

THE EUROPEAN COMMISSION'S TURKEY 2011 PROGRESS REPORT

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PREFACE

Turkey has applied to become a member state of the European Union (EU). The EU has determined a set of criteria which Turkey must satisfy and which Turkey has agreed to satisfy to become a member state. Each year the European Commission, which is the executive organ of the EU, must report to the Council of the EU and the European Parliament, which are the legislative organs of the EU, as to the progress that Turkey has made in satisfying the criteria. The 2011 report covers on the period from October 2010 to September 2011 and includes the following items:

- a brief description of relations between Turkey and the Union;
- analysis of the situation in Turkey in terms of the political criteria for membership;
- analysis of the situation in Turkey on the basis of the economic criteria for membership;
- a review of Turkey's capacity to assume the obligations of membership, that is, the *acquis* expressed in the Treaties, the secondary legislation, and the policies of the Union.

FINDINGS

On October 12, 2011, the European Commission issued a 115-page progress report on Turkey's EU accession process. The report was directed to the EU's Council of Ministers and to the European Parliament. Some of the report's key findings include:

- While Turkey "continues to sufficiently fulfill" the political criteria for accession, and the establishment of a specific Ministry for EU affairs was created in an effort to meet the criteria, concerns remain over fundamental rights, including freedom of expression and freedom of thought, conscience and religion.
- The report cited the Ergenekon investigation as an example of alleged criminal activities against democracy and concerns remain over handling of investigations, judicial proceedings and the application of criminal procedures putting at risk the rights of the defense.
- Turkey held free and fair parliamentary elections on June 12, 2011 and work has begun on implementing the 2010 Constitutional reform package; however, the report cites the importance of the need for a new Constitution to cement the institutions of democracy, the rule of law, and human rights and respect for the protection of minorities.
- Major weaknesses remain in the area of freedom of expression and freedom of thought, conscience and religion.
- With regard to freedom of expression, the report concludes that Turkish law does not sufficiently guarantee freedom of expression in line with the European Convention on Human Rights and the European Court of Human Rights case law, and furthermore, the high volume of legal cases

against journalists, writers, and academics and human rights defenders all raise “serious concerns.”

- The report notes “limited progress” in the area of freedom of thought, conscience religion but states “Members of minority religions continue to be subject to threats by extremists.” A legal framework in line with the European Convention on Human Rights has yet to be established so that all non-Muslim communities can function without undue constraints, including the training of clergy. The report also notes the Ecumenical Patriarch is “not free” to use the ecclesiastical title ‘Ecumenical’ on all occasions.
- Turkey’s respect and protection of minorities and cultural rights remain restrictive and is not yet in accordance with European standards.
- During the reported period, the European Court of Human Rights (ECtHR) issued 418 judgments finding that Turkey “had violated rights guaranteed by the ECHR, and the number of new applications to the ECtHR increased for the fifth consecutive year.
- In regards to the Kurdish minority, the so-called “democratic opening” by the current Turkish government “was not followed through” and the detention of elected politicians and human rights defenders “raises concerns.”

The issue of Cyprus is reviewed under Turkey’s conduct in regard to regional issues and Turkey’s international obligations. The report concludes that:

- Turkey continues to express public support for the on-going talks under UN auspices.
- Turkey still has not complied with its obligations as outlined in the Declaration of the European Community of September 21, 2005 and in the Council’s conclusions of December 2006 and 2009.
- Turkey does not meet its obligations of full, non-discriminatory implementation of the Additional Protocol to the Association Agreement, including the removal of restrictions on direct transport links with Cyprus.
- There was “no progress” toward the normalization of bilateral relations with the Republic of Cyprus.

In addition, the report notes that senior representatives of the Turkish government have stated that Turkey will freeze relations with the EU Presidency for six months as of July 1, 2012 (when Cyprus assumes the Council presidency) in the absence of a comprehensive settlement of the Cyprus issue.

With respect to Turkey’s ability to assume the obligations of membership, the report notes:

- The decision by the Turkish authorities not to communicate with the air traffic control centers of Cyprus “seriously compromises” traffic safety in the region.
- As long as restrictions remain in place on the free movement of goods carried by vessels and aircraft registered in Cyprus or whose last port of call was Cyprus, Turkey will not be in a position to implement fully the *acquis* relating such chapters as: free movement of goods, free movement of capital, and transport policy, among others.

In the case of Greek-Turkish relations the report notes that despite efforts to improve bilateral relations, including a visit to Turkey by Greek Prime Minister George Papandreou and a visit to Greece by Turkish

Prime Minister Recep Tayyip Erdogan, the threat of *casus belli* still stands and a considerable number of formal complaints were made by Greece over continued violations by Turkey of the Greek airspace and territorial waters.

On matters of EU's common foreign and security policy, of particular interest to Greece and Cyprus, the report notes that Turkey's policy on Iran does not align with that of the EU and the UN; that the protocol to normalize relations with Armenia has not yet been ratified or implemented; relations with Israel have "further deteriorated" since the Gaza flotilla incident earlier this year; and that Turkey did not align itself with EU restrictive measures with regard to Libya. Similarly unresolved remain issues relating to the ties of the EU with NATO.

CONCLUSION

The American Hellenic Institute (AHI) agrees with the findings in the 2011 EU Report on Turkey, especially that:

- Turkey needs to move beyond public statements of its support of the UN sponsored talks and show "in concrete terms" its "crucial" commitment to a functional solution on Cyprus.
- Public statements of support of the talks are meaningless in light of Turkish official statements violating fundamental principles of the UN Security Council resolutions on Cyprus.
- Turkey has violated legal commitments made for the commencement of its EU accession talks, including the recognition of the Republic of Cyprus, the free movement of goods and services through its ports and airports, etc.
- Turkey continues to veto the accession of Cyprus to international organizations like the OECD and the Wassenaar Arrangement on conventional weapons and dual technologies.
- Turkey continues to violate the airspace and the territorial waters of Greece and Cyprus.

Essentially, according to this report, Turkey has failed to fulfill its obligations under the EU Declaration of September, 21 2005 and the Council's conclusions of December 2006 and 2010.

We also concur with Enlargement Commissioner's Stephan Fule assessment of October 12, 2011 where he underscored "the urgency for Turkey to fulfill the non-discriminatory implementation of the Additional Protocol to the Association Agreement and make progress towards normalization of bilateral relations with Cyprus."¹ He also acknowledged that "accession negotiations have not moved forward for more than one year."²

Furthermore, Turkey's continued violations of the airspace and the territorial waters of Greece and Cyprus prompted Commissioner Fule to "recall the necessity for Turkey to refrain from any kind of threat or action which would negatively affect good neighbourly relations."³ However, the American Hellenic Institute contends that the European Commission report should have specifically cited that Turkey's violations of Cyprus' territorial waters and airspace were due to Cyprus' exercising its sovereign right to explore for oil and gas in its Exclusive Economic Zone (EEZ), and that Turkey also refuses to ratify any of the three treaties of the UN Convention on the Law of the Sea that are fundamental law of the EU. The

¹ "EU: Cyprus-Turkey situation potential for problems," *Cyprus Mail*, October 13, 2011.

² *Ibid.*

³ *Ibid.*

report should have also presented the unacceptable threat by Prime Minister Erdogan toward the Republic of Cyprus about its gas and oil exploration, “those who claim unilateral ownership of the island’s riches will see a multi-fold response by Turkey.”⁴

The report comments that “In the Cyprus v. Turkey [ECHR] case, the issue of missing persons and restrictions on the property rights of Greek Cypriots living permanently in the northern part of Cyprus remains pending. However, the report fails to even mention that Turkey was found to be and remains in violation of the Convention on the Protection of Human Rights of the Council of Europe and those judgments rendered by the European Court of Human Rights (ECHR), the court of the Council of Europe, which were not affected by the case of Demopoulos and Others v. Turkey. Each EU Member State and each prospective applicant nation which is also a member of the Council of Europe, like Turkey, must comply with the judgments that the ECHR has rendered.

Moreover, although the report cites that senior Turkish government representatives will freeze relations with the EU Presidency for six months when Cyprus assumes the Council presidency on July 1, 2012 in the absence of a comprehensive solution, it fails to offer commentary or analysis about the implications if such a threat is carried out by Turkey. This threat was uttered at the highest level, by Turkish Prime Minister Recep Tayyip Erdogan, on a visitation to illegally-occupied Cyprus, to force a hasty solution to the Cyprus issue. “...the EU will fail to find Turkey for six months,” he said, if the Republic of Cyprus takes over the EU Presidency in July 2012.⁵ If his threat is implemented it would mean that there would essentially be no progress on Turkey’s accession process for two-plus years. The American Hellenic Institute finds this position unacceptable.

In cold technocratic language, this most recent report by the European Commission affirms what the American Hellenic Institute has argued for many years on issues relating to Cyprus, Greek-Turkish relations and the fate of the Ecumenical Patriarchate. Turkey, as an applicant for EU accession, is the country that has to conform to European standards. Turkey’s continuing violations of international and European law, of the European Convention on Human Rights, and of its own commitments to the EU stand on its way to EU accession. The ball continues to be literally in Turkey’s court.

⁴ “Prime Minister Erdogan Lashes out at EU over Latest Progress Report, Cyprus,” *The Journal of Turkish Weekly*, October 17, 2011.

⁵ *Ibid.*