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# THE DIFFICULTIES FACED BY ROMANIA, BULGARIA AND TURKEY ON THEIR WAY TO EU MEMBERSHIP

## Introduction

Attracted mainly by the prosperity, security, and stability produced within the borders of the European Union (EU – previously known as the European Community), many neighboring countries have applied for membership of this supranational organization throughout its history. There have been five rounds of enlargement so far, the most recent of which being the largest in terms of scope and diversity,<sup>1</sup> involving thirteen countries (plus Croatia which was added later), ten of which joined the EU as new member states in May 2004.

The fifth round of enlargement began at the end of the Cold War, when a number of countries from Central and Eastern Europe, including Romania and Bulgaria, asked for membership of the EU. This resulted in the conclusion of Association Agreements with those countries. Like the Association Agreements concluded previously with Turkey, Malta, and Cyprus, these agreements also recognized the parties' intentions to join the EU.<sup>2</sup> The Copenhagen European Council in June 1993 not only confirmed the eligibility of these countries for membership, it also formulated the criteria – often referred to as 'the Copenhagen criteria' – that these countries would need to meet before joining the EU.<sup>3</sup>

Following their formal accession applications, the presentation of the Commission's opinion<sup>4</sup> in 1997 on the appropriateness of awarding candidate status to each country in question marked another important stage in the enlargement process. Based on this assessment, the Luxembourg European Council decided to launch a general enlargement process the same year. Turkey was implicitly excluded from this process until the corrective decision of the Helsinki European Council in December 1999, which stated that, "Turkey is a candidate State destined to join the Union on the basis of the same criteria as applied to the other candidate States."<sup>5</sup>

Accession negotiations were formally opened with the Czech Republic, Estonia, Hungary, Poland, Slovenia and Cyprus in March 1998,<sup>6</sup> and the same was done with the six other candidate countries of Bulgaria, Romania, Latvia, Lithuania, Malta, and the Slovak Republic, close to two years later, in February 2000.<sup>7</sup> In April 2003, ten of these countries, with the exceptions of Bulgaria and Romania, signed Accession Treaties with the EU, providing them with full membership status from May 2004 onwards. After repeated reassurances at many European Council meetings<sup>8</sup> as to their joining the EU in 2007, both Romania and Bulgaria signed Accession Treaties with the EU in April 2005, slating them in for EU membership in 2007,<sup>9</sup> with an option for a one-year delay to their membership if they do not complete the necessary reform measures and meet their commitments to the EU during this time.

Turkey remained the only applicant country for which there was no fixed date for accession negotiations to begin. However, it was ultimately decided by the Copenhagen European Council in December 2002 that Turkey's candidature would be reviewed at the end of 2004 and that this country would be able to start accession negotiations with the EU without delay, providing it fully complied with the Copenhagen political criteria.<sup>10</sup> Acting according to this commitment, in December 2004, the Brussels European Council set the date for opening accession negotiations with Turkey as 3 October 2005, with the condition that Turkey meet some extra requirements by that time. It also established 17 March 2005 as the date for opening accession negotiations with Croatia, which had been included in the fifth round of enlargement by the previous European Council.<sup>11</sup> This date was subsequently put back by the European Council due to the failure of Croatia to meet the pre-condition of full cooperation with the International Criminal Tribunal in respect of the former Yugoslavia (ICTY).

The dates for the basic steps taken by each country in the fifth round of EU enlargement are given below, in Table 1, and can be used to compare the progress of the different countries on their journey to EU membership. It shows that, by comparison with the other applicant countries, the accession processes for Romania, Bulgaria, and Turkey have taken longer than for other countries.

**Table 1. Dates for the Basic Steps in the Fifth Enlargement Round of the EU**

Country	Ass. Agr.	Acc. App.	Acc. Neg.	Acc. Tre.	Dur. (Years)
Cyprus	1972	1990	1998	2004	32 / 14
Malta	1970	1990	2000	2004	34 / 14
Slovenia	1996	1996	1998	2004	8 / 8
Czech R.	1993	1996	1998	2004	11 / 8
Estonia	1995	1995	1998	2004	9 / 9
Hungary	1991	1994	1998	2004	13 / 10
Poland	1991	1994	1998	2004	13 / 10
Latvia	1995	1995	2000	2004	9 / 9
Lithuania	1995	1995	2000	2004	9 / 9
Slovakia	1993	1995	2000	2004	11 / 9
<b>Romania</b>	<b>1993</b>	<b>1995</b>	<b>2000</b>	<b>2007*</b>	<b>14 / 12*</b>
<b>Bulgaria</b>	<b>1993</b>	<b>1995</b>	<b>2000</b>	<b>2007*</b>	<b>14 / 12*</b>
<b>Turkey</b>	<b>1963</b>	<b>1987</b>	<b>2005*</b>	<b>????*</b>	<b>42+ / 18+*</b>
Croatia	2001	2003	2005*	2009*	8 / 6*

\* Planned

From left to right, the columns show the dates for the Association Agreement, Accession Application, Accession Negotiation, Accession Treaty, and the total duration of the membership process for each country. It is best to compare the duration of Turkey's membership process with those of Cyprus and Malta, since these three countries have the oldest Association Agreements and Accession Applications. The lengths of the membership processes for Romania and Bulgaria should be compared with those of the other countries that have similar dates for the same two steps. Compared in this way, Turkey is seen to have the longest membership process (if at all its membership is planned, which is not certain). Turkey has 42+ years, starting from the date of its Association Agreement (1963),

or 18+ years, starting from the date of its Accession Application (1987). The duration for Cyprus is 32/14 (Association Agreement/Accession Application) and 34/14 for Malta. Similarly, Romania and Bulgaria will have the longest durations for the membership process among the other countries in their comparison group at 14 or 12 years for both countries, depending whether the start date is taken as 1993 or 1995.

The research question of this study arises from this fact, and is formulated as follows: "Why did Romania, Bulgaria and Turkey lag behind the other applicant countries in the fifth enlargement round of the EU? (Or were Romania, Bulgaria, and Turkey left behind by the EU? If so, why?)"

It is logically clear that the aim of this study is "to find a satisfactory explanation to the given questions by examining the basic factors behind the delayed membership of the three countries to the EU." In other words, this study will seek to arrive at a consistent and satisfactory interpretation of the differences seen in the above table for Romania, Bulgaria, and Turkey, when compared with the other applicant countries involved in the fifth round of enlargement of the EU.

In terms of method, this study will rely on an extensive review of the relevant literature, as well as a number of interviews and discussions with experts in the field<sup>12</sup> in order to gather additional information as to the resultant difficulties and gain more insight into the matter.

## **I. Factors in the Delayed EU Membership of Romania, Bulgaria, and Turkey**

The explanation arrived at in this study as to the reasons for the delayed EU membership of the countries in question depends on two basic types of factors: external (exogenous) factors and internal (indigenous) factors. The first group of factors relates to the difficulties faced by these countries in attracting the EU to the idea of their becoming members; the second group relates to the difficulties faced by the three countries in complying with the EU membership criteria. This study first presents a brief discussion of the external factors, and then moves on to an in-depth examination of the internal factors.



### *1. Difficulties Faced by Romania, Bulgaria, and Turkey in Attracting the EU*

In terms of external factors affecting Romania, Bulgaria, and Turkey, it can be argued that European mental barriers vis-à-vis these countries have caused varying levels of difficulty in attracting the EU to the idea of their membership. These mental obstacles (or prejudices) have two causes: namely, cultural and religious differences, and the negative image in Europe created both during Communism and immediately after its collapse. Mental barriers based on cultural and religious differences have had a particularly negative impact for Turkey's membership of the EU, while those arising from the negative image in Europe during and after Communism have affected negatively the membership processes for Romania and Bulgaria, most particularly that of Romania.

It is an undeniable fact that many people in Europe today still have a mental map of Europe that was drawn on cultural and religious grounds, notably that of the historically-rooted Christianity vs. Islam dichotomy. As Wallace has put it, in this view "Europe" is synonymous with Christianity and can be defined distinctly in these terms. The borders of "Europe" are drawn where the footprints of Christianity fade out and give way to other religions.<sup>13</sup>

Such a definition of Europe inevitably creates strong mental barriers among some Europeans to Turkish EU membership based on that country's perceived differences in terms of history, culture, and religion. These barriers can be found both among ordinary people and certain academic and political elites who define Europe as such in repeated political statements and academic studies. To supporters of this view, Turkey is mostly an Asiatic country, located on the periphery of "Europe", and with many major differences.<sup>14</sup> It thus has no place in "the European civilizational project."<sup>15</sup>

It is thus clear how these mental barriers, based on cultural and religious differences, have had a negative impact on Turkey's membership of the EU. Indeed, Huntington underlines this as the sole factor behind the delay to Turkey's membership.<sup>16</sup>

Similarly, there is also some scope to discuss the impact of the same mental barriers in the case of Romania's and Bulgaria's membership if the above-mentioned argument as to the definition of Europe is taken further to differentiate between Western Christianity and Eastern Christianity. By assuming it is the former that is the faith of Europe rather

than the latter, as Khleif said in citing Bernard-Henri Levy, "Europe feels that its border implicitly stops somewhere around the limits of Catholic Europe – certainly before the complexities of the Balkans."<sup>17</sup> The present map of the EU, with its new border between Hungary and Romania, appears to back up this claim. In fact, of the countries involved in the EU's fifth enlargement process (listed in Table 1 above), it is Romania, Bulgaria and Turkey which are predominantly eastern Orthodox and Muslim. This is likely to be a reflection of existing mental barriers, rather than mere coincidence.

There are, however, other, more obvious, grounds for the existence of mental barriers in terms of Romania's and Bulgaria's EU membership. These arise from the negative images these countries have in Europe that were created both during Communism and in its immediate aftermath. The negative images created during the Communist era derive from the fact that there was no strong resistance against the regime in either country. This argument is perhaps best formulated by Kundera, who claimed the existence of a clear difference between the Central European countries (Poland, Hungary and the former Czechoslovakia) and those of Southern Europe (Romania and Bulgaria) in terms of their European identity. He bases this argument on the lack of strong opposition movements against the Communist regimes in the Southern European countries as compared to the Central European countries.<sup>18</sup> Reflecting this view, Petrescu underlines that having been seen to be 'rebellious' during Communism determined the European institutions to choose a more rapid adoption process for Poland, Hungary and Czechoslovakia than it did for Romania and Bulgaria (both seen as 'non-rebellious' in the past).<sup>19</sup> In other words, it is possible to talk about the existence of a more sympathetic attitude in the EU in assessing the membership requests of Central European countries than for Eastern European countries, based on past attitudes towards Communism.

For Romania, this negative image was strengthened further in the first years of the post-1989 era due to the policies and events in the country at the time. Media coverage of the December 1989 Revolution unintentionally created an image of Romania among the European public as a country of violence and poverty.<sup>20</sup> More importantly, Romania was still seen by many international observers as a 'neo-Communist' state, re-modeled on the ideas Gorbachev devised to reform the former Soviet Union.<sup>21</sup> This assessment was made based on a number of aspects of Romania's post-1989 existence. First, the party that gained and held power

until 1996 was made up of second-ranking members of the former Communist Party. Second, of all other former Communist states in Central and Eastern Europe, Romania was the only country to sign a treaty of friendship with the former Soviet Union (April 1991).<sup>22</sup> Last, though perhaps not the least, there was the use of violent means to suppress demonstrations, as in the case of *mineriade* in 1990-1991 and the reaction to inter-ethnic violence in Targu Mures, which cost five lives and left hundreds injured.<sup>23</sup> Combined with the poor progress in terms of reform during these years, these developments served to strengthen the negative image of Romania in Europe and thus provided grounds for the creation of mental barriers in terms of EU membership. It was only during the second half of the 1990s that this negative perception began to change, slowly, into a more positive view, in parallel with a change in Romanian politics and the newly emerged strategic and geopolitical plans of the EU for the region.

The threat of instability in the region, as reflected by the dramatic events in the territories of the former Yugoslavia, encouraged the EU to turn against any such negative images of Romania and Bulgaria and include them in the fifth round of enlargement as candidate countries in 1997. However, soon after their inclusion, it was internal factors that were to determine the fate of these countries' membership of the EU. These factors will be examined below in detail, including those for Turkey.

## *2. Difficulties Faced by Romania, Bulgaria, and Turkey in Complying with the EU Membership Criteria*

The most obvious internal (or indigenous) factors behind the delayed membership of Romania, Bulgaria, and Turkey to the EU can be seen in terms of the difficulties they face in complying with the necessary criteria. Formulated by the Copenhagen European Council in June 1993, these membership criteria – commonly known as the Copenhagen criteria – consist of the conditions in three fields: political, economic, and legal and administrative.

In the political field, applicant countries must achieve the “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.”<sup>24</sup> Compliance with these criteria is the most urgent for applicant countries since it is a pre-condition for the opening of the accession negotiations.

In the economic field, the criteria include “the existence of a functioning market economy as well as the capacity to cope with competitive pressures and market forces within the Union.”<sup>25</sup> Put more simply, applicant countries must have functioning market economies and ensure the competitiveness of their economies before joining the EU. Compliance with the economic criteria is necessary before membership.

Finally, in the legal and administrative field, the membership criterion requires the “ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.”<sup>26</sup> In fact, this criterion has two aspects for applicant countries: the first is adoption of all EU legislation expressed in the treaties, secondary legislation, and the policies of the Union; the second is development of the judicial and administrative capacity necessary to implement and enforce them. The importance of the second aspect for a harmonious integration with the EU was first stressed by the Madrid European Council in December 1995 and repeated frequently at subsequent European Councils.<sup>27</sup> Like the economic criteria, the legal and administrative criteria must also be met before membership starts.

In addition to these “classic” membership criteria, both the Cologne European Council and the Helsinki European Council (June and December 1999, respectively) emphasized the importance of the meeting of nuclear safety standards by the candidate countries. This concerns Bulgaria in this study.<sup>28</sup>

As a whole, these criteria constitute the basis on which each candidate country will be judged by the EU in deciding on their readiness for membership. However, it should be underlined that the date for membership can only be determined by the EU, in accordance with also its own capacity to absorb new members.<sup>29</sup>

Having looked at the membership criteria, it becomes clear that achieving membership by meeting the criteria is no easy task and represents a tough challenge for the applicant countries. This is perhaps particularly so for Romania, Bulgaria, and Turkey, all of which have faced a number of common as well as country-specific difficulties. These difficulties are examined in the following pages.

### **A) Difficulties Common to Romania, Bulgaria, and Turkey**

Broad examination of the regular reports by the European Commission since 1998 on the progress of the each country towards accession EU<sup>30</sup> reveals the main common difficulties shared by the three countries in

respect of the political, economic, and legal and administrative criteria as well as the tasks to be achieved by these countries. They include reform of the judiciary; reform of the public administration; the fight against corruption; full and effective implementation of the reform measures and the *acquis*; prevention of police misconduct; and, finally, improvement of the situation in prisons. A recent statement by Romania's European integration ministry also underlines the presence of a compliance backlog in these areas. The statement says that there is still work to be done in the areas of transparency among magistrates, simplification of judiciary procedures, the fight against corruption, and protection of the Roma community (another difficulty faced by both Romania and Bulgaria that will be examined later on). As regards the full and effective implementation of the *acquis*, 85 commitments undertaken in the accession negotiations remained unfulfilled by Romania as of the end of May 2005.<sup>31</sup>

### **1. Reform of the Judiciary**

The ultimate goal for the reform of the judiciary can be expressed as the creation of an independent, effective, efficient, and professional judicial system in the countries in question. The existence of such a judicial system is seen as a prerequisite, not only for guaranteeing the rule of law in these countries, but also for their effective participation in the internal market after membership. Requiring the transformation of the whole system inherited from the Communist regime, this has been one of the most difficult tasks for Romania and Bulgaria during the membership process. Indeed, both in terms of number and content, the following list of tasks to be achieved by the three countries to achieve reform of the judiciary during the membership process reflects the level of difficulty.

Common tasks to be achieved by the three countries include:

- Improving the operation (efficiency) of the judicial system
- Reinforcing the independence of the judiciary
- Combating corruption within the judiciary
- Improving court administration (decreasing workload of judges, solving the problem of understaffing, reducing the duration of proceedings and pre-trial detention time)
- Providing adequate training for the members of the judiciary.

There is also a list of tasks to be achieved by Romania and Bulgaria:

- Enforcing judicial decisions more effectively (solving the problem of non-execution)
- Developing transparency in case handling
- Improving the status and remuneration of the members of the judiciary
- Developing a human resources policy (establishing objective criteria for recruitment and career development for members of the judiciary)
- Ensuring access to legal aid
- Providing modern equipment and better working conditions in the courts
- Providing adequate financial resources for the judiciary and better budgetary procedures.

In addition to these common tasks, there are also many specific tasks for each country (Turkey has the longest list).

The specific tasks for Romania include:

- Developing a comprehensive strategy and action plan for the reform of the judiciary
- Ensuring equitable or consistent application of the law (this problem derives mainly from lack of access to case studies and court decisions)
- Increasing the quality of judgments
- Establishing legal certainty (this problem derives from extraordinary appeals by the General Prosecutor)
- Attracting and retaining more qualified staff.

The specific tasks for Bulgaria include:

- Changing the unusual structure of the investigation service<sup>32</sup>
- Restoring public confidence in the judiciary
- Limiting the immunity of the judges.

The specific tasks for Turkey include:

- Addressing the question of the State Security Courts,<sup>33</sup>

- Stopping the trial of civilians by the military courts in certain cases<sup>34</sup>
- Complying with the European Court of Human Rights (ECtHR) judgments
- Making reparations for the consequences of convictions contrary to the ECtHR
- Addressing the question of Juvenile Courts<sup>35</sup>
- Overcoming the problem of inconsistency in cases concerning freedom of expression
- Ensuring closer control by prosecutors in the investigation of cases.

Steps to address these challenges were not a priority in Romania for a long time, as reflected by the absence of a comprehensive reform strategy and action plan. Initial steps in this direction came with the amendments to the Civil Procedural Code in 1998 and the Law on the Organization of the Judiciary in 1999, the acceleration of cases, reinforcing of administrative capacity and independence of judicial system, and improvement to the status of judicial staff.<sup>36</sup> New revisions to the Civil Procedural Code in 2001 sped up the operation of the courts and improved the enforcement of judicial decisions.<sup>37</sup> Further significant steps in the reform of the judiciary were taken in 2003. The new Code of Criminal Procedure strengthened a number of fundamental freedoms and liberties in the trial process. In addition, amendments to the Constitution brought with them important reforms which declared the judiciary a separate and equal state power, effecting institutional changes and reinforcing the right to a fair trial within a reasonable time frame. Finally, the Judicial System Reform Strategy was adopted with the objective of ensuring legal certainty and conformity with the ECtHR, improving the quality of judgments, and enhancing the independence of the judiciary.<sup>38</sup> Progress in the reform of the judiciary continued during the following year through a three-law reform package that significantly improved the independence and effectiveness of the judiciary. All these steps have provided the basis for a more independent and efficient judicial system in Romania, provided there is effective implementation. However, there is need for further improvements in the management of court cases and the quality of judgments, as well as the independence of the judiciary on the ground.<sup>39</sup>

The reform process in Bulgaria began in 1998, but lacked an overall strategy until 2001 when the Strategy for Reform of the Judicial System was adopted with the objectives of improving the judiciary in terms of

administration, management, human resources, and physical infrastructure.<sup>40</sup> The next step came in 2002 with the Action Plan for the implementation of the strategy and major amendments to the Law on the Judicial System, increasing the accountability and transparency of the judiciary through various anti-corruption measures and the introduction of objective criteria for recruitment and the promotion and training of magistrates.<sup>41</sup> Further steps in the reform of the judiciary in Bulgaria were taken in 2003. While the amendments to the Civil Procedure Code concerned the mechanisms for enforcing judgments and reducing the duration of procedures, the amendments to the Law on the Judicial System made the judiciary more powerful vis-à-vis the executive. In addition, important amendments to the constitution were adopted, restricting the absolute immunity of magistrates to that of functional immunity and introducing permanent status for magistrates on the basis of certain criteria.<sup>42</sup> Progress in this field continued into 2004 with further amendments to the Law on the Judicial System in line with the given constitutional changes. They also established clearer rules for the appointment and promotion of magistrates. However, the need remained for further a strengthening of the judiciary against political interference, improvement to working conditions for its members, the effective enforcement of judgments, a more efficient functioning of the judicial system with a faster pre-trial phase, and a strong campaign against corruption within the judiciary.<sup>43</sup>

The first important step in the reform process in Turkey in this field came in 1999 with the Constitutional amendments that removed the military judge in the SSCs, abolished their competences for offences relating to organized crime and fraud in the banking sector, and provided detainees with access to a lawyer after 48 hours.<sup>44</sup> The next steps came in 2002 with the adoption of the third reform package which allowed for the retrial of convictions that are contrary to the European Convention of Human Rights (ECHR).<sup>45</sup> Similarly, the Code of Civil Procedure and the Code of Criminal Procedure were amended in 2003 in line with these provisions. In addition, while the amendments to the Law on the Establishment and Trial Procedures for Military Courts ended military jurisdiction over civilians, the amendments to the Law on Juvenile Courts raised the upper age limit from 15 to 18 for young people tried in these courts. Finally, a law on the establishment of family courts was adopted to increase the efficiency of the court system.<sup>46</sup> Real breakthrough in the reform of the judiciary in Turkey, however, came in 2004. Through



amendments to the Constitution the SSCs were replaced by Regional Serious Felony Courts which had nearly the same procedures with the exception of the right of detainees to consult a lawyer immediately after being taken into custody. These also paved the way for the Turkish courts to apply the supremacy of international treaties ratified by the country over domestic legislation. Besides a new Penal Code in line with the modern European standards, which came into effect in 2005, the Law on Establishing the Intermediate Courts of Appeal was adopted to reduce the case load of the Court of Cassation. Moreover, amendments to the laws governing various special courts were also adopted to increase efficiency. However, there remained a need to reduce the duration of cases, ensure judicial supervision at the investigation stage, and strengthen the independence of the judiciary.<sup>47</sup>

## **2. Reform of Public Administration**

Administrative reform is also a comprehensive issue and has various aspects. Its overall goal for countries that are part of the EU membership process can be said to be to create an efficient, professional, independent, transparent, and accountable civil service; to build an adequate administrative capacity, both for the implementation of the *acquis* and the proper management of the EU assistance funds; to ensure the adaptation of the administration to the requirements of the market economy; and to achieve de-centralization and public participation.

Unlike in the field of judiciary reform, the number of common tasks for the three countries in the area of public administration reform is low. While, in a sense, public administration reform for Romania and Bulgaria means a re-establishing of the administrative system, for Turkey it implies a transformation of the system from one of a centralized, hierarchical, and secretive nature to a decentralized, participatory, transparent, responsive, and accountable model. Despite the differences, however, the following tasks need to be achieved by all the three countries:

- Improving the management and organizational structure of the public administration
- Ensuring the efficiency of public administration (e.g. decreasing red tape)
- Strengthening the fight against corruption, taking strong anti-corruption measures
- Ensuring the openness and transparency of public administration

- Achieving de-centralization
- Promoting a new administrative culture based on modern standards and practices.

There is also a list of tasks to be achieved by both Romania and Bulgaria during the membership process:

- Developing a comprehensive legislative framework for the reform of public administration
- Building an adequate administrative capacity with improved planning, policy-making, and evaluation, as well as developing inter-agency coordination and cooperation, and increasing public participation
- Separating the political and administrative functions of the executive,
- Creating a modern civil service (e.g. independent, efficient, professional, transparent, and accountable)
- Developing a career development policy for all public officials on the basis of objective criteria
- Establishing structures for the proper management of EU assistance funds
- Building better infrastructure and modern equipment.

In addition to these common tasks with Bulgaria, Romania also has a number of other specific tasks:

- Reinforcing the administrative bodies responsible for the reform of the administration
- Improving the budgeting process and expenditure management
- Ensuring and monitoring the implementation of policy decisions,
- Drawing up laws to protect citizens and control executive.

In Romania, though identified as a priority, progress in the reform of public administration was slow and narrow in scope. Lacking a general strategy until 2004, steps taken in this field mainly concentrated on decentralization and design of various institutional arrangements for the reform of public administration. A General Strategy Regarding the Acceleration of Public Administration Reform was adopted in 2001, implementation of which was to be monitored by an inter-ministerial

council headed by the Prime Minister. In addition, a new Law on Local Public Administration was adopted, extending and clarifying the decentralization process and providing local authorities with the necessary financial means.<sup>48</sup> And it was only in 2004 that the Public Administration Reform Strategy was adopted, which covers the areas of civil service reform, de-centralization and de-concentration, and policy coordination. The previously established Central Unit for Public Administration Reform became a General Directorate with increased operational capacity. However, there remains the need to implement planned measures, increase the training of civil servants, improve the financial authority and administrative capacity of local government, and for a strong campaign against corruption.<sup>49</sup>

Contrary to the situation in Romania, the first step in this field for Bulgaria came in 1998 with the adoption of the Strategy to Establish a Modern Administrative System in the Republic of Bulgaria.<sup>50</sup> In line with this strategy, the Law on Public Administration and the Law on Civil Service were adopted to form the key legal framework for the reform of the administration over the subsequent years.<sup>51</sup> A new Strategy for Modernization of the Public Administration was adopted in 2002, covering the period 2002-2005, and further revisions to the legislative framework were made to ensure progress in this field, involving establishing legality, loyalty, responsibility, stability, political neutrality, and hierarchical subordination as the general values of public administration.<sup>52</sup> The Strategy was updated in 2003 to include the Program and Action Plan for its implementation. Furthermore, a Council for the Modernization of the State Administration was established and specific legislation was adopted in line with the updated strategy for the same year.<sup>53</sup> Tangible progress was made in public administration reform in 2004 through the amendments to the Civil Service Law, which provided a more precise definition of the civil service, mandatory competitive selection and the principle of merit for new civil servants, and performance appraisals. They also introduced a new classification system for positions at all levels in the administration. Despite this progress, however, there remains a need for a legislative framework for local administration, significant improvements in the management and organizational set up, a strengthening of administrative capacity, better infrastructure and equipment, and strong anti-corruption measures.<sup>54</sup>

In Turkey, after a number of failed attempts, the first important steps in the reform of public administration came in 2002 with measures to

increase the efficiency and the transparent management of human resources in public service. In addition, the Action Plan on Enhancing Transparency and Good Governance in the Public Sector was adopted with proposals for restructuring the relationships between the central and the local administrations. Following further steps to increase transparency and efficiency in 2003, tangible progress was made in the reform of public administration in 2004. This involved the adoption of a four-law reform package to upgrade and transform the public administration in line with modern principles in this field, including de-centralization, participation, transparency, responsiveness, and accountability. Though initially vetoed by the President on the grounds that it violated the unitary character of public administration, the reform package partly came into force in July 2005 with nearly one year's delay.<sup>55</sup>

### **3. The Fight against Corruption**

The widespread problem of corruption in the three countries in question essentially derives from economic, legal, institutional, political, and financial factors. These include the involvement of the State in economic activities; the lack of a sound legal framework or global strategy for anti-corruption measures; the unclear division of tasks between responsible bodies and weak coordination and cooperation between these bodies; the lack of implementation and enforcement; the lack of appropriate sanctions; the widespread acceptance of corrupt practices; inadequate financial resources; low salaries; and cumbersome bureaucracy.

The common tasks to be carried out in this field by all three countries as part of the membership process are as follows:

- Developing a comprehensive approach to combating corruption
- Providing a sound legal basis for the fight against corruption, with a clear definition of corruption
- Creating an independent institutional body against corruption with clear responsibilities, competencies, and functions
- Ensuring coordination between agencies and initiatives in the fight against corruption
- Developing effective financial control and audit systems
- Establishing appropriate internal control mechanisms and efficient investigation procedures within public agencies

- Focusing on prevention measures (e.g. increasing transparency and accountability standards and public awareness, training public officials, developing a code of ethics etc.).

There is also a list of tasks to be achieved commonly by Romania and Bulgaria:

- Tackling corruption at both high and local levels
- Developing clear regulations for financing political parties
- Ensuring transparency and judicial control over public procurements and privatization
- Establishing criminal responsibility for legal entities involved in corruption
- Ensuring clarity of regulations in the business sector,
- Actively pursuing the fight against corruption in the customs administration,
- Implementing effectively the adopted legislation and measures and developing the necessary administrative capacity to do so.

Besides these common tasks with Bulgaria, Romania needed to complete another specific task together with Turkey:

- Ratifying related international conventions.

In Romania, the first steps in fighting corruption mostly involved the creation of various bodies to tackle the problem. The Law on the Prevention and Punishment of Acts of Corruption reorganized these bodies and introduced charges for acts of corruption by high-level persons.<sup>56</sup> A further step was taken in 2001 with the adoption of a National Plan and a National Program for the Prevention of Corruption which envisaged the ratification of related international Conventions, the completion of the legal framework, the development of sectoral strategies, and the active participation of Romania in international anti-corruption programs. In addition, the National Anti-Corruption Prosecutor's Office (NAPO) was established to investigate major corruption cases. Besides certain measures to increase transparency, most of the related Conventions were ratified in 2002.<sup>57</sup> A package of anti-corruption legislation was also adopted with measures to increase transparency in politics and business. Despite all these institutional and legislative developments over the years, corruption

has remained serious and widespread in Romania due mainly to the ineffective implementation of the existing law, in particular with regard to high-level corruption.<sup>58</sup>

In Bulgaria, anti-corruption measures began to be taken earlier than in Romania, including the ratification of major conventions and adoption of laws with provisions to prevent corruption. A National Strategy for Combating Corruption was adopted in 2001, which aimed to create an appropriate institutional and legal environment opposed to corruption, promote anti-corruption reform in the judiciary, curb corruption in the economy, and ensure cooperation between related bodies in fighting corruption. In addition, a number of new measures were taken by means of many new or revised laws designed to increase transparency, simplify the licensing regimes, and introducing more precise provisions on corruption including punishment. Furthermore, the Action Plan for the Implementation of the Strategy was adopted in 2002 and later extended to cover the period 2003-2005. This focused on prevention activities and development of control systems, as well as including strategies against corruption in the health and education sectors.<sup>59</sup> Later, the institutional framework against corruption was also consolidated. However, the need remained for effective implementation and new measures to tackle high-level corruption.<sup>60</sup>

In Turkey, the fight against corruption started with some parliamentary and judicial investigations based on special anti-corruption provisions in certain laws. The Action Plan for Enhancing Transparency and Good Governance in the Public Sector, mentioned above under the public administration reform, also included a number of prevention measures, such as a code of ethical conduct for civil servants and public administrators, strengthening the inspection and audit system, and establishing specialized courts for corruption cases. Some new elements were then added by the Emergency Action Plan adopted in 2003 in terms of the ratification of related conventions, increased transparency in financing political parties, and enhanced social dialogue. Under this plan, Turkey soon ratified the related conventions and revised several laws to introduce a better legal basis.<sup>61</sup> The parliamentary investigations resulted in permission being granted for the trial of a former prime minister and a number of ministers before the High Tribunal in 2004, which is still underway. Despite these positive steps, the need remains for a more efficient and effective legal and institutional anti-corruption framework

and to ensure consistency, co-operation, and co-ordination in the fight against corruption.<sup>62</sup>

#### **4. Prevention of Police Misconduct**

This task seems more difficult for Turkey, where misconduct by the police could, until recent years, take extreme forms, such as torture, disappearances and extra-judicial executions, particularly for persons suspected of terrorist acts or separatism. The situation in the southeast of the country, where the authorities are involved in fighting separatist militants, should be seen as the main factor in this – though, of course, this does not excuse it. For Romania and Bulgaria, the problem includes police violence, police brutality, ill-treatment, brutal treatment, inhumane and degrading treatment, and abuses of power by the police. The common factors in such misconduct are a lack of appropriate punishment; the long duration of pre-trial detention; inadequate registration; lack of medical examinations; lack of access to lawyers; lack of prompt notification of family members; and the lack of effective investigations into allegations of misconduct. Accordingly, the common tasks that all three countries need to perform during the membership process are as follows:

- Ensuring effective control and supervision of police activities
- Performing effective investigations into cases of ill-treatment by the police
- Ensuring appropriate judicial and disciplinary punishment for officials involved in misconduct
- Implementing legislation governing the operation of the police
- Providing adequate training of the police in the area of human rights and fundamental freedoms
- Taking measures to prevent the use of force during interrogations
- Limiting the use of firearms and prohibiting their misuse.

There is also a list of tasks to be completed both by Romania and Bulgaria, including those related to the general reform of the police:

- Increasing the transparency and accountability of law enforcement bodies
- Aligning police practice with international standards

- Ensuring better minority representation within the police and improved relations with minority groups
- De-militarizing the police,
- Re-organizing the police (removing overcomplicated organizational structures and overlapping responsibilities)
- Ensuring better co-ordination and interaction between different low-level enforcement bodies and the judiciary,
- Introducing a modern human resources policy (clearly defining the status and role of the police force)
- Combating corruption within the police.

In addition to these common tasks with Bulgaria, Romania also has many of its own specific tasks:

- Taking away responsibility from the military courts in cases of police misconduct at detention locations,
- Specifying the obligations of the police in terms of respecting the fundamental rights of citizens.

Like Romania, Turkey has also had many specific tasks to perform in the area of preventing police misconduct, including:

- Ensuring systematic judicial prosecution of police officers for misconduct
- Establishing a judicial review of persons in detention and the legality of their detention
- Ensuring regular medical examinations of detainees
- Decreasing the duration of detention in police custody
- Providing legal advice to all detainees starting at the beginning of the detention period
- Establishing a system for the independent monitoring of detention facilities.

In Romania, the first significant progress in this field came in 2002 with the new Law on the Status of Policemen and the Law on the Organization and Functioning of the Police. This legislation started a process of de-militarization of the police force, describing policemen as civilian public servants, bringing them under the jurisdiction of civilian courts, and obliging them to respect human rights and fundamental



freedoms.<sup>63</sup> The framework these laws provided was strengthened by the adoption of the related European human rights conventions and protocols in 2004. Despite these positive legislative steps, ill-treatment and the excessive use of violence in police stations and custody has continued, in particular against individuals from minority groups, such as the Roma.<sup>64</sup>

Bulgaria took the first steps to prevent ill-treatment by the police earlier than Romania, starting in 1997. The adoption of a new Law on the Ministry of the Interior constituted an effective legal instrument against abuses of power by the police and security services. Despite this legal operational basis, ongoing de-militarization process, and training activities on human rights, ill-treatment and the use of force by the police during arrests or questioning have continued to be reported, particularly against members of the Roma community. Similarly, progress has been slow in the general reform of the police.<sup>65</sup>

In Turkey, where the problem is most severe, there has been tangible progress since 2001 in terms of major amendments to the Constitution (in 2001 and 2004) and several subsequent reform packages. Reflecting the new zero-tolerance approach, the necessary legislative and administrative framework has been created to combat torture and ill-treatment. Pre-trial detention durations and procedures were aligned with European standards, investigation procedures concerning public officials were simplified, sentences for acts of torture or ill-treatment were substantially increased, court cases for such acts were accelerated, the rights of detainees to have access to a lawyer and medical examinations were strengthened, and widespread training programs on human rights were performed for law enforcement officials. Despite the substantial decline in the number of instances of torture owing to these measures, there still remains the need to continue these efforts to ensure the full implementation of these measures to prevent entirely any such acts, including ill-treatment.<sup>66</sup>

### **5. Improvements to the Conditions in Prisons**

Again, there is a difference in content in this area for Romania and Bulgaria as compared with Turkey. For Romania and Bulgaria, the changes required are only technical in nature and involve an improvement to the living conditions in prisons; for Turkey, however, the changes needed are of a political nature, as emerged from the question of F-type prisons and subsequent hunger strikes and death fasts by several prisoners. Nevertheless, some tasks during the membership process were common to the three countries:

- Preventing ill-treatment and excessive disciplinary measures by prison staff
- Improving living conditions in prisons and detention centers with respect to the problems of overcrowding, poor nutritional and sanitary conditions, inadequate medical care, and the lack of educational and cultural facilities.

The problems of overcrowding and inadequate medical care are common to all three countries, though they are particularly severe in Turkey. The main reasons for the poor living conditions are inadequate financial resources, mismanagement and organization, and understaffing.

Besides these common tasks, there are also some specific tasks for each country. For Romania the list includes:

- Developing alternative forms of punishment
- Decreasing the legal period of detention
- Ensuring the separation of pre-trial detainees from convicted criminals.

Bulgaria has only one specific task:

- Changing the practice of placing juveniles in correctional (educational) schools.

Turkey's specific tasks, highly political in nature, include:

- Addressing the questions of the special type of prison, the F-Type prison, and the subsequent problems of hunger strikes and death fasts engaged in by prisoners.

In Romania, the first steps in the improvement of conditions in the prisons were taken in 2000 with the reforms to the penal system. A probation system was introduced, provisions for conditional release from prison were improved, and the right to appeal against disciplinary measures was granted to prisoners.<sup>67</sup> Over the course of time, the rate of prison overcrowding (above normal capacity) of 40% was reduced to 20-25% by building new cells, pardoning certain penalties, introducing open and semi-open imprisonment for less serious offences, and applying alternatives to imprisonment for minor offences. In addition, the duration of pre-trial detention was legally reduced to 180 days. However, the

need remains for further reductions in overcrowding, substantial improvements in living conditions, and better guarantees for legal aid.<sup>68</sup>

In Bulgaria, the first important steps for the improvement of conditions in prisons were taken in 2002 with the amendments to the Law on Execution of Penalties and the Penal Code. These amendments increased the opportunities for certain types of inmates to be held in open or semi-open prison, regulated the conditions for the use of physical force, and introduced the probation system as an alternative punishment.<sup>69</sup> Despite these developments, the need remained for improvements to the largely inadequate living conditions in certain prisons and to prevent ill-treatment during custody.<sup>70</sup>

In Turkey, major reform to the prisons system took place in 2000, with two main directions: modernization of the infrastructure and the establishment of a new administrative system. In terms of modernization, the old prisons with large wards were replaced by newly built prisons with separate rooms shared by up to three inmates (so-called F-Type prisons) charged or convicted under the anti-terrorist law. This step faced strong resistance from inmates and resulted in hunger strikes and death fasts, which were a serious political problem in Turkey for a long time. In terms of establishing a new administrative system, several far-reaching legislative measures were adopted. These included establishing Enforcement Judges, responsible for taking decisions that affect inmates as well as handling their complaints, and Monitoring Boards, responsible for inspecting living and health conditions, transfers, and disciplinary measures in penal institutions.<sup>71</sup> In addition, the training of prison staff, access to telephones, and the right to open visits in F-type prisons have improved considerably. However, the need remains to address the isolation problem in F-type prisons and to provide appropriate medical treatment.<sup>72</sup>

## **6. Full and Effective Implementation of the Reforms**

It can be argued that this task, which can be described in brief as 'the implementation deficit',<sup>73</sup> is the most difficult among the common tasks faced by Romania, Bulgaria, and Turkey as part of their respective EU membership processes. It constitutes a major obstacle for these countries, and one they must overcome in order to complete the other given tasks – both those they must achieve in common with each other and those that are country-specific – in order to meet the membership criteria.

This challenge of full and effective implementation and enforcement of the reform measures combined with the adopted *acquis* derives directly from the common shortcomings of the given countries in this process. They include the lack of a comprehensive and coherent approach to reform; weak administrative capacity; limited human and financial resources; resistance to reform from groups seeking to protect their own interests; and political and ideological restraints.

A close look at the list of difficulties faced in terms of the membership criteria shows that most are of an interconnected and interdependent nature. This means that a comprehensive and coherent reform approach is needed to overcome them. However, instead of developing a global strategy of this kind, the governments of the three countries in question have tended to implement separate and partial reform measures. This policy has weakened the chances of effective implementation of the measures due to the lack of supporting steps taken in the relevant areas.

Another major shortcoming that is a cause of the implementation deficit in these countries is the weakness of their administrative capacity. This is particularly the case in Romania and Bulgaria, where weak administrative capacity mostly derives from a combination of the following factors: lack of appropriate institutions; unclear division of responsibilities or overlapping competencies between existing institutions; weak inter-agency co-ordination and co-operation; and poor physical infrastructure and equipment.

Closely connected to the problem of weak administrative capacity are the limited human and financial resources that make a major contribution to the implementation deficit in these countries. Indeed, overcoming the majority of these difficulties requires both a large number of civil servants or public officials, with suitable qualifications and training, and a huge amount of funding.

As regards resistance from groups seeking to protect their own interests, given the widespread nature of corruption and the low level of transparency and accountability in these countries, it comes as no surprise to find groups of people from political, bureaucratic, and economic circles with a strong tendency to seek personal gain from state resources or to maintain their privileged positions. Individuals of this nature have developed various tactics of resistance against the implementation of reform measures with the potential to transform the political and social status quo.<sup>74</sup>

Political restraints to the full and effective implementation of the reforms include inadequate political will and reluctance or indecisiveness on the part of the governments.<sup>75</sup> This is valid mostly for the ruling coalitions with critical parliamentary support or a weak consensus building capability. In addition to these general political constraints, which also emerged frequently in Turkish politics until the present one-party government came to power in 2002, Turkey also has another important political constraint: the battle against separatist militants in the southeast of the country. In particular, this has affected reform measures in the field of human rights, fundamental freedoms, and cultural rights. Starting in 1984, this separatist insurgency has cost more than 30,000 lives and a significant share of the public budget was spent on military operations. Under such circumstances, it has not been easy for Turkish governments to implement serious measures in the area of fundamental freedoms, human rights, and cultural rights, or to ensure their full and effective implementation by the relevant law enforcement bodies.<sup>76</sup> Finally, there is one other peculiar restraint on Turkey's full and effective implementation of the reform measures. More ideological in nature, this particular restraint for Turkey takes the form of two powerful political sentiments for the Turkish state: the preservation of the secular nature of the state and the protection of the integrity of the country. Their impact on Turkish politics will be discussed later under the section dealing with the difficulties specific to Turkey in its compliance with the EU membership criteria.

## **B) Difficulties Common to Romania and Bulgaria**

Besides the difficulties common to the three countries in their compliance with the EU's membership criteria, there are also some difficulties faced only by Romania and Bulgaria. These include the integration of the Roma community; the protection of children in institutions; the prevention of human trafficking; and ensuring the competitiveness of the economy. These common difficulties for Romania and Bulgaria (with the exception of ensuring the competitiveness of the economy, which will be dealt with in a separate study) are briefly examined in the following pages.

### **1. Integration of the Roma Community**

According to the 2002 census, Romania has a Roma population of 535,000 – although unofficial estimates put the figure at three or four times this size based on the fact that many Roma people are reluctant to identify themselves as Roma.<sup>77</sup> This may also be true for the size of the Roma population in Bulgaria – 4.6% of the total population, according to the 2001 census. Both countries have faced difficulties in improving the rather poor living conditions of their Roma communities and integrating the Roma into society as equal citizens. This has been due in both cases to inadequate financial resources and staffing; a lack of concrete action and implementation; weak institutional and administrative capacities with ineffective coordination; and internal divisions among the Roma community.

The list of tasks to be performed commonly by Romania and Bulgaria during the membership process in terms of the protection and integration of the Roma community includes the following:

- Fighting discrimination and racism against Roma people
- Tackling the severe and long-rooted problems of poor living and housing conditions; economic hardship and poverty; chronic and high levels of unemployment; inadequate health care and social support; the lack of effective access to education; and high rates of involvement in criminal activities
- Establishing the necessary institutions to deal with this issue
- Preventing ill-treatment by the police and providing sufficient police protection
- Ensuring access to public services and administration
- Improving Roma representation in political life
- Providing cultural protection and access to the media.

In Romania, where the legislative and institutional set-up has reached a satisfactory level (though with problems continuing to exist on the ground), the most important steps were taken in 2001 with the adoption of a National Strategy for Improving the Condition of the Roma. Covering a 10-year period and with a de-centralized nature, the Strategy aims to change negative public perceptions, improve living conditions for the Roma, and encourage their participation in all aspects of civil society.<sup>78</sup> The structures for the implementation of this strategy were established in

subsequent years and progress was made in terms of its implementation in many sectors, including education, employment, health, and relations with the police. Despite such positive developments, there have been no major improvements on the ground as regards the problems of social discrimination, ill-treatment by the police, poor living conditions, and the inadequate access to social services.<sup>79</sup>

In Bulgaria, the most important steps in this field were taken in 1999 with the adoption of a Framework Program for the Full Integration of Roma into Bulgarian Society and the establishment of relevant bodies at central and regional level. This program laid down the principles and general measures for fighting discrimination: increasing access to education and health care; improving living conditions; and ensuring cultural protection for the Roma community.<sup>80</sup> The implementation of this comprehensive program, however, was limited and slow. This led to the adoption of an Action Plan in 2003, which included more specific activities and a timetable. However, due to inadequate legislative reforms in the related key areas of education, health care, and housing, as well as insufficient financial support, most of the above tasks are yet to be adequately fulfilled.<sup>81</sup>

## **2. Protection of Children in Institutions**

The roots of this problem go back to the era of Communism, during which the government pursued a policy of population growth and created institutions for the care of the large numbers of children abandoned by their parents. During the EU membership process, the need emerged to improve the poor living conditions in these institutions in accordance with human rights. This task proved difficult for both countries due to weak administrative capacities with ineffective co-ordination, co-operation, control and supervision; limited financial resources and budgetary problems in transferring the necessary funds; mismanagement; and poorly trained staff with low salaries. The problem in Romania was so severe in 1999 that one of the European Commission's regular reports went as far as to threaten the then Romanian government. The report said: "The Commission considers that at the moment Romania still fulfils the Copenhagen political criteria, although this position will need to be re-examined if the authorities do not continue to give priority to dealing with the crisis in their childcare institutions."<sup>82</sup>

The list of tasks to be achieved commonly by Romania and Bulgaria during the membership process in terms of the protection of children in institutions includes:

- Ensuring the full implementation of the UN Convention on the Rights of the Child
- Reducing the number of children in institutions through de-institutionalization
- Improving living conditions in childcare institutions in terms of basic infrastructure, nutrition, medical care, hygiene, clothing, heating, and general assistance
- Providing adequate human and financial resources
- Improving the coordination and implementation of policies at national and local levels
- Establishing adequate national control and supervisory mechanisms and standards
- Restricting international adoption.

In addition to these common tasks, each country was also given some specific tasks. For Romania, these included:

- Giving priority to child protection
- Integrating childcare policies and social welfare systems to prevent abandonment
- Developing an inclusive educational policy for disabled children.

Similarly, Bulgaria was given the following specific tasks:

- Adopting the implementation regulations of the Child Protection Act
- Improving community care services.

In Romania, the first steps were taken in 2000 with the establishment of a National Agency for the Protection of Child Rights as the main institution responsible for elaboration, co-ordination, and monitoring of reform policies in this field. In addition, a National Strategy on the Reform of the Childcare System was adopted, which aimed to decrease the number of institutionalized children and combat the causes of child abandonment by their families.<sup>83</sup> In line with this strategy, which was later revised, the necessary administrative and legislative measures were



taken, large old-style institutions were closed, alternative childcare services increased, and international adoptions suspended. The new legislation on Child Rights and Adoption adopted in 2004 limited international adoptions to extreme cases. This means that the given tasks have been carried out successfully for the time being.<sup>84</sup>

In Bulgaria, the first step came with the adoption of the Child Protection Act, which created a State Agency for Child Protection and aimed to reduce the number of children in institutions through the use of alternative services. Major amendments were made to this law in 2003, consolidating the legal framework and reinforcing the measures for child protection. In addition, the amendment to the Law on the Family changed the rules for international adoptions, making it subject to stricter conditions.<sup>85</sup> Another important step came in 2004 with the adoption of various strategies, action plans, and the implementation of legislation, including the National Strategy and Program for Child Protection 2004-2006. Despite the establishment of this legislative framework and reduction in the number of children placed in institutions, the need remains for further improvement to the living conditions in these institutions, the development of alternative care services, and a simplifying of the complex institutional set-up for child protection.<sup>86</sup>

### **C) Country-specific Difficulties for Romania, Bulgaria and Turkey**

The list of common difficulties faced in complying with the EU membership criteria is also seen in the country-specific difficulties of each of the three countries. For Romania these include improving legislation and accelerating the process of property restitution; and for Bulgaria these include improving the situation of mentally disabled people and closing nuclear plants. For its part, Turkey faces the specific tasks of strengthening civilian control over the military; ensuring that fundamental freedoms can be exercised (in particular, the right to life, freedom of the press, freedom of association and peaceful assembly, and freedom of religion); and protecting cultural rights.

Clearly the difficulties specific to Turkey are of a highly political nature, compared with those for Romania and Bulgaria (mostly of a technical nature). At first glance, it may seem strange that a country such as Turkey – a member of the democratic Western bloc for a period nearly as long as the history of the EU itself – is facing such difficulties in meeting the membership criteria for this organization in areas directly

related to the essence of the democracy. If this had been the case for Romania and Bulgaria, it would have been understandable, given that both countries were ruled by an oppressive Communist regime during the entire Cold War era.

The explanation to this strange situation lies in the particular nature of Turkey's political system, for which the most appropriate label seems to be the term "controlled democracy".<sup>87</sup> The two key political motives behind the 'controlled' nature of the Turkish system are the "preservation of the secular nature of the state" and the "protection of the integrity of the country." These two major political sentiments have shaped the legal, political, and institutional framework of the country since its foundation as a republic in 1923, which envisaged the restriction of the religion to the private sphere and the burying of ethnic and local identities under "an overarching national identity".<sup>88</sup> Turkey's specific difficulties are thus more understandable in this context. They relate directly to the need to strike a balance between the powerful sentiments of the state and the requirements of democracy and human rights in the post-Cold War era, particularly with respect to the process of becoming an EU member.

## **Conclusions**

The first conclusion of this study is that any explanation of the reasons behind the delayed membership of Romania, Bulgaria, and Turkey of the EU, as compared with the other countries in the fifth round of enlargement, should take into account both internal and external factors. In other words, a combination of both internal and external factors has led to a delay for these countries in attaining their ultimate goal of EU membership. As mental barriers in some European circles, external factors have made it difficult for these countries to attract the EU to the idea of their becoming members, combined with the economic and political considerations related to the cost of their membership. Similarly, as difficulties encountered in respect of complying with the various membership criteria, internal factors have negatively affected the speed of the membership process. Beyond the main strategic, economic, and political motives of the EU, these external factors played a role in the decisions and initial steps of the accession process, including the signing of association agreements and granting of candidate status. Internal factors, on the other

hand, have been of significance during the opening and concluding stages of the accession negotiations.

The second conclusion is that a clear membership prospect can be a real catalyst in the transformation of applicant countries. Despite the difficulties faced by the three countries, they have all made tangible progress in transforming their political, economic, legal, and administrative structures in line with the membership criteria since being granted candidate status. All three countries have already addressed the most challenging tasks they were faced with. Without any clear membership prospects, achieving this kind of transformation would seem impossible. The role of membership prospects in this success is not only restricted to providing technical and financial assistance. More importantly, it also provides political motivation, as well as follow-up work and supervision. Thus the necessary role of internal conditions in a successful reform process should be underlined. This also requires a willingness on the part of the major political, economic, social and bureaucratic actors to support the political decisions of the government.

The final conclusion relates to the difficulties faced by Turkey on its journey towards becoming an EU member. Given the strength of the mental barriers in many European circles towards Turkey's membership of the EU, and the mostly political nature of its difficulties in complying with the Copenhagen criteria, it seems that the future of the country's membership will depend on the solution of two dilemmas: one by the EU, the other by Turkey itself. The dilemma to be solved by the EU is that for some existing EU members, Turkey is too different and too big to be let in, while for others, it is too important to be left outside. The dilemma to be solved by Turkey is to find a balance between its political sentiments, as regards the necessity of preserving both the country's secular nature and its integrity, and the requirements of democracy and human rights as formulated by the membership criteria. The future of Turkey's membership of the EU will mostly depend on the nature of the solutions to these dilemmas.

## NOTES

- 1 Matthew Keyes, "The Enlargement Negotiations", *Proceedings of Enlargement and Civil Society Conference*, The European Commission and Caritas, Brussels, October 1999, p.28
- 2 Marc Maresceau, "Pre-accession" in Marise Cremona (ed.), *The Enlargement of the European Union*, Oxford University Press, 2003, p.15. For example, Article 28 of the Association Agreement between Turkey and the EEC (the so-called Ankara Agreement) states that "as soon as the operation of the Agreement has advanced far enough to justify envisaging full acceptance by Turkey of the obligations arising out of the Treaty establishing the Community, the Contracting Parties shall examine the possibility of the accession of Turkey to the Community", see, Dominik Lasok, "The Ankara Agreement: Principles and Interpretation", *Marmara Journal of European Studies*, Vol.:1, No:1/2, 1991, pp.27-33 and 36.
- 3 The official document containing this significant decision is available at the following Internet address:  
[http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/72921.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/72921.pdf) (7 July 2005).
- 4 Links to the opinions on each applicant country are available at the following Internet address:  
[http://www.europa.eu.int/comm/enlargement/intro/ag2000\\_opinions.htm#Opinions](http://www.europa.eu.int/comm/enlargement/intro/ag2000_opinions.htm#Opinions) (7 July 2005).
- 5 The conclusions of these two historical European Councils can be found at the following Internet addresses: [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/032a0008.htm](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/032a0008.htm), [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/ACFA4C.htm](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/ACFA4C.htm) (7 July 2005).
- 6 On 30 March 1998 at a meeting of the Ministers for Foreign Affairs of the fifteen EU Member States, the ten Central and East European applicant states and Cyprus. In advance of this meeting, country-specific Accession Partnerships were adopted to support the applicant countries in their preparations for membership. These documents set out the priorities for further work and the supporting financial assistance available from the EU. See, Marc Maresceau, "The EU Pre-Accession Strategies – A Political and Legal Analysis" in Muzaffer Dartan and Cigdem Nas (Eds.), *The European Union Enlargement Process and Turkey*, Marmara University European Community Institute, Istanbul, 2002, p.138.
- 7 Julie Smith, "Enlarging Europe", *Journal of Common Market Studies*, Vol.: 38, Annual Review, September 2000, pp.122-123.
- 8 The conclusions of the Thessaloniki and Brussels European Councils (June 2003 and June 2004 respectively) can be found at the following Internet addresses: [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/76279.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/76279.pdf) and [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/81035.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/81035.pdf) (7 July 2005).

- <sup>9</sup> The European Parliament gave the green light for entry of both countries to the EU on 13 April 2005. On the question of accession by Romania, MEPs voted 497 in favour and 93 against, with 71 abstentions. For Bulgaria there were 522 votes in favour, 70 against, and 69 abstentions. The Accession Treaty of Bulgaria and Romania, together with all its annexes, can be found at the following Internet address: [http://www.europa.eu.int/comm/enlargement/negotiations/treaty\\_of\\_accession\\_2005/index.htm](http://www.europa.eu.int/comm/enlargement/negotiations/treaty_of_accession_2005/index.htm) (7 July 2005).
- <sup>10</sup> The conclusions of the Copenhagen European Council (December 2002) are available at the following Internet addresses: [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/73842.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/73842.pdf) (7 July 2005).
- <sup>11</sup> For these extra conditions and details of the decision on both countries, see the conclusions of the Brussels European Council (December 2004) available on the following Internet address: [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/83201.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/83201.pdf) (7 July 2005).
- <sup>12</sup> These mostly come from the three countries, but I also had the opportunity to contact a number of Europeans thanks to highly integrated nature of the NEC in European networks and its well-organised academic activities.
- <sup>13</sup> William Wallace, *The Transformation of Western Europe*, 1990, pp.17-19.
- <sup>14</sup> Barry Buzan *et al.*, *The European Security Order Recast*, Pinter, Centre for Peace and Conflict Research, London, 1990, p.47; Desmond Dinan, *Ever Closer Union – An Introduction to European Integration*, Macmillan, 1999, p.195.
- <sup>15</sup> This view was first declared this openly at the summit of Christian Democrat leaders of Europe held on 4 March 1997 and then repeated on other occasions by the new political leaders, the most popular of whom is perhaps Angela Merkel in Germany. For the declaration see, *The Financial Times*, 5 March 1997.
- <sup>16</sup> He asks a similar question to that of this study, concerning the reasons for the delayed membership of Turkey to the EU, in his speech at a conference in Istanbul on 24 May 2005. He answers the question by focusing solely on the existence of cultural and religious differences between the parties. For the full text of the speech, see Samuel P. Huntington, "Culture, Power, and War: What Roles for Turkey in the New Global Politics", *Zaman*, Turkish Daily Newspaper, 26.05.2005. This is also available in English at the following Internet address: <http://www.zaman.com/?bl=commentary&alt=&trh=20050526&hn=20005> (5 July 2005)
- <sup>17</sup> Bud B. Khleif, "The Idea of Europe and Its 'Others'" in Ursula E. Beitter (ed.), *The New Europe at the Crossroads*, Peter Lang, New York and Washington, 1999, p.127.
- <sup>18</sup> Milan Kundera, "The Tragedy of Central Europe" in Gale Stokes (ed.), *From Stalinism to Pluralism: A Documentary History of Eastern Europe Since 1945*, Oxford University Press, New York, 1996, pp.217-223.

- 19 Dragos Petrescu, "'Rebellious' vs. 'Non-Rebellious' Nations British Perceptions of Romania Anti-Communist Dissidence in the 1980s", *British Romanian Symposium, Romania and Britain: Relations and Perspectives from 1930 to the Present*, New Europe College, Bucharest, 4-5 April 2005, p.163.
- 20 See, Peter Siani-Davies, "Tabloid Tales: The British Press and the Romanian Revolution of December 1989", *British Romanian Symposium, Romania and Britain: Relations and Perspectives from 1930 to the Present*, New Europe College, Bucharest, 4-5 April 2005, pp.166-175.
- 21 Larry L. Watts, "Romania and NATO: The National-Regional Security Nexus" in Charles Krupnick (ed.), *Almost NATO: Partners and Players in Central and East European Security*, Bowman & Littlefield Publishers, Lanham Ma. and Oxford, 2003, p.161.
- 22 See, Tom Gallagher, "The Thirty Years of EU Enlargement with Romania: The Survival of Old Instincts and Assumptions", *British Romanian Symposium, Romania and Britain: Relations and Perspectives from 1930 to the Present*, New Europe College, Bucharest, 4-5 April 2005, pp.67-68.
- 23 David Phinnemore, "Enlargement to the East: Romania", *EU Expansion to the East – Prospect and Problems*, in Hilary Ingham and Mike Ingham (eds.), Edward Elgar, Cheltenham and Northampton, 2002, pp.223-224.
- 24 Later, after the Treaty of Amsterdam came into force in May 1999, these political criteria became an essential constitutional principle of the EU. Article 6(1) of this Treaty reads: "The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law." Accordingly, Article 49 of the same Treaty stipulates that, "Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union." They were also emphasized in the Charter of Fundamental Rights of the European Union, which was proclaimed at the Nice European Council in December 2000. For further analysis of these criteria, see Mustafa Fisne, *Political Conditions for 'Being a European State' - the Copenhagen Political Criteria and Turkey*, Afyon Kocatepe University Publication, Afyon, 2003, pp.63-95 and 112-114.
- 25 The existence of a functioning market economy basically requires liberalized prices and trade and enforceable property rights. While the presence of a well-developed financial sector and the absence of any significant barriers to market entry and exit improve the efficiency of this economic model, macroeconomic stability and consensus about economic policy enhances its performance and thus strengthens its competitive capacity, constituting the second membership criterion in this field. This second condition also requires a sufficient amount of human and physical capital as well as infrastructure in the country combined with modernizing investments, successful restructuring and innovation, and easy access to outside financing for businesses.

- <sup>26</sup> The obligations of membership include the entire legal and institutional framework developed by the EU throughout its history to implement its objectives. More precisely, they include the contents, principles and objectives of the EU treaties; the legislation adopted in applying the treaties and the case law of the European Court of Justice; the declarations and resolutions adopted by the Union; measures relating to the Common Foreign and Security Policy; internal agreements concluded by the EU and among the member states themselves in the field of the Union's activities. Known as the *acquis communautaire*, or the *acquis* for short, they are thought to have reached over one hundred thousand pages to date! For a discussion on the difficulties encountered in respect of its definition and content, see Hagen Lichtenberg, "An Analysis of the Enlargement Process", in Muzaffer Dartan and Cigdem Nas (Eds.), *The European Union Enlargement Process and Turkey*, Marmara University European Community Institute, Istanbul, 2002, p.73.
- <sup>27</sup> These include the Seville, Copenhagen, and Brussels European Councils (June 2002, December 2002, and June 2004, respectively). The full texts of their conclusions can be found at the following Internet addresses (in order starting with the Madrid European Council): [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/032a0001.htm](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/032a0001.htm), [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/72638.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/72638.pdf), [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/73842.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/73842.pdf), [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/83201.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/83201.pdf) (08 July 2005).
- <sup>28</sup> Their conclusions are available at the following Internet addresses: [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/kolnen.htm](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/kolnen.htm) and [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/ACFA4C.htm](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/ACFA4C.htm) (09 July 2005)
- <sup>29</sup> See again the conclusions of the Copenhagen European Council (June 1993) at the Internet address given in endnote 3.
- <sup>30</sup> Unless stated otherwise, the assessment here of the difficulties faced by the three countries in complying with the membership criteria depends on my own examination of the regular reports prepared by the European Commission since 1998 on the progress of each country towards accession to the EU. Links to these reports on Romania, Bulgaria, and Turkey are available at the following Internet addresses: <http://www.europa.eu.int/comm/enlargement/romania/index.htm>, <http://www.europa.eu.int/comm/enlargement/bulgaria/index.htm>, [http://www.europa.eu.int/comm/enlargement/turkey/docs.htm#regular\\_reports](http://www.europa.eu.int/comm/enlargement/turkey/docs.htm#regular_reports) (8 July 2005)
- <sup>31</sup> See, *The Enlargement Newsletter*, July 11, 2005, available at the following Internet address: [http://europa.eu.int/comm/enlargement/docs/newsletter/latest\\_weekly.htm#brief](http://europa.eu.int/comm/enlargement/docs/newsletter/latest_weekly.htm#brief) (11 July 2005)

- 32 This is a part of the judiciary instead of the executive, as is normally the case  
in European states
- 33 Known as DGMs in Turkey, these courts were established in 1982 and  
started operating in 1984 to try the organized crimes or crimes against the  
security of the state listed by the anti-terrorist law as “all sort of actions to be  
attempted by a person...for the purpose of changing the attribute of the  
Republic...destroying the indivisible integrity of the state, its territory and  
nation, endangering the existence of the Turkish State and Republic,  
undermining or destroying or seizing the authority of the State...”. The major  
problems with these courts were fear of an unfair trial due to their nature;  
over-reliance on obtaining confessions rather than on traditional investigative  
methods; the relatively powerful status of the prosecutor compared to the  
defence lawyer; the slowness of trials; doubts about the impartiality of the  
judges due to there being a military judge among them, which was unusual  
in Europe.
- 34 Mostly for acts of fraud to avoid military service or obstructing, intimidating  
and insulting soldiers on duty.
- 35 There was a problem with their efficiency and competence. Since they were  
too limited in number, there was a backlog and the duration of court cases  
was high, leading to the trial of juveniles by ordinary courts. In addition,  
their competence was limited to juveniles between 11 and 14 years, so  
juveniles between 15 and 18 were tried by ordinary courts.
- 36 European Commission, *1999 Regular Report from the Commission on  
Romania's Progress Towards Accession*, 13.10.1999, p.12 and 64. [http://  
www.europa.eu.int/comm/enlargement/report\\_10\\_99/pdf/en/  
romania\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report_10_99/pdf/en/romania_en.pdf) (11 July 2005).
- 37 European Commission, *2001 Regular Report from the Commission on  
Romania's Progress Towards Accession*, Brussels, 13.11.2001, p.20. [http://  
www.europa.eu.int/comm/enlargement/report2001/ro\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report2001/ro_en.pdf) (11 July  
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- 38 European Commission, *2003 Regular Report from the Commission on  
Romania's Progress Towards Accession*, pp.19-20. [http://www.europa.  
eu.int/comm/enlargement/report\\_2003/pdf/rr\\_ro\\_final.pdf](http://www.europa.eu.int/comm/enlargement/report_2003/pdf/rr_ro_final.pdf) (11 July 2005).
- 39 European Commission, *2004 Regular Report from the Commission on  
Romania's Progress Towards Accession*, Brussels, 06.11.2004, pp.19-21  
and 31. [http://www.europa.eu.int/comm/enlargement/report\\_2004/pdf/  
rr\\_ro\\_2004\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report_2004/pdf/rr_ro_2004_en.pdf) (11 July 2005).
- 40 European Commission, *2001 Regular Report from the Commission on  
Bulgaria's Progress Towards Accession*, Brussels, 13.11.2001, p.17. [http://  
www.europa.eu.int/comm/enlargement/report2001/bu\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report2001/bu_en.pdf) (11 July  
2005).
- 41 European Commission, *2002 Regular Report from the Commission on  
Bulgaria's Progress Towards Accession*, Brussels, 09.10.2002, p.25.



- [http://www.europa.eu.int/comm/enlargement/report2002/bu\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report2002/bu_en.pdf) (13 July 2005).
- 42 European Commission, *2003 Regular Report from the Commission on Bulgaria's Progress Towards Accession*, pp.18-19. [http://www.europa.eu.int/comm/enlargement/report\\_2003/pdf/rr\\_bg\\_final.pdf](http://www.europa.eu.int/comm/enlargement/report_2003/pdf/rr_bg_final.pdf) (13 July 2005).
- 43 European Commission, *2004 Regular Report from the Commission on Bulgaria's Progress Towards Accession*, Brussels, 06.10.2004, pp.17-19. [http://www.europa.eu.int/comm/enlargement/report\\_2004/pdf/rr\\_bg\\_2004\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report_2004/pdf/rr_bg_2004_en.pdf) (13 July 2005). See also, Center for the Study of Democracy, *Judicial Anti-Corruption Program*, Sofia, 2003, pp.5-94.
- 44 European Commission, *1999 Regular Report from the Commission on Turkey's Progress Towards Accession*, Brussels, 13.10.1999, p.9. [http://www.europa.eu.int/comm/enlargement/report\\_10\\_99/pdf/en/turkey\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report_10_99/pdf/en/turkey_en.pdf) (13 July 2005).
- 45 European Commission, *2002 Regular Report from the Commission on Turkey's Progress Towards Accession*, Brussels, 09.10.2002, p.22. [http://www.europa.eu.int/comm/enlargement/report2002/tu\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report2002/tu_en.pdf) (13 July 2005).
- 46 European Commission, *2003 Regular Report from the Commission on Turkey's Progress Towards Accession*, p.20. [http://www.europa.eu.int/comm/enlargement/report\\_2003/pdf/rr\\_tk\\_final.pdf](http://www.europa.eu.int/comm/enlargement/report_2003/pdf/rr_tk_final.pdf) (13 July 2005)
- 47 European Commission, *2004 Regular Report from the Commission on Turkey's Progress Towards Accession*, Brussels, 06.10.2004., pp.23-27. [http://www.europa.eu.int/comm/enlargement/report\\_2004/pdf/rr\\_tr\\_2004\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report_2004/pdf/rr_tr_2004_en.pdf) (13 July 2005).
- 48 European Commission, *2001 Regular... Romania's...* op.cit., p.19.
- 49 European Commission, *2004 Regular... Romania's...* op.cit., pp.17-18.
- 50 European Commission, *1998 Regular Report from the Commission on Bulgaria's Progress Towards Accession*, p.41. [http://www.europa.eu.int/comm/enlargement/report\\_11\\_98/pdf/en/bulgaria\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report_11_98/pdf/en/bulgaria_en.pdf) (13 July 2005)
- 51 European Commission, *1999 Regular Report from the Commission on Bulgaria's Progress Towards Accession*, Brussels 13.10.1999, p.57. [http://www.europa.eu.int/comm/enlargement/report\\_10\\_99/pdf/en/bulgaria\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report_10_99/pdf/en/bulgaria_en.pdf) (13 July 2005)
- 52 European Commission, *2002 Regular... Bulgaria's...* op.cit., p.21.
- 53 European Commission, *2003 Regular... Bulgaria's...* op.cit., pp.14-15.
- 54 European Commission, *2004 Regular ... Bulgaria's...* op.cit., pp15 and 27.
- 55 European Commission, *2004 Regular ... Turkey's...* op.cit., p.15.
- 56 European Commission, *2000 Regular Report from the Commission on Romania's Progress Towards Accession*, p.18. [http://www.europa.eu.int/comm/enlargement/report\\_11\\_00/pdf/en/ro\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report_11_00/pdf/en/ro_en.pdf) (15 July 2005)
- 57 European Commission, *2002 Regular Report from the Commission on Romania's Progress Towards Accession*, Brussels, 09.10.2002, p.27. [http://www.europa.eu.int/comm/enlargement/report2002/ro\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report2002/ro_en.pdf) (15 July 2005)

- 2005) and Southeast European Legal Development Initiative, *Anti-Corruption in Southeast Europe: First Steps and Policies*, SELDI, Sofia, 2002, pp.28 and 30.
- 58 European Commission, *2004 Regular... Romania's...*op.cit., p.22.
- 59 European Commission, *2002 Regular... Bulgaria's...*op.cit., pp.26-27.
- 60 European Commission, *2004 Regular... Bulgaria's...*op.cit., pp.19-20. See also, Coalition 2000, *Anti-Corruption Reforms in Bulgaria*, Coalition 2000, Sofia, 2005, pp.5-13.
- 61 European Commission, *2003 Regular... Turkey's...*op.cit., p.23.
- 62 European Commission, *2004 Regular ... Turkey's...*, op.cit., pp.28-29.
- 63 European Commission, *2002 Regular ... Romania'...*op.cit., p.24.
- 64 European Commission, *2004 Regular... Romania's...*op.cit., p.24. See also, European Roma Rights Center (ERRC), *State of Impunity –Human Rights Abuse of Roma in Romania*, pp.53-67. <http://www.errc.org/db/00/1E/m0000001E.rtf> (14 July 2005); and European Roma Rights Center, *Roma Rights*, Quarterly Journal of ERRC, No:1-2, 2003, pp.119-122.
- 65 European Commission, *2004 Regular... Bulgaria's...*op.cit., p.21.
- 66 European Commission, *2004 Regular ... Turkey's...*, op.cit., pp.33-35.
- 67 European Commission, *2001 Regular... Romania's...*op.cit., p.25.
- 68 European Commission, *2004 Regular... Romania's...*op.cit., p.25.
- 69 European Commission, *2002 Regular... Bulgaria's...*op.cit., p.29.
- 70 European Commission, *2004 Regular... Bulgaria's...*op.cit., p.22.
- 71 European Commission, *2001 Regular Report from the Commission on Turkey's Progress Towards Accession*, Brussels, 13.11.2001, pp.23-24, [http://www.europa.eu.int/comm/enlargement/report2001/tu\\_en.pdf](http://www.europa.eu.int/comm/enlargement/report2001/tu_en.pdf) (14 July 2005).
- 72 European Commission, *2004 Regular ... Turkey's...*, op.cit., p.36.
- 73 Lichtenberg, op.cit., p.75. I would like to use an anecdote from Romania to illustrate the issues of implementation and enforcement. As a part of its tenth anniversary activities, the NEC invited its foreign guests to visit Mogosoaia Palace, which is situated close to Bucharest in a splendid park on the shores of Lake Mogosoaia. On the other side of the lake, many buildings could be seen that seemed to have been erected illegally. Somebody in the group asked the lady responsible for the administration of the palace if she knew when the houses would be demolished. The lady thought for a moment, and then replied, "After integration with the EU, I hope!" This nice anecdote was a learning experience for me, showing both the level of expectations among Romanians of EU membership and that of the state of law enforcement and implementation at present.
- 74 According to Gallagher, the presence of these people is a reality of post-Communist Romanian politics. I believe this is also a reality of Bulgarian and Turkish politics as well. See, Gallagher, op.cit., pp. 75 and 77.
- 75 Phinnemore, op.cit., pp.236 and 240.

- 76 Known as PKK in Turkey, this terrorist organisation largely withdrew from the region into northern Iraq, halted its attacks, and changed its name to Kongra-Gel (KKGK) after the capture of its leader, Abdullah Ocalan, in 1999. Following a period of relative quiet, it announced an end to its ceasefire and restarted its attacks in 2004. It was during this period that the Turkish governments were able to adopt very significant constitutional changes in terms of cultural rights and fundamental freedoms. For some brief information on these issues, see CIA, *The World Factbook*, 2005, <http://www.cia.gov/cia/publications/factbook/geos/tu.html> (09 July 2005).
- 77 European Roma Rights Center (ERRC), *State of Impunity...*, op.cit., p.1.
- 78 European Commission, *2001 Regular... Romania's...* op.cit., p.29.
- 79 European Commission, *2004 Regular... Romania's...* op.cit., p.30.
- 80 European Commission, *1999 Regular... Bulgaria's...* op.cit., pp.15-16.
- 81 European Commission, *2004 Regular... Bulgaria's...* op.cit., pp.25-26.
- 82 European Commission, *1999 Regular...Romania's...* op.cit., p.19.
- 83 European Commission, *2000 Regular... Romania's...* op.cit., pp.19-20.
- 84 European Commission, *2004 Regular... Romania's...* op.cit., pp.28-29.
- 85 European Commission, *2003 Regular... Bulgaria's...* op.cit., pp.23-24.
- 86 European Commission, *2004 Regular... Bulgaria's...* op.cit., p.24.
- 87 The fact that there have been three open military coups (1960, 1971, and 1980) and one hidden military coup (the so-called post-modern military coup in 1997) in Turkey provide some extreme indicators of this controlled form of democracy. For a wide selection of analysis on the nature of Turkish democracy, see *The Journal of New Turkey Special Issue on Turkish Democracy*, Year: 3, No: 17, September-October 1997, (in Turkish only).
- 88 Cigdem Nas, "Turkey-EU Relations and the Question of Identity" in Muzaffer Dardan and Cigdem Nas (eds.), *The European Union Enlargement Process and Turkey*, Marmara University European Community Institute, Istanbul, 2002, p.225.

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