

Opinion of the European Economic and Social Committee on 'EU-Turkey relations with a view to the European Council of December 2004'

(2004/C 302/17)

On 28 January 2004, the European Economic and Social Committee decided to draw up an opinion under Rule 29 of its Rules of Procedure on 'EU Turkey relations with a view to the European Council of December 2004'.

The Section for External Relations, which was responsible for preparing the Committee's work on this subject, adopted its opinion on 7 June 2004. The rapporteur was Mr Tom Etty.

At its 410th plenary session, held on 30 June – 1 July 2004 (meeting on 1 July 2004), the European Economic and Social Committee adopted the following opinion, with 166 votes in favour, 17 against and 28 abstentions:

1. Background

1.1 The EESC has followed developments in Turkey for many years now. Turkey associated with the EC in 1963, applied for membership in 1987, and became a partner of the EU in the Customs Union in 1995.

1.2 Through a Joint Consultative committee (JCC), established with organised civil society in Turkey and functioning well since 1995, the EESC is well informed of the aspirations of the social and economic interest groups in Turkey as regards membership of their country of the EU. It has always taken these aspirations into account and sincerely hopes that the European Summit of December 2004 will be able to conclude that Turkey has met the 1993 Copenhagen political criteria and therefore decide that negotiations on accession will be opened without delay.

1.3 Turkey has demonstrated for several decades that it has, unequivocally, chosen to turn itself to Europe.

1.4 Turkey is a country with a secular state with an overwhelmingly Islamic population. It wishes to function as a modern, secular democracy. It is a highly important example for those countries which have a predominantly Islamic population and which want to strengthen their political structures in terms of secularism and democracy. Turkey's accession to the EU would demonstrate the high level the EU has achieved in terms of its pluralism, of its ability to manage dialogue between cultures and religions, and of its role in promoting peace and justice in the world.

1.5 Turkey is a demographically young country with a strongly growing economy of great potential. It would be, however, incorrect to continue considering it only as a large market for European export or a zone for low cost investment.

1.6 Turkey has developed during many years a role, on the one hand as a buffer zone and on the other hand as a bridge between the West and the East, but it has never stopped to consider itself as European. If Turkey succeeds in becoming a member of the EU, it could even more directly support the EU activities for conflict prevention, in particular thanks to its excellent relations with the Central Asian region, the Middle East, and the Gulf area.

2. Introduction

2.1 Relations between the EU and Turkey are presently, and for the rest of this year will continue to be dominated by the question whether or not negotiations on accession will be opened. The European Summit will take a decision at its meeting in December 2004.

2.2 That decision will be a decisive event after a period of more than fifteen years during which Turkey has been waiting for a clear-cut answer to its application for membership of the EU. The Helsinki Council of December 1999 gave Turkey the status of a candidate for membership. The Copenhagen Council of December 2002 decided that a decision on opening negotiations would be taken on the basis of the outcome of an assessment, if Turkey by then meets the 1993 Copenhagen political criteria. Satisfying them is considered to be an essential precondition for embarking on the route to full membership.

2.3 The decision to be taken is obviously not only of the greatest importance for Turkey, but also for the EU.

2.4 So far, the outcome of the monitoring of relevant progress in Turkey by the European Commission has been positive. According to the Commission, results of the reform process have been particularly impressive in the past two or three years. However, significant further progress is necessary as regards the independence of the judiciary, freedom of expression, the role of the army, and cultural rights – the latter especially in the South-East.

The European Parliament, in its most recent report on Turkey, makes a similar assessment. It considers that Turkey, despite all the efforts made so far, still does not meet the Copenhagen political criteria. Major shortcomings are in the 1982 Constitution, adopted under military rule. Reforms since 2001 have not yet removed its basically authoritarian character. Further important concerns, according to the Parliament's report, are with implementation of reforms in practice, persisting torture in police stations, harassment of human rights organisations, and the lack of respect for the rights of minorities (in particular of the Kurds).

2.5 Turkey has not only realised an impressive programme of legislation, but it has also taken important measures so as to monitor the implementation of this new legislation in practice.

2.6 This opinion has been prepared, among others, on the basis of relevant work done by the EU-Turkey Joint Consultative Committee. This has allowed the EESC to take into account the views, aspirations and expectations of a significant part of Turkish civil society.

3. General observations

3.1 It must be clear from the outset that the crucial issues for the EESC to discuss at this point of time are basically the political issues of democracy, rule of law, human rights, and the protection of minorities, as decided by the December 2002 Copenhagen Council.

3.2 The economic criteria and the *acquis* will only be discussed here insofar as progress Turkey has realised with regard to them can be considered to contribute to the strengthening of human rights, of civil society and of democracy.

3.3 The EESC has carefully taken note of recent relevant information, in particular the European Commission's 2003 Regular Report on Turkey's progress towards accession, European Parliament's Report on Turkey of April 2004 and the Council of Europe's Report on Human Rights on Turkey of December 2003. It shares the general assessment of the reform process made in these reports. It considers the added value of this opinion to be in its views of the political criteria which are of particular importance for the economic and social interest groups. Therefore, it is on these aspects that this opinion will focus.

3.4 For the EESC, aspects of particular importance in the political criteria are:

- the respect for human rights (in particular the right to organise and the right to bargain collectively; women's rights and the cultural rights of minorities);
- democracy, in particular the contribution which economic and social interest groups and civil society at large can make to the political decision making process;
- freedom of expression, free media; and
- the role of the army in Turkish society, in particular in economic and social life.

3.5 The 1999 Helsinki Council stated clearly that Turkey's reform-performances would be measured against the same accession criteria applying to the other candidate countries.

3.6 In this connection, it should be observed that some countries with whom negotiations on accession have been opened several years ago, apparently did not fully meet the political criteria at the moment when negotiations were opened with them. In some of them, serious discrepancies still persist, even now that they have become members of the EU. One can think in this connection of important elements such as corruption, the independence of the judiciary and the treatment of minorities. Against this background it is important to state that in our opinion Turkey should not only be tested against the same criteria as the other candidate Member States, but also that these criteria will be applied in the same way.

3.7 In December 2002, when the Council set its deadline for taking a decision on opening negotiations with Turkey yes or no, their decision can only have meant that they thought that at that very moment Turkey had made enough progress to justify the expectation that, if it would make a strong effort in the remaining twenty four months, the remaining shortcomings could indeed be overcome. Had this not been the case, giving Turkey this perspective would have been pointless and unfair.

3.7.1 For some of the remaining key problems, like the role of the army in society and the treatment of minorities, (in particular the Kurds in the Southeast), which have a complicated history of many decades, two years is a very short period. Therefore, it is reasonable to infer that Council cannot have meant that Turkey would be able to fully meet the political criteria by December 2004.

3.7.2 If that is a correct interpretation of Council's decision in December 2002, the question is how much progress on which aspects of the political criteria can realistically be demanded of Turkey before negotiations can be started.

3.8 In the current discussion on the opening of negotiations on accession with Turkey, reference is made regularly to the problem of Cyprus. The positive role Turkey has played in the efforts to find a solution, and the consecutive 65 % vote in favour of the island reunification by the Turkish Cypriot community, have to be taken into consideration. Undoubtedly, Cyprus remains an issue of capital importance, both in terms of principles and of political realities. However, if one sticks faithfully and honestly to the decision of the Copenhagen Council of December of 2002 referred to in para. 2.2, the EU cannot make the solution of the Cyprus problem a new condition for opening negotiations as this would mean setting an extra condition *ex post*.

4. Specific remarks

4.1 Human rights

4.1.1 The economic and social interest groups are deeply involved in issues related to the right to organise and the right to bargain collectively, enshrined in ILO Conventions 87 and 98, and in the European Social Charter. Turkey has ratified both ILO Conventions and is a party to the European Social Charter. It has made reservations as to Articles 5 (right to organise) and 6 (right to bargain collectively, right to strike) of the Charter.

4.1.2 In the last two decades, and in particular as a consequence of the military coup d'état of September 1980, serious infringements of these rights have occurred. The military regime went so far as to inscribe a number of grave violations of fundamental trade union rights in the 1982 Constitution.

4.1.3 Several of these articles and pieces of legislation based upon them have been amended in recent years.

4.1.4 However, some important deviations of the fundamental ILO Conventions still persist. In particular, Article 54 of the Constitution still contains detailed restrictions of the right to strike. Article 51 of the Constitution, setting pre-conditions for the election of trade union officials, has been amended so as to bring it in line with ILO Convention 87. Initiatives to amend similar provisions in Act 2821 on Trade Unions and Act 2822 on Collective Labour Agreements, Strikes and Lock-outs are under way. However, according to the 2004 report of the Committee of Experts on ratified Conventions of the ILO to the International Labour Conference, the Government has recently opened court procedures based on this legislation against DISK, one of the trade union confederations represented on the EU-Turkey Joint Consultative Committee.

4.1.5 For more than twenty years, the supervisory bodies of the ILO (the independent Committee of Experts on the Application of Conventions, the International Labour Conference's Committee on the Application of Conventions as well as the Governing Body's Committee on Freedom of Association) have severely criticised these violations and indicated how Turkey should put an end to them. Action by successive Turkish Governments to redress the situation has been disappointingly slow and unfortunately signs of improvement are still lacking.

4.1.6 A report on Social Dialogue and Economic and Social Rights in Turkey, prepared for the 12th meeting of the EU-Turkey JCC⁽¹⁾, highlighted in particular the restrictions of the right to organise and the right to strike in the public sector. Despite several reforms in trade union and industrial relations legislation, these, unfortunately, still persist today.

4.1.7 As regards the right to organise in NGOs, there are legal restrictions in the Associations Law, regarding i.a.

(1) 'Social dialogue and economic and social rights in Turkey'.

membership, fund-raising and scope of activities. In practice, the functioning of these organisations is often seriously hampered. NGOs considered to take anti-government positions in a peaceful way are confronted with infiltrations, close monitoring, censorship, etc.

4.1.8 Foundations for (religious) minorities face particular difficulties as regards property rights. The Government seems to be ready to redress these restrictions to their free functioning. Improvements have been promised for Spring 2004, but these have not been fulfilled so far.

4.1.8.1 Serious problems continue to exist as regards the training of religious minority clergy, in particular Greek orthodox clergy. The theological college of Halki has been closed for more than thirty years.

4.1.9 As regards women's rights, the Committee notes several serious defects despite Turkey's ratification of the fundamental ILO Conventions on Equal Remuneration (No 100) and on Discrimination (Employment and Occupation) (No 111). The Conventions are implemented in law with some exceptions (e.g. legal barriers exist to women's access to certain jobs). Implementation in practice, however, shows many weaknesses, e.g. with respect to equal remuneration for the same job with equal qualifications and access to certain types of quality employment. Similar problems exist in many EU Member States.

4.1.9.1 A point of serious concern is the problem of powerful criminal networks which exploit forced prostitution and national as well as international trafficking of women, boys and girls, and organs.

4.1.10 Despite important changes in legislation, grave problems persist for the time being as regard the treatment of the Kurds in practice. Their cultural rights as a minority are not being respected sufficiently yet, despite certain recent important improvements in particular with respect to broadcasting in the Kurdish language. In Turkey, the status of minority is reserved for the country's religious groups based on the Treaty of Lausanne of 1923 which only speaks of religious minorities.

4.2 Democracy

4.2.1 Under this heading, the EESC wishes to stress once more the potential importance of the new Economic and Social Council of Turkey. It can contribute significantly to reinforcement of the democratic process in the area of decision-making on major economic and social issues through meaningful consultations of the most representative interest groups by the Government. In that sense, it is much more than just an element of the social dialogue as the Commission addresses it in its Regular Report.

4.2.2 The Turkish Economic and Social Council was established in 2001. It is presided over by the Prime Minister and several other Cabinet Ministers participate in its work. Since its inception it was not convened until the present Government came to power, one and a half years ago. It has met three times now, according to schedule, but is certainly has not functioned in the way as recommended in the EU-Turkey JCC's Report on Social Dialogue and Economic and Social Rights, mentioned in para. 4.1.6 above. Rather, it appears to be a talking shop in which statements are delivered and inconclusive discussions take place, instead of an influential body where economic and social interest groups, officially consulted by the Government, make serious efforts to reach consensus on difficult issues in their fields of competence and activity. Clearly, such a body and such activities cannot be created overnight. But, so far, the Government has failed to provide the organisations represented on the Council with incentives to do real business with each other, for instance by reassuring them and by proving to them that, if they succeed to reach meaningful compromises, the Government's policies will significantly reflect the latter. The EESC hopes that the Government of Turkey will seriously and constructively cooperate with the Economic and Social Council enabling it to develop into a significant element in the democratisation process in Turkey. In February of this year, the Government announced that it intends to review the composition of the Economic and Social Council, and in particular its own dominant position in it.

4.2.3 The Committee also wishes to highlight the importance of freedom of expression and free media for the democratic process in Turkey. It acknowledges the great number of reforms in this particular area. However, it shares the concern expressed by the Commissioner for Human Rights of the Council of Europe that some of the changes (for instance in the Constitution) could be interpreted in such a way as being even more restrictive than the provisions which they have replaced. Furthermore, practical application and interpretation of the new articles is the essential test for these reforms, as for those in other areas. Early experiences in legal proceedings show, unfortunately, little consistency as far as this is concerned.

4.3 Role of the armed forces in Turkish society

4.3.1 The EESC is aware of the important role the armed forces have played and still play in the history of the country as well as in Turkish society today. It acknowledges that there have been instances when this role has been a positive one. However, it must also be observed that many of the difficulties Turkey faces today in meeting the 1993 Copenhagen political criteria result from the army's extremely broad and deep involvement in society. That involvement has to be put to an end on the basis of a concrete programme and a strict timetable.

4.3.2 The EESC realises that it is impossible to eradicate such a dominant role in many spheres of life, way beyond the normal role of an army (defence, internal security), in a very short period of time. However, it must be made absolutely clear to Turkey that if it wants to become a member of the EU, the role of the army must be confined to the tasks of the army in the other Member States; i.e. limited to safeguarding the external and internal security of the country and participate in international operations, under democratic control of the Parliament.

4.3.3 In addition to the points which have already been discussed by the European Commission and by the European Parliament (among others the role and composition of the National Security Council, the political responsibility for the army's budget, military representation on civilian bodies in the realm of education and audio-visual media) it must be noted here that the army and army officers also take prominent positions in economic life. A law of 2003 stipulates that the two extra budgetary funds of the armed forces will be included in the general State budget by the end of 2004 and will cease to exist as a separate heading by 2007. This implies that as from 2007 the armed forces' budget will be completely under democratic control. However, for the time being, the armed forces maintain considerable power in Turkish society and economy: there is a vast area of influence – formal as well as informal – of the military which must be made transparent in the same way as all other economic activities⁽¹⁾. This economic aspect has so far been neglected in discussions by the EU of the powerful role of the army in Turkish society only. The European Parliament has addressed it in its most recent report.

5. Conclusions and recommendations

5.1 The EESC considers Turkey a developing democracy, which has made important progress in its efforts to meet the political Copenhagen criteria, especially since December 2002.

⁽¹⁾ Examples are the retirement fund of army officers owning a bank and a holding company which is, among others, the Turkish counterpart in the major joint venture in the automobile industry. According to information supplied by OYAK, it has been established as a corporate entity, financially and administratively autonomous, subject to the provisions of Turkish civic and commercial codes like any other similar institutions. Its main function is to provide benefits to its members, in addition to those provided by the social security plan of the Turkish State, and it basically corresponds to the second pillar pension funds operating in the EU.

All armed forces' military and civilian members are members of OYAK Pension Fund. They remain as permanent members of OYAK. However, except constituting its membership base, OYAK has no relationship with the State and Turkish armed forces in terms of investments or business; fund transfers or state aids, or any other type of financial support. OYAK is an occupational pension fund that is alike with its equivalents in the EU.

As part of its transparency policy, annual reports of OYAK are published for general public release and the accounts of both the Institution and its subsidiaries are being audited every year, by the international auditing firms. OYAK proved supplementary retirement benefits.

5.2 Turkey should not only meet the same political criteria as other candidate member states before negotiations can be opened; its performance in the reform process should also be measured by the same standards as those used for other candidate member states. Every effort should be made on the side of the EU to avoid even the suggestion of double standards.

5.3 The decision of the Copenhagen Council, in 2002, means that the EU at that point of time was convinced that Turkey, by making serious efforts, could satisfy the political criteria within a period of two years. As regards some areas, which have been dominated by long standing traditions and practices, this can only have meant that full compliance with the political criteria by December 2004 is however impossible and that they are rather looking for a critical mass of real progress which would suffice for opening negotiations. Even some of the new member states, which have gone through the full negotiating process, are not fully meeting the political criteria today.

5.3.1 In these particular areas, what the EU can and must realistically demand of Turkey is that such credible progress will have been made by the end of 2004 that it can be expected that a 'point of no return' will have been passed by then. Obvious examples are the role of the army and the treatment of minorities in particular the Kurds in the Southeast. The EESC insists that the reforms with respect to the reduction of the power of the armed forces in society at large, as well as those regarding the cultural rights of minorities will be continued at the present pace and direction and hopes that no retrogressive development will occur in the future which would jeopardize the accession negotiation process.

5.3.2 The role of the army, outside the scope of its basic functions of defence and security, must be rolled back in a determined way so as to give the EU confidence that a process beyond a point of no return is under way. The army budget must be brought under full democratic control. The army's influence should be made transparent and appropriate measures should be taken to guarantee this transparency in future.

5.3.3 The EU should continue its discussion with Turkey on the definition of minorities (which Turkey bases on the Treaty of Lausanne), with a view to the difficulties it raises for Turkey to ratify without reservations, as well as to implement in practice, relevant international instruments. In this discussion, the EU should pay full attention to the fact that some of its twenty five Member States also subscribe to a narrow definition of minorities which causes the same problem.

5.3.3.1 The EESC refers to the work done by the JCC recently on regional development⁽¹⁾ and stresses the importance of an active regional development policy in Turkey, supported by the EU, which would create the opportunity to actively involve the population in Turkey's South-eastern (as well as in other) areas in the economic and social development

of their region. The gradual adoption by Turkey of EU regional policy standards represents an opportunity to promote a greater and consistent partnership among organised civil society – in particular free, independent and representative economic and social interest groups on the one hand, and the authorities at all relevant levels on the other. Jointly, they should develop a shared view on development policy. Exchanges of experience between EU and Turkish socio-economic organisations should be promoted.

5.3.3.2 The EESC notes with interest initiatives of the Turkish Government like the Bill of 2000 on compensation for harm caused by the security forces during anti-terrorist activities and the Internally Displaced Persons and 'Back to Village and Rehabilitation' Project. The EESC considers it of great importance for the credibility of reforms as regards the rights of the population of the South Eastern provinces that before December 2004 these initiatives will have started to benefit the victims concretely.

5.4 In other areas like human rights, where Turkey has been in discussion with the ILO and the Council of Europe for a long time and where change does not, or not so much, require the uprooting of long established power positions, traditions and beliefs, Turkey should be able to show strong progress and meet the requirements it has known for a very long time now by the end of 2004. For instance, by that time the violations of ILO Conventions 87 and 98 which have lasted now about a quarter of a century must have been put to an end. Also, the undemocratic restrictions on the functioning of NGOs in the Associations Law as well as in day to day practice must be removed. The reform process Turkey is going through presently gives rise to positive expectations. However, in this area concrete and full results must be shown by the deadline mentioned.

5.5 The Turkish Economic and Social Council should, already in the course of this year, be much more seriously involved in the preparation of economic and social policy. The Government must consult it on key issues in these areas and must show that it takes its opinions and advice seriously. It is only by giving real responsibility to economic and social interest groups, and by rewarding them if they take it, that the Government can expect them to take seriously the Council, as well as the Government's intentions with it. The EESC notes with interest that the Government is preparing a review of the Economic and Social Council. However, this should not be used as an argument to further delay the active involvement of organised civil society in economic and social policy making in Turkey.

5.6 In order to strengthen civil society in Turkey, the Government must not only stop its interferences in the activities of genuine NGOs and economic and social interest groups. It should rather encourage their emergence, facilitate their work, and cooperate with them.

⁽¹⁾ Reports on Regional Disparities in Turkey/Regional Development by Mrs Cassina and Mr Guvenc.

5.7 It is the view of the EESC that a positive decision on the opening of negotiations with Turkey on accession to the EU must be taken if the Government of Turkey by December next, will have

- taken measures to satisfy the demands with respect to the role of the army in Turkish society in paras 4.3.1 and 4.3.2 above;
- shown, in concrete measures, determination to fully implement in practice the legal reforms concerning the cultural rights of the Kurds in the South-Eastern provinces of the country;
- started to implement in practice the intentions expressed and commitments made with regard to voluntary return, rehabilitation and compensation of displaced victims of the violence in the South East in the 1980s and 1990s;
- brought its legislation and practice with regard to basic trade union rights and freedoms fully in line with ILO Conventions 87 and 98;
- cleaned the Associations Law from all anti-democratic stains and refrained in practice from restrictions on the free functioning of genuine civil society organisations including religious foundations; and

Brussels, 1 July 2004.

- created conditions for the free and independent functioning of the Economic and Social Council of Turkey, as well as basis for meaningful and constructive cooperation with this Council.

5.8 The EESC thinks that the reforms made so far by the Government of Turkey as regards the problems related to the role of the army in society, as well as those which pertain to the cultural rights of the Kurds in the South East, represent the credible progress demanded in paragraph 5.3.1 above.

5.9 Furthermore, if the points enumerated in the last four indents of paragraph 5.7 will have been met before December 2004, the EESC believes that a reliable basis has been created for the opening of the negotiations which, in due time, will lead to mutually beneficial results. In this event, the EESC is of the view that each of the European institutions, including the EESC itself, should begin preparing for the effects of Turkish accession on the workings and the concept of the European Union itself. As a result of such accession the European Union would be considerably enlarged and altered, which would require widespread support from European public opinion.

5.10 Irrespective of the decision of the December Council, the EESC will continue its fruitful cooperation with Turkey's organised civil society.

The President
of the European Economic and Social Committee
Roger BRIESCH
