light of these norms, a strong guidance should be provided with clear and detailed prescriptions. Many candidate states are not aware of consequences of the conditions before they finally enter into the accession period. In this process, the candidate states have almost no bargaining power but they have to prove that they are capable of meeting the conditions and incorporating the *acquis*. This sometimes creates confusion, as candidate states in fact attempted to bargain especially just before the EU summits. Summits become the place of negotiations, intense dialogue, lobbying and also bargaining.¹²⁸ Turkey’s recent bargaining on the indirect or direct recognition of Cyprus is a good example showing that states do not leave their traditional policy making techniques at home, when they go to the EU summits.¹²⁹ The EU institutions especially the EU Council of state leaders are not very direct about the negotiability of conditions for candidacy or membership, but they might be open to political negotiation and bargaining, unlike the EU Commission. As a result, this risks the consistency and credibility of the EU, whereas gives signals to candidate states to employ means of rational politics and bargaining that would help them to win the day. In addition to this, the monitoring or screening processes are usually administered by the EU Commission. Yet, the Commission reports include general statements and sometimes vague clauses.¹³⁰ For instance, the minority clause of the Copenhagen criteria had never been incorporated in the previous enlargements or within the EU, besides its meaning and its legal grounding in the EU law is not very clear to candidate states or outside observers. “There are no legal instruments to guide minority rights protection.”¹³¹ Questions like when a state is completely complied with the minority clause of the political conditions or what kind of strategies or solutions is approved by the EU institutions come to the minds of scholars or politicians. In the Turkish case, the question is even more deep-rooted: Who is minority? Are Alevi minorities even if they do not claim to be so? Similarly some Kurdish politicians and intellectuals demand to be a part of the constitutive nation, but not minority. Or other Kurdish politicians claim political rights like regional autonomy. But will the EU satisfy with the language and educational

¹²⁶ Grabbe, Heather (i), *loc.cit.* (note 124).

¹²⁷ Grabbe, Heather (ii), ‘EU Expansion and Democracy,’ *Politics and Diplomacy*, 2004, Vol.5, No.2, pp.73-79. at p.77.

¹²⁸ See for instance, Pridham, Geoffrey, ‘Complying with the European Union’s Democratic Conditionality: Transnational Party Linkages and Regime Change in Slovakia, 1993-1998,’ *Europe-Asia Studies*, 1999, Vol.51\ No.7, pp.1221-1245.

¹²⁹ According to an article published in the *Economist*, Turkish politicians still think that the EU process is a bargaining process and if they make a concession, the EU side will make one too. ‘Türkiye’nin Engeli Türkiye,’ translated and published by *Radikal*, 16.05.2005 (online), available at <http://www.radikal.com.tr/haber.php?haberno=152822&tarikh=16/05/2005>, 24.06.2006.

¹³⁰ See for instance, Grabbe, Heather (iii), ‘How Does Europeanization Affect CEE Governance? Conditionality, Diffusion and Diversity,’ *Journal of European Public Policy*, 2001, Vol,8, No.6, pp.1013-1031.

¹³¹ Wiener, Antje, *loc.cit.* (note 15), p.205.

rights for Kurds even if some Kurdish people are not? How does the EU Commission measure and test the compliance? Are legislative changes sufficient, if not how much role does the implementation play? Besides, the Commission reports can neglect some important issues and then suddenly incorporate them. For instance, the inclusion of Roma community and their problems to the Commission reports came up not before 2002. These kinds of questions may cause the ‘contested’ compliance regarding ‘double-standards’ of the EU and adding new set of conditions to the *acquis communautaire*, as put by Wiener.¹³²

Another important problem mentioned by Grabbe is the ‘marginalisation of the legislature,’ as a result of membership procedures.¹³³ The technical and administrative nature of the EU candidacy process usually involves the state officials from executive. This group of people usually works in isolated environments and run technical issues. The diminishing role of the parliament can lead to a democratic deficit in states,¹³⁴ as it is discussed within the EU countries. Worse is at the end of the candidacy process, this deficit that exported by the Union is carried to it by new member states. At the end, the whole EU membership process becomes the issue of an elitist or bureaucratic group, in which the majority of population is excluded. According to Grabbe, this values efficiency over legitimacy.¹³⁵ Turkey has recently started its negotiations after a highly politicised candidacy period. It is likely that in the coming years, the membership to the EU will not be discussed as much as before in the general media and by the people themselves.

An issue is related to the reward or carrot expected by the candidate states. Although, the EU institutions made it very clear that negotiations with Turkey would not result with a certain membership, it is naturally the expectation of the Turkish people and politicians to finalise them with the reward. Reactions of some EU states to Turkey’s membership and debates on alternative solutions like ‘privileged partnership,’ do not only risk the democratisation process in Turkey but they also threat the credibility of the EU in candidate states. The democratisation aspect of the conditionality can be successful, as long as the EU institutions are transparent, clear, direct and consistent. In general, it is very hard to keep people’s and government’s motivation for the compliance, after some time. Dynamics of internal politics can overweight democratisation efforts, as mentioned above. For this reason it is very important to settle all problems and unresolved issues in the society as soon as possible.

To summarise, this study outlined problems of Turkey related to its identity. The construction of the official Turkish identity excluded others within society. However, identity has not one single dimension in the Turkish case. It is also related to how Europeans perceive Turkey. As mentioned above, in many incidents like court cases against journalists or the attacks against Christian religious men, the main worry of policy makers and media was implications of these on Turkey’s image in Europe. This not only deepens the Turkey’s feeling of being the ‘other’ of Europe, it also makes it hard to achieve domestic reconciliation on abovementioned matters. The success of the political elite and civil society to convince Turkish people about the necessity of democratic reforms for the people themselves will automatically deter the nationalist groups and prevent the deepening gap between European ‘other’ and ‘us.’ Because every time an issue is reflected as a homework needs to be done or a possible source of problem in Turkey’s relations with EU, the nationalist groups will blame the EU for everything changing in the state and society. These democratic conditions will be perceived as

¹³² Wiener, Antje, *loc.cit.* (note 15), p.216.

¹³³ Grabbe, Heather (iii), *loc.cit.*, (note 127), p.1016-18.

¹³⁴ Grabbe, Heather (iii), *loc.cit.*, (note 130), p.1028.

¹³⁵ Grabbe, Hethaer (ii), *loc.cit.*, (note 127), p.77

‘their’ conditions. This will lead to a general tiredness and boredom caused by proving yourself to the other. In addition to those, democratic transformation will be limited to the issues written in the Commission reports, but not issues brought by members of civil society in the country. For instance, a more flexible understanding of secularism is neither among political criteria nor among urgent issues requested by the European Commission. It requires an opening of completely domestic agenda and discussion. This would mean the consolidation of democracy through national dynamics, without initiated necessarily by a foreign body.

For this reason, positive initiatives of the EU Commission to support and finance training programmes of the state institutions and civil society are crucially important to strengthen the social opposition and democratic internalisation especially of human rights. The positive consequences of training programs are already visible in the society. The Turkish civil society has developed in a speed that was never achieved before since the financial assistance came from the Commission.¹³⁶ In addition to that a great rate of the Turkish judiciary underwent training projects on human rights and justice reform. Results of these projects can be traced in the progressive decisions of judges and public prosecutors.¹³⁷ These projects contribute to the learning and socialisation of the practioners, especially on the protection of human rights.

According to the author, the EU conditions helped Turkey to better its human rights record so much that would not have been achieved otherwise. Intellectuals, minorities, scholars of Turkey are happy for this change but not completely satisfied. The hardest part is still yet to come. That is to open, to interpret, to explain, to deepen and to enlarge all these conditions to embrace the people of the country no matter what they believe or where they are born. If democratisation remains a political project to achieve short-term goals or an elitist movement that not include the majority of population, then it is likely that it will collapse in the first regime crisis or in the case of a total rejection by the EU. The author believes in the power of norms that they can transform state identities not necessarily for their sake but sometimes to achieve another goal like being ‘European.’ They can also be learned through interaction and internalised through legislative and political means. But it is also crucially important to note that norms did and will change through practices and social relations. Every society adopts itself according to the conditions and it chooses the best option that fits its dominant identity at that time. In the EU membership process, Turkey should also decide what is good for its people, where it is coming from and who represents it. The answer will not be found at the EU only but also within the societal dynamics. The state is the main force to trigger the search for a more democratic and new identity. And if state does not hold any ideological, ethnic or religious identity and if its institutions are equal to the needs of every member of the society, then everyone will be included to the social and political processes. A bad state is not a state which did not manage to be an EU member, but a state which alienated or worse silenced its citizens only because they were different. Only like this people can see and understand that they have more things in common with other religions, ethnic groups and different nations than they can imagine. This is not an EU project but a global project of tolerance, respect and mutual recognition.

The identity crises within the EU are beyond the scope of this article. However, the European state leaders and public should be informed that the enlargement is not only a political bargaining process but also a huge technical and bureaucratic harmonisation. The relations

¹³⁶ For an overview pf projects financed or opened by the Commission on Turkey see <http://www.deltur.cec.eu.int/Default.asp?lang=1>

¹³⁷ For the Human Rights databank of the Ministry of Justice, see <http://www.inhak-bb.adalet.gov.tr/>, for projects run together with European institutions see <http://www.abgm.adalet.gov.tr/>

established between the state and the institution are based on mutual contracts, procedures and political dialogue. Candidate states try to resolve their internal problems by taking risks and running transformative legislations. Member states should also take necessary risks to continue the enlargement. It may be costly, but this is not an unbearable cost, if one thinks about possible positive consequences of enlargement both for the new states and for the old EU states. The issue of contested compliance can help the constitution of legitimacy of the norms and values.¹³⁸ To overcome the problem of trust between a state and institution, the only solution seems to be to increase communication, political dialogue, understanding, openness and transparency, without losing the necessary hierarchy between the institution and state. Both Turkey and the EU have to know well by now that

“Everything we can learn in this life will be learned from the one who is not like us, from the ‘foreigner’ or ‘other.’ We have nothing to hear from those who look like us, who thinks and lives exactly like us, except the echo of our own voice. There is a need more than ever now for a cosmopolitan culture, both in East and in West.”¹³⁹

¹³⁸ Wiener, Antje, *loc.cit.* (note 15), p.218.

¹³⁹ Şafak, Elif, ‘Hollanda’ dan İzlenimler,’ *Zaman*, 13.08.2006 (online), available at <http://zaman.com.tr/?bl=turkuaz&alt=yazarlar&trh=20060813&hn=280734>, 25.07.2006.