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Directorate-General External Policies

Policy Department

Turkey - Civil Society

NOTE

Abstract:

This note reviews the current situation concerning the Turkish Civil Society, including the relevant provisions of the 2004 Regular Report and Recommendations of the European Commission.

This note was prepared in view of a visit of the European Parliament's Subcommittee on Human Rights to Ankara and Van (Turkey) from 5 - 8 October 2005.

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I. Introduction

The European Commissions services have prepared an assessment of issues arising from Turkey's membership perspective in the recommendation of the European Commission to the Council and Parliament (COM (2004) 656 Final). According to the recommendations further development of the civil society in Turkey is an important focus. The Commission presented a strategy consisting of three pillars. The third pillar suggests a substantially strengthened political and cultural dialogue bringing people together from EU Member States and Turkey.

II. Structure of civil society organisations

Turkey's civil society primarily consists of foundations and associations. The major differentiating characteristic between these two organisation structures (which operate under their own respective legal and fiscal codes in Turkish law) are that associations have members and foundations have endowments (the minimum requirement today is 400.000 Euro). When it comes to service delivery, associations and foundations formed for public benefit activity such as education, health, culture, etc. operate as non-governmental organisations (NGOs). They operate their own programmes and receive funding support for operations from their members (if an association), from their endowment investments (if a foundation) and/or from external donor organisations. Community philanthropy organisations (CPOs) tend to assume a similar structure as associations, and are a sub-set within the category of operating NGOs.

Estimates on the size of Turkey's civil society vary considerably. According to the European Foundation Centre (EFC), an independent international association, Turkey hosts approximately 90.000 associations and 5.000 foundations. The Third Sector Foundation of Turkey (TÜSEV) estimates Turkey has over 152.000 associations, 4.500 'new' foundations and 5.000 'old' (pre-Republic) foundations inherited with the Ottoman tradition of philanthropy. The old foundations, mainly mosques, libraries and fountains, form a significant part of the cultural heritage of Turkey and are now administered by the state's Foundations Directorate (since the majority of their descendants have passed away). As the only autonomous sphere that existed during the Empire, these foundations have provoked debates on whether they constituted a form of 'Islamic' civil society. Today's civil society organisations have their roots in the Republican era, which allowed development of new frameworks for associations and foundations. Over the past decade, these organisations, whether NGOs or foundations, have developed rapidly, in terms of number, capacity and activity.

The main business organisations are the Turkish Industrialists' and Businessmen's Association (TUSIAD) and the Union of Chambers of Commerce (TTOBB). There are two main trade union confederations: the Turkish Trade Union Confederation (Turk-Is), which officially adopts a centrist, non-partisan position, and the Reformist Trade Union Confederation (DISK), on the political left. Other promotional pressure groups that have acquired an enhanced political role include the Fethullahcıs and other religious brotherhoods, and groups modelled on movements in western countries, such as those promoting secularist values, women's rights and environmental protection.

III. International co-operation

On **international co-operation of associations and foundations**, a circular was adopted in January 2004, which clarifies the necessary requirements for obtaining permission to open branches of foreign associations and foundations in Turkey, and for other international activities and co-operation. Permission is granted on a temporary basis and it is up to the authorities to decide whether the organisations intending to co-operate share similar goals.

Moreover, the requirements include annual reporting to the authorities on all the activities covered. Public meetings with the participation of foreigners require notification to the Directorate General of Security. In practice, some NGOs have continued to face problems as a consequence of their relations with organisations located abroad.

In May 2004 the Turkish Directorate General for Foundations issued a circular, which introduced the restrictive requirement that all foundations, including religious foundations, seek permission prior to submitting applications to participate in projects funded by international organisations, including the European Commission. **Religious foundations** continue to be subject to the interference of the Directorate General for Foundations, which is able to dissolve the foundations, seize their properties, dismiss their trustees without a judicial decision and intervene in the management of their assets and accountancy.

IV. Existing contacts between Turkish civil society and the EU

There exist **not many interactions** between individual Turkish and EU civil society organisations. Groupwise, TÜSEV and the European Foundation Centre (EFC) are the main catalysts for a dialogue between EU and Turkish civil society. As an independent international association, the EFC is the gathering point for independent funders active in and with Europe and consists of members and partners through Foundations and corporate citizens worldwide. TÜSEV is a network organisation for the non-profit sector formed by Turkey's leading foundations, in 1993. It connects over 100 Turkish foundations and non-profit organisations.

The EFC and TÜSEV co-chair a Trans-Mediterranean Civil Society Dialogue (TMCD), which aims to identify issues of common concern in the greater Mediterranean Region and develop a full and productive dialogue among those players active in the region. It intends to help launch and sustain initiatives and projects in the region by promoting and facilitating exchange of information and expertise at the level of civil society organisations, foundations, corporate funders and their respective grantee and partner organisations. The EFC also leads a Community Philanthropy Initiative (CPI), which promotes and sustains the development of community philanthropy organisations (CPOs) in Europe and globally.

V. Recent progress

Three important events have recently catalysed change and brought about new approaches toward civil society: First, the NGO and Foundations Forum at the 1996 UN Habitat II Conference in Istanbul had a notable impact on the civil society in Turkey, because hundreds of Turkish and international NGOs mobilised towards collaboration in both organising and participating in the conference. Second, the 1999 earthquake created a significant demand on NGOs, as many services were delivered to affected populations via them. This ignited national and international awareness, recognition and support for NGOs, to help build capacity of skills and resources to enhance service delivery. Third, the acceptance of Turkey as an EU candidate country in 1999 has re-framed and further legitimised the role of the third sector in the country's future. The process of accession discussions has placed pressure on the government to reform laws with regards to civil society, and encouraged increased action and civic engagement of NGOs. These three developments mark important changes in the way Turkey frames the work of foundations and NGOs from an operational, legal and fiscal perspective.

VI. Assessment from the 2004 Commission Regular Report on Turkey

The Commission's 2004 regular report on Turkey's progress towards accession indicated that the **civil society has grown stronger**. In 2004 the Turkish parliament adopted a series of EU

related reforms (Copenhagen criteria and *acquis* related), including the amendments to the law on Public Employees Trade Unions in June 2004 and the law on Associations in July 2004. Amendments to the Law on Public Meetings and Demonstrations have led to the lifting of several restrictions on the exercise of freedom of association and peaceful assembly. Improvements took place with the representatives in civilian bodies. These bodies, such as the High Education Board (YÖK) and the High Audio-Visual Board (RTÜK) no longer have military representatives.

The recent reforms have **brought much needed momentum** to the public, private and third sector. Civil society is increasingly mentioned in the media, corporate and individual donations are on the rise, and volunteerism now features as an important part of leading university curricula and business culture. Public officials are also more aware of the role and value of civic organisations, and citizens are keen to mobilise to address key issues.

A new progressive **Law on Associations** brought another important improvement for the civil society. As regards freedom of association, several legislative reforms undertaken since 1999 have lifted a number of restrictions. The new Law on Associations, adopted in July 2004 is important in reducing the possibility for state interference in the activities of associations. Although it is not in force due to a presidential veto, it is an important milestone for the strengthening of the legal framework for NGOs and the general advancement of civil society in Turkey. Furthermore, a new Department of Associations has been established within the Ministry of the Interior to perform tasks that had previously been entrusted to the Director General of Security.

The new Law on Associations removes the requirement to seek prior permission to open branches abroad, join foreign bodies or hold meetings with foreigners. The law also lifts all restrictions on student associations; removes the requirement to inform local government officials of general assembly meetings; and allows for the establishment of temporary and informal platforms or networks for all civil society organisations. Moreover, it requires that governors issue warnings prior to taking legal action against associations. The new law also permits associations to conduct joint projects with, and receive financial support from, other associations and public institutions and removes the requirement to seek prior permission to receive funds from abroad. Although constitutional prohibitions that could be used to restrict the establishment of certain kinds of association are still present in the new law, recent practice suggests that associations are increasingly permitted to open.

Notwithstanding these important developments, civil society, in particular human rights defenders, continues to encounter significant restrictions in practice. A still to be published regulation with detailed information on the Law on Associations, as well as the implementation of it in practice will need to be examined closely in order to ascertain whether full alignment with Article 11 (Freedom of assembly and association) of the European Convention on Human Rights (ECHR) has been achieved.

In June and August 2004 circulars were adopted on how to deal with **demonstrations, marches and press conferences**, in such a way that security forces do not impinge on the rights of peaceful assembly and action is in accordance with the Law on Public Meetings and Demonstration Marches. The August circular also contained the aim of preventing and ensuring the appropriate sanctions for the use of disproportionate force by security forces.

Recent practise suggests that the **freedom of meetings and demonstrations is among the most problematic human rights violations area in Turkey and disproportionate force by security forces is still present.** On Sunday March 6 2005, Turkish police forces used batons

and teargas to brutally disperse hundreds of “illegal” demonstrators attending a Women's Day demonstration in Istanbul backed by Turkey's main Kurdish party. Many people were left injured and sixty-three people were reportedly arrested. Furthermore, a court case was launched against six children under the age of 15 years who allegedly attempted to burn the Turkish flag during the Newroz celebration in Mersin on 21 March 2005. They were said to be arrested and initial statements were taken by the Anti-terror Branch. One of the allegations concerns charges of breaching of the Law on Demonstrations and Meetings. On April 7 2005, five persons were arrested after having been attacked while distributing leaflets on in Trabzon. They were alleged with "resisting police, distributing leaflets, staging unauthorised demonstration, attempting to incite people against security officials and acting to create enmity among society", but were released on April 13th.

While acquittal rates are significantly higher than in the past, human rights defenders, including NGOs and lawyers continue to be subjected to **considerable judicial harassment**, as illustrated by the number of open investigations and court cases brought against them. With respect to peaceful assembly, official figures indicate that public demonstrations are subject to fewer restrictions. The security forces closely monitor demonstrations and public meetings and cases of intimidation, excessive use of force and detention are still reported.

A **Kurdish association**, the Kurdish Writers Association, was established in Diyarbakir in February 2004. The Law on Associations officially prevents the establishment of an association on the basis of race, ethnicity, religion or origin. Nevertheless, an explicit restriction in the new Law on Associations allows this establishment. However, the freedom of Kurdish associations appears to remain stunted. The Kurdish Writers Association has since its establishment received charges on the grounds that it held a meeting with representatives of the European Commission without seeking prior permission, and a court case is currently ongoing.

With respect to trade unions, significant constraints remain on the right to organise (Article 5) and the right to collective bargaining, including the right to strike (Article 6). Turkey does still not accept these articles of the European Social Charter. In general, Turkey needs to strengthen social dialogue at all levels and develop a culture of social partnership. Although an Economic and Social Council was formally established in 2000 with a view to promoting social dialogue, such dialogue remains weak. The June 2001 Law on Public Employees' Trade Unions limits the right to organise for certain groups of employees and does not include the right to strike and collective bargaining. Amendments adopted in June 2004 simplify procedures related to union membership, but do not address these issues. As for the private sector, membership procedures are cumbersome and costly. In order for a trade union to be eligible for collective bargaining it must organise at least 50% of workers within a company and 10% of workers within the relevant sector nation-wide. There have been several cases of restrictions on trade union rights such as the cancellation or postponement of demonstrations and strikes, which was illustrated in particular in the tyre and glass sectors.

VII. Commission's 2004 recommendations on Turkey's progress towards accession.

Further development of the civil society is an important focus, according to the recommendation of the European Commission to the Council and Parliament (COM (2004) 656 Final). The Commission services have prepared an assessment of issues arising from Turkey's membership perspective. On this basis the Commission presented a strategy consisting of three pillars. The third pillar **suggests a substantially strengthened political and cultural dialogue** bringing people together from EU Member States and Turkey.

The recommendations express a clear **need to strengthen the dialogue** on a number of issues connecting to EU-Turkey relations. Several pertinent questions, which do not immediately relate to the EU as such, need to be addressed. According to the Commission, a number of fora should be created, bringing people together from Member States and Turkey, where concerns and perceptions can be discussed in a frank and open manner. This includes a dialogue on difference of cultures, religion, issues relating to migration, concerns on minority rights and terrorism. Civil society should play the most important role in this dialogue, which should be facilitated by the EU. Besides the Commission indicated that improvement is still needed concerning the trade union rights and the implementation of the Law on Associations

The Commission is currently finalising proposals on how to support such a dialogue, which are believed to be presented in the end of June 2005. The civil society focus is kept broad and there exists no desire to extend notably into details. The need to keep the dialogue broad and open originates from the fact that many of the activities appear to be beyond the reach of the Commission. The civil society is interpreted in the broadest sense possible, not only NGOs but also including municipalities, local associations, media and religious groups. The Commission tries to facilitate Turkish civil society in such a way that it is able to develop by itself.

More practical action in order to promote a cultural and political dialogue is likely to be established around key areas, with a goal of building bridges and reciprocal learning. The focus is on improvement of present communication links, such as links with member states through cultural events of interaction. Most probably, the Commission could be expected to direct to the following new key areas: First, an extended use of educational exchange activities, such as the present Socrates programmes. Sending people abroad in order to expose them to other cultures and others to their culture is believed to be a valuable mechanism to improve the cultural dialogue. A second key area exists in an extension of scholarship programmes to enhanced academic and research related areas, such as sponsorships of joint research projects. Third, a larger development of cultural programmes, such as sponsoring festivals. The Commission plans to focus more on building bridges and partnerships mainly between NGOs in the civil society. This should contain a more trans-national approach and extend the currently present local support and development. Fourth, a focus will be placed on programmes in the direction of social partners. Fifth, thoughts are present on media related action, such as cross-border broadcasting of Turkish channels and visa versa. A last key element for improvement of the cultural and political dialogue between Turkey and the EU exists in a larger focus on the Turkish communities in the Member states and a connection between these communities to Turkey. However, this might be an activity that suits better in the set of competencies of the Turkish authorities, instead of the EU.

VIII. The civil society elements in the last Parliament Resolution on Turkey.

The last report of the European Parliament (A6-0063/2004 Final) on the 2004 regular report and the recommendations of the European Commission on Turkey's progress towards accession, **underlines the importance of civil society elements** in the view of Turkish enlargement. It addresses the commission's strategy propositions of the three pillars and the goal of the third pillar to reach a substantially strengthened political and cultural dialogue, bringing together people of the EU Member States and of Turkey. The European Parliament underlined this strategy and urged the Turkish government and European Commission to initiate campaigns to inform citizens of the EU and Turkey through exchange programmes and public events that will increase awareness of integration process and foster mutual understanding. The **European Parliament expects concrete proposals for action** from the Commission to give effective support to this process and to promote deeper political and cultural dialogue between EU and Turkish society.

The European Parliament acknowledged that the reforms implemented by the Turkish authorities have given NGOs a greater scope for action, in particular as regards the promotion of human rights. The Parliament appealed to the Turkish Government to step up its efforts to eradicate all forms of intimidation and harassment of human rights activists and organisations. Furthermore, the resolution called on the Turkish authorities to bring the Law of Associations into force. As well a significant reform of the Law on Foundations is needed, after consulting those entities affected by this law, such as the relevant NGOs and the broad spectrum of religious communities. The Parliament also expressed its unconditional support for the civil society organisations and actors operating in Turkey in defence and promotion of fundamental freedoms.

Concerning trade unions the European Parliament called on the Turkish authorities to apply the standards for trade union rights of the International Labour Organization (ILO). Accordingly, the resolution appealed to the Turkish authorities to allow trade unions to organise themselves and to promote freedom of association by repealing the clause requiring preliminary authorisation from the government for the creation of new organisations.

Sources:

- *European Foundation Centre (EFC)*
- *Third Sector Foundation of Turkey (TÜSEV)*
- *WORLDBANK*
- *Economist Intelligence Unit (EIU)*
- *European Commission's 2004 Regular Report on Turkey's progress towards accession.*
- *Recommendations of the European Commission on Turkey's progress towards accession.*
- *Parliament Report on the 2004 Regular Report and Recommendations of the Commission.*