

THE EUROPEAN COMMISSION'S TURKEY 2012 PROGRESS REPORT

An Assessment by the American Hellenic Institute

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 2012 report covers on the period from October 2011 to September 2012 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 10, 2012, the European Commission issued a 94-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. A few key findings of note:

- The report cites the trials of Ergenekon and "Sledgehammer" as examples of alleged criminal activities against democracy or attempts to remove or prevent the functioning of government.
- Although Turkey has started work on a new constitution with the establishment of a Constitution Conciliation Committee, it is unclear what the follow-up of the committee's work will be and any further progress on implementing constitutional amendments has been "limited," according to the report.
- Major weaknesses remain in the area of freedom of expression and freedom of thought, conscience and religion.
- During the reported period, the European Court of Human Rights (ECtHR) issued judgments on 160 applications finding that Turkey "had violated rights guaranteed by the ECHR," and the number of new applications to the ECtHR increased for the sixth consecutive year to 8,010.
- The human rights case, *Cyprus v Turkey*, remains pending, and in a number of human rights cases (*Xenides-Arestis v. Turkey*, *Demades v. Turkey*, and *Varvana v. Turkey*), Turkey has yet to "fully execute the decision" of the court, which includes paying the "just satisfaction" awarded by the ECtHR to the applicants.
- 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 increased volume in violations

of freedom of expression against journalists, writers, and academics and human rights defenders all raise “serious concerns.” The ECtHR received a “large number” of applications concerning violations of freedom of expression in Turkey, the report added.

- The report notes “limited progress” in the area of freedom of thought, conscience and religion but states “people professing faith in minority religions...continued to be discriminated against, and were subject to threats from 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 Halki Greek Orthodox Seminary “remained closed” and that the Ecumenical Patriarchate has received “no indication” from Turkish authorities that it is free to use the title, “Ecumenical.” Anti-Semitism and hate speech in the media, including TV and film, has gone unpunished, the report notes.
- Greek nationals have encountered problems with inheriting and registering property.
- Turkey’s respect and protection of minorities and cultural rights remain restrictive and is not yet in accordance with European standards. The report cites, again, the Greek minority’s problems with access to education and property rights, including on the islands of Imvros and Tenedos.

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 and its Member States of September 21, 2005 and in the Council conclusions of December 2006 and 2011.
- Turkey does not meet its obligations of full, non-discriminatory implementation of the Additional Protocol to the Association Agreement, and has not removed all obstacles to the free movement of goods with Cyprus, 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.
- Turkey has not lifted its veto of Cyprus’s membership of several international organizations.

In addition, the report notes Turkey directed its civil servants to abstain from meetings and contacts with the Cypriot Presidency of the Council of the EU, and the European Council expressed “serious concerns” with Turkish statements and “threats” in regard to Turkey freezing relations with the Cyprus Presidency.

With respect to a solution to the Cyprus issue, the Council expects Turkey to actively support the negotiations within the UN framework. However, the report states, “Regrettably, on several occasions, statements at [Turkey’s] senior political level spoke of alternatives to a comprehensive settlement under UN auspices.”

Finally, the report notes Turkey’s objections to Cyprus carrying out drilling operations and Turkey’s threats of retaliation against companies that would participate in Cypriot exploration. “The EU stressed the sovereign rights of EU Member States, which include, inter alia, entering into bilateral agreements, and to explore and exploit their natural resources in accordance with the EU *acquis* and international law...,” the report states.

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

- “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 in Cyprus, Turkey will not be in a position to fully implement the *acquis*” relating to the chapter on External Relations.
- The decision by the Turkish authorities not to communicate with the air traffic control centers of Cyprus “seriously compromises” traffic safety in the region.

In the case of **Greek-Turkish relations** the report notes the threat of *casus belli* in response to the possible extension of Greek territorial waters still stands and a considerable number of formal complaints were made by Greece and Cyprus over continued violations by Turkey of their airspace and territorial waters. “...the Union expresses serious concerns and urges the avoidance of any kind of threat, source of friction or action which could damage good neighborly relations and the peaceful settlement of disputes,” states the report with regard to Turkey's threat of *casus belli*.

On matters of **EU's common foreign and security policy**, which is 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 Turkey's diplomatic relations with Israel remain “downgraded” and military agreements with Israel remain suspended.

CONCLUSION

The American Hellenic Institute (AHI) agrees with the findings in the 2012 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 2011.

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 froze relations with the EU Presidency for six months when Cyprus assumed the Council presidency on July 1, 2012, it failed to provide a statement as to the ramifications of Turkey's decision. The American Hellenic Institute finds this unacceptable. In addition, the American Hellenic Institute would have welcomed a Commission position that expressed disapproval of a "Continental shelf delimitation agreement" signed between Turkey and the Turkish Cypriot community with regard to exploratory drilling off the coast of Cyprus.

Furthermore, the American Hellenic Institute finds the statement "Turkey and the EU: common challenges, common future." issued by Stefan Fule, commissioner for Enlargement and the European Neighborhood Policy, and published on the occasion of the European Commission's progress report on Turkey on October 10, 2012, to be indicative of a desperate attempt to keep Turkey on a path on which Turkey has shown little progress or enthusiasm for pursuing.

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.